

BEFORE THE LAND USE HEARINGS OFFICER
CLACKAMAS COUNTY, OREGON

Regarding an Application for a Conditional Use Permit by the Oregon City School District to locate five modular buildings on site at the existing Candy Lane Elementary School.

Case File No: Z0124-22-C
(Oregon City School District:
Candy Lane Elementary School)

A. SUMMARY OF FINDINGS, HEARING, AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony and evidence at the May 5, 2022 public hearing about this application. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. The public hearing was conducted virtually over the Zoom platform due to the coronavirus, with the County providing an explanation for virtual participation. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias, or conflicts of interest. The Hearings Officer stated that the only relevant criteria were those identified in the County's staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums.
2. At the hearing, County Planner Clay Glasgow discussed the staff review of this application for a conditional use permit. Mr. Glasgow provided relevant background information concerning the application, the County's review, and the County's recommendation of approval. Mr. Glasgow noted that the applicant is requesting a conditional use permit to locate four modular classroom buildings and one modular restroom building on site at the north portion of the existing Candy Lane Elementary School. Mr. Glasgow reviewed the approval criteria for this application, discussing how the proposal meets or can meet all of the approval criteria for a conditional use permit. Mr. Glasgow noted that this proposal is related to the applicant Oregon City School District's decision to combine its existing Jennings Lodge Elementary School with its existing Candy Lane Elementary School, consolidating the two schools at the Candy Lane Elementary School site. The student population of the two schools will not change. The site is within the service area for the Oak Lodge Water Services District, which provided preliminary statements of feasibility supporting the application. The site is within Clackamas Fire District #1, which did not submit a statement. The County suggested that the applicant contact Clackamas Fire District #1. The site is within the Jennings Lodge Citizen's Planning Organization, which did not submit a statement.
3. Mercedes Serra of 3J Consulting appeared at the hearing on behalf of the applicant and discussed this application for a conditional use permit, providing information concerning the applicant's request, the site description and surrounding land use, and discussion related to the proposal. The location of the subject property is 5901 SE Hull Avenue, Milwaukie, OR 97267, within urban Unincorporated Clackamas County. Because the subject property is located within an urban growth boundary, the related 120-day deadline for final action on the application is July 23, 2022. The legal description of the subject property is: T2S R2E, Section 18DA, Tax Lot(s) 002600. The site is the location of the applicant's Candy Lane Elementary School. The Candy Lane Elementary School site is approximately 6.08 acres in

gross size and is zoned OSM (Open Space Management). The site has frontage on SE Portland Avenue, SE Candy Lane, and SE Hull Street. The site generally slopes to the northwest. The properties along SE Portland Avenue to the west are zoned R-7 and developed with residential homes. The properties to the north and east are zoned R-10 and are developed with residential homes. The property to the south is located within the City of Gladstone and is zoned residential R-7.2, and is developed with the New Life Church. The larger surrounding area for the site is primarily residential use.

4. The existing Candy Lane Elementary School was built prior to the establishment of the OSM zoning for the site, and therefore an existing Conditional Use Permit has not been established for the site, requiring this hearing for a Level III conditional use permit. The proposed Conditional Use Permit will include the existing school and site improvements as well as the five additional modular buildings. The proposed modular buildings will add eight classrooms and two restroom facilities to the site to the north of the existing building. The existing school structure has a total area of 34,270 square feet. The new structures will add 7,840 square feet to the site. The existing coverage is 15%. The proposed lot coverage will be 18%.
5. Primary parking and parent pick-up is provided in a lot in the southwest corner of the site, with vehicles entering the site from SE Hull Avenue and exiting on SE Portland Avenue. School bus loading is provided through a circular pick-up drive, with ingress and egress from SE Hull Avenue. The school site has 28 existing parking stalls. The applicant is not proposing additional parking stalls on site.
6. The school currently functions as part of a larger development that when combined with Jennings Lodge Elementary, provides schooling for grades K-5. The applicant currently utilizes the same busses to transport students to each site, dependent on student grade levels. The proposed development will allow the applicant to consolidate the two schools at the Candy Lane Elementary school site. The student population of the two schools will not change as a result of the consolidation, but rather will shift entirely to Candy Lane Elementary. The applicant states that the proposed development will reduce the operational demands of running two school sites.
7. The Hearings Officer asked whether any party or member of the audience wanted an opportunity to provide additional evidence, arguments, or testimony, and no one requested this opportunity. The applicant, through its representatives Mercedes Serra, Wes Rogers, and Michael Sweeten, affirmed that the applicant wished to waive the period for final written argument. The hearings officer indicated he intended to approve the application, leaving the record open until 4:00 pm on May 5, 2022 (the day of the hearing) to allow the County and applicant to submit copies of their presentations to the record.

B. FINDINGS AND DISCUSSION

The evidence presented is reliable, probative and substantial evidence upon which to base a determination in these matters. This application is subject to the standards and criteria of Clackamas County Zoning and Development Ordinance (ZDO) Section 1203. This application is being processed as a Type III Permit, pursuant to Section 1307. A Type III Permit is quasi-judicial in nature, and involves land use actions governed by standards and approval criteria that require the use of discretion and judgment. The issues associated with the land use action may be complex and the

impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with this Ordinance and the Comprehensive Plan. The Type III procedure is a quasi-judicial review process where the review authority receives testimony, reviews the application for conformance with the applicable standards and approval criteria, and issues a decision.

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 702, 805, 1005, 1006, 1007, 1010, 1021, 1203; and the Comprehensive Plan. Clackamas County Planning and Zoning Staff have reviewed these Sections of the ZDO and Comprehensive Plan in conjunction with this proposal and make the following findings and conclusions:

BACKGROUND INFORMATION, SITE AND AREA DESCRIPTION AND SERVICES

1. Background:

A. Applicant's discussion of their proposal:

The Oregon City School District ("the District") proposes to locate five modular buildings on site, which will provide eight additional classrooms and two restroom facilities at Candy Lane Elementary. The District seeks approval of a Type III Conditional Use Permit.

Candy Lane Elementary School is located at 5901 SE Hull Avenue within urban Unincorporated Clackamas County. The site consists of a single tax lot 22E18DA02600. The school site is approximately 6.08 acres in gross size and is zoned OSM (Open Space Management). The site has frontage on SE Portland Avenue, SE Candy Lane, and SE Hull Street. The site generally slopes to the northwest.

The school currently functions as part of a larger development that when combined with Jennings Lodge Elementary, provides schooling for grades K-5. The District currently utilizes the same busses to transport students to each site, dependent on student grade levels. The proposed development will allow the District to consolidate the two schools at the Candy Lane Elementary school site. The student population of the two schools will not change as a result of the consolidation, but rather will shift entirely to Candy Lane Elementary. The proposed development will reduce the operational demands of running two school sites.

The existing Candy Lane Elementary School was built prior to the establishment of the OSM zoning on the site, and therefore an existing Conditional Use Permit has not been established for the site. The proposed Conditional Use Permit will include the existing school and site improvements as well as the five additional modular buildings. The proposed modular buildings will add eight classrooms and two restroom facilities to the site to the north of the existing building. The existing school structure has a total area of 34,270 square feet. The new structures will add 7,840 square feet to the site. The existing lot coverage is 15%. The proposed lot coverage will be 18%.

This application seeks approval of additions, and recognition of existing Candy Lane Elementary School through Conditional Use. See submitted application materials for full presentation from the applicant.

2. Site Description: Property is approximately 6-acres in size, located at the intersection of SE Hull Avenue and SE Portland Avenue, just north of Gladstone.
3. Natural Features: The property is developed with a school and associated facilities. There are no “natural features” as meant here.
4. Surrounding Conditions: This area just north of and adjacent to the City of Gladstone is generally in residential use, along with a church directly across SE Hull Avenue from the subject.
5. Service Providers:
 - A. Surface Water: Surface water is regulated pursuant to Section 1006 of the ZDO and administered by the DTD Engineering Division/WES.
 - B. Water: The subject property is served by Oak Lodge Water.
 - C. Sewer: The subject property is served by Oak Lodge Sewer.
 - D. Fire Protection: Clackamas RFPD #1
6. Responses Requested:
 - A. Department of Transportation and Development (DTD), Traffic Engineering (TE)
 - B. Department of Transportation and Development (DTD), Sustainability
 - C. Department of Transportation and Development (DTD), Building Division
 - D. Oak Lodge Water Services
 - E. Clackamas RFPD#1
 - F. Jennings Lodge CPO
 - G. Area Property Owners
7. Responses received:
 1. From Jennings Lodge CPO, Chair Ed Gronke via email dated 4/27/22: “In a special meeting last night of the Jennings Lodge Community Planning Organization, we were unable to reach a consensus on this application and opted to take no action”.
 2. Development Engineering, comms dated 4/27/22 incorporated in this report

No other comments received as of this staff report.

8. Previous Land Use actions:

Original land use approval came through CU-44-68, when the site was zoned R-10, Single Family Residential. The development became nonconforming upon application of the (current) OSM Zone, Open Space Management. In 2014, the School District received approval of a minor expansion through Planning Files Z0115/116-14-E/OSM. A pre-application conference was held to discuss this current proposal, in December 2021 (ZPAC0149-21).

(As an aside and though not directly related to this application – the Jennings Lodge School is a non-conforming use (CU in 1968 R-10 Zone/became non-conforming with application of OSM Zone in 1980.) Non-conforming uses are protected by Statute and local Ordinance, so long as

the use(s) continue uninterrupted. If those protected uses cease for a period exceeding one year, the non-conforming status and protection are lost. While this has no bearing on these proposed additions to the Candy Lane School, the District is informed the protected non-conforming status at the Jennings Lodge School will be lost if school use is discontinued there for more than 12-months.)

PART 1. SUBMITTAL REQUIREMENTS – CONDITIONAL USE PERMIT

Subsection 1203.02 of the Zoning and Development Ordinance lists the information that must be included in a complete application for a conditional use permit.

This application includes a completed land use application form, site plan, application fee and completed supplemental application addressing the criteria in Section 1203 of the ZDO. The application also includes a description of the proposed use and vicinity map. All the submittal requirements under Subsection 1203.04 are included in the application. The application was submitted on 3/16/22 and deemed complete 3/25/22 (Exhibit 1).

The Hearings Officer concurs with staff that the requirements of Subsection 1203.02 are met.

PART 2. CONDITIONAL USE PERMIT

1. **Subsection 1203.03** of the Zoning and Development Ordinance lists six criteria that must be satisfied in order to approve this Conditional Use.
 - A. **Subsection 1203.03(A):** *The use is listed as a conditional use in the zoning district in which the subject property is located.*
 1. **Section 702, OSM:** The subject property is zoned OSM, Open Space Management. Section 702 of the ZDO controls land uses in the OSM zoning district. At 702.05, public schools are listed as a potential conditional use. This proposal involves additions to, along with recognizing the existing school through conditional use.

The Hearings Officer concurs with staff that this criterion is met.

- B. **Section 1203.03(B):** *The characteristics of the subject property are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.*

Applicant notes "...the site is currently being successfully used as a school. Its size, shape, location, topography, existence of improvements and natural features lend themselves to a site that is adequate for an elementary school. This request is to consolidate and transfer a portion of the student body from Jennings Lodge School to the Candy Lane development."

1. **Size:** The site itself is approximately 6-acres in size. As noted, Candy Lane Elementary has been functioning here since original approval in the late 60's. This proposal involves adding approximately 7,840 square feet, in the form of modular buildings, to the existing

34,270 square feet of structures on site currently. Existing driveway/circulation/parking will be used. Other existing outdoor use areas will continue to be used as they are currently. The submitted site plans and narrative demonstrate the property is of sufficient size to accommodate the proposed use.

2. Shape: The property is irregular in shape, though combined with size and location of existing improvements does not present any issues.
3. Topography: The subject property can be described as generally level to gently sloping at development site. Not an impediment to the proposed use.
4. Location: The site is located at the intersection of SE Portland SE Hull Avenues, in an area generally in residential use. Not a limiting factor for the proposal.
5. Improvements: The subject property is occupied with a school and associated support features.
6. Natural Features: there are no “natural features” as meant here, on the property.
7. Summary: The location, size, shape, topographic, natural and developed characteristics of the property are suitable to accommodate the proposed use.

The Hearings Officer concurs with staff that these criteria are met.

C. **Section 1203.03(C)**: *The proposed use is consistent with Subsection 1007.07, and safety of the transportation system is adequate to serve the proposed use.*

1. Subsection 1007.07: Transportation Facilities Concurrency
 - a. Subsection 1007.07(B): *“Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner”*
 - b. Subsection 1007.07(A): *“Shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.”*
2. Safety:
 - a. Subsection 1007.02(D): *“Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:*
 - i. *No planting, signing, or fencing shall be permitted which restricts motorists’ vision; and*
 - ii. *Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development.”*

Applicant states: “The current capacity of the transportation facilities serving the proposed use is adequate to accommodate the proposal. The school functions essentially as part of a larger development that when combined with Jennings Lodge provides for schooling for grades K-5. The two are being physically combined through this addition request; as such, the total student population between the two will not increase as a result of this proposal. The proposal merely involves combining existing populations and siting all at Candy Lane Elementary. For these reasons, impacts to transportation facilities are minimal, safety of the transportation system is adequate, and the proposed use complies with Subsection 1007.07.”

From Clackamas County Development Engineering:

The applicant has proposed a conditional use application for modification of the Candy Lane Elementary School, including four modular classroom buildings and a modular restroom building. The modular buildings will provide for a total of eight classrooms.

The proposed modular buildings will accommodate a consolidation of students at Jennings Lodge Elementary School and the existing Candy Lane Elementary School to one site. Existing buses that currently move students to and from Candy Lane School and Jennings Lodge School will be utilized, resulting in limited changes in overall traffic. The proposed development is subject to the provisions of Clackamas County Zoning and Development Ordinance (ZDO) section 1007 pertaining to roads and connectivity, section 1015 pertaining to parking and loading, and the Clackamas County Roadway Standards Chapter 4 pertaining to surface water management. ZDO Section 1007.07 requires that development is served by a transportation system that has adequate capacity to handle any increased vehicle trips generated by new development. With existing buses continuing to serve the school, the limited increase in traffic associated with parent drop-off and pick up will not significantly impact the roadway serving the site. The Engineering staff finds that the roadway and intersections serving the project site will continue to operate within standards, satisfying the provisions of Section 1007.07.

The Hearings Officer concurs with staff that, with conditions of approval as recommended, this criterion is satisfied.

D. **Section 1203.03(D):** *“The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located.”*

1. The site itself is in the OSM zoning district. Surrounding area is zoned R-10 and generally in residential use. Uses allowed in the R-10 Zone are listed in Table 315-1, and are generally residential in nature.

This criterion does not require that the proposed use not have any impacts, rather, the impacts must not substantially limit, impair or preclude the use of surrounding properties for the allowed primary uses.

2. The applicant is proposing a use that under the OSM zoning district is allowed through the conditional use process. Applicant states, in part: “As mentioned before, the subject site is already the location of Candy Lane Elementary School. The site is within the OSM zoning district but is surrounded by single-family residential zoning as public schools typically are in similar patterns of development. None of the aforementioned will change as a result of this addition request – the proposal merely represents a transfer and consolidation of two schools that together have served the same student body. The character of the surrounding area will not change in any manner. The conditional use permit aspect of this request is to reaffirm the school’s original conditional use permit from 1968 (Permit #CU-44-68) to allow and legitimize future land use approvals beyond the square footage that is permitted by alterations of non-conforming uses.”

The structures as proposed would become part of the existing Candy Lane Elementary School. Addition involves 7,840 square feet in the form of five (5) modular buildings (see application/site plans.) The existing school consists of approximately 34,270 square feet of building space, parking and circulation and play areas, e.g. school activity has been co-existing with the area for decades. The current proposal represents a relatively minor addition and no change of use to that pre-existing development and activity. Combined with previously discussed use of existing access/parking, etc., – staff is able to find the proposal will not substantially limit, impair or preclude the use of surrounding properties for the allowed primary uses.

The Hearings Officer concurs with staff that this criterion are met.

- E. **Section 1203.03(E):** *“The proposal satisfies the goals and policies of the Comprehensive Plan that apply to the proposed use.”*

1. The applicant has addressed the Comprehensive Plan, specifically Chapter 4, Land Use, and Chapter 7, Public Facilities.

The subject property is designated Open Space on the Comprehensive Plan map. The Open Space Section in Chapter 4 of the Comprehensive Plan implements this designation. Chapter 7 deals with use of school.

Staff concurs with applicant’s responses and conclusions here, and sees no reason to repeat the text.

The Hearings Officer concurs with staff that this criterion are met.

- F. **Section 1203.03(F):** *The proposed use complies with any applicable requirements of the zoning district and overlay zoning district(s) in which the subject property is located, Section 800 (further below, under Part 3 of this report), and Section 1000.*

Sections: 1005, 1006, 1007, 1010, 1015, and 1021 were reviewed.

1. Section 1005, Sustainable Site and Building Design:

Section 1005 of the ZDO sets forth the standards, requirements and considerations that pertain to additional techniques to meet sustainability goals. Applicant provides lengthy response to this criterion. Staff has reviewed the response relative to Section 1005 and finds the following criteria apply:

Applicant states: “The site is the location for Candy Lane Elementary, and this application represents a request to effectively consolidate the student bodies of Candy Lane Elementary and Jennings Lodge Elementary into a single school campus. Because the subject site already contains a primary building that is 39,000 square feet (in comparison to the proposed modular buildings, which are 7,840 square feet), requiring compliance with this standard is not commensurate with the scale of development that is being proposed.”

Generally speaking staff concurs. The proposed modular structures will be accessory to the primary use/building on site and be

a. Section 1005.03, General Site Design Standards:

1. Section 1005.03, General Site Design Standards (A-D) discusses site design standards such as clustering buildings to extent possible, providing efficient on-site circulation for vehicle and pedestrians both, consider potential for use of both passive and active solar when laying out buildings, etc.

This application proposes addition of five (5) modular structures to the existing development. Applicant notes the building will be integrated with the existing school and operations center on site, though by necessity needs to be located some distance from the school so as not to interfere with those uses, or the septic drain field located to the north of the school itself. Applicant goes on further to discuss building orientation, noting this will be in consideration of possible future roof-mounted solar power applications.

On-site circulation for vehicle and pedestrians for the primary school has previously been approved by the County. Access to the proposed new structures is shown as utilizing existing school driveway/circulation. The proposed access to the modulares will add to pedestrian facilities that presently serve the school.

Based on information submitted by the applicant, staff is able to find applicable portions of Section 1005.03 are met with this proposal.

b. Section 1005.04, Building Design:

The existing Candy Lane Elementary School was originally constructed prior to the establishment of these design requirements.

The proposed modular classroom buildings are visible from both SE Candy Lane and SE Portland Avenue; therefore, these standards apply to the building's north and west façades. The applicant submitted elevations of these

façades within the plans set to demonstrate compliance with this and all other applicable standards.

Both elevations provide visual interest and variety to avoid the effect of a single long or massive wall with no relation to human scale (e.g., windows and different materials used along the vertical plane). Building entrances contain canopies and other elements along walkways to emphasize their locations. Lastly, the architectural features of the modular buildings are consistent with the proposed use of the building – they are appropriate architectural styles for school classrooms

c. Subsection 1005.05, Outdoor Lighting:

1. Subsection 1005.05 (A), Outdoor lighting devices:

A. Outdoor lighting devices:

- i. *“Shall be architecturally integrated with the character of the associated structures, site design and landscape.*
- ii. *Shall not direct light skyward.*
- iii. *Shall direct downward and shield light; or direct light specifically toward walls, landscape elements or other similar features, so that light is directed within the boundaries of the subject property;*
- iv. *Shall be suitable for the use they serve, e.g. bollard lights along walkways, pole mounted lights for parking lots;*
- v. *Shall be compatible with the scale and intensity of uses they are serving. Height of pole mounted fixtures shall not exceed 25 feet or the height of the tallest structure onsite, whichever is less; and*
- vi. *At entrances, shall be glare-free. Entrance lighting may not exceed a height of 12 feet and must be directed downward.”*

All proposed lighting will meet the requirements of this section. A Lighting-Photometrics Plan has been provided in Appendix “E” demonstrating compliance with the requirements of this section. Proposing lighting is architecturally integrated with the character of the proposed modular structures, site design and landscape and directs light downward and not skyward. The lighting proposed is suitable for the use with which it serves; that is, all lighting serves the walkways on the exteriors of the proposed modular buildings. All lighting is compatible with respect to scale and intensity, and the height of fixtures does not exceed 25 feet.

Applicant provides extensive discussion of Section 1005 standards and reader is directed to submitted application materials for further detail.

The Hearings Officer concurs with staff that the standards of Section 1005 are met as proposed.

2. Section 1006, Water Supply, Sanitary Sewer, Surface Water; and Utilities Concurrency:

Section 1006 of the ZDO sets forth the standards, requirements and considerations that pertain to utility lines and facilities.

a. Subsection 1006.05 – Water Supply Standards Outside The Portland Metropolitan Urban Growth Boundary And Mount Hood Urban Area.

- i. The provisions of this section apply outside the Portland Metropolitan Urban Growth Boundary and the Mount Hood urban area. Applicants for any development permit shall specify a lawful water source for the proposed development, such as a public or community water system, certificated water right or exempt-use well.

Candy Lane School is served by Oak Lodge Water Services. No comments from that District as of this staff report.

The Hearings Officer concurs with staff that this criterion can be met as conditioned.

b. Subsection 1006.07 - Subsurface Sewage Disposal Standards:

All development proposing subsurface sewage disposal shall receive approval for the system from the Clackamas County Septic & Onsite Wastewater System Programs prior to submittal of a land use application to the County for development.

Proposal does not involve use of septic facilities. **The Hearings Officer concurs with staff that this criterion is not applicable.**

c. Subsection 1006.08 - Surface Water Management Standards:

- i. *“All developments shall provide for positive drainage and adequate conveyance of storm and surface water runoff from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point and shall:*
 1. *Comply with the requirements of any special districts with surface water management regulatory jurisdiction; or*
 2. *The requirements of Section 1008 and the County Roadway Standards in areas not under the jurisdiction of a surface water management regulatory authority.*
- ii. *Installation of stormwater management and conveyance facilities shall be coordinated with the extension of necessary water and sanitary sewer services.*

- iii. *Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.*
 1. *The service provider may require a preliminary storm water management plan, storm drainage report, natural resource assessment and buffer analysis prior to signing the preliminary statement of feasibility.*
 2. *In those areas that are not within a surface water management district, the preliminary statement of feasibility shall be signed by the Surface Water Management Agency of Clackamas County (SWMACC).*
 3. *The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.*

Oak Lodge Water Services is the surface water management authority for the area including the subject site. That agency was involved at the pre-application meeting held for this proposal. No comments were received in response to notice of this application. If approved, conditions will require satisfaction of Oak Lodge BMPs, providing water quality treatment and conveyance.

The Hearings Officer concurs with staff that the standards of Section 1006 can be met as conditioned.

3. Section 1007, Roads and Connectivity:
 - a. Subsection 1007.03 – General Provisions:
 - i. *The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.*
 - ii. *Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, two- and three-family dwellings, condominiums, single-family dwellings, and commercial, industrial, and institutional uses, as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.*

The applicant has proposed addition of modular structures to the existing Candy Lane Elementary School. No change of use is proposed – students are being moved from Jennings Lodge School location to Candy Lane in interest

of efficiency. The proposed development is subject to the provisions of *Clackamas County Zoning and Development Ordinance (ZDO)* section 1007 pertaining to roads and connectivity, Section 1015 pertaining to parking and loading, and Clackamas County Roadway Standards, Chapter 4 pertaining to storm water management.

Applicant notes: “Because the subject property is the location of a fully developed school site with improved right-of-way and adequate multi-modal connectivity to adjacent roads, improvements to roads and connectivity are not anticipated requirements for the proposal. The modular buildings will be located on the north end of the site near an existing egress to SE Candy Lane, a public road. The modular building will be directly connected to the main school building, which is also well-connected to all site access points as approved through previously approved land use actions.”

From Clackamas County Development Engineering: The proposed modular buildings will accommodate a consolidation of students at Jennings Lodge Elementary School and the existing Candy Lane Elementary School to one site. Existing buses that currently move students to and from Candy Lane School and Jennings Lodge School will be utilized, resulting in limited changes in overall traffic. The proposed development is subject to the provisions of *Clackamas County Zoning and Development Ordinance (ZDO)* section 1007 pertaining to roads and connectivity, section 1015 pertaining to parking and loading, and the Clackamas County Roadway Standards Chapter 4 pertaining to surface water management.

Consistent with *ZDO* Section 1007, development applications are required to bring the roadway frontage up current standards, including, but not necessarily limited to, right-of-way width, road width and storm drainage facilities. The project site includes frontage on SE Hull Avenue and SE Portland Avenue. Both roadways are designated local roads. The SE Portland Avenue frontage is improved with curb and sidewalk. Although, the frontage of SE Hull is not improved with sidewalk, the proposed use does not generated a significant increase in traffic to warrant frontage improvements.

The Hearings Officer concurs with staff that these criteria are satisfied as conditioned.

4. Section 1010 Standards, Signs:

Aside from address numbering no additional signage is proposed.

The Hearings Officer concurs with staff that the standards of Section 1010 are met.

5. Section 1015, Parking and Loading:

ZDO Section 1015, the applicant will be required to provide adequate on-site circulation for all vehicles anticipated to use the site. No change in circulation is proposed here. No existing parking spaces will be removed as a result of this proposal.

The subject site is already fully developed as the location of Candy Lane Elementary School. As mentioned elsewhere in this narrative, this proposal concerns the addition of modular buildings to effectively consolidate and transfer a part of the student body from Jennings Lodge to Candy Lane Elementary. No additional parking or changes to loading are being requested as part of this proposal.

There are 14 existing classrooms and 8 proposed, totaling 24 classrooms. 15 is less than 24, so 15 is the minimum required parking spaces for the school site. As shown on the provided plans, the current number of total parking spaces is 28, which exceeds the minimum required parking spaces. There is no maximum for elementary schools. These existing parking and maneuvering areas will continue to be maneuverable as required. . Parent pick-up is accommodated in the southwest corner of the site, and school bus loading is provided by a circular access drive off of SE Hull Avenue. The existing parking and circulation has functioned adequately as a school site and will continue to be adequate to serve the proposed use.

The Hearings Officer concurs with staff that, as conditioned, these standards will be met.

6. Section 1021 Standards, Refuse and Recycling Standards for Commercial, Industrial, and Multifamily Developments: outlines the standards for refuse and recycling for commercial developments.

Existing facility are shown to meet requirements of Section 1021. This proposal involves continued use of existing facilities.

The Hearings Officer concurs with staff that these criterion is satisfied as conditioned.

Summary: The applicant can comply with applicable sections listed under Section 1000.

PART 3. OTHER DEVELOPMENT STANDARDS

Other Applicable Sections of the ZDO: Other applicable standards and Sections of the ZDO applicable to this application are addressed below.

1. Section 702– OSM Zone. Section 702 lists “*Public Schools*” as a conditional use in the OSM Zone. The applicant is proposing school use.

Development in the OSM District is subject to the applicable provisions of Sections 1000, *Development Standards*, and 1100, *Development Review Process*. In addition, improvements shall comply with the following standards:

- A. Landscape the site to produce a setting appropriate to its function.
- B. Provide an efficient internal circulation system and facilities layout plan.
- C. Maximize access for pedestrians, bicyclists, transit riders, and people with disabilities in active recreation areas.
- D. Provide conveniences for users with disabilities.
- E. In the case of parks, conform to the classifications and standards in Policies 1.1 through 1.3 of the Parks and Recreation Section of Chapter 9, *Open Space, Parks, and Historic Sites*, of the Comprehensive Plan.
- F. Locate principal and accessory buildings a minimum of 10 feet from any lot in a residential zoning district.
- G. Community and Design Plans: Development within a Community or Design Plan area identified in Chapter 10, *Community Plans and Design Plans*, of the Comprehensive Plan shall comply with the specific policies and standards for the adopted Community or Design Plan.

Applicant provides adequate response here. **The Hearings Officer concurs with staff that applicable standards of Section 702 are met with this proposal.**

2. Section 805, Schools

This section of the Zoning Ordinance contains the single requirement that schools maintain minimum side yard setback of 20-ft. **The Hearings Officer concurs with staff that applicable criteria from Section 805 are met with this proposal.**

PART 4. CONDITIONS OF APPROVAL

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis. The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. It shall be the responsibility of the property owner(s) to comply with the limitation of any approval resulting from the decision described herein.

The Clackamas County Land Use and Zoning staff recommends approval of this application for Conditional Use Permit subject to the following conditions, reviewed, adopted and/or modified by the Hearings Officer:

I. General Conditions:

- 1) Approval of this land use permit is based on the submitted written narrative and plan(s) dated 3/16/22. The application was deemed complete on 3/25/22. No work shall occur under this permit other than that which is specified within these documents. It shall be the

responsibility of the property owner(s) to comply with this document(s) and the limitations of approval described herein.

- 2) The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you would like to take advantage of this meeting please contact Wendi Coryell, at (503) 742-4657 or at wendicor@co.clackamas.or.us.
- 3) **Prior to the issuance of building permits**, the applicant shall submit a statement of use to Wendi Coryell in the Clackamas County Engineering Division. Wendi may be contacted at 503-742-4657, or <mailto:wendicor@co.clackamas.or.us>. The statement of use is used to calculate the Transportation System Development charge. A Transportation System Development Charge (TSDC) is included in the final calculation of the building permit fees for new instructional projects; this includes additions and tenant improvements that increase the number of daily trips to the site.
- 4) The conditional use approval is valid for 10-years from the date of the final written decision. During this ten-year period, the approval shall be implemented, or the approval will become void. "Implemented" means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
 - a) A building permit for a new primary structure that was part of the conditional use approval; or
 - b) A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval.
- 5) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.

II. Planning and Zoning Conditions: Clay Glasgow, (503) 742-4520, clayg@clackamas.us

- 1) Development of the subject property is subject to the provisions of ZDO Sec.1203 and those other relevant codes and ordinances adopted by the Board of County Commissioners pursuant to subsec. 1001.03 of the ZDO, including, but not limited to, the County Roadway Standards, County Excavation and Grading Ordinance, and Oregon Structural Specialty Code, etc.
- 2) Any outdoor lighting [ZDO 1005.05(A) and (B)] and 806.02(I) shall be located and designed so that it does not shine onto adjacent properties, upwards or right-of-ways. If additional lighting will be installed, the applicant will submit an outdoor lighting system design plan

prior to installation of the outdoor lighting system for review and approval by Planning and Zoning Division.

III. Building Code Division Conditions: Richard Carlson, (503) 742-4769, richardcar@co.clackamas.or.us

- 1) All construction activities, and all changes of use (occupancy type), shall comply with applicable Oregon Specialty Codes and local ordinances. All such codes and ordinances apply to all such activities, even when permits and inspections are not required.
- 2) Compliance with the following conditions is required prior to the commencement of any new use or occupancy:
 - a. All necessary development permits (septic, building, electrical, grading, driveways, etc.) for the property, facility, and associated buildings shall be obtained.
 - b. The plans must meet the minimum structural integrity and life safety requirements of the applicable Oregon Specialty Codes.
 - c. Any additional information required by the Building Codes Division, such as engineering, details, and specifications, must be provided to the Plans Examiner reviewing the project.
 - d. All necessary permits and approved plans must be issued and maintained onsite as required.
 - e. All required inspections, corrections, and final approval must be obtained.

IV. Transportation Engineering Conditions: Ken Kent, (503) 742-4673, kenken@clackamas.or.us

- 1) All frontage improvements in, or adjacent to Clackamas County right-of-way, and/or on-site transportation improvements shall be in compliance with *Clackamas County Roadway Standards*.
- 2) If any revisions to the existing parking and circulation are proposed or required as part of the Building Permit, a Development Permit from Clackamas County Department of Transportation and Development will be required.
- 3) Prior to the issuance of a building permit, the applicant shall submit to Clackamas County Engineering Office:
 - a) Written approval from the Clackamas Fire District #1 Fire Marshal shall be provided for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.
 1. Written approval from Oak Lodge Water Service for surface water management facilities, surface water detention facilities, and erosion control measures.
 2. All on-site improvements shall be in compliance with *Clackamas County Roadway Standards*. Frontage improvements in, or adjacent to State of Oregon right-of-way, shall be in compliance with Oregon Department of Transportation standards.

3. The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.

V. Oak Lodge Water Services:

- 1) In addition to CCRS Section 140, this development to satisfy applicable requirements of Oak Lodge Water Service relative to sewer and surface water management.

C. DECISION

Based on the findings, discussion, conclusions, and record in this matter, the Hearings Officer APPROVES application Z0124-22-C, subject to conditions of approval.

Dated: May 9, 2022



Carl D. Cox
Clackamas County Hearings Officer

APPEAL RIGHTS

ZDO 1307.10(F) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such appeal must be commenced. Presently, ORS 197.830(9) requires that any appeal to LUBA "shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final." This decision is "final" for purposes of a LUBA appeal as of the date of the decision appearing by my signature.