

10175 SW 149th Terrace
Beaverton, OR 97007

August 25, 2023

SENT VIA U.S. MAIL AND ELECTRONIC DELIVERY

Mr. Bill Kirby
City Attorney
City of Beaverton
12725 SW Millikan Way
Beaverton, OR 97005-1678

RE: Voluntary Compliance Agreement
City of Beaverton and Ashcreek Parent Cooperative Playschool

Dear Mr. Kirby:

My wife and I are 24-year residents of 10175 SW 149th Terrace in Beaverton. The livability of our home, as well as the salability and value, are significantly impacted due to noise created as a result of a Voluntary Compliance Agreement (“Agreement”). The Agreement was entered into on October 19, 2022, between the City of Beaverton (“City”) through Drew Vanderveen, a code enforcement officer, and Murray Hills Christian Church (“MHCC”), the property owner.

MHCC’s property is located at 15050 SW Weir Road in Beaverton, and it has a conditional use permit (CUP 1994-0011) to operate a pre-school subject to the conditions of approval. Condition No. 3 in CUP 1994-0011 states “This permit will allow no more than **20 pre-school students**, 2 employees, and no greater than 700 square feet of building area to be used for the school **within the existing church building.**”

MHCC is leasing space in its building to Ashcreek Parent Cooperative Playschool (“Ashcreek”) who has exceeded the conditions of approval stated in CUP 1994-0011. Ashcreek is creating the noise impacting the livability of our home through its ongoing operations as a commercial school under the terms of the Agreement and use of an unauthorized outdoor playground that is not approved in CUP 1994-0011 or the Agreement. The noise created as a result of this Agreement and ongoing use of an unauthorized outdoor playground violates the livability sections of the City of Beaverton Comprehensive Plan, Beaverton City Code (“BCC”), and Beaverton Development Code (“BDC”).

Mr. Bill Kirby
August 25, 2023
Page 2

It is my understanding that BCC 2.10.020(B) provides legal authority for the Agreement. The Agreement authorizes Ashcreek to operate with a maximum of 35 students, 5 teachers, and the utilization of 1600 square feet of building space for an undetermined period of time, which modifies the conditions of approval for CUP 1994-0011. Ashcreek added a kindergarten program and increased its 2023 fall enrollment as a result of the increased limits authorized in the Agreement. BCC 2.10.020(B) does not contain any language authorizing City staff to modify conditions of approval for a CUP, even for a temporary period of time, through a Voluntary Compliance Agreement. Drew Vanderveen exceeded legal authority provided by BCC 2.10.020(B) under this Agreement in violation of BDC 50.95.7.

BDC 50.95.7 states “In all cases, regardless of the thresholds listed in CHAPTER 40 when a proposed modification involves a condition of approval, that condition of approval can be modified or removed only by the same decision making authority that issued the original decision and through the same procedure that was followed to establish the condition to be modified.”

The MHCC/Ashcreek Voluntary Compliance Agreement is invalid and must be rescinded by the City. The Voluntary Compliance Agreement clearly violates the two express requirements in BDC 50.95.7. First, only the Planning Commission – NOT the Code Compliance staff – has the legal authority to change a condition of approval in CUP 1994-0011. Second, any such modification must be processed as a Major Modification of a Conditional Use using a Type 3 procedure as required in BDC 40.15.15.4 and BDC 50.95.7.

Land use decisions are often lengthy procedures that can take years to complete in some cases before all reviews and appeals are finished. The Agreement allows Ashcreek to operate in violation of CUP 1994-0011 for the duration of the Agreement and any reviews of an application to modify CUP 1994-0011. This means the significant impact on the livability, as well as the salability and value, of our home will continue for an undetermined period of time in violation of the livability sections of the Beaverton Comprehensive Plan, BCC, and BDC.

We hereby demand that the City of Beaverton terminate the Voluntary Compliance Agreement immediately and require both MHCC and Ashcreek to immediately comply with the controlling terms of CUP 1994-0011. MHCC is in violation of CUP 1994-0011 for leasing indoor and outdoor space to Ashcreek contrary to its express restrictions, and also for constructing the large outdoor playground without a CUP. Ashcreek is in violation, first by operating the pre-school outside of the church building, and second, by adding a kindergarten program, expanding enrollment, staff, and building space utilized beyond the limits authorized in CUP 1994-0011.

Mr. Bill Kirby
August 25, 2023
Page 3

Please feel free to contact me if anyone has questions about my complaint. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "David C. Golder", with a long horizontal flourish extending to the right.

David C. Golder
10175 SW 149th Terrace, Beaverton, OR 97007
davidcgolder@gmail.com
(503) 701-6465

cc: Ms. Jenny Haruyama
Ms. Anna Slatinsky
Mr. Steve Regner
Mr. Drew Vanderveen

10175 SW 149th Terrace
Beaverton, OR 97007

August 29, 2023

SENT VIA U.S. MAIL AND ELECTRONIC DELIVERY

Mr. Steve Regner
Senior Planner
City of Beaverton
12725 SW Millikan Way
Beaverton, OR 97005-1678

RE: COMPLETENESS DEFICIENCIES WITH ASHCREEK APPLICATION

Dear Mr. Regner:

We are writing in regard to your Completeness Review of the Type 3 Major Modification of a Conditional Use Application ("Application") submitted by Ashcreek Playschool on August 11, 2023. The site location is Murray Hills Christian Church ("MHCC"), which is located at 15050 SW Weir Road in Beaverton. MHCC's property is located in a Residential Mixed B ("RMB") zone that borders residences located in the dense Featherwood, Hedlund Acres and Lewiswood neighborhoods.

As you may know, Ashcreek Playschool's presence at MHCC is very controversial among residents whose properties are located adjacent to or in the vicinity of MHCC's property. Enclosed is a map showing 24 of the 28 boarding property owners who have signed a petition objecting to the Application and expansion of Ashcreek Playschool. The signed petitions will be sent to the City of Beaverton ("City") at the appropriate time.

The undersigned have reviewed the Application and submit below multiple deficiencies in the Application for your consideration. As a result of the deficiencies, we request the City deem the Application incomplete and outright reject it due to Ashcreek's lack of legal standing as a 501(c)(3) organization on the date when Application was submitted.

DEFICIENCIES

1. According to IRS regulations, any 501(c)(3) organization that fails to file Form 990 annually for three consecutive years automatically loses its tax-exempt status. IRS online

Mr. Steve Regner
August 29, 2023
Page 2

records list the last Form 990 filed by Ashcreek Playschool Parent Cooperative Playschool (“Ashcreek Playschool”) as 2019. It appears based on online IRS records and telephone conversations Ronald Sattler held with IRS representatives that Ashcreek Playschool’s 501(c)(3) status has expired. Furthermore, it is the applicant who shall bear the burden of proof and persuasion of any application according to BDC 10.60. The Application does not contain any documentation Ashcreek Playschool is a non-profit business that qualifies as a 501(c)(3) organization.

It appears Ashcreek Playschool is currently operating a business that is a commercial school in a RMB zone. Ashcreek admits it is operating a business in the first sentence of its Written Statement that accompanied the Application. Ashcreek Playschool’s status as a commercial school is further evidenced by the fact their 501(c)(3) status expired according to the IRS, it provides services for a fee to the general public in competition with other commercial business (examples are Kindercare and Petite Academy), has paid employees who provide the services, markets its services commercially, and its day-to-day operations are similar to other commercial schools.

A commercial school is a prohibited use in a RMB zone according to BDC 20.05.20.9.B. Accordingly, the Application must be rejected since CUP 94011/819 cannot be modified to permit commercial schools – such as Ashcreek Playschool – to operate in an RMB zone in violation of BDC 20.05.20.9.B.

2. As previously mentioned, the property where Ashcreek Playschool is located is owned by MHCC. Neither the Application, nor any attachment, authorizes Ashcreek Playschool to file the Application as the “authorized agent” of MHCC. This requirement is noted on page one of sixteen of the Application. Has the City received written confirmation from MHCC that Ashcreek Playschool is its authorized agent?

3. The Application seeks approval to expand Ashcreek Preschool operations both inside the church building, as well as outside on the playground. The Application is premature and insufficient because the playground itself exists unlawfully for multiple reasons. Ashcreek’s Application attempts to circumvent this deficiency and secure approval to use a playground which exists in violation of the Beaverton Building and Development Codes.

At no time since MHCC received permission to construct a building in 1988 has a playground been approved or permitted in any CUP issued to MHCC. For example, CUP 94011/819 does not contain any mention of a playground nor its approval. The CUP states in paragraph one:

“This matter came before the Planning Commission on August 3, 1994, on a request for approval to allow an existing church building to be used as the location for a pre-school.” The CUP further states in condition approval three: “This permit will allow no more than 20 pre-school students, 2 employees, and no greater than 700 square feet of building area to be used for the school within the existing church building.” There is no mention of a playground in the CUP nor in any of the conditions of approval.

The playground on MHCC property that Ashcreek is leasing also did not exist in 2000 when MHCC sought approval for its building expansion. What existed then was a small “play area”. This is shown in the City’s file for MHCC’s 2000 CUP modification No. 2000-0031 containing Yost Grube Hall Architects’ drawings outlining a small “play area”. See attached diagram prepared by MHCC’s architects showing the proposed addition and topography. According to current neighbors, perhaps a two-seat swing, a small play structure, and a picnic table were located in the play area.

In the years following 2001, MHCC enlarged the playground area approximately five-fold to approximately 100 ft. in length by 75 ft in width. MHCC installed a massive play structure with concrete footings, multiple swings, a 25 ft. cement retaining wall, six picnic tables, a pole canopy, a storage shed, and many other significant pieces of play equipment.

The enlarged playground was constructed without City approval in violation of the restrictions of the 2001 CUP. Approval condition number three in the 2001 CUP, in pertinent part states:

“Separate Conditional Use approval **shall be required** for any future expansion to student enrollment associated with the existing Montessori School or the introduction of any other school program which utilizes church facilities.”
(Emphasis added)

The playground exists unlawfully under the Beaverton Code and Beaverton Development Code evidenced by:

- a) It is undisputed MHCC did not apply for “separate conditional use approval before or after constructing the current playground post 2001. See also the requirements set out in BDC 40.15.05.
- b) MHCC has not obtained building permits to construct and operate a playground leased to an outside business such as Ashcreek Playschool as required in BC 8.02.035.

- c) The playground constitutes a public playground under BDC 5.05.015 which defines a "Public Place" as: "A building way, place or accommodation, whether or not privately or publicly owned, open and available to the general public."
- d) MHCC's stated policy and practice up to and including the present date is to invite the general public to use and enjoy the playground. See attached photos of MHCC's signs inviting and holding open the "Murray Hills Christian Church Playground".
- e) Under BDC 20.05.20(A)(12) a public playground is a conditional use in RMB zones.
- f) MHCC does not have a CUP authorizing that a public playground may be established and maintained on their property.

Currently there is a regular flow of parents and children who come to the playground and use the equipment from the time Ashcreek closes at 1:00 p.m., until dusk, and oftentimes later. Significant noise from the playground activity is projected into and significantly impacting the livability of the surrounding homes and yards.

Until such time as MHCC applies and receives conditional use approval to establish and maintain a public playground, the Application is premature and must be deemed incomplete.

4. Ashcreek and MHCC's Application is limited to the operation of a "preschool". However, on Ashcreek's website and a large banner displayed on MHCC's north exterior building wall they are advertising enrollment of "kindergarten" students. This expands the overall enrolment of Ashcreek Playschool and kindergarten is not an approved conditional use for MHCC's property as the controlling 1994 and 2001 CUPs are limited to "preschool" children.

Ashcreek's Application cannot be deemed complete until MHCC and Ashcreek Playschool Application includes enrollment of children beyond those deemed pre-school children.

5. Ashcreek Playschool has retained David Evans and Associates, Inc. to conduct and report on its trip generation analysis "for a preschool" as described in the Technical Memorandum submitted with its Application.

The Applicant's principal officer is Jenna Hori, who is employed by David Evans and Associates, Inc. This creates a conflict of interest which disqualifies David Evans and Associates, Inc. to participate in the trip generation analysis required before the Application can be deemed complete.

Even if there were no conflict of interest, the trip generation analysis is insufficient and incomplete on its face. The March 2023 traffic study report determined the expansion will not cause more than 300 vehicle trips per day; however, this report accounts only for Ashcreek Playschool student transportation, and does not account for the other groups using the property such as: Girl Scouts, Cub Scouts, Boy Scouts, Alcohol Anonymous, food pantry, and Hispanic church. Nor does it account for up to 10 staff/volunteers in the proposed expansion or the impact of traffic during both pick up and drop off times for Ashcreek Playschool. Furthermore, the study also does not account for the traffic generated on 149th Terrace as MHCC property contains pedestrian access that can be used by parking on 149th Terrace.

Until all trips generated to and from MHCC property are completely accounted for, the Technical Memorandum must be deemed insufficient, and the Application must be deemed incomplete.

6. The City's pre-application letter dated December 1, 2022, contained a number of requested items the applicant must submit for the Application to be deemed complete. Page six item number one titled Land Use Applications in particular listed detailed information requested about activities of Ashcreek, MHCC, and any third parties using MHCC property.

The Application does not contain information about Ashcreek Playschool's programming (including what parts of the building and property may be used), outdoor activities, before or after school activities, start and end times, or drop off and pick up procedures. It also does not include a complete schedule of other events that occur at MHCC including days of the week, times, and number of attendees. This missing information includes not just events held by the various congregations that utilize MHCC but also any events held by third parties using MHCC property.

The Application must be deemed incomplete until all requested information by the City is submitted.

7. Under BDC 50.30 et. seq a legal predicate for filing a Type 3 modification application is for the applicant to hold a Neighborhood Meeting and to comply with all legal requirements in doing so. For multiple reasons Ashcreek Playschool failed to conduct a Neighborhood Meeting

Mr. Steve Regner
August 29, 2023
Page 6

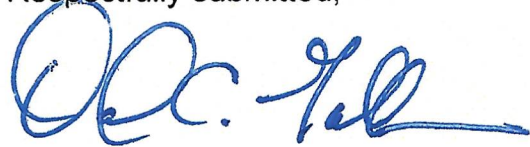
which complied with all requirements mandated by BDC 50.30 et. seq. These reasons are set forth in the letter dated May 2, 2023, from multiple neighboring residents to Anna Slatinsky,

Planning Division Manager. An unsigned copy of that letter is attached for your review. Ms. Slatinsky never responded to this letter, nor did any other City staff. Accordingly, the deficiencies and objections stated in that letter remain outstanding and unresolved by the City.

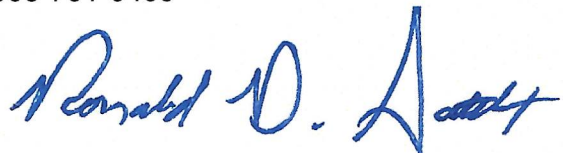
Based on the foregoing, we submit that the Ashcreek Application must be deemed incomplete and rejected for purposes of a Type 3 Major Modification.

Please feel free to contact any of the three undersigned if anyone has questions about the information contained in this letter. Thank you for your consideration in this matter.

Respectfully submitted,



David C. Golder
10175 SW 149th Terrace
davidcgolder@gmail.com
503-701-6465



Ronald D. Sattler
10170 SW 149th Terrace
ron.sattler@gmail.com
971-226-2071



Douglas Gordon
10050 SW 151th Place
douglasgordon@comcast.net
503-750-8787

cc: Ms. Anna Slatinsky
cc: Ms. Jana Fox

PETITION

OF THE RESIDENTS OF
HEDLUND ACRES, FEATHERWOOD AND LEWISWOOD
NEIGHBORS SOUTHWEST NAC

TO

CITY OF BEAVERTON PLANNING DEPARTMENT
IN DIRECT OPPOSITION TO THE PROPOSED APPLICATION OF
MURRAY HILLS CHRISTIAN CHURCH TO EXPAND THE EXISTING
LIMITATIONS OF THE CHURCH'S CONDITIONAL USE PERMITS

STATUS AS OF AUGUST 7, 2023

The City of Beaverton granted a Condition Use Permit No. 1994-0011 for Murray Hill Christian Church (MHCC), which was modified in 2001 by Conditional Use Permit No. 2000-0031:

1. The 1994 CUP allowed a Montessori school to operate **INSIDE** the church building limited to a maximum of 20 students, 2 staff members, utilizing 700 sq. ft. of interior building space. MHCC was found by the city to have violated the 1994 CUP by allowing Ashcreek Playschool to operate with 35 students, 5 staff members, using 1600 sq. ft. of interior space.
2. MHCC also violated the restrictions in 1994 and 2001 CUP's and Beaverton Code by:
 - Building a very large playground and installing large playground equipment;
 - Without city approval, allowing Ashcreek Playschool to operate **OUTSIDE** the church building by using the large playground;
 - Inviting the public to use the playground and its equipment so as to establish a **PUBLIC PLAYGROUND** in a residential zone without first obtaining a separate CUP as required by the Beaverton Code.

APPLICATION TO EXPAND SIZE OF PLAYSCHOOL

MHCC now seeks to modify Conditional Use Permit No. 1994-0011 to allow a playschool to operate **INSIDE** the church building and **OUTSIDE** on the large playground with a maximum of **60 (sixty) students, 10 (ten) staff members, unlimited number of parents, utilizing up to 2515 (two thousand five hundred fifteen) square feet of building space and unlimited time using the playground.**

OBJECTIONS

WE OPPOSE THE APPLICATION OF MHCC EXPAND THE PLAYSCHOOL ON THE FOLLOWING GROUNDS:

- The present church playground should first meet City code requirements and approval if it is to be continued;
- Playground noise can become loud and is audible on my property; if it becomes too loud it can be disturbing;
- In 1994 the City only approved the Montessori School to operate inside the church building, and the current playschool company should be required to operate inside the church building;
- The church allows the public to use the playground up to 10:00 p.m. daily. To secure and control access to the playground and its proper use it should be fenced, and locked by 6:00 p.m. daily;
- If the playground is allowed to be open to the public, it should first be required to have City approval as a public playground;
- Our neighborhood is zoned residential and is not zoned to allow the Church to conduct business and commercial operations on its property.

Name

Address

Name

Address

Aerial Map

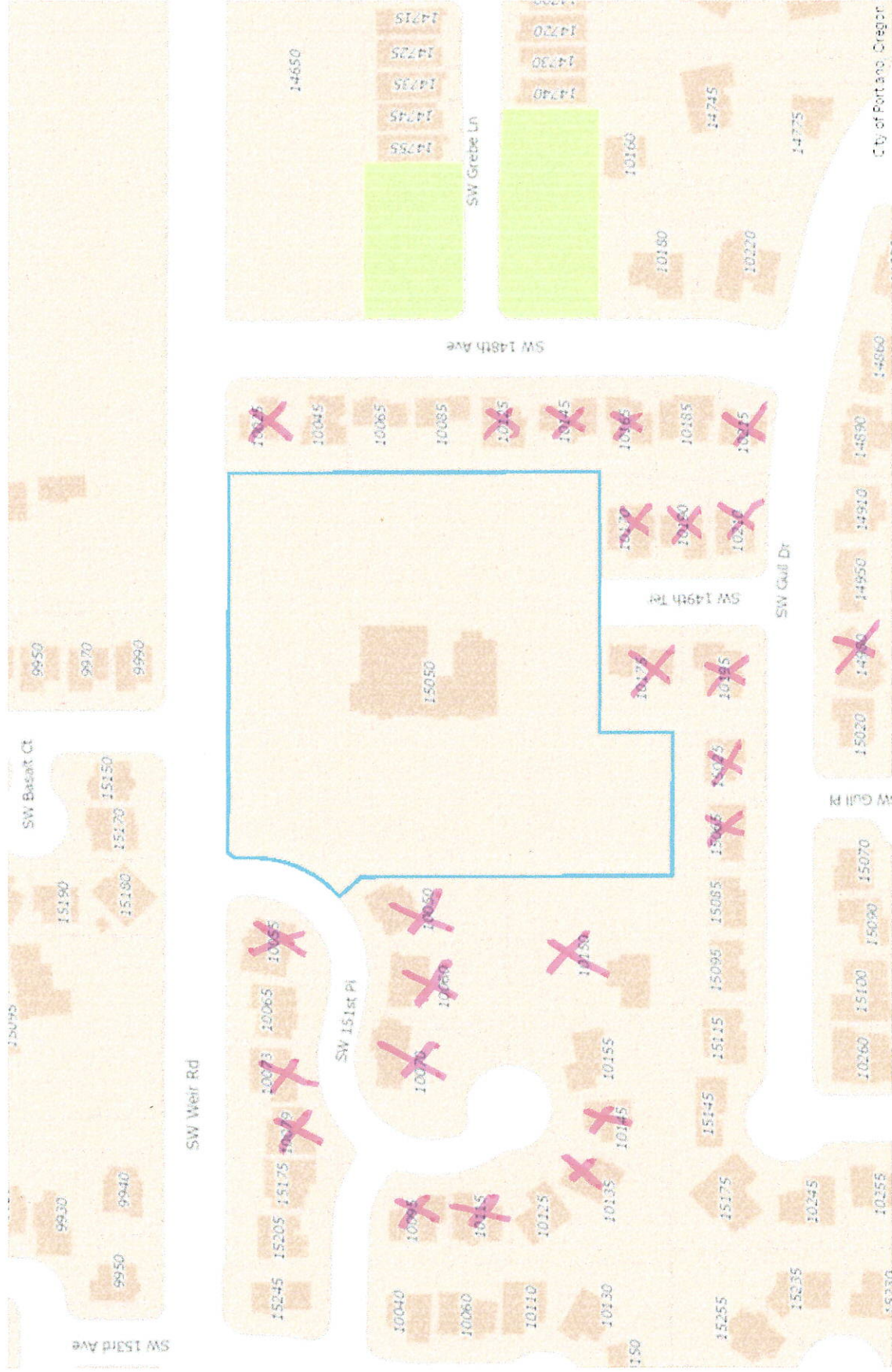


Parcel ID: R260194

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.



First American Title™





Exempt Organizations Annual Reporting Requirements - Filing Procedures: Late Filing of Annual Returns

What happens if my Form 990 is filed late?

If an organization whose gross receipts are less than \$1,000,000 for its tax year files its Form 990 after the [due date](#) (including any extensions), and the organization doesn't provide [reasonable cause](#) for filing late, the Internal Revenue Service will impose a penalty of \$20 per day for each day the return is late. The maximum penalty is \$10,000, or 5 percent of the organization's gross receipts, whichever is less. The penalty increases to \$100 per day, up to a maximum of \$50,000, for an organization whose gross receipts exceed \$1,000,000.

An organization that fails to file the required information return (Form 990, Form 990-EZ, or Form 990-PF) or e-Postcard (Form 990-N) for three consecutive tax years will [automatically lose](#) its tax-exempt status.

CITY OF BEAVERTON BUSINESS LICENSE APPLICATION

12725 SW Millikan Way, Beaverton, OR 97005

P.O. Box 4755, Beaverton, OR 97076

Phone: (503) 526-2268 FAX: 526-2490

Renew online: BeavertonOregon.gov/552/Business-Licenses



HOME OCCUPATION *(Mandatory)*

Will you be conducting your business from a home in Beaverton? Yes No

1- BUSINESS INFORMATION *(Mandatory)*

Business Name

In Care of Name

Registered Business Mailing Address

City State Zip Code

Phone Number Website Address

Business Email Address

2- DOING BUSINESS AS (DBA) *(Mandatory)*

DBA Name

Physical Location Address Telephone Number Square Footage (see att.)

Additional Physical Location Address Telephone Number Square Footage (see att.)

Additional Physical Location Address Telephone Number Square Footage (see att.)

3- OWNER INFORMATION *(Mandatory)*

Owner (if owned by a corporation, provide a corporate name)

Owner Telephone Check to keep this unpublished

Owner Email Address

Second Owner Telephone Check to keep this unpublished

Second Owner Email Address

Additional Contact Phone Number

Additional Contact Phone Number

4- DESCRIPTION OF BUSINESS ACTIVITY (Mandatory)

5- BUSINESS TYPE (Mandatory)

- | | |
|---|--|
| Automotive Sales, Services and Parts | Insurance Services |
| Childcare Services | Legal, Management, and Accounting Services |
| Civic, Religious and Business Organizations | Management and Business Services |
| Commercial and Consumer Rentals | Manufacturing |
| Construction and Specialty Trade Contractors | Media, Video, and Sound Recording and Distribution |
| Data Processing, Hosting and Related Services | Personal Care and Personal Services |
| Design, Advertising and Public Relations Services | Personal Transportation Services |
| Drinking and Dining | Real Estate (Excluding Construction) |
| Dry-Cleaning and Laundry Services | Retail Goods and Sales |
| Education | Repair and Maintenance (Excluding Automotive) |
| Engineering, Scientific and Technical Consulting | Software and Software as a Service |
| Entertainment and Amusement Facilities and Services | Telecommunications |
| Financial Services | Transportation, Warehousing and Delivery |
| Gyms, Recreational Sports Facilities, and Personal Fitness Services | Utilities (Water, Sewer, Gas) |
| Healthcare | Waste Remediation Services |
| Home, Ambulatory, Nursing and Residential Care | Wholesale and Distribution |
| Hotels, Motels and Other Lodging Accommodations | Other _____ |

6- FEE COMPUTATION (Mandatory) (Make checks payable to The City of Beaverton)

Business (Other than apartment, hotels & motels)

Average number of employees working in Beaverton (including owner).....

Minimum fee for businesses with four (4) employees or less \$100..... (a)

Number of employees over four (4) x \$12 = (b)

Delinquency Charge (see attached)..... (c)

Total Due..... (a+b+c)

Apartments, Hotels & Motels

Number of dwelling units (do not include owner occupied unit).....

Minimum fee if total is less than 40 \$100.....(a)

Number of units over 40 x \$1.80 =(b)

Delinquency Charge (see attached).....(c)

Total Due..... (a+b+c)

7- SEASONAL LICENSES

Seasonal licensing is calculated on a four month period. Examples include: January 1 - April 30; May 1 - August 31; September 1 - December 31; Christmas/Holiday season - November 1 - February 29. **The total due for each four month period is \$34.00.**

Please note that a Temporary Use Permit may be required through the Planning Department if you are engaging in a temporary use such as Christmas tree sales, fireworks sales or a produce stand. Please contact the planning desk at 503-526-2420 for more information.

8- NONPROFIT ORGANIZATIONS

PLEASE NOTE: Nonprofit organizations do not pay business license fees in the City of Beaverton, but they are still required to apply for a business license. Please complete the Business License application and submit it along with proof of your 501.C3 status to the Finance Department at the City of Beaverton.

Please enter the number of employees of your nonprofit organization: _____

9- DEMOGRAPHICS INFORMATION

This data will help us identify how well the city is engaging and serving different members of our community and if a business may be eligible for state Minority, Women and Emerging Small Business (MWESB) certification. Certification can promote economic opportunities for small businesses and open the door to targeted government contracting opportunities.

Age of primary business owner(s):	15-24	25-34	35-44	45-54	55-64	65+
Is this business 51% or more woman-owned?	Yes	No				
Is this business 51% or more veteran-owned?	Yes	No				
Race/ethnicity of majority ownership: <i>(Check all that apply)</i>	African American	Native American	Asian American	Latino/a/x		
	Pacific Islander/Native Hawaiian	Middle Eastern/ North African	Slavic	White		
	Other: _____					

10- PREFERRED LANGUAGE

This information will be used only for communications from the City of Beaverton. All attempts will be made to send pertinent information in the respondents preferred language. Leaving this section unfilled will default to receiving English language messaging.

English	Spanish	Chinese: Mandarin	Vietnamese
Arabic	Korean	Chinese: Cantonese	Japanese
Russian	Swahili	Other:	

SIGNATURE OF APPLICANT *(Required)*

This warrants that all representations made on this application are true to the best of his/her/their knowledge.

x _____

Signature Date

BUSINESS LICENSE INFORMATION

MEASURING OR RECORDING THE SQUARE FOOTAGE OF A BUSINESS

You should record all the floor area used by the business for each location in Beaverton. If there are multiple floors in a single building, please add them together. Home occupations are not required to provide information as to the square footage of the business.

GENERAL INFORMATION

Business License Application - This application is for the purpose of assessing and collecting the City of Beaverton license fee. The business license fee imposed is for revenue purpose only. The fee shall be in addition to and not in lieu of any other license or permit fee, charge or tax required under any other City of Beaverton code section or ordinance of the city. All businesses operating within the Beaverton city limits must comply with the city's building zoning and fire and police safety requirements. The business license required shall not be construed to constitute a permit to engage in any activity prohibited by law nor a waiver of any other regulatory or license requirements imposed by any other provision of the city ordinance or federal, state, or regional or local law.

Door to Door Solicitation - A person who offers goods or services for sale or who solicits money or anything having money value from another person on premises occupied as a residence shall carry a legible copy of a current, valid city business license and produce same for inspection on demand by any person whom the offer or solicitation is made.

Delinquency Charge - A business license fee due from any person and not paid in full when due is delinquent, and the city may avail itself of any and all remedies available to it to collect the fee from that person, including but not limited to citation of the person for a violation of the Beaverton code. A delinquent charge of 10% of the business license fee that is due from a person and is delinquent shall be added to the fee that is otherwise due for each successive 30 day period or portion thereof for which any or portion of the amount due including delinquent charges already imposed, remains unpaid up to a maximum penalty of 100% of the license fee.

Penalties- Violation of the City of Beaverton business license ordinance constitutes a class 2 civil infraction of the provision of the business license ordinance constitutes a separate infraction, and each day a violation of the ordinance is committed or permitted to continue constitutes a separate infraction. Penalties imposed under the provision of this ordinance are in addition to the delinquency charge that may be assessed under the provisions of the business license ordinance penalty for class 2 civil infraction is punishable by a fine of \$150 for each infraction.

OBSTRUCTING PUBLIC RIGHT-OF-WAY 5.05.115

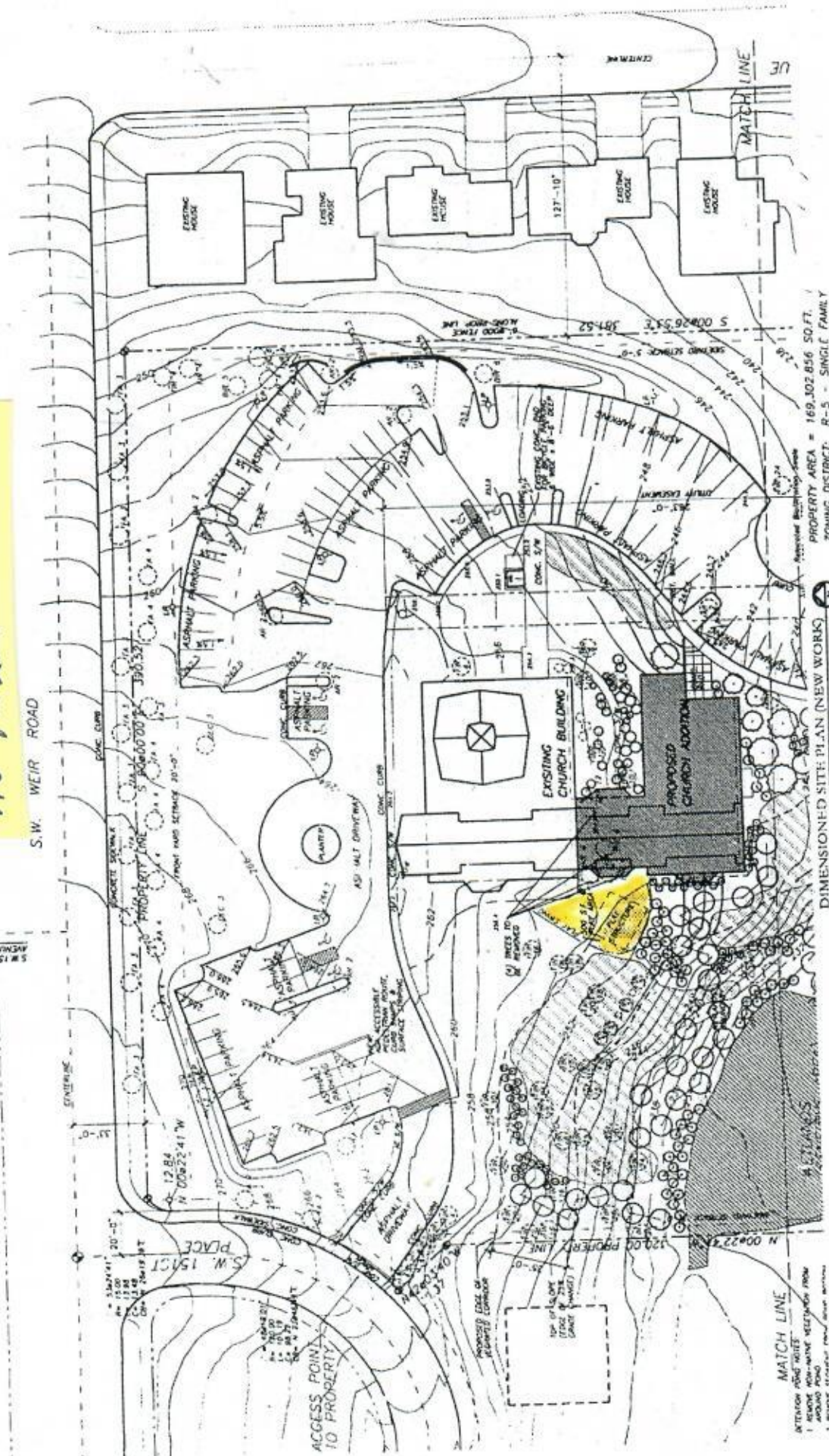
A. General Prohibition. Except as otherwise permitted by the code or other city ordinance:

1. No person shall obstruct any public right-of-way, or portion of it, or place or cause to be placed on it anything tending to obstruct or interfere with the full and free use of the public right-of-way or in any degree interfere with the normal flow of pedestrian or vehicular traffic.
2. No person shall erect, construct, build, raise, place or maintain any post, pole, sign, wall, fence, tree, building, structure or any other kind of object in or upon any public right-of-way.
3. No person in charge of property shall cause or permit to remain in front of the property upon the sidewalk or parking strip of the street next to the property, anything prohibited by this section or which otherwise restricts the public use of the public right-of-way.

B. Attachments to Pole or Trees. No person shall attach to any telephone pole, electric pole or other pole or post installed for or used by a public utility, or any wire used by a public utility, or to any tree or post growing or located in a public right-of-way, any contrivance or device of any kind which is used for any purpose other than a public utility purpose.

C. Selling Prohibited. No person shall use the public right-of-way or public place for selling, storing or displaying merchandise or equipment.

2001- EXISTING
 "PLAY AREA" SHOWN
 IN YELLOW



SHEET 3 OF 6
 MARCH 21, 2001

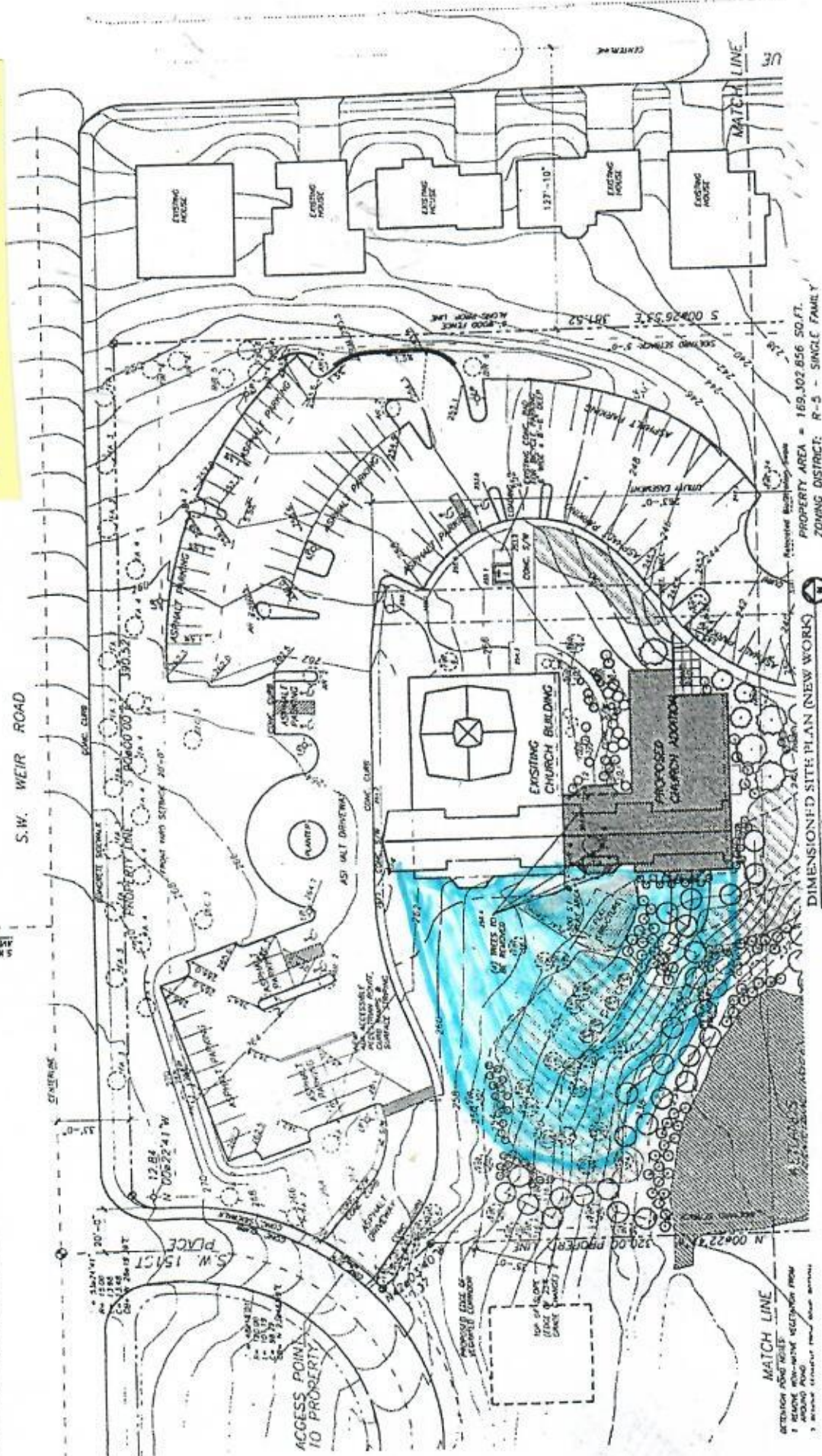
CONDITIONAL USE PERMIT PHASE

MURRAY HILLS CHRISTIAN CHURCH

15050 SW WEIR ROAD
 BEAVERTON, OREGON 97007

Yost Grace Hat

CURRENT - EXPANDED
PLAYGROUND AND
EQUIPMENT, GROUND
BURIED IN WOODCHIPS



PROPERTY AREA = 169,302.856 SQ. FT.
ZONING DISTRICT: R-3 - SINGLE FAMILY

DIMENSIONED SITE PLAN (NEW WORK)
SCALE: 1" = 20'-0"

MATCH LINE
ATTENTION: SEE SHEET RECEIVED FROM
1. AROUND ROAD
2. AROUND STRUCTURE PER PLAN SHEET

SHEET 3 OF 6
MARCH 21, 2001

CONDITIONAL USE PERMIT PHASE

MURRAY HILLS CHRISTIAN CHURCH

15050 SW WEIR ROAD
BEAVERTON, OREGON 97007





Playground open to the community.
Adult supervision required.
Murray Hills Christian Church is not liable
for injuries due to unsupervised children.

MURRAY HILLS
CHRISTIAN CHURCH



Murray Hills Christian Church Playground

This playground and equipment are for children 12 and under accompanied by an adult

**BE CONSIDERATE OF OTHER USERS AND NEIGHBORS
VOICES CARRY**

Playground open 10am to dusk

Church Property Committee
(503) 524-5230

**Murray Hills Christian Church
does not warrant the condition or safety
of this equipment and playground**

May 3, 2023

VIA IN PERSON DELIVERY AND EMAIL: aslatinsky@BeavertonOregon.gov
Anna Slatinsky
Planning Division Manager
Community Development, City of Beaverton
P.O. Box 4755
Beaverton, OR 97076

VIA IN PERSON DELIVERY AND EMAIL: NeighborMail@BeavertonOregon.gov
Lana Parr
Program Manager
Neighborhood & Public Involvement Program
P.O. Box 4755
Beaverton, OR 97076

VIA IN PERSON DELIVERY AND EMAIL: NeighborMail@BeavertonOregon.gov
Franziska Elliott
Public Involvement Coordinator
Neighborhood & Public Involvement Program
P.O. Box 4755
Beaverton, OR 97076
NeighborMail@BeavertonOregon.gov

Re: Pre-Application for Major Modification of CUP at Murray Hills Christian Church; Neighborhood Review Meeting Scheduled to be held on Tuesday, April 18, 2023

Dear Ms. Slatinsky, Ms. Parr and Ms. Elliott:

Attached hereto is a letter addressed to each of you dated May 2, 2023 from neighbors who reside adjacent to or in the close vicinity surrounding the Murray Hills Christian Church (MHCC) property. MHCC is the applicant for a major modification of its existing Conditional Use Permits.

Attached to the May 2, 2023 letter delivered to Ms. Slatinsky are thirteen (13) original signature pages bearing the signatures of a representation of concerned neighbors. Accordingly, only photocopies of these original signature pages could be attached to the letters to Ms. Parr and Ms. Elliott.

Anna Slatinsky, Lana Parr, Franziska Elliott

Page 2

May 2, 2023

The meeting was not held in-person as required by BDC 50.30 (2,3), but instead via internet Zoom. There was no health justification for not holding an in-person meeting, given that the Oregon Health Authority repealed all COVID restrictions on meetings well before April 18. Contemporaneously, the City was holding in-person public meetings, such as the City Budget Meeting on April 24th.

The Neighborhood Review Meeting was conducted in a manner to defeat its purpose as defined by the Beaverton Development Code. BDC Sec. 50.30 (1) requires the applicant to “take into consideration the reasonable concerns and recommendations of the neighborhood when preparing an application.” BDC Sec. 50.39 (3)(D) provides “The attendees may identify any issues that they believe should be addressed in the proposed application.” These requirements were not met, as plainly documented in the Meeting Minutes:

“The purpose of the Neighborhood Review Meeting is for the applicant to present information on the proposed CUP and for neighbors to ask questions of the applicant.” Page 4.

“Andrew (Aebi) noted that the agenda item is for informational only (sic) and an opportunity for neighbors to ask questions” Page 5.

These pronouncements by the NAC chair, Andres Aebi, defining and limiting the purpose of the meeting are in direct conflict with the express requirements of BDC 50.30 (1) and (3)(D) quoted above.

As the Meeting Minutes document further, Mr. Aebi prevented surrounding neighbors from stating their “recommendations and concerns” and “identifying issues they believe should be addressed” by limiting them only to **asking questions** about the proposed application, and not allowing them to **express their concerns and recommendations or identifying issues to be addressed**. BDC 50.30 (1) provides: “The Neighborhood Review Meeting is intended to assist in producing applications that

are responsive to neighborhood concerns, and to reduce the likelihood of delay and appeals.” This did not happen.

Also contrary to BDC 50.30 (1), Mr. Aebi assumed the role of presiding moderator and used his assumed position to cut off neighbors who were trying to express their concerns. We have no doubt that Mr. Aebi’s instructions stifled many neighbors from expressing their vigorous objections and concerns. The result was to deny the surrounding neighbors the very opportunity required by BDC 50.30 (1).

The Beaverton Development Code requires that **the applicant** “hold” the meeting for the benefit of surrounding neighbors. BDC 50.30(1, 2, 3). The Code does not give the Chair of the Neighbors Southwest NAC any authority to preside over the Neighborhood Review Meeting, as contrasted to the NAC meeting. It was the applicant MHCC which had the duty to “hold” the Neighborhood Review Meeting, not Mr. Aebi or the NAC. The result was that Mr. Aebi assumed the authority to preside which he did not have, and then proceeded in a manner which frustrated the purpose of the meeting as required by BDC 50.30 (1, 2).

Mr. Aebi announced the end of the Neighborhood Review Meeting even though there were neighbors who had not yet had an opportunity to speak. As stated previously, at least four neighbors requested that the meeting be continued at another time. Mr. Aebi refused these requests and stated that additional questions could be sent to the City. In doing so Mr. Aebi again violated the requirements of BDC 50.30 (1).

Also, importantly, at least one neighbor requested that all who chose to speak should give their addresses before speaking. Ms. Parr refused this request, even though BDC 50.30(4)(f) requires that the names and addresses of those attending be recorded. The Meeting Minutes fail to provide such as list. Additionally, a number of the people who were allowed to speak were not neighboring residents within 500 feet. Because of this a clear record could not be made in order to evaluate whether such speakers had a legitimate interest to give input which could be properly considered by the Planning Commission. It could not be determined at the Zoom format meeting whether such speakers resided within the required 500-foot radius or were even met the definition of “neighbors” in BDC 50.30(2). Input from such speakers is not what BDC 50.30 is intended to elicit for the Planning Commission’s proper consideration.

Anna Slatinsky, Lana Parr, Franziska Elliott

Page 2

May 3, 2023

Of the many concerned neighbors, the following signed the May 2, 2023 letter to you:

Ron Sattler

Bob Churchill

Doug Gordon

Mohsen Shojaefar

Chris Hammond

Ann Faurot

Doug Yaeger

David Golder

Leslie Yaeger

LeeAnn Golder

Bob Kieffer

Matt Bloom

Debbie Kieffer

Becky Bloom

Please acknowledge your receipt of these letters to ron.sattler@gmail.com. We await your reply.

Thank you.

Sincerely,



Ronald Sattler



Douglas Gordon

cc: Sharon Jarman, Chair, Trustees, Murray Hills Christian Church

10175 SW 149th Terrace
Beaverton, OR 97007

October 13, 2023

SENT VIA ELECTRONIC DELIVERY

Mr. Greg Brown
City Prosecutor – City Attorney’s Office
City of Beaverton
12725 SW Millikan Way
Beaverton, OR 97005-1678

RE: Voluntary Compliance Agreement
City of Beaverton, Murray Hills Christian Church, Ashcreek Parent Cooperative Playschool

Dear Mr. Brown:

Thank you for your response to my letter dated August 25, 2023, regarding the above referenced voluntary compliance agreement (“VCA”). I appreciate your time and consideration on this matter. I am concerned though you may have received inaccurate or outdated information based on several points in your response.

First, Ashcreek Parent Cooperative Playschool (“Ashcreek”) operates a preschool and kindergarten not a childcare facility. This is evidenced by their written admissions to the City of Beaverton (“City”) in the application for a modification of a conditional use permit (“CUP”) that was submitted on August 11, 2023. The fact they are a preschool and kindergarten is further evidenced by Ashcreek’s statements on their website (www.ashcreekplayschool.com) and marketing banner, as well as their current fall enrollment.

The kindergarten program was added to Ashcreek’s curriculum after the VCA was entered into by the parties. This is not an approved use under any of the CUPs issued to Murray Hills Christian Church (“MHCC”) nor was it approved under the terms of the VCA. This program is being operated without City approval and is significantly impacting the livability and salability of adjacent properties.

Second, the City code enforcement officer who initially reviewed this case believed MHCC and Ashcreek violated the CUPs issued to MHCC (“MHCC CUPs”). The officer issued a written cease and desist order to the parties. The order was rescinded by an unknown City staff member five weeks later and a VCA was issued instead.

Mr. Greg Brown
October 13, 2023
Page 2

It is my understanding that the City's legal opinion is BCC 2.10.020(B) provides legal authority for the VCA issued in this case. BCC 2.10.020(B) does not contain any language authorizing City staff to issue a VCA that temporarily allows conditions of approval for a CUP to be exceeded without enforcement by the City. The facts summarized below clearly show this is what happened when the VCA was issued.

1. MHCC and Ashcreek are in violation of the conditions of approval for MHCC CUPs
2. The VCA temporarily allows the conditions of approval for MHCC CUPs to be exceeded without enforcement action by the City for the duration of the VCA
3. Duration of the VCA is 12 months from when it was issued unless an application to modify MHCC CUPs is submitted in which case the VCA stays in force until the planning approval process is completed

The planning approval process for land use decisions often takes years to complete in cases that involve multiple reviews by decision making authorities or appeals by the applicant or affected parties. It is unknown how long the duration of this VCA will be if an application to modify MHCC CUPs is submitted to the City.

The VCA is not valid as City staff exceeded legal authority under BCC 2.10.020(B) as stated above and also violated BDC 50.95.7, which states:

“In all cases, regardless of the thresholds listed in CHAPTER 40 when a proposed modification involves a condition of approval, that condition of approval can be modified or removed only by the same decision making authority that issued the original decision and through the same procedure that was followed to establish the condition to be modified.”

BDC 50.95.7 clearly states “In all cases” only the same decision making authority that issued the original decision has the legal authority under City Code to modify conditions of approval for CUPs. The definition of “all” means every situation, which includes temporarily allowing MHCC and Ashcreek to exceed conditions of approval for MHCC CUPs.

I hope you can resolve the issues raised in my second point. I hereby request a written response citing the specific legal authority authorizing City staff to issue a VCA that temporarily allows MHCC and Ashcreek to exceed the conditions of approval for MHCC CUPs. I also request to receive in the written response what legal authority allows BDC 50.95.7 to be ignored in this case.

Mr. Greg Brown
October 13, 2023
Page 3

Third, you may not be aware that the activities allowed in the VCA are generating significant noise in excess of 60 decibels at times during the day and evening at adjacent homes. This is significantly impacting the livability and salability of the homes adjacent to and nearby MHCC. This is relevant as the noise levels are in violation of several sections of City Code and the noise impact on surrounding homes is in violation of the livability goals outlined in City Code and Comprehensive Plan. The violations will likely continue for several years given the broad language in the VCA.

Fourth, MHCC is well aware of the limitations contained within the CUPs that were issued to them. They were advised by third party planning and legal experts when seeking and obtaining the CUPs. The limitations in the CUPs were also filed and recorded by the City. A defense of “we were not aware” is inaccurate nor sufficient to exempt MHCC, even temporarily, from the planning process required under City Code.

Fifth, the application submitted by Ashcreek to modify MHCC CUPs as required by the VCA is no longer pending with the City. It was deemed incomplete and rejected by City staff on September 1, 2023. The rejected application was also not valid as MHCC did not authorize Ashcreek as its agent when the application was submitted. A new application has not been submitted by either party according to City staff.

Last, it is not legally possible to modify MHCC CUPs to allow Ashcreek to operate at this property. Ashcreek is operating a commercial school as their 501(c)(3) status was automatically revoked in 2022 since they did not file Form 990 with the Internal Revenue Service for three consecutive years. This is evidenced by a search of Ashcreek’s Form 990 submissions on Internal Revenue Service website www.apps.irs.gov/app/eos/. This is relevant as MHCC is located in an RMB zone and commercial schools are prohibited in RMB zones according to City Code.

MHCC and Ashcreek are not in compliance with the terms of the VCA. They do not have a current application pending with the City to modify MHCC CUPs as required in the VCA. Ashcreek also misrepresented to City staff that they are a non-profit that qualifies under IRC 501(c)(3). Both parties also violated City Code and the terms of the VCA when Ashcreek started a kindergarten program after the VCA was issued.

I hereby demand the MHCC and Ashcreek Voluntary Compliance Agreement be rescinded by the City due to the points raised in this letter as well as my previous letter dated August 25, 2023.

Mr. Greg Brown
October 13, 2023
Page 4

I also request the City Attorney's Office work with City staff when issuing VCAs to make sure the VCAs comply with the legal authority authorized in BCC 2.10.020(B) and that they do not violate BDC 50.95.7. I suggest future VCAs involving land use decisions are reviewed and issued by the original decision making authority that issued the original decisions, rather than City staff, as required in BDC 50.95.7.

Please feel free to contact me if anyone has questions about my complaint. Thank you for your prompt attention to this matter.

Sincerely,



David C. Golder
10175 SW 149th Terrace, Beaverton, OR 97007
davidcgolder@gmail.com
(503) 701-6465

cc: Ms. Jenny Haruyama
Ms. Anna Slatinsky
Mr. Steve Regner
Mr. Drew Vanderveen

Received
Planning Division
February 22, 2024

Exhibit 2.4

10175 SW 149th Terrace
Beaverton, OR 97007

February 22, 2024

SENT VIA U.S. MAIL AND ELECTRONIC DELIVERY

Mr. Steve Regner
City of Beaverton
12725 SW Millikan Way
Beaverton, OR 97005-1678

RE: Ashcreek Playschool Type 1 Land Use Review LU 2024-00091 and Design Review
Compliance Letter Application DR12024-00090

Dear Mr. Regner:

We are writing in regard to the Type 1 Land Use Review LU 2024-00091 ("LU Application") coupled with its Design Review Compliance Letter Application DR12024-00090 ("DR Application") submitted on February 6, 2024, by applicant Ashcreek Parent Cooperative Playschool ("Ashcreek") on behalf of property owner Murray Hills Christian Church (MHCC).

Ashcreek filed both the LU Application and DR Application as "consolidated onto parent application" LU32023-00557 (CU32023-00555). In other words, the Type 1 Land Use Review is purporting to be rolled into Ashcreek's pending Type 3 Application LU32023-00557 (CU32023-00555) (the "parent"). By doing so, it is evident that Ashcreek is attempting to circumvent the requirements to provide public notice and to hold a meeting with surrounding neighbors as is required under the applicable provisions of Beaverton Development Code Section (BDC) 40.15.15.

For the reasons discussed below, both the LU Application and DR Application are legally insufficient and fail to meet the minimum procedural threshold requirements of the Beaverton Development Code. Because of this failure the Planning Department has no alternative but to reject both because of the insufficient form and procedure in which they were filed.

First and foremost, both Applications seek to gain approval for the design and construction and of an illegally constructed playground on MHCC's property that is currently in use by both the general public and Ashcreek. (The public character and use of the playground is thoroughly documented in our letter to you dated August 29, 2023, and is incorporated here by reference.)

Mr. Steve Regner
September 22, 2024
Page 2

The playground is illegal because no conditional use permit (CUP) has ever been approved to authorize its construction in the first instance! No CUP exists to be modified or amended which affords any basis to modify. It is not legally possible for the City to issue a Design Review of a playground that does not legally exist.

Three CUPs have been issued by the City which apply to MHCC: CUP 14-88, CUP 94011-819, and CUP 2000-003. None of these CUPs authorize the Church to construct an outdoor playground or park to be open for public use and use by any preschool. To the contrary, CUP 94011-819 expressly restricts the playschool to the "Operation of a pre-school within the "Murrayhills (sic) Christian Church".

To apply for approval of the existing outdoor playground, MHCC or its authorized agent must file for a new CUP under BDC 40.15.15.5(A) to approve the illegally constructed playground. This process requires MHCC, or their authorized agent go through the CUP approval process per the express language in Beaverton Development Code Section BDC 40.15.15.5(A), including public notice and a neighborhood meeting.

In a similar situation to this, the Oregon Land Use Board of Appeals has ruled that the filing for a conditional use permit is necessary when the proposed change involves a separate new use of the subject property. In contrast, where the proposed use is an "expansion" of the existing nonconforming use, a modification of the original conditional use permit the appropriate procedure.

Here, construction of a large outdoor playground for use by an unrelated preschool (Ashcreek) is a separate new use of the church property. Constructing a playground is unlike a proposal for a modest expansion of the church building, which remains the place of worship after the expansion. The outdoor playground is different in purpose and function from a place of worship. These are two separate, unrelated uses of the property.

According to the LUBA ruling, Ashcreek must apply for a new CUP to seek approval to construct the playground. Here Ashcreek is incorrectly attempting to utilize a modification procedure, when instead the only proper procedure is to apply for a conditional use permit.

Please note that the playground constitutes a public playground as well as a public park. It also has "public recreational facilities" which are themselves nonconforming uses under BDC 20.05.20.A(12), requiring a separate, new CUP.

Even if a new CUP were not to be required, at a minimum, a Type 3 procedure would be required to ensure that it would have a "minimal impact" on the livability of surrounding neighbors

Mr. Steve Regner
September 22, 2024
Page 3

and satisfy other relevant criteria. As you may be aware, there are 23 families who live adjacent to or in the immediate vicinity of the church property who have joined as a coalition in opposition to the proposed expansion of the pre-school and to the playground. One paramount issue is that the noise from Ashcreek's use of the outdoor playground projects loud and raucous noise which has degraded the livability of their homes and yards.

It follows that Ashcreek's LU Application does not meet the criteria of a Type 1 Application mandated by BDC 40.15.15(1). The illegal playground does not satisfy the application "Threshold" in Subsection (1)(A)(1); the proposed use is not located on a parcel designated "interim Washington County" and because a "greater review is required with the proposal". In short, the Type 1 application code provisions are plainly inapplicable here.

An application for a Design Review Compliance Letter using a Type 1 procedure is not a legal substitute for the CUP approval process prescribed in Beaverton Development Code and Oregon Revised Statutes. The purpose of Design Review is to promote Beaverton's commitment to protecting the liveability of its residential neighborhoods, the community's appearance, quality pedestrian environment, and aesthetic quality. It is not a substitute for engaging the surrounding neighbors' involvement and ensuring that the specified approval criteria are met which are designed to protect us, the residents.

Any action by the City to review or approve the illegally built playground without going through a new CUP approval as process mandated by the Beaverton Development Code, which requires the proper processing of Ashcreek's land use applications, is in violation of the Beaverton Development Code, Oregon Revised Statutes, and the surrounding neighbors' Due Process of Law rights under the Constitution of Oregon.

We hereby demand Ashcreek's Type 1 Land Use coupled with its Design Review Compliance Letter Application DR12024-00090 be rejected because it seeks design approval of an illegally constructed playground that has never been approved nor permitted by the City. We also further demand the City instruct Ashcreek and MHCC in writing to cease and desist the use of the illegally built playground until such a time that a CUP authorizing its use is issued by the City. Moreover, the playground poses a potential hazard to those who are using it and the sensitive environmental area that is within 300 feet of the playground.

We appreciate Beaverton's commitment to protecting the liveability of our residential neighborhood, as well as our Due Process of Law rights, by enforcing the clear provisions of the Development Code, which is designed to protect us, the residents.

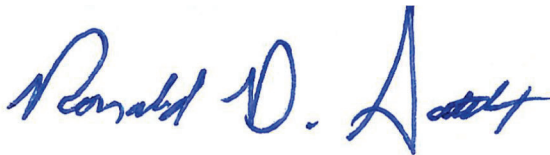
Mr. Steve Regner
September 22, 2024
Page 4

Kindly provide us with a timely response to this letter. Please feel free to contact any of the undersigned should you have any questions.

Sincerely,



David C. Golder
10175 SW 149th Terrace
davidgolder@gmail.com
(503) 701-6465



Ronald D. Sattler
10170 SW 149th Terrace
ron.sattler@gmail.com
971-226-2071



Douglas Gordon
10050 SW 151th Place
douglasgordon@comcast.net
503-750-8787

Received
Planning Division
May 13, 2024

Exhibit 2.5

10175 SW 149th Terrace
Beaverton, OR 97007

May 13, 2024

SENT VIA ELECTRONIC DELIVERY

Ms. Jenny Haruyama
City Manager
City of Beaverton
12725 SW Millikan Way
Beaverton, OR 97005-1678

RE: City of Beaverton Code Enforcement Request
Voluntary Compliance Agreement Case # 2022-0441 ("VCA")
City of Beaverton, Murray Hills Christian Church, Ashcreek Parent Cooperative Playschool

Dear Ms. Haruyama:

We are filing two complaints against Murray Hills Christian Church ("MHCC") and its lessee, Ashcreek Parent Cooperative Playschool, LLC ("Ashcreek"), collectively and individually on the following grounds:

1. First Violation: Kindergarten School

- Ashcreek is operating a kindergarten school at the MHCC church building located at 15050 SW Weir Road. They are seeking to enroll new students in the kindergarten school for the upcoming 2024/2025 school year.
- The kindergarten school is operating in violation of Beaverton City Code. It is not an approved use in Conditional Use Permit numbers 94-011/819 and 2000-003 issued by the City to MHCC.
- Furthermore, the kindergarten school violates the above referenced VCA as it is not an approved use in the VCA.

2. Second Violation: Outdoor Summer Camps

- Ashcreek is also enrolling up to 35 children ages two through six in two separate outdoor "Summer Camps" beginning June 24 and continuing until August 15, 2024.
- Summer Camps are not an approved use or activity in either the two CUPs issued to MHCC, or in the VCA.

The noise, traffic, and other impacts caused by the ongoing violations by Ashcreek and MHCC are significantly degrading the livability of each of our homes. The City's ongoing refusal to correct the violations by enforcing City Code is contrary to the express language stated in City Code, its Comprehensive Plan, and Oregon statewide planning goals.

Ms. Jenny Haruyama
May 13, 2024
Page 2

Beaverton's City Charter states the City Manager must administer and enforce all City ordinances, resolutions, franchises, leases, contracts, permits, codes, and other city decisions. We hereby request you to direct City Code Enforcement Officers to enforce the express conditions of each of the CUPs issued to MHCC as well as the specific conditions and restrictions of the VCA to which MHCC and Ashcreek agreed to be bound.

The violations and City inaction have been ongoing for over two years. It is apparent the violations may continue through February 2025 based on timelines afforded to Ashcreek and MHCC by the City Planning Staff. This is not an example of good governance, and it is time to address and rectify these two flagrant violations.

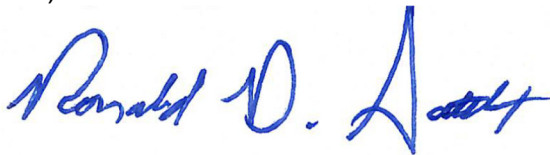
We request your prompt action, as Ashcreek is currently recruiting enrollment for these unlawful activities at MHCC, which should be suspended now to allow advance notice to all involved parties.

Please contact any of the undersigned should you have any questions. Thank you.

Respectfully submitted,



David C. Golder
10175 SW 149th Terrace, Beaverton, OR 97007
davidcgolder@gmail.com
(503) 701-6465



Ronald D. Sattler
10170 SW 149th Terrace
ron.sattler@gmail.com
971-226-2071



Douglas Gordon
10050 SW 151th Place
douglasgordon@comcast.net
503-750-8787

cc: Mr. Steve Regner, Interim Planning Director

Received
Planning Division
June 3, 2024

Exhibit 2.6

10050 SW 151st Place
Beaverton, OR 97007

June 3, 2024

HAND DELIVERY

Mr. Steve Regner
Senior Planner
City of Beaverton
12725 SW Millikan Way
Beaverton, OR 97005-1678

RE: Murray Hills Christian Church; Ashcreek Playschool LU32023-00557 (CU32023-00555)

Dear Mr. Regner:

I am writing you for two reasons, both in connection with the Type 3 and Type1 Land Use Applications of Ashcreek Playschool, which has been leasing the playground and interior space from the Murray Hills Christian Church, at 15150 SW Weir Road. My house is next door to the church property on the east. I have lived here for 29 years. The large church playground is about 60 or 70 feet from my house, so I am first in line to receive the loud noise when Ashcreek preschool is using the church playground., and also when the general public is there during afternoons and evenings.

The first reason is to provide you (and your staff) with an understanding of the level and intensity of the noise coming from the church playground, I am enclosing a thumb drive containing four recordings which I made from my house with my i-Phone. The first two are recordings of the Ashcreek Playschool while on the playground. The second two are recordings of the general public using the playground after Ashcreek preschool exits the playground, usually around 1:00 p.m.

The second reason is to invite you (and your staff) to visit my home so that you can personally listen while Ashcreek Playschool is using the playground. This will allow you to assess how the livability of my property is being impacted by the excessive noise. I would request only that your visit not be announced in advance to the Church or Ashcreek personnel.

The four attached recordings were made in April and May inside my home, on my deck and in my yard using my i-Phone. Each recording approximates what I hear. The noise heard on my deck and in my backyard is about the same noise that comes into my bedroom, living room and kitchen when the windows are open. When they are closed, I can easily hear the noise but of

Steve Regner
June 3, 2024
Page 2

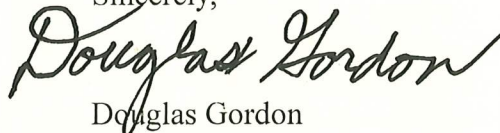
course it is muted by the windows. There is no escape from the noise when Ashcreek Playschool is present, and separately, during the afternoons and evenings when the general public is present. The noise level gets a boost because it ricochets off the church building, then travels virtually unimpeded across the adjoining large wetlands into many other neighbors' yards and homes.

The history of the playground is very important. According to one of the current church trustees, the sole reason the church expanded the small play area which existed prior to approximately 2015, into the current large playground, was to attract new members. The church then also displayed signage to welcome the public to use the playground. Their plan was quite successful, but only to the extent that the playground attracted the public. Public use of the playground continues to this day during the afternoon and evening, and morning till dark on weekends. This is not "incidental" use under any definition. The church congregation is mostly elderly, hence there are almost no congregants' children to use the playground. I personally see and hear the public usage and noise, so there is no speculation or guesswork. And although several neighbors have requested, the church leadership has declined to change its policy which keeps the playground open to the public. To my knowledge, in fact, the church policy is to allow the public to use the playground at any time until dusk, seven days a week, excepting when Ashcreek is there. And in fact, this is what happens, which brings with it the loud and excessive noise.

As you know, the legality of the expansion of the church playground, and its ongoing use as a public playground, are issues before the Planning Commission in this application process.

I am requesting your reply at your earliest convenience. Kindly acknowledge receipt of this email.

Thank you.

Sincerely,

Douglas Gordon

Enclosure: Thumb Drive

cc: Steve Regner via Email w/o enclosure

Received
Planning Division
8/9/2024

10050 SW 151st Place
Beaverton, OR 97007

August 9, 2024

VIA EMAIL - sregner@beavertonoregon.gov

Steve Regner
Senior Planner
City of Beaverton Planning Department
12725 SW Millikan Way
Beaverton, OR 97076

Re: Project Name: LU32023-00557 Ashcreek Playschool
Case File Nos: CU32023-00555 / DR12024-00090
Planning Commission Hearing Date: August 28, 2024

Dear Mr. Regner:

In accordance with the Public Hearing Notice for this matter I am submitting the following testimony and s to the Beaverton Planning Department in connection with the Ashcreek Playschool CUP Application described above. Murray Hills Christian Church is the property owner.

I am submitting the following testimony in opposition to is to the Ashcreek Application.

By necessity this submission is detailed and lengthy because proper consideration of the subject Application requires a close examination of the factual history of the church property uses and the Conditional Use Permit going back to 1994.

BACKGROUND INFORMATION

My wife and I purchased our home at 10050 SW 151st Place, and our lot adjoins the church property on the west. The current playground is situated 60 to 70 feet—thirty paces or so- from my house. Because of the steep slope of our lot,

Steve Regner
August 8, 2024
Page 2

the builder situated our house within five feet from the property line that we share with the Church where the playground is located.

The church property as well as a substantial number of homes on 151st Place, SW Gull Avenue, and SW 149th Terrace, share property boundaries adjacent to a two acre "Wet Lands Conservation Easement" granted to the City by the Developer, which prohibits any "substantial improvements" on the protected space.

The wetlands is a natural habitat for many birds and wild animals. It has been a wonderful and beautiful amenity, and before Ashcreek Playschool arrived on scene, our neighborhood liveability was enhanced with serenity, tranquility and a good measure of privacy. This changed for several reasons as discussed below.

For the Church, the Ashcreek Playschool is a business relationship. Ashcreek Playschool disavows any religious connection. The Church congregation has not grown, and like many other churches, its members are now seniors and their children have left the nest. It is apparent that the Church Trustees are seeking additional revenues, and they have become quite aggressive in doing so. Ashcreek Playschool is providing such revenues.

The Church leadership has never once initiated conversation with the surrounding residents to seek their input about the Church's decision to construct an extremely large public playground specifically for public use, and years later, leasing use of the public playground to Ashcreek Playschool.

Both myself and another neighbor with adjoining property asked for and received three meetings with the Trustees in 2022 and 2023 in an attempt to mitigate the damage to the liveability of our neighborhood due to the noise and traffic and other related negative effects arising from the Ashcreek Playschool operation. Although everyone was cordial, our efforts were unsuccessful. The Church leadership has declined to take any significant concrete action to mitigate the problems. They have made small investments to protect church property with sensors, lights and cameras and put additional fencing around the playground, but none of this addresses the main problems negatively impacting liveability for surrounding residents.

Please note that since the Montessori School was approved in the 1994 CUP, four new homes were built (including mine) on 151st Place. These are now the homes which are situated closest to the playground and are directly impacted. Hence the reasons underlying the Planning Commission's serious concern in 1994 about protecting liveability, are even greater today with the increasing density and number of homes adjoining or very close to the church property.

DISCUSSION OF OBJECTIONS

The following are two major objections to the Application.

A. The 1994 CUP RESTRICTS THE MONTESSORI SCHOOL TO OPERATING WITHIN THE CHURCH BUILDING, AND DOES NOT IN ANY WAY APPROVE THE OUTDOOR "PLAY AREA"

The Applicant's goal is to have the 1994 CUP "interpreted" by the Planning Commission to mean that the existence of the small "play area" next to the Church building was **approved** as a lawful use of church property. The Applicant then contends that such lawful status somehow has been carried forward to the present and now serves as the legal basis to have the existence of the current mega-playground also deemed lawful. Note that Ashcreek Playschool leases use of the playground.

These contentions have been positioned under the umbrella of Applicant's request for a favorable Design Review of the playground. I object to this procedure as improper, in part because the Church constructed and maintains a public playground, which is a nonconforming use in our "R-5" zone, but has failed to apply for and obtain a Conditional Use Permit. In actuality, this process is an attempt to evade scrutiny of the most important underlying point, which is that the playground is unlawful, and that Ashcreek Playschool should therefore be forced to cease and desist from utilizing the playground until it is approved as a nonconforming use.

I turn now to the 1994 CUP and its proper "construction" and enforcement. Many of the following principles involving the proper "construction" of 1994 Planning Commission Orders is consistent with and reinforced by the Beaverton

Code Sec. 10.20 which provides the rules to be followed in the "Interpretation and Application of Code Language."

Proper "construction" of the 1994 CUP is pivotal. The paramount component of a CUP is the Orders set forth by the decision-making authority be it the Planning Commission or City Council. Other language in the CUP outside of the Orders such as preamble recitations are just that, but they are not part of the Orders and have no legal efficacy here.

Universally applied standards reject use of any such attempt using "interpretation" to add to the plain meaning of the Orders in the 1994 CUP. This such so-called "interpretation" is legally improper because it represents an arbitrary and capricious exercise of authority, by disregarding and refusing to enforce Planning Commission's **actual** Orders. This is true for Orders, as well as ordinances and statutes alike.

See BC Sec.10.20, "Interpretation and Application of Code Language":

The Code shall be read literally. Sec. 3.

Terms not defined in the Code shall have the meaning set forth in Webster's Third New International Dictionary, 1993. Sec. 6 (B).

The Code shall be interpreted reasonably. Sec. 6(C).

Properly "construed", the Orders of the 1994 CUP approve the Montessori School but only "**within the existing church building**". (emphasis added) When enforcing the 1994 CUP, the City is by law required to apply the plain and obvious meaning to words of common use, such as "inside" the building. The term "inside" does not mean "outside" by any dictionary definition.

It is the duty of the City in "construing" its own Orders, to take the Orders of the 1994 CUP "as it finds it, without adding to it or subtracting therefrom." Cary v. Metropolitan Ins. Co., 141Or 388, 391, 17 P2d 1111. A corollary principle is: it is legally impermissible for the City "to adopt a rule of construction to make a plain (Order) ambiguous and then to construe it in favor of . . ." a person or party in order

to benefit that person/party. When the words used in an Order are clear and unambiguous, the Order must be enforced according to the common and plain meaning of its words, without any resort or reference to records or materials extrinsic or outside of the four corners or the Order itself.

Accordingly, it is legally improper for the Planning staff to extract anything from the 1994 Staff Report or the minutes of the Planning Commission which adds to or subtracts from the plain language of the Orders stated in the 1994 CUP.

When these principles are followed in this matter, the only legally proper conclusion is that the Orders of the 1994 CUP expressly restrict the operation of the Montessori School to "within the existing church building". This Order necessarily excludes the outside "play area".

B. THE BEAVERTON NOISE ORDINANCE APPLIES DIRECTLY TO THIS APPLICATION, AND THE ORDINANCE PROTECTS THE SURROUNDING NEIGHBORS FROM DAYTIME PLAYGROUND NOISE, CONTRARY TO THE CITY POLICY NOT TO ENFORCE THE ORDINANCE TO APPLY TO DAYTIME NOISE FROM THE PLAYGROUND

The Beaverton Noise Ordinance applies in this application proceeding and provides critical criteria for assessing the impact on liveability from the proposed tripling of the Ashcreek Playschool enrollment.

Thus far the Application itself fails to address the impact of playground noise in any meaningful way. It basically assumes that noise is not a problem. The Church trustees have told me that noise is not a problem, and that they refuse to build a sound barrier or go to any expense to provide any mitigation.

I have learned that the City has a policy which it is applying to the Application, and I presume that the Planning Staff is applying the same policy.

The City's policy is based on an interpretation of the Noise Ordinance which is completely inconsistent with the express and clear terms of the Noise Ordinance. This must be rectified.

The City's Code Compliance manager, Kimberlee McArthur, explained the City's policy to me. When I spoke to her on October 19, 2022, she stated that "between 7:00 a.m. and 10:00 p.m. there is no regulation of noise within the city, pertaining to children, and especially children in care facilities." On July 2, 2024, in reference to the Ashcreek Playschool, she stated that "the kids can make as much noise as they want until 9:00 p.m."

Much of what Ms. McArthur told me is reiterated in the email of Code Compliance officer Kevin Pelatt dated June 18, 2024 addressed to David Golder, stating among other things in reference to the current Church playground and Ashcreek Playschool:

"The school does not violate the noise code. There are no illegally built structures that violate code."

There is no provision of the Beaverton Noise Ordinance which states that loud noise affecting residences is permitted during daylight hours (e.g. 7:00 a.m. to 9:00 or 10:00 p.m.), except for a few inapplicable exemptions.

The paramount purpose as stated in the Noise Ordinance is to protect residents, and it should be enforced to accomplish its purpose. BC Sec. 10.20(6)(C).

The City Council stated that the purpose of the Noise Ordinance in part is "to protect, preserve, and promote the health, safety, welfare, peace and quiet of the residents . . . of Beaverton through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures or endangers the comfort, repos, health, peace . . . to reasonable individuals of ordinary sensitivity." BC Sec. 5.15.020

The Beaverton Code requires that the Planning staff, as well as the Code Compliance staff, to follow the following rules of "Interpretation and Application of Code Language." BC Sec. 10.20.

"This Code shall be interpreted reasonably, reading questioned regulations in relation to other sections such that an interpretation must fully effectuates the intent and purpose of the regulations. BC Sec. 10.20(6)(C). "The Code shall be read literally. Regulations are not more or less strict than as stated." BC Sec. 10.20(3)

The City Council specifically found that "Loud or raucous noise . . . is harmful to the health, welfare and safety of its residents . . . interferes with the comfortable enjoyment of life and property . . . privacy of the home; and may cause or aggravate health problems." BC Sec. 5.15.010 (A)

The protections of the Ordinance apply to residences within designated residential areas, which are defined as a "**noise sensitive area**". BC Sec. 5.15.015 (D), (I) and (K).

The controlling Noise Ordinance provision which the Code Enforcement and Planning Department should apply to residences surrounding the Church playground is BC Sec. 5.15.030 (E):

" E. Noise – Sensitive Areas. The creation of any unreasonably loud and raucous noise adjacent to any noise-sensitive area while it is in use, and which unreasonably interferes with the workings of the noise-sensitive area or which disturbs the individuals in the noise-sensitive area."

The City Council declared that any violation of any of the 13 provisions of Sec. 5.15.030 is a "per se" offense, meaning it is an automatic offense without proof of criminal intent. As can be seen in the preamble to this Section, the City Council did intend its list of violations to be exclusive: "The following acts are declared to be per se violations of this chapter. **It includes, but is not limited to:**" (Emphasis added). It is clear that the City Council intended that that the Ordinance be given broad and wide-reaching application in order to achieve its purposes. The City's enforcement

policy on its face fails to adhere to the mandate in BC 10.20(6)(C) to effectuate the intent and purpose of the Noise Ordinance as clearly described above.

Instead, the City's enforcement policy is based on a clearly erroneous reading of BC Sec. 5.15.030 (C) which provides:

" C. Yelling, Shouting, and Similar Activities. Yelling, shouting, hooting, whistling, or singing in a residential area or in a public place, between the hours of 10:00 p.m. and 7:00 a.m., **or at any time or place**) so as to unreasonably disturb the quiet, comfort, or repose of reasonable individuals of ordinary sensitivities. This subsection is to be applied only to those situations where the disturbance is not a result of the content of the communication but due to the volume, duration, location, timing, or other factors not based on content." (Emphasis added)

The only correct reading of this section, Sec. 5.15.030 (C), is to prohibit yelling, shouting and similar activities "**at any time or place**" . . . "**in a residential area**". This plainly means all day, 24 hours a day, not just between 10:00 p.m. and 7:00 a.m. The Beaverton Code itself mandates this reading: "Regulations are not more or less strict than as stated." BC Sec. 10.20(3).

Sec. 5.15.030(E), quoted above, also expressly applies to residences in residential areas.

The City Council intended residences in Beaverton's residential areas to be given enhanced protection against loud noise, and therefore the Council assigned them the unique status of being "noise sensitive areas". BC Sec. 5.15.015(D).

By no means are Sec. 5.15.030 (C) and (E) in conflict and one does not supersede the other. Subsection (C) addresses the specific prohibition against yelling and shouting in residential areas to control nighttime noise but it also extends that same prohibition to "**any time or place**" which necessarily means such noise during the daytime in residential and public areas.

Said another way, the City Council in its judgment deemed shouting and yelling and similar activities to be particularly undesirable and offensive and therefore specifically classified them as a per se violation.

Both Sec. 5.15.030 (C) and (E) are complimentary and are legally and directly applicable to the Church playground and our surrounding residential neighborhoods.

The City's current noise enforcement policy nullifies both BC Sec. 5.15.030 (C) and (E) because it directly contradicts the express unambiguous language of the Ordinance. See BC Sec. 10.20(6)(C) also compels this result. Only the City Council has the jurisdiction and authority to amend the Noise Ordinance. The City policy to not enforce the Noise Ordinance is a creature of unelected city administrators who have no authority to disregard the sections of an ordinance for any reason. The Noise Ordinance must be enforced according to its terms.

The City's current unlawful noise policy is nothing more than an arbitrary and capricious "interpretation", most prominently articulated by the Code Compliance Director, Ms. McArthur.

Read reasonably and fairly, giving effect to the plain meaning of the words used, bot Sec. 5.15.030 (C) and (E) apply to the Church playground and the Ashcreek Application.

In conclusion, the Application totally fails to address the critical issue of the impact of playground noise upon surrounding residents and the liveability of their neighbors. On this basis along, the Application must be denied.

C. LOUD NOISE FROM THE PLAYGROUND PROJECTS DISTINCTLY FROM THE CHURCH PLAYGROUND AND IS DISTURBING THE TRANQUILITY AND ENJOYMENT OF RESIDENTS IN THEIR HOMES SURROUNDING THE CHURCH PROPERTY AND DAMAGING LIVEABILITY OF THE SURROUNDING NEIGHBORHOOD

The Church planned and constructed the existing mega-playground with the express intent that it be a public playground (as discussed and documented more thoroughly elsewhere). The Church posted signs inviting the community to use the playground. One states:

"Playground open to the community. Adult supervision required."

Another sign posted later states:

"Murray Hills Christian Playground

This playground and equipment are for children 12 and under accompanied by an adult.

Playground open 10am to dusk"

The definitions in the Beaverton Code define a public place as any public or privately owned property upon the public is invited. The Church playground is a public playground, just as the Church intended and expressed in the signs that were posted and are **to be posted in the future.**

The noise projected from the Church playground while being used by Ashcreek Playschool is very loud in my home and yard, which adjoins the church property on the west. This is true for other neighbor's homes which either adjoin or are situated nearby the church property.

Because my house is only 60 to 70 feet from the playground equipment, the noise is so loud that **it can be easily heard in my bedroom, living room, family room and kitchen. I can also hear the noise even with the windows closed.** Because the noise is so loud and persists throughout the day and evening, seven days a week, for the past three years I have stopped using my decks. My wife and I used to have deck furniture set up, and like to have dinner outside, read and talk, and entertain friends there. For seven days a week, often from morning until dusk, there is no escape from the noise projected from the Church's public playground.

There is no question but that the loud noise projected from the church's public playground has damaged the liveability of our neighborhood, including my own home. In my opinion, the market value and saleability of my home has been damaged by the Church's public playground and the Ashcreek Playschool, not to mention my own enjoyment of my home and yard, and satisfaction with my formerly tranquil neighborhood setting.

The problem begins with the location of the playground, which is situated on a strip of the church property which adjoins a wide-open, undeveloped and legally protected wetlands several acres in size. Many homes are also situated to the south and west immediately adjoining the wetlands (including my house) or very nearby.

In addition, the existing mega-playground is approximately 8,500 square feet, according to the Beaverton Planning staff. It contains a huge play station with multiple slides, swings, climbing ladders and crow's nest. There are two large swings, each with two seats, one near the church wall and the other is the closest equipment to my property line, approximately 60-70 feet. I can see that swing while in use through the sparse foliage separating my property from that of the Church. See

There is nothing between the playground and these homes to deflect, absorb or mitigate the playground noise, so it readily carries across this open space into their homes and yards. The playground noise carries freely through the few trees and wild foliage which lightly screen the playground on the south and west sides.

Two factors also act to ensure that the playground noise carries as loudly and as far as possible. The first is that the entire playground abuts the west church building wall which is 100 feet long and two stories high! The playground noise bounces back off of the wall and is projected straight to into the neighbors' homes and yards.

Second, the church building and the playground are situated on the downward slope of a hill which stands about 40 feet above the bottom of the adjoining wetlands. This is the optimal situation to ensure that playground noise carries unmitigated and unimpeded across the wetlands into the neighbors' homes and yards.

CONCLUSION

Ashcreek Playschool wants to triple its enrollment to 60. That would be devastating to the liveability of surrounding properties because of negative impact from increased noise, traffic and degradation of the wetlands and the animal life there.

It would be a travesty to recommend approval of the Application given the incurable deficiencies in the Application, the incorrect process being attempted to gain approval of the public playground, the illegality of the public playground,

Steve Regner
August 8, 2024
Page 12

violations of the noise ordinance which have not been addressed, the Planning staff's insufficient investigation and evaluation of the noise problem and violations, and the failure to correctly assess the negative impacts on the liveability of our neighborhood which we are suffering and which will worsen were the Application to be approved.

Based on the foregoing, I request that the Planning staff recommend that the Application be denied.

Please acknowledge receipt.

Respectfully submitted,



Douglas Gordon

From: [Aaron Harris](#)
To: [Steven Regner](#)
Subject: FW: [EXTERNAL] Ashcreek CUP written testimony
Date: Wednesday, August 14, 2024 3:38:05 PM

Hi Steve,

The email below providing written testimony for Ashcreek Playschool was sent to me this afternoon. I believe this is your project, but please let me know if not so it gets to the right planner. Thanks!

-Aaron

From: Heather L <heatherlgavin@gmail.com>
Sent: Wednesday, August 14, 2024 3:03 PM
To: Aaron Harris <aharris@beavertonoregon.gov>
Subject: [EXTERNAL] Ashcreek CUP written testimony

CAUTION: This email originated from outside the City of Beaverton. Exercise caution when opening attachments or clicking links from unknown senders.

My written testimony for the Ashcreek Conditional Use Permit is below:

Ashcreek Playschool is critical for children with higher needs in our community.

Ashcreek Playschool is the third preschool my daughter has attended and the first one where she has really thrived.

During the 2022-2023 school year, my daughter started having behavioral problems after previously being one of the easy kids. I wasn't sure if it was because of the school, so I switch preschools for the 2023-2024 school year. However, at the second preschool the teachers handled her sensory originating behavioral problems so poorly that it seemed like she was traumatized. I switched to Ashcreek Playschool halfway through the year.

My daughter improved almost immediately after starting to attend Ashcreek. The classroom and routine are much better set up to reduce sensory problems and the teacher is very good at setting expectations. (We're still having food related behavioral problems that I'm working hard to figure out.)

When behavioral problems do happen Teacher Julie is so good at handling it. Having a high ratio of parent teachers in the room means that she can focus on a child one-on-one if they need it.

At Ashcreek Playschool, my daughter is being set up for success while being taught classroom and social expectations. And the excellent communication between teacher and parent makes

it feel like we're working as a team.

Ashcreek Playschool is an important part of our community and I wish there were more preschools like it available.

Received
Planning Division
08/16/2024

From: [Aron Harris](#)
To: [Steven Regner](#)
Subject: FW: [EXTERNAL] Written testimony for Ashcreek
Date: Friday, August 16, 2024 8:00:11 AM

Hi Steve,

Please find more written testimony for Ashcreek below.

-Aaron

From: MikeandKim Munly <mikekim.munly@gmail.com>
Sent: Thursday, August 15, 2024 10:55 PM
To: Aaron Harris <aharris@beavertonoregon.gov>
Subject: [EXTERNAL] Written testimony for Ashcreek

CAUTION: This email originated from outside the City of Beaverton. Exercise caution when opening attachments or clicking links from unknown senders.

To whom it may concern,

My wife and I have 3 children who have all had positive and formative experiences at Ashcreek Play School. Ashcreek serves as a nexus for local community.

It is a place where children learn and play, and parents get to take an active role in their children's school experience. The common goal to enrich children's lives is shared by all of the teachers and parents that are a part of Ashcreek.

The positive effects of these bonds extend beyond the school itself into the neighborhoods and communities in the forms of fund-raising and service. Ashcreek provides children with an early and formative sense of the importance of being part of a community.

Please approve the conditional use permit so that our youngest community members will someday become the leaders that we will all need them to be.

Thank you for your consideration,
Mike and Kim Munly

APPLICATION TO EXPAND SIZE OF PLAYSCHOOL

MHCC now seeks to modify Conditional Use Permit No. 1994-0011 to allow a playschool to operate **INSIDE** the church building and **OUTSIDE** on the large playground with a maximum of **60 (sixty) students, 10 (ten) staff members, unlimited number of parents, utilizing up to 2515 (two thousand five hundred fifteen) square feet of building space and unlimited time using the playground.**

OBJECTIONS

WE OPPOSE THE APPLICATION OF MHCC EXPAND THE PLAYSCHOOL ON THE FOLLOWING GROUNDS:

- The present church playground should first meet City code requirements and approval if it is to be continued;
- Playground noise can become loud and is audible on my property; if it becomes too loud it can be disturbing;
- In 1994 the City only approved the Montessori School to operate inside the church building, and the current playschool company should be required to operate inside the church building;
- The church allows the public to use the playground up to 10:00 p.m. daily. To secure and control access to the playground and its proper use it should be fenced, and locked by 6:00 p.m. daily;
- If the playground is allowed to be open to the public, it should first be required to have City approval as a public playground;
- Our neighborhood is zoned residential and is not zoned to allow the Church to conduct business and commercial operations on its property.

Name

Address

Douglas Gordon
DOUGLAS GORDON

10050 SW 151ST PLACE

Name

Address

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- MHCC is operating the playground as a public playground to 10:00 p.m. every day of the year which significantly magnifies and extends the duration and intrusion from the noise and disturbance;
- Expansion of the CUP will impose an unsafe and unnecessary intrusion from significantly increased traffic causing increased daily congestion and noise in the church parking lot, on SW 149th Terrace, SW 148th Street, SW Gull Avenue, SW 151st Place and SW Weir Road;
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- MHCC has not demonstrated any need or demand to expand the capacity of the playschool beyond its existing CUP.

Billy Shon
Name
John A. Ryan
Name

10190 SW 149th Terr, Beaverton, OR 97007
Address
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Address 97007

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Rajashekhara Gopal Rao
Name

Saoni Mitra
Name

Name

10145 SW 148th Ave Beaverton
OR 97007

Address

10145 SW 148th Ave
Address

Address

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Name	Address
<u>Michael Cortes</u>	<u>14990 sw Gull dr</u>
Name	Address

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Jara Hammend
Name
[Signature]
Name

10145 SW 151st Place ; 97007
Address

10145 SW 151st PLACE, 97007
Address

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Dilshad

Dilshad Saatchi

Name

Name

15175 SW Sand P. Per Ln

Address

Address

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Andrew McGowan

Name

10095 SW 151st St

Address

Name

Address

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DEEPA RAO

Name

10165 SW 148th Ave Beaverton OR 9700

Address

PRANTIK NAG

Name

10165 SW 148th Ave Beaverton OR 9700

Address

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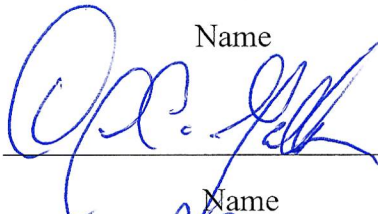
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Name

Address



10175 SW 149th Terrace
Beaverton, OR 97007

Name

Address



10175 SW 149th Terr
Beaverton OR 97007

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Name

Address

Sharon Solash

10195 SW 149th Ter Beaverton OR

Name

Sharon Solash

Address

8-8-23

92007

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Robert T Churchill

Name

John Oliver

Name

15025 SW Gull Dr

Address

11

Address

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mb

Randall [Signature]

Name

05-14-23

Address

Mollie Banks

Name

5-14-23

Address

10000 SW 151st Place

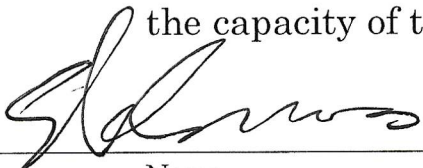
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Name

Erik Symons

Name

10735 SW 151st Pl

Address

Address

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Name

10079 SW 151 PL
Address


Name

10079 SW 151ST PL BEAVERTON OR
Address

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MIKE BEENKEN

Name

10125 SW 148th AVE, BEAVER

Address

Name

Address

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Hai Ngo
Name

10055 SW 151 St Pl
Address Beverton OR 9700

TRANG TRUONG
Name

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Address Beverton OR 9700

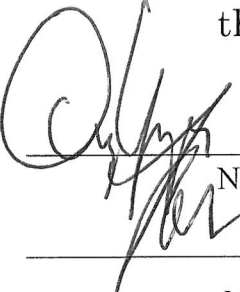
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	Doug Yaeger	10070 SW 151 st Place, Beaverton
Name		Address
_____	LESUE YAEGER	_____
Name		Address

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Mohsen Shojaeifar
Name

15065 SW Gull Dr, Beaverton, OR, 97007
Address

Nasrin Mostajeran
Name

15065 SW Gull Dr, Beaverton, OR, 97007
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Robert W. Kieffer
Name
Debbie Kieffer
Name

10115 SW 151ST PL
Address
10115 SW 151st Place
Address

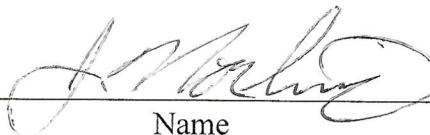
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Address

Name

Address

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TERRY CUSHING

Name

10150 SW 151ST PL

Address

Kelly Cushing

Name

10150 SW 151ST PL

Address

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Name

Address

JRSL- YOUNG SHIM

Name

10210 SW 149TH TERRACE
BEAUCON, OR 97009

Address

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Name
Ronald A. Smith
Name

Address
10170 SW 149th Terr
Address

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Name

Address



CHIH MING lee

10025 SW 148th Ave

BEAVERTON OR 97007

Name

Address

Received
Planning Division
08/16/2024

From: [Aaron Harris](#)
To: [Steven Regner](#)
Subject: FW: [EXTERNAL] Ashcreek Conditional Use Permit (CUP) Parent Testimony
Date: Friday, August 16, 2024 10:52:35 AM

Hi Steve

Here's a third piece of testimony for Ashcreek.

Best,
Aaron

From: Charlie Pontrelli <charliep427@gmail.com>
Sent: Friday, August 16, 2024 10:50 AM
To: Aaron Harris <aharris@beavertonoregon.gov>
Subject: [EXTERNAL] Ashcreek Conditional Use Permit (CUP) Parent Testimony

CAUTION: This email originated from outside the City of Beaverton. Exercise caution when opening attachments or clicking links from unknown senders.

Hi Aaron,

I hope you are doing well! My name is Charlie Pontrelli and my daughter currently attends Ashcreek Playschool. I wanted to submit written testimony for the Planning Commission in support of Ashcreek, and how beneficial it has been to not only my family and I, but our community as a whole.

First, I wanted to address how Ashcreek is necessary to support and sustain the many families and their children who attend the school. Most of the parents, myself included, work full time jobs that require us to find childcare. With the cost of childcare getting more expensive every year, this puts a considerable burden on those of us that have no choice but to pay for childcare. According to the Department of Labor's [Database of Childcare Prices](#), the 2023 estimated median annual price of center-based preschools in Washington County is \$16,153, or approximately 14.9% of the median family income. This is a considerable financial burden for many of us, especially during a time of [persistent inflation](#).

Ashcreek provides exceptional childcare at a fraction of the cost, and is a necessity to many of the families (including mine). Not only is childcare increasingly expensive, Beaverton, along with all of Washington County, is a childcare desert. With fewer than [1 out of every 3 children ages 0-5](#) able to secure a spot within a childcare facility, just finding availability is difficult. The community at large needs Ashcreek to have increased capacity in order to address this crisis.

Second, while Ashcreek serves the basic purpose of providing childcare to those who need it, it also provides an amazing environment for our children to play, learn, and grow. They have the ability to freely, and safely, run around outside. Outdoor play is [necessary](#) for childhood development, especially before the age of 8. Sure, the sounds of laughter and fun is a "consequence" of them playing outside, but it's minimal, and only within the hours from 9AM to 1PM. Not only this, but the kids also only stay within the grounds of the church's playground. They aren't roaming the neighborhood causing mischief; they are playing tag, swinging on the swings, and using their imagination. This sort of environment should be encouraged instead of stifled. I've lived in the area almost my entire life, and after watching the development of Progress Ridge and the "new" Barrows Road, the construction of Mountside High School, and the recent construction on Scholls Ferry, I can confidently say that pre-schoolers playing outside causes the least amount of disturbance out of anything in the area.

Finally, I wanted to end my written testimony with a personal story (thank you for bearing with me.) When my daughter first started attending Ashcreek in July 2022, my wife and I were struggling. Our daughter was born at the beginning of the pandemic, and we had not been able to join any parent groups nor connect with any families due to lockdowns and fear of infection. We had no community, and we felt very alone. The last few years took a serious toll on us. My wife and I were having a hard time balancing being parents and working from home, and our daughter had serious attachment issues due to being with us constantly. When we found Ashcreek we were overjoyed, not only due to it being within our tight budget, but also because it was such a friendly, welcoming, and nurturing place.

In a matter of weeks we saw our daughter come out of her shell and truly flourish. She became more talkative and inquisitive. We saw a significant improvement in her overall happiness, and we have Ashcreek to thank for that. She's made so many friends and absolutely adores her teachers. For my wife and I, we finally feel like we have a community and the support that comes with it. We have made lifelong friends through Ashcreek who I'm so grateful to have met. Everyone cares about the happiness and wellbeing of each other's kids, and it is inspiring to see. It's hard to put into words the kind of community Ashcreek has provided us, but it has been life-changing. Our lives would have been markedly worse off if not for Ashcreek.

Ashcreek has been the single best thing for my family since the birth of my daughter. While I know my testimony primarily relates to my family and I personally, I know that many other families would support my feelings whole-heartedly. Ashcreek is a net positive for many families like mine and the community at large, it serves an urgent need for affordable and available childcare in the area, and approval of the CUP would allow Ashcreek to continue providing needed services for the foreseeable future. Please approve the CUP and the Design Review Letter, and thank you for the consideration.

Sincerely,

Charlie Pontrelli

From: [Aaron Harris](#)
To: [Steven Regner](#)
Subject: FW: [EXTERNAL] Murray Hills Christian Church/Ashcreek playschool CUP
Date: Friday, August 16, 2024 1:30:23 PM

Hi Steve,

Here's a fourth piece of testimony.

-Aaron

-----Original Message-----

From: Julie Laurin <ejlaurin@gmail.com>
Sent: Friday, August 16, 2024 1:29 PM
To: Aaron Harris <aharris@beavertonoregon.gov>
Subject: [EXTERNAL] Murray Hills Christian Church/Ashcreek playschool CUP

CAUTION: This email originated from outside the City of Beaverton. Exercise caution when opening attachments or clicking links from unknown senders.

Hello,

To be honest, it has been difficult for me to write this letter. One reason is because I would prefer to spend my time focusing on the good quality child care that I have promised Ashcreek families. They deserve a good quality, safe environment with focused, energetic and happy teachers.

I am writing to express my heartfelt gratitude and appreciation for the incredible impact Ashcreek Playschool has had on me and my family since we joined the community in 2019. From the moment we became a part of this vibrant and nurturing environment, our family life and work-life balance have significantly improved.

The supportive and stable atmosphere at Ashcreek has been a cornerstone of our daily lives. Knowing that I am a part of a caring and enriching environment allows me to focus on our professional responsibilities. My dedicated coworkers go above and beyond to create a safe and stimulating space where our children can learn, grow, and thrive.

Ashcreek also provides parent education that reaches far outside the walls of our school and into the community, now and into the future.

The sense of community at Ashcreek Playschool is truly remarkable. We have forged meaningful connections with other families, creating a network of support and friendship that extends beyond the school. This sense of belonging has enriched our lives, providing us with a community that shares our values and understands the challenges and joys of parenting.

Our students have blossomed under the guidance of the talented educators at Ashcreek. Their passion for teaching and commitment to fostering a love of learning in each child is evident in every interaction. It is reassuring to know that our children are not only receiving an excellent education but are also developing essential social and emotional skills that will serve them well throughout their lives.

The stability and consistency provided by Ashcreek Playschool have been invaluable in our journey as parents, teachers and students. The routines and structure offered by the school have helped our children feel secure and confident, allowing them to explore the world around them with curiosity and enthusiasm.

In conclusion, I am profoundly grateful for the positive impact Ashcreek Playschool has had on our family. The supportive community, dedicated educators, and nurturing environment have made a significant difference in our lives, and I am confident that Ashcreek will continue to be a cherished part of our family's journey.

We need Ashcreek and all of its benefits. It makes me sad to think there aren't enough preschools in our area. Children are more successful after having the positive experiences preschools like Ashcreek provide.

I hope we can put the intimidation from video and picture taking from the neighbors behind us and move forward with the successes that Ashcreek hopes to continue to provide from Murray Hills Christian Church. I hope to hear the joyful noises of children playing on our playground for decades to come.

Thank you for your time,
Julie Laurin
Director/Lead Teacher at Ashcreek Playschool since 2019

From: [Aaron Harris](#)
To: [Steven Regner](#)
Subject: FW: [EXTERNAL] Conditional Use Permit for Ashcreek Playschool (written testimony)
Date: Friday, August 16, 2024 2:34:03 PM

Hi Steve,

Here's a fifth piece of testimony.

Best,
Aaron

From: Lisa Carpenter <lisa.e.carpenter@gmail.com>
Sent: Friday, August 16, 2024 2:01 PM
To: Aaron Harris <aharris@beavertonoregon.gov>
Subject: [EXTERNAL] Conditional Use Permit for Ashcreek Playschool (written testimony)

CAUTION: This email originated from outside the City of Beaverton. Exercise caution when opening attachments or clicking links from unknown senders.

Dear Members of the Planning Commission,

I am writing to urge you to approve Ashcreek Playschool's Conditional Use Permit (CUP). The school has not only met all the necessary requirements for approval but has also become a vital asset to our community. The Ashcreek Board of Directors, along with other members of the school community, have worked diligently to ensure compliance with all criteria, allowing us to continue providing high-quality early childhood education in our neighborhood.

The need for the CUP is particularly pressing given that Beaverton is considered a childcare desert. For every three families in our community that need childcare, there is less than one spot available at local schools. By approving Ashcreek Playschool's CUP, you will directly support the needs of our children, helping them learn and grow into the future contributors of our city. As a parent with experience facing long waitlists and exhausting commutes to secure quality childcare, I can attest that local access to education is crucial for a well-functioning community. Our children deserve to be educated where they live.

Ashcreek Playschool has been transformative for my family. In 2022 my daughter, Caroline, turned three. Before we found Ashcreek Playschool she had attended two other preschools, where she struggled to adjust. Despite being a kind, loving, and creative child, she found the environment overwhelming, and the lack of support for her teachers made the situation worse. After being expelled from two schools, one after just three weeks, and after each expulsion I was left without childcare, struggling to balance my full-time job as a database administrator for a health nonprofit. I was on the brink of quitting my job, desperate to find a suitable school that would provide a supportive environment for my daughter.

In January 2023, we found Ashcreek Playschool, and it has been a godsend. The passionate community of parents and teachers welcomed us with open arms, providing the support and care that my daughter needed. This school has been a lifeline for us, and I believe it will

continue to be for many other families in the future.

It is important to note that Ashcreek Playschool has no plans to make significant changes to the physical property. The approval of the CUP will simply allow the school to continue its essential work in the community, ensuring that children can learn and grow in a supportive environment.

While I have shared my personal story to illustrate the positive impact Ashcreek Playschool has had on my family, my primary message is that the school has met all criteria for the CUP. I strongly urge you to approve the CUP and the Design Review Letter so that Ashcreek Playschool can continue to serve our community for years to come.

Thank you for your time and consideration.

Sincerely,

Lisa Carpenter

Objections to MHCC application for CUP

August 15, 2024

MHCC has apparently decided not follow existing CUPs for the property or Beaverton Code. I will list some of the problems. Please note the already sent and delivered map showing the extent of neighborhood signing of a petition objecting to the new CUP being requested. A copy of this is attached. This has already been filed quite some time ago. Attached is the original plat showing the environmental zone for the property.

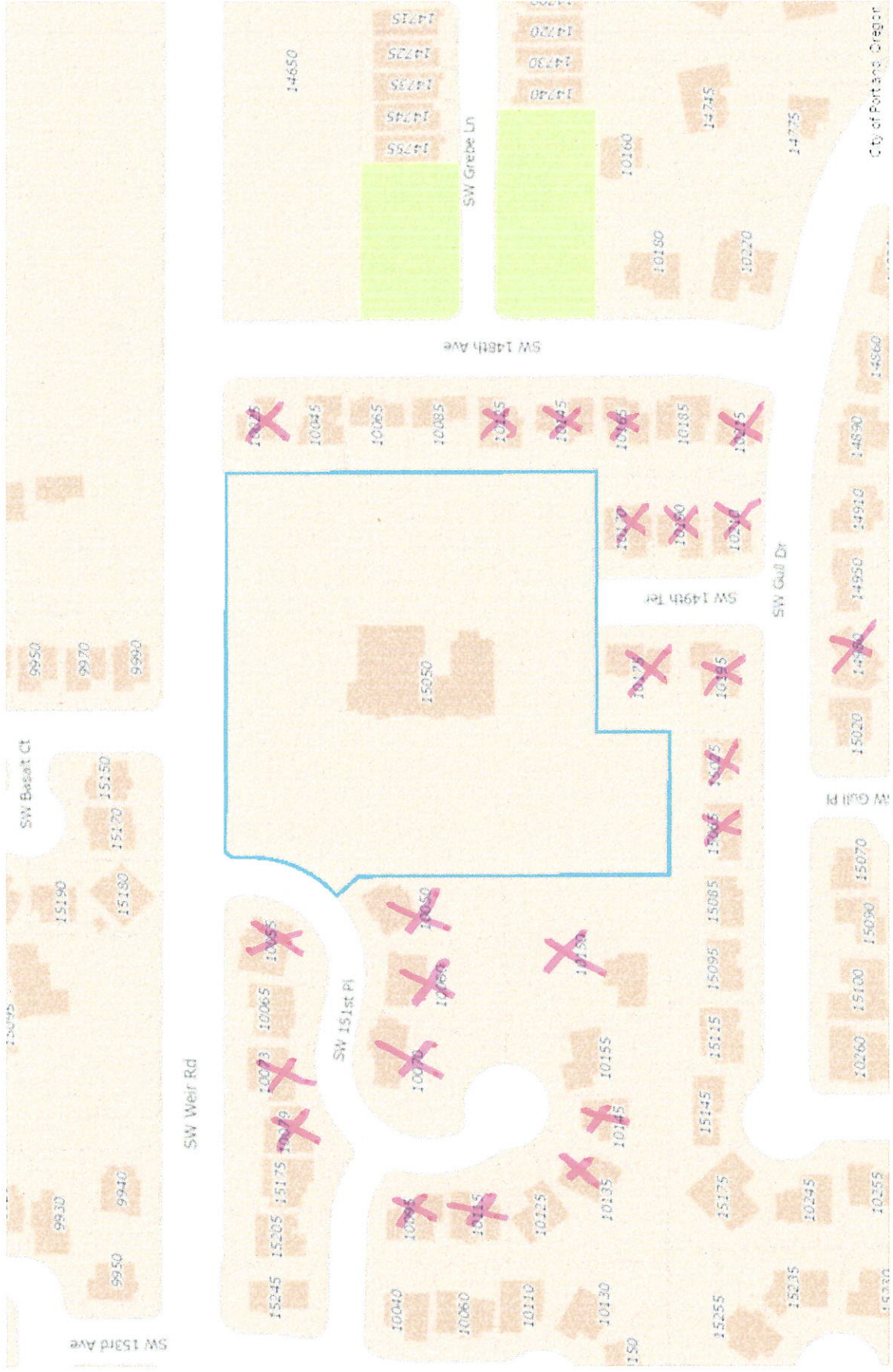
MHCC did not accede to the Code Enforcement letter to close Ashcreek operations. Much after the deadline given, someone at the city decided to enter into a VCA. MHCC has never completely followed the conditions state in the VCA and asked for repeated extensions of time. Finally, an application was filed that was incomplete. More extensions were granted to complete the application. It does not appear that a complete application has ever been filed.

- 1. A partial neighborhood meeting was had with many neighbors asking for time in the near future to have their say, copies of a request to complete meeting have already been filed. An incorrect transcription was created by the city. We hired an outside court report to provide audio and written transcription of the proceedings.**
- 2. The applicant has stated the our neighborhood is a “childcare desert”. we have a list of many, many local providers. In an informal survey of parents of students by myself found that many of them are not in the neighborhood. Some drive long distances to come here.**
- 3. The offered traffic report is now out of date. It must reflect the totality of MHCC, not just Ashcreek. Since the CUPs, additional traffic just recently comes from AA meetings, (twice weekly, nearly full parking lot), food closet, Boy Scout gatherings, (mainly noisy outside), plus other gatherings. These are good works that I do not object to, but the traffic is greatly increased. The filed traffic report is now out of date and was prepared by Jenna Hori’s supervisor at her work.**
- 4. This past Saturday MHCC held a neighborhood gathering. The previous Thursday a group of four people from MHCC knocked on my front door. The pastor, his wife, (who led the speaking), and two unidentified men. My wife was**

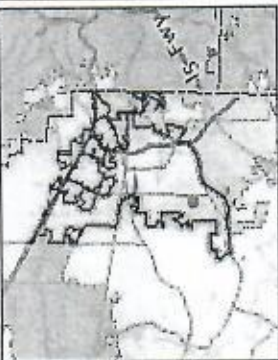
intimidated and was informed that the chained gate was going to be open. She did ask if they were going to put the chain back up. They answered affirmatively. Saturday morning, not knowing this, I found 6-7 vehicles driving from MHCC down my street. This is where neighborhood children and parents walk due to lack of sidewalks. The chained gate is by CUP to be opened for Easter and Christmas holiday activities, not poorly attended recruiting activities.

5. The day care operation by CUP was allowed 2 staff, 700 sq.ft. and the use of the existing 500 sq.ft. play area. That has grown to approx.. 7500 sq.ft. play area with significant play equipment installed. None of this has the approval by the city.
6. Two years ago, MHCC cut down many trees adjoining the creek. Some were cut into firewood size pieces and stacked near the chained gate. On October 16, 2023, a significant cloudburst raised the creek flow. Many small branches that were cut but not removed blocked the culvert entrance. The result was feet of water inundating my across street neighbor's backyard resulting in much landscaping material and rock being pushed into the street. The Public Work Department personnel came quickly and worked professionally to remove the blockage. They had to go back to the shop to get equipment as the water that is normally inches deep creek was now up to their armpits. No permission was obtained from the city to do this. DSL staff came and viewed the creek and banks. They said they could only deal with the ground, the city has jurisdiction over the trees.
7. Ashcreek operated a standalone business leasing space from MHCC. It claims to be a 501c3 organization. The state of Oregon informs me that they are years behind in their registration docs and have been considered defunct. Code does not allow for such activity as a business in our neighborhood.

As allowed visitors into our neighborhood, they must abide by the same rules as all other neighbors must. They are not special.

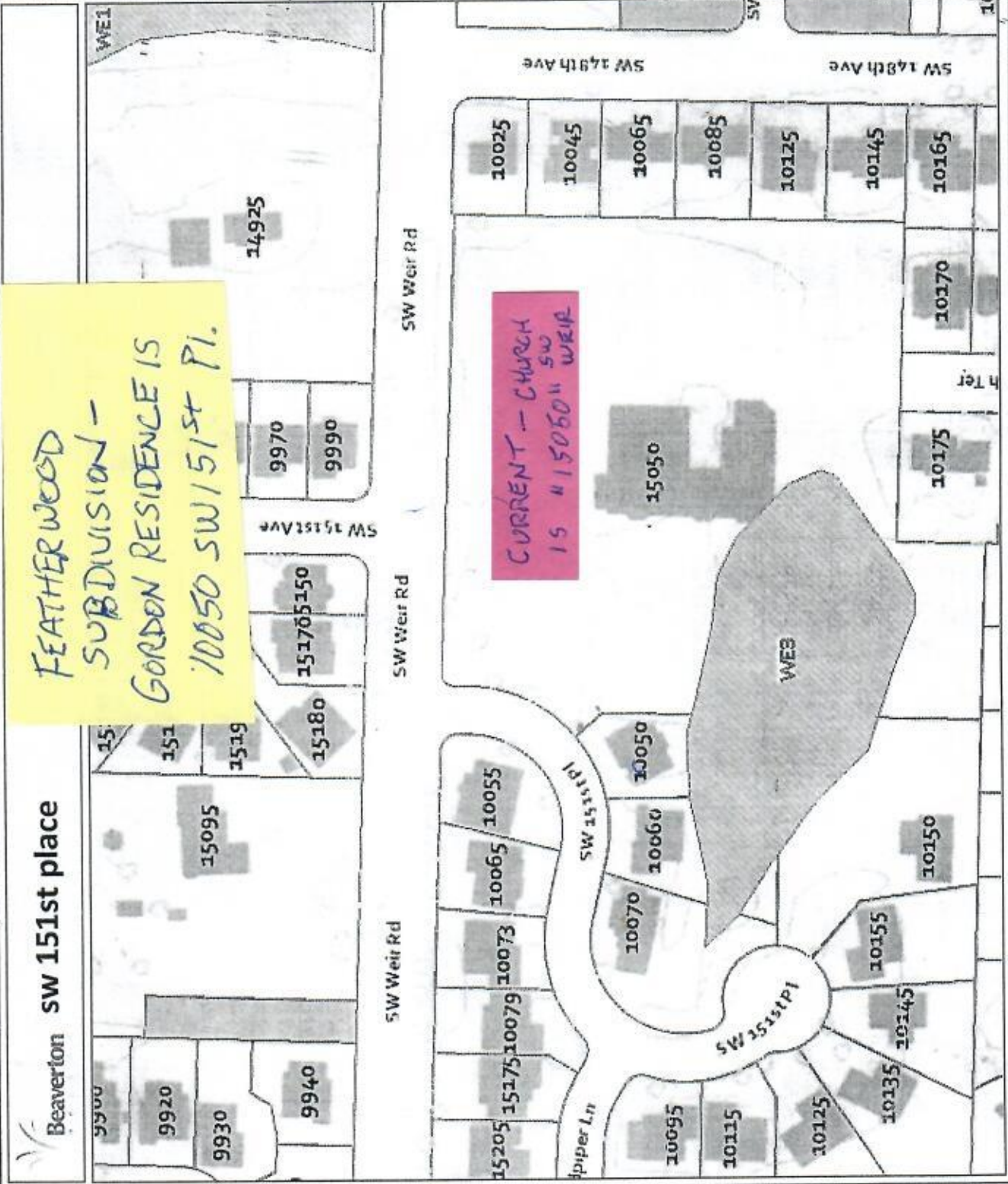


Beaverton SW 151st place



- Legend**
- Streams
 - Open Channel
 - Piped
 - Lakes and Rivers
 - LWI Point Sample
 - LWI Perennial
 - LWI Channel
 - LWI Intermittent
 - LWI Sig Channel
 - LWI Pond
 - LWI DSL Wetland
 - LWI Riparian
 - Sig Perennial
 - Sig Channel
 - Sig Intermittent
 - Sig Wetland
 - Sig Wetland (DSL)
 - Sig Riparian
 - Sig Riparian (SH3)
 - Flood Plain (FEMA)
 - Flood Plain (METRO)
 - ENG Vegetation
 - Washington County Taxlots
 - Park and School Boundaries
 - Parks
 - School Land

Notes

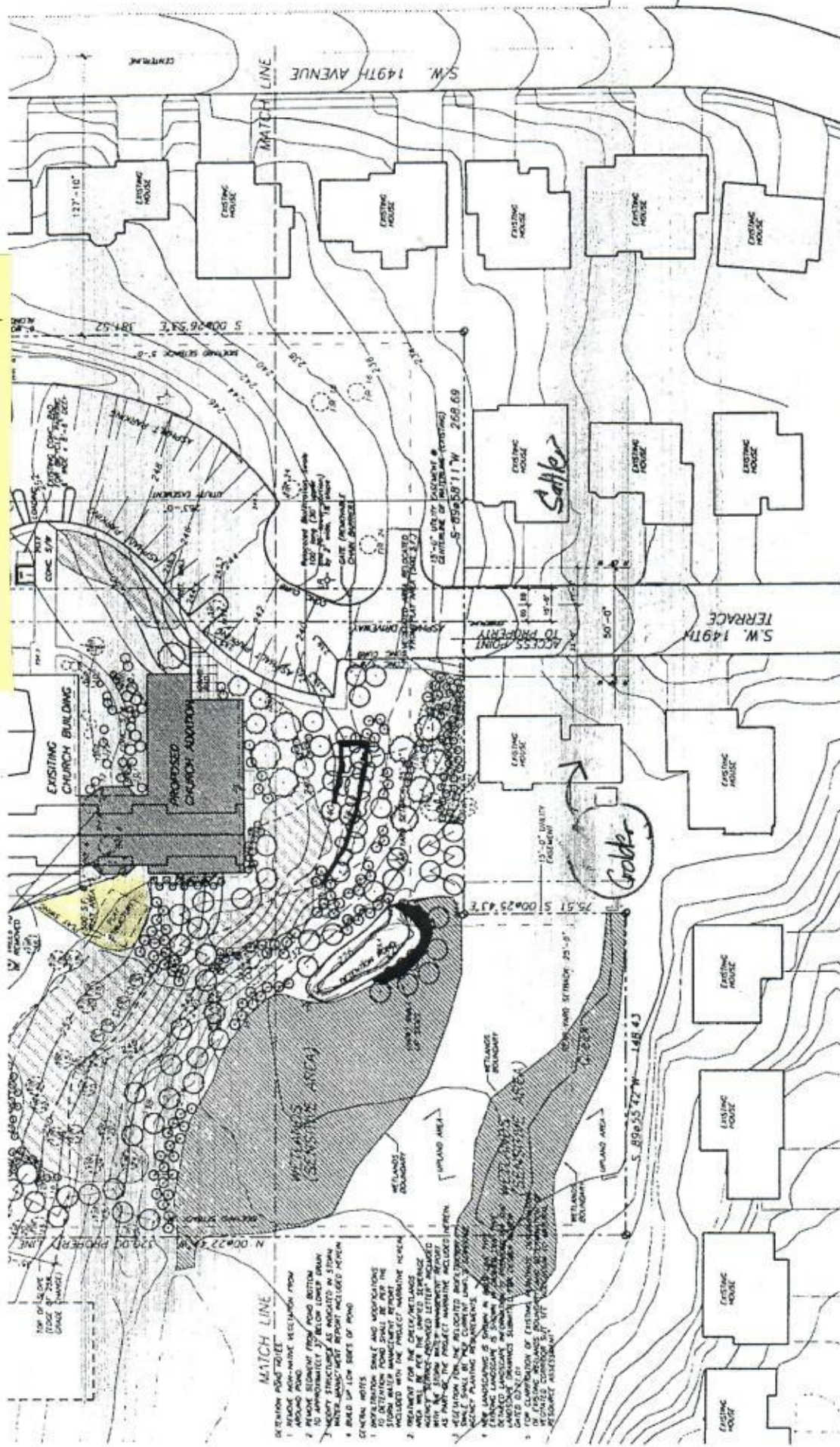


FEATHERWOOD
SUBDIVISION -
GORDON RESIDENCE IS
10050 SW 151st Pl.

The information supplied in this application represents the best data available at the time of publication. City of Beaverton GIS makes no claims, representations, or warranties as to its accuracy or completeness.



2001 - PLAN SHOWING
 PROPOSED CHURCH
 BUILDING ADDITION,
 WITH LEGEND



MATCH LINE

- 1. REGRADE AND WALKWAY REVISIONS FROM EXISTING PLAN TO BE SHOWN IN THIS PLAN.
- 2. REVISIONS TO THE EXISTING CHURCH BUILDING AND PROPOSED ADDITION TO BE SHOWN IN THIS PLAN.
- 3. REVISIONS TO THE EXISTING CHURCH BUILDING AND PROPOSED ADDITION TO BE SHOWN IN THIS PLAN.
- 4. REVISIONS TO THE EXISTING CHURCH BUILDING AND PROPOSED ADDITION TO BE SHOWN IN THIS PLAN.
- 5. REVISIONS TO THE EXISTING CHURCH BUILDING AND PROPOSED ADDITION TO BE SHOWN IN THIS PLAN.
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- 7. REVISIONS TO THE EXISTING CHURCH BUILDING AND PROPOSED ADDITION TO BE SHOWN IN THIS PLAN.
- 8. REVISIONS TO THE EXISTING CHURCH BUILDING AND PROPOSED ADDITION TO BE SHOWN IN THIS PLAN.
- 9. REVISIONS TO THE EXISTING CHURCH BUILDING AND PROPOSED ADDITION TO BE SHOWN IN THIS PLAN.
- 10. REVISIONS TO THE EXISTING CHURCH BUILDING AND PROPOSED ADDITION TO BE SHOWN IN THIS PLAN.

PROPERTY AREA = 169,362.856 SQ. FT.
 ZONING DISTRICT: R-5 - SINGLE FAMILY

DIMENSIONED SITE PLAN (NEW WORK)
 SCALE: 1"=20'-0"

MURRAY HILLS CHRISTIAN CHURCH

15050 SW W ROAD
 BEAVERTON, OREGON 97007

CONDITIONAL USE PERMIT PHASE

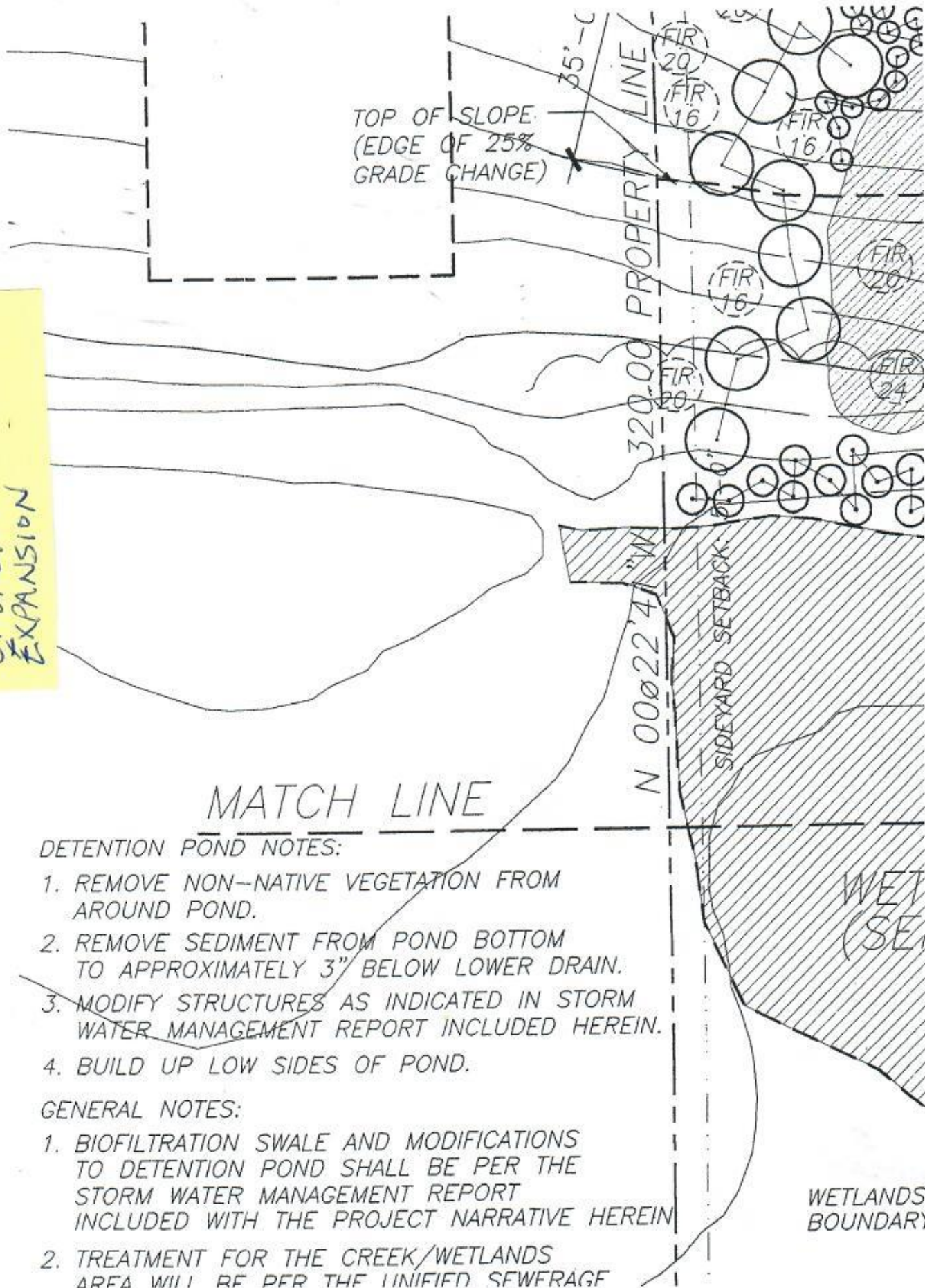
SHEET 4 OF 6

MARCH 21, 2001

11 Globe Hill
 11111 SW 10th St
 Beaverton, OR 97007

234-35

LEGEND ON 2001
DRAWING OF PROPOSED
CHURCH BUILDING
EXPANSION



DETENTION POND NOTES:

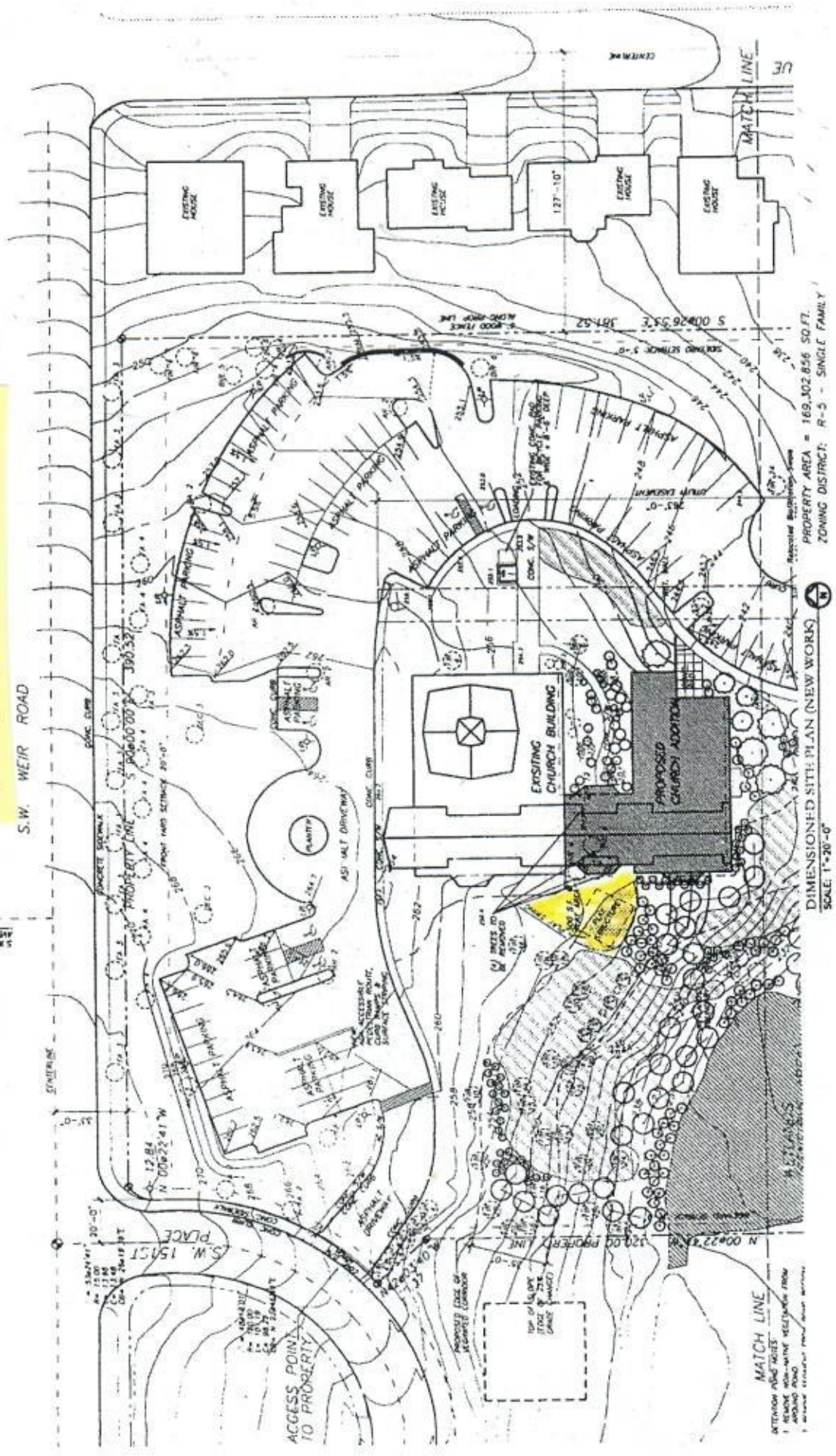
1. REMOVE NON-NATIVE VEGETATION FROM AROUND POND.
2. REMOVE SEDIMENT FROM POND BOTTOM TO APPROXIMATELY 3" BELOW LOWER DRAIN.
3. MODIFY STRUCTURES AS INDICATED IN STORM WATER MANAGEMENT REPORT INCLUDED HEREIN.
4. BUILD UP LOW SIDES OF POND.

GENERAL NOTES:

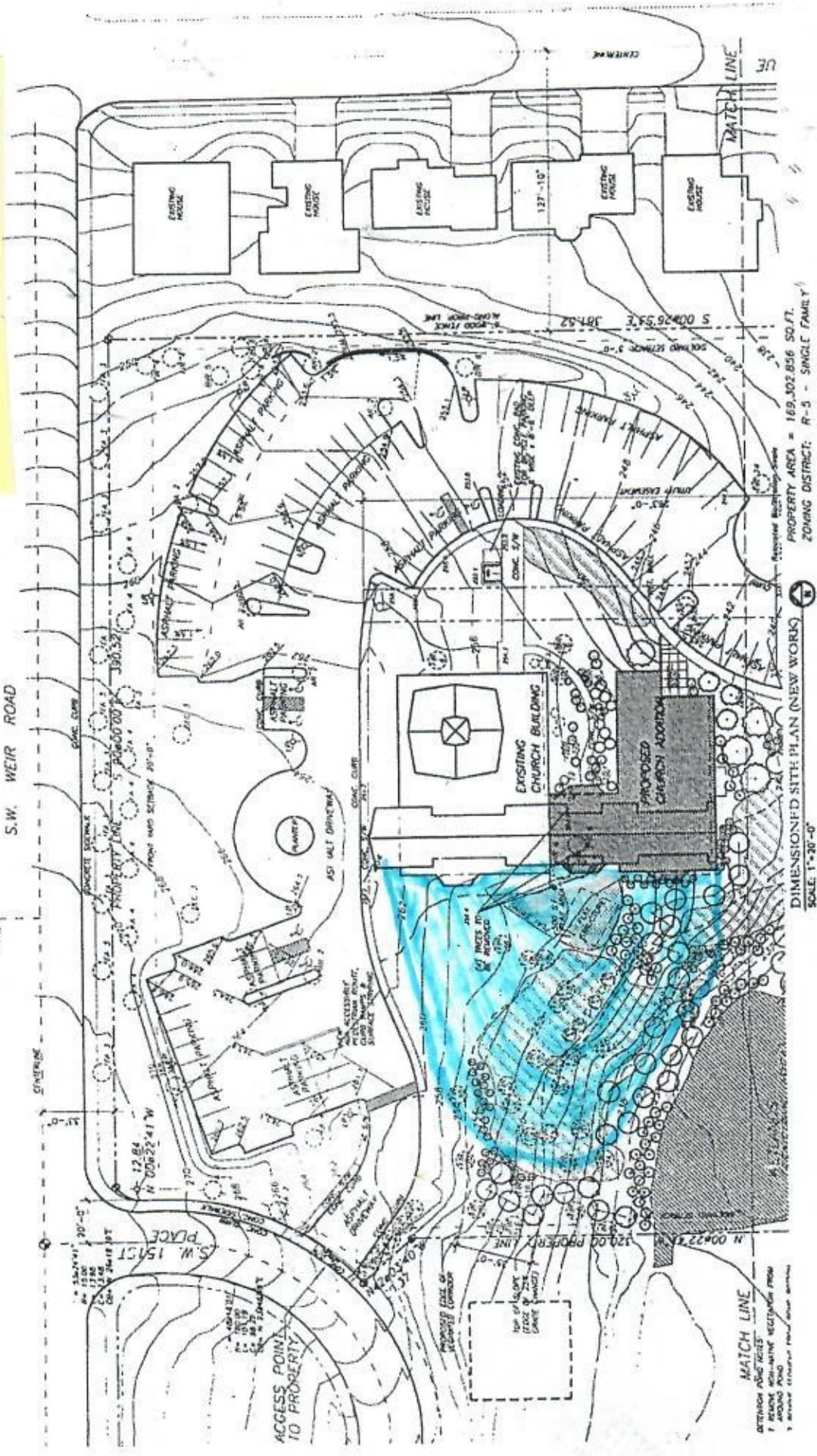
1. BIOFILTRATION SWALE AND MODIFICATIONS TO DETENTION POND SHALL BE PER THE STORM WATER MANAGEMENT REPORT INCLUDED WITH THE PROJECT NARRATIVE HEREIN
2. TREATMENT FOR THE CREEK/WETLANDS AREA WILL BE PER THE UNIFIED SWFRAGE

WETLANDS BOUNDARY

2001- EXISTING
 "PLAY AREA" SHOWN
 IN YELLOW



CURRENT - EXPANDED
PLAYGROUND AND
EQUIPMENT, GROUND
BURIED IN WOOD CHIPS



PROPERTY AREA = 169,302.856 SQ. FT.
ZONING DISTRICT: R-5 - SINGLE FAMILY

DIMENSIONED SITE PLAN (NEW WORK)
SCALE: 1" = 20'-0"

10175 SW 149th Terrace
Beaverton, OR 97007

August 16, 2024

SENT VIA ELECTRONIC DELIVERY

Mr. Steve Regner
City of Beaverton
12725 SW Millikan Way
Beaverton, OR 97005-1678

RE: Project LU32023-00557 Ashcreek Playschool
Case File No. CU32023-00555 / DR12024-00090

Dear Mr. Regner:

We are writing in regard to the above referenced project listed in the City of Beaverton's Public Hearing Notice dated August 28, 2024 ("Hearing Notice"). This letter serves as written testimony that we request be incorporated into the staff report being prepared for this project. We reserve the right to enter additional written testimony into the record prior to the hearing.

Both of us reside at 10175 SW 149th Terrace, Beaverton, Oregon and have owned our property for over 25 years. Murray Hills Christian Church ("Church") is our neighbor, as our home is located next door on the south side of their property. Our residence and backyard are also overlooked by the space leased by Ashcreek Parent Cooperative Playschool ("Ashcreek"), and the 8,500 square foot playground on the Church's property that is used by Ashcreek, as well as the public ("Public Playground").

We have numerous concerns about this project and its significant impact on the livability of our home, as well as our neighborhood. In addition to our concerns about the project, the submitted applications and supporting documents ("Application") contain a number of material errors that will impact any decision made by the City of Beaverton Planning Commission. We will outline some of our concerns and objections in this letter to provide City of Beaverton ("City") staff with the opportunity to address them in the staff report.

The Application lacks fact-based evidence demonstrating that the project satisfies the approval criteria stated in Beaverton Development Code ("BDC") Section 40.15.15.4. Ashcreek and the Church have the burden of proof as stated in BDC Section 10.60.1 to show that the project has satisfied the approval criteria, and they have not met this requirement. The lack of fact-based evidence is clear and convincing that the Application cannot be approved.

Modification of Conditions of Approval in CUP 94011/819 Not Allowed

The Application seeks to modify the conditions of approval in Conditional Use Permit (“CUP”) Order 94011/819 consistent with the express requirements of BDC Section 50.95.7. CUP Order 94011/819 is the first CUP Order issued to Church property that permits the property’s use by a pre-school subject to the explicit restrictions contained in the conditions of approval in the Order.

The conditions of approval in CUP Order 94011/819 were recommended by City staff in order to approve the use of Church property by a Montessori School. It was determined that the use of Church property by the Montessori School would be reasonably compatible with and would have a minimum impact on the livability of other properties in the area. This statement is supported by the written record for CUP Order 94011/819.

BDC Section 50.95.7 states that modification or removal of a condition of approval shall only be granted if the decision-making authority determines any one of the following:

- A. The applicant or owner has demonstrated that a mistake of law or fact occurred, and that the mistake was substantial enough to warrant modification or removal of the condition to correct the mistake.
- B. The condition could not be implemented for reasons beyond the control of the applicant and the modification will not require a significant modification of the original decision.
- C. The circumstances have changed to the extent that the condition is no longer needed or warranted.
- D. A new or modified condition would better accomplish the purpose of the original condition.

The Application does not provide any fact-based evidence that demonstrates any of the above-stated requirements are satisfied. A prudent person would conclude that BDC Sections 50.95.7.A and 50.95.7.B do not apply since the Church has not challenged the conditions of approval at any time since CUP Order 94011/819 was issued over 30 years ago. The Application also does not contain sufficient fact-based evidence on how the proposed increase in school enrollment or the incorrectly asserted expansion of the Public Playground satisfies BDC Sections 50.95.7.C or 50.95.7.D.

It is clear from reading the Application that it does not provide any evidence that the circumstances have changed, or the conditions of approval in CUP Order 94011/819 are no longer needed. It also does not provide any fact-based evidence demonstrating that the new or modified conditions would better accomplish the original purpose of making the use reasonably compatible with and have a minimum impact on the livability of other properties in the area. In fact, there is little to no information or third-party expert evidence in the Application pertaining to noise and environmental impact of the proposed use or how to mitigate it.

Furthermore, the Application fails to address how to mitigate the use of 149th Terrace by parents of Ashcreek's students. The access point to Church property on 149th Terrace cannot be used by anyone other than emergency personnel and parishioners during select Sunday Church services per the terms of CUP Order 14-88 (see CUP Order 14-88 and accompanying Staff Report). Ashcreek and the Church have already been informed that the use of 149th Terrace by parents of Ashcreek's students is an issue, and the Application does not address it.

It is clear the express requirements of BDC 40.15.15.C.6 and 50.95.7 have not been satisfied. As a result, the conditions of approval in CUP 94011/819 may not be modified by this Application as a matter of law.

Modification of Conditions of Approval in CUP 2000-0031 Not Allowed

CUP 2000-0031 further restricted school use of the Church property in addition to the restrictions contained in the conditions of approval stated in CUP Order 94011/819. No other conclusion can be reached based on the clear and unambiguous language in CUP 2000-0031 condition of approval number three, which is restated below for your reference (emphasis added):

“Separate Conditional Use approval shall be required for any future expansion to student enrollment associated with the existing Montessori School or the introduction of any other school program which utilizes church facilities. Enrollment at the existing Montessori School shall not exceed 20 students.”

The purpose of condition of approval number three in CUP 2000 – 0031 was to maintain the livability of the surrounding residences while permitting the Church to build the proposed building expansion. We should know as David Golder spoke with City staff and the decision makers at the time, as well as testified at the public hearings. It also makes sense as the expansion was doubling the size of the Church to over 25,000 square feet, and the new building would be within 100 feet of nearby homes to the south (see CUP 2000 – 0031 staff report dated October 11, 2001, pages 6 and 14).

The Church was seeking approval of the building expansion for their own programs and not for school use. This is clearly stated in the City staff report for CUP 2000 – 0031 application dated April 1, 2001, on page 6 as follows:

“According to the applicant, the purpose of the proposed expansion is to provide adequate space for the Church's current programs and outreach needs.”

The Church also did not plan to increase the size of the Montessori School that was using the Church property in 2001. This can be found in the written record for CUP Order 2000 – 0031 (see page two of Murray Hills Christian Church Conditional Use and Design Review Submission Response to Neighbor Letters dated February 7, 2001) as follows:

“The Montessori School is not anticipated to increase in use. The City of Beaverton granted Conditional Use for the Montessori School with an occupancy of 20 students. If in the future, the Church decides to increase the occupancy of this use, Conditional Use approval will be pursued.”

As a result, the expanded building, site grading, landscaping, and property design did not consider or mitigate the impact of any childcare or school program use of the Church property. It was not needed nor required because the Church only intended to use the expanded building and outdoor property for their programs. (Please note that the Church has never offered childcare or school programs other than Sunday school as part of their programs).

Condition of approval number three was drafted by City staff and recommended in the staff report for CUP 2000 – 0031 (see previously cited staff report). This action was taken by City staff after hearing concerns from nearby residents about the potential impact on the livability of their homes by the Church’s expanded building or outdoor property being used by a school at some future date. The Planning Commission agreed with City staff and issued CUP Order 2000 – 0031 with condition of approval number three in the Order.

As a result, the Church building and property were not designed to be used or mitigate the impact of a public or school playground, day care, pre-school, or other school program based on the evidence in the record.

As previously stated, BDC Section 50.95.7 requires that modification or removal of a condition of approval shall only be granted if the decision-making authority determines any one of the following:

- A. The applicant or owner has demonstrated that a mistake of law or fact occurred, and that the mistake was substantial enough to warrant modification or removal of the condition to correct the mistake.
- B. The condition could not be implemented for reasons beyond the control of the applicant and the modification will not require a significant modification of the original decision.
- C. The circumstances have changed to the extent that the condition is no longer needed or warranted.
- D. A new or modified condition would better accomplish the purpose of the original condition.

The submitted Application does not provide any fact-based evidence that demonstrates any of the above-stated requirements are satisfied. As a result, the conditions of approval stated in CUP 2000 – 0031 may not be modified by this Application as a matter of law.

Residential Livability Substantially Impacted

The Church is located in a residential zone that is classified in the Beaverton Development Code as a RMB Residential Mixed B Zone. The use of Church property other than for residential use requires conditional use approval from the City or the use is not legally allowed per BDC Section 10.15.1.

The Church building and property were not designed to be used or mitigate the impact from a public or school playground, day care, pre-school, or other school programs based on the evidence in the record for CUPs Orders 94011/819 and 2000-0031 (see evidence cited above in Modification of CUPs). At most, Church facilities were only designed for the limited indoor use by a Montessori School that was subject to restrictions contained in the conditions of approval stated in CUP Order 94011/819

Ashcreek's current use, let alone what is proposed in the Application, of Church property is having a significant impact on the livability of our residence and other residences in the neighborhood. We will provide you with an example of what occurs frequently at our residence.

We often sit in our backyard to have conversations or enjoy the peace and tranquility of our backyard. When students from Ashcreek are using the outdoor Church property or Public Playground there is substantial loud and raucous noise generated. Kids being kids, they are going to yell and scream when they have recess using the outdoor Church property and Public Playground.

As a result of the loud raucous noise, We are no longer able to hear each other or use our backyard as intended. The same impact occurs in our kitchen and upstairs bedrooms, as the noise propagates through our glass windows. This is exponentially so if the windows are open. In addition, we are not able to sleep in the bedrooms while the students are having recess using the outdoor Church property or Public Playground due to the noise.

We do not have an issue with the students or their need to play. Our objection to Ashcreek's current and proposed use is that the Church building, and property were never designed for the use nor was proper mitigation installed. The result is we can no longer use certain areas in or outside our home when the kids are using the outdoor Church property or Public Playground. It is unquestionably clear the unmitigated use of the outdoor Church property and Public Playground by Ashcreek has a massive impact on the livability of our home, no matter how one chooses to interpret the City's definition of livability. Afterall, we are unable to use our home as a residence at times even though it is located in a residential zone.

The project also has potential significant environmental impacts that were not discussed in the Application. The Church removed 8,500 square feet of landscaping, modified the slope, installed a retaining wall, and introduced human built materials when it constructed the Public Playground. This is an issue because the Public Playground is located near an environmentally sensitive zone

and is located in a hydrologically sensitive area (please see Proposal Violates Comprehensive Plan Goal 3.3.1 for a full discussion of the potential environmental impacts of the Public Playground).

The construction of the Public Playground has also impaired our ability to enjoy the peace and tranquility as well as use of our backyard. This is due to surface water flowing from Church property that has repeatedly flooded the wetlands and our backyard. A prudent person would conclude that removing landscaping and changing the site where the Public Playground is located will contribute to the flow of surface and subsurface water on Church property. However, the Application does not contain any information showing that construction of the Public Playground has not contributed to this issue or how to remediate the increased water flow. Need I remind you the burden of proof is on the applicant to show the retroactive approval of the Public Playground is not having an impact or how to remediate the impact if one is found.

Furthermore, unmitigated surface water flowing from the Church property is causing unknown environmental damage to the wetlands, as well as damage to our property. This issue has already caused over \$5,000 of damage to our property and an unknown amount of environmental damage to the wetlands.

The Application does not contain any remediation of noise, traffic, or other environmental impacts caused by Ashcreek's current use, let alone what is proposed, of the outdoor Church Property or Public Playground. The only remediation offered is a cyclone fence surrounding the Public Playground. This is not a solution as a cyclone fence does not stop the propagation of noise. This particular fence also does not restrict use of the Public Playground, as it does not fully enclose the site nor is the gate locked.

The location, size, and functional characteristics of the proposal are not compatible with a residential zone and in fact they have a significant impact on the livability and appropriate use of our property, as well as the properties in the neighborhood. This does not satisfy the requirements of approval criteria five in BDC Section 40.15.15.C. As such, the Application cannot be approved as a matter of law.

Proposal Violates City Comprehensive Plan Goals

The process used to submit the Application, Ashcreek's current use of Church property, and the proposed use stated in the Application violate multiple City Comprehensive Plan Goals.

Goal 2.1.1: The Planning Commission, Council, and other decision-making bodies shall use their best efforts to involve the public in the planning process.

Comprehensive Plan Goal 2.1.1 states in Section 2.2 the following:

“that all land use applications must be accompanied by a demonstration, on the part of the applicant, that sufficient effort has been made to notify affected residents of the proposed action.”

Ashcreek nor the Church notified affected residents in the Neighborhood Notice or Neighborhood Meeting that the Public Playground was part of the proposed action. This notification is required in BDC Section 50.30. As a result, the Application does not satisfy and violates City Comprehensive Plan Goal 2.1.1.

Goal 3.3.1: Promote sustainable development, resilience, and resource protection

Comprehensive Plan Goal 3.3.1, Policy a) states the following:

“Use land effectively in urban areas to relieve development pressure in rural areas and help protect farms, forests and natural resources.”

The Public Playground is located within 200 feet, and near an environmentally sensitive area (i.e., wetlands). The area where the Public Playground is located was previously determined in 2001 to be within 200 feet and near an environmentally sensitive area. This determination was made by Unified Sewerage Agency staff (regulatory body prior to Clean Water Services), City staff, and representatives of Otak Inc. (architect and urban design firm).

There are multiple wetlands on the Church property that must be considered when calculating the distance from the Public Playground. The Public Playground is located near the northern most wetland boundary at the top of the slope leading up to the Church. This wetland and the riparian zone associated with it are within 200 feet and unquestionably near the Public Playground (see Revised Unified Sewerage Agency Service Provider Letter dated March 20, 2001, Otak letter containing the revised Natural Resource Assessment dated February 7, 2001, and supporting Otak documents for CUP 2000-0031 Application).

Furthermore, the Public Playground is located near a water quality sensitive area (i.e., wetlands) according to Clean Water Services’ definition as follows:

“a water sensitive area is a resource or area within 200 feet of a proposed development site.”

In addition, the Public Playground site itself is a hydrologically sensitive area. A hydrologically sensitive area is any area in a watershed that is prone to generating runoff and therefore has the potential to transport pollutants (Walter et al., 2000).

The determination by Clean Water Services that no site assessment or service provider letter is required was an incorrect determination, as it was based on false information provided by Ash-

creek and the Church. The Sensitive Area Pre-Screening Site Assessment form dated June 31, 2023, that was completed by Jenna Hori from Ashcreek falsely asserted in section four of the form, which is titled Development Activity, the following:

“Occupancy increase only. No development activity.”

Ms. Hori also falsely asserted in section seven of the form, which is titled Additional Comments..., the following:

“This is an existing site plan for background information. No physical changes are proposed at the site, the area of disturbance is zero. This submittal is related to a permit to increase occupancy of child care service in the existing building.”

Ashcreek’s Design Review Application submitted to the City requested the retroactive approval of the construction, as well as use, of a Public Playground as part of the Application. This act is sufficient evidence to prove that Ms. Hori was aware the Application contained development activity.

The review by Clean Water Services and required fact-based evidence showing that the proposed project has no impact on the surrounding environment is not a mere technicality. Surface water on the Church’s property is transported through a water drainage system that empties into the nearby wetlands. Subsurface water also flows into nearby wetlands due to the slope and grading at the project site. The removal of 8,500 square feet of landscaping, change in slope grading, construction of a retaining wall, and introduction of human built materials from building the Public Playground have potential significant impacts to the environmentally sensitive area.

In addition, surface water flowing from the Church property is contributing to the flooding of the wetlands and our property as previously stated. Twice in the past twelve months both sites have been flooded by excessive surface water flowing from the Church property into the wetlands and our property.

The location of the Public Playground leads a prudent person to conclude that additional investigation of potential environmental impacts by the project is warranted. It is also scientifically known that grass root systems, such as the grass that was removed, increase soil infiltration rate and erosion resistance through binding and bonding effects (Wang & Zhang, 2018). The Application though has no fact-based evidence or studies that quantify or determine the potential impact from the project to water quality, soil erosion, or habitat degradation in the environmentally sensitive zone.

Additional environmental review is required per Clean Water Services, multiple Oregon, and Federal environmental laws, as well as numerous State and Federal regulations. Clean Water Services would have informed Ashcreek and the Church of this fact if they had informed the agen-

cy of the construction, location, and use of the Public Playground. As a result, the Sensitive Area Pre-Screening Site Assessment is legally invalid, and a new environmental assessment must be obtained.

The Application contains no facts or findings on the impact of removing 8,500 square feet of landscaping caused by the construction of the Public Playground or the ongoing use of it. As mentioned above, further study is required to determine the impact, and any remediation measures needed for surface water drainage, water quality preservation, potential pesticide contamination, and the removal of landscaping required in CUP Order 2000 – 0031.

The City is unable to fulfill its duty to protect natural resources due to false information submitted to Clean Water Services and the lack of fact-based evidence in the Application showing that it complies with City, State, and Federal environmental requirements. As a result, the Application fails to satisfy and in fact violates City Comprehensive Plan Goal 3.3.1.

Goal 4.5.1: Ensure that Beaverton continues to be one of the most livable communities in the region

Following is the definition of livability in the City Comprehensive Plan:

“Livability: The sum of factors contributing to a complete community’s quality of life, including: the built and natural environments; safety; nuisance control; economic prosperity; social stability and equity; educational opportunity; and cultural, entertainment and recreation possibilities.”

We reassert that Ashcreek’s current and proposed use in the Application violates the livability standards in the Beaverton Development Code. This also violates City Comprehensive Plan Goal 4.5.1. This is due to the fact that Ashcreek’s current and proposed use in the Application renders portions of our home unusable as a residence at times. The use also has a significant environmental impact that requires further assessment and remediation. (Please see proceeding sections on Residential Livability Substantially Impacted and the violation of Comprehensive Plan Goal 3.31 for further information and evidence.)

Goal 5.4.1: Ensure long-term provision of adequate storm water management within existing City limits and areas to be annexed in the future.

The additional water flow on the Church property as a result of the construction and use of the Public Playground is impacting the City’s ability to accomplish Goal 5.4.1. The surface and subsurface water flowing from the Church property goes into a storm water drain that is owned by the City of Beaverton. The additional water flow from the Church property is contributing to the failure of the storm water system to transport water from the wetlands and my property.

There are no fact-based findings or evidence in the Application showing the construction and use of the Public Playground is not contributing to the excess surface and subsurface water flows on Church Property. As previously asserted, a prudent person would in fact conclude that the Public Playground is having a potential impact and as such should be further investigated.

The Application violates Goal 5.4.1. because the Public Playground is inhibiting the City's ability to achieve this goal.

Application and Supporting Documents not Submitted in Proper Sequence

Ashcreek and the Church failed to discuss the nature, location, and use of the Public Playground in the pre-application conference with the City, the Neighborhood Notice sent to affected property owners, and the Neighborhood Meeting. Evidence in the submitted record supports this statement, as there is no mention of the Public Playground in the written record of these items.

BDC 50.30.B requires the applicant to state the nature and location of the proposal in the Neighborhood Meeting Notice. The Hearing Notice describes the proposal as an increase in school enrollment at a preschool and the expansion of a playground associated with it. The Neighborhood Meeting Notice contains no statement in regard to the Public Playground or its use (see Neighborhood Meeting Notice in the Application).

BDC 50.30.D requires the applicant to describe the proposed application to persons in attendance at the Neighborhood Meeting. Ashcreek nor the Church described the Public Playground or the use of it by Ashcreek or the public at the meeting (see Neighborhood Meeting minutes in the Application).

Ashcreek and the Church also did not inform Clean Water Services of the construction and use of the Public Playground as previously stated. The Sensitive Area Pre-Screening Site Assessment submitted with the Application states "No physical changes proposed, the area of disturbances is zero." This is a false statement, as there are substantial changes and disturbances to the grading and landscaping at the project site due to the construction and inclusion of the Public Playground in the project. Due to the false information, Clean Water Services reached an incorrect conclusion that no further study is required. This is a dangerous conclusion due to the project's location near several wetlands.

As a result, the Sensitive Area Pre-Screening Site Assessment is legally invalid, and a corrected revised form must be obtained from Clean Water Services. This has led to the document being submitted in the wrong order and incorrect information being considered by the Planning Commission.

Application Does Not Satisfy Requirements for a Major Modification of a Conditional Use

The three CUP Orders issued to the Church property do not contain any language approving the construction or use of a public or school playground on the property. One only needs to read the clear and unambiguous language in the four corners of the CUP Orders to arrive at this conclusion.

Sometime between 1988 and 1994, the Church built a 500 square foot play area on their property. The construction of the play area did not require prior CUP approval due to its limited size and its use was incidental to the property being used as a Church. We direct you to the Beaverton Development Code in existence, as it supports this statement.

In 1994 the Planning Commission considered the use of the 500 square foot play area by the Montessori school. Concerns were raised by a Planning Commission member about the play area during the public hearing. In any event, the 500-foot play area and its use by the Montessori School were not included in the conditions of approval stated in CUP Order 94011/819. In fact, the Planning Commission restricted the Montessori school to only using 700 square feet inside the Church building. No other conclusion can be reached as a matter of law due to the clear and unambiguous language in the CUP Order 94011/819.

In the Planning Commission public hearings in 2001, the 500 square foot play area was noted in the staff report, supporting documents, and briefly discussed at the hearing. No issues were raised about it because of its limited size, and its infrequent use did not present any issues for the neighborhood. The Montessori School was also restricted to only using the inside of the building per CUP Order 94011/819. If the Montessori school ever used the 500 square foot play area, it was infrequent and in violation of the conditions of approval in CUP Order 94011/819.

Sometime between 1994 and 2004, the Church removed the 500 square foot play area. The installation of the 8,500 square foot Public Playground that is being used by Ashcreek and the public is a new use. Beaverton Development Code requires a new application and Type III process be followed in order to review and approve a public or school playground on the Church property. This is per the express language of BDC 10.20.5, 20.05.20, and 40.15. A design review letter application is insufficient to meet the strict requirements of the above cited Code sections.

Citizen Rights Violations

The failure to inform the City and affected residents upfront that the Public Playground is part of the proposed project also prejudices our substantial due process rights. Citizen due process rights are an important goal of the City of Beaverton as articulated in City Comprehensive Plan Goal 2.21 subsection 2.2 as previously discussed. The Application fails to satisfy this goal, and also violates our notification due process rights stated in 50.30 since it did not disclose that the Public Playground was part of the Application.

Mr. Steve Regner
August 16, 2024
Page 12

Furthermore, we also have significant due process rights codified in Oregon Revised Statute 197.797. This statute requires all notices to “Explain the nature of the application and the proposed use or uses which could be authorized.” All notices received by us prior to the Hearing Notice did not disclose the Public Playground.

Finally, we have substantial Due Process rights that are protected under the 14th Amendment of the U.S. Constitution that pertain to this Application. The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution protects people from being deprived of life, liberty, or property without due process of law. It requires government actors to follow certain procedures before depriving a person of a protected interest. These procedures include notice, an opportunity to be heard, and an impartial tribunal.

Ashcreek and the Church’s failure to inform the City that the Public Playground would be part of the Application resulted in the City not advising them that they must notify affected residents of the Public Playground in the proposed project. Furthermore, once City staff were notified of the Public Playground, City staff incorrectly advised Ashcreek and the Church to submit a design review letter application instead of a new conditional use permit application or a revised application for a major modification of a conditional use. As a result, we have not had sufficient time to fully determine how the proposed use in the Application may impact our lives, property, or livability of our home.

Conclusion

The Application cannot be approved due to the failure of Ashcreek and the Church to satisfy the approval criteria stated in BDC Section 40.15.15.C. In addition, the Application violates our substantial due process rights as it did not contain information on the Public Playground and as a result, we cannot determine the impact of the proposed use on our lives, property, and livability of our home. Finally, the Application contains a multitude of errors that preclude its consideration and approval by the Beaverton Planning Commission.

We appreciate your time and consideration of our written testimony on Project LU32023-00557 Ashcreek Playschool, Case File No. CU32023-00555 / DR12024-00090 when preparing the required staff report.

Thank you.

[SIGNATURES ON THE FOLLOWING PAGE]

Mr. Steve Regner
August 16, 2024
Page 13

Sincerely,

A handwritten signature in blue ink that reads "David C. Golder". The signature is written in a cursive style with a long horizontal flourish at the end.

David C. Golder

A handwritten signature in blue ink that reads "LeeAnn Brewer-Golder". The signature is written in a cursive style with a long horizontal flourish at the end.

LeeAnn Brewer-Golder

10175 SW 149th Terrace
Beaverton, OR 97007

August 21, 2024

VIA EMAIL: sregner@beavertonoregon.gov

Steve Regner
Senior Planner
City of Beaverton Planning Department
12725 SW Millikan Way
Beaverton, OR 97076

Re: Project Name: LU32023-00557 Ashcreek Playschool
Case File Nos: CU32023-00555 / DR12024-00090
Planning Commission Hearing Date: August 28, 2024

Dear Mr. Regner:

Before the Staff Report is concluded, I am submitting the following four grounds requiring the Planning Commission hearing on August 28th to be postponed until three deficiencies are resolved.

First, the most recently filed Application is not signed by the property owner, Murray Hills Christian Church, or the nominal Applicant, Ashcreek Playschool. Such signatures are required by BDC 50.25 (1)(A)(1) and (2).

Second, the most recently filed Application does not include "a written statement made by the owner of the property . . . stating that the agent is authorized to sign on the owner's behalf." BDC 50.25 (1)(A)(2).

Third, the Murray Hills Christian Church was not the actual owner of the subject real property at the time the Application was filed, or any time thereafter to the present date. In support of this conclusion, I have attached a copy of the Special Warranty Deed officially recorded on December 6, 2019, which purports to convey fee title to Murray Hills Christian Church.

Steve Regner
August 21, 2024
Page 2

On the date the Deed was signed, December 1, 2019, the grantor, The Cedar Hills Christian Church of Beaverton, was a dissolved Oregon corporation. According to the Oregon Corporation Division Business Entity records, The Cedar Hills Christian Church of Beaverton was administratively dissolved on September 18, 1997. See attached copy of Oregon Corporation Division Business Entity Data for The Cedar Hills Christian Church of Beaverton.

ORS 66.654(1) grants an admiratively dissolved nonprofit corporation five years from the date of dissolution to apply for reinstatement. The Cedar Hills Christian Church of Beaverton never applied for reinstatement.

The subject Special Warranty Deed purports to be a sale of the property. It recites that the Deed is supported by "true consideration" of "other value given and promised".

The purported sale by The Cedar Hills Christian Church of Beaverton was made after it was administratively dissolved. Because the sale was not one in the ordinary course of business, ORS 65.534 requires that the Board of Directors must first approve any sale. Instead of reciting compliance with this requirement in the Deed, the Grantor only recites that it had attempted to satisfy this requirement by organizing a separate corporation to be the grantee by filing articles of incorporation with Oregon Secretary of State. Approval by the Board of Directors is absent and that is a fatal flaw which renders the Deed legally insufficient to convey title.

The Special Warranty Deed was not signed by an officer of The Cedar Hills Christian Church of Beaverton. ORS 65.371 requires a nonprofit corporation to elect officers to carry out the corporation's business affairs.

The Deed was instead signed by a purported Trustee of an entity which been dissolved for 22 years. Under Chapter ORS 65, only officers and directors are empowered to perform the actions mandated by that statute. This necessarily includes conveyances of real property. No such statutory legal authority is given to trustees to convey real property.

Steve Regner
August 21, 2024
Page 3

In the absence of any legal authority, the signature of a "trustee" is legally insufficient, and therefore the Statutory Warranty Deed did not convey any legal tittle to Murray Hills Christian Church.

Fourth, Murray Hills Christian Church did not incorporate as a corporate entity until November 27, 2002. See attached copy of Oregon Corporation Division Business Entity Data for Murray Hills Christian Church. The Special Warranty Deed was signed December 1, 2019, to a purported "grantee" which had no legal existence. Because that Deed was legally inoperative to convey any legal title, Murray Hills Christian Church was not the property owner on the date the Application was filed, in violation of BDC 50.25 (1)(A)(1) and (2).

In conclusion, for four separate and independent grounds, the purported Application fails to satisfy the requirements of the Beaverton Development Code, and any hearing thereon should be postponed until the Application meets such requirements.

Please acknowledge receipt.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D.C. Golder', is written over the printed name 'David Golder'.

David Golder

Enclosures

**First American Title Accommodation
Recording Assumes No Liability**

Washington County, Oregon **2019-088487**
D-DW
Stn=2 S AKINS 12/06/2019 12:34:56 PM
\$30.00 \$11.00 \$5.00 \$60.00 **\$106.00**

I, Richard Hobernicht, Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.

Richard Hobernicht, Director of
Assessment and Taxation, Ex-Officio

Until a change is requested, all tax statements shall be sent to:

Murray Hills Christian Church
(Disciples of Christ)
15050 SW Weir Road
Beaverton, OR 97007
Attn: Wayne Bartland, Trustee

After recording, send to:

Michael R. Silvey
Lane Powell PC
601 SW 2nd Ave., Suite 2100
Portland, OR 97204

FIRST AMERICAN

NWA 1912-001

SPECIAL WARRANTY DEED

The Cedar Hills Christian Church of Beaverton, Oregon, an Oregon nonprofit corporation, which acquired title as The Cedar Hills Christian Church (the "Grantor"), conveys and specially warrants to Murray Hills Christian Church (Disciples of Christ), an Oregon nonprofit corporation (the "Grantee"), that certain real property situated in the City of Beaverton, Washington County, Oregon, legally described on Exhibit A attached hereto and incorporated herein by this reference (the "Property") subject to all existing liens and encumbrances of record, including those which would be disclosed by a survey of the Property.

The true consideration for this conveyance is other value given and promised.

The purpose of this Special Warranty Deed ("Deed") is to clarify the public record regarding ownership of the Property. Grantor was incorporated on July 24, 1962, with the Oregon Secretary of State under Registry No. 069301-19. Grantor acquired the Property by various deeds; the first of which was by a statutory warranty deed from Howard L. Lofland to Grantor, recorded April 1, 1988, in the Official Records of Washington County as Recording No. 88013437, which deed conveyed Parcel I as described in Exhibit A. The second deed was by a bargain and sale deed from James D. Buchanan and Nancy C. Buchanan, husband and wife, recorded November 27, 1991, recorded in the Official Records of Washington County, as Recording No. 91066020, which deed conveyed Parcel II as described in Exhibit A. Grantor changed its name to Murray Hills Christian Church through the filing of an Assumed Business Name Registration with the Oregon Secretary of State on March 15, 1989, under Registry No. 149796-86. Grantor was involuntarily dissolved by the Oregon Secretary of State on September 18, 1997. While Grantor was involuntarily dissolved, its assets were not formally transferred and the purpose of this Deed is to clarify that title to the Property is held by Grantee which has occupied the Property since its incorporation on November 27, 2002. With the intent to reinstate its involuntary dissolution, Grantor caused the formation of Grantee by the filing of articles of incorporation with the Oregon Secretary of State on November 27, 2002, under Registry No. 109782-94 and has continued to own and operate the Property for church purposes under the name Murray Hills Christian Church (Disciples of Christ).

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

DATED this 1 day of December, 2019.

GRANTOR:

THE CEDAR HILLS CHRISTIAN CHURCH OF
BEAVERTON, OREGON, an Oregon nonprofit
corporation

By: James H. Cure
Name: James H. Cure
Its: Trustee Chair

[Signatures continue]

ACCEPTANCE:

Grantee hereby accepts the foregoing Deed and acknowledges and confirms each of the recitals and statements contained therein.

GRANTEE:

MURRAY HILLS CHRISTIAN CHURCH
(DISCIPLES OF CHRIST), an Oregon nonprofit
corporation

By: Sharon Jarman
Name: Sharon Jarman
Its: Board Chair

By: Kristy Brady
Name: Kristy Brady
Its: Board Secretary

(ACKNOWLEDGEMENTS ON FOLLOWING PAGE)

Acknowledgements of Grantor:

STATE OF OREGON)
) ss.
County of Washington)

This instrument was acknowledged before me on the 1st day of December, 2019, by James H. Cure as the Trustee Chair of The Cedar Hills Christian Church of Beaverton, Oregon, an Oregon nonprofit, for the benefit of the corporation.



V Smallwood

Notary Public for Oregon
My Commission Expires: 07/16/2022

[Acknowledgements continue]

Acknowledgements of Grantee:

STATE OF OREGON)
) ss.
County of Washington)

This instrument was acknowledged before me on the 15th day of December, 2019, by Sharon Jarman as the Board Chair of Murray Hills Christian Church (Disciples of Christ), an Oregon nonprofit, for the benefit of the corporation.



V. Smallwood
Notary Public for Oregon
My Commission Expires: 07/16/2022

STATE OF OREGON)
) ss.
County of Washington)

This instrument was acknowledged before me on the 18th day of December, 2019, by Kristy Brady as the Board Secretary of Murray Hills Christian Church (Disciples of Christ), an Oregon nonprofit, for the benefit of the corporation.



V. Smallwood
Notary Public for Oregon
My Commission Expires: 07/16/2022

EXHIBIT A

Property Description

Real property in the County of Washington, State of Oregon, described as follows:

PARCEL I:

A parcel of land in the Northeast quarter of Section 32, Township 1 South, Range 1 West, Willamette Meridian, City of Beaverton, Washington County, Oregon, described as follows:

Beginning at a point on the North line of Section 32, Township 1 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon, 777.5 feet East of the quarter post and running thence South 495 feet; thence East 554.5 feet; thence North 82.5 feet; thence East 264 feet to the Southwest corner of the R.E. Horner tract; thence North along the West line of said tract 412.5 feet to the center of County Road; thence West along the center of said road 818.5 feet to the place of beginning.

EXCEPTING THEREFROM the West 400 feet.

ALSO EXCEPTING THEREFROM those portions dedicated for right-of-way purposes by instruments recorded September 23, 1991 as Recording No. 91052818, March 31, 1995 as Recording No. 95021556 and November 21, 1997 as Recording No. 97109700.

PARCEL II:

A parcel of land in the Northeast quarter of Section 32, Township 1 South, Range 1 West, Willamette Meridian, City of Beaverton, Washington County, Oregon, described as follows:

Beginning at the Northeast corner of said Section 32; thence West, along the northerly line of said Section 32, 1473.38 feet; thence South 00°23'01" East 30.00 feet to a point on the southerly right of way line of S.W. Weir Road; thence continuing South 00°23'01" East 94.41 feet to the true point of beginning of the herein described parcel; thence continuing South 00°23'01" East 45.97 feet; thence North 42°04'00" West 30.37 feet; thence along the arc of a 120.00 foot radius curve Left, through a central angle of 14°45'35" a distance of 30.91 feet to a point which bears North 40°33'12" East 30.83 feet from the last described point and the true point of beginning.

Tax Parcel Number: 15132AA-00400

OREGON SECRETARY OF STATE
► Corporation Division

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Business Name Search

[New Search](#) [Printer Friendly](#) **Business Entity Data** 08-21-2024 14:24

Registry Nbr	Entity Type	Entity Status	Jurisdiction	Registry Date	Next Renewal Date	Renewal Due?
109782-94	DNP	ACT	OREGON	11-27-2002	11-27-2024	
Entity Name	MURRAY HILLS CHRISTIAN CHURCH (DISCIPLES OF CHRIST)					
Foreign Name						
Non Profit Type	RELIGIOUS					

[New Search](#) [Printer Friendly](#) **Associated Names**

Type	PPB	PRINCIPAL PLACE OF BUSINESS			
Addr 1	15050 SW WEIR RD				
Addr 2					
CSZ	BEAVERTON	OR	97007	Country	UNITED STATES OF AMERICA

Please click [here](#) for general information about registered agents and service of process.

Type	AGT	REGISTERED AGENT	Start Date	12-22-2023	Resign Date	
Name	GEORGE		GABRIEL			
Addr 1	15050 SW WEIR RD					
Addr 2						
CSZ	BEAVERTON	OR	97007	Country	UNITED STATES OF AMERICA	

Type	MAL	MAILING ADDRESS			
Addr 1	15050 SW WEIR RD				
Addr 2					
CSZ	BEAVERTON	OR	97007	Country	UNITED STATES OF AMERICA

Type	PRE	PRESIDENT			Resign Date	
Name	KEVIN		SOON			
Addr 1	15050 SW WEIR RD					
Addr 2						
CSZ	BEAVERTON	OR	97007	Country	UNITED STATES OF AMERICA	


Type	SEC	SECRETARY			Resign Date	
Name	DELINAH		SOON			
Addr 1	15050 SW WEIR RD					
Addr 2						
CSZ	BEAVERTON	OR	97007	Country	UNITED STATES OF AMERICA	















[New Search](#) [Printer Friendly](#) **Name History**

Business Entity Name	Name Type	Name Status	Start Date	End Date
MURRAY HILLS CHRISTIAN CHURCH (DISCIPLES OF CHRIST)	EN	CUR	11-27-2002	

Please read before ordering Copies.

[New Search](#) [Printer Friendly](#) **Summary History**

Image Available	Action	Transaction Date	Effective Date	Status	Name/ Agent Change	Dissolved By
	AMENDED ANNUAL REPORT	12-22-2023		FI	Agent	

	AMENDED ANNUAL REPORT	12-15-2022		FI		
	AMENDED ANNUAL REPORT	11-29-2021		FI		
	AMENDED ANNUAL REPORT	11-20-2020		FI	Agent	
	AMENDED ANNUAL REPORT	11-27-2019		FI	Agent	
	AMENDED ANNUAL REPORT	12-19-2018		FI	Agent	
	REINSTATEMENT AMENDED	03-23-2018		FI	Agent	
	ADMINISTRATIVE DISSOLUTION	01-25-2018		SYS		
	AMENDED ANNUAL REPORT	01-17-2017		FI		
	REINSTATEMENT AMENDED	06-22-2016		FI	Agent	
	ADMINISTRATIVE DISSOLUTION	01-28-2016		SYS		
	AMENDED ANNUAL REPORT	12-08-2014		FI		
	AMENDED ANNUAL REPORT	10-28-2013		FI		
	AMENDED ANNUAL REPORT	11-05-2012		FI		
	AMENDED ANNUAL REPORT	11-23-2011		FI		
	AMENDED ANNUAL REPORT	11-22-2010		FI	Agent	
	AMENDED ANNUAL REPORT	11-02-2009		FI		
	AMENDED ANNUAL REPORT	11-19-2008		FI	Agent	
	ANNUAL REPORT	11-14-2007		FI		
	ANNUAL REPORT	11-24-2006		FI		
	ANNUAL REPORT PAYMENT	11-23-2005		SYS		
	ANNUAL REPORT PAYMENT	11-10-2004		SYS		

	AMENDED ANNUAL REPORT	11-17-2003		FI		
	ARTICLES OF INCORPORATION	11-27-2002		FI	Agent	

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