

June 8, 2023

Jennifer Foglesong 2816 SE Harrison St. Milwaukie, OR 97266

Re: Preapplication Report

Dear Jennifer:

Enclosed is the Preapplication Report Summary from your meeting with the City on 05/25/2023, concerning your proposal for action on property located at 2816 & 2825 SE Harrison St.

A preapplication conference is required prior to submittal of certain types of land use applications in the City of Milwaukie. Where a preapplication conference is required, please be advised of the following:

- Preapplication conferences are valid for a period of 2 years from the date of the conference. If a land use application or development permit has not been submitted within 2 years of the conference date, the Planning Manager may require a new preapplication conference.
- If a development proposal is significantly modified after a preapplication conference occurs, the Planning Manager may require a new preapplication conference.

If you have any questions concerning the content of this report, please contact the appropriate City staff.

Sincerely,

Petra Johnson

Administrative Specialist II



CITY OF MILWAUKIE
6101 SE Johnson Creek Blvd
Milwaukie OR 97206
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planning@milwaukieoregon.gov
building@milwaukieoregon.gov
engineering@milwaukieoregon.gov

Preapplication Conference Report

Project ID: 23-005PA

This report is provided as a follow-up to the meeting that was held on 5/25/2023 at 10:00 AM

The Milwaukie Municipal Code is available here: www.qcode.us/codes/milwaukie/

	APPLICANT AND PROJECT INFORMATION			
Applicant: Jennifer Fog		Jennifer Fog	lesong Applicant Role: Business Owner	
App	olicant Address:	2816 SE Harri	ison St, Milwaukie, OR 97266	
Con	npany:	Sunshine Ear	ly Learning Center	
Proj	ect Name:	Major Modifi	ication to Community Service Use	
Proj	ect Address:	2816 & 2825	SE Harrison St Zone: R-HD	
Proj	ect Description:	Major modifi	ication to community service use (daycare/afterschool care)	
Curi	rent Use:	2816 SE Harri	ison St: Various Community Service Uses, including afterschool and daycare.	
			son St: Single detached dwelling and off-street parking serving multiple community service lat 2816 SE Harrison St.	
Арр	olicants Present:	Jennifer Fog	lesong	
Staff	f Present:	Ryan Dyar (A	Assistant Planner); Jennifer Backhaus (Engineering Tech III)	
			PLANNING COMMENTS	
			Zoning Compliance (MMC Title 19)	
×	Use Standards (e.g commercial, acce		The property is zoned High Density Residential (R-HD), which allows a variety of residential housing types, offices, hotels, and community services uses.	
×	Dimensional Stand	lards	Dimensional standards for the R-HD zone are provided in Milwaukie Municipal Code (MMC) Section 19.302 (specifically in MMC Subsection 19.302.4).	
			As staff understands the proposal, there will be minor cosmetic improvements—paint and new flooring—at the church building at 2816 SE Harrison St.	
			The following minimum setbacks apply to 2825 SE Harrison St, which is the location of the new playground.	
			Maximum Lot Coverage = 50%	
			Minimum Vegetation = 15%	

Staff determined the above are the most pertinent development standards based on the proposal. Please see MMC Table 19.302.4 for a complete list of development standards. The applicant should also note the setback standards for daycare operations listed in MMC Subsection 19.904.7. The location of the proposed playground will likely be discussed during the public hearing with the Planning Commission. Minimum setback requirements: Front yard: 20 ft Rear yard: 20 ft Side yard: 20 ft **Land Use Review Process** X Applications Needed, Fees, The proposal seeks to modify daycare and afterschool operations. The daycare was and Review Type originally approved as a community service overlay at 2816 SE Harrison St in 1991 (land use file #CSO-91-03). The afterschool operation was approved as a community service overlay in 2002 (land use file #CSO-02-06). Community service overlays are now referred to as community service uses. The applicant is seeking to build a playground at 2825 SE Harrison St and to increase the number of students served which was limited under previous decisions. A 2007 minor modification to the daycare use permitted a maximum of 45 students; the applicant plans to greatly exceed this number. A 2002 approval for the afterschool operation limited the number of students to 25 and only granted approval for after-school care and weekend programming. The applicant is seeking to modify the approval to increase the total number of students served and offer before as well as after-school care services. MMC Section 19.904 establishes the process and standards for modifying an existing CSU. MMC Subsection 19.905.A states that the establishment of a new, or major modification to an existing CSU, is subject to a Type III review, with a public hearing and decision by the Planning Commission. MMC Subsection 19.904.5.C establishes criteria under which the Planning Manager may approve minor modifications to an existing CSU. It states that if the use contravenes any conditions specifically placed on the development by the Planning Commission or increases the intensity of use, it is ineligible for a minor modification and must go through the major modification process. Increasing the number of students served and expanding the operation to another property increases the intensity and contravenes conditions of approval placed on the use by the Milwaukie Planning Commission in CSU-91-03 and CSO-02-06. The proposal is consequently subject to a major modification process. • Major Modification to a Community Service Use (Type III review) = \$2,000 • Variance (Type III review) = \$2,000 reduced to \$1,500 (25% per multiple applications discount). Variance application may not be required if the applicant can demonstrate sufficient play area space per MMC 19.904.7.B. \boxtimes **Application Process** The applicant must submit a complete electronic copy of all application materials for the City's initial review. A determination of the application's completeness will be issued within 30 days. If the application is deemed incomplete, City staff will provide a list of items to be addressed upon resubmittal.

For Type III applications, a public hearing with the Planning Commission will be scheduled once the application is deemed complete. At present, meetings are being conducted in a hybrid format, with the option of participating in person at City Hall or online via Zoom. Public notice of the hearing will be sent to property owners and current residents within 300 ft of the subject property no later than 20 days prior to the hearing date. At least 14 days before the hearing, a sign giving notice of the application must be posted on the subject property, to remain until the decision is issued. Staff will coordinate with the applicant to provide the necessary sign(s). Staff will prepare a report with analysis of the proposal and a

		recommendation that will be made available one week before the hearing. Both staff and the applicant will have the opportunity to make presentations at the hearing, followed by public testimony and then deliberation by the Commission for a decision. Issuance of a decision starts a 15-day appeal period for the applicant and any party who establishes standing. If no appeal is received within the 15-day window, the decision becomes final. Any appeal of a Type III decision would be heard by the City Council. Development permits (if required) submitted during the appeal period may be reviewed but are not typically approved until the appeal period has ended. Note that the state requires land use decisions to be issued within 120 days of being deemed complete. The 2023 schedule for Planning Commission hearings, including dates by which an application must be deemed complete to be eligible for a particular hearing date, is
		Overlay Zones (MMC 19.400)
	Willamette Greenway	
	Natural Resources	
	Historic Preservation	
	Flex Space Overlay	
		Site Improvements/Site Context
×	Landscaping Requirements	In the R-HD zone:
		Minimum vegetation requirement = 15% of lot area
		As discussed during the preapplication conference, the site of the proposed development does not conform with the 15% landscaping requirement. Per MMC 19.804.2, the site alteration cannot increase the nonconformity.
		The applicant discussed adding landscaping to buffer the parking lot walkway from the areas designated for vehicular maneuvering, as is required under MMC 19.504.8. Should the applicant decide to move forward with this plan, the newly added landscaped buffer would count towards the 15% minimum requirement.
⊠	Onsite Pedestrian Improvements (MMC 19.505.4)	As per MMC Subsection 19.504.8, walkways are required between parts of a site where the public is invited to walk. Walkways must be constructed with a hard-surface material, permeable to stormwater, and no less than 5 ft wide. Walkways are required to be reasonably direct, lighted to an average 5/10-footcandle level, and physically separated from the off-street parking area by landscaping, a raised curb, or distinctive paving materials. Where adjacent to parking areas where vehicles will overhang the walkway, a 7-ft-wide walkway must be provided.
		The site currently is considered non-conforming with this standard. As part of the proposal, the applicant is proposing to add a walkway. The applicant should be aware that the Planning Commission may look to the standards in MMC Subsection 19.504.8 for guidance when considering appropriate conditions of approval.
	Connectivity to surrounding properties	
	Flag Lot Design Standards (MMC 19.504.7)	

	Building Design Standards (MMC 19.505)		
	Downtown Design Standards (MMC 19.508)		
		Parking Standards (MMC 19.600)	
×	Off-Street Parking Requirements (MMC 19.600)	Per MMC Subsection 19.602.2, changes to existing off-street parking or loading areas that bring the area out of conformance with Chapter 19.600, or further out of conformance if already nonconforming, are prohibited. Staff will evaluate the existing property for conformance with the standards in MMC Chapter 19.600 through the application process and ensure no actions take the property further out of conformance.	
		The applicant should refer to MMC Section 19.606 for parking area design and landscaping standards and should be aware that the Planning Commission may look to the standards in this subsection and MMC Section 19.600 generally for guidance when considering appropriate conditions of approval.	
		As part of their application, the applicant should coordinate with the property owner to provide an up-to-date list of all users of the church facility and off-street parking area. This list should include how much square footage each church use occupies.	
	Multi-Family/Commercial Parking Requirements		
		Approval Criteria (MMC 19.900)	
⊠	Community Service Use (CSU) (MMC 19.904)	MMC Subsection 19.904.4 establishes the approval criteria for a major modification to a CSU. Additionally, MMC Subsection 19.904.4.7 includes specific standards for schools and daycare centers. A discussion of how the proposal complies with the approval criteria and standards of approval for daycare operations should be addressed in the application narrative.	
		As discussed in the preapplication conference, the applicant should note that MMC Subsection 19.904.7 requires that daycare centers provide a fenced, outdoor play area of at least 75 sq ft for each child of total capacity, or a greater amount if so, required by state law. In facilities where groups of children are scheduled at different times for outdoor play, the total play area may be reduced proportionally based on the number of children playing outdoors at one time. However, the total play area may not be reduced by more than half. These uses must comply with the State Children's Services Division requirements as well as the City provisions (see variance discussion below).	
		Based on the preapplication conference discussion and the materials submitted ahead of the conference, it is unclear whether the proposal will comply with MMC Subsection 19.904.7.B., which requires a minimum of 75 sq. ft. of outdoor play area for each child of total capacity. This area may be reduced by up to half if the children will use the play area in an asynchronous manner. The applicant will be required to specify in their application narrative the various programs they're proposing to operate on-site, the number of children each program will serve, and the days and hours of operation of each program. To satisfy MMC 19.904.7.B and avoid the need for a variance, the applicant will need to include a schedule of how the playground space is programmed (i.e. which students and how many will be using the space at any given time).	
		Asight-obscuring fence of 4 to 6 ft in height shall be provided to separate the play area from adjacent residential uses.	
		The applicant should note that per MMC Subsection 19.904.5.B, in permitting a CSU or the modification of an existing one, the City may impose suitable conditions which assure compatibility of the use with other uses in the vicinity. As mentioned above, the applicant should be gware that staff and the Planning Commission will likely refer to the standards in	

		MMC Chapter 19.600 and MMC Subsection 19.504.8 for guidance on the proposed walkway and improvements to the off-street parking area.	
	Conditional Use (MMC 19.905)		
_	Development Review (MMC 19.906)		
	Variance (MMC 19.911)	MMC Section 19.911 establishes processes and standards for approving relief requests from specific code provisions. Should the applicant not be able to meet any of the standards for a CSU, a variance application will be required and processed as a Type III review. The approval criteria for a Type III variance request can be found in MMC 19.911.3.C.	
		Land Division (MMC Title 17)	
	Design Standards		
	Preliminary Plat Requirements		
	Final Plat Requirements (See also Engineering Section of this Report)		
		Sign Code Compliance (MMC Title 14)	
×	Sign Requirements	Although no signage has been proposed at this point, note that MMC Section 14.16.020 provides the standards and limitations for signage proposed in the R-HD zone.	
		Noise (MMC Title 16)	
	Noise Mitigation (MMC 16.24)		
	<u> </u>	Neighborhood District Associations	
⊠	Historic Milwaukie	Any City-recognized neighborhood district association whose boundaries include the subject property or are within 300 ft of the subject property will receive a referral and the	
	Choose an item.	opportunity to provide comment on the application.	
	Choose an item.	Applicants are encouraged to meet with the NDA prior to application submittal: https://www.milwaukieoregon.gov/citymanager/historic-milwaukie-nda	
	Other Permits/Registration		
	Business Registration		
	Home Occupation Compliance (MMC 19.507)		
		Additional Planning Notes	
	E	ENGINEERING & PUBLIC WORKS COMMENTS	

	Public Facility Improvements (MMC 19.700)		
⊠	Applicability (MMC 19.702)	Engineering has determined that the proposed use does not meet the applicability thresholds established in MMC 19.702.	
	Transportation Facilities Review (MMC 19.703)		
	Transportation Impact Study (MMC 19.704)		
	Agency Notification (MMC 19.707)		
	Transportation Requirements (MMC 19.708)		
	Utility Requirements (MMC 19.709)		
		Flood Hazard Area (MMC 18)	
×	Development Permit (MMC 18.16.030)	The subject property is not in a flood hazard zone.	
	General Standards (MMC 18.04.150)		
	Compensatory Storage (MMC 18.20.020)		
	Floodways (MMC 18.20.010.B)		
		Environmental Protection (MMC 16)	
	Weak Foundation Soils (MMC 16.16)		
×	Erosion Control (MMC 16.28)	Erosion control and prevention is required as outlined in MMC 16.28	
		Projects that disturb more than 500 square feet within the City of Milwaukie limits require an Erosion Control Permit from the City's Building Department. Even projects that are less than 500 square feet may require a permit based on site conditions and proximity to natural resources such as wetlands and waterways. The applicant must submit an erosion control plan for their project that accurately depicts how sediment will be controlled during the duration of the project.	
		Please review the City's <u>Erosion Control Permit Program Handout</u> for city processes, requirements, and example erosion control plans. The applicant is encouraged to use the City's adopted <u>Erosion Prevention and Sediment Control Planning & Design Manual (2020)</u> for assistance in designing an erosion control plan.	
		Development sites between 1 acre and 5 acres should apply for a 1200-CN permit as outlined on https://www.milwaukieoregon.gov/publicworks/1200cn . Applicants will use the DEQ 1200-C permit application but submit it to the city for review and approval through the Milwaukie Erosion and Sediment Control Program. A 1200-C permit can be found on the DEQ website at https://www.oregon.gov/deq/wq/wapermits/Pages/Stormwater-Construction.aspx . Applicants do not need to submit a permit to DEQ if under 5 acres in site size.	

		For more information, please visit https://www.milwaukieoregon.gov/publicworks/erosion-prevention-and-control or contact erosioncontrol@milwaukieoregon.gov .		
×	All public trees over 2" in diameter at breast height (DBH) are regulated by the pu code. Public trees are to be protected through development and included on the inventory and protection plan required by the private development tree code (M 16.32.042). Public tree removals require an approved permit for removal, which incomplete the protection of the provided permit for removal and protection plan required by the private development tree code (M 16.32.042). Public tree removals require an approved permit for removal, which incomplete the protection plan required by the provided permit for removal and protection plan required by the provided permit for removal and protection plan required by the provided permit for removal and protection plan required by the provided permit for removal and protection plan required by the provided permit for removal and protection plan required by the provided permit for removal and protection plan required by the private development tree code (M 16.32.042). Public tree removals required by the private development is received by the private development tree code (M 16.32.042).			
		Public trees require a permit for planting (free) – visit <u>milwaukieoregon.gov/trees</u> to learn more.		
		Public Services (MMC 13)		
	Water System (MMC 13.04)			
	Sewer System (MMC 13.12)			
	Stormwater Management (MMC 13.14)	Any new impervious area of more than 500 square feet would be required to be treated onsite; however, the proposal does not appear to include any new impervious area. When applicable, stormwater mitigation must meet the city's NPDES permit through the design of facilities according to the 2016 City of Portland Stormwater Management Manual.		
	System Development Charge (MMC 13.28.040)			
	Fee in Lieu of Construction (MMC 13.32)			
Public Places (MMC 12)		Public Places (MMC 12)		
	Right of Way Permit (MMC 12.08.020)			
	Access Requirements (MMC 12.16.040)			
	Clear Vision (MMC 12.24)			
	Additional Engineering & Public Works Notes			
		BUILDING COMMENTS		

If building permits are required, all drawings must be submitted electronically through www.buildingpermits.oregon.gov

New buildings or remodels shall meet all the provisions of the current applicable Oregon Building Codes. All State adopted building codes can be found online at: https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx.

All building permit applications are electronic and can be applied for online with a valid CCB license number or engineer/architect license at www.buildingpermits.oregon.gov. Each permit type and sub-permit type are separate permits and are subject to the same time review times and will need to be applied for individually. Plans need to be uploaded to their specific permits in PDF format as a total plan set (not individual pages) if size allows.

Note: Plumbing and electrical plan reviews (when required) are done off site and are subject to that jurisdiction's timelines. The City does not have any control over those timelines, so please plan accordingly.

Site utilities require a separate plumbing permit and will require plumbing plan review. **NOTE:** The grading plan submitted to the Engineering Department does not cover this review.

If you have any building related questions, please email us at building@milwaukieoregon.gov.

If you are building the middle housing building, the building must meet the Oregon Structural Specialty Code (OSSC) and fire sprinklers will be required. Multiple structural permits may be required depending on construction.

If you are building the townhomes on individual lots, the buildings must meet the Oregon Residential Specialty Code (ORSC). Each unit will require their own permits.

OTHER FEES		
	Construction Excise Tax Affordable Housing CET – Applies to any project with a construction value of over 100,000.	Calculation: Valuation *12% (.12)
	Metro Excise Tax Metro – Applies to any project with a construction value of over \$100,000.	Calculation: Valuation *.12% (.0012)
	School Excise Tax School CET – Applies to any new square footage. Calculation: Commercial = \$0.69 a square foot, Residential = \$1.39 a square foot (not including garages)	
FIRE DISTRICT COMMENTS		

COORDINATION WITH OTHER AGENCIES

If requried, applicant must communicate directly with outside agencies. These may include the following:

- Metro
- Trimet
- North Clackamas School District
- North Clackamas Parks and Recreation District (NCPRD)
- Oregon Parks and Recreation
- ODOT/ODOT Rail
- Department of State Lands
- Oregon Marine Board

Oregon Department of Fish and Wildlife (ODOT) State Historic Preservation Office Clackamas County Transportation and Development **MISCELLANEOUS** State or County Approvals Needed **Boiler Approval (State)** Elevator Approval (State) **Health Department Approval** (County) **Arts Tax Neighborhood Office Permit** Other Right-of-Way Permits Major: Minor: **Painted Intersection Program** Permits: artMOB Application **Traffic Control Plan** (Engineering) Parklet: Parklet Application/ **Planning Approval Engineering Approval Building Approval** Sidewalk Café: **Tree Removal Permit:** Infrastructure/Utilities

Applicant must communicate directly with utility providers. These may include the following:

- PGE
- NW Natural
- Clackamas River Water (CRW)
- Telecomm (Comcast, Century Link)
- Water Environmental Services (WES)
- Garbage Collection (Waste Management, Hoodview Disposal and Recycling)

Economic Development/Incentives		
Enterprise Zone:		
Vertical Housing Tax Credit:		
New Market Tax Credits:		
Housing Resources:		
PLEASE SEE NOTE AND CONTACT INFORMATION ON THE FOLLOWING PAGE		

This is only preliminary preapplication conference information based on the applicant's proposal, and does not cover all possible development scenarios. Other requirements may be added after an applicant submits land use applications or building permits. City policies and code requirements are subject to change. If a note in this report contradicts the Milwaukie Municipal Code, the MMC supersedes the note. If you have any questions, please contact the City staff that attended the conference (listed on Page 1). Contact numbers for these staff are City staff listed at the end of the report.

Sincerely,

City of Milwaukie Development Review Team

BUILDING DEPARTMENT				
Patrick McLeod Harmony Drake Stephanie Marcinkiewicz	Building Official Permit Technician Inspector/Plans Examiner	503-786-7611 503-786-7623 503-786-7636		
ENGINEERING DEPARTMENT				
Steve Adams Jennifer Backhaus	City Engineer Engineering Technician III	503-786-7605 503-786-7608		
PLANNING DEPARTMENT				
Laura Weigel Vera Kolias Brett Kelver Adam Heroux Ryan Dyar	Planning Manager Senior Planner Senior Planner Associate Planner Assistant Planner	503-786-7654 503-786-7653 503-786-7657 503-786-7658 503-786-7661		
COMMUNITY DEVELOPMENT DEPA	RTMENT			
Joseph Briglio Mandy Byrd (vacant) Emilie Bushlen Petra Johnson	Community Development Director Development Programs Manager Housing & Econ. Dev. Prog. Mgr. Administrative Specialist II Administrative Specialist II	503-786-7616 503-786-7692 503-786-7627 503-786-7600 503-786-7600		
SUSTAINABILTY DEPARTMENT				
Natalie Rogers Courtney Wilson Galen Hoshovsky	Climate & Natural Resources Mgr. Urban Forester Environmental Services Coordinator	503-786-7668 503-786-7655 503-786-7660		
CLACKAMAS FIRE DISTRICT				

Shawn Olson

Lieutenant Deputy Fire Marshal

shawn.olson@ClackamasFire.com



2023 **Planning Commission Hearing Schedule**

About the Deadlines

- Applications can be submitted at any time.
- The City must deem an application complete on or before the **COMPLETE APPLICATION DEADLINE** in order for the application to be eligible for the FIRST **POTENTIAL HEARING DATE.**²
- Since applications are rarely complete upon first submission, the City recommends application submission 2 weeks in advance of the **COMPLETE APPLICATION DEADLINE** to allow time for you to make the application complete.³
- New information submitted after the **NEW INFORMATION DEADLINE** could cause your hearing date be continued.

About the Scheduling Process

- Complete applications are scheduled for hearing in the order in which they are deemed complete.
- There is no guarantee of any particular hearing date.4 However, City staff can provide you with up-to-date hearing date availability and scheduling information upon request.
- There are things over which neither you nor the City has control that may prevent your application from being heard on a specific date.
 - (For example, the hearing schedule may already be full or a previous hearing may need to be continued to the next available hearing date.)
- The City reserves the right to schedule City business items on the Planning Commission agenda as needed and to cancel any scheduled Planning Commission meeting.
- Some applications require a hearing before the Planning Commission and City Council. Check with staff for City Council hearing schedule information.
- Hearing schedule is subject to change.⁵

2023 Planning Commission Hearing Schedule				
Complete Application Deadline ¹	New Information Deadline	First Potential Hearing Date		
Nov 23, 2022	Dec 12, 2022	Jan 10, 2023		
Dec 09, 2022	Dec 23, 2022	Jan 24, 2023		
Dec 23, 2022	Jan 13	Feb 14		
Jan 13	Jan 30	Feb 28		
Jan 27	Feb 13	Mar 14		
Feb 10	Feb 27	Mar 28		
Feb 24	Mar 13	Apr 11		
Mar 10	Mar 27	Apr 25		
Mar 24	Apr 10	May 09		
Apr 07	Apr 24	May 23		
Apr 28	May 15	Jun 13		
May 12	May 26	Jun 27		
May 26	Jun 12	Jul 11		
Jun 09	Jun 26	Jul 25		
Jun 23	Jul 10	Aug 08		
Jul 07	Jul 24	Aug 22		
Jul 28	Aug 14	Sep 12		
Aug 11	Aug 28	Sep 26		
Aug 25	Sep 11	Oct 10		
Sep 08	Sep 25	Oct 24		
Sep 29	Oct 16	Nov 14		
Oct 13	Oct 30	Nov 28		
Oct 27	Nov 13	Dec 12		
No Me	eting December 20	3, 2023		
Nov 22	Dec 11	Jan 9, 2024		
Dec 08	Dec 22	Jan 23, 2024		
_	Bold green-shaded dates indicate rescheduled dates			

to accommodate holidays.

¹ City staff needs a minimum of 46 days to prepare an application for hearing.

² Items needed for application completeness vary by application type and project complexity. If a preapplication conference is required for an application and/or for a related traffic impact study, the City will not accept the application until the required conferences are held.

³ Under Oregon law, the City has 30 days to review an application for completeness.

⁴ As required by Oregon law, the City will issue a decision within 120 days of the deemed complete date, unless you grant a

⁵ For most current info, see Planning Commission page: https://www.milwaukieoregon.gov/bc-pc