

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, August 28, 2007
6:30 PM**

COMMISSIONERS PRESENT

Jeff Klein, Chair
Dick Newman, Vice-Chair
Lisa Batey
Paulette Qutub
Teresa Bresaw
Scott Churchill

STAFF PRESENT

Katie Mangle, Planning Director
Brett Kelter, Assistant Planner
Susan Shanks, Associate Planner
Zach Weigel Civil Engineer
Bill Monahan, Legal Council

COMMISSIONERS ABSENT

Charmaine Coleman

1.0 CALL TO ORDER

Chair Klein called the meeting to order at 6:32 p.m. and read the conduct of meeting format into the record.

2.0 PROCEDURAL MATTERS – None.

3.0 PLANNING COMMISSION MINUTES

3.1 January 10, 2006

Commissioner Bresaw moved to accept the January 10, 2006 meeting minutes as presented. Commissioner Newman seconded the motion, which passed 5 to 0.

Approved PC Minutes can be found on the City web site at www.cityofmilwaukie.org.

4.0 INFORMATION ITEMS -- City Council Minutes

City Council Minutes can be found on the City web site at www.cityofmilwaukie.org.

5.0 PUBLIC COMMENT-- None.

6.0 PUBLIC HEARINGS

6.1	Type of Hearing:	Minor Quasi-Judicial	
	Applicant:	Lynnette Denny, Sweet Pea Preschool & Daycare	
	Location:	4105 SE Harrison St.	
	Proposal:	Establish Preschool and Daycare in former church fellowship hall	
	File Numbers:	CSU-07-01, TPR-07-06	
	NDA:	Hector Campbell	Staff Person: Brett Kelter

Chair Klein called the hearing to order.

Brett Kelter, Assistant Planner, cited Milwaukie Municipal Code (MMC) criteria applicable to the application for the record.

Chair Klein and Commissioners Batey, Bresaw and Qutub declared for the record that they had visited the site. No board member declared a conflict of interest, bias or conclusion from a site visit or any ex parte contacts. No board member participation was challenged by any member of the audience.

Mr. Kelter presented the Staff report using a PowerPoint presentation.

- He confirmed that the playground dimensions were 41 or 42 feet, by 42 or 43 feet, essentially the space between the buildings, using the sides of the buildings as the required screening.
- The required fencing height for the outdoor play area is 4 to 6 feet high.

Commissioner Qutub asked about the permanence of the easement agreement between the church and preschool. Would the easement change if the use of the site changed?

Bill Monahan, City Attorney, responded that [the easement agreement] would run with the land. If the church was sold or leased to someone else, that occupant would be bound to honor the same easement agreement. If the use changed, a modification to that easement could be requested.

- A new use could come into the building now described as the fellowship hall and could operate under a different zoning requirement, but it would still be bound by that easement.

Commissioner Batey reiterated that if approved as a daycare, the property could be a daycare forever under any owner, but it could not be anything else except a use allowed in the underlying residential zone without returning for a modification.

- She wanted to clarify that a Community Service Use (CSU) would not lapse. For instance, if the facility closed for a year and then wanted to reopen; the CSU would not lapse, right?

Mr. Kelter answered that was correct. If any use were resumed after a lapse, Staff would consider any difference or intensification of the use for that site in determining whether a minor modification or new CSU application was needed.

Commissioner Churchill noted that an easement is a parcel-to-parcel relationship, not a use-to-use relationship. When providing the easement, you are essentially joining the agreement to the title of the property and that is a big step.

- He asked if the easement allowed a reciprocal use on parking.

Mr. Monahan replied that was his understanding.

Commissioner Batey asked if the recommended tree placement of every 40 feet down the eastern property line shown on the landscape plan also applied to the landscaping in front.

- Trees obviously help with screening. The current landscaping was not well maintained.

Mr. Kelter understood that tree plantings would apply to the front. He confirmed grass or ground cover could also be installed with the trees.

Commissioner Churchill noted the requested exception to allow the sidewalk to stay at its current 4-foot width and asked if a 5-foot sidewalk would be required if this were a new application.

Mr. Kelter believed that was correct.

Commissioner Churchill asked if any identified value of the sidewalk exception could be transferred to additional landscape work or improvements, such as putting the \$1,500 in a pool for future street improvements, etc.

Zach Weigel, Civil Engineer, responded that the Applicant requested an exception, to pay a fee in lieu of all the required street improvements.

Commissioner Churchill asked if the fees could be used on the site for other purposes. As an unusual use in a residential neighborhood, maybe additional landscape buffering could be installed if [the Commission] was not satisfied with the proposed land plan, to hold the dollar value to the site rather than having the fee go into a pool.

Katie Mangle explained the fee be must used for the same type of improvements it was collected for.

Chair Klein asked if fees in lieu of had expiration.

Mr. Weigel answered that if fees are not spent within 10 years they are refunded to the developer.

Commissioner Churchill asked what the parking requirement would be if this were a greenfield site with 33 children.

Mr. Kelter explained that as a completely new development, there are two off-street parking requirements that come together resulting in nine total required parking spaces.

- The requirements are one space for every eight children serviced and one space for each full-time employee. He believed the one proposed ADA space was included in the total.

Commissioner Bresaw asked about the driveway arrows going to the left when the existing driveway approach was identified as an exit only.

Mr. Kelter explained the existing driveway on the church property would be exit only and the existing driveway on the subject property would be the entrance. The site plan shows the correct traffic flow.

Commissioner Bresaw asked if people using the church at different hours can use that driveway.

Mr. Kelter stated one requirement of the shared parking agreement is that no conflict occur in operating hours, so church activities would happen at times other than Monday through Friday, 7:00 am to 6:00 pm, and they would have to use the same entrance-only and exit-only drives because of the shared access agreement.

Commissioner Newman sought verification that the City is only approving the ability to have a child care/preschool facility at this location. The City is not liable for any licensing, quality of childcare or any operation of the facility.

Mr. Monahan replied that was correct. The City does not license the operation. The only issue is whether or not [the project] fits the Code and to insure the use does not conflict with the use of surrounding properties. The actual operation or how well the facility is run, and the liability created, is solely the responsibility of the operator.

Commissioner Churchill asked if the public actually benefits from the project, in the sense that it is not like a school site where the entire public can use it. With regard to the public use benefit, [the facility] is a benefit only to those who pay for it.

Mr. Kelter clarified that the question is whether the proposed use, in a larger sense, provides a public benefit. The immediate benefit would be to those who pay for the service, but it could be argued that having more quality childcare available provides a benefit to the larger community if it is successful in raising healthy, happy, productive citizens.

Chair Klein compared the application to the way the Commission addressed Danceville.

Commissioner Churchill asked if an option existed for additional financing for low-income people. He wanted to [identify] the public benefit, as it seems [the Commission] is being exclusive to those who could afford daycare...

Mr. Kelter deferred to the Applicant for further response on this question, adding that Ms. Denny could discuss Head Start and other connections she has.

Commissioner Bresaw asked if the walkway will go away due to the proposed four-foot strip of landscaping along the east side.

Mr. Kelter believed so; neither of the driveways will be changed or reconfigured. [The site currently] has a 4-foot wide pedestrian crossing and if replaced with landscaping there would probably not be enough room for a pedestrian walkway without interfering with auto traffic flow coming in. That trade off should be weighed.

Commissioner Batey asked if there was an alternative to the proposed walkway location. A walkway seemed to be needed for people coming onto the property from the sidewalk, perhaps by bus.

Mr. Kelter replied that an alternative could be explored.

Commissioner Batey asked if a walkway is required by the Code.

Mr. Kelter replied that a requirement exists for providing pedestrian walkways on site. Parking could be configured so even though there is not a walkway protected by a curb, a walkway area can be designated with stripes. It may be possible to identify a location that is safe to stripe as a pedestrian walkway that allows vehicle traffic to cross while making motorists aware that pedestrians are near.

- In this case it is a matter of trying to navigate and negotiate how the different requirements should be weighed on an existing site that does not quite accommodate all the Code requirements.

Commissioner Batey asked if a new entrance has to be added because of Code requirements.

Mr. Kelter believed that is a building code issue.

- He confirmed that the strip leading up to the new door on the east side of the building is an ADA ramp or landing connected to the walkway extending in front of the building.

Chair Klein asked how the requirement that only 20 children be outside at a time would be monitored.

Commissioner Churchill agreed; it is very hard to monitor and he believed it was bending the rules a bit.

Commissioner Qutub commented that, having taught 7th and 8th grade, she knows that recess times are staggered so not all the kids are outside at the same time, which is the same for any school situation. She could understand how the schedule would work with the 33 children and limited group sizes outside.

Mr. Kelter clarified that it was not accurate to say it is bending the rules because the Code specifically states the amount of play area can be reduced, given the maximum number of kids that will be outside at one time.

Commissioner Churchill asked how the limit is set, given that the bending of the Code could be taken to the point of taking the children outside one at a time.

Chair Klein suggested discussing this and other questions raised with the Applicant.

- He would ask the Applicant what qualifies as 'preschool'.

Mr. Kelter expressed that any proposal taking advantage of this part of the Code would present a monitoring challenge, but the Code does specifically allow for a smaller outdoor play area if not all children being served by the facility will be outside at one time.

Commissioner Churchill asked if off-hour community use of the play area was discussed with the Applicant.

Mr. Kelter answered no.

Commissioner Churchill commented that this question seems important for the benefits test for the immediate community, as no parks exist within a three-block radius of that area.

It is not uncommon for private property owners with play structures, like schools, to be required to make those facilities available to the public. This could be considered as a possibility in light of the public benefits test.

Ms. Mangle pointed out that screening requirements imposed on such play areas may run counter to what is desired for a public play area. For example, a six-foot screened fence could make it difficult to see anyone approaching.

Commissioner Churchill asked where the public benefit is for those not attending the school.

Commissioner Bresaw asked if the five-foot walkway by the house is up on a curb, even though wheel stops are there.

Mr. Kelter replied yes, the parking area would be curbed. He explained that wheel stops are required to prevent vehicles from overhanging walkways that are not at least seven feet wide, ensuring a five-foot walkway was available.

Commissioner Batey asked if Staff was comfortable that the landscaping met the 15% requirement.

Mr. Kelter explained that if the areas beside, behind and in front of the house are included, as well as the four-foot strip on the side, it should meet the 15% standard. Additional leeway was available because the details of how the playground area would be finished were uncertain. The play area could be considered as landscaping as well. The percentage would be determined following considerations about what will work for the site's off-street parking.

- Planning Staff usually calculates the landscaping percentages of projects.

Chair Klein confirmed no other correspondence had been received by Planning Staff or the Commission other than what was enclosed with the agenda materials.

Chair Klein called for the Applicant's presentation.

Lynnette Denny, Applicant, introduced herself as an owner of Sweet Pea Preschool in Gladstone and explained that she is looking to expand into Milwaukie.

- This location will differ from the Gladstone location in that it will be a daycare certified through the State, meaning the fire department, Sanitation, and Child Service Division (CSD) will all approve it before any children arrive. The focus, however, won't be daycare, but preschool, which includes three and four-year-olds. The facility will include children as young as 24 months.
- She noted several elements of the site and proposed project on display boards, including the following:
 - * Two ADA ramps will be added because the Fire Code requires two separate exits with ADA ramps on a room that large, 23 by 40 feet.
 - * The playground will be approximately 40 by 42 feet. Half will be grass; the other half will be pea gravel with age-appropriate toys.
 - Moving the fence along the playground about five feet forward will allow a straighter line for parking as well as extra playground space. The playground will be over 1,700 feet; the requirement for 20 students is approximately 1,500 feet.
 - * A six-foot fence is proposed on the east side to block views into that neighbor's backyard.

- * Only one neighbor would be impacted by playground noise; they just built a new fence.
- * She wanted to continue the fence along the southeast property line, but did not want to lose the pedestrian access.
- She explained that dividing up classes for outside playtime helps prevent accidents and injuries. No more than 20 children would ever be out on the playground at one time. It would either be one class of 20, a class of five toddlers, or the preschool class with eight children.
- She walked through the layout of the facility, its amenities, classroom sizes and staff-to-student ratios, all of which conform to CSD and State sanitation requirements.

Commissioner Bresaw asked if the ratio of two adults to 20 children applies to outside playtime, as well as indoors.

Ms. Denny replied that 1:10 is the State requirement. She added they will probably even have three teachers at times because Head Start will supply a Spanish-speaking teacher for the anticipated Spanish-speaking children.

Commissioner Batey asked Ms. Denny to explain her relationship with Head Start.

Ms. Denny said that she started working with Head Start last year. The Clackamas County Head Start is a great benefit to the county because they put Head Start children into community preschools. Head Start has a great need and if this project could be approved by October 15, Head Start would place children into the facility.

Commissioner Batey asked about the significance of October 15.

Ms. Denny answered that is the latest date Head Start is willing to place students in this location.

Commissioner Batey asked what percentage of students will be affected.

Ms. Denny said that in the first year they will place 16 students per day into the facility's four-day program. The Gladstone location is already full and has a waiting list. Many of those kids want to come to the Milwaukie location in order to secure a spot.

- Her goal is not to do daycare as much as to provide quality preschool so children learn the full range of what they need socially, emotionally, and then academically. At the ages she serves, social and emotional skills are much more important than academics in some ways.
 - * Children learn their ABCs in first grade, but now they need to learn how to be kind to others, act appropriately, and work out problems with a friend.

Commissioner Batey asked if the Gladstone location is entirely Head Start.

Ms. Denny answered that nine of the 45 spots in Gladstone are Head Start. The Gladstone location has only morning preschool. Milwaukie will offer morning and afternoon preschool classes.

Commissioner Churchill asked Ms. Denny to elaborate on the enrollment goals for Head Start students.

Ms. Denny replied that probably 50% of the students would still be Head Start. Milwaukie has a lot of special needs for foreign language services.

- The age range is three to five-year-olds, and the goal for this fall is to have 20 students in the main preschool classroom every day and to have five toddlers enrolled. The class of the other eight students, approximately three years old, with classroom space in the back would develop slowly.

Commissioner Churchill reviewed the target of 15 to 16 Head Start children, five toddlers, and eight others coming on to be able to be in the Head Start program and asked how they [arrived at] 33 students.

Ms. Denny explained that the 33 spots would be allocated by CSD, meaning that was all the State would allow due to the building/site limitations.

Commissioner Churchill asked if those would be three, four or five days a week.

Ms. Denny replied that they would offer three, four, or five days a week and allow parents to choose which preschool schedule fits their work schedule.

- Someone may choose a three-day schedule, leaving the other two days open for someone else. The maximum capacity would always be 33 children per day, but more families could be involved in the program than that.

Chair Klein wondered about the traffic impact of the different schedules.

Ms. Denny explained the last class ends at 4:00 pm. As for the rush hour impact, the only normal daycare children would be picked up after 4:00, which will not even total 20 students.

Chair Klein stated he was more comfortable with split schedules.

Ms. Denny wished to address some of Commissioner Churchill's concerns about the playground.

- The playground will be hidden from public view. Part of the easement agreement with the church is to share parking spots, both driveways, and the playground, so the church will also benefit from using that playground but must maintain their insurance liability, as must Sweet Pea. Her only concern about opening the playground to the public would regard liability issues.

Commissioner Bresaw asked if a line could be drawn about not accepting difficult children.

Ms. Denny said that even though there's always that possibility, in her ten years of teaching, she has never kicked a child out. Her relationship with ESD is very good. She is on their list for preferred preschool providers and has developed a network through them that allows her to get extra help to work through any problems.

- She noted that if the pedestrian walkway is taken out for landscaping, part of [the other walkway] would also need to be removed. She did not see the advantage of removing a pedestrian walkway for some grass, noting that the rest of the proposed landscaping, which she is willing to keep, should meet the 15% requirement.

Commissioner Batey asked Ms. Denny if she realized she was planning for one more parking space than is required.

Ms. Denny answered yes, but she liked how the pedestrian walkway went right into the ADA loading area and that the ADA ramp comes right down into it, creating a good layout for offering services.

- The Church will need all the spots they can, whereas Sweet Pea cannot grow more than their 33 students.
- She confirmed that the building did not have a basement.

Commissioner Qutub asked if Sweet Pea will provide any transportation or if parents will bring in their children.

Ms. Denny replied that parents would bring children, although Head Start does offer some transportation.

- She confirmed that no cook would be required, as Sweet Pea requires that children bring their own lunches. Snacks would be provided.

Chair Klein called for public comment in favor of the proposal.

Shawn Flanagan, 4116 SE Llewellyn Street, stated his family lives behind the playground and that they have no issues with the preschool. He has lived in the home for five years.

- There has been a vacancy on Harrison Street for a year and a half and nobody else has done anything with it. He added that if Ms. Denny watches kids as hard as she's been working on the site this last month, everybody will see justice.

Commissioner Batey asked Mr. Flanagan if the previous playground was a problem for his family.

Mr. Flanagan replied no, he has buffers with fencing and landscaping and he likes kids.

Commissioner Batey asked if there had been any church activities or anything else during the past year and a half.

Mr. Flanagan replied that it's been completely dead and something should be done with the property. If a developer were going to pick it up and turn the site into condos, he would be testifying in opposition.

Maureen Rosamond, Director of Childcare Resources and Referrals Clackamas ESD, P.O. Box 216, Marylhurst, OR 97036 stated that she also runs the Head Start program, as well as a migrant preschool. She's known Ms. Denny for about six years. She has seen others open facilities and struggle with partial enrollment for years, but Ms. Denny was full in Gladstone before that facility even opened.

- Ms. Denny meets standards from every area, including the Planning Commission, Child Care Division, Head Start, and Special Education and is very welcoming to high-risk families and makes everyone feel equal.
- The Head Start waiting list for North Clackamas is probably 100, while the other Head Start has 200 names of children in need. North Clackamas is the largest

school district. Ms. Denny opens her sites to everyone involved, including ODPTs and speech, and the children do meet their goals.

* The 500 employees at ESD know Ms. Denny and value her care center. Sweet Pea would have full enrollment, as she would place 40 Head Start children in that center herself.

- October 15 is important due to the school year, enabling 35 weeks of instruction to be provided for the children and the summer break for her teaching staff.
- She emphasized that the facility would be used by children of all socioeconomic backgrounds, abilities, skin color and language.
- She added that Head Start does help with transportation through a partnership with the school district. Children with special needs are able to have busing because of their program needs.

Commissioner Batey asked about integration of Head Start into regular preschools and inquired about a center on River Road.

Ms. Rosamond replied that is the other Head Start, which is federally funded, for the most part, with some State money, while her program only receives State funding but operates within federal standards. The program has been running for 17 years.

Commissioner Qutub commented that she is happy to learn that Head Start children are being mixed with the general public.

Ms. Rosamond explained that they work closely with the Department of Human Service's clientele; the people in jobs training, etc., and that Ms. Denny is able to coordinate all of those services, including all the paperwork involved.

Carolyn McDowan, Milwaukie, OR, clarified that services have been held in the First Love Ministries church within the last year and a half, contrary to Mr. Flanagan's earlier statement. They have a very small congregation and no one has small children. Some type of service is held at the church at least once a month.

- She noted that she raised six children and that finding a trustworthy babysitter was always one of her biggest concerns.
- She sees the public benefit, not just to the kids receiving the service, but also to society. Kids who have good training when they are younger will have fewer problems in school and as they grow up.
- She has heard nothing but good things about Ms. Denny and her qualifications and urged the Commission to approve the application so Ms. Denny can complete this project.

Chair Klein noted that First Love Ministries is the current owner of both properties, but is in the process of moving to another location and selling both of the buildings. What will happen to the other sanctuary?

Pastor Judie Fowler, First Love Ministries, 4927 SE 72nd Ave, Portland, OR stated that they purchased the property in 1988. After her husband passed away in 1993, she never dreamed to continue the work, but has.

- The congregation has been diminishing over the past three years to its current level of under 30 people. They decided to put the property on the market to see if they could get a buyer.

- For a long time, she had only wanted to sell to another church, but received an offer for just the church building on the same day Ms. Denny made her offer for the house. The offer was from a Grants Pass pastor who is really excited that Ms. Denny is buying the other building because it will be mutually beneficial.
- The [congregation] is thrilled to have someone buy the property and care for it. The neighbors have gotten to know Ms. Denny and are happy with her coming in.

Chair Klein understood that since the church has been active recently, the previous CSU approval for it would be able to carry over to the new church. It seems First Love Ministries is suited for the site and for the preschool connection.

- He expressed concern that a new church and new congregation will create a whole new landscape and inquired about what type of restrictions and usage the new church will have.

Ms. Mangle explained the new church essentially would have many rules imposed on it. The easement will create a set of rules that will be tied to the land, as pointed out earlier. The CSU would mostly have rules regarding the playground and screening.

- Staff understands that this location has been a church since the '40s, even before the City's CSU was in place. The Planning Department's practice is to consider old churches as de facto CSUs, so standards applied in the past have been more consistent with Operating Use of the most recent approval.
- If another church comes in and also has small meetings once a week, or if they don't change the property in any way, it is possible to leave it as-is, but any changes such as operation hours or number of people attending would require a new CSU.

Chair Klein said it seems like the two will be tied together since the church is sharing a large green space with the Applicant.

Commissioner Churchill commented that it seems a healthier congregation will have a greater intensity of use.

Chair Klein inquired about the occupancy of the church as it sits now.

Pastor Fowler said the occupancy was posted at one time and believes the number is approximately 235. The fellowship hall was reevaluated to something like 165 occupants, but she urged the Commission to verify the numbers with the Fire Marshal.

Chair Klein redirected his question to Staff and asked if a new CSU would be triggered if a new church moved in and created a 15 to 20% change from the previous church.

Ms. Mangle answered that there is no numerical trigger on CSUs.

Pastor Fowler stated the church has had as many as 130 people in the building, parking on Harrison St. and across the street at the old Thriftway. They have had no problems with it and never any complaints from the community.

Commissioner Batey said it seemed like there has not been a sizable meeting since the former Thriftway site was redeveloped.

Pastor Fowler responded that it has probably been about four years.

Mr. Monahan understood staff to say that there's been a preexisting and continuing use for the church, but not an existing CSU overlay for the church.

- He believed the church could be used again based on the capacity the Fire Marshal and Building Codes allow.
- The CSU action this evening is improving the off-street parking situation and not reducing the amount of available parking area or other things related to the church that the new church would possibly need.
- [The City] is bound by the fact that there is that preexisting use; he was uncertain what would trigger a new CSU overlay for a new church.

Commissioner Churchill said he would want to look very closely at traffic impacts, because the project is creating a potentially higher density of traffic impacts on the fellowship hall parcel. Even though it is staggered with church activities, the traffic impact will increase overall, which involves the community benefits test.

- He is very impressed with the Applicant's program but he is trying to look at the cumulative traffic impact to the neighborhood, especially with a grandfathered situation with the church.

Chair Klein added that the difficulty on this case is that it involves not just one application, but also the easement and the church use due to the shared driveway.

Mr. Monahan stated that the Commission is required to consider just the site subject to the application. The Applicant could have come forward and configured their parking lot with the properties being separate, but a reciprocal arrangement is proposed that will run with the land and creates a situation that will limit the ability of 4107 SE Harrison to be utilized for a church and that may have a magnitude similar to what it might have been in the early '50s.

Chair Klein said that is the direction he wanted to go on this. The Commission must consider this application on its own merits and that the new church coming in is secondary.

Commissioner Churchill did not believe [the Commission] is limiting that in any way.

Chair Klein called for any testimony in opposition of the application. Seeing none he called for additional comments from Staff.

Ms. Mangle noted that Chris Maciejewski is present to answer questions.

Commissioner Churchill asked Mr. Maciejewski to walk through the traffic numbers and explain how he feels they are sufficient.

Chris Maciejewski, Transportation Engineer, DKS Associates explained that [Staff] had asked the Applicant to analyze the site as a daycare instead of a preschool because the arterial roadway with the PM peak hour critical time period would be considered. The daycare land use would be more intensive during the PM peak hour, so they analyzed the use as a 33-student daycare to study the site impacts.

- He understands the concerns are with the daily traffic volumes and that if there are different turnovers of students or shifts then more traffic throughout the day would be

seen. But DKS criteria involve the PM peak hour operations, and taking a conservative approach it was roughly 30 trips in the PM peak hour. The exact numbers were 15 cars in and 12 cars out, totaling 27 trips.

Commissioner Churchill asked when the normal drop offs would occur.

Ms. Denny answered the first session runs from 8:15 am to 12:00 pm and the second session from 12:30 pm to 4:00 am.

Commissioner Churchill stated that focusing on the 8:15 am peak drop-off period, even with a rough analysis there are five early drops that could even be stretched to 10, but that's still 23 drops right around the 8:15 spot: truly a traffic congestion issue. It's not just people arriving somewhere between 8:00 and 9:00 am. It is a very specific hour with schools and especially with preschool and daycare children.

- He asked how to address that with nine parking spaces.

Mr. Maciejewski explained that when doing school studies, DKS considers how site circulation will work. With 20 people coming in a short period of time, the drop-off and pickup turnover happens very quickly, so there will not typically be 20 cars in the parking lot in a three-minute period.

Commissioner Churchill said that is for elementary schools, not for three- and four-year-olds, who take time to get from the vehicle and into the school.

Mr. Maciejewski explained the trip generation is not one car per student, as often more than one student is in one vehicle or people walk to the site.

Commissioner Churchill asked what the model assumed for carpooling.

Mr. Maciejewski replied that they used a model for a daycare land use. He did not know the average occupancy per vehicle numbers off the top of his head, but [the model] assumes normal splits of walking, driving, and shared car use; it could be two students in a car.

Commissioner Churchill began running through what he anticipated the numbers would be for early drop offs, carpooling, walking, etc., to get at what the realistic numbers would be for traffic.

Chair Klein commented that as the Applicant stated, on any given day there would be only a maximum of 33 children regardless of the total number of enrolled students.

Commissioner Qutub noted that approximately 16 children would be bussed in by Head Start at about the same time.

Commissioner Churchill said it is important to understand the analysis in order to support the traffic study. He asked to be walked through the analysis and the impact on neighborhoods.

- He had not heard any objections from the neighborhoods, but in running the numbers there would be about 23 or 25 cars hitting that same AM drop-off window.

Mr. Maciejewski responded that even if everyone arrives at once, overflow parking is available on the street. The operation's impact is overflow parking onto Harrison Street, an arterial street.

- As far as impacts to the 42nd Ave/Harrison St intersection, the projected traffic was still not at levels high enough to trigger more major capacity improvements.

Commissioner Churchill said even that with nine spaces, people would still park on the south side of Harrison St and scramble across the street. He just wanted to consider all of the traffic and safety issues associated with that.

Mr. Maciejewski suggested that a 25 mph roadway, generally regarded as safe for an arterial, be considered for pedestrian safety. As mentioned, parents will also be walking their children across the street.

Chair Klein said that the city parking standard is being used for parking spaces on the site. Were there other preschools in the City with parking problems?

Commissioner Churchill said he had been a part of that chaos, when his kids were in preschool, and it is not pretty.

Mr. Maciejewski noted that if 15 cars all came in a five-minute period, there would be overflow onto the arterial. But on-street parking exists now, so at least in the near term, it provides some overflow capability.

Commissioner Churchill acknowledged that the neighborhood is not complaining. He was not against the Applicant; he just wanted to insure pedestrian safety issues are addressed.

- He noted that the closest sidewalk crossing is 120 feet away.

Ms. Denny stated the commercial lot is a double lot.

Commissioner Batey asked if the pedestrian crosswalk and ADA parking is acceptable.

Mr. Kelter clarified that some interplay exists between on-site/off-street required parking and traffic impact. The Code does have standards for what is required, which was covered earlier.

Mr. Maciejewski noted this was the first time he had seen the full application so he did not review the entire proposal. In looking at the plan, and trying to come up with a balance with the landscaping however, if landscaping was placed on the east side, a possible alternative for a pedestrian walkway would be a break in the fence opposite the middle walkway, providing a connection to the sidewalk along Harrison St.

Commissioner Bresaw suggested continuing the walkway to the [east] along the building.

Mr. Maciejewski responded that from a practical point of view, walkways should line up with the front door so people actually use them.

Chair Klein called for the Applicant's rebuttal in response to the public testimony.

Ms. Denny emphasized that everything in her application benefited the community.

- The facility is being improved, the ability to get appropriate preschool for low-income residents is increased, and jobs are being created.
- She noted that she could have refused sharing the parking lot, asked CSD to amend her playground and put more fences up, but the goal is not to create barriers with the City or neighbors.
- Everything she has done, including the easement agreement, is a positive thing for the city of Milwaukie. The negatives are so slight and small; they are minute compared to the positive community impact.

Chair Klein asked what time parents start dropping children off at the Gladstone facility.

Ms. Denny explained that the Gladstone location is set up differently and not all parking spots are readily visible. Classes of eight begin at 8:30, 9:00 and 9:30, creating staggered drop-off and pick-up times.

- The Sweet Pea facility also follows local school schedules. This facility will follow North Clackamas School District's schedule, so no preschool will be held on school holidays, but daycare services will be available.
- She confirmed preschool classes would start in Milwaukie at 8:15 am.

Chair Klein asked what time a child could be dropped off if a parent had to be at work by 8:00 am.

Ms. Denny replied that the permit allows drop off from 7:00 a.m. to 6:30 p.m. but that her plan is to try not to open until 7:30 a.m. She reviewed the number of students she anticipated carpooling, riding the bus, etc., and stated that at any one point it is a possibility they will run out of parking. The chances of that happening are rare, but it could happen.

Commissioner Bresaw asked how Ms. Denny would feel about the center walkway crossing over from the sidewalk.

Ms. Denny stated it is a possibility, but believed it is a bigger hazard. A parent in the driveway to drop off their child and in a hurry to get to work may not see a short three-year-old running ahead of mom or dad who park on Harrison and are walking up the path.

- She would feel less comfortable with a center walkway. As a safety measure, CSD does require a fence blocking vision from the street. A fence is already present.

Commissioner Batey wanted to verify whether the busses would be able to pull in or would have to stop on Harrison St.

Ms. Denny stated there is enough space within this site. At the [Gladstone] location, people just pull in, bring their child inside, sign them in, say hi and go. She expects the same thing to happen at this site. She does not think parents will use the parking spots; parking and backing up does not happen most of the time.

Chair Klein closed the public testimony portion of the hearing at 8:34 p.m.

Commissioner Churchill stated he had three central points.

- He believes the traffic modeling is failing a little bit and is not meeting the letter of the Code, and is dismissing the intent. Or, the impacts are not fully appreciated in the analysis.
- He is worried that the flexibility shown in the sq. foot per child of outdoor play area issue will create problems in the next application that may interpret that flexibility differently. Just because some schools succeed with staggered play times, it does not mean that every preschool would.
- He is very impressed with the Applicant and it is on her merits that he supports the application.

Commissioner Bresaw stated she is also concerned about the playground being small, even though it meets Code, she is also concerned about the landscaping; there is a lot of paving and hard surface. She wanted to save as many trees as possible.

- She does not support seeing a six-foot fence in front of the playground and suggests that a four- or five-foot fence is plenty tall.
- The lot definitely needed improvement.

Chair Klein asked if Commissioner Bresaw would put a restriction on this approval at four feet on that fence.

Commissioner Bresaw responded four to five feet, otherwise there is too much hardscape and fences tend to get ugly.

Commissioner Qutub stated that having 20 children on the playground at a time shouldn't be a concern. It's definitely doable and should not pose a problem.

Commissioner Newman expressed concern that a four-foot fence does not provide enough safety from public access, for instance, if someone would want to snatch a child.

Commissioner Batey believed the case for public benefit has been made. The Applicant is being asked to squeeze a lot into the site and it is all contingent on the easement request.

- She is also very concerned about the church turnover and the fact that this has not been a lapsed use. If someone comes in with a 150-person congregation, it creates a real problem with the City's Code.

Chair Klein agreed but was satisfied with Mr. Monahan's response, as it brought the Commission back on course.

- He is more concerned about the future use of the church than the preschool. He is always concerned about traffic but likes the staggered times of the preschool portion. He supports this project, and trusts the sidewalk and fencing issues can be worked through [with Staff].

Commissioner Qutub stated she hopes the playground area could be beautified somehow, but the safety aspect is definitely a strong point.

Commissioner Churchill suggested a strip could be planted in the interior section.

Chair Klein noted that planting on the inside of the fence would only reduce the

playground area further.

Commissioner Bresaw suggested a couple of trees would be nice in the play area.

Ms. Denny suggested a five-foot wooden fence with a lattice cap on top.

Commissioner Bresaw agreed five feet would be plenty high.

The Commission suggested the Applicant consider landscaping treatments on the outside of the fence.

Commissioner Batey noted that Staff did not really comment on the ADA parking issue.

Ms. Mangle that believed putting the ADA parking to the side, on a less active section of the parking lot, and having a walkway were both great ideas, but this is a challenging site. In adding a pedestrian access with such a small parking lot, trade-offs need to be considered.

- Her concern is that paving right up to the property edge impacts the adjacent residential property. The Code requires eight-foot landscaping along all sides; four feet of landscaping for such a small parking area seems reasonable. The Applicant suggested the fence would help mitigate a lot of the impact and she agreed.

Commissioner Batey expressed concern about backing across the pedestrian walkway.

Ms. Mangle replied it is not a typical layout, but she is not sure if any other alternatives would be less hazardous. There is risk and conflict any time a drive aisle is in a parking lot.

Commissioner Churchill appreciated Staff's comment about the central walkway zone. He wants to see the four-foot landscaping buffer on the east side as well as a central walkway as suggested by Mr. Maciejewski, which is a great solution to help overflow parking from Harrison St to get pedestrians on the sidewalk without cutting into the driveway. It could actually be made into a feature or portal to the school.

- If it is not made a condition of approval, he might not be as supportive of the application.

Ms. Mangle wanted to clarify that a six-foot striped area is required for ADA parking. Staff wrote the conditions knowing there might be more than one way to address the issue, and that might be better addressed with Applicant at the next stage. The conditions provide Staff some leeway in considering specific design proposals.

Commissioner Churchill stated he really did not want to see that four-foot buffer disappear.

Commissioner Batey asked if the six feet next to the ADA parking could be the same six feet as the walkway, moving the ADA parking next to the center walkway.

Ms. Mangle believed the ADA intent is to put those parking spaces as close as possible to the front entry, but since they are both ADA accessible there might be some flexibility.

Chair Klein reminded the Commission that the Applicant's concern is putting children in harm's way with the central walkway; it is a risk either way. However, if the walkway is extended to Harrison St, the bus could stop on the street and the kids could walk in.

Commissioner Churchill doubted that would work with children ages three and four.

Ms. Denny interjected that state law/standards require that such young bus riders must be on the property when exiting the bus.

Commissioner Batey verified that as written the Staff report did not reflect this drawing but a different landscape.

Mr. Kelter read Condition 1.F.i. of Attachment 2 on page 21 of the Staff report, noting that a revised Site Plan is required to be submitted along with other documents.

Commissioner Batey suggested changing the condition to read, "at least one tree every 40 lineal feet." She did not want the Applicant deterred from planting more than was required.

Ms. Mangle recommended adding a new Condition 5 to the second set of conditions on Page 22.

- As with the Dancevolve application, she suggested that the Commission limit this CSU to just the Sweet Pea Preschool and Daycare and not to apply the approval to other new business uses.

Mr. Monahan reminded the Commission that the Applicant has the opportunity to speak to any conditions not previously discussed with her.

Chair Klein reopened the hearing for public testimony.

Ms. Denny strongly disagreed to the new condition, which would limit her ability to resell the property at a profit. The Applicant had invested substantial amounts of money for trip fees, in lieu of fees, ADA requirements, various site improvements, etc., this limitation would take away her right to resell the property and make a profit in 10, 15 or 20 years.

Commissioner Churchill explained that Ms. Denny, as the Applicant, has tilted the scale on the public benefits test in favor of approval. In his opinion, a different applicant would have been considered much differently.

Ms. Denny stated that the application is for a Community Use preschool or daycare that should stay as a daycare as long as she sells it as that intended purpose. The Commission should not be able take that away.

There being no further public testimony, Chair Klein closed the public testimony portion of the hearing.

Commissioner Churchill supported Staff's position and moved to approve the application with the recommended additional condition.

Commissioner Batey stated that limiting the CSU means the approval does not automatically transfer to a new owner, but the new owner could apply for a new CSU.

Ms. Denny commented from the audience that a new applicant should have to pay all the same fees she is already paying, close to \$100,000.

Chair Klein asked what the process would be if the business were sold and a new owner came before the Commission with a CSU.

Ms. Mangle answered that the new use, number of children, proposed changes, etc., would all be considered.

- She explained that she proposed this additional condition because she heard a lot of concerns tied to the specifics of the application. The new condition would give the Planning Commission an opportunity to review potential changes or impacts of a different use.
- If the application were for the same use, the process would be pretty straightforward, but the Applicant is correct, it would be entail a \$1,500 application fee.

Commissioner Batey asked if a new applicant could be charged for the street improvements that have already been charged to Ms. Denny.

Chair Klein answered there would not be any System Development Charges.

Commissioner Churchill agreed to get back to the intent because this is a very specific Applicant. He was not trying to affect her profit. If the next applicant/owner met the quantitative intent but not qualitative intent of the CSU or public benefits test, he would feel differently about the application.

Chair Klein explained that his feelings go back to the point that this site is joined at the hip with another location, and the fact that there is a CSU on that now, and whether or not that CSU should stay there. The merit of the Applicant brought the Commission to an agreement and comfort level regarding its decision.

Commissioner Batey said a large portion of the issue for her is the Head Start element. If someone buys the new business from the Applicant at a later date and turns it strictly into a daycare, the public benefits test is a whole new ballgame.

Chair Klein said he supports the Applicant but is also in favor of the condition. If the business were to sell in the future, then new owner would have opportunity to request a continuation of the CSU.

Commissioner Churchill stated it also assures the quality of the public benefits test.

Ms. Denny asked from the audience if she could add something to the discussion.

Mr. Monahan explained that the public hearing is closed and only the Chair can reopen it.

Chair Klein requested a poll of the Commissioners' thoughts.

Commissioner Bresaw stated she was torn. The quality of daycare is based on the owner. If the owner changes then the quality of the operation would change.

Commissioner Qutub answered that because so many changes occur with a new applicant, she sees the need for the condition. She feels that this Applicant is qualified, but the next owner may not be and that the Commission should opt for the condition, as long as the new applicant won't have to pay all the same fees and expenses.

Commissioners Batey and Newman agreed with adding the new proposed Condition 5, limiting the CSU.

Ms. Mangle confirmed that a new use could trigger other fees depending on changes to the use or to the City's Code.

Commissioner Churchill stated that it is important to uphold the quality of daycare and preschool.

Commissioner Churchill moved to adopt Staff's recommendation and conditions approving CSU-07-01 and TPR-07-06 and to add Condition 5 to page 22, which **Ms. Mangle** read for the record, "The Community Services Use (CSU) approval is limited to the use of Sweet Pea Preschool and Daycare shall not apply to other uses or businesses."

Commissioner Batey seconded the motion, which carried by a 6 to 0 vote.

Chair Klein read the rules of appeal into the record.

7.0 WORKSESSION ITEMS

7.1 Immovable Foundation Church (IFC) design review—newly added item.

Susan Shanks, Associate Planner, reminded the Commission that one of the conditions of approval that they imposed required DLC review of the IFC building façade. Staff was presenting the applicant's design proposal to the commission as a courtesy.

Staff responded to the following questions and concerns from the Commission:

- The building seemed to be simply turning into a metal fab building; did the differences in design have to do with budget?
 - * **Ms. Shanks** was not sure if windows were a budget item; sometimes light coming in from large windows is problematic inside a sanctuary.
 - * The reduction in size is driven to some degree by the desire to reduce the number of parking spaces, some of which are on a cliff and would require [significant] engineering and expense to shore up.
- Seeing a materials board would be helpful since it appears that the project went from a massive building with higher quality materials to a metal barn.
 - * **Ms. Shanks** clarified that metal cladding was proposed but was not the dominant element; stucco appeared to be the dominant element.
 - * **Ms. Shanks** stated that a materials board would be available at the DLC meeting.

Photos taken from different angles were shown to the Commission showing how much of the church was visible from Highway 224. Since the height of the building was reduced, new impacts have also been reduced.

- What kind of signage are they going to utilize?
 - * **Ms. Shanks** stated that as a CSU in a residential zone, they are limited to 16 sq. feet of wall, monument, or freestanding signage. If they want a longer sign, they would be required to return to the Planning Commission for approval.

7.2 Transitional housing, adult foster homes and the Fair Housing Act (Discussion only; no attachments)

Ms. Mangle explained there are different federal and state laws that apply to how adult foster care homes, such as Oxford House in Ardenwald and the new ones being built on Lake Road, can be handled. There's enough concern about the different types of facilities and what code says.

The following concerns were discussed:

- Adult foster care has turned into a big business and builders only have to meet setback requirements. Traffic hasn't been a noticeable problem, but scale and size is a concern.
- The retaining wall on the south side of the new facility on Verney St is very close to the top of the neighbor's six-foot fence. The house will be huge and tower over everything around it.
- This is not about someone just wanting to build a huge house; it is about moving business into the neighborhood. Is it okay to build a huge house and then convert it to an adult care facility?

Mr. Monahan explained that even though it's a residential building, it's for a commercial purpose and also a CSU.

- The issue is the federal Fair Housing Act.
 - * The intent is that people are who disabled or elderly, who need to live in a group facility, are allowed by law to live in communities without discrimination.
 - * These types of facilities go back to the 1980s in Oregon, when the legislature passed a law defining two different types of facilities: residential home and residential facility. Homes were intended to serve one to five people. Originally people decided to take in a couple of residents here and there whom the proprietor of the house cares for. Then people realized the opportunities to build tailor-made facilities for this type of home.
 - * This [use] is allowed and regulated by statute and the Federal Fair Housing Act.
 - Residential home facilities for one to five residents must be allowed in single-family zones. If you allow a family to have five or more individuals, you must allow a group facility to have the same.
 - No exemption exists to zoning requirements that apply to single-family homes.
- Oxford House is allowed because they fit these definitions.
 - * They are living environments for the five people cared for there.
- Residential facilities (from six to 15 residents) a little more complex.
 - * Clackamas County states a single-family house, whether inhabited by a family or a group of residents needing care, can have no more than 15 people.

- * Most jurisdictions say group homes (up to five residents) are allowed in single-family zones and that residential facilities (6-15 residents) are allowed in multi-family zones.
- * Clackamas County has a definition for residential home but not for residential facility, so it comes under the definition of a congregate housing facility.
- Multi-family is three or more residential attached units, like a triplex or a four-plex.
- State code attaches number of people to the definition of residential home and residential facility; Clackamas County doesn't have that.
- If visual impact is an issue, a different tool is needed to address bulk and mass.
 - * The size of house should compare to adjacent houses.
 - * Some communities use FAR -- floor to area ratio -- as a guideline for bulk and mass.
 - For example: if FAR restriction is .45, only a 4,500 sq. foot house can be built on a 10,000 sq. foot lot.

8.0 DISCUSSION ITEMS

This is an opportunity for comment or discussion by the Planning Commission for items not on the agenda.

A TSP (Transportation System Plan) work session to prepare for adoption will be held September 11th, with the first public hearing and adoption on October 23rd.

Commissioner Batey asked for clarifications regarding rumors about Southgate.

Ms Mangle reported that building permit plans had been submitted, but due to TriMet Staff changes, the ball was dropped and landscaping was not included, so they missed the construction season.

9.0 OLD BUSINESS - None.

10.0 OTHER BUSINESS/UPDATES - None.

11.0 NEXT MEETING: September 11, 2007 Work Session – TSP Update
Meeting adjourned at 10:05 p.m.

Respectfully submitted,



Paula Pinyerd, ABC Transcription for
Michelle Rodriguez, Administrative Assistant



Jeff Klein, Chair

MILWAUKIE PLANNING COMMISSION

MILWAUKIE CITY HALL
10722 SE MAIN STREET

AGENDA TUESDAY, August 28, 2007 6:30 PM

		ACTION REQUIRED
1.0	Call to Order	
2.0	Procedural Matters If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. Thank You.	
3.0 3.1	Planning Commission Minutes January 10, 2006 Approved PC Minutes can be found on the City web site at: www.cityofmilwaukie.org	Motion Needed
4.0	Information Items – City Council Minutes City Council Minutes can be found on the City web site at: www.cityofmilwaukie.org	Information Only
5.0	Public Comment This is an opportunity for the public to comment on any item not on the agenda	
6.0 6.1	Public Hearings Type of Hearing: Minor Quasi-Judicial Applicant: Lynnette Denny, Sweet Pea Preschool & Daycare Location: 4105 SE Harrison St. Proposal: Establish Preschool and Daycare in former church fellowship hall File Numbers: CSU-07-01, TPR-07-06 NDA: Hector Campbell Staff Person: Brett Kelter	Discussion and Motion Needed For These Items
7.0 7.1	Worksession Items Transitional housing, adult foster homes and the Fair Housing Act (Discussion only; no attachments)	Information Only
8.0	Discussion Items This is an opportunity for comment or discussion by the Planning Commission for items not on the agenda.	Review and Decision
9.0	Old Business	
10.0	Other Business/Updates	Information Only Review and Comment
11.0	Next Meeting: September 11, 2007 – Worksession – TSP Update The above items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.	

Recast for Future Meetings:

September 25, 2007

Milwaukie Planning Commission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan

Public Hearing Procedure

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** The staff report is followed by any verbal or written correspondence that has been received since the Commission was presented with its packets.
3. **APPLICANT'S PRESENTATION.** We will then have the applicant make a presentation, followed by:
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **COMMENTS OR QUESTIONS.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** We will then take testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** When you testify, we will ask you to come to the front podium and give your name and address for the recorded minutes. Please remain at the podium until the Chairperson has asked if there are any questions for you from the Commissioners.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all testimony, we will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. We will then enter into deliberation among the Planning Commissioners. From this point in the hearing we will not receive any additional testimony from the audience, but we may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION/ACTION.** It is our intention to make a decision this evening on each issue before us. Decisions of the Planning Commission may be appealed to the City Council. If you desire to appeal a decision, please contact the Planning Department during normal office hours for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** The Planning Commission may, if requested by any party, allow a continuance or leave the record open for the presentation of additional evidence, testimony or argument. Any such continuance or extension requested by the applicant shall result in an extension of the 120-day time period for making a decision.
12. **TIME LIMIT POLICY.** All meetings will end at 10:00pm. The Planning Commission will pause hearings/agenda items at 9:45pm to discuss options of either continuing the agenda item to a future date or finishing the agenda item.

The Planning Commission's decision on these matters may be subject to further review or may be appealed to the City Council. For further information, contact the Milwaukie Planning Department office at 786-7600.

Milwaukie Planning Commission:

Jeff Klein, Chair
Dick Newman, Vice Chair
Lisa Batey
Teresa Bresaw
Scott Churchill
Paulette Qutub
Charmaine Coleman


Planning Department Staff:

Katie Mangle, Planning Director
Susan Shanks, Associate Planner
Brett Kelter, Assistant Planner
Ryan Marquardt, Assistant Planner
Jeanne Garst, Office Supervisor
Michelle Rodríguez, Administrative Assistant
Marcia Hamley, Administrative Assistant
Paula Pinyerd, Hearings Reporter



To: Planning Commission

Through: Katie Mangle, Planning Director

From: Brett Kelter, Assistant Planner 

Date: August 21, 2007 for hearing on August 28, 2007

Subject: Files: CSU-07-01, TPR-07-06
Applicant: Lynnette Denny (Sweet Pea Preschool)
Address: 4105 SE Harrison St.
Legal Description (Map & Taxlot): 1S1E36AA01500
NDA: Hector Campbell

Action Requested

Adopt the recommended findings and conditions in support of approval of applications CSU-07-01 and TPR-07-06. This action would allow for the establishment of a preschool and daycare center in a residential zone, with a capacity of up to 33 children.

Project Description

The project will convert an existing church fellowship hall building into a preschool and certified daycare facility. Regular hours of operation will be 7:00am to 6:00pm, Monday through Friday, open all year except for major holidays. No evening or weekend events are proposed. Interior improvements will be made to bring the building up to the relevant code standards for this type of facility. Exterior improvements to the site include paving and striping an existing graveled parking area and establishing a fenced outdoor play area. An easement agreement with the adjacent church property will allow for shared access, parking, and space for the outdoor play area.

Background Information

Although a detailed history is not known, the subject property has been used in conjunction with the adjacent church for a long time. According to information from the County Assessor's office, the existing building on the subject site was constructed in 1955 and may have originally served as a parsonage. For many years, it appears to have been used as a fellowship hall for the adjacent church sanctuary, which was reportedly built in the 1930s by a Presbyterian group. Seventh Day Adventists later used it as well. There is no past record of any Special Permit, Conditional Use, or Community Service Use approval for the church operation in Milwaukie.

First Love Ministries, the current owner of both properties, moved into the church in 1989 but is in the process of relocating to another location and is selling both the sanctuary

COMMUNITY DEVELOPMENT DEPARTMENT

Engineering • Operations • Planning • Building • Fleet • Facilities
6101 S.E. Johnson Creek Blvd., Milwaukie, Oregon 97206
PHONE: (503) 786-7600 • FAX: (503) 774-8236

and the subject building (fellowship hall). First Love Ministries still uses both buildings on occasion but reportedly has not held regular services and meetings since December 2006. The two buildings are on distinct tax lots.¹

Currently, there is a partially screened outdoor play area located between the two buildings. The existing parking area has a gravel surface and no clearly marked parking spaces. Access from SE Harrison Street is unrestricted through two driveways, one on each property. The subject property is in a narrow area of Residential R-3 zoning between R-5 zoning to the west and the General Commercial (CG) zoning of the King Road Shopping Center area.

Key Issues

1. Does the proposal meet the Community Service Use standards for a daycare?

Milwaukie Municipal Code (MMC) Subsection 19.321.10 establishes specific standards for schools, preschools, nursery schools, kindergartens, and daycare centers. These standards address the physical improvements associated with the proposed daycare facility: a fenced outdoor play area, pedestrian walkways, adequate public facilities (such as sidewalks, landscape strips, storm water and sewer connections), ingress and egress to the site, loading areas, off-street parking, setbacks, bicycle parking, and landscaping.

2. Does the proposal meet the public benefits test?

The public benefits of the proposed preschool and daycare facility must be greater than any negative impacts (if any) on the neighborhood. These impacts can include hours of operation, traffic congestion, noise, and lighting.

3. Easement agreement for access, parking, playground area

Because the subject property is not large enough to accommodate both the existing building and the necessary facilities for safe access, required parking, and an outdoor play area, an easement agreement with the adjacent church property to the west is essential. The need for an easement agreement also binds the future of the preschool and daycare facility to the future use of the adjacent church property.

Analysis of Key Issues

1. Community Service Use standards for daycare centers

MMC Subsection 19.321.10 establishes specific standards for preschools and daycare centers. Staff has concluded that the proposed facility complies with these standards as described below:

- A. *Site area per pupil ratio* – Not applicable—applies only to elementary and secondary schools.
- B. *Outdoor play area* – Daycare centers are required to provide a fenced outdoor play area of at least 75 square feet for each child of the facility's total capacity. In cases where groups of children are scheduled to play at different times, the required play area may be reduced proportionally to accommodate the largest number of children that will be playing outside at any one time, so long as the total play area is not reduced by more than half.

¹ Each tax lot is composed of three adjacent 25-foot by 100-foot subdivision lots from Block 16 of the Minthorn Addition (platted in 1890).

The proposed facility would accommodate up to 33 children, which would require an outdoor play area of 2,475 square feet. However, the applicant has stated that a maximum of 20 children will be playing outside at any one time, which will require a play area of only 1,500 square feet. As proposed, the facility would have an easement agreement with the adjacent church to establish an outdoor play area on part of the church property. The play area would be approximately 41 feet by 43 feet, for a total of 1,763 square feet. The proposed play area complies with this standard. For more information see a discussion of the proposed easement agreement under Key Issue 3, below.

- C. *Walkways* – Safe pedestrian access to the proposed facility requires adequate walkways both on and off the site, as per MMC Section 19.1410. As proposed, an on-site walkway ranging from 5 feet to 7 feet in width would be provided between the existing building and the parking area. The design standards of MMC Subsection 19.1410.3.E require that the walkway be at least 7 feet wide when adjacent to a parking area where vehicles will overhang the walkway. Staff recommends that a condition be established to require the installation of wheelstops to prevent vehicles from overhanging the walkway where it is less than 7 feet wide.

A 5-foot-wide walkway would connect the front walk to a landing and door on the east side of the building. In addition, the applicant's site plan shows a pedestrian walkway painted on the parking area, connecting the ADA-space loading zone to the sidewalk on the east side of the driveway entrance at SE Harrison Street (see Attachment 3 – Applicant's Narrative and Supporting Documentation). This painted walkway may need to be shifted to accommodate perimeter landscaping along the eastern property line (see Key Issue 1-J, below).

The public sidewalk located in the right-of-way is addressed in Key Issue 1-E, below.

- D. *Sight-obscuring fence* – The outdoor play area must be screened from adjacent residential uses by a sight-obscuring fence of 4 to 6 feet in height. As proposed, an existing privacy fence would remain along the northern edge of the property. The sides of the existing sanctuary building and proposed daycare building already serve as visual barriers on the eastern and western sides of the play area. The south side of the play area (the side closest to SE Harrison Street and the parking area) would be screened with a new 4-foot privacy fence. Staff is recommending a condition to ensure that the entire perimeter of the outdoor play area would be adequately screened from view.
- E. *Adequate public facilities* – The Engineering Department has reviewed the proposal and determined that, as conditioned, all public facilities would be adequate. The existing sidewalk along SE Harrison Street is 4 feet wide, and while a sidewalk width of 5 feet is the minimum required for Arterial streets, the applicant has requested an exception to pay a fee in-lieu-of the sidewalk improvement. The Engineering Director has recommended approval of the exception request (see Finding 7-B in Attachment 1 – Findings in Support of Approval). As conditioned, all other public facilities (such as for storm water and sewer) will be adequate.

- F. *Safe loading and ingress/egress* – A driveway that is approximately 150 feet west of the intersection of SE 42nd Avenue and SE Harrison Street serves the subject property. Staff is recommending that the driveway on the subject property be limited to ingress only. The applicant is proposing an easement agreement with the adjacent church that would allow the daycare to use the driveway on the east side of the church property. Staff is recommending that this driveway be limited to egress only.

The existing driveway on the subject property is approximately 13 feet wide and located approximately 4 feet from the adjacent property line. MMC Subsection 19.1413.2.B requires a minimum distance of 7.5 feet between a driveway approach and the adjacent property line. Since no change to the existing driveway is proposed, the nonconforming driveway location may remain as is.

The proposed facility would serve children in the age range of two years to five years. Such young children will require continual supervision, so staff believes it is not necessary to establish a specific drop-off area. The established parking spaces should provide adequate space for loading and unloading.

- G. *Off-street parking* – The existing parking situation on the subject property is nonconforming with the standards of MMC Chapter 19.500. As per MMC Subsection 19.502.B, full conformance with MMC Chapter 19.500 is not required but the proposal is encouraged to move closer to conformance with these standards. The standards include parking stall dimensions, drive aisle width, and perimeter landscaping.

For the proposed facility, nine off-street parking spaces are required. MMC Table 19.503.9.B(3) requires one space for each employee (the applicant proposes to have a maximum of four full-time staff) and one space per eight pupils (the applicant proposes to accommodate up to 33 children, requiring five spaces total). According to the site plan and the applicant's narrative, seven spaces will be provided on site and four additional spaces will be shared spaces on the adjacent church property (see Attachment 3 – Applicant's Narrative and Supporting Documentation).

The proposed project includes an easement agreement to share parking with the adjacent church. MMC Subsection 19.503.2 allows for shared parking for two or more uses, provided the shared spaces are within 300 feet of the proposed facility and there is no conflict in operating hours. As the proposed preschool and daycare facility will operate Monday through Friday from 7:00am to 6:00pm with no activities on evenings or weekends, shared parking is allowed.

The proposed parking spaces are arranged as 90-degree stalls. For that configuration, MMC Table 19.503.10 requires minimum stall dimensions of 9 feet by 19 feet. The proposed parking stalls meet that standard. A 24-foot-wide drive aisle is required whether for one-way or two-way travel, but the proposed drive aisle is only 16 feet wide. Staff recommends that the applicant be required to reconfigure the parking area to come as close to conformance with the off-street parking standards as possible while maintaining a minimum 4-foot-wide landscaped area along the southern and eastern boundaries of the parking area.

- H. *Setback requirements* – Minimum required setbacks for preschools and daycare facilities are 20 feet for front, rear, and side yards.² The existing building easily meets the front yard setback but is nonconforming to the rear and side yard setback standards. The building is set back only 14 feet on the east side, 13 feet on the west side, and approximately 4.5 feet at the rear property line.

The proposal includes a new access door on the east side of the existing building. In order to mitigate the nonconforming setback on that side of the building, staff recommends a condition that the applicant provide fencing and/or landscaping along the eastern property line, including a minimum 4-foot-wide landscaped area adjacent to the eastern portion of the parking area.

- I. *Bicycle facilities* – MMC Section 19.505 establishes the standards for bicycle parking, which is required for all community service use development. The number of bicycle spaces provided must be the equivalent of 10% of the required auto spaces, with no fewer than two bicycle spaces. Each bicycle space must be at least 2.5 feet wide by 6 feet long, with a 5-foot-wide access aisle. Bicycle racks must be designed to allow the frame and one wheel to be locked up, and the racks must be securely anchored.

For new development, bicycle parking facilities are required to be located within 50 feet of the main building entrance, closer to the entrance than the nearest auto parking space, designed to provide direct access to a public right-of-way, and separated from vehicle parking areas by curbing or other similar barriers. The proposed bicycle parking meets these standards. However, staff is recommending a condition that a more detailed view of bicycle parking be shown on the plans submitted for building permit review.

- J. *Landscaping* – At least 15% of the site must be landscaped. The subject property is 7,500 square feet; after the required 6.5-foot dedication to the right-of-way, the total lot area will be approximately 7,012 square feet, 15% of which is approximately 1,050 square feet.

Standards for perimeter landscaping for the parking area are found in MMC Subsection 19.503.19. Due to the physical constraints of the subject property, it is impossible to meet the standards for the parking stall and drive aisle dimensions in addition to those for perimeter landscaping. Considering both the possibility of future street improvements along SE Harrison Street and the proximity of the adjacent property to the east, staff believes it is important to require a minimum 4-foot-wide perimeter landscaping area (including one tree planted every 40 lineal feet) along the southern and eastern boundaries of the parking area.

In calculating the lot landscaping, the outdoor play area may not count, depending on its finished surface. If finished with anything but grass (such as bark dust, sand, or pea gravel), the outdoor play area will not count as landscaping. Staff estimates that with the addition of a minimum of 4-foot-wide landscaped buffers along the southern and eastern boundaries of the parking area, the minimum landscaped area of approximately 1,050 square feet would be provided, even if the outdoor play area is not counted. Staff is recommending a

² These requirements are more strict than those for the underlying R-3 zone, which require only 15 feet for front and rear yards and 5 feet for side yards.

condition that a revised site plan be submitted with the building permit application to demonstrate that the landscaping standard, including one tree planted every 40 lineal feet within the perimeter landscaping, is met.

2. Does the proposal meet the public benefits test?

Approval of a community service use hinges on determining if the public benefits of the proposed preschool and daycare facility are demonstrably greater than any negative impacts on the neighborhood. Affordable daycare is a vital part of the economic infrastructure of any community, and one that is often overlooked. Many two-parent families have both parents working, and single-parent families obviously depend on childcare in order to seek employment outside the home. When children have special needs or live in at-risk situations, finding adequate services can be especially challenging. According to a letter from Maureen Rosamond, Early Learning Coordinator for the Clackamas Education Service District, there are currently only two small preschools in Milwaukie that meet the Head Start standards (see Attachment 3 – Applicant's Narrative and Supporting Documentation). The proposed facility would provide an important benefit to parents with young children that need childcare services in Milwaukie, including those who are eligible to participate in Head Start and similar programs.

At the same time, a daycare facility can have impacts on the surrounding neighborhood, including increases in the levels of noise, increased traffic, and lighting. In this case, staff believes that all specific negative impacts can be mitigated.

The proposed hours of operation are 7:00am to 6:00pm, Monday through Friday, year-round except for major holidays. This schedule is compatible with those of businesses operating in the surrounding neighborhood. There will be some impact from increased traffic and noise related to the early morning drop-off of children. Staff recommends a condition to prohibit all outdoor play activity before 9:00am to limit noise impacts on neighboring residences.

Traffic impacts can be mitigated by limiting driveway access. As noted above, staff recommends conditions that would make the driveway on the subject property ingress-only, while the shared driveway on the church property would be egress-only. This would improve upon the current circulation situation, which allows ingress and egress from either driveway. With the proposed conditions, egress from the site would be farther from the intersection of SE Harrison Street and SE 42nd Avenue, reducing the potential for traffic conflicts on SE Harrison Street in front of the site.

Although site lighting could impact surrounding properties, the application did not include a lighting plan for the site. Staff recommends that the applicant be required to show lighting for the parking area, outdoor play area, and building exterior on the plans submitted for a building permit. The conceptual lighting plan should demonstrate that exterior lighting on the site will not encroach across property lines on the north and east sides of the site.

The applicant proposes sight-obscuring fencing around the exposed perimeter of the outdoor play area, as required. An existing privacy fence extends along the north side of the play area. Where the play area is adjacent to the existing on-site building and the church building itself, the applicant proposes to use the sides of those buildings to meet the fencing requirement. Fencing along the south side of the play area (adjacent to the proposed parking area) is proposed at a height of 4 feet. Staff

recommends that the applicant be required to construct a 4- to 6-foot high fence around the outdoor play area wherever it is not adjacent to a building.

Building codes require the applicant to provide two points of entry and exit for the preschool and daycare facility. There would be a new door on the east side of the property, adjacent to a residential use. Because the existing building is nonconforming with the required side yard setback of 20 feet (the current setback on that side is 14 feet), staff recommends that the applicant be required to provide fencing or landscaped screening to a height of 6 feet along the east side of the property, to minimize impacts of side-door usage as well as to reduce parking lot visibility from the adjacent residential property.

3. Easement agreement for access, parking, playground area

With the current building configuration, the subject property is not adequate by itself to provide necessary safe access, required off-street parking, or the required outdoor play area. The proposed project includes an easement agreement with the adjacent church property to allow for shared access, parking, and square footage for the play area (see Attachment 3 – Applicant's Narrative and Supporting Documentation). The hours of operation for the church do not conflict with those of the proposed daycare facility and therefore would not interfere with such an agreement.

Shared access to the site allows the applicant to provide the ingress-only and egress-only driveways without creating a new driveway approach onto SE Harrison Street. Nine off-street parking spaces are required for the facility as proposed; the project would provide seven on-site spaces and four spaces on the adjacent church property. A total of 1,500 square feet of outdoor play area is required for the 20 children that may be playing outside at any one time. Only approximately 550 square feet of play area can be provided on the subject property, with the remainder to be located on the adjacent church property. Without an easement agreement for shared access, parking, and the outdoor play area, the applicant would not be able to meet the established CSU standards for preschool and daycare facilities.

Conclusions

Staff believes that the proposed use complies with the applicable criteria for Community Service Uses, with the following conditions:

1. The proposed development shall be limited to a maximum service capacity of 33 children. Operating hours shall be limited to Monday through Friday, 7:00am to 6:00pm, year-round except for major holidays.
2. The applicant will record a mutually binding easement agreement to share access, parking, and space for an outdoor play area with the adjacent church property.
3. The driveway on the subject property will be an ingress-only access; the shared driveway on the adjacent church property will be an egress-only access.
4. The outdoor play area will be screened from public view by a 4- to 6-foot high fence.
5. Use of the outdoor play before 9:00am, Monday through Friday, will be prohibited.
6. Lighting for the site will be reviewed at the time of building permit to ensure that light will not encroach unnecessarily onto adjacent properties.
7. Fencing and/or landscaping will be provided to screen the eastside building entrance from the adjacent property.

8. Landscaped buffer areas will be provided along the southern and eastern boundaries of the off-street parking area, with a minimum width of 4 feet and one tree planted every 40 lineal feet.

In addition, while staff acknowledges that physical constraints on the subject property make it impossible for the proposal to comply with all of the off-street parking requirements of MMC Chapter 19.500, staff recommends that the proposed project be pushed closer to conformance with those standards. Allowances could be made for less than the required amount of perimeter landscaping and/or for smaller parking stall and drive aisle dimensions in order to create the safest possible situation for loading and unloading on the subject property.

Code Authority and Decision Making Process

The proposal is subject to the following provisions of the Milwaukie Zoning Ordinance, which is Title 19 of the Milwaukie Municipal Code (MMC):

- MMC Section 19.321 – Community Service Use
- MMC Subsection 19.1011.3 – Minor Quasi-Judicial Review
- MMC Section 19.304 – Residential (R-3) zone
- MMC Chapter 19.500 – Off-street parking and loading
- MMC Chapter 19.1400 – Transportation Planning

This application is subject to minor quasi-judicial review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In quasi-judicial reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The final decision on these applications, which includes any appeals to the City Council, must be made by **November 15, 2007**, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

Comments

City departments as well as Metro, TriMet, Clackamas County, and the Hector Campbell Neighborhood District Association reviewed the applicant's proposal. The following is a summary of comments received by the City. See the corresponding documents in Attachment 4 (Comments) for further details.

1. Tom Larsen, Building Official – The proposal is a change of use from an R-3 to an E Occupancy. Detailed plans should be provided at the time of Building Permit application to show how the requirements of the new occupancy will be met. (See Attachment 4.)
2. Metro (Miranda Bateschell, Associate Regional Planner) – No comments.
3. Zach Weigel, Civil Engineer – The City's Engineering Department reviewed the application for compliance with MMC Chapter 19.1400 (Transportation Planning). The Engineering Director recommends approval of the applicant's request to pay a fee-in-lieu of construction of the required public improvements. Staff and the City's traffic consultant (DKS Associates) both concur with the applicant's transportation impact analysis, which recommends: 1) that the adjacent church property share access with the proposed daycare facility, 2) that the existing driveway to the east

shall be used as an entrance only, and 3) that the existing driveway to the west shall be used as an exit only. The Engineering Department's review of MMC Chapter 19.1400 has been incorporated into the recommended findings and conditions (see Attachment 4).

4. TriMet (Heather Boll, Transit Development) – No comments.
5. Sarah Smith, Hector Campbell NDA Land Use Committee member – No items of concern.
6. David Aschenbrenner, Hector Campbell NDA Land Use Committee chair – No problems with the proposal.

Attachments

1. Recommended Findings in Support of Approval
2. Recommended Conditions of Approval
3. Applicant's Narrative and Supporting Documentation
4. Comments

ATTACHMENT 1

Recommended Findings in Support of Approval

1. The applicant proposes to make improvements to an existing church fellowship hall in order to establish a preschool and daycare facility. The new facility will accommodate up to 33 children, ages two to five, with four full-time staff. A fenced outdoor play area of approximately 1,750 square feet will be screened on all sides to a height of 4 to 6 feet. The existing graveled parking area will be paved and striped to provide up to seven parking spaces (including an ADA-compliant space), with three to four additional parking spaces provided on the adjacent church lot. An easement agreement with the adjacent church property will allow the proposed use to share access, off-street parking, and space for the outdoor play area.

The subject property will dedicate 6.5 feet of frontage along SE Harrison Street to the public. The applicant will pay a fee-in-lieu of construction of required street improvements; the existing 4-foot-wide sidewalk will remain. A new access door will be installed on the east side of the subject building, with an ADA-compliant ramp leading to the parking area. Two spaces for bicycle parking will be established near the southeast corner of the subject building.

2. The proposal is subject to the following provisions of the Zoning Ordinance as follows:

Subsection 19.1011.3	Minor Quasi-Judicial Review
Section 19.321	Community Service Use
Section 19.304	Residential zone (R-3)
Chapter 19.500	Off-street Parking and Loading
Chapter 19.1400	Transportation Planning

3. Public notice has been provided in accordance with the Milwaukie Municipal Code (MMC) Subsection 19.1011.3 – Minor Quasi Judicial Review. A public hearing was held August 28, 2007, as required by law.

4. MMC Section 19.321 – Community Service Use

- A. MMC Subsection 19.321.2 addresses applicability. Specifically, MMC Subsection 19.321.2.A(1) lists preschools and daycare centers as uses that are subject to the Community Service Use standards of the municipal code.

The Planning Commission finds that the proposed preschool and daycare facility is subject to the standards of MMC Subsection 19.321.

- B. MMC Subsection 19.321.4 states that except for wireless communication facilities, community service uses are to be considered in a public hearing by the Planning Commission, subject to the procedures outlined in MMC Subsection 19.1011.3 (Minor Quasi-Judicial Review). The required public notice was provided and the Planning Commission held a public hearing on August 28, 2007, as required by law.

- C. MMC Subsection 19.321.5.A establishes criteria for allowing a community service use.

- i. *Underlying zone standards* – Where specific standards are not proposed for a community service use, the requirements of the underlying zone must be met. In this case, there are specific standards for the proposed use and they are addressed in Finding 4-D, below. Any remaining standards are covered by the requirements of the underlying zone (R-3) and are addressed in Finding 5, below.
- ii. *Specific standards for the proposed use* – MMC Subsection 19.321.10 establishes specific standards for preschools and daycare centers. These standards are addressed in Finding 4-D, below.
- iii. *Hours and levels of operation* – The proposed preschool and daycare facility will operate from 7:00am to 6:00pm, Monday through Friday, year-round except for major holidays. These hours are reasonably compatible with those of businesses operating in the surrounding neighborhood. A condition has been established to prohibit use of the outdoor play area prior to 9:00am, in order to mitigate potential noise impacts on the adjacent residential uses.
- iv. *Public benefits* – The proposed facility would provide an important benefit to those who live and/or work in Milwaukie with young children that need childcare services. At the same time, it would have some negative impacts on the neighborhood, including noise, increased traffic, lighting, etc. The Planning Commission believes that all specific negative impacts can be mitigated with conditions.

A condition has been established to limit early-morning use of the outdoor play area in order to mitigate potential noise impacts. Conditions to restrict access through each of the driveways serving the proposed use have also been established in order to create a safer on-site circulation pattern and diminish traffic conflicts on SE Harrison Street. Another condition requires that the applicant provide a lighting plan to ensure that site lighting does not encroach onto adjacent properties to the north and east of the site. Finally, additional conditions have been placed to ensure that the perimeter of the outdoor play area is adequately fenced and that the eastern side of the subject property is adequately screened from the adjacent property.

- v. *Location* – The subject property is zoned Residential R-3. It is adjacent to property zoned General Commercial on the east, adjacent to other R-3 properties on the north, and within approximately 80 feet of property zoned R-5 on the west. The existing church sanctuary provides a buffer between the proposed use and the R-5 property to the west.

The Planning Commission finds that, as conditioned, the proposed use meets the criteria for a community service use.

- D. MMC Subsection 19.321.10 establishes specific standards for preschools and daycare centers:
- i. *Site area per pupil ratio* – This requirement is not applicable, as it applies only to elementary and secondary schools.
 - ii. *Outdoor play area* – Daycare centers are required to provide a fenced outdoor play area of at least 75 square feet for each child of total capacity. The required play area may be reduced proportionally to accommodate the largest number of children that will be playing outside at any one time, as

long as the total play area is not reduced by more than half. The applicant proposes to serve a maximum of 33 children (requiring 2,475 square feet of outdoor play area) but has stated that a maximum of 20 children will be playing outside at any one time (requiring only 1,500 square feet of outdoor play area). Through an easement agreement with the adjacent church, the applicant proposes to provide an outdoor play area of approximately 1,763 square feet. As proposed, the outdoor play area will meet this standard.

- iii. *Walkways* – Safe pedestrian access to the proposed facility requires adequate walkways both on and off the site, as per MMC Section 19.1410. The applicant has proposed an on-site walkway between the building and the parking area, ranging from 5 feet to 7 feet wide. The design standards of MMC Subsection 19.1410.3.E require that the walkway be at least 7 feet wide when adjacent to a parking area where vehicles will overhang the walkway. A condition has been established to require the installation of wheelstops to prevent vehicles from overhanging the walkway where it is less than 7 feet wide.

As conditioned, the additional on-site walkways shown on the applicant's site plan are sufficient to meet the standards of MMC Subsection 19.1410.3.E. The existing public sidewalk will remain and is addressed in Finding 7-B, below.

- iv. *Sight-obscuring fence* – The outdoor play area must be screened from adjacent residential uses by a sight-obscuring fence of 4 to 6 feet in height. As proposed, an existing privacy fence will remain along the northern edge of the property. The sides of the existing sanctuary building and proposed daycare building already serve as visual barriers on the eastern and western sides of the play area. The south side of the play area will be screened with a 4-foot privacy fence. A condition has been established to ensure that the entire perimeter of the outdoor play area will be adequately fenced.
- v. *Adequate public facilities* – As conditioned, all public facilities will be adequate. The existing sidewalk along SE Harrison Street is nonconforming at only 4 feet wide, but the Engineering Director has recommended approval of the applicant's exception request to pay a fee in-lieu-of the sidewalk improvement. Additional conditions have been established to ensure that wastewater, storm, and water facilities are adequate at the time of occupancy.
- vi. *Safe loading and ingress/egress* – The subject property includes a driveway onto SE Harrison Street on the east side of the parcel. As proposed, the subject property will share an additional driveway with the adjacent church property to the west. In order to ensure safe access and an optimal loading situation, conditions have been established to make the eastern-most driveway an ingress-only access and the western-most driveway an egress-only access.

MMC Subsection 19.1413.2.B requires a minimum distance of 7.5 feet between a driveway approach and the adjacent property line. Because no change is proposed to the existing driveway on the subject property, it shall remain in its existing location, approximately 4 feet from the adjacent property line.

- vii. *Off-street parking* – Existing off-street parking on the subject property does not conform to the standards of MMC Chapter 19.500. As per MMC Subsection 19.502.B, full conformance is not required but the project should move closer to conformance.

As per MMC Table 19.503.9.B(3), a total of nine off-street parking spaces are required—one each for the four full-time staff and five more to meet the per-pupil standard (one space per eight pupils; maximum capacity for the proposal is 33 children). The Planning Commission finds that physical constraints make it impossible to provide all nine required spaces entirely on the subject property. As conditioned, an easement agreement to share parking with the adjacent church will be provided in order to meet this standard.

The Planning Commission also finds that a minimum 4-foot width of perimeter landscaping along the southern and eastern boundaries of the parking area is necessary to make the parking area more adequate. The original off-street parking arrangement proposed in the applicant's site plan does not include this perimeter landscaping. A condition has been established to require that a revised parking plan be provided to include a minimum 4-foot width of perimeter landscaping along the southern and eastern boundaries of the parking area and to reconfigure the parking stalls and drive aisle as necessary to come as close to conformance with the off-street parking standards of MMC Table 19.503.10 as possible. As conditioned, the proposal will be made adequate with regard to off-street parking requirements (see Finding 6 for additional discussion of this issue).

- viii. *Setback requirements* – For preschools and daycare facilities, minimum required setbacks are 20 feet for front, rear, and side yards. The existing building meets the front yard setback but is nonconforming with regard to the side and rear yard setback standards. The building is set back only 14 feet on the east side, 13 feet on the west side, and approximately 4.5 feet at the rear property line. A condition has been established to require sight-obscuring fencing and/or screening along the east side of the property to ensure adequate buffering from adjacent uses. Another condition will ensure that the outdoor play area will be fenced as required.
- ix. *Bicycle facilities* – Bicycle parking is required with development of all community service uses. At least two bicycle parking spaces are required, as per MMC Subsection 19.505.2. A condition has been established to ensure that adequate bicycle parking is provided prior to occupancy. For a more thorough discussion of this standard, see Finding 6-D.
- x. *Landscaping* – At least 15% of the site must be landscaped, including landscaping for the off-street parking area as provided in MMC Subsection 19.503.19.

As noted above, the existing site is already nonconforming with respect to the standards for off-street parking. As per MMC Subsection 19.502.B, full conformance is not required but progress toward conformance is recommended. Due to the physical constraints of the subject property, it is impossible to meet the standards for the parking stall and drive aisle dimensions in addition to those for perimeter landscaping. Considering both the possibility of future street improvements along SE Harrison Street and the

proximity of a residential use to the parking area (on the adjacent property to the east), the Planning Commission finds that a minimum 4-foot width of perimeter landscaping along the southern and eastern boundaries of the parking area is necessary to make the parking area adequate, if not fully compliant with the off-street parking standards.

A condition has been established to require the applicant to submit a revised site plan showing a minimum of 4-foot-wide perimeter landscaping along the southern and eastern boundaries of the parking area, including one tree planted every 40 lineal feet, as well as calculations sufficient to demonstrate that the overall landscaped area of the subject property meets the 15% landscaping standard.

As conditioned, the Planning Commission finds that the proposed use meets the standards established in MMC Subsection 19.321.10.

5. MMC Section 19.304 – Residential (R-3) Zone

MMC Subsection 19.304.3 provides development standards for the R-3 zone. However, MMC Subsection 19.321.10 provides specific standards for preschools and daycare facilities, including requirements for setbacks, off-street parking, landscaping, and transportation. Because the proposal does not include changes that impact any remaining R-3 standards such as lot size, building height, lot coverage, or frontage requirements, the standards in this section are met.

The Planning Commission finds that the relevant standards of the underlying R-3 zone are met.

6. MMC Chapter 19.500 – Off-street Parking and Loading

A. MMC Section 19.502 establishes the applicability of the off-street parking and loading standards of MMC Chapter 19.500. Specifically, MMC Subsection 19.502.B states that the standards of MMC Chapter 19.500 apply to uses with nonconforming parking and loading facilities, such as the proposed use. However, strict conformance with the standards is not required, though an effort must be made to bring the proposed use closer to conformance.

The Planning Commission finds that, as conditioned, the proposal does move closer to conformance with the standards of MMC Chapter 19.500.

B. MMC Section 19.503 establishes specific off-street parking requirements.

- i. For the proposed preschool and daycare center, MMC Table 19.503.9.B(3) requires one parking space for each employee plus one space for each eight pupils. The proposed use includes four employees and 33 children, requiring a total of nine parking spaces. The applicant is proposing to establish seven spaces on the subject property (including an ADA-compliant space) and four spaces on the adjacent church property to the west. An easement agreement with the adjacent church property will secure the arrangement of shared parking. A condition has been established to ensure that such an easement agreement is properly drafted and recorded with Clackamas County prior to occupancy.
- ii. MMC Subsection 19.503.2 establishes standards for shared parking. Shared parking is allowed when there is no conflict in operating hours and when the shared spaces are within 300 feet of the principal structure or use. Legal

documentation must be recorded with the County and shared with the City prior to approval of a building permit.

The proposed preschool and daycare facility will operate from 7:00am to 6:00pm, Monday through Friday, year-round except for major holidays. This presents no conflict with the normal operating hours of a typical church facility, and the shared spaces are within 300 feet of the proposed use. A condition has been established to require the recording of an easement agreement sufficient to demonstrate adequate shared parking prior to approval of a building permit for the proposed use.

- iii. MMC Subsection 19.503.11 establishes standards for the paving and striping of parking areas. Off-street parking areas must have a durable and dust-free surface and must be striped so as to clearly delineate all parking spaces.

The applicant is proposing to pave and stripe the parking area on the subject property. The shared parking spaces on the church property will not be paved or striped. As shown on the applicant's site plan, the proposed parking spaces are adequate to meet the relevant dimensional standards (see Attachment 3 – Applicant's Narrative and Supporting Documentation). However, a condition has been established to require that the site plan be revised to include a minimum 4-foot-wide landscaped area along the southern and eastern boundaries of the parking area. The revised plan shall show the parking stalls and drive aisle reconfigured as necessary to come as close as possible to conformance with the off-street parking standards of MMC Table 19.503.10.

- iv. MMC Subsection 19.503.15 requires that off-street parking areas have adequate lighting that is designed to enhance safe access for vehicles and pedestrians and to avoid glare and deflection onto adjacent properties. A condition has been established to require submission of a lighting plan for the entire subject site, to be approved by the Planning Director.
- v. MMC Subsection 19.503.19 establishes standards for landscaping of off-street parking areas. As noted above in Finding 6-A, the existing site is nonconforming with regard to off-street parking requirements. As per MMC Subsection 19.502.B, strict conformance is not required, though progress toward conformance is encouraged.

The Planning Commission finds that, due to physical constraints on the site, strict compliance with the standards for off-street parking in MMC Section 19.503 is not possible. Allowances will be made for less than the required amount of perimeter landscaping and/or for smaller parking stall and drive aisle dimensions in order to create the safest possible situation for loading and unloading on the subject property. A condition has been established to require that the site plan be revised to include a minimum 4-foot-wide landscaped area along the southern and eastern boundaries of the parking area. The revised plan shall show the parking stalls and drive aisle reconfigured as necessary to come as close as possible to conformance with the off-street parking standards of MMC Table 19.503.10.

As conditioned, the Planning Commission finds that the proposed off-street parking arrangement meets the relevant standards of MMC Section 19.503.

- C. MMC Subsection 19.504.2 establishes the number of off-street loading spaces required for public and semipublic uses, for the receipt or distribution of merchandise by vehicles. For buildings less than 5,000 square feet in area, no such off-street loading spaces are required.

The existing building on the subject property is approximately 1,500 square feet in area; therefore the Planning Commission finds that no off-street loading space is required.

- D. MMC Section 19.505 establishes standards for bicycle parking.
- i. MMC Subsection 19.505.1 defines applicability of the bicycle parking standards. Bicycle parking is required for all new community service uses. Because the proposed use is a new community service use it is subject to these standards.
 - ii. MMC Subsection 19.505.2 defines the number of bicycle parking spaces required as 10% of the required auto parking spaces, or a minimum of two bicycle spaces. In this case, as only nine auto parking spaces are required, the minimum of two bicycle spaces is applicable. The applicant has proposed two bicycle spaces near the southeastern corner of the existing building on the subject property. The proposal meets this standard.
 - iii. MMC Subsection 19.505.3 establishes the minimum dimensions for each bicycle parking space. Spaces must be at least 2.5 feet wide and 6 feet long, with a 5-foot wide access aisle and a securely anchored rack for locking a bicycle. Although the applicant's site plan depicts the location and general dimension of the required bicycle parking, the plan does not provide the level of detail needed to assure that this standard is met. A condition has been established that requires a revised site plan with submission of a building permit application in order to ensure that this standard is met.
 - iv. MMC Subsection 19.505.4 establishes standards for the location of bicycle parking. Required bicycle parking must be located within 50 feet of the main building entrance and must be closer to that entrance than the nearest auto parking space. As proposed, the required bicycle parking will be located within approximately 25 feet of the east-side entrance to the subject building, between the required auto parking area and the door. This standard is met.

As conditioned, the Planning Commission finds that the proposed bicycle parking meets the relevant standards of MMC Section 19.505.

7. MMC Chapter 19.1400 – Transportation Planning, Design Standards, and Procedures

The Planning Commission finds that the following complies with applicable criteria of MMC Chapter 19.1400.

- A. MMC Chapter 19.1400 applies to partitions, subdivisions, and new construction, except as limited by MMC subsection 19.1403.1.

MMC Chapter 19.1400 is not limited by MMC Chapter 19.1403.1 when a transportation impact study is required. A transportation impact study is required for the proposed development.

The Planning Commission finds that MMC Chapter 19.1400 applies to the proposed development.

- B. MMC Subsection 19.1404.D authorizes the Engineering Director to approve exceptions to transportation facility design standards for improvements located in the right-of-way.

The Milwaukie Transportation System Plan classifies the portion of SE Harrison Street fronting the proposed development as an arterial road. The existing public improvements on SE Harrison Street consist of a 36-foot wide paved street, standard 6-inch curb, 6.5-foot wide planter strip, and 4-foot wide setback sidewalk. According to MMC Table 19.1409.3 and the Milwaukie Transportation Design Manual, the required public improvements for an arterial road consists of a 25-foot wide paved half-street, curb and gutter, 5-foot wide landscape strip, and 6-foot setback sidewalk. The applicant is responsible for construction of the required public improvements fronting the proposed development.

The applicant has requested an exception in accordance with MMC Subsection 19.1404.D(2) for all required public improvements on SE Harrison Street fronting the proposed development. The Engineering Director recommends the approval of the applicant's request to pay a fee-in-lieu of construction of the required public improvements.

The Planning Commission approves the exception request upon finding the following:

- i. The applicant pays to the City a fee-in-lieu of construction costs for the public improvements. The Engineering Director shall determine the fee amount at the time of building permit application.
 - ii. Waiver of the construction of the required public improvements at the time of development will not cause safety hazards.
- C. MMC Subsection 19.1405.4 establishes specific notice requirements in addition to general notice provisions set forth in Chapter 19.1100.

The proposed development is within 200 feet of a designated arterial, SE Harrison Street. Notice has been provided to Metro and Clackamas County.

The proposed development is within 200 feet of an existing transit route, Bus Route #31 on SE Harrison Street. Notice has been provided to TriMet.

The Planning Commission finds that the specific notice requirements of MMC Subsection 19.1405.4 have been met for the proposed development.

- D. MMC Subsection 19.1405.5 establishes approval criteria for transportation review applications and ensures impacts are mitigated.

The Planning Commission finds that the proposed development, as conditioned, meets the approval criteria of MMC Subsection 19.1405.5 for decisions made under MMC Chapter 19.1400.

- E. MMC Section 19.1406 requires the applicant to provide an assessment and recommend mitigation of local street impacts when any non-residential development adds more than 25 through vehicles per day to an adjacent residential local street.

The proposed development did not add more than 25 through vehicles per day to an adjacent residential local street. As a result, a neighborhood through-trip study is not required for the proposed development.

The Planning Commission finds that the requirements of MMC Section 19.1406 do not apply to the proposed development.

- F. MMC Section 19.1407 requires streets, sidewalks, and transportation facilities to be safe, convenient, and adequate to accommodate the impacts of new development.

The Planning Commission approves an exception to waive compliance with public improvement requirements of MMC Table 19.1409.3 and the Milwaukie Transportation Design Manual.

The applicant pays to the City a fee-in-lieu of construction costs for the required public improvements fronting the proposed development on SE Harrison Street.

The Planning Commission finds that the proposed development, as conditioned, will not result in hazardous or unsafe transportation conditions or unacceptable level of service impacts that cannot be mitigated.

- G. MMC Subsections 19.1408.1 and 19.1408.2 require submission of a transportation impact analysis documenting the development's impacts on the surrounding transportation system.

The proposed development scores over the 100 points necessary to require transportation impact analysis in accordance with the Milwaukie Transportation Design Manual. The applicant's traffic consultant, Main Street Engineering, submitted a transportation impact analysis with the land use application in accordance with MMC Section 19.1408. DKS Associates, the city's traffic engineer, has conducted an independent review of the applicant's transportation impact study.

The Planning Commission finds that the applicant's transportation impact study adequately complies with MMC Section 19.1408.

- H. MMC Subsections 19.1408.3 and 19.1408.4 require that transportation impacts of the development be mitigated and that the mitigation be roughly proportional to the impacts of the development.

The applicant's transportation impact analysis indicates that the proposed daycare use will result in an increase in traffic volume. However, the increase in traffic will have minimal impact on the surrounding transportation system.

The existing driveway access to the proposed development does not comply with City of Milwaukie access spacing standards of MMC Table 19.1413.1. The applicant's transportation impact analysis recommends that the property west of the proposed development share access with the proposed development. The existing driveway to the west shall be used as an exit only. The existing driveway to the east shall be used as an entrance only. A shared access easement and agreement shall be recorded between the adjacent property to the west and the proposed development for access and parking on both properties.

The City of Milwaukie's traffic consultant, DKS Associates, has reviewed the applicant's transportation impact analysis. DKS Associates agrees with the analysis and the recommended mitigation.

The proposed use will increase the amount of traffic using the existing driveway accesses. As a result, the recommended access improvements are roughly proportional to the impact of the development.

The Planning Commission finds that the impacts of the proposed development, as conditioned, are mitigated and the mitigation are roughly proportional to the impacts.

I. MMC Section 19.1409 establishes standards for street design and improvement.

The existing right-of-way width of SE Harrison Street fronting the proposed development is 60 feet. The Milwaukie Transportation System Plan classifies the fronting portion of SE Harrison Street as an arterial road. According to Code Table 19.1409.3, the required right-of-way width for an arterial road is 73 feet. The applicant is responsible for half the required dedication. Staff recommends the applicant dedicate 6.5 feet of right-of-way to the public on SE Harrison Street fronting the proposed development.

The Planning Commission approves an exception to waive compliance with public improvement requirements of MMC Table 19.1409.3 and the Milwaukie Transportation Design Manual.

The applicant pays to the City a fee-in-lieu of construction costs for the required public improvements fronting the proposed development on SE Harrison Street.

Staff recommends no signs, structures, or vegetation in excess of three feet in height be placed in "vision clearance areas" at intersections of streets, driveways, and alleys.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.1409.

J. MMC Section 19.1410 establishes standards for pedestrian facilities.

The Planning Commission approves an exception to waive compliance with public improvement requirements of MMC Table 19.1409.3 and the Milwaukie Transportation Design Manual.

The applicant pays to the City a fee-in-lieu of construction costs for the required public improvements fronting the proposed development on SE Harrison Street.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.1410.

K. MMC Section 19.1411 establishes standards for bicycle facilities.

The portion of SE Harrison Street fronting the proposed development is classified as a bike route in the Milwaukie Transportation System Plan.

The Planning Commission approves an exception to waive compliance with public improvement requirements of MMC Table 19.1409.3 and the Milwaukie Transportation Design Manual.

The applicant pays to the City a fee-in-lieu of construction costs for the required public improvements fronting the proposed development on SE Harrison Street.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.1411.

L. MMC Section 19.1412 establishes standards for transit facilities.

The portion of SE Harrison Street fronting the proposed development is classified as a transit route in the Milwaukie Transportation System Plan. Staff has referred the application to TriMet for comment. TriMet responded but had no specific comments regarding the proposed development.

The Planning Commission finds that the proposed development is consistent with MMC Section 19.1412.

M. MMC Section 19.1413 establishes standards for access management.

The applicant's traffic consultant, Main Street Engineering, submitted an access study in accordance with MMC Subsection 19.1413.1.C for site access onto SE Harrison Street. The access study is included as part of the applicant's transportation impact study submitted with the land use application.

The existing driveway access to the proposed development does not comply with City of Milwaukie access spacing standards of MMC Table 19.1413.1. The proposed use will increase the amount of traffic using the existing driveway accesses.

As mitigation to the increase in traffic, the applicant's access study recommends shared access between the property to the west and the proposed development. The existing driveway to the west shall be used as an exit only. The existing driveway to the east shall be used as an entrance only. A shared access agreement shall be recorded between the adjacent property and the proposed development for access and parking on both properties.

The City of Milwaukie's traffic consultant, DKS Associates, has reviewed the applicant's access study. DKS Associates agrees with the analysis and the recommended mitigation.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.1413.

ATTACHMENT 2

Recommended Conditions in Support of Approval

1. Prior to issuance of any building permit, the following shall be resolved:
 - A. Submit a storm water management plan to the City of Milwaukie Engineering Department for review and approval. In the event the on-site storm management system contains an underground injection control device, submit proof of acceptance of the storm system design from the Department of Environmental Quality.
 - B. Pay to the City of Milwaukie a fee-in-lieu of construction costs for the required public improvements on SE Harrison Street fronting the proposed development. The Engineering Director will calculate the fee at submission of building permits.
 - C. Dedicate 6.5 feet of right-of-way to the public on SE Harrison Street fronting the proposed development.
 - D. Provide a shared access and parking easement and agreement with the adjacent property west of the proposed development. The agreement shall include shared use of the outdoor play area between the two properties. A site plan showing the locations of the shared access, parking, and outdoor play area shall be included with the agreement as an attachment. The signed agreement and any attachments shall be recorded with Clackamas County and then a copy shall be provided to the City with submission of a building permit application.
 - E. Submit a site plan including the location and type of signage for entrance-only and exit-only driveway accesses fronting the proposed development and the adjacent property to the west.
 - F. Submit a revised site plan showing the following items:
 - i. Revised off-street parking plan. The plan shall include a minimum 4-foot-wide landscaped area along the southern and eastern boundaries of the parking area, including planting one tree every 40 lineal feet. In addition, the plan shall show the parking stalls and drive aisle reconfigured as necessary to come as close as possible to conformance with the off-street parking standards of MMC Table 19.503.10. The plan shall also indicate the installation of wheelstops to prevent vehicles from overhanging the pedestrian walkway adjacent to the existing subject building where the walkway is less than 7 feet wide.
 - ii. Calculations sufficient to demonstrate that the overall landscaped area of the subject property meets the 15% landscaping standard.
 - iii. Sight-obscuring fencing to a height of 4 to 6 feet around the entire outdoor play area where the perimeter is not provided by existing buildings. Also, the plan shall show sight-obscuring fencing and/or landscape screening along the eastern boundary of the subject property.
 - iv. A detailed view of required bicycle parking, sufficient to demonstrate that the standards of MMC 19.505 are met.
 - v. A conceptual lighting plan that includes lighting for the exterior of the existing building as well as that for the off-street parking area and the outdoor play

area. The plan shall demonstrate that light does not encroach onto adjacent properties to the north and east.

2. Prior to final inspection of any building permit, the following shall be resolved:
 - A. Separate utility service for wastewater, water, and storm from the adjacent property west of the proposed development.
 - B. Construct a private storm management system on the proposed development property for runoff created by the property. Connect all rain drains to the private storm management system.
 - C. Install signage to indicate entrance only at existing driveway approach fronting the proposed development property.
 - D. Install signage to indicate exit only at the existing driveway approach fronting the adjacent property west of the proposed development.
 - E. Remove all signs, structures, or vegetation in excess of 3 feet in height located in "vision clearance areas" at intersections of streets, driveways, and alleys fronting the proposed development.
3. The proposed development shall be limited to a maximum service capacity of 33 children. Operating hours shall be limited to Monday through Friday, 7:00am to 6:00pm, year-round except for major holidays.
4. Use of the outdoor play area earlier than 9:00am, Monday through Friday, shall be prohibited.

Community Service Permit

For

**Sweet Pea Preschool and Daycare Too!
4105 S.E. Harrison St.
Milwaukie Or 97222**

**Submitted By Lynnette Denny
7550 S.E. Lillian Ave.
Milwaukie Or 97267
503-789-9155**

RECEIVED

JUL 18 2007

**CITY OF MILWAUKIE
PLANNING DEPARTMENT**



503-789-9155

6410 S.E. JENNINGS AVE. • MILWAUKIE, OR 97267

To the City of Milwaukie Planning Commission:

Let me take this opportunity to introduce myself. My name is Lynnette Denny, and I have lived in Milwaukie for the last nine years. I went back to college in 1994 for studies in Early Childhood Education. Upon completion I started working as a lead teacher in a community preschool in N.E. Portland. In 2000 I was hired as the lead teacher at Full Circle Countryside School, a private Pre-K - 8th grade school in Carver. In 2004 I started Sweet Pea Preschool in Gladstone. I currently have three teachers. I just finished Sweet Pea's third year with great success. My school had 42 children which filled 30 daily spots. On June 2 we had our graduation picnic in Patterson Park and had a turn out of 130 people. Next year's preschool classes are filled, and I have a waiting list. I fully contribute this to our excellent program and teachers.

Our community is in great need not only for more daycare, but with a higher level of quality. My new center will do this by:

- 1) Focusing on the individual child.
- 2) Having the main focus for each child be on social and emotional growth.
- 3) Introducing academic learning through play.
- 4) Offering a beginning introduction to our community through field trips. Examples of trips are: singing at "The Springs," having a toy drive at Christmas, visiting the local Fire Department, and playing at the Aquatic Park.
- 5) Educating parents by: newsletters, parent meetings, a parent lending library, resources available through Clackamas Head Start, and the Education Services Department (ESD).

Last year I partnered with Clackamas Head Start and offered services to eight Gladstone families. There is a great need for high quality in preschool and daycare. Clackamas Head Start is very picky in where they place children for services. Many centers do not qualify. In the North Clackamas School District there is a great need for more qualified locations. This next school year, 2007-2008, Head Start was given an increased budget to serve an additional 50 children. Most of these spots will be serviced within the North Clackamas School District. This is one reason I am trying so hard to push through the paperwork quickly. Head Start would like to place additional children from the Milwaukie area in October, if I can open by then. Currently there are no other centers in Milwaukie that can take the increase of students they have.

I respectfully ask that you grant the request for the Community Service permit for 4105 S.E. Harrison St. so together, we can make Milwaukie a stronger community.

Sincerely,

A handwritten signature in cursive script, reading "Lynnette Denny". The signature is written in dark ink and is positioned above the printed name.

Lynnette Denny
Sweet Pea Preschool LLC

Existing Use

Currently the building is used as part of First Love Ministries. They own this site and the church located next door. In the 4105 building it contains the church office, pastors office, a large fellowship / meeting hall, a kitchen, and 2 bathrooms. First Love Ministries is selling both properties.

Proposed Use

Sweet Pea Preschool would like to change the existing building into a full time certified daycare center. There will be 1 class of five 24-36 months olds, 1 class of twenty preschoolers ages 3 - 5 year olds, and 1 class of eight preschoolers ages 3-4 year olds. The Oregon Child Care Division has already done an initial walk through and measured the rooms according to state codes. The center will run from 7:00 am to 6:00pm. Monday thru Friday with only major holidays closed. There will be no evening or weekend events.

Zoning

The property at 4105 SE Harrison St. is currently zoned R-3. Although this location has never been a residential home. Under 19.304.2 conditional use permits may be granted. Sweet Pea would fall under H. "Any other uses similar to the above and not listed elsewhere." There is also a newly completed traffic study done to the required scope that the city of Milwaukie engineers requested. Please see attached study done by Main Street Engineering.

Vegetation Descriptions

Most of the vegetation space will be put in as grass or stay as grass. In the front, where there is currently grass, I will have some bushes planted next to the fence to help make a stronger visual bearer. The large tree next to the drive will be untouched. The play ground will have bark chips added to state code. More play structures will be added and eventually a small garden.

Lighting Description

The entire building will be wired with MC electrical. This is a state requirement for all "E occupancy", which is what is needed for this daycare center. Outside there will be motion detector lights in the parking lot.

Fire Protection Access

In May, I had my pre-application meeting for the community use permit. Mace

Childs was in the meeting representing Clackamas county Fire District #1. He informed me that there were no concerns regarding fire department access. The building would need to be interconnected fire alarms through out the building, emergency lighted exits, panic door hardware, and fire resistant curtains.

Storm Water Management

We will have three drywells added to the property. Each will be 4'0" in diameter and will be 5 feet deep. One will be on the east side of the building, the other two will be in the parking lot set at least 7 feet back from the property line. Please see attached maps for locations.

Improvement Descriptions

Most of the improvements on the building are minor. Inside the list includes.

1. Replacing broken windows.
2. Removing a closet wall, not load bearing.
3. Removing a wall between the two offices, not load bearing.
4. Taking out a shower and putting in a urinal.
5. Painting every room inside.
6. Replacing office carpeting.
7. Refinishing hardwood floors.
8. Add an outside door.
9. Add panic door hardware.
10. Replace washing machine with utility sink.
11. Add a half wall for toddler class in largest classroom

Outside Improvements

1. Add 3 drywells for run off water.
2. Pave parking lot, sidewalk, and ADA Parking.
3. Extend playground fence by 4'.
4. Create a new playground that is to Child Care Division Codes.
5. Add 2 ramps for Handicap use. One ramp is 18" above ground and the other is 20".
6. Make Bike Parking.
7. Landscaping
8. Paint the exterior of the building.
9. Have markings added to pavement

Neighborhood District Association

This building is located in the Hector Campbell Neighborhood. I met the NDA at their monthly meeting on June 11, 2007. I introduced myself and my proposed

daycare. Not many question were asked and all feed back was positive. I am excited to be part of such a strong neighborhood association.

Shared Easement

There will be a share easement agreement that will be signed and registered to the title of both properties. The easement agreement is that both locations 4105 and 4107 SE Harrison St. will share in the use each others driveways, parking spaces and the adjoining playground. Please see attached paperwork from Attorney Stan Rotenberg.

Community Service Use

19.321.10

Specific standards for school

B. We fit under the setting of a preschool/daycare center. We will be certified through the child service division for a maximum school size of 33 children. Each classroom has at least 35 square feet per child as required by the state standards. The outdoor play area will be shared by the preschool as well as the adjacent church. Please see the attached shared easement agreement. The newly planned playground will be approximately 43 x 41 sq feet. That is a total play space 1763 square feet. Each class will have their own play time to allow for ample space for each child. The state standard is 75 square feet per child.

C. There will be a paved and marked sidewalk in front of the Preschool building to allow for ample movement from the parking lot. The side walk width will range from 5 - 7 feet.

D. Currently there is already a 6 foot high privacy fence at the back of the property. This will stay as is. The east and west sides of the playground will use the buildings and current privacy fences as barriers. The south side (front) of the playground will be extended out by 4 feet and have a new 4 foot privacy fence added. The only access to the playground will be from the front porch.

E. Currently this building has a shared water system with the church. The sellers will have a new water line added to the building once the sell is finalized. The current owner, Judith Fowler, is in the process of looking into permits. There is no storm water run off system in place, so we will be adding 3 dry wells in addition to the improvement plans.

F. There will be enough space for children to be dropped off and picked up on the property. There will be no parking on the street. There are 3 spots for full time staff and 4 spots for drop off and pick up. All parking spots meet the off street parking standards 19.503.10, 9 feet width and 19 feet stall depth. If there is ever a need for extra parking, for example, a field trip, we may use the adjacent churches property. They have an additional 4 spots available. This is also part of the property easement agreement. This follows the shared parking outline 19.503.2. The church hours will be weekends and evenings, the opposite of Sweet Pea's operating hours.

G. The attached detailed drawing shows on site parking for 7 cars. Three of which will be for full time staff, and four for drop off and pick up, and one of which is a handicap stall with a 6 foot wide loading site. This information was from Table 19.503.9 residential support uses, #3.

H. The building is currently positioned not to fit into the setback requirements. The rear yard has 5 feet, the east yard has 16 feet, the west side has 11 feet, and the front 55 feet. I would like this space to be grandfathered in due to the inability to change these facts.

I. On the east corner of the building there will be bike parking with two stalls.

J. Landscaping will be done on the west side of the driveway, on the east side of the building where the second handicap ramp is located as well as the fenced playground. That adds up to 2311 square feet or 31% that will be landscaped. Please see attached vegetation site map.

19.321.5 Standards for Community Service Uses.

A. An application for a community service use may be allowed if the following criteria are met:

1. The building setback, height limitation, and 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 in the CSU, the standards of the underlying zone are met;

RESPONSE: All requirements are met except the building set back requirement. This is a single story unit, meeting the height limitations and the off street parking requirement is adequate in conjunctions with the easement agreement (already on file with your department) with the adjoining church. With regard to the building

setback requirement, we are requesting the footage requirement of 20' waved "grandfathered" due to the fact that the building has pre-existed for the past 52 years. Currently the building is set back 5' to the North, 16' to the East and 11' to the West.

2. Specific standards for the proposed uses as found in subsections 19.321.10 through 19.321.14 are met;

RESPONSE: We are compliant on all of the points under 19.321.10 thru 19.321.14 as we are a daycare center which by public code must abide by all of the criteria herewith. We are fit under the setting of a preschool/daycare center. We will be certified through the child service division for a maximum school size of 33 children. Each classroom has at least 35 square feet per child as required by state standards. The outdoor play area will be shared by the preschool, as well as the adjacent church and documented in the easement agreement. The newly planned playground will be approximately 43 x 41 square feet. That is a total play space of 1763 square feet. Each class will have their own play time to allow for ample space for each child. The state standard is 75 square feet per child.

3. The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses;

RESPONSE: Our hours of operation are M - F, 7:00 a.m. thru 6:00 p.m. This is compatible with surrounding business's in the immediate area; please review the following recap of business's within 2 city blocks of the our proposed site and the associated hours of operation:

Cedar Chiropractic Clinic - hours	9:00 a.m. - 6:00 p.m. (M - F)
Papa Murphy's Take & Bake - hours	11:00 a.m. - 10:00 p.m. (7 days per week)
Safeway Store - hours	6:00 a.m. - 1:00 a.m. (7 days per week)
Healing Path - hours	9:00 a.m. - 6:00 p.m. (M - F)
Food Mart (Harrison) & Gas - hours	6:00 a.m. - 10:00 p.m. (7 days per week)

4. The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood;

RESPONSE: The proposed site would be the second location for Sweet Pea Preschool. Our business and teaching philosophies are of the highest standards of any like facilities in the Portland metro area. We have endorsements from Clackamas County Head Start & Clackamas Educational Services, two government agencies with rigorous criteria and pre-qualification requirements. We also can provide letters of recommendation upon request from various parents that have or had children enrolled in our class at Sweet Pea Preschools existing facility. Public benefit is derived from the need within the area, as to date there is no facility of this type within the city limit of Milwaukie. The benefit far out ways, any negative impact, if any, on the existing neighborhood.

5. The location is appropriate for the type of use proposed.

RESPONSE: The location is appropriate for this type of use, as Harrison Street is a main arterial of Milwaukie network. There are many other business's operating in close proximity to this proposed site, that are community service related.

19.304.3 Standards. In an R-3 zone the following standards shall apply:

A. Lot size: Lot area shall be at least five thousand (5,000) square feet. For single-family attached dwellings the lot area shall be an average of at least three thousand (3,000) square feet per dwelling unit. Lot width shall be at least fifty (50) feet. For interior single-family attached units the lot width shall be at least thirty (30) feet. Average lot depth shall be at least eighty (80) feet.

RESPONSE: Lot is 7,500 square feet.

B. Front yard: A front yard shall be at least fifteen (15) feet.

RESPONSE: Front yard is 55 feet from the sidewalk.

C. Side yard: A side yard shall be at least five (5) feet, and there shall be one (1) additional foot of side yard for each three (3) feet of height over two (2) stories or twenty-five (25) feet, whichever is less, except on corner lots a side yard shall be at least fifteen (15) feet on the side abutting the street. For interior single-family attached and condominium units, side yards are not required.

RESPONSE: This is a single story facility, side yard is minimum 5 feet on all perimeters.

D. Rear yard: A rear yard shall be at least fifteen (15) feet.

RESPONSE: The structure is 52 years old and rear yard is 5 feet from the property line. We request that this requirement be waved "grandfathered" for purposes of this conditional use review.

E. (Repealed by Ord. 1893)

RESPONSE: N/A

F. Off-street parking and loading: As specified in Chapter 19.500.

RESPONSE: See response for 19.503's below.

G. Height restriction: Maximum height of a structure shall be two and one-half (2 1/2) stories or thirty-five (35) feet, whichever is less.

RESPONSE: Height restriction met, facility is single story, under 35 feet.

H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed forty percent (40%) of the total area of the lot.

RESPONSE: The structure is 1,536 square feet and lot 7,500 square feet = 21%.

I. Minimum vegetation and open space: Minimum area that must be left or planted in trees, grass, shrubs, bark dust for planting beds, or left as open space or used as recreational area, etc. will be thirty-five percent (35%) of the total area of the lot. At least half of this area will be of the same general character as the area with dwelling units.

RESPONSE: Requirement is met with vegetation and open space at 3,601 square feet = 41% by including shared playground in conjunction with easement agreement with church. Character of area is same, with like vegetation and fencing.

J. Frontage requirements. Every lot shall abut a public street other than an alley for at least thirty-five (35) feet, except as provided in the subdivision ordinance. Lots for interior single-family attached units will abut a public street for at least twenty (20) feet.

RESPONSE: Frontage requirement is met as we have 75 feet from street & no alley exists.

K. Transition area: A transition area shall be maintained according to Section 19.416.

RESPONSE: Appropriate transition exists.

L. Minimum density: Minimum development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 to 14.5 dwelling units per net acre.

RESPONSE: N/A

M. Transportation requirements and standards: as specified in Chapter 19.1400. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

RESPONSE: Proposed parking area meets requirements of the above ordinance in conjunction with easement agreement.

19.503.1 General Provisions.

A. Off-street parking shall be required in all districts except for the downtown storefront zone and the portion of the downtown office zone located to the north of Washington Street and east of McLoughlin Boulevard.

B. Off-street parking shall be provided at the time the structure is erected, prior to the issuance of a certificate of occupancy, at the time any use of a structure or land is enlarged, or when there is an increase in density or intensity.

C. Off-street parking shall be provided on the site unless joint use or shared parking is approved and is located within three hundred feet of the principal structure or use.

D. It shall be the obligation of the property owner to comply with the regulations of Chapter 19.500 and to maintain the parking area.

E. Parking areas shall be available for the parking of operable vehicles of residents, customers and employees and shall not be used for the storage of vehicles or materials.

19.503.2 Shared Parking. Shared parking shall be permitted for two or more uses when there is no conflict in operating hours. Parking spaces shall be no further than three hundred feet from the principal structure(s) or use(s). Legal documentation shall be recorded with the county, and provided to the city, between separate developers sharing parking prior to obtaining a building permit.

RESPONSE: This is included in the easement agreement. The preschool hours are counter cyclical to the church hours with zero overlap.

19.503.3 Minimum Number of Required Parking Spaces and Maximum Allowable Parking.

A. Parking shall be provided for all uses in accordance with specifications of Table 19.503.9. Where a use is not named in Table 19.503.9, determination of applicable parking standards shall be made in accordance with subsection 19.503.5.

B. Except as provided herein, parking provided shall not be less than "minimum parking required" nor shall parking provided exceed "maximum allowable parking" as shown in Table 19.503.9.

RESPONSE: Our maximum student capacity is 33 and with a maximum of 4 employees. We have allowed for 7 parking spots adjacent to the building and 4 more parking spots that will be utilized through the easement agreement with the church. This meets the minimum requirement for off street parking spaces.

19.1401 Purpose.

The purposes of this Chapter include the following:

A. Provide standards and procedures to implement provisions of the State Transportation Planning Rule (OAR 660, Division 12) and local, regional and state transportation system plans.

B. Implement performance measures to protect the functional classification, capacity and level of service of transportation facilities.

C. Assure that new development provides transportation improvements in rough proportion to identified impacts of the development.

D. Assure that transportation improvements are designed and connected to accommodate multiple modes of travel, including pedestrian, bicycle, transit and auto. (Ord. 1893 (part), 2001)

RESPONSE: With regard to all articles under this provision, we have submitted and completed the following:

1. Opted to pay "fee-in-lieu of construction" for proposed street improvements to Harrison.
2. Provided your office a copy of the easement agreement with the church for shared off street parking, loading and unloading.
3. Revised our property site diagram to reflect changes requested to be compliant for purposes of this report.
4. Completed and submitted traffic survey.

19.1403 Applicability.

RESPONSE: We understand all requirements and the review process. We anticipate that all members of the review board will be as excited as we are about the possibility of adding a quality child care to the city of Milwaukee.

A. Chapter 19.1400 applies to the following forms of development, except as limited by subsection 19.1403.1 of this section: partitions, subdivisions, new construction, including single and multifamily residential, commercial, industrial, institutional, governmental, and other.

B. Application Required. All actions subject to this section require submission of an application for transportation review. Applications shall be reviewed in accordance with Section 19.1001.

19.1403.1 Limitations.

A. For all development other than partitions, subdivisions, and single family, new construction or substantial redevelopment, as defined in Section 19.103, is exempt from Section 19.1407.2, Adequacy Requirements, when the estimated value of the construction improvements is less than two hundred thousand dollars (\$200,000.00), and when a transportation impact study is not required. The two hundred thousand dollars (\$200,000.00) value threshold shall be increased three percent (3%) annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter.

RESPONSE: Traffic impact study was requested though improvements to the existing property is estimated well under \$200,000.

B. New single-family residential development and substantial redevelopment of existing single-family structures are exempt from Section 19.1407.2, Adequacy Requirements, except for the following requirements when the value of improvements is less than ninety thousand dollars (\$90,000.00). The ninety thousand dollars (\$90,000.00) value threshold shall be increased three percent (3%) annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter shall comply with the following provisions:

1. Section 19.1409.1(B), Required frontage;
2. Table 19.1409.2, Additional Setbacks in Major Streets;
3. Section 19.1409.2(B), Right-of-way dedication;
4. Section 19.1409.2(E), Vision clearance;
5. Section 19.1410.2, Public sidewalks; and
6. Section 19.1413, Access management.

RESPONSE: Estimated improvements to the existing property are estimated under \$90,000.

C. Development in the Downtown Zones. Specific design standards and public area requirements have been adopted for the downtown zones; therefore, only the following provisions of Section 19.1400 shall apply in the downtown zones:

RESPONSE: N/A - Property is outside "Downtown Zones".

1. Section 19.1405.4, Notice and coordinated review.
2. Section 19.1408, Transportation impact analysis.
3. Section 19.1413, Access management. (Ord. 1907 (Attach. 2), 2002: Ord. 1893 (part),

19.1404 Exception, adjustment, or variance.

A. The criteria in this chapter reflect the need for flexibility in the application of transportation requirements and design standards to respond to unique site characteristics or hardship situations. Criteria are provided for different categories of exceptions and adjustments.

RESPONSE: The only exception is for the current road design standards that do not meet the current codes. Existing transportation facilities that serve the site are adequately sized and are in usable and safe condition but do not meet a dimensional standard.

B. Review Process. All requests for adjustments and exceptions shall be processed in accordance with 19.1011.2-Type II-Administrative Review procedures concurrent with the application for land use approval.

RESPONSE: We are requesting the earliest possible date for the hearing since Head Start would like to guarantee services to their many families.

C. Adjustments. The transportation facility design standards of Chapter 19.1400 and the Transportation Design Manual may be adjusted in accordance with Table 19.1409.3 and the criteria listed below. Transportation facility design standards apply only to improvements located within public rights-of-way. An adjustment to a design standard may be granted when the City Engineer finds it is consistent with the following, based upon professional judgment and accepted engineering practices:

RESPONSE: We are not asking for any adjustments.

D. Exceptions. The City Engineer may waive compliance with transportation facility design standards for improvements located in the right-of-way in the following cases:

RESPONSE: We opted to pay city "fee-in-lieu-of-construction" for street requirement and design standards = \$16,000 estimate. All other aspects of provisions regarding parking structure, vehicle site distance/vision requirements, and other design layout are included in site diagram. All of which are currently compliant according to the traffic study on file with your office.

QUOTES FROM TRAFFIC STUDY

Existing Roadway Network

SE Harrison Street is an arterial roadway that extends from McLoughlin Boulevard to Home Avenue. Within the site vicinity, SE Harrison Street is a two-lane street with a detached sidewalk on both sides of the street.

The nearest bus stop is approximately 250 feet west of the site, on the north side of SE Harrison Street at the corner of SE 40th Avenue and SE Harrison Street.

Although SE Harrison Street contains sufficient width (36 feet) for two travel lanes and two bike lanes, there are no bike lanes striped on SE Harrison Street within the site vicinity.

Existing Site

The subject property is located in the City of Milwaukie at 12923 SE Harrison Street. The existing site is occupied by single-family residence previously used as a church parish.

SE Harrison Street and SE 42nd Avenue Queuing

A pm peak-hour turning movement count was conducted on June 13, 2007 (attached) at the intersection of SE Harrison Street and SE 42nd Avenue. This intersection is controlled by an all way stop. Queuing at the intersection was monitored during the pm peak hour on June 7, 2007, and June 13, 2007. The majority of the time, there were no eastbound vehicles queued at the intersection. When there was a queue present, it dispersed quickly. The maximum eastbound queue was a total of ten vehicles. The typical queue was six to eight vehicles. The queued vehicles quickly travel through the intersection and typically cleared in 30 to 45 seconds.

Existing Driveways Within The Study Area

A driveway survey was completed within the site vicinity. Tables 1 through 4 summarize all of the driveway locations within 600 feet of the property lines of the site, including both sides of SE Harrison Street. The parcels within the study area along both sides of SE Harrison Street are fully built out with single-family residences (R-3 and R-5 zoning) and commercial uses (C-G zoning). It is not anticipated that future redevelopment within the study area will result in a change in site accesses or roadway circulation.

Proposed Development

A 33-student preschool facility will occupy the existing house. The operating hours of the preschool will be Monday thru Friday from 7:00 am to 6:00 pm. The church and preschool will share the parking lot, driveways, and playground.

Trip Generation

To estimate the number of new vehicle trips generated by the operation of a preschool, vehicle trip rates from the *ITE Trip Generation Manual*, 7th edition were used. The trip rates used were for Land Use Code 565, Day Care Center. The trip generation rates are based on the number of students.

Sight Distance

Sight distance measurements were taken at the existing driveway location. SE Harrison Street is posted at a speed of 25 mph. Looking east and west from the proposed driveway location there is over 500 feet of sight distance. Sight distance is more than adequate from any location along the site frontage.

Accident History

The accident history for the study area on SE Harrison Street was obtained from the Oregon Department of Transportation. Along the road section 700 feet west through 700 feet east of the project site there were no recorded accidents within the last three years.

Site Access

The preschool will use the existing site access to the house. A crossover easement will be recorded between the church and the preschool for the shared use of both driveways.

The adjacent property along the north property line is fully built out with single-family residential homes. The adjacent property to the east is a single family residential home. Sharing a private residential driveway with a preschool is not recommended.

Most of the properties within the study area are single-family homes with direct access to SE Harrison Street. As shown in Tables 1-4 driveway spacing along this section of SE Harrison Street ranges from 5 feet to 350 feet. The majority of driveways fall into a driveway spacing of 30 to 100 feet.

Even though this section of SE Harrison Street does not meet minimum access spacing standards for arterial roads within the City of Milwaukie, there are no recorded accidents within the study area. This may be due to the fact that the driveways have excellent sight distance, low traffic volumes, and SE Harrison Street has a posted speed of 25 mph. The preschool access will also generate a low traffic volume and has excellent sight distance. The preschool access and the church access are expected to continue to operate safely with the operation of the proposed preschool.

19.1406 Neighborhood Through-trip Study.

RESPONSE: Currently the space is being used as a fellowship hall, pastors office and the church secretaries office. The engineering department has estimated the extra trips generated by a daycare of 33 students will create more traffic but the amount can operate safely with the existing design. System Upgrade Charges are estimated at \$40,000.00.

19.1407 Adequate Transportation Facility Requirement.

RESPONSE: We opted to pay city "fee-in-lieu-of-construction" for street requirement and design standards = \$16,000 estimate. All other aspects of provisions regarding parking structure, vehicle site distance/vision requirements, and other design layout are included in site diagram and traffic study. According to the traffic study, the proposed preschool would not pose any unsafe traffic conditions under existing design plan. Please note that we understand that there is 6.5' in width for the dedicated right of way on Harrison St.

19.1408 Transportation Impact Analysis.

RESPONSE: Transportation impact study complete. Please see summary notes - "CONCLUSION AND RECOMMENDATIONS"

- There were no recorded accidents on SE Harrison Street within the study limits of the project.
- The sight distance at the site driveway is in excess of the minimum required by the City of Milwaukie for safe operations.
- The existing driveway to the church and existing driveway to the site will be shared with a recorded cross-over easement. The use of both driveways will facilitate circulation within the constrained parking lot. Both driveways are expected to continue to operate safely."

19.1409 Street Requirements and Design Standards.

RESPONSE: See comment 19.1407.

19.1410 Pedestrian requirements and standards.

RESPONSE: We have a pedestrian crosswalk on the East side of property, adjacent to the ADA parking area and meets the dimension codes required by the city. This also includes bike cycle parking, and sidewalk designation. Please see proposed site diagram.

19.1411 Bicycle requirements and standards.

RESPONSE: The East side of the property diagram outlines bicycle parking area (6' X 10'). Pedestrian crosswalk, vehicle driveway and street front sidewalk are connecting and accessible to Harrison Street.

19.1412 Transit requirements and standards.

RESPONSE: Bus stops exist 500 feet of proposed site and meet Tri-Met standards. Walkways and ADA access are connecting and accessible to Harrison Street. Please refer to site diagram.

19.1412.3 Building Orientation to Transit. The following requirements apply to all new multifamily, commercial, office, and institutional development within five hundred (500) feet of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

RESPONSE: Building orientation to transit is compliant; building primary entrance faces and is visible to Harrison Street to the South, sidewalks are accessible and connected to public right-of-way and the entrance is set back more than 30' from right-of-way transit street. Please refer to site diagram.

19.1413 Access management standards.

RESPONSE: There will be no changes in location to the current drive ways. 4105 will be the entrance and 4107 will be used as the exit. This allow for an easy flow and minimal congestion to Harrison Street. The driveways are part of the easement agreement. The 4105 drive way is only 4 feet from the east property line. We ask that this be given a variance due to the fact that moving the drive would require taking down a very old tree. The current drive will be improved to meet the requirements. On the parking lot drive way there will be a 16 feet wide drive with parking spots that are 9' x 19'.

MAIN STREET ENGINEERING

Traffic Engineering • Transportation Planning

June 22, 2007

Lynnette Denny
7550 SE Lillian Ave
Milwaukie, OR 97267

RE: Sweet Pea Preschool

Dear Ms. Denny:

I have performed the following Access Management Plan for a proposed preschool at 4105 SE Harrison St, Milwaukie, Oregon. The site is located 300 feet west of SE 42nd Street.

The proposed preschool is a Community Service Use of the existing house. The existing house was used as a parish for the church on the adjacent parcel. The new preschool will use the existing access to SE Harrison Street.

This Access Management Plan documents safety and operations at the driveway location on SE Harrison Street as required under section 19.1413 of the Milwaukie Municipal Code. The study area extends from 600 feet west of the site to 600 feet east of the site. The total study area includes 1,300 feet of road frontage on SE Harrison Street.

SE Harrison Street is classified as an Arterial and is under the jurisdiction of the City of Milwaukie. Milwaukie access spacing standards limit accesses, when possible, to an access spacing of 600 feet between driveways and intersections on an arterial.

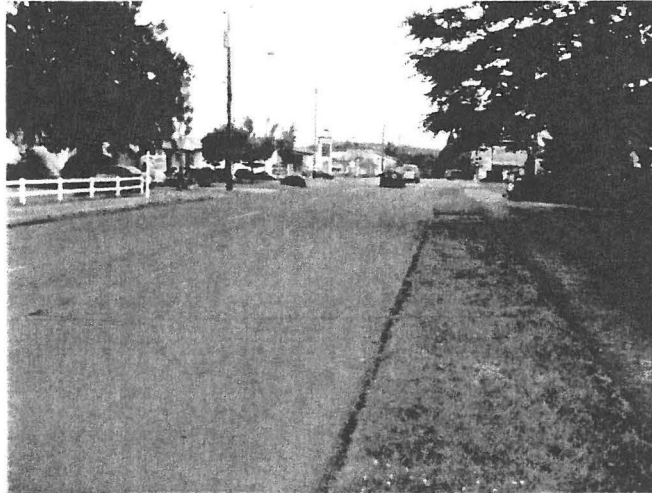
Existing Roadway Network

SE Harrison Street is an arterial roadway that extends from McLoughlin Boulevard to Home Avenue. Within the site vicinity, SE Harrison Street is a two-lane street with a detached sidewalk on both sides of the street.

The nearest bus stop is approximately 250 feet west of the site, on the north side of SE Harrison Street at the corner of SE 40th Avenue and SE Harrison Street.

Although SE Harrison Street contains sufficient width (36 feet) for two travel lanes and two bike lanes, there are no bike lanes striped on SE Harrison Street within the site vicinity.

SE Harrison Street



Existing Site

The subject property is located in the City of Milwaukie at 12923 SE Harrison Street. The existing site is occupied by single-family residence previously used as a church parish.

Looking North



SE Harrison Street and SE 42nd Avenue Queuing

A pm peak-hour turning movement count was conducted on June 13, 2007 (attached) at the intersection of SE Harrison Street and SE 42nd Avenue. This intersection is controlled by an all-way stop.

Queuing at the intersection was monitored during the pm peak hour on June 7, 2007, and June 13, 2007. The majority of the time, there were no eastbound vehicles queued at the intersection. When there was a queue present, it dispersed quickly. The maximum eastbound queue was a total of ten vehicles. The typical queue was six to eight vehicles. The queued vehicles quickly travel through the intersection and typically cleared in 30 to 45 seconds.

Existing Driveways Within The Study Area

A driveway survey was completed within the site vicinity. Tables 1 through 4 summarize all of the driveway locations within 600 feet of the property lines of the site, including both sides of SE Harrison Street. The parcels within the study area along both sides of SE Harrison Street are fully built out with single-family residences (R-3 and R-5 zoning) and commercial uses (C-G zoning). It is not anticipated that future redevelopment within the study area will result in a change in site accesses or roadway circulation.

Table 1

Driveway Locations West of the Site, North Side of SE Harrison Street

Description	Distance (FT) From Nearest Driveway	Access Type
Subject Site		Full
Church Building	85	Full
4055 SE Harrison (Single Family)	70	Full
4035 SE Harrison (Single Family)	125	Full
4025 SE Harrison (Single Family)	40	Full
SE 40th Street	127	
3935 SE Harrison (Single Family)	50	Full
3919 SE Harrison (Single Family)	55	Full
3915 SE Harrison (Single Family)	10	Full
3829 SE Harrison (Single Family)	100	Full
3815 SE Harrison (Single Family)	53	Full
3811 SE Harrison (Single Family)	55	Full
3727 SE Harrison (Single Family)	47	Full

Table 2

Driveway Locations East of the Site, North Side of SE Harrison Street

Description	Distance (FT) From Nearest Driveway	Access Type
Subject Site		Full
4127 Harrison (Single Family)	30	Full
Cedar Chiropractic (Office)	60	Full
SE 42nd Avenue	70	Full
Safeway	134	Full
Safeway	350	In Only

Table 3

Driveway Locations West of the Site, South Side of SE Harrison Street

Description	Distance (FT) From Nearest Driveway	Access Type
4106 SE Harrison (Single Family)	Across From Subject Site	Full
4104 SE Harrison (Single Family)	80	Full
4046 SE Harrison (Single Family)	15	Full
4040 SE Harrison (Single Family)	75	Full
4036 SE Harrison (Single Family)	80	Full
4006 SE Harrison (Single Family)	50	Full
SE 40th Avenue	95	Full
3860 SE Harrison (Single Family)	159	Full
Healing Path (Medical Office)	70	Full
3816 SE Harrison (Single Family)	95	Full
3806 SE Harrison (Single Family)	25	Full
3724 SE Harrison (Single Family)	49	Full

Table 4**Driveway Locations East of the Site, South Side of SE Harrison Street**

Description	Distance (FT) From Nearest Driveway	Access Type
4106 SE Harrison (Single Family)	Across From Subject Site	Full
4116 SE Harrison (Single Family)	10	Full
Food Mart (Gas Station)	80	Full
Food Mart (Gas Station)	40	Full
SE 42nd Avenue	40	Full
Papa Murphys	Open Across Frontage	Full
Attorney Office	10	Full
4212 SE Harrison (Single Family)	53	Full
4114 SE Harrison (Single Family)	47	Full
4214 Harrison (Single Family)	45	Full
4302 SE Harrison (Single Family)	45	Full
4306 SE Harrison (Single Family)	78	Full

As shown in Table 1 and Table 2, the distance to the closest driveway on the north side of SE Harrison Street west of the site is 85 feet and the nearest driveway east of the site is 30 feet.

Proposed Development

A 33-student preschool facility will occupy the existing house. The operating hours of the preschool will be Monday thru Friday from 7:00 am to 6:00 pm

The church and preschool will share the parking lot, driveways, and playground. The proposed site plan is attached.

Trip Generation

To estimate the number of new vehicle trips generated by the operation of a preschool, vehicle trip rates from the *ITE Trip Generation Manual*, 7th edition were used. The trip rates used were for Land Use Code 565, Day Care Center. The trip generation rates are based on the number of students.

Table 5

Trip Generation

Land Use Code	Size (Students)	Daily	Weekday AM Peak Hour			Weekday PM Peak Hour		
			In	Out	Total	In	Out	Total
Day Care Center (565)	33	148	15	12	27	12	15	27

Sight Distance

Sight distance measurements were taken at the existing driveway location. SE Harrison Street is posted at a speed of 25 mph. Looking east and west from the proposed driveway location there is over 500 feet of sight distance. Sight distance is more than adequate from any location along the site frontage.

Accident History

The accident history for the study area on SE Harrison Street was obtained from the Oregon Department of Transportation. Along the road section 700 feet west through 700 feet east of the project site there were no recorded accidents within the last three years.

Site Access

The preschool will use the existing site access to the house as an entrance only driveway. A crossover easement will be recorded between the church and the preschool for the shared use of both driveways. The existing driveway to the church will function as an exit only driveway.

The adjacent property along the north property line is fully built out with single-family residential homes. The adjacent property to the east is a single family residential home. Sharing a private residential driveway with a preschool is not recommended.

Most of the properties within the study area are single-family homes with direct access to SE Harrison Street. As shown in Tables 1-4 driveway spacing along this section of SE Harrison Street ranges from 10 feet to 350 feet. The majority of driveways fall into a driveway spacing of 30 to 100 feet.

Even though this section of SE Harrison Street does not meet minimum access spacing standards for arterial roads within the City of Milwaukie, there are no recorded accidents within the study area. This may be due to the fact that the driveways have excellent sight distance, low traffic volumes, and SE Harrison Street has a posted speed of 25 mph. The preschool access will also generate a low traffic volume and has excellent sight distance. The preschool driveway and the church driveway are expected to continue to operate safely with the operation of the proposed preschool.

CONCLUSION AND RECOMMENDATIONS

- There were no recorded accidents on SE Harrison Street within the study limits of the project.
- The sight distance at the site driveway is in excess of the minimum required by the City of Milwaukie for safe operations.
- The existing driveway to the church and the existing driveway to the site will be shared. The use of the west driveway as an exit only and the east driveway as an entrance only will facilitate circulation within the constrained parking lot. Both driveways are expected to continue to operate safely.

If you have any questions or concerns regarding this Access Management Plan, please contact me at (360) 281-1296.

Sincerely,



Chris Christofferson, PE
Principal



EXPIRES: DEC. 31, 2007

Total Vehicle Summary

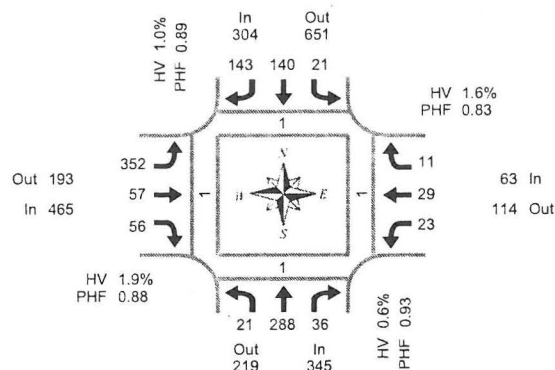


Clay Carney
(503) 833-2740

SE 42nd Ave & SE Harrison St

Wednesday, June 13, 2007

4:00 PM to 6:00 PM



Peak Hour Summary
5:00 PM to 6:00 PM

15-Minute Interval Summary

4:00 PM to 6:00 PM

Interval Start Time	Northbound SE 42nd Ave				Southbound SE 42nd Ave				Eastbound SE Harrison St				Westbound SE Harrison St				Interval Total	Pedestrians Crosswalk			
	L	T	R	Bikes	L	T	R	Bikes	L	T	R	Bikes	L	T	R	Bikes		North	South	East	West
4:00 PM	1	53	6	0	4	31	42	0	84	13	12	0	4	6	1	0	257	2	0	0	0
4:15 PM	2	61	5	0	2	46	36	0	76	9	16	0	2	7	3	0	265	0	2	0	0
4:30 PM	5	81	1	0	3	38	36	0	64	12	11	0	4	8	1	0	264	1	0	0	1
4:45 PM	8	55	5	0	5	43	35	0	71	16	10	0	7	3	2	0	260	0	0	0	0
5:00 PM	5	75	13	0	3	37	45	0	85	19	13	0	4	7	3	0	309	0	0	0	0
5:15 PM	6	75	4	0	7	42	30	0	106	9	17	0	6	9	3	0	314	0	1	1	1
5:30 PM	4	68	8	0	6	33	29	0	78	18	12	0	7	9	3	0	275	1	0	0	0
5:45 PM	6	70	11	0	5	28	39	0	83	11	14	0	6	4	2	0	279	0	0	0	0
Total Survey	37	538	53	0	35	298	292	0	647	107	105	0	40	53	18	0	2,223	4	3	1	2

Peak Hour Summary

5:00 PM to 6:00 PM

By Approach	Northbound SE 42nd Ave				Southbound SE 42nd Ave				Eastbound SE Harrison St				Westbound SE Harrison St				Total	Pedestrians Crosswalk			
	In	Out	Total	Bikes	In	Out	Total	Bikes	In	Out	Total	Bikes	In	Out	Total	Bikes		North	South	East	West
Volume	345	219	564	0	304	651	955	0	465	193	658	0	63	114	177	0	1,177	1	1	1	1
%HV	0.6%				1.0%				1.9%				1.6%				1.3%				
PHF	0.93				0.89				0.88				0.83				0.94				

By Movement	Northbound SE 42nd Ave				Southbound SE 42nd Ave				Eastbound SE Harrison St				Westbound SE Harrison St				Total
	L	T	R	Total	L	T	R	Total	L	T	R	Total	L	T	R	Total	
Volume	21	288	36	345	21	140	143	304	352	57	56	465	23	29	11	63	1,177
%HV	0.0%	0.7%	0.0%	0.6%	0.0%	0.7%	1.4%	1.0%	2.3%	1.8%	0.0%	1.9%	0.0%	3.4%	0.0%	1.6%	1.3%
PHF	0.88	0.96	0.69	0.93	0.75	0.83	0.79	0.89	0.83	0.75	0.82	0.88	0.82	0.81	0.92	0.83	0.94

Rolling Hour Summary

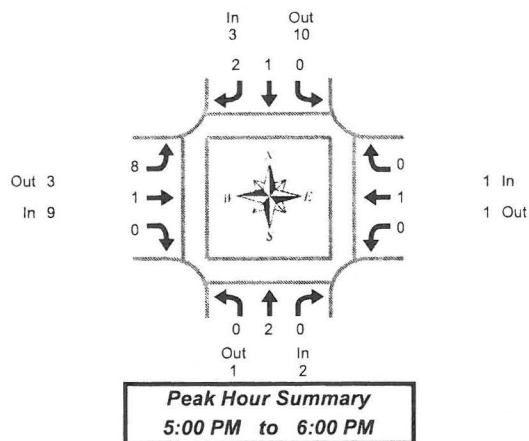
4:00 PM to 6:00 PM

Interval Start Time	Northbound SE 42nd Ave				Southbound SE 42nd Ave				Eastbound SE Harrison St				Westbound SE Harrison St				Interval Total	Pedestrians Crosswalk			
	L	T	R	Bikes	L	T	R	Bikes	L	T	R	Bikes	L	T	R	Bikes		North	South	East	West
4:00 PM	16	250	17	0	14	158	149	0	295	50	49	0	17	24	7	0	1,046	3	2	0	1
4:15 PM	20	272	24	0	13	164	152	0	296	56	50	0	17	25	9	0	1,098	1	2	0	1
4:30 PM	24	286	23	0	18	160	146	0	326	56	51	0	21	27	9	0	1,147	1	1	1	2
4:45 PM	23	273	30	0	21	155	139	0	340	62	52	0	24	28	11	0	1,158	1	1	1	1
5:00 PM	21	288	36	0	21	140	143	0	352	57	56	0	23	29	11	0	1,177	1	1	1	1

Heavy Vehicle Summary



Clay Carney
(503) 833-2740



SE 42nd Ave & SE Harrison St

Wednesday, June 13, 2007

4:00 PM to 6:00 PM

Heavy Vehicle 15-Minute Interval Summary

4:00 PM to 6:00 PM

Interval Start Time	Northbound SE 42nd Ave				Southbound SE 42nd Ave				Eastbound SE Harrison St				Westbound SE Harrison St				Interval Total
	L	T	R	Total	L	T	R	Total	L	T	R	Total	L	T	R	Total	
4:00 PM	0	0	0	0	0	0	1	1	1	0	0	1	0	0	0	0	2
4:15 PM	0	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0	1
4:30 PM	0	2	0	2	0	0	1	1	1	0	0	1	0	1	0	1	5
4:45 PM	1	0	0	1	0	0	2	2	0	0	0	0	0	0	0	0	3
5:00 PM	0	0	0	0	0	1	1	2	2	0	0	2	0	0	0	0	4
5:15 PM	0	1	0	1	0	0	0	0	4	1	0	5	0	0	0	0	6
5:30 PM	0	1	0	1	0	0	1	1	0	0	0	0	0	1	0	1	3
5:45 PM	0	0	0	0	0	0	0	0	2	0	0	2	0	0	0	0	2
Total Survey	1	4	0	5	0	2	6	8	10	1	0	11	0	2	0	2	26

Heavy Vehicle Peak Hour Summary

5:00 PM to 6:00 PM

By Approach	Northbound SE 42nd Ave			Southbound SE 42nd Ave			Eastbound SE Harrison St			Westbound SE Harrison St			Total
	In	Out	Total	In	Out	Total	In	Out	Total	In	Out	Total	
Volume	2	1	3	3	10	13	9	3	12	1	1	2	15
PHF	0.17			0.15			0.32			0.25			0.29

By Movement	Northbound SE 42nd Ave				Southbound SE 42nd Ave				Eastbound SE Harrison St				Westbound SE Harrison St				Total
	L	T	R	Total	L	T	R	Total	L	T	R	Total	L	T	R	Total	
Volume	0	2	0	2	0	1	2	3	8	1	0	9	0	1	0	1	15
PHF	0.00	0.25	0.00	0.17	0.00	0.25	0.13	0.15	0.33	0.25	0.00	0.32	0.00	0.25	0.00	0.25	0.29

Heavy Vehicle Rolling Hour Summary

4:00 PM to 6:00 PM

Interval Start Time	Northbound SE 42nd Ave				Southbound SE 42nd Ave				Eastbound SE Harrison St				Westbound SE Harrison St				Interval Total
	L	T	R	Total	L	T	R	Total	L	T	R	Total	L	T	R	Total	
4:00 PM	1	2	0	3	0	1	4	5	2	0	0	2	0	1	0	1	11
4:15 PM	1	2	0	3	0	2	4	6	3	0	0	3	0	1	0	1	13
4:30 PM	1	3	0	4	0	1	4	5	7	1	0	8	0	1	0	1	18
4:45 PM	1	2	0	3	0	1	4	5	6	1	0	7	0	1	0	1	16
5:00 PM	0	2	0	2	0	1	2	3	8	1	0	9	0	1	0	1	15

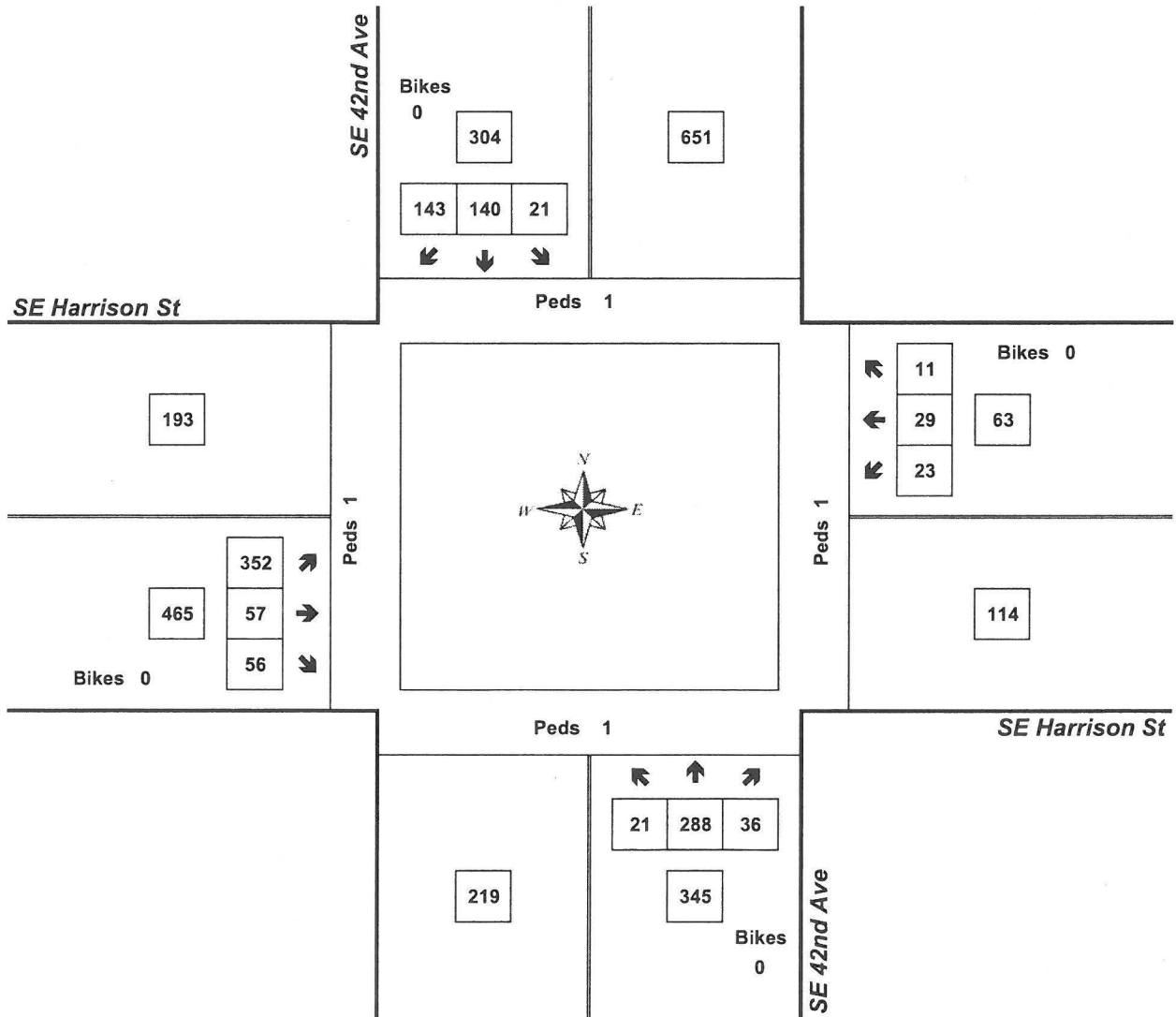
Peak Hour Summary



Clay Carney
(503) 833-2740

SE 42nd Ave & SE Harrison St

5:00 PM to 6:00 PM
Wednesday, June 13, 2007



Approach	PHF	HV%	Volume
EB	0.88	1.9%	465
WB	0.83	1.6%	63
NB	0.93	0.6%	345
SB	0.89	1.0%	304
Intersection	0.94	1.3%	1,177

Count Period: 4:00 PM to 6:00 PM

MAIN STREET ENGINEERING

Traffic Engineering • Transportation Planning

July 16, 2007

Zach Weigel
City of Milwaukie
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

RE: Sweet Pea Preschool, Additional Information

Dear Mr. Weigel:

I am submitting the following information in response to the request made by DKS Associates in a memo dated July 10, 2007. Three areas of additional information were requested: site access for all modes, site circulation, and long-term development potential.

Site Access For All Modes

A four-foot detached sidewalk provides pedestrian access to the site. SE Harrison Street has four-foot sidewalks along both sides of the street within the project limits. The existing sidewalk provides sufficient ADA access to the site. The sidewalk along the site frontage is at the same grade as the parking lot, providing a level transition from the sidewalk to the parking lot. ADA ramps are provided at nearby intersections. A handicapped parking stall is included in the proposed parking layout.

The travel lanes on SE Harrison Street are wide enough for shared use with bicyclists. However, bike lanes are not currently striped on SE Harrison Street. On-site bicycle parking will be provided as shown on the proposed site plan.

Site Circulation

The preschool will use the existing site access to the house as an entrance-only driveway. The existing driveway to the church will function as an exit-only driveway. The east driveway will be signed and striped as an entrance only with the west driveway signed and striped as an exit only. Motorists will enter the parking lot through the east driveway, circulate west along the one-way aisle, and exit through the west driveway. The narrow driveway widths will discourage wrong-way traffic within the parking lot.

Long Term Development Potential

The parcels within the study area along both sides of SE Harrison Street are fully built out with single-family residences (R-3 and R-5 zoning) and commercial uses (C-G zoning).

With the current development consisting of Cedar Chiropractic, Safeway, Papa Murphy's and a gas station, long-term development potential within the site are is very limited. It is not anticipated that future redevelopment within the study area will result in a change in site accesses or roadway circulation.

The majority of the parcels within the study area are fully developed with single-family homes within the current residential zoning. Future redevelopment would likely require a zone change. A change in single-family development is not anticipated.

If you have any questions, please contact me at (360) 281-1296.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Christofferson', written in a cursive style.

Chris Christofferson, PE
Principal



Clackamas
Education
Service
District

*Dedicated to Excellence
through Leadership and Service*

P.O. Box 216
Marylhurst, OR 97036-0216
(503)675-4000
(503)675-4205 Fax

Milt Dennison
Superintendent

6-12-07

To Whom It May Concern:

I am writing a letter of support for Lynnette Denny, owner of Sweet Pea Preschool, as she pursues opening another quality preschool in the Milwaukie community.

As the Early Learning Coordinator for the Early Childhood Department of the Education Service District, I have known Ms. Denny for many years in a professional capacity. She has always proven to be trustworthy, dependable, hard working and passionate about offering quality experiences for young children and their families.

Lynnette's first year as the owner of Sweet Pea Preschool in Gladstone couldn't have been more successful. Not only has she added to the quality of life in the Gladstone community, she has willingly opened her preschool to children from Head Start and Early Childhood Special Education. Lynnette has successfully partnered with the ESD Head Start's program in serving at-risk families and their children in her preschool. In order for Head Start to contract with Lynnette's preschool, it had to be a preschool that met certain strict high-quality indicators. She has provided a safe, secure and experience-rich environment for the children. It's obvious that Lynnette values children of all abilities.

Head Start has huge waiting lists. In the North Clackamas school district alone, we have hundreds of 3 and 4 year olds that are eligible for Head Start but they won't receive services. Next year we have the opportunity to expand and serve more families. The Milwaukie area is the area with the largest wait list, but there are only a few community preschools that meet the Head Start standards. In fact, I have only 2 small preschools in Milwaukie that meet the standards of Head Start.

When Lynnette opens her doors to her new facility in Milwaukie, Head Start plans on enrolling students. I have great faith that Lynnette will develop a preschool that will meet Head Start standards. With the opening of her second site, it's possible up to 30 more families could receive Head Start services in the '07-'08 school year.

I wholeheartedly support Lynnette's efforts to offer Milwaukie an early childhood care and education facility. She is a gift to young children and their families. I have no doubt that before long community members will be talking

about "that great new preschool that just opened up in Milwaukie". The community needs this preschool option.

Thank you for making her dream a reality. There will be many families and children that will benefit.

Sincerely,

Maureen Rosamond

Maureen Rosamond
Early Learning Coordinator



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P.O. Box 216
Marylhurst, OR 97036-0216
(503)675-4000
(503)675-4205 Fax

Milt Dennison
Superintendent

To Whom It May Concern:

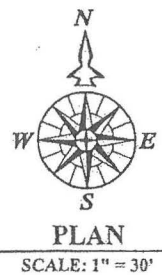
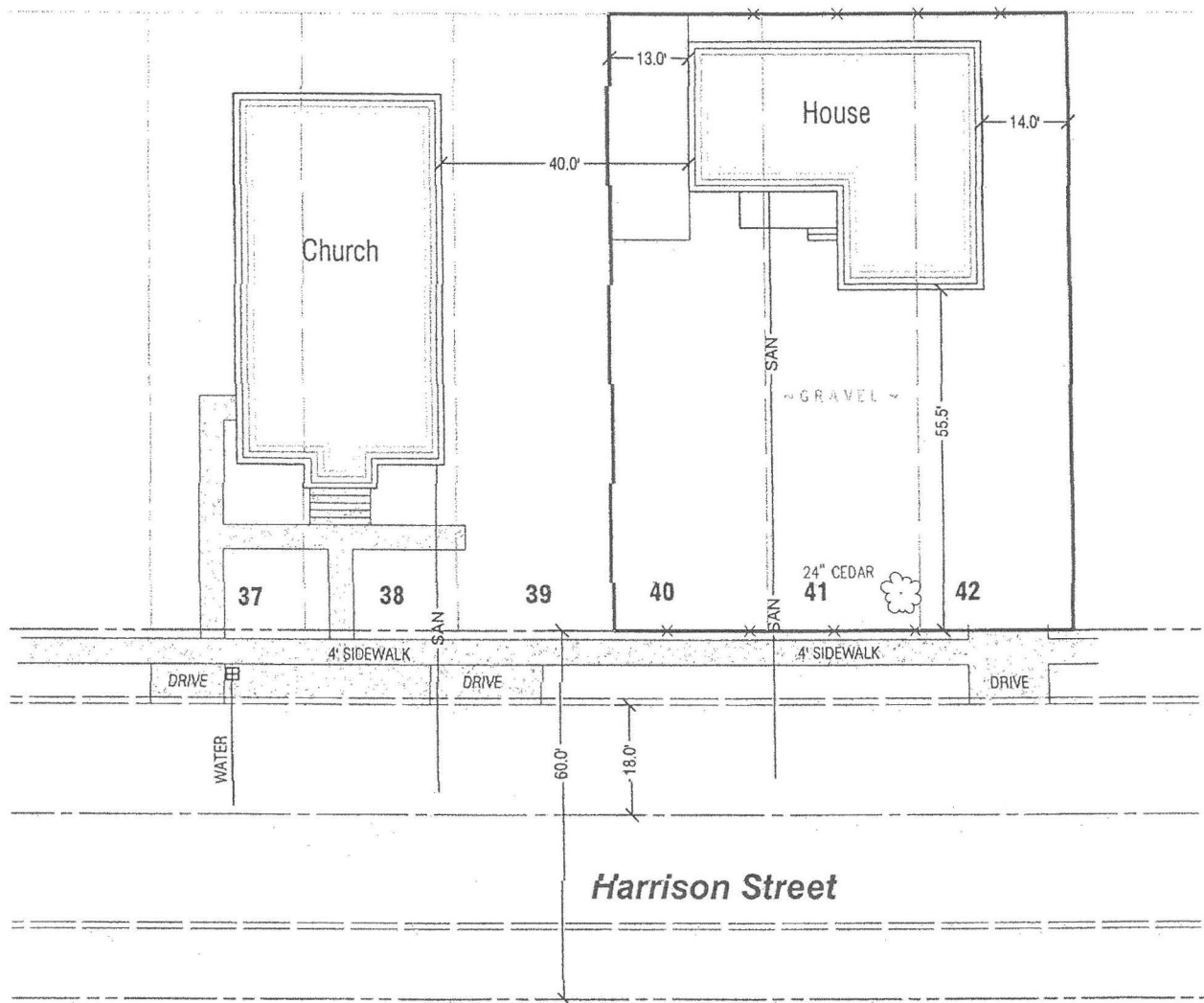
I have had the pleasure of working with Lynnette Denny at Sweet Pea Preschool for the past year. Before then, I had heard of her great work with children, both at Sweet Pea and at a previous location, for years from various colleagues whose opinions I valued. It is such a delight to find someone who is so skilled at supporting children's learning and open to working with a wide variety of developmental needs.

In my work with families whose children have special needs, I am always looking for community partners who show a true understanding and acceptance of how important it is for everyone to feel welcome and supported. I have found such a partner in Lynnette Denny. She has accepted and educated so many children with special needs over the years. It has been wonderful to watch one of my former students flourish under her guidance at Sweet Pea during the past school year.

It can be a challenge for families to find quality preschools in the area that are both qualified and willing to undertake the challenge of teaching children with special needs. There is a great need for more such options in this community, and I would be thrilled if Lynnette were able to expand her ability to fulfill even more of this need.

Sincerely,

Teri Hess
Early Childhood Special Educator
CESD Early Childhood Program
(503) 675-4218 (x4430)



Lynnette Denny
4105 SE Harrison St.
Portland, Oregon

Existing Conditions



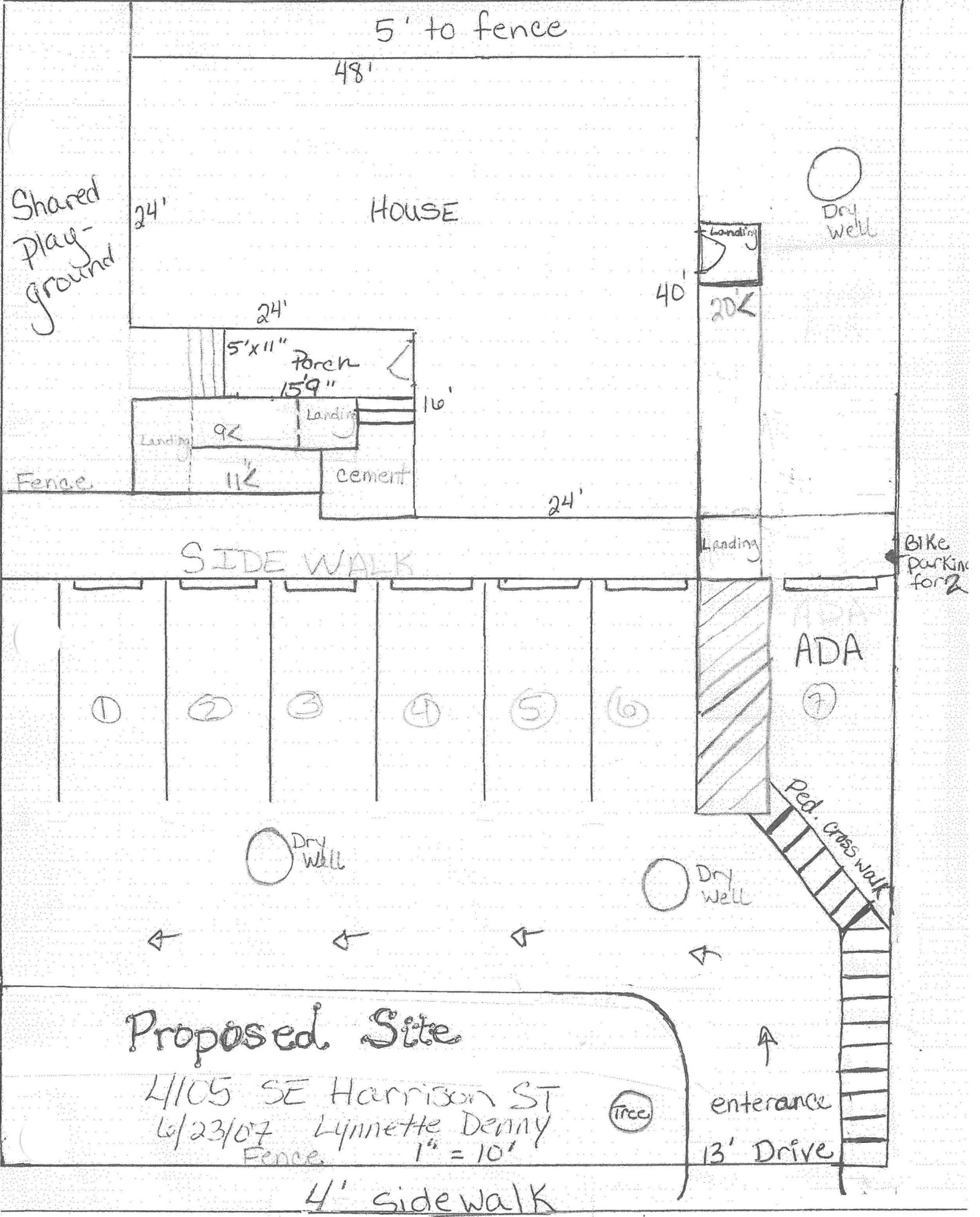
COMPASS ENGINEERING

ENGINEERING ★ SURVEYING ★ PLANNING
4105 SE INTERNATIONAL WAY, SUITE 501 (503) 653-9093 PHONE
MILWAUKIE, OREGON 97222 (503) 653-9095 FAX
compass@compass-engineering.com

Site Improvements
4105 SE Harrison Street
Portland, Oregon

1

2

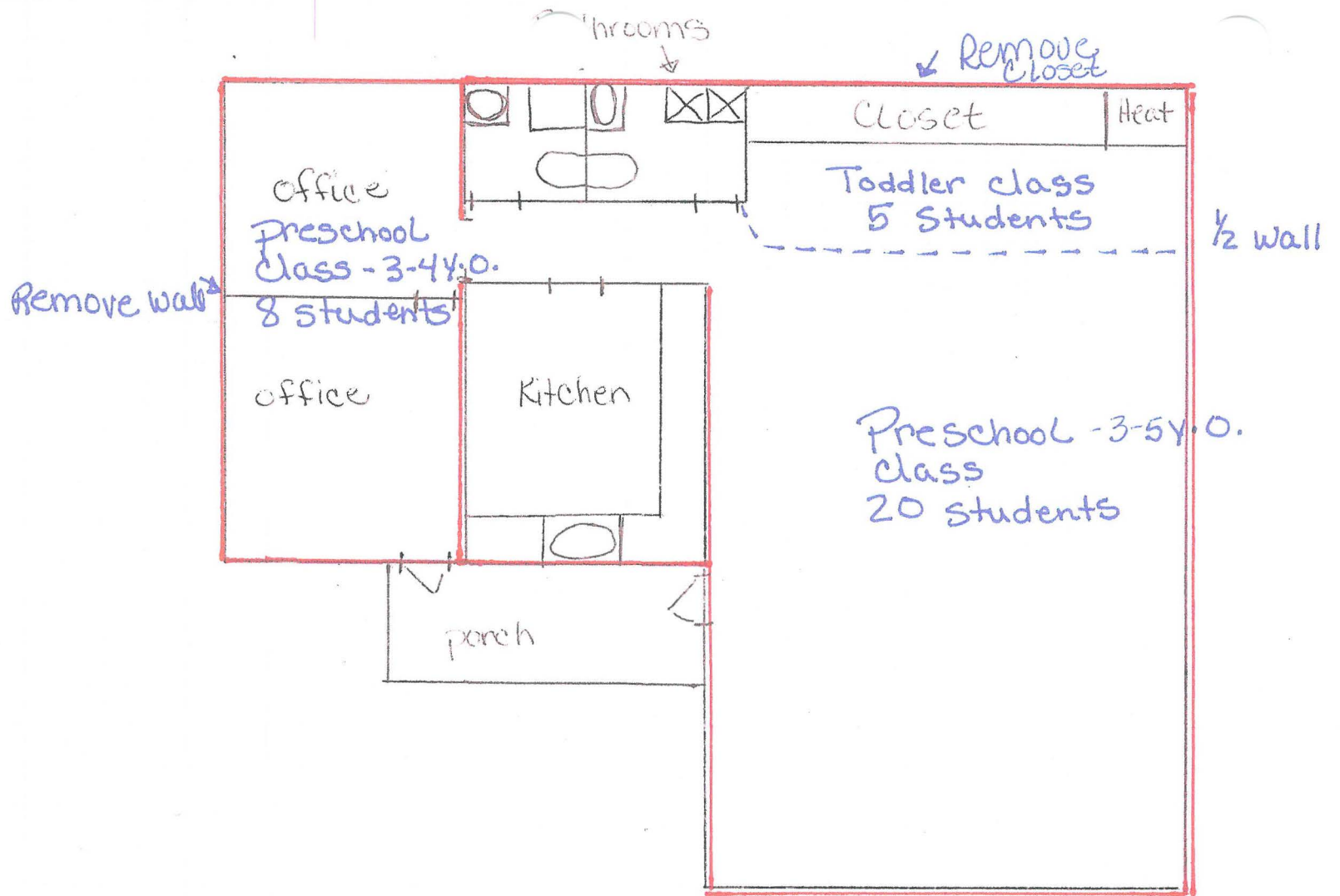


Proposed Site

4105 SE Harrison ST
6/23/07 Lynnette Denny
Fence. 1" = 10'

4' side walk

Entrance Curb to Driveway line 10' 8"



1' = 8"

— are bearing walls

Floor Plans
4105 SE Harrison ST.

PLAY
Ground

BUILDING

Porch

ADA RAMP

ADA RAMP

SIDE WALK

BIKE
Parking

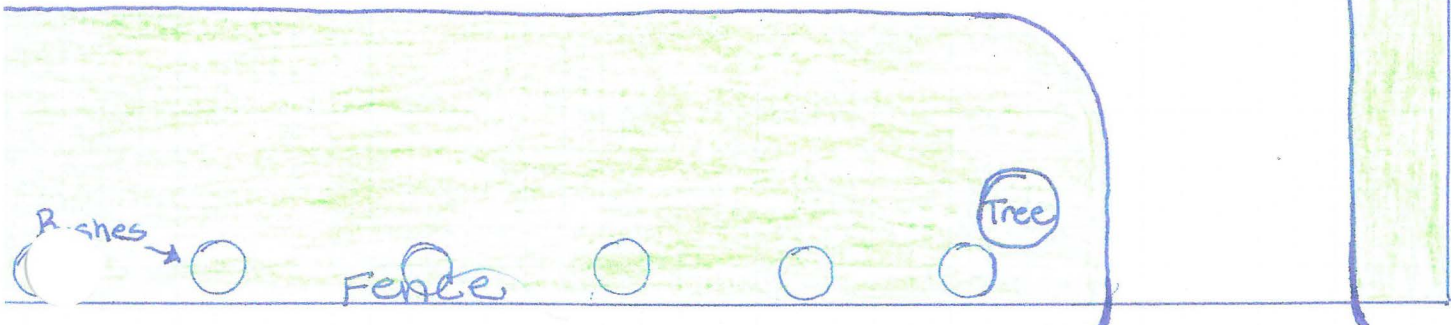
PARKING LOT
1" = 10'

Building	1536
Parking lot	2820
ADA ramps	292
sidewalk/Porch	541

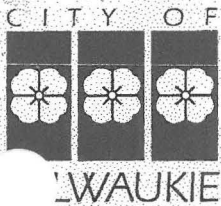
Total Cover Area = 5189

Lot 75 x 100 = 7500

Vegetation AREA 2311 sq'



Vegetation 31%



PLANNING DEPARTMENT
6101 SE JOHNSON CREEK BLVD.
MILWAUKIE, OREGON 97206

PHONE: (503) 786-7630
FAX: (503) 774-8236

Application for Land Use Action

COMMUNITY SERVICE USE

☐ Admin. I ☒ Minor QJ ☐ Leg.
☐ Admin. II ☐ Major QJ

Type of Community Service Use:

RESPONSIBLE PARTIES:

(Please print or type)

APPLICANT(S): LYNNE Denny

Phone: 503-789-9155

Address: 4109 SE Harrison St.

Zip:

PROPERTY OWNER(S): Judith A. Fowler

Phone: 503-936-9829

Address: 4927 S.E. 72nd Ave, Portland, OR

Zip: 97206

SITE INFORMATION:

Address: 4105 SE Harrison St

Map & Tax Lot(s): 1S1E36AA01500

Comprehensive Plan Designation:

Zoning:

Size of property:

PROPOSAL (describe briefly):

Establish daycare.

PLEASE NOTE: The Land Use Committee (LUC) of your Neighborhood District Association (NDA) will receive a review copy of this application. They may contact you and/or you may wish to contact them:

NDA: Hector Campbell

LUC Chair:

Phone:

ATTEST: I am the property owner or I have attached the owner's authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: Judith A. Fowler

Date: 5/16/07

THIS SECTION FOR OFFICE USE ONLY:

File #: CSU-07-01

Fee: \$ 1500

Rcd. by:

Date stamp:

Notes: TPR-07-06 - \$580

RECEIVED

JUN 13 2007

CITY OF MILWAUKIE
PLANNING DEPARTMENT

SEE REVERSE SIDE FOR APPLICATION CHECKLIST



4105 SE Harrison



© 2007 Europa Technologies
Image © 2007 Metro, Portland Oregon

© 2007 Google

Pointer 45°26'48.58" N 122°37'14.69" W elev 189 ft Streaming 100% Eye all 797 ft



Front
Facing **North**

Front
Facing **North**
2 exit doors



Front
Playground

School
front lot
looking
from Drive



Building
Side East



ap = Room
Main Door



Kitchen


hall

Bathroom



Large
room

Memo

To: Brett Kelter, Assistant Planner
From: Tom Larsen, Building Official 
Date: July 26, 2007
Re: CSU-07-01. Sweet Pea Daycare

This is a Change of Use from an R-3 to an E Occupancy. At the time of Building Permit application the applicant shall provide detailed plans showing how the requirements of the new occupancy will be met. Applicant should refer to the notes from the May 31, 2007 Pre-Application Conference for specific requirements.

MEMORANDUM

TO: Community Development Department
THROUGH: Gary Parkin, Director of Engineering
FROM: Zach Weigel, Civil Engineer
RE: Community Service Use – 4105 SE Harrison Street
CSU-07-01 and TPR-07-06
DATE: August 8, 2007

Convert an existing church use to a daycare facility within a residential zone.

1. MMC Chapter 19.1400 – Transportation Planning, Design Standards, and Procedures

The Planning Commission finds that the following complies with applicable criteria of MMC Chapter 19.1400.

- A. MMC Chapter 19.1400 applies to partitions, subdivisions, and new construction, except as limited by MMC subsection 19.1403.1.

MMC Chapter 19.1400 is not limited by MMC Chapter 19.1403.1 when a transportation impact study is required. A transportation impact study is required for the proposed development.

The Planning Commission finds that MMC Chapter 19.1400 applies to the proposed development.

- B. MMC Section 19.1404(D) authorizes the Engineering Director to approve exceptions to transportation facility design standards for improvements located in the right-of-way.

The Milwaukie Transportation System Plan classifies the portion of SE Harrison Street fronting the proposed development as an arterial road. The existing public improvements on SE Harrison Street consists of a 36-foot wide paved street, standard 6-inch curb, 6.5-foot wide planter strip, and 4-foot wide setback sidewalk. According to MMC Table 19.1409.3 and the Milwaukie Transportation Design Manual, the required public improvements for an arterial road consists of a 25-foot wide paved half-street, curb and gutter, 5-foot wide landscape strip, and 6-foot setback sidewalk. The applicant is responsible for construction of the required public improvements fronting the proposed development.

The applicant has requested an exception in accordance with MMC Section 19.1404(D)(2) for all required public improvements on SE Harrison Street fronting the proposed development. The Engineering Director recommends the approval of the applicant's request to pay a fee-in-lieu of construction of the required public improvements.

The Planning Commission approves the exception request upon finding the following:

- i. The applicant pays to the City a fee in lieu of construction costs for the public improvements. The Engineering Director shall determine the fee amount at the time of building permit application.
 - ii. Waiver of the construction of the required public improvements at the time of development will not cause safety hazards.
- C. MMC Section 19.1405.4 establishes specific notice requirements in addition to general notice provisions set forth in Chapter 19.1100.

The proposed development is within two hundred feet of a designated arterial, SE Harrison Street. Notice has been provided to Metro and Clackamas County.

The proposed development is within two hundred feet of an existing transit route, Bus Route #31 on SE Harrison Street. Notice has been provided to Tri-Met.

The Planning Commission finds that the specific notice requirements of MMC Section 19.1405.4 have been met for the proposed development.
- D. MMC Section 19.1405.5 establishes approval criteria for transportation review applications and ensure impacts are mitigated.

The Planning Commission finds that the proposed development, as conditioned, meets the approval criteria of MMC Section 19.1405.5 for decisions made under MMC Chapter 19.1400.
- E. MMC Section 19.1406 requires the applicant to provide an assessment and recommend mitigation of local street impacts when any non-residential development adds more than twenty-five through vehicles per day to an adjacent residential local street.

The proposed development did not add more than twenty-five through vehicles per day to an adjacent residential local street. As a result, a neighborhood through-trip study is not required for the proposed development.

The Planning Commission finds that the requirements of MMC Section 19.1406 do not apply to the proposed development.
- F. MMC Section 19.1407 requires streets, sidewalks, and transportation facilities to be safe, convenient, and adequate to accommodate the impacts of new development.

The Planning Commission approves an exception to waive compliance with public improvement requirements of MMC Table 19.1409.3 and the Milwaukie Transportation Design Manual.

The applicant pays to the City a fee-in-lieu of construction costs for the required public improvements fronting the proposed development on SE Harrison Street.

The Planning Commission finds that the proposed development, as conditioned, will not result in hazardous or unsafe transportation

conditions or unacceptable level of service impacts that cannot be mitigated.

- G. MMC Section 19.1408.1 and 19.1408.2 requires submission of a transportation impact analysis documenting the development impacts on the surrounding transportation system.

The proposed development scores over the 100 points necessary to require transportation impact analysis in accordance with the Milwaukie Transportation Design Manual. The applicant's traffic consultant, Main Street Engineering, submitted a transportation impact analysis with the land use application in accordance with MMC Section 19.1408. Staff has hired DKS Associates to conduct an independent review of the applicant's transportation impact study.

The Planning Commission finds that the applicant's transportation impact study adequately complies with MMC Section 19.1408.

- H. MMC Section 19.1408.3 and 19.1408.4 requires that transportation impacts of the development be mitigated and that the mitigation be roughly proportional to the impacts of the development.

The applicant's transportation impact analysis indicates that the proposed daycare use will result in an increase in traffic volume. However, the increase in traffic will have minimal impact on the surrounding transportation system.

The existing driveway access to the proposed development does not comply with City of Milwaukie access spacing standards of MMC Table 19.1413.1. The applicant's transportation impact analysis recommends that the property west of the proposed development share access with the proposed development. The existing driveway to the west shall be used as an exit only. The existing driveway to the east shall be used as an entrance only. A shared access easement and agreement shall be recorded between the adjacent property to the west and the proposed development for access and parking on both properties.

The City of Milwaukie's traffic consultant, DKS Associates, has reviewed the applicant's transportation impact analysis. DKS Associates agrees with the analysis and the recommended mitigation.

The proposed use will increase the amount of traffic using the existing driveway accesses. As a result, the recommended access improvements are roughly proportional to the impact of the development.

The Planning Commission finds that the impacts of the proposed development, as conditioned, are mitigated and the mitigation are roughly proportional to the impacts.

- I. MMC Section 19.1409 establishes standards for street design and improvement.

The existing right-of-way width of SE Harrison Street fronting the proposed development is 60 feet. The Milwaukie Transportation System Plan

classifies the fronting portion of SE Harrison Street as an arterial road. According to Code Table 19.1409.3, the required right-of-way width for an arterial road is 73 feet. The applicant is responsible for half the required dedication. Staff recommends the applicant dedicate 6.5 feet of right-of-way to the public on SE Harrison Street fronting the proposed development.

The Planning Commission approves an exception to waive compliance with public improvement requirements of MMC Table 19.1409.3 and the Milwaukie Transportation Design Manual.

The applicant pays to the City a fee-in-lieu of construction costs for the required public improvements fronting the proposed development on SE Harrison Street.

Staff recommends no signs, structures, or vegetation in excess of three feet in height be placed in "vision clearance areas" at intersections of streets, driveways, and alleys.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.1409.

J. MMC Section 19.1410 establishes standards for pedestrian facilities.

The Planning Commission approves an exception to waive compliance with public improvement requirements of MMC Table 19.1409.3 and the Milwaukie Transportation Design Manual.

The applicant pays to the City a fee-in-lieu of construction costs for the required public improvements fronting the proposed development on SE Harrison Street.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.1410.

K. MMC Section 19.1411 establishes standards for bicycle facilities.

The portion of SE Harrison Street fronting the proposed development is classified as a bike route in the Milwaukie Transportation System Plan.

The Planning Commission approves an exception to waive compliance with public improvement requirements of MMC Table 19.1409.3 and the Milwaukie Transportation Design Manual.

The applicant pays to the City a fee-in-lieu of construction costs for the required public improvements fronting the proposed development on SE Harrison Street.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.1411.

L. MMC Section 19.1412 establishes standards for transit facilities.

The portion of SE Harrison Street fronting the proposed development is classified as a transit route in the Milwaukie Transportation System Plan. Staff has referred the application to Tri-Met for comment. However, Staff

has not received correspondence from Tri-Met regarding the proposed development.

The Planning Commission finds that the proposed development is consistent with MMC Section 19.1412.

M. MMC Section 19.1413 establishes standards for access management.

The applicant's traffic consultant, Main Street Engineering, submitted an access study in accordance with MMC Section 19.1413.1(C) for site access onto SE Harrison Street. The access study is included as part of the applicant's transportation impact study submitted with the land use application.

The existing driveway access to the proposed development does not comply with City of Milwaukie access spacing standards of MMC Table 19.1413.1. The proposed use will increase the amount of traffic using the existing driveway accesses.

The applicant's access study recommends as mitigation to the increase in traffic, shared access between the property to the west and the proposed development. The existing driveway to the west shall be used as an exit only. The existing driveway to the east shall be used as an entrance only. A shared access agreement shall be recorded between the adjacent property and the proposed development for access and parking on both properties.

The City of Milwaukie's traffic consultant, DKS Associates, has reviewed the applicant's access study. DKS Associates agrees with the analysis and the recommended mitigation.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC Section 19.1413.

Recommended Conditions of Approval

1. Prior to issuance of any building permit, the following shall be resolved:
 - A. Submit a storm water management plan to the City of Milwaukie Engineering Department for review and approval. In the event the on-site storm management system contains an underground injection control device, submit proof of acceptance of the storm system design from the Department of Environmental Quality.
 - B. Pay to the City of Milwaukie a fee-in-lieu of construction costs for the required public improvements on SE Harrison Street fronting the proposed development. The Engineering Director will calculate the fee at submission of building permits.
 - C. Dedicate 6.5 feet of right-of-way to the public on SE Harrison Street fronting the proposed development.

- D. Provide a shared access and parking easement and agreement with the adjacent property west of the proposed development.
 - E. Submit a site plan including the location and type of signage for entrance only and exit-only driveway accesses fronting the proposed development and the adjacent property to the west.
2. Prior to final inspection of any building permit, the following shall be resolved:
- A. Separate utility service for wastewater, water, and storm from the adjacent property west of the proposed development.
 - B. Construct a private storm management system on the proposed development property for runoff created by the property. Connect all rain drains to the private storm management system.
 - C. Install signage to indicate entrance only at existing driveway approach fronting the proposed development property.
 - D. Install signage to indicate exit only at the existing driveway approach fronting the adjacent property west of the proposed development.
 - E. Remove all signs, structures, or vegetation in excess of three feet in height located in "vision clearance areas" at intersections of streets, driveways, and alleys fronting the proposed development.