

1 BEFORE THE LAND USE BOARD OF APPEALS  
2 OF THE STATE OF OREGON

3  
4 KATHLEEN WALKER,  
5 *Petitioner,*

6  
7 vs.

8  
9 CITY OF SANDY,  
10 *Respondent,*

11  
12 and

13  
14 OREGON TRAILS SCHOOL  
15 DISTRICT No. 46,  
16 *Intervenor-Respondent.*

17  
18 LUBA No. 2010-073

19  
20 FINAL OPINION  
21 AND ORDER

22  
23 Appeal from City of Sandy.

24  
25 Carrie Richter, Portland, filed the petition for review and argued on behalf of  
26 petitioner. With her on the brief were Jennifer M. Bragar and Garvey Schubert and Barer.

27  
28 David F. Doughman, Portland, filed a joint response brief and argued on behalf of  
29 respondent. With him on the brief was Beery, Elsner & Hammond LLP.

30  
31 Peter R. Mersereau, Portland, filed a joint response brief and argued on behalf of  
32 intervenor-respondent. With him on the brief was Mersereau Shannon LLP.

33  
34 HOLSTUN, Board Chair; BASSHAM, Board Member; RYAN, Board Member,  
35 participated in the decision.

36  
37 AFFIRMED

12/17/2010

38  
39 You are entitled to judicial review of this Order. Judicial review is governed by the  
40 provisions of ORS 197.850.

**NATURE OF THE DECISION**

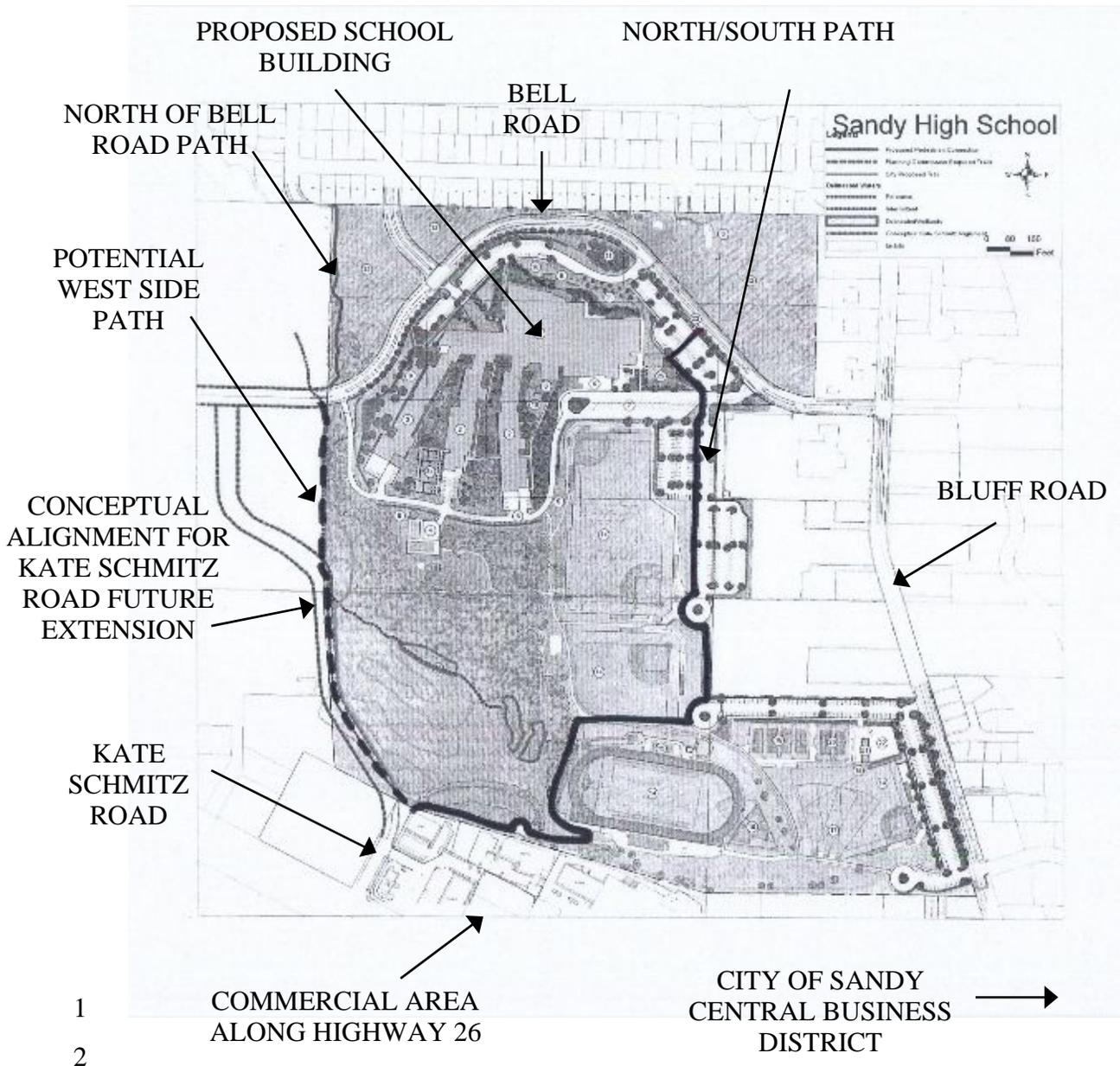
Petitioner appeals a decision that grants conditional use and design review approval for intervenor-respondent school district to construct a new 310,000 square foot high school.

**FACTS**

The subject property includes 83 acres and intervenor-respondent school district proposes to construct a new high school building and related improvements on that property. The central dispute in this appeal is whether the approved proposal includes “[s]afe and convenient pedestrian and bicycle facilities,” as required by the City of Sandy Municipal Code (SMC). To assist in setting out the facts, we include on the next page a drawing from the record that we have altered to more clearly display the key features that are at issue in this appeal.

Bell Road traverses the northern part of the property in a looping east/west direction and connects with Bluff Road, which travels south and intersects with Highway 26 a short distance west of the City of Sandy central business district. Commercial development along the north side of Highway 26 separates the subject school site from Highway 26. Kate Schmitz Road is an existing roadway that currently terminates at the southwest corner of the subject property. The city’s transportation system plan (TSP) anticipates that at some time in the future Kate Schmitz Road will be extended north along at least a portion of the west side of the school district property to connect with Bell Road, but there are no immediate plans to construct that extension.

The proposed new high school building would be located in the northern part of the property, immediately south of Bell Road. North of Bell Road is an existing residential area and Sandy Bluff Park, and the dispute in this appeal appears to center on whether the proposal provides adequate north/south connectivity for trips between that residential area and areas to the south of the subject property.



1                   The above drawing shows a potential west side path along the western boundary of  
 2  
 3                   the subject property in the general location of an existing path. That potential west side path  
 4                   would provide a direct connection between Bell Road and Kate Schmitz Road. We will refer  
 5                   to that path in this opinion as the potential west side path to distinguish it from the *existing*  
 6                   west side path. The primary difference between the existing west side path and the potential  
 7                   west side path is that the potential west side path would have to be improved to city  
 8

1 standards and located on a dedicated easement, whereas the existing west side path is  
2 unimproved and is not located on a dedicated easement. Petitioner believes the potential  
3 west side path is required to satisfy the SMC pedestrian and bicycle connectivity standard  
4 discussed below. The city council rejected that position. As approved, the school district  
5 along with at least one other property owner along Bluff Road would be required to construct  
6 sidewalks so that there would be continuous sidewalk access from the new school along Bell  
7 Road and Bluff Road to Highway 26. In addition, the school district will be required to  
8 construct and dedicate a new north/south path from Bell Road through the eastern part of the  
9 school property ultimately connecting with Kate Schmitz Road in the southwest corner of the  
10 property. The city council found that the Bell Road/Bluff Road sidewalk improvements, the  
11 north/south path, the existing (unimproved) west side path and the planned future extension  
12 of Kate Schmidt were collectively sufficient to comply with the SMC pedestrian and bicycle  
13 connectivity standard. In three assignments of error, petitioner challenges those findings.

14 **REPLY BRIEF**

15 Petitioners move for permission to file a reply brief to respond to arguments in  
16 respondent's and intervenor-respondent's (respondents') brief that petitioner waived some of  
17 the issues presented in her petition for review by failing to raise them before the city. The  
18 motion is granted. *Caine v. Tillamook County*, 24 Or LUBA 627 (1993); *Glisan Street*  
19 *Associates v. City of Portland*, 24 Or LUBA 621 (1993).

20 **INTRODUCTION**

21 The SMC 17.84.30(B) pedestrian and bicycle connectivity standard that is at the  
22 center of this appeal is set out below.

23 *“Safe and convenient pedestrian and bicyclist facilities that **strive to minimize***  
24 *travel distance **to the extent practicable** shall be provided in conjunction with*  
25 *new development* within and between new subdivisions, planned  
26 developments, commercial developments, industrial areas, residential areas,  
27 public transit stops, school transit stops, and neighborhood activity centers  
28 such as schools and parks, as follows:

1           “1.    For the purposes of this section, ‘safe and convenient’ means  
2           pedestrian and bicyclist facilities that: are reasonably free from  
3           hazards which would interfere with or discourage travel for short trips;  
4           provide a direct route of travel between destinations; and meet the  
5           travel needs of pedestrians and bicyclists considering destination and  
6           length of trip.

7           “2.    To meet the intent of “B” above, right-of-ways connecting cul-de-sacs  
8           or passing through unusually long or oddly shaped blocks shall be a  
9           minimum of 15 ft. wide with 8 feet of pavement.

10          “3.    12 feet wide pathways shall be provided in areas with high bicycle  
11          volumes or multiple use by bicyclists, pedestrians, and joggers.

12          “4.    Pathways and sidewalks shall be encouraged in new developments by  
13          clustering buildings or constructing convenient pedestrian ways.  
14          Pedestrian walkways shall be provided in accordance with the  
15          following standards:

16                   “\* \* \* \* \*

17                   “c)    Walkways shall be as direct as possible and avoid unnecessary  
18                   meandering.

19                   “\* \* \* \* \* [.]” (Italics, bold type and underlining added.)

20          Petitioner also cited and relied on SMC 17.82.40 (which requires that new paths be covered  
21          with a hard surface), SMC 17.84.90(A) (which requires easements for pedestrian paths), and  
22          SMC 17.100.120(D) (which requires improved mid-block pedestrian and bicycle accessways  
23          when a land division creates blocks that exceed 600 feet in length).<sup>1</sup>

24                  In rejecting petitioner’s request that the city require construction of the potential west  
25          side path, the city council appears to rely heavily on the text of SMC 17.84.30(B) that is

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<sup>1</sup> The school district’s 83 acre property is not a rectangle, but it is roughly 1800 feet from west to east and 2000 feet north to south. The complete text of SMC 17.100.120(D) is set out below:

“Pedestrian and Bicycle Access Way Requirements. In any block in a residential or commercial district over 600 feet in length, a pedestrian and bicycle accessway with a minimum improved surface of 10 feet within a 15-foot right-of-way or tract shall be provided through the middles of the block. To enhance public convenience and mobility, such accessways may be required to connect to cul-de-sacs, or between streets and other public or semipublic lands or through greenway systems.”

1 italicized above, which only requires that pedestrian and bicycle facilities “strive to minimize  
2 travel distance to the extent practicable.” Petitioner, on the other hand, in arguing that the  
3 approved proposal fails to provide the “safe and convenient pedestrian and bicyclist  
4 facilities” required by SMC 17.84.30(B), relies primarily on the underlined text, which  
5 requires that walkways be “direct as possible and avoid unnecessary meandering.”

## 6 **ASSIGNMENTS OF ERROR**

### 7 **A. The City Council’s Findings and Interpretation**

8 Relevant portions of the city council’s findings specifically addressing SMC  
9 17.84.30(B) and SMC 17.100.120(D) are set out below:

10 *“\* \* \* The Council notes that the relevant approval standard [SMC]*  
11 *17.84.30(B), gives it significant discretion in determining whether and where*  
12 *pedestrian connectivity will be required for a given development proposal.*  
13 *Regarding the request to require [the potential] west side path, the Council*  
14 *rejected the appellant’s request and determined that given the location of*  
15 *existing paths in this area sufficient west side connectivity exists and an*  
16 *additional path was not necessary in order to comply with the Code. The*  
17 *Council also noted that west side pedestrian connectivity will be even greater*  
18 *when Kate Schmitz [Road] is improved with sidewalks through the*  
19 *applicant’s property in the future. Regarding the Planning Commission’s*  
20 *requirement to construct a path north of Bell Street, the Council determined it*  
21 *would be more efficient to require construction of this facility at the time this*  
22 *property is developed, and that based on the evidence in the record this path*  
23 *was not necessary in order for the application to comply with the [SMC]. For*  
24 *this reason, the Council eliminated the Planning Commission’s Condition C.2*  
25 *second bullet (first C) and Condition C.1 (second C) related to construction of*  
26 *the path north of Bell Street. Regarding the Planning Commission’s*  
27 *requirement to construct [the north/south path] to Kate Schmitz Avenue, the*  
28 *Council determined the location of this path was appropriate and should be*  
29 *constructed of compacted gravel including ¼ inch minus gravel. The Council*  
30 *considered the [school district’s] testimony regarding concerns with student*  
31 *safety if the public is allowed to use these paths during school hours. For this*  
32 *reason, the Council determined it was in the best interest of student safety to*  
33 *allow the School District to restrict access on school property during school*  
34 *hours. Regarding completion of improvements on Bluff Road, the Council*  
35 *determined construction of sidewalks north of required improvements at the*  
36 *football field parking lot to Bell Street would be desirable to facilitate student*  
37 *safety and pedestrian connectivity in this area. \* \* \* The appellants also*  
38 *asserted that [SMC] 17.100.120(D) requires internal pathways through the*  
39 *site. As discussed above, the Council generally agrees that internal pathways*

1 are necessary, and finds that such pathways will be provided by the existing  
2 west side nature path, the Planning Commission’s required [north/south path]  
3 to Kate Schmitz [Road], the completion of sidewalks on Bluff Rd., and the  
4 sidewalks that will accompany Kate Schmitz’s eventual improvement.  
5 However, the Council notes that [SMC] 17.100.120(D) is only applicable to  
6 land divisions. Because the [School District] is not proposing a land division,  
7 the Council finds that this standard is not applicable to the [School District’s]  
8 proposal. Based on all of these factors, the Council finds that the [School  
9 District’s] proposal will provide safe and convenient pedestrian connectivity  
10 to the extent such connectivity is practicable, as required under the code.”  
11 Record 15-16. (Italics, underlining and double underlining added.)

12 The italicized language quoted above is the closest the city comes to offering an  
13 express interpretation of SMC 17.84.30(B), and the italicized language does not really  
14 identify the actual text of SMC 17.84.30(B) that the city believes gives the city council  
15 “significant discretion in determining whether and where pedestrian connectivity will be  
16 required for a given development.” However, it is reasonably clear to us that the language  
17 the city council was relying on is the initial language of SMC 17.84.30(B) that states “[s]afe  
18 and convenient pedestrian and bicyclist facilities that strive to minimize travel distance to the  
19 extent practicable shall be provided in conjunction with new development \* \* \*.” Even if the  
20 above findings are insufficient to constitute an express interpretation of SMC 17.84.30(B),  
21 they are more than sufficient to constitute an implied interpretation of SMC 17.84.30(B), to  
22 the effect that the city council has significant discretion regarding pedestrian connectivity, to  
23 reject petitioner’s contention that additional or more direct north/south pathways are required  
24 under those sections of the SMC. *Alliance for Responsible Land Use v. Deschutes Cty.*, 149  
25 Or App 259, 266-67, 942 P2d 836 (1997), *rev dismissed as improvidently allowed* 327 Or  
26 555, 971 P2d 411 (1998).

27 Admittedly, there is some tension between the SMC 17.84.30(B) language that calls  
28 for “striving” to minimize travel distance, and only requiring such striving to minimize “to  
29 the extent practicable,” and the language that petitioner relies on that calls for a “direct route  
30 of travel between destinations” and requires that walkways “be as direct as possible and  
31 avoid unnecessary meandering.” But even the language that petitioner relies on is not as

1 absolute as she suggests in the petition for review. That language only requires that  
2 walkways be “as direct as possible” and avoid “*unnecessary* meandering.” That language  
3 does not require that every trip be capable of proceeding in a straight line from point to point.  
4 That language leaves room for the city to allow paths that are less than direct for some trips  
5 and to allow meandering where necessary to achieve other legitimate planning purposes. We  
6 agree with the city council that when SMC 17.84.30(B) is read as a whole, the county  
7 council has significant discretion under SMC 17.84.30(B) in deciding whether the pedestrian  
8 and bicyclist facilities the city council approved in this case are “[s]afe and convenient [and]  
9 strive to minimize travel distance to the extent practicable.”

10 Summarizing the city council’s findings concerning SMC 17.84.30(B), in the double  
11 underlined findings the city council found that the planning commission’s conditions “C”  
12 that the school district must construct a path north of Bell Street toward Sandy Bluff Park  
13 should be eliminated.<sup>2</sup> The city council also gave four reasons why it concluded the  
14 proposal complies with SMC 17.84.30(B). First, the sidewalk access along Bluff and Bell  
15 Roads will provide undeniably safe and convenient access between the area north of the new  
16 school building and the southeast corner of the subject property. Second, the north/south  
17 path will provide additional north/south connectivity through the school property, although  
18 the north/south path likely will not be available to the general public during school hours.  
19 Third, although the exiting west side path is not constructed to city standards, it provides  
20 some additional north/south connectivity along the west side of the subject property. Finally,

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<sup>2</sup> The planning commission’s decision set out two conditions “C.” Condition C.2 first bullet (first C) imposed the following requirement: “Identify and submit details for the construction of a pedestrian path to extend north of Bell St. along the western property line.” Record 300. Condition C.1 (second C) imposed a general requirement that all improvements be completed:

“Complete the construction of all public improvements and site amenities including building construction, parking lot paving and striping, lighting, landscaping, bicycle racks, cross-walks, pedestrian walkways, fencing along Bell St., Jade Glen sidewalk, north-south pedestrian path, *western pedestrian path*, and decorative amenities or provide a financial guarantee as provided in the [SMC]. “ Record 301-02 (emphasis added).

1 the TSP anticipates that Kate Schmitz Road will eventually be extended in the area of the  
2 school district’s west property line. The question presented in this appeal is whether those  
3 four features are sufficient to comply with SMC 17.84.30(B).

4 **A. The City’s Partial Reliance on the Existing West Side Path (First**  
5 **Assignment of Error)**

6 **1. The Existing West Side Path Does Not Comply With the SMC**  
7 **Standards that Apply to New Paths**

8 Petitioner argues the existing west side path “is dirt covered, often muddy, ungraded,  
9 filled with divots, and not engineered to provide drainage.” Petition for Review 6. We  
10 understand petitioner to argue that in its current condition, the existing west side path is not  
11 “reasonably free from hazards,” as required by SMC 17.84.30(B). Petitioner also argues that  
12 the city erred by not requiring easements for the existing west side path, as is required by  
13 SMC 17.84.70 and SMC 17.84.90 when paths are not located within a public right of way.

14 Respondents answer that the sidewalks on Bell and Bluff Roads will be constructed  
15 to full city standards within a public right of way as will the sidewalks that will accompany  
16 the extension of Kate Schmitz Road in the future, and those sidewalks will be safe and fully  
17 accessible to the public. The north/south path will be constructed to city standards on an  
18 easement. While the north/south path may not be available to the public during school hours,  
19 it will be safe. Respondents contend that those other north/south paths are, by themselves,  
20 sufficient to comply with SMC 17.84.30(B), and it is not error to recognize that the existing  
21 west side path will provide some additional north/south connectivity, even though there may  
22 be some hazards associated with the existing west side path and that existing path is not  
23 located on an easement. We agree with respondents.

24 **2. Condition D.1**

25 In the findings quoted earlier in this opinion, the city council found that the proposed  
26 potential west side path was not needed to comply with SMC 17.84.30(B) and rejected  
27 petitioner’s contention that development approval should be conditioned on construction of

1 the potential west side path. However, in Condition D.1 of the city council’s decision, the  
2 city council requires in part that the school district “[c]omplete the construction of \* \* \* [the]  
3 western pedestrian path \* \* \* as provided in the [SMC].” Record 45. We understand  
4 petitioner to contend that the city council’s finding that the potential west side path is not  
5 needed to comply with SMC 17.84.30(B) followed by a condition that the potential west side  
6 path nevertheless be constructed is inconsistent and represents a misconstruction of the  
7 applicable law. ORS 197.835(9)(a)(D).<sup>3</sup>

8 Respondents answer that the decision and the record make it clear that the city  
9 council’s decision was to reject petitioner’s argument that the potential west side path is  
10 needed to comply with SMC 17.84.30(B) and that the reference to the “western pedestrian  
11 path” in Condition D.1 is “a clear scrivener’s error [that] does not warrant remand or  
12 reversal.” Respondents’ Brief 8.

13 Condition D.1 is identical to the planning commission’s Condition C.1 (second C).  
14 Record 301-02.<sup>4</sup> When the planning commission referred to the “western pedestrian path” in  
15 Condition C.1 (second C) it was referring to the path the planning commission required north  
16 of Bell Road toward Sandy Bluff Park (the north of Bell Road path on the drawing), not the  
17 potential west side path that would travel south from Bell Road to Kate Schmitz Road. As  
18 shown in the above-quoted double underlined findings, the city council found that the north  
19 of Bell Road path was not needed. In the double underlined findings quoted above, the city  
20 council rejected the planning commission’s Conditions C that northern western path should  
21 be required and constructed. But the city council nevertheless carried forward without  
22 amendment the text of Condition C.1 (second C) in its Condition D.1, including the reference  
23 to the “western pedestrian path.” When that errant reference to the western pedestrian path is

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<sup>3</sup> Under ORS 197.835(9)(a), one of the statutory bases for reversal or remand is where LUBA determines that a local government “[i]mproperly construed the applicable law.”

<sup>4</sup> See n 2.

1 viewed in context with the city council’s findings that the portions of the planning  
2 commission’s Conditions C requiring the extension and construction of the western path  
3 north of Bell Road should be eliminated, we agree with respondents that the erroneous  
4 reference to the western pedestrian path in Condition D.1 is not sufficient to warrant remand  
5 in this case.

6 In *Horning v. Washington County*, 51 Or LUBA 303, 312 (2006), although we stated  
7 it was “probably correct” that the county in that case did not intend to impose a condition  
8 requiring fence construction, we ultimately concluded that there was enough uncertainty that  
9 “[w]e cannot say that inclusion of the condition is a nullity or harmless error that we can  
10 overlook.” In this case it is absolutely clear that in imposing Condition D.1 the city did not  
11 intend to require that the school district construct the potential west side path. The mistaken  
12 reference to the “western pedestrian path” is flatly inconsistent with the city council’s  
13 decision to amend the planning commission conditions that required construction of the north  
14 of Bell Road path in the first place. And because the mistaken reference in Condition D.1 is  
15 a mistaken reference to the north of Bell Road path, not the potential west side path south of  
16 Bell Road, the mistaken reference to the “western pedestrian path” in Condition D.1 is not  
17 inconsistent with the findings rejecting petitioner’s contention that the proposed west side  
18 path is needed to comply with SMC 17.84.30(B).

19 The first assignment of error is denied.

20 **B. The City’s Partial Reliance on the North/South Path (Second Assignment**  
21 **of Error)**

22 Simply stated, petitioner contends the city cannot rely on the north/south path to  
23 comply with SMC 17.84.30(B) because it does not provide the “safe and convenient” access  
24 that is required by SMC 17.84.30(B). Petitioner contends the north/south path is not  
25 “direct,” as required by SMC 17.84.30(B) and that it impermissibly meanders. Further,  
26 petitioner argues that path will not be convenient access for the general public, because it  
27 will be closed to the general public during school hours.

1                   **1. Waiver**

2                   Respondents contend petitioner waived the issue presented in the second assignment  
3 of error because petitioner below expressly stated that she did “not question the school’s  
4 need for security and [it’s] right to limit public access in the interior of their property.”  
5 Record 262-63. However, the issue presented in this assignment of error is whether a path  
6 that may not be available to the general public during school hours is, when viewed along  
7 with other opportunities for north/south connectivity, sufficient to supply the pedestrian and  
8 bicyclist connectivity required by SMC 17.84.30(B). For the reasons set out in her reply  
9 brief, we agree with petitioner that she did not waive that issue.

10                   **2. Partial Reliance on the North/South Path**

11                   Turning to the merits, it is reasonably clear that the reliable access to the south from  
12 property north of the school building will be via the sidewalks along Bell and Bluff Road.  
13 Under the city council’s decision, more direct and reliable access from the property north of  
14 the school building south to the commercial area along Highway 26 to the south and west  
15 will have to await extension of Kate Schmitz Road in the future. Until that extension is  
16 constructed, pedestrians and bicyclists will have to utilize the less direct sidewalks along Bell  
17 and Bluff Roads or use the existing west side path and north/south path when they are open  
18 to the general public. The question is whether that access is sufficient to comply with SMC  
19 17.84.30(B). Petitioner contends the city’s interpretation of SMC 17.84.30(B) to allow it  
20 sufficient discretion to approve the proposal as conditioned is “implausible.” *Siporen v. City*  
21 *of Medford*, 349 Or 247, \_\_\_ P3d \_\_\_ (2010).

22                   As respondents correctly point out, petitioner approaches this case as though all of the  
23 pedestrian and bicycle trips from the area north of the school building will travel from the  
24 northwest corner of the school district property to the southwest corner of the school district  
25 property. For trips that originate north of the school building that will end in the city of  
26 Sandy central business district located to the southeast of the subject property, the sidewalks

1 on Bell and Bluff Roads are the most direct and safe option. Respondents also contend that  
2 the Bell and Bluff Roads sidewalks also provide safe access from the north to the commercial  
3 area along Highway 26, albeit requiring some out of direction travel for some trips. Given  
4 that improvement in pedestrian and bicycle access attributable to the improvements in Bell  
5 and Bluff Roads, we understand respondents to argue that SMC 17.84.30(B) need not be  
6 interpreted to require that the city council ignore that its TSP calls for a future extension of  
7 Kate Schmitz Road that when constructed will provide safe direct access for pedestrians  
8 wishing to travel from the north to the commercial area along Highway 26. Similarly, we  
9 understand respondents to argue it is not error for the city to rely in part on the existing west  
10 side path and north/south path to provide options for more direct access to the Highway 26  
11 commercial areas, even though those options may not be available at all times, to ultimately  
12 conclude that the north/south connectivity provided under the proposal is sufficient to  
13 comply with SMC 17.84.30(B). We agree with respondents.

14 The second assignment of error is denied.

15 **C. The City’s Failure to Require More North/South Pathways (Third**  
16 **Assignment of Error)**

17 In her third assignment of error petitioner argues that if the subject property were  
18 developed residentially, SMC 17.100.120(B),<sup>5</sup> SMC 17.100.120(D),<sup>6</sup> SMC 17.84.30(A)  
19 (which requires that new roads have sidewalks on both sides), City of Sandy Comprehensive  
20 Plan Goals 11 (Public Facilities and Services)<sup>7</sup> and 12 (Transportation)<sup>8</sup> would require four

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<sup>5</sup> SMC 17.100.120(B) is set out below:

“Residential Blocks. Blocks fronting local streets should generally not exceed 400 feet in length, unless topographic, natural resource, or other similar physical conditions justify longer blocks. Blocks may exceed 400 feet if approved as part of a Planned Development, Specific Area Plan, adjustment or variance.”

<sup>6</sup> See n 1.

<sup>7</sup> Policy 14 under Plan Goal 11 provides as follows:

1 to five blocks and result in multiple improved pathways through the property. While  
2 petitioner concedes that those SMC and plan provisions do not apply directly in this case,  
3 petitioner argues they provide context for interpreting SMC 17.84.30(B) and support her  
4 position that the future extension of Kate Schmitz Road, the existing west side path, the  
5 north/south path and the sidewalks along Bell and Bluff Roads are not sufficient to comply  
6 with SMC 17.84.30(B).

7 **1. Waiver**

8 Respondents first argue petitioner waived the issue presented in the third assignment  
9 of error by failing to raise the issue below. For the reasons set out in the reply brief, the issue  
10 was raised below, and we reject respondents’ waiver argument.

11 **2. North/South and East/West Connectivity**

12 We are not persuaded by petitioner’s contextual arguments that SMC 17.84.30(B)  
13 must be interpreted in context to require additional north/south connectivity. As petitioner  
14 recognizes, the decision authorizes construction of a high school on an 83-acre campus and  
15 does not concern division of an 83-acre parcel for residential development. The fact that  
16 under SMC 17.100.120(B) and (D) residential development of the subject property would be

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“Allow siting of schools which meet the following siting criteria:

“a) Access to Site: Safe and convenient multi-modal access to the school sites should be available. School sites should be connected via streets and pathways to residential areas, parks and other schools.

“\* \* \* \* \* [.]”

<sup>8</sup> Policies 1 and 3 under Plan Goal 12 are set out below:

- “1. Support a pattern of connected streets, sidewalks, and bicycle routes to: a) provide safe and convenient options for cars, bikes, and pedestrians; b) create a logical, recognizable pattern of circulation; and, c) spread traffic over local streets so that collector and arterial streets are not overburdened.”
  
- “3. Require connected streets that form pedestrian-scaled blocks, except where it is shown that topography, existing land ownership patterns, or other conditions preclude the creation of blocks.”

1 required to provide more connectivity has little to do with whether development of that same  
2 83 acres with a high school campus should be required to provide the same level of  
3 connectivity. SMC 17.100.120(B) and (D) do not apply because no land division is  
4 proposed, and neither SMC 17.100.120(B) and (D) nor the other provisions cited by  
5 petitioner provide context that compels the city to interpret SMC 17.84.30(B) to impose the  
6 more rigorous standard that petitioner would interpret it to impose. As the city council  
7 recognized, the school has unique security concerns that warrant different treatment  
8 compared to other kinds of development.<sup>9</sup>

9 **3. Connection with Sandy Bluff Park**

10 Petitioner finally argues “[t]he City’s Parks Master Plan identifies a connection  
11 between the District property and the Sandy Bluff Park. \* \* \* [T]he City failed to establish  
12 how access to Sandy Bluff Park will be accomplished.” Petition for Review 19.

13 In the findings quoted earlier in this decision addressing SMC 17.84.30(B) the city  
14 council explained why it removed the planning commission’s conditions requiring the north  
15 of Bell Road path. Petitioner does not acknowledge or challenge those findings.

16 The third assignment of error is denied.

17 The city’s decision is affirmed.

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<sup>9</sup> Petitioner also complains that the proposal provides no east/west path. Petition for Review 17, 19. That is not the case. The north/south path is connected to a parking lot that connects with Bluff Road at the lower southeastern corner of the property. That path provides some east/west path connectivity. In addition, sidewalks along Bell Road and Highway 26 both provide east/west connectivity.