

Order 138-09/10

Given first reading: 1/4/10.

Public hearing and amended.

Passage: 1/20/10 8-0 (Skolnik gone)

**AMENDMENT TO ORDER 138-09/10 PREPARED FOR COUNCILOR
MARSHALL BY CORPORATION COUNSEL**

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CITY OF PORTLAND
IN THE CITY COUNCIL

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**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

*That Division 16 of the Portland City Code is hereby
enacted as follows:*

DIVISION 16 WAYNFLETE SCHOOL OVERLAY ZONE

Sec. 14-276. Purpose.

The intention of this division is to establish an
overlay zone which protects the value and integrity of
established residential neighborhoods, establishes clearly
defined boundaries beyond which residential conversions
cannot occur and results in no net loss of dwelling units,
while allowing Waynflete School, an existing private day
school, to continue and reasonably augment its existing
uses and programs, thereby maintaining compatible
development at medium densities appropriate to the existing
neighborhood patterns. As used in this division, the term
"Waynflete School" includes any successor institution that
operates as a private day school.

**Sec. 14-276.1. Location and applicability of Waynflete
School Overlay Zone.**

The Waynflete School Overlay Zone, as shown on the
zoning map, is intended to encompass and define Waynflete
School's principal campus on the Portland peninsula.
Properties in the Waynflete School Overlay Zone shall
continue to be governed by the regulations applicable to
the underlying zoning districts except as specifically
modified by this division.

Sec. 14-276.2. Overlay Zone sub-districts.

The Waynflete School Overlay Zone consists of two sub-districts, as shown on the Waynflete School Overlay Zone sub-district map, incorporated herein by reference, as follows:

- (a) The Campus Core sub-district defines the interior core of the campus and is intended to allow compact development of school uses, with specific space and bulk regulations designed to accommodate school uses.
- (b) The Campus Edge sub-district is intended to preserve residential character along the streets bordering the campus, by limiting the amount of residential space which can be converted to school uses, by maintaining a number of dwelling units within the sub-district which equals the number of dwelling units existing in the sub-district at the time of enactment of this Overlay Zone and by encouraging mixed use buildings along the street frontages. The space and bulk regulations of the R-4 district continue to apply within the Campus Edge sub-district.

Except where otherwise specified in this division, all provisions of this Waynflete School Overlay Zone apply in both sub-districts.

Sec.14-276.3. Permitted uses.

In addition to the permitted uses allowed in the underlying zoning districts and notwithstanding anything to the contrary in the use regulations for the underlying zoning districts, the following uses are permitted uses in the Waynflete School Overlay Zone.

(a) School Uses. Elementary, middle and secondary school uses including, but not limited to, the following:

- 1. Classrooms;
- 2. Laboratory facilities;

3. Dining halls;
4. Auditoriums;
5. Concert halls;
6. Lecture halls;
7. Gymnasiums;
8. Libraries;
9. Outdoor use areas, such as "quads", greens, parks, gardens, art installations, and other active and passive recreation spaces;
10. Parking lots;
11. Parking structures;
12. Community meeting spaces;
13. Administrative offices;
14. Faculty offices;
15. Transportation facilities;
16. Maintenance facilities;
17. Utility buildings;
18. Student health services;
19. Bookstores;
20. Accessory uses which are customarily incidental and subordinate to the location, function and operation of a private day school.

(b) Residential Uses.

1. Faculty or staff housing, which shall be considered a residential use, and not a school use, for all purposes under this Overlay Zone.

Sec. 14-276.4. Prohibited uses.

(a) Boarding schools;

(b) Dormitories.

Sec. 14-276.5. Residential conversions prohibited.

(a) Conversions of existing residential buildings within the Waynflete School Overlay Zone shall be prohibited.

(b) The existing houses at 11 Fletcher Street, 3 Storer Street, 305 Danforth Street and 299 Danforth Street shall not be relocated from their locations existing as of [the date of enactment of Waynflete School Overlay Zone]. This provision shall not apply to garages.

(c) At no time shall the number of dwelling units within the Waynflete School Overlay Zone be reduced below four (the number existing at the time of enactment of this Overlay Zone).

Sec. 14-276.6. Dimensional requirements.

Buildings and structures in the Waynflete School Overlay Zone shall be subject to the applicable dimensional requirements of the underlying zoning districts, except as follows:

(a) Minimum yard dimensions shall be the same as in the underlying zone, except that side and rear yards shall not be required between buildings on contiguous lots owned or occupied by Waynflete School on the condition that such contiguous lots shall be considered merged and shall not be separately conveyed unless required yard dimensions in the underlying zones are provided.

(b) Minimum street frontage shall be the same as in the underlying zone, except that all the land within the Waynflete School Overlay

Zone owned or occupied by Waynflete School shall be considered a single lot for the purpose of complying with minimum street frontage.

- (c) Maximum coverage by buildings shall be the same as in the underlying zone, except that in the Campus Core sub-district the maximum coverage by buildings shall be 40% and all the land within the Campus Core sub-district owned or occupied by Waynflete School shall be considered a single lot for the purpose of calculating maximum coverage by buildings.

Sec. 14-276.7. Parking.

The amount of parking required for any change of use, new building or building addition within the zone shall be determined during site plan review, based on an analysis of school-wide demand and supply, pursuant to a comprehensive school-wide Transportation Demand Management plan (TDM), and treating all land owned by Waynflete School within the Waynflete School Overlay Zone as one lot. Any existing parking management or TDM plan approved as part of a previous approval shall remain in effect until revised or updated pursuant to this section. In determining the amount of parking required for any building within the Waynflete School Overlay Zone, the planning authority or the planning board may take into account such factors as:

- (a) The use of centrally located on-campus parking facilities so situated that students, faculty, staff and visitors arriving on campus can reasonably be expected to park in the central facilities and walk to their various on-campus destinations during the course of a school day.
- (b) Shared use of a single parking facility by two or more buildings when the peak parking demand periods for such buildings do not overlap.

- (c) Development and implementation of a parking management plan which discourages on-street parking.
- (d) Development and implementation of a TDM plan subject to the review and approval of the planning authority or the planning board. The TDM plan shall employ elements such as public transit initiatives, parking cash-out, car sharing, car and van pooling incentives, provision of bicycle and pedestrian commuting accommodations, guaranteed ride home programs, employee surveys, newsletters and alternative transportation information sharing and other such strategies that reduce single occupancy vehicle trips to and from Waynflete School. Waynflete School shall follow the standards and guidelines for developing a TDM plan found in the TDM section of the City of Portland Technical and Design Standards and Guidelines.

14-276.8. Loading.

The requirements of section 14-351 shall not apply to buildings within the Waynflete School Overlay Zone. Instead, the amount of loading area required for any building within the zone shall be determined by the planning board during site plan review, based on a campus-wide analysis, treating all land owned by Waynflete School within the Waynflete School Overlay Zone as one lot. In determining the amount of loading space required for any building within the Waynflete School Overlay Zone, the planning board may take into account such factors as:

- (a) The use of centrally located on-campus loading facilities so situated that vehicles making deliveries can load and unload in the central facilities, provided no single location is overburdened with loading facilities.
- (b) Shared use of a single loading facility by two or more buildings.

(c) Impacts of the loading area on adjacent uses outside the Waynflete School Overlay Zone.

Sec. 14-276.9. Signage.

Signs shall comply with the requirements of Division 22.

Sec. 14-276.10. Restrictions outside the Waynflete School Overlay Zone.

Notwithstanding the provisions of section 14-103(b)(1) or section 14-137(b)(1), Waynflete School cannot locate a school use listed in section 14.276.3(a) on any lot in the R-4 or R-6 Districts outside the boundaries of the Waynflete School Overlay Zone that was occupied by a residential use or structure on or after [the date of enactment of the Waynflete School Overlay Zone]. This restriction does not prevent Waynflete School from seeking a conditional use permit for a school use, where otherwise allowed by the zoning district regulations, on lots outside the Waynflete School Overlay Zone that were not occupied by a residential use or structure on or after [the date of enactment of the Waynflete School Overlay Zone].

BE IT FURTHER ORDERED that sections 14-103 and 14-137 be amended as follows:

Sec. 14-103. Conditional uses.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

- (b) *Institutional*: Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:

1. Elementary, middle and secondary school (except as otherwise provided in section 14-276.10);

. . . .

Sec. 14-137. Conditional uses.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

- (b) *Institutional*: Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:

1. Elementary, middle and secondary school (except as otherwise provided in section 14-276.10);

. . . .

BE IT FURTHER ORDERED that the zoning map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect the Waynflete School Overlay Zone as depicted on Exhibit A, attached hereto.