



CITY OF MILWAUKIE

November 15, 2023

Land Use File(s): CSU-2023-005

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on November 14, 2023.

Traducciones de este documento e información sobre este proyecto están disponibles en español. Para solicitar información o preguntar en español, favor de email espanol@milwaukieoregon.gov.

Applicant(s):	Bridge City Community Church on behalf of Jennifer Fogelsong, Sunshine Early Learning Childcare Center
Location(s):	2816 and 2835 SE Harrison St
Tax Lot(s):	1S1E36BA03000, 1S1E25CD02600
Application Type(s):	Major Modification to a Community Service Use
Decision:	Approved with Conditions
Review Criteria:	Milwaukie Municipal Code: <ul style="list-style-type: none">• MMC Section 19.302 High Density Residential Zone• MMC Subsection 19.502.1 General Provisions• MMC Subsection 19.504.7 On-Site Walkways and Circulation• MMC Chapter 19.600 Off-Street Parking and Loading• MMC Chapter 19.700 Public Facility Improvements• MMC Section 19.904 Community Service Uses• MMC Section 19.1006 Type III Review
Neighborhood(s):	Historic Milwaukie

Appeal period closes: 5:00 p.m., November 30, 2023

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1006 Type III Review. The complete case file for this application is available for review by appointment between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, City Hall, 10501 SE Main St. Please contact Ryan Dyar, Assistant Planner, at

503-786-7661 or dyarr@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at <http://www.milwaukieoregon.gov/planning/csu-2023-005>.

This decision may be appealed by 5:00 p.m. on November 30, 2023, which is 15 days from the date of this decision.¹ (Note: Please arrive by 4:45 p.m. for appeal payment processing.) Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or planning@milwaukieoregon.gov.

Per MMC Subsection 19.1001.7.E, this land use approval expires unless the development utilizes its approvals within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

Findings in Support of Approval

The Findings for this application are included as Exhibit 1.

Conditions of Approval

1. The childcare center is limited to serving a maximum of 144 students. Prior to operating at the adjusted capacity, Sunshine Early Learning Childcare Center (applicant) must complete the following:
 - a. The applicant must provide evidence from the State of Oregon Department of Early Learning and Care demonstrating that the center is authorized to operate a childcare center at the new capacity. This could take the form of a certification or a similar type of documentation from the state.
 - b. Prior to operating at the new capacity, the applicant must obtain a building permit from the Milwaukie Building Division ensuring the facility meets fire and life safety standards.
2. The childcare hours of operation are limited to Monday through Saturday from 6:00 a.m. to 7:00 p.m.
3. Traffic flow through the parking lot on the south side of the church building at 2816 SE Harrison St is restricted to a one-way, east-to-west, direction.
4. As per Finding 4, the play equipment in the proposed children's play area at 2835 SE Harrison St must be placed outside of the 5 ft required setback for accessory structures.
5. As per Finding 5, the proposed walkway connecting the public sidewalk to the children's play area at 2835 SE Harrison St must comply with all the onsite walkway standards listed

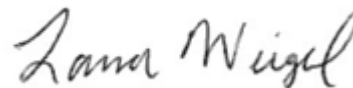
¹ As per MMC Section 19.1010, if the 15th day falls on a weekend or legal holiday, the end of the appeal period shall be extended to the end of the next business day.

in the MMC 19.504.7, including but not limited to being comprised of a material that is permeable to stormwater and lighted to an average 5/10-footcandle level.

6. As per Finding 6, the applicant is required to address the off-street parking area non-conformities, subject to the prioritization list and limitations in MMC 19.602.5. At the time development permits are submitted (erosion control and site development permits), staff will require a detailed, to-scale, parking plan that demonstrates compliance with these standards. At a minimum, those improvements should include those listed below under condition #6 a-c.
 - a. All off-street parking spaces adjacent to the landscaped area buffering the walkway from the parking stalls at 2835 SE Harrison St must include wheel stops to prevent encroachment into the landscape buffer.
 - b. The development must provide four bicycle parking spaces that comply with the standards for bicycle parking found in MMC 19.609.
 - c. Four off-street parking spaces must be reserved as carpool/vanpool spaces. As per MMC 19.610, the spaces must be located closer to the main entrances of the building than other employee or student parking spaces, except ADA spaces. Carpool/vanpool spaces must be clearly designated with signs or pavement markings for use only by carpools/vanpools.
7. Fencing around the outdoor play area and along the southern property boundary at 2816 SE Harrison St must be maintained in good working order. In addition, as per Finding 8, a sight-obscuring fence between 4 to 6 ft in height must also be provided to shield the proposed children's play area at 2835 SE Harrison St from all adjacent residential uses.

Decision

- Approved
 Approved with Conditions
 Denied



Laura Weigel, AICP
Planning Manager

Exhibits

1. Findings in Support of Approval

cc: Marc Schelske, Bridge City Community Church, applicant (via email)
Jennifer Fogelsong, Sunshine Early Learning Childcare, co-applicant (via email)
Planning Commission (via email)
Joseph Briglio, Community Development Director (via email)
Jennifer Garbely, City Engineer (via email)
Jennifer Backhaus, Engineering Tech III (via email)
Engineering Development Review (via email)
Patrick McLeod, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Harmony Drake, Permit Technician (via email)
Shawn Olson, Fire Marshal, CFD#1 (via email)
NDA(s): Historic Milwaukie (via email)
Land Use File(s): CSU-2023-005
Address File(s): 2816 SE Harrison St; 2835 SE Harrison St

ATTACHMENT 1
Recommended Findings in Support of Approval
File #CSU-2023-005
Sunshine Early Learning Childcare Center Expansion

Sections of the Milwaukie Municipal Code (MMC) not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, Bridge City Community Church, has applied on behalf of Jennifer Fogelson (owner and operator of Sunshine Early Learning Childcare Center) to modify the existing community service use (CSU) approval to operate a childcare center at the church facility at 2816 SE Harrison St and 2835 SE Harrison St. Both properties are zoned High Density Residential (R-HD). The land use application file number is CSU-2023-005.
2. The proposal seeks to modify a condition of approval that limits the student capacity of the childcare operation. The childcare center was originally approved as a community service overlay at 2816 SE Harrison St in 1991 (land use file #CSO-91-03). A 2007 modification to the 1991 approval permitted a maximum of 45 students; the applicant plans to increase the capacity to 144 students. Community service overlays are now referred to as community service uses. To accommodate the additional students, the applicant is seeking to establish a children's play area at 2835 SE Harrison St.

The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):

- MMC Section 19.302 High Density Residential Zone
- MMC Subsection 19.502.1 General Provisions
- MMC Subsection 19.504.7 On-Site Walkways and Circulation
- MMC Chapter 19.600 Off-Street Parking and Loading
- MMC Chapter 19.700 Public Facility Improvements
- MMC Section 19.904 Community Service Uses
- MMC Section 19.1006 Type III Review

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held by the Planning Commission on November 14, 2023, as required by law.

3. MMC Section 19.302 High Density Residential Zone (R-HD)
 - a. MMC Subsection 19.302.2 Allowed Uses
MMC 19.302.2 establishes the uses allowed in the R-HD zone. The list includes various housing types, limited office uses, personal and business services, hotels, and community service uses.

The applicant is applying to amend an existing community service use approval to operate a childcare business at 2816 and 2835 SE Harrison St. Both properties are zoned R-HD.

Community service uses are permitted in the R-HD zone, subject to the provisions of MMC Title 19 Zoning, especially those found in MMC 19.904 Community Service Uses. The property is used for additional activities—each permitted conditionally or by right in the R-HD zone.

Those activities include the church itself, which is a de facto community service use. Per CU-2016-004, the church is permitted to rent office space to three businesses that provide professional services. Offices are permitted by right in the R-HD zone; however, the property was previously zoned R-2 (a zone that no longer exists) and offices were conditional use in that zone. Lastly, the church owns a single detached dwelling located at 2835 SE Harrison St, which it rents to families in need of stable housing. Single detached dwellings are permitted by right in the R-HD zone.

The Planning Commission finds that the proposed use is permitted in the R-HD zone, subject to the provisions of MMC Title 19 Zoning, especially those found in MMC 19.904 Community Service Uses.

b. MMC Subsection 19.302.4 and 19.302.5 Development Standards

MMC Table 19.302.4 establishes development standards for the R-HD zone and MMC 19.302.5 provides additional development standards. Based on the proposal, staff have determined that the minimum vegetation standard (15%) is the only applicable standard in MMC Table 19.302.4.

The site of the proposed development, 2835 SE Harrison St, does not conform with the 15% landscaping requirement. Per MMC 19.804.2, which applies when altering nonconforming development, site alteration cannot increase or extend an existing nonconformity. The applicant has proposed adding a landscape buffer to separate a newly proposed walkway from the off-street parking area, as is required under MMC 19.504.7. This newly added landscape buffer would count towards the 15% minimum requirement, thereby bringing the site closer to conformity, which as per MMC 19.804.2 complies with the requirement for altering nonconforming development.

As proposed, the Planning Commission finds that the proposal moves the site closer to conformance with the landscape requirement in MMC 19.302.4.

4. MMC Subsection 19.502.1.E General Provisions

MMC 19.502.1 establishes general standards for accessory structures. This includes a reduced side and rear yard setback standard of 5 ft for accessory structures unless otherwise specified in the MMC Subsection 19.502.1 or MMC Subsection 19.502.2.

The applicant is proposing to add a new play area on the rear portion of 2835 SE Harrison St. The play area will include a tricycle path, a basketball hoop, four square and hopscotch areas, a playhouse, balance logs, and a small play structure. The site plan does not show the specific location

of the equipment; however, there should be sufficient space to accommodate the 5 ft required setbacks and a condition of approval will be added to ensure compliance.

The Planning Commission finds that, as conditioned, the setback standard for accessory structures is met.

5. MMC Subsection 19.504.7 On-Site Walkways and Circulation

MMC 19.504.7 establishes standards for on-site walkways, which are required for all development that is subject to MMC Chapter 19.700 (excluding single-detached and multi-unit residential development). A walkway must be provided into the site for every 300 ft of street frontage and must connect with sidewalks and bicycle facilities. On-site walkways must be reasonably direct, constructed with a hard surface material, permeable for stormwater, and at least 5 ft wide. Walkways must be separated from parking areas using curbing, landscaping, or distinctive paving materials and must be lighted to an average 0.5-footcandle level.

As discussed in Finding #8, the City Engineer projects that the intensification of use will result in an increase in vehicle trips to the site; therefore, MMC Chapter 19.700 is applicable. The applicant is proposing to add a new onsite walkway along the western portion of 2835 SE Harrison St, connecting the public sidewalk to the proposed playground on the rear portion of the property. The walkway is proposed to be made of a hard-surfaced material that is permeable to stormwater, be at least 5 ft wide, be separated from vehicle parking and maneuvering areas by a landscaped buffer, and be lighted with solar-paneled pathway lighting. The applicant has not shown this lighting on the site plan or yet specified the walkway material; however, staff have confirmed with the applicant that it will be provided and will include a condition of approval to ensure compliance.

The Planning Commission finds that, as proposed and conditioned, the standard for on-site walkways is met.

6. MMC Chapter 19.600 Off-Street Parking and Loading

MMC 19.600 regulates off-street parking and loading areas on private property outside the public right-of-way. The purpose of these requirements includes providing adequate space for off-street parking, minimizing parking impacts to adjacent properties, and minimizing environmental impacts of parking areas.

a. MMC Section 19.602 Applicability

MMC 19.602 establishes the applicability of the provisions of MMC 19.600, and MMC Subsection 19.602.3 establishes thresholds for full compliance with the standards of MMC 19.600. Development that results in an increase of less than 100% of the existing floor area and/or structure footprint must be brought closer into conformance with the standards of MMC 19.600. However, MMC Subsection 19.602.5 limits the cost of materials for any required improvements to 10% of the development permit value.

b. MMC Section 19.605 Vehicle Parking Quantity Requirements

MMC 19.605 establishes standards to ensure that development provides adequate vehicle parking (off-street) based on estimated parking demand.

MMC Table 19.605.1 provides the minimum and maximum parking quantity requirements. For a single-unit dwelling, 1 off-street parking space is required per unit with no maximum. For religious institutions, a minimum of 1 space per 4 seats is required and a maximum of 1 space per every 2 seats is allowed. For childcare/daycare uses, a minimum of 2 spaces per 1,000 sq ft is required, and a maximum of 3.5 spaces per 1,000 sq ft is allowed. For general offices, a minimum of 2 spaces per 1,000 sq ft is required, and a maximum of 3.4 spaces per 1,000 sq ft is allowed. Based on these standards, the minimum and maximum quantities are addressed in Table 1 below.

Per Oregon Administrative Rules (OAR) 660-012-0012 and 660-12-0440, which were established through the Climate-Friendly and Equitable Communities (CFEC) rulemaking process, the City is prohibited from mandating minimum off-street vehicular parking quantity requirements on sites within a half-mile of a frequent transit corridor or within three-quarters of a mile of a rail transit stop. However, all other provisions of MMC 19.600 may still apply.

Table 1 Off-Street Parking Requirements (Per MMC 19.605)			
Land Use	Size	Min # Parking Spaces	Max # Parking Spaces
Religious Institution Use	100 seats	25.0	50.0
Office Use	720 sq. ft.	1.4	2.4
Single Detached Dwelling	1 unit	1.0	None
Childcare Use	10,280 sq. ft.	20.6	36.0
Total	-	48	88

The subject property is located on Harrison Street, where TriMet’s Line 33-McLoughlin/King runs every 15 minutes; this is considered a frequent transit route so as per the CFEC rules the minimum off-street vehicle parking requirements of MMC Section 19.605 cannot be enforced. However, compliance with other applicable sections of MMC 19.600, including the maximum number of parking spaces, is required.

Currently, 2816 SE Harrison St has 6 off-street parking spaces and 2835 SE Harrison St has 87 off-street parking spaces, for a total of 93 off-street parking spaces; however, it should be noted that parking lot striping at 2835 SE Harrison St is faded, and it is consequently difficult to identify each space.

The applicant has proposed to modify the existing parking lot at 2835 SE Harrison St. by removing asphalt to add a children’s play area, resurfacing, restriping, and adding a walkway buffered by landscaping to connect the public sidewalk with the proposed children’s play area. This will result in a reduction of 18 spaces at 2835 SE Harrison St, bringing the total number

of proposed spaces to 69. With the 6 spaces at 2816 SE Harrison St, the total number of proposed spaces is 75. This complies with the maximum permitted under MMC 19.605.

The Planning Commission finds that the applicable off-street parking quantity requirements in MMC 19.605 are met.

c. MMC Section 19.606 Parking Area Design and Landscaping

MMC 19.606 establishes standards for parking area design and landscaping, to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and have efficient circulation.

MMC Subsection 19.606.1 establishes dimensional standards for required off-street parking spaces and drive aisles. For 90°-angle spaces, the minimum width is 9 ft, and the minimum depth is 18 ft, with 22 ft drive aisles; MMC Table 19.606.1 establishes dimensional requirements for various angles of spaces. MMC Subsection 19.606.2 provides standards for perimeter and interior landscaping areas, including minimum widths and planting requirements. MMC Subsection 19.606.3 establishes various design standards, including requirements related to paving and striping, wheel stops, pedestrian access, internal circulation, and lighting.

As discussed in Finding #7c, the site currently contains two off-street parking areas. The first lot contains 6 off-street parking spaces and is located behind the church at 2816 SE Harrison St; the applicant is not proposing any modifications to this site. The second lot currently contains 87 off-street parking spaces and is located at 2835 SE Harrison St. This site is developed with a single detached dwelling; the parking area does not conform to the development standards in MMC Section 19.607 Off Street Parking for Residential Areas, or to the standards intended for commercial and institutional established in MMC Section 19.606. There is no perimeter or interior landscaping, the lot lacks wheel stops, and the paved area extends across the entire property frontage, making the paved area much wider than the approved driveway approaches. Additionally, there is no lighting, the striping has not been maintained, and there are no pedestrian walkways, leaving many parking spaces farther than 100 ft from a pedestrian facility.

As demonstrated on the parking plan, the applicant is proposing to reduce the number of parking spaces from 87 to 69 at 2835 SE Harrison St to accommodate a children's play area and a walkway connecting the play area to the public sidewalk. As proposed, these parking spaces will meet the 9 ft by 18 ft dimensional requirements and will include drive isles that are at least 22 ft wide. The applicant is also proposing to add a 10 ft landscape buffer between the walkway and vehicle parking and maneuvering area. A condition of approval has been added to require that wheel stops for the parking spaces adjacent to the landscaped buffer be provided to prevent encroachment into the buffer.

As proposed and conditioned, the Planning Commission finds that the proposal is moving the parking area closer to conformance with the standards in MMC 19.606.

d. MMC 19.609 establishes standards for bicycle parking. Unless otherwise specified, the number of bicycle parking spaces is at least 10% of the minimum required vehicle

parking for the use. In no case shall the number of bicycle spaces provided be fewer than 2. MMC Subsection 19.609.3.A requires that each bicycle parking space have minimum dimensions of 2 ft by 6 ft, with 5 ft-wide aisles for maneuvering. MMC Subsection 19.609.4 establishes location standards for required bicycle parking.

As discussed under Finding #7b, the land uses on the site require a minimum of 48 off-street automobile parking spaces. While the minimum automobile parking requirement is unenforceable per OAR 660-012-0440, MMC 19.609 is still enforceable, meaning 4 bicycle parking spaces are required. The applicant indicates that the property currently contains two bike racks.

The applicant's site plan did not indicate the location of the bike racks and staff were not able to locate the racks. Additionally, it is not clear that the bicycle parking spaces meet the dimensional or location standards established in MMC 19.609.3 and MMC 19.609.4. Consequently, a condition of approval has been added to ensure compliance with this requirement.

The Planning Commission finds that, as conditioned, MMC 19.609 is met.

e. MMC Section 19.610 Carpool and Vanpool Parking

MMC 19.610 establishes carpool parking standards for new industrial, institutional, and commercial developments with 20 or more required parking spaces. The number of carpool/vanpool parking spaces is at least 10% of the minimum required vehicle parking for the use. Parking for carpools/vanpools must be located closer to the main entrances of the building than other employee or student parking, except ADA spaces. Carpool/vanpool spaces must be clearly designated with signs or pavement markings for use only by carpools/vanpools.

As discussed under Finding #7b, the land uses on the site require a minimum of 48 off-street automobile parking spaces. While the minimum quantity requirement is unenforceable per OAR 660-012-0440, MMC 19.610 is still enforceable. Consequently, 4 carpool/vanpool parking spaces are required. There are currently no parking spaces marked for carpool/vanpool purposes and the applicant's parking plan does not indicate that any of the proposed spaces will be reserved for this purpose. A condition of approval has been added to require that four spaces be reserved for carpool/vanpool use consistent with the requirements in MMC 19.610.

Given the scale of the proposed modification, the resurfacing and restriping, parking blocks, bicycle parking, and four marked carpool/vanpool spaces should not exceed the 10% limit on improvements established in MMC 19.602.5.B. Since the exact permit value is currently unknown, a condition of approval will be established to ensure that at the time of development, parking area improvements will be made to bring the property closer to conformance with the priorities in MMC 19.602.5 while also staying under the 10% limit imposed in that subsection.

The Planning Commission finds that the applicable standards of MMC 19.600 are met.

7. MMC Chapter 19.700 Public Facility Improvements

MMC 19.700 is intended to ensure that development, including expansions, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts.

a. MMC Section 19.702 Applicability

MMC 19.702 establishes the applicability of MMC 19.700, including a new dwelling unit, any increase in gross floor area, land divisions, new construction, and modification or expansion of an existing structure or a change or intensification in use that results in any projected increase in vehicle trips.

The applicant is proposing to modify an existing approval to operate a childcare facility at 2816 and 2835 SE Harrison St. The proposal includes modifying a condition of approval that limits the number of students to 45. The applicant is requesting to increase that number to 144, which constitutes an intensification of use based on a projected increase in vehicle trips, as determined by the City Engineer.

The Planning Commission Finds that MMC 19.700 is applicable.

b. MMC Section 19.703 Review Process

MMC 19.703 establishes the review process for development that is subject to MMC 19.700, including requiring a pre-application conference, establishing the type of application required, and providing approval criteria.

The applicant had a pre-application conference on May 25, 2023. As noted in Finding #7c, the proposal does not trigger a Transportation Impact Study (TIS), so the proposal's compliance with MMC 19.700 has been evaluated as part of the review of the major modification to the community service use, as per MMC Subsection 19.703.2.B.

The City Engineer has determined that no improvements are required for this development due to pre-existing improvements.

c. MMC Section 19.704 Transportation Impact Evaluation

MMC 19.704 establishes the process and requirements for evaluating development impacts on the surrounding transportation system, including determining when a formal TIS is necessary and what mitigation measures will be required.

The City Engineer has determined that the intensification of use will not trigger a significant increase in trip generation and therefore does not require a TIS.

d. MMC Section 19.705 Rough Proportionality

MMC 19.705 requires that transportation impacts of the proposed development be mitigated in proportion to its potential impacts.

As discussed, the applicant proposes to modify an existing community service use approval to operate a childcare center at 2816 SE Harrison St and the adjacent 2835 SE Harrison St. As stated, the applicant is proposing to make changes to the off-street parking area at 2825 SE

Harrison St and increase the student capacity capped in previous land-use decisions from 45 to 144.

The frontage of both properties is improved with curbs and sidewalks. The presence of barriers (such as non-compliant driveways, mailboxes, and telephone poles) causes the existing sidewalk to be out of compliance. The City Engineer has determined that the proposed development does not warrant the construction of a new sidewalk on either frontage, as no new square footage is being added to the church facility. No additional frontage improvements are required as part of this development. No public utility upgrades are required as part of this development.

No public facility improvements are required, as the existing facilities are sufficient.

e. MMC Section 19.707 Agency Notification and Coordinated Review

MMC 19.707 establishes provisions for coordinating land use application review with other agencies that may have some interest in a project that is in proximity to facilities they manage.

The subject property is identified as an Arterial in Figure 8-1 of the city's Transportation System Plan. Consistent with MMC 19.707, the application was referred to Clackamas County Engineering Development Review and Metro on October 5th, 2023. TriMet's development review team was also notified, as the proposal is located along an existing transit route as identified on the current TriMet service map.

f. MMC Section 19.708 Transportation Facility Requirements

MMC 19.708 establishes the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities.

(1) MMC Subsection 19.708.1 General Street Requirements and Standards

MMC 19.708.1 provides general standards for streets, including for access management, clear vision, street layout and connectivity, and intersection design and spacing.

As discussed above, the City Engineer has determined that no public improvements are required as part of this development. Both properties are developed with sidewalk and curb. The proposal is consistent with the applicable standards of MMC 19.708.1.

The Planning Commission finds that the proposal will meet all applicable standards of MMC 19.708.

The Planning Commission finds that the proposal meets the applicable public facility improvement standards of MMC 19.700.

8. MMC Section 19.904 Community Service Uses

MMC 19.904 provides standards and procedures for review of applications for community service uses (CSUs). These are uses that are not specifically allowed outright in most zoning districts but that address a public necessity or otherwise provide some public benefit. CSUs include schools and childcare services.

a. MMC Subsection 19.904.2 Applicability

MMC 19.904.2 establishes applicability of the CSU regulations, including a requirement for review to establish or modify a CSU.

The application is to modify an existing conditional use approval to operate a childcare center at 2816 SE Harrison St. The proposal is to increase the number of students served, which was capped by a previous land-use approval at 45. The proposal also seeks to modify the existing off-street parking area at 2835 SE Harrison St by restriping, repaving, and adding a new children's play area and walkway.

The Planning Commission finds that the standards of MMC 19.904 are applicable to the proposed development.

b. MMC Subsection 19.904.3 Review Process

MMC 19.904.3 establishes the review process for CSUs. Except for wireless communication facilities and minor modifications to existing CSUs, applications for CSUs are subject to Type III review (MMC 19.1006).

The proposal includes increasing the intensity of use and would contravene the previous condition of approval that limited the total number of students served to 45; consequently, the proposal does not qualify as a minor modification as per MMC Subsection 19.904.5.C.

The Planning Commission finds that the proposed development is subject to the procedures for Type III review.

c. MMC Subsection 19.904.4 Approval Criteria

MMC 19.904.4 establishes the following approval criteria for CSUs:

- (1) The building setback, height limitation, off-street parking, and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed for a CSU, the standards of the underlying zone must be met.

The applicant is proposing to modify the existing parking lot at 2835 SE Harrison St. As discussed elsewhere, the lot will be restriped, repaved, and a walkway and children's play area will be added. The playground equipment will comply with the setback requirement and height limitations for accessory structures in MMC 19.502.

The Planning Commission finds that the applicable development standards are met.

- (2) Specific standards for the proposed uses as found in MMC 19.904.7-11 are met.

The proposed modifications are subject to the standards provided in MMC Subsection 19.904.7 for schools and daycare operations, including the requirement to provide off-street parking as per MMC Chapter 19.600.

As per Finding #8d, the specific standards for schools, including childcare facilities, are met.

The Planning Commission finds that the applicable school-specific standards in MMC 19.904.7 are met.

- (3) MMC Subsection 19.904.4.C requires the hours and levels of operation of the proposed use to be reasonably compatible with surrounding uses.

As conditioned in CSO-91-03, the hours of operation are limited to between 6:00 AM and 7:00 PM. These hours are appropriate for a childcare center, as they allow for drop-offs and pick-ups outside of common business hours. The applicant is not proposing to modify the hours and there is no evidence that these hours are incompatible with the surrounding uses, which are listed below in Table 2. As discussed below, the existing hours of operation should help mitigate any noise impacts on surrounding residential uses while still permitting the center to function.

Table 2: Surrounding Uses	
2816 SE Harrison St:	
North	Residential and Parking (Bridge City Community Church)
South	Residential (Single Detached Dwellings)
West	Commercial (Jesuit Volunteer Corps NW Offices)
East	Commercial (Stehn Funeral Home)
2835 SE Harrison St:	
North	Residential (Crystal Lake Apartments)
South	Institutional (Bridge City Community Church)
West	Residential (Condominiums)
East	Residential (Single Detached Dwellings)

- (4) MMC Subsection 19.904.4.D requires that the public benefits of the proposed use be greater than the negative impacts, if any, on the neighborhood.

The applicant indicates that the childcare business will benefit the community by bringing in an additional early learning program to Milwaukie. The applicant indicates that Milwaukie has very few certified childcare centers and that this use is advantageous when compared to leaving the church site vacant. Possible adverse impacts arising from the increase in intensity include additional noise and traffic.

Regarding noise impacts, a condition of approval has been retained from previous decisions to limit the hours of operation from 6:00 a.m. to 7:00 p.m. This should limit the impact on adjacent properties. Additionally, the city has a noise ordinance, which could

be leveraged if the city receives complaints, and a sight-obscuring fence is required to shield the proposed play area from nearby residential uses.

Regarding traffic impacts, as discussed in Finding #7, the City Engineer has indicated that requiring transportation facility improvements would not be proportional to the proposal's impacts.

The Planning Commission finds that the benefits of the proposal outweigh the potential negative impacts. The proposal will increase the supply of childcare in the community and activate an underutilized property. While the proposal will likely increase noise on the site, the noise ordinance and conditions limiting hours of operation and shielding the play area from adjacent residential properties will mitigate noise impacts.

- (5) MMC Subsection 19.904.4.E requires the location to be appropriate for the type of use proposed.

The applicant indicates that the site is ideal for a childcare business, as it provides adequate parking, outdoor areas, and classroom space. Additionally, the site has been used as a childcare center historically and is accessible using multiple forms of transportation.

The Planning Commission finds that the location is appropriate for the proposed use.

d. MMC Subsection 19.904.7 Specific Standards for Schools

MMC 19.904.7 establishes the following specific standards for schools, pre-schools, nursery schools, and daycare centers:

- (1) MMC Subsection 19.904.7.A applies only to public elementary and secondary schools.

The Planning Commission finds that MMC Subsection 19.904.7.A is not applicable to the proposal.

- (2) MMC Subsection 19.904.7.B requires that preschools, nursery schools, day-care centers, or kindergartens 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 out-of-doors 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.

The applicant indicates that the existing play area at 2816 SE Harrison St contains 1,250 sq ft and that the new play area proposed at 2835 SE Harrison St will add 4,320 sq ft, creating a combined total of 5,570 sq ft of fenced, outdoor play area. The applicant proposed to increase the total student capacity from 45 to 144. At 75 sq ft per pupil, the proposal requires a total of 10,800 sq ft. The applicant indicates that they plan to stagger use of the play area, which allows them to reduce by half the amount of play area required. Half of the requirement is 5,400 sq ft, which the proposal complies with.

The Planning Commission finds that the proposal meets the outdoor play area requirement.

- (3) MMC 19.904.7.C requires that walkaways, both on and off the site, be provided as necessary for safe pedestrian access to schools subject to the requirements and standards of Chapter 19.700.

Both 2816 SE Harrison and 2835 SE Harrison are developed with a curb and sidewalk and there is a marked crosswalk that connects the two properties. Additionally, 2816 SE Harrison is developed with walkways connecting property entrances with public sidewalks. As discussed in Finding #5, the applicant has proposed to add a new on-site walkway at 2835 SE Harrison St that will connect the existing public sidewalk to the proposed children's play area. A condition of approval has been added to ensure that the walkway will comply with the development standards specified in MMC 19.504.7.

As conditioned, the Planning Commission finds that the proposal includes sufficient walkways both on and off-site to ensure safe pedestrian access.

- (4) MMC 19.904.7.D requires a sight-obscuring fence between 4 ft to 6 ft in height to separate play areas from adjacent residential uses.

The applicant indicates that they intend to install a 4 ft fence with privacy slats; however, the site plan does not clearly indicate that the fence shields the play area from all adjacent residential uses. Therefore, a condition of approval has been included to ensure that the sight-obscuring fence is installed in a manner consistent with MMC 19.904.7.D.

The Planning Commission Finds that, as conditioned, the sight-obscuring fence standard is met.

- (5) MMC 19.904.7.E requires the site to be adequately served by public facilities.

As discussed in Finding 8, both properties are served by a public road and public utilities. Additionally, 2816 SE Harrison St extends across the entire block between 28th Avenue and 29th Avenue and therefore has three frontages along the public right-of-way. Each is developed with a curb and sidewalk. The frontage for 2835 SE Harrison St is also developed with a curb and sidewalk.

The Planning Commission finds that both properties are adequately served by public facilities.

- (6) MMC 19.904.7.F requires that the site have safe loading, including ingress and egress.

As conditioned in CSO-91-03, student pick-ups, and drop-offs are intended to occur using the off-street parking area behind the church at 2816 SE Harrison St. The condition restricts travel to one-way, east-to-west direction. This condition was reaffirmed in the Planning Division letter that approved Sugarplum Daycare, LLC to operate in 2007. Neither the applicant nor city staff proposes modifying this condition of approval.

The applicant also indicates that there will be longer-term parking in the lot at 2835 SE Harrison St, where there is a marked crosswalk. The applicant indicates that this crosswalk will be staffed with a crossing guard.

The Planning Commission finds that, as conditioned, the site provides a safe location for pick-ups and drop-offs.

- (7) MMC 19.904.7.G requires that the site have off-street parking, including for buses, as per the requirements in Chapter 19.600.

As discussed previously, new state administrative rules prohibit the city from mandating minimum off-street vehicular parking quantity requirements on sites within a half-mile of a frequent transit corridor or within three-quarters of a mile of a rail transit stop. However, all other provisions of MMC 19.600 may still apply. The application has been reviewed for compliance under Finding #6, and conditions have been established to ensure compliance.

The Planning Commission finds that, as conditioned, the standard for off-street parking is met.

- (8) MMC 19.904.7.H specifies setback requirements of 20 ft for the site, rear, and front yards.

The applicant is not proposing any new primary structures on either property. As discussed under Finding #5, a condition of approval has been added to ensure that the play equipment meets the setback standard for accessory structures.

The Planning Commission finds that the 20 ft required setbacks in MMC 19.904.7.H are related to primary school structures and therefore the standard is not applicable to this proposal.

- (9) MMC 19.904.7.I requires that bicycle facilities be provided to adequately serve the facility.

As indicated under Finding #6d, 4 bicycle parking spaces are required as per MMC 19.609. The applicant mentions two bike racks in the application narrative; however, the applicant did not indicate the location of the racks, and staff were not able to locate the racks; therefore, a condition of approval has been added to ensure compliance with this requirement.

The Planning Commission finds that, as conditioned, adequate bicycle parking will be provided.

- (10) MMC 19.904.7.J requires that 15% of the site be landscaped.

As discussed elsewhere, the applicant proposes using two properties for the childcare business, 2816 SE Harrison and 2835 SE Harrison. Neither site currently conforms to the 15% landscaping standard; however, the proposal involves adding a landscaped area to buffer the proposed walkway from the vehicle parking area.

As discussed under Finding #4b, this landscape buffer will move the property closer to conformance with the landscape standard.

The Planning Commission finds that the proposal moves the site closer to conformance with the landscaping standard and that MMC 19.904.7.J is met.

The Planning Commission finds that the proposed development meets all applicable standards of MMC 19.904 to be approved as a major modification to a CSU. This standard is met.

9. The application was referred to the following departments and agencies on October 5, 2023:
- Milwaukie Community Development Department
 - Milwaukie Engineering Department
 - Milwaukie Building Department
 - Milwaukie Public Works Department
 - Milwaukie Police Department
 - Milwaukie Code Compliance
 - City Attorney
 - Metro Development Review
 - Clackamas County Development Review
 - Historic Milwaukie Neighborhood District Association (NDA) Chairperson and Land Use Committee (LUC)
 - Clackamas Fire District #1 (CFD)
 - NW Natural

In addition, public notice was provided on October 25, 2023, as required by MMC Subsection 19.1006.3. The city did not receive any comments regarding the proposal.