

The church property is at the northeast corner of Willamette Drive and Jolie Pointe Road. The church occupies a central location on the site with paved parking lots to the south and east. North of the church, the site is occupied by a mixed forest of mature Douglas fir and oak trees. The latter occupy the northwest frontage along Willamette Drive making for an attractive streetscape. Surrounding land uses include single family homes to the north and east.

The parking lots comprise 63 parking spaces including ADA spaces.

The site topography slopes down from a 255 foot elevation at Willamette Drive or the west edge to a 215 foot elevation at the east edge of the site. This elevation loss means that the two story church, at the 235 foot elevation, has a very low profile when viewed from Willamette Drive.

The zoning for the site is R-10 which is a low density single-family residential zone which requires that lots be a minimum of 10,000 square feet in size. Churches and schools are allowed in this zone by Conditional Use Permits (CUPs).







The main concern of the CUP is that the use should be appropriate to the site and that it can be made compatible with surrounding uses and not produce adverse impacts. Typical impacts of schools include car noise and glare associated with pick up/drop off and the noise of playground activities. The specific approval criterion is found in Community Development Code (CDC) Chapter 60 and includes:

1. *The site size and dimensions provide:*
 - a. *Adequate area for the needs of the proposed use;*
and,
 - b. *Adequate area for aesthetic design treatment to mitigate any possible adverse effect from the use on surrounding properties and uses.*
2. *The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and natural features.*
3. *The granting of the proposal will provide for a facility that is consistent with the overall needs of the community.*
4. *Adequate public facilities will be available to provide service to the property at the time of occupancy.*
5. *The applicable requirements of the zone are met, except as modified by this chapter.*

6. *The supplementary requirements set forth in Chapters 52 to 55, if applicable, are met.*
7. *The use will comply with the applicable policies of the Comprehensive Plan.*

(There is additional criterion to respond to but this is the most relevant and important to address.)

No exterior changes are proposed although the Fire, Life and Safety standards will have to be met as determined by the Building Official. ADA compliance (e.g. in the form of exit ramps, toilet fixtures and door fixtures) will be required. Exterior changes typically trigger Design Review but CDC section 55.020(N) specifically exempts ADA ramps from design review. If there are any other exterior changes, excluding the ramp, Class I or Class II Design Review would be triggered.

Staff was also concerned that the building may be a non-conforming structure by virtue of inadequate parking, landscaping, bicycle parking and stormwater detention and treatment.

Regarding parking, staff found that, per CDC section 46.090(B)(4), churches must have one parking space for every four fixed seats or every eight feet of bench length or every 28 square feet where no permanent seats or benches are maintained in main auditorium place of worship or sanctuary. The sanctuary area has about 450 lineal feet of benches/pews which translates into a requirement for 56 parking spaces. The church parking lot has 63 spaces so they are in agreement with the CDC. Now we add the parking for the school. For primary school, middle school, or equivalent private or parochial school there shall be one space for every employee, plus 1 space for each 1000 square feet of floor area. There will be three employees and 2700 square feet of instructional space yielding a parking requirement of six spaces. Those six spaces plus the required 56 for the church equals 62 spaces so the code is satisfied. Additionally, staff finds that the two uses: church and school operate on different hours and days so that there will be no overlap per CDC 46.050 "Joint Use of a Parking Area".

Regarding landscaping, the minimum landscaping for public facilities (including churches) is 20%. Parking areas need to be buffered from the ROW by a ten foot wide landscaped strip. A five foot wide landscaped strip needs to be next to all adjacent (non-ROW) land uses. The interior of the parking lot also must be landscaped. Landscaping shall comprise 10% of the square footage of the parking lot. There shall also be five foot wide landscape islands after every 12th parking space. The church parking lot fails to meet the landscape standards of CDC Chapter 54 and is non-conforming. But since no expansion of the parking lot is proposed, the non-conformity relating to landscaping will not be worsened by the school.

Bicycle parking for the church is required in the amount of one space per 40-seat capacity. There is capacity for 240 seats in the sanctuary (main place of worship) so six bike spaces are required. Adding to that are the requirements for the school which amount to two spaces per classroom which equals six spaces and 50% must be covered. The bicycle parking must be located in an area that is readily observed from within the school and near the main entrance. Currently there is no bicycle parking.

Since the non-conforming structure language of CDC Chapter 66 requires that the new use not worsen the existing bike parking non-conformity, six bicycle parking spaces are required. Half must be covered and they all must be in an easily observed location to discourage theft.

There are no storm water detention and treatment facilities at this site as required per CDC Chapter 33. That is a non-conformity. However, since staff finds that no additional hardscape is being added to the site or is required, the addition of the school will not increase the degree of non-conformity.

Thus the provisions of CDC Chapter 66 apply. The approval criterion of that chapter is as follows. (Section applicable to this case is highlighted in yellow.)

- B. *An enlargement or alteration to a non-conforming structure containing a conforming use may be permitted subject to the following:*
1. *If the enlargement, in and of itself, meets all provisions of this Code, the enlargement will be permitted. This exception does not preclude design review or other applicable provisions of this Code. (ORD. 1192)*
 2. *If the enlargement, in and of itself, does not meet all provisions of the Code, review and approval by the Planning Director for single-family structures, and by the Planning Commission for non-single-family structures under the provisions of Section 99.060(B) is required subject to the following standards. (ORD. 1192)*
 - a. *The enlargement or alteration will not change the non-conformity; and*

- b. *All other applicable ordinance provisions will be met.*

For the church/school, the provisions of section B (2) apply. So long as the applicant's answer is that the enlargement or alteration (e.g. introducing new students to the site) will not adversely change the non-conformity then at least the non-conformity aspect of the application should be approved. Of the items listed (landscaping, bike parking and stormwater) the applicant must address the bike parking because the addition of the school and young children WILL increase or worsen the non-conformity because many of the students would or could ride bicycles to school. Staff finds that the school's presence will not exacerbate conditions relative to the other categories.

If the applicant does not want to add the bicycle parking spaces they could apply for a variance; but with a variance deposit cost of \$1,800 and a marginal chance of approval, it may be best to just install the bicycle racks per code.

If the applicant proposes to provide all needed improvements to meet the standards of CDC Chapter 52 (Landscaping) , Chapter 46 (re: Bicycle Parking) and Chapter 33 (Stormwater Quality and Detention) then this Non-Conforming Structure permit would not be required. This option would be very costly.

Building Department Issues

Building Official Dave Davies stated that upgrades to address the fire, life and safety requirements may be required. He mentioned the need for an alarm system that is consistent with school occupancy. Also, ADA hardware on doors and exits plus ADA friendly bathroom facilities would be needed. Exit ramps at both the rear doors would have to meet ADA standards. Curb cuts may also be required to access from the parking lot to the rear entrances. He suggested that an architect be retained to make the determination of what had to be done per ADA. Contact the Building Department for any needed permits (e.g. if bathrooms had to be rebuilt). Once the improvements are complete a change of occupancy permit (\$174) is required.

Engineering Comments

Khoi Le stated that no improvements are needed. No traffic study was required by ODOT but they did recommend that AM and PM traffic for the school should avoid Willamette Drive 7-8AM and 4:30-6PM peak periods. (See attached e-mail from Gail Curtis, ODOT). ODOT also did not want people using the north driveway since no access permit had been obtained for it and there are sight distance issues at that location. System Development Charges (SDC) may be required.

The following are scenarios that City may be willing to look at in this particular situation in regarding to the potential Street SDC that the applicant may be liable for.

SCENARIO ONE: FULL STREET SDC FEE CALCULATION BASED ON NUMBER OF STUDENTS

Trip Generation from Church = 0.66/1000 sqft
Trip Generation from Elementary School = 0.28/student

The proposed project will take place in 2700 sqft in one level of the church, following is the difference in Street SDC.

$$(0.28 \times 96) - (0.66 \times 2700/1000) = 25.10 \text{ trips}$$

Bike/Ped from Church = 0.4/1000 sqft
Bike/Ped from Elementary School = 0.4/student

Following is the difference in Bike/Ped SDC.

$$(0.4 \times 96) - (0.4 \times 2700/1000) = 37.32 \text{ trips}$$

Current Street and Bike/Ped SDC fee

Street SDC = 6513/trip (Effective July 2011)
Bike/Ped SDC = \$986/trip (Effective July 2011)

TOTAL APPLICABLE TRANSPORTATION SDC FEE TO THIS PROJECT

$$(25.01 \times \$6513) + (37.32 \times \$986) = \$199,687.75$$

SCENARIO TWO: FULL STREET SDC FEE CALCULATION BASED ON NUMBER OF STAFF

Trip Generation from Church = 0.66/1000 sqft
Trip Generation from Charter School = 4 (equal number of staff)

Following is the difference in Street SDC:
trips = $4 - (0.66 \times 2700/1000) = 2.22$

Bike/Ped Trip = $(0.4 \times 96) - (0.4 \times 2700/1000) =$
37.32 trips

Current Street and Bike/Ped SDC fee

Street SDC = 6513/trip (Effective July 2011)
Bike/Ped SDC = \$986/trip (Effective July 2011)

TOTAL APPLICABLE TRANSPORTATION SDC FEE TO THIS PROJECT

(2.22 X \$6513) + (37.32 X \$986) = \$51,256.38

PLEASE NOTE THAT THE TWO SCENARIOS ABOVE ARE PREPARED JUST FOR PURPOSE OF PRELIMINARY PLANNING ANALYSIS.

FURTHER DISCUSSION OF REQUIRED STREET SDC FEE IN DETAIL SHALL BE REQUIRED. CITY MANAGEMENT MAY HAVE TO BE INVOLVED IN THE DETERMINATION PROCESS OF THE STREET SDC FEE REQUIREMENT.

PROCESS

A neighborhood meeting is required per CDC Section 99.038. Contact Sally McLarty, Bolton Neighborhood President, at 722-2137. **Follow the instructions of that Code section explicitly.** Failure to meet the exact procedures will require repeating them.

Permits to be obtained are:

- Conditional Use Permit per CDC Chapter 60 (\$3,650 deposit). The submittal requirements are per CDC 60.060 and the approval criterion is per CDC 60.070. Because the site is fully built out and you are just changing occupancy, most of the submittal requirements can be waived. The applicant must provide a statement for each submittal requirement explaining why it should be waived. "Not applicable or N/A" is not an adequate response.
- Expansion/Alterations to Non-Conforming Structure per CDC Chapter 66 (\$1,200 deposit) relating to parking lot landscaping, bike parking and stormwater facilities. There are no submittal requirements are per CDC Chapter 66 but the approval criterion is per CDC 66.080(B)
- Class I Design Review per CDC Chapter 55 (\$850 deposit) **but only if exterior changes occur.** (*An ADA ramp would not trigger design review.*) The submittal requirements are per CDC 55.070(D) and the approval criterion is per CDC 55.090.
- Change of Occupancy permit (Building Department) (bathroom remodels to meet ADA may require building permits)

All deposit amounts are billed against by staff through the course of the application to the extent that additional deposit money may be required if staff hours billed exceeds the initial deposit amount. Conversely, it is possible that easy or simple cases could see a refund if the application is decided without delays or appeals.

The submittal requirements and approval criteria of the applicable Community Development Code Chapters must be addressed on a point-by-point basis. Waivers of specific submittal requirements can be granted but the applicant must first state to the Planning Director the grounds for the waiver. No waivers of the approval criteria are allowed.

Prepare the application and submit to the Planning Department with deposit fees. The City has 30 days to determine if the application is complete or not (most applications are incomplete). The applicant has 180 days to make it complete, although usually it is complete within three months of the original submittal. Once complete, the City has 120 days to exhaust all local review and appeals.

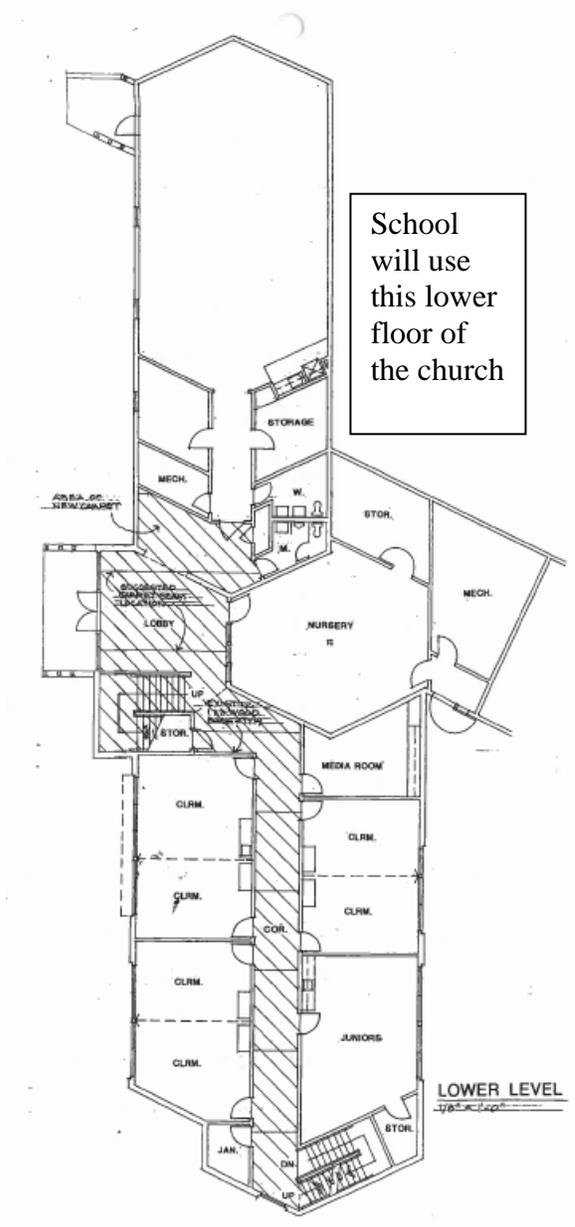
- 1) Staff prepares public notice and schedules the hearing. The first hearing is usually four weeks from the date the application is deemed complete.
- 2) Planning Commission decides the CUP, Design Review (if required) and alteration of Non-Conforming Structure permits.

The decisions may be appealed to the City Council but only by persons with standing or by City Council itself. If appealed, the City Council hearing is 6-8 weeks from the Planning Commission hearing date. Subsequent appeals go to LUBA.

Once approved, the applicant has three years to complete the project before the approval lapses and is void.

Typical land use applications can take 8-10 months from beginning to end. Street and utility improvements typically increase the amount of time required.

DISCLAIMER: This summary discussion covers issues identified to date. It does not imply that these are the only issues. The burden of proof is on the applicant to demonstrate that all approval criteria have been met. These notes do not constitute an endorsement of the proposed application. Staff responses are based on limited material presented at this pre-application meeting. New issues, requirements, etc. could emerge as the application is developed. **Please also note that these pre-application notes have an 18-month shelf life and are invalid after that time.** Also, new state laws and development code amendments can impact the feasibility of a project.











From: CURTIS Gail E [\[mailto:Gail.E.CURTIS@odot.state.or.us\]](mailto:Gail.E.CURTIS@odot.state.or.us)
Sent: Thursday, June 02, 2011 9:48 AM
To: Spir, Peter
Subject: June 2nd Pre-Apps

K-Third School - No traffic study or approach permit is required. Prefer to see trips to and from school outside of peak-hour (e.g. late opening). There is a driveway access on the north side of property that has no ODOT approach permit. One is required if this access is intended to be used. It has sight distance issues. Our preference is the trips to and from the school use the established street access on the south side of the site.

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