

**EXHIBIT “A”
RESTATED SUPPLEMENTAL FINDINGS
TYPE “C” VARIANCE REQUEST
37-2W-03AB TAX LOT 4300**

A. Proposal.

Jackson County School District No. 6 (“Applicant”), is the owner of certain real property, located in the City of Central Point, Oregon, and commonly known as Township 37 South, Range 2 West, Section 03AB, Tax Lot 4300 (“the subject property”). The subject property has been developed with Scenic Middle School since at least 1966 pursuant to the Jackson County Assessor’s records. Consequently, modifications and upgrades to certain portions of the existing facility are necessary to accommodate growing enrollment. Because the facility has been constructed in its current configuration and existing on the grounds for over 55 years and prior to any zoning rules or regulations, there is limited option for placement of certain necessary upgrades which standards of the current development code may preclude unless approved by variance from said standards. Specifically, the standards of CPMC 17.75.039 (G) “Parking/Loading Facility Landscaping and Screening” and Table 17.75.03 “Parking/Loading facility perimeter and street frontage landscaping.” Applicant is proposing to construct a bus loop along the southern boundary of the subject property. Due to the proximity of pre-existing structures in relation to the southern property boundary line, Applicant is requesting a variance to the buffer landscape requirements along the southern property boundary where the bus loop is proposed.

Applicant has been working to improve congestion issues at Scenic Middle School, which historically have been a constant source of complaints from staff, parents and neighboring property owners. Recently, Applicant worked with neighboring property owners to the north of the subject property for the creation and dedication of the Rock Way extension to the subject property. The traditional bus route has been through the existing parking lot, which has resulted in parents obstructing the residential streets to the south of the subject property when picking up/dropping off students. The proposed bus route on the southern portion of the subject property will eliminate the current congestion issues in this area. Specifically, the parent pick up/drop off location will be relocated to the parking area north of the school with parents entering via the western driveway and exiting via Rock Way. School traffic to the south will be limited to school busses arriving in the morning and leaving in the afternoon.

B. Schedule of Exhibits.

The following Exhibits have been submitted in support of this Application, which by this reference are incorporated herein and deemed a part of this Application:

EXHIBIT “A”:	Supplemental Findings
EXHIBIT “B”:	Site Plans
EXHIBIT “C”:	Assessor’s Map / 1968 Field sketch
EXHIBIT “D”:	Aerial Photograph

EXHIBIT “E”:	Floodplain Map
EXHIBIT “F”:	Site Photographs
EXHIBIT “G”:	Agent Authorization

C. Background.

The subject property is approximately 13.58 acres in size, is zoned “Civic” and is developed with Scenic Middle School, a pre-existing (pre-zoning) educational facility comprised of several attached structures and four (4) detached modular buildings currently housing two (2) classrooms each, for a total of 39 existing classrooms. A separate Site Plan and Architectural Review (“SPAR”) has been submitted for review of the proposed modification of the parking lot; the “Phase 1 SPAR”. A second, “Phase 2” SPAR will be subsequently submitted for the proposed addition of a new building that will contain six (6) new classrooms. The variance requested is for omission of the required parking/loading facility perimeter and street frontage landscaping buffer standards along the southern boundary of the subject property due to the lack of space between pre-existing buildings and the property boundary which precludes accommodation of both; the bus ramp and the landscape buffer required. The buffer requirements are: 10’ where adjacent to Aurora Lane (classified as a “local” road) and 20’ where adjacent to the residentially zoned properties located at either end of the proposed bus loop. Tax Lot 5003 (37-2W-03AB) to the east where the busses will enter the loop on school property and Tax Lot 124 (37-2W-03AC) located to the west and south of the proposed ramp, which will exit the school grounds via Comet Avenue.

D. Applicable Standards and Criteria.

The standards applicable to this Application are set forth in Central Point Municipal Code (“CPMC”) Sections 17.13 “**Exceptions to Code Standards**” which are set forth as follows:

1. CPMC 17.13.100 Variances – Purpose.

This chapter provides standards and procedures for variances, which are modifications to land use or development standards that are not otherwise permitted elsewhere in this title as exceptions to code standards. This chapter cannot provide standards to fit every potential development situation. The city’s varied geography, and complexities of land development, require flexibility. This chapter provides that flexibility, while maintaining the purposes and intent of the code. The variance procedures provide relief from specific code provisions when they have the unintended effect of preventing reasonable development in conformance with all other codes. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met. (Ord. 1874 §5(part), 2006). [CPMC 17.13.100]

2. CPMC 17.13.200 Variances – Applicability

A. Exceptions and Modifications Versus Variances. A code standard or approval criterion (“code section”) may be modified without approval of a variance if the applicable code section expressly allows exceptions or modifications. If the code section does not expressly provide for exceptions or modifications, then a variance

is required to modify that code section and the provisions of this chapter apply.
[CPMC 17.13.200(A)]

Applicant's Findings: The requested variance is to the requirements of CPMC 17.75.039 (G) "Parking/Loading Facility Landscaping and Screening" and Table 17.75.03 "Parking/Loading facility perimeter and street frontage landscaping" standards due to necessary upgrades to access and parking of an educational facility that has been developed and existing on the subject property for at least 55 years. There are no exceptions expressly provided within this section of code or within the table. Therefore, the variance procedure is required, and the provisions of this Chapter are applicable.

B. Combining Variances with Other Approvals; Permit Approvals by Other Agencies. Variance requests may be combined with and reviewed concurrently by the city approval body with other land use and development applications (e.g., development review, site design review, subdivision, conditional use, etc.); however, some variances may be subject to approval by other permitting agencies, such as ODOT in the case of state highway access. [CPMC 17.13.200(B)]

Applicant's Findings: Applicant has submitted a site design review application in conjunction with this variance request, for concurrent consideration by the Planning Commission. There are no other applications submitted which rely on the regulation or permitting of any other agency than the City of Central Point. Applicant understands that a floodplain development permit application will also be required to be submitted to and approved by the City of Central Point Planning Department for paving of the proposed bus loop and modification to a segment of the existing fencing where it abuts Comet Avenue.

C. Types of Variances. As provided in Sections 17.13.300, 17.13.400 and 17.13.500, there are three types of variances (Class A, B, or C). The type of variance required depends on the extent of the variance request and the discretion involved in the decision-making process. (Ord. 1874 §5(part), 2006). [CPMC 17.13.200(C)]

Applicant's Findings: There is no mechanism to obtain the requested variance(s) through the Class A or B variance options therefore, the Class C variance is appropriately pursued through submittal of this Type III Application.

3. CPMC 17.13.500 Class C Variances

A. Applicability. Class C variance requests are those that do not conform to the provisions of Sections 17.13.300 and 17.13.400 (Class A and Class B), and that meet the criteria in subsections (A)(1) through (4) of this section. Class C variances shall be reviewed using a Type III procedure, in accordance with Chapter 17.05:

1. The Class C variance standards apply to individual platted and recorded lots only.

Applicant's Findings: The variance requested is specific to the subject lot; Tax Lot 4300 in Township 37, Range 2 West, Section 03AB, an individual lot.

2. **The Class C variance procedure may be used to modify a standard for three or fewer lots, including lots yet to be created through a partition process.**

Applicant's Findings: The variance requested is specific to the subject property; Tax Lot 4300 in Township 37, Range 2 West, Section 03AB, an individual lot.

3. **An applicant who proposes to vary a standard for lots yet to be created through a subdivision process may not utilize the Class C variance procedure. Approval of a planned unit development shall be required to vary a standard for lots yet to be created through a subdivision process where a specific code section does not otherwise permit exceptions.**

Applicant's Findings: This Section is not applicable. The proposal does not include a request to create new lots.

4. **A variance shall not be approved that would vary the "permitted uses" or "prohibited uses" of a zoning district. [CPMC 17.13.500(A)]**

Applicant's Findings: The variance requested is not pertinent to a permitted use nor a prohibited use but rather a development design standard.

- B. **Approval Process. Class C variances shall be processed using a Type III procedure, as governed by Section 17.05.400, using the approval criteria in subsection C of this section. In addition to the application requirements contained in Section 17.05.400, the applicant shall provide a written narrative or letter describing his/her reasoning for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection C of this section. [CPMC 17.13.500(B)]**

Applicant's Findings: The Applicant has submitted these written findings (narrative) in conjunction with the City of Central Point Planning Department Type III Application form and associated fee. The criteria of subsection "C" of this section are subsequently addressed.

- C. **Approval Criteria. The city shall approve, approve with conditions, or deny an application for a variance based on all of the following criteria:**

1. **The proposed variance will not be materially detrimental to the purposes of this code, to any other applicable policies and standards, and to other properties in the same zoning district or vicinity;**

Applicant's Findings: The subject property is zoned "Civic" and surrounded by residentially classified zoning districts. There is no other "Civic" zoned property in the vicinity of the subject property. The proposed variance to the parking/loading facility perimeter and street frontage

landscaping buffer standards will not be materially detrimental to the intended purpose of the code or other applicable policies and standards. The Applicant is requesting a variance to this one section of the Design and Development Standards of CMPC 17.75, alone. The purpose of the variance is not to change or alter the CPMC in any way and will not be detrimental to other properties within the vicinity of the subject property. In fact, the proposal will be beneficial to surrounding properties, specifically those located on Aurora Lane, where high traffic congestion occurs due to vehicles forming a queue for drop off and pickup of students on the southern (exterior) side of the existing fence. The proposed improvement which will benefit the residents of Aurora Lane by decongesting it during peak school drop off and pick hours, would not be possible without the requested variance.

2. A hardship to development exists which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same zoning district);

Applicant's Findings: The school facility has been in existence for at least 55 years and is structurally developed. Minimal open space, aside from that on the western side of the subject property (the track, football field and baseball diamond) which is devoted to the physical activity educational component, exists on the subject property. Consequently, there is minimal space on the subject property to accommodate any new development. The parking lot is being improved in its current location to accommodate ongoing enrollment increases since the school's construction. Due to the configuration of existing structures, there is no other viable location on the subject property for the proposed bus route. Specifically, there is no feasible location to route the buses along the eastern boundary of the subject property because of limited space between the existing buildings and the eastern boundary line. A bus route along the western side of the subject property would require a significant encroachment into the football/soccer field, track and baseball field (the proposed route results in a minor encroachment into the track). A western bus route would render all of the aforementioned facilities unusable for their intended purpose. The difficulty of a potential western route is exasperated by the site topography. In particular, the existing parking lot is elevated relative to the track (approximately 4-5 feet), which would require either of the following: (a) construction of separate dedicated bus roadway at current grade; or (b) the import and placement of engineered fill to construct a dedicated bus lane at grade with the existing parking lot. Unfortunately, neither of the aforementioned options is viable because both options would render important school facilities (i.e., football/soccer field, track and baseball field) unusable for their intended purpose.

The hardship is peculiar to the lot size, shape, topography of the subject property in conjunction with the civic use of the subject property. The construction of Scenic Middle School occurred prior to the implementation of zoning and development requirements including landscape buffers and setbacks. Consequently, structural development historically occurred closest to Aurora Lane resulting in an approximately 30-foot setback between the fence along the southern boundary line of the subject property and the existing buildings. Due to this proximity, placement of the necessary bus loop and the planting buffer required by the code are synonymously impossible. These constraints are not applicable to any other properties in the vicinity because there are no other long-term civic uses occurring in the vicinity of the subject property.

- 3. The use proposed will be the same as permitted under this title and city standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;**

Applicant's Findings: There is no proposed change in use. The subject property is developed with Scenic Middle School, a middle school is one of the intended uses for the "Civic" zone district. All other code standards, as addressed within the concurrently filed SPAR application, are met through the proposal. As addressed above, there is no other viable location to place the necessary bus loop and the location cannot accommodate both the necessary loop and the required buffer landscaping.

- 4. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks, will not be adversely affected any more than would occur if the development occurred as specified by the subject code standard;**

Applicant's Findings: To the contrary, the variance is requested specifically to positively impact existing traffic patterns occurring on and around school grounds. There is already a cyclone fence with white "privacy slats" installed along the southern boundary of the subject property. This screening will remain in place and the only change experienced will be a positive effect on traffic patterns currently experienced on Aurora Lane by decreasing their intensity. The lack of planting trees and shrubs inside of the privacy fence will not adversely affect the subject nor surrounding properties. The cyclone fence with white privacy slats is what the residents of Aurora Lane currently observe, and that observation would remain the same if the requested variance wasn't necessary due to spatial accommodation constraints.

- 5. The hardship is not self-imposed; and**

Applicant's Findings: As previously addressed, the school and the structural configuration have been in existence since at least the mid-1960's (*Please see Assessors field sketch/building inventory from 1968 at Exhibit "C"*). The school grounds were developed in their current configuration prior to any zoning regulation and the designers of the school could not have anticipated future regulation. Due to the existing structures and limited existing open space (a necessary component of any educational facility) the hardship is not self-imposed.

- 6. The variance requested is the minimum variance that would alleviate the hardship. (Ord. 1874 §5(part), 2006). [CPMC 17.13.500(C)]**

Applicant's Findings: The proximity of existing structures to the southern property boundary leaves no room for any planting and omission of the planting requirements is consequently the minimum variance that will alleviate the hardship in this location.

\\

\\

E. Conclusion.

Based upon the findings set forth herein and the evidence submitted in conjunction with this Application, Applicant respectfully contends that the applicable standards and criteria have been met and the Application for the variance to the requirements of CPMC Section should be approved.

Dated this 11th day of April 2022.

O'CONNOR LAW, LLC



Daniel B. O'Connor, OSB No. 950444