

**IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY**

NEIGHBORS FOR SAFETY, BMH, INC.,	)	
JOSEPH ALTMAN, DEVIN CHILDERS,	)	
MEG CROFTON, THEODORE DENNEY,	)	
PETE EYLER, and JACKSON MOORE,	)	
	)	
Plaintiffs,	)	
	)	Case No.: 26-0865-I
v.	)	
	)	
THE METROPOLITAN GOVERNMENT	)	
OF NASHVILLE AND DAVIDSON	)	
COUNTY and CHEEKWOOD	)	
BOTANICAL GARDEN AND MUSEUM	)	
OF ART,	)	
	)	
Defendants.	)	

**FIRST AMENDED COMPLAINT FOR DECLARATORY JUDGMENT, WRIT OF
MANDAMUS, INJUNCTIVE RELIEF, AND OTHER EQUITABLE RELIEF**

COME NOW Plaintiffs Neighbors for Safety BMH, Inc. (“NFS”), Joseph Altman, Devin Childers, Meg Crofton, Theodore Denney, Pete Eyler, and Jackson Moore (collectively, the “Neighbor Plaintiffs”), and file this First Amended Complaint as a matter of right pursuant to Tennessee Rule of Civil Procedure 15.01, no responsive pleading having been served. Plaintiffs bring this action against Defendants Metropolitan Government of Nashville and Davidson County (“Metro”) and Cheekwood Botanical Garden and Museum of Art, Inc. (“Cheekwood”). Plaintiffs seek declaratory, statutory, injunctive, nuisance, mandamus, damages, and other relief arising from Cheekwood’s use and expansion of its R20-zoned property beyond the scope of its historical land-use approvals and Metro’s failure to enforce governing zoning, access, and noise requirements.¹

¹NFS filed its original Complaint on June 30, 2026, and Metro filed a motion to dismiss on August 14, 2026. A motion to dismiss is not a responsive pleading. This First Amended Complaint is filed pursuant to Tenn. R. Civ. P. 15.01 and supersedes the original Complaint.

I. INTRODUCTION

Cheekwood is one of Nashville’s five most visited attractions, drawing approximately 380,000 to 435,000 visitors annually. (Ex. 2). Cheekwood maintains a year-round schedule of concerts, festivals, seasonal celebrations, private events, and other programmed activities. (Ex. 10). It operates this visitor destination on property zoned R20, a district intended for “low-to-moderate intensity one- and two-family residential development.” M.C.L. § 17.08.020(B)(2)(b).

Metro has allowed Cheekwood to evade compliance with the zoning code for decades. Cheekwood now operates restaurants, retail facilities, event venues, concerts, festivals, weddings, private functions, and other timed gatherings on its R20-zoned property. The historical zoning materials located to date—including a 1996 approval for specified construction under a “Nonassembly, Cultural” classification—do not authorize those current operations. Restaurants, commercial amusement, and small and large outdoor music events are prohibited under the property’s existing R20 classification. (Exs. 3 and 34).²

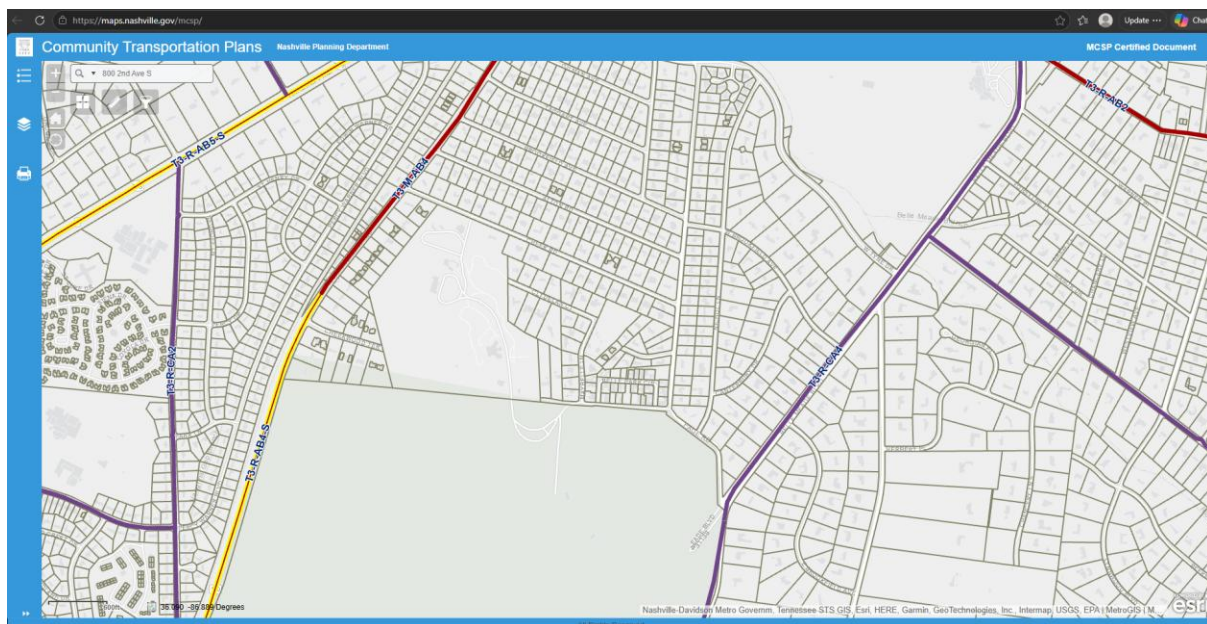
Cheekwood also lacks the collector-street (or greater) access required for a cultural center. M.C.L. § 17.16.170(B)(4). The closest collector street to Cheekwood’s Forrest Park Drive entrance is Belle Meade Boulevard. (Ex. 15 at 20)³. The geographically closest street to

²The R20 land-use table classifies uses as permitted by right, permitted with conditions, permitted by special exception, or prohibited. Restaurants, commercial amusement, and small and large outdoor music events are prohibited under the property’s existing R20 classification. M.C.L. § 17.08.030; Ex. 1.

³ Exhibit 15, the Major & Collector Street Plan, at page 20 provides the major and collector street plan legend and directs readers to the MCSP online map for information on the major and collector streets of Nashville. That map, a screenshot of which is represented below (taken September 14, 2026) shows that only Hwy. 100 (T3-M-AB4) and Belle Meade Boulevard (T3-R-CA4) are major or collector streets in the vicinity of Cheekwood. <https://maps.nashville.gov/mcsp/>

Cheekwood meeting the road requirement is Highway 100, an arterial street. (See Ex. 4 at 27)⁴. Cheekwood’s hundreds of thousands of annual visitors instead travel through narrow residential streets, producing traffic volumes approximately two-and-a-half to three times the recommended daily volume for streets of their type. This traffic repeatedly impairs residents’ access to their homes, obstructs neighborhood streets, and creates pedestrian and emergency-access risks. Metro’s commissioned and adopted traffic, access, and safety study—the Belle Meade Highlands Design and Mobility Study referenced as the “KH Study”—recommended increased on-site parking together with new access from Highway 100. Cheekwood is proceeding with expanded permanent parking without providing the corresponding Highway 100 access. (Ex. 4).

Cheekwood separately generates recurring amplified sound that crosses its property boundaries and is audible at and inside neighboring homes. Metro personnel previously advised that the plainly-audible property-line standard generally governed Cheekwood’s R20 property and reported finding no permit authorizing a different standard. (Ex. 16). Metro has received repeated



⁴ Id.

complaints, both before and since that advice, reporting amplified sound from Cheekwood but has failed to enforce the standard.

Cheekwood has continued to operate outside the limits of its R20 zoning designation, beyond the scope of any identifiable land-use approval, and without the collector-street access required by M.C.L. § 17.16.170(B)(4). Cheekwood has shifted the burdens of its operations onto the surrounding residential community, using neighborhood streets as the access, circulation, and overflow infrastructure for one of Nashville's most heavily attended destinations. The result is the loss of the quiet use and enjoyment, safe access, and residential character that governing law protects.

Cheekwood's traffic, events, and amplified sound substantially and unreasonably interfere with the Neighbor Plaintiffs' safety, use, and enjoyment of their properties. Cheekwood has continued those operations after receiving actual notice of the resulting harm, creating and maintaining private and public nuisances and causing the Neighbor Plaintiffs continuing injury and damages. Metro has likewise received notice of Cheekwood's alleged violations but has failed to apply and enforce the zoning and noise requirements governing the property.

II. PARTIES

1. Plaintiff Neighbors for Safety BMH, Inc. ("NFS") is a Tennessee nonprofit organization consisting of a Steering Committee of 11 people representing 518 supporters. Its members are all owners of property adjacent to Cheekwood and residents and property owners in Belle Meade Highlands affected by Cheekwood's current and historical operations and present construction. NFS was formed to promote neighborhood safety and lawful solutions to the traffic, access, noise, construction, stormwater, and land-use effects of Cheekwood's operations and expansion.

2. Individual named Plaintiffs are all homeowners in the Belle Meade Highlands neighborhood whose property either abuts or is in proximity to Cheekwood and who have experienced Cheekwood's traffic, events, and amplified sound interfering with the use, enjoyment, and safety of their properties.

- a. Plaintiff Joseph Altman owns and resides at 109 Clydelan Court, located directly adjacent to Cheekwood.
- b. Plaintiff Devin Childers owns and resides at 117 Clydelan Court, located approximately 1,000 feet from Cheekwood.
- c. Plaintiff Meg Crofton owns and resides at 1300 Forrest Park Drive, located approximately 350 feet from Cheekwood.
- d. Plaintiff Theodore Denney owns and resides at 101 Clydelan Court, located directly adjacent to Cheekwood.
- e. Plaintiff Pete Eyler owns and resides at 100 Clydelan Court, located directly adjacent to Cheekwood.
- f. Plaintiff Jackson Moore owns and resides at 1218 Forrest Park Drive, located directly adjacent to Cheekwood.

3. Each Neighbor Plaintiff owns and resides at property near Cheekwood and has suffered recurring amplified noise, traffic congestion, impaired ingress and egress, safety risks, and substantial interference with the use and enjoyment of that property—injuries distinct from those sustained by the public generally.

4. The Neighbor Plaintiffs are adjacent or neighboring property owners who are specially damaged by the zoning violations alleged in this Complaint within the meaning of Tenn. Code Ann. § 13-7-208(a)(2).

5. All members of NFS and the Neighbor Plaintiffs experience property-specific injuries, including impaired ingress and egress, traffic obstruction, pedestrian and emergency-access risks, amplified-sound intrusion, and substantial interference with the use and enjoyment of their homes.

6. NFS's members include the Neighbor Plaintiffs and other property owners who would have standing to seek prospective relief in their own right. The interests asserted are germane to NFS's organizational purpose, and the declaratory and injunctive relief sought by NFS does not require individualized damages determinations for its members.

7. Defendant Metropolitan Government of Nashville and Davidson County ("Metro") is responsible for administering and enforcing the zoning and noise ordinances at issue in this action.

8. Defendant Cheekwood Botanical Garden and Museum of Art, d/b/a Cheekwood Estate & Gardens ("Cheekwood") is a Tennessee nonprofit corporation with its principal office at 1200 Forrest Park Drive, Nashville, Davidson County, Tennessee 37205.

III. JURISDICTION AND VENUE

9. This Court has subject-matter jurisdiction under Tenn. Code Ann. §§ 16-11-101 to -116, 29-14-101 to -113, and 13-7-208, and Tennessee Rule of Civil Procedure 57. Section 13-7-208(a)(2) expressly authorizes an adjacent or neighboring property owner specially damaged by a zoning violation to institute an action for injunction, mandamus, or other appropriate relief to prevent, correct, or abate the unlawful use.

10. This Court has equitable jurisdiction to declare the parties' rights and obligations under Tennessee law and the Metropolitan Code and to enjoin and abate continuing unlawful uses and nuisances. Once equitable jurisdiction attaches, the Court may resolve the entire controversy

and award damages incidental to equitable relief. *See Richi v. Chattanooga Brewing Co.*, 105 Tenn. 651, 653 (1900).

11. This Court has personal jurisdiction over Cheekwood. Cheekwood is a Tennessee nonprofit corporation with its principal office in Davidson County, owns and operates the property at issue in Davidson County, and committed the acts and omissions alleged in this Complaint in Davidson County.

12. Metro is the metropolitan government responsible for administering and enforcing the zoning and noise requirements at issue. Metro is located in Davidson County, and the enforcement failures alleged in this Complaint occurred in Davidson County.

13. Venue is proper in Davidson County under Tenn. Code Ann. §§ 20-4-101 and 20-4-103. The Cheekwood property and affected neighboring properties are located in Davidson County, Metro is located in Davidson County, and the acts, omissions, uses, and injuries giving rise to this action occurred in Davidson County.

14. An actual, present, and justiciable controversy exists concerning: (a) the lawful scope of Cheekwood's current uses under its R20 zoning and historical land-use approvals; (b) the collector-street-access requirement; (c) the noise standard governing Cheekwood's amplified-sound operations; (d) Metro's duties to apply and enforce those requirements; and (e) Cheekwood's liability for the resulting interference with the Neighbor Plaintiffs' properties and the relief necessary to prevent and abate that harm.⁵

⁵ This action does not challenge the issuance or validity of the Parking Pavilion permit or seek review of any decision concerning that permit. Those issues are reserved for review through a separate petition for writ of certiorari after the Board of Zoning Appeals' decision becomes final. References to the Parking Pavilion in this action concern only Cheekwood's broader land use, nuisance, irreparable harm, and the relief sought on those independent grounds.

IV. FACTS

15. The property owned and operated by Cheekwood is located at 1200 Forrest Park Drive/111 Cheek Road in Davidson County, Tennessee, and is surrounded by established residential neighborhoods, including Belle Meade Highlands.

16. Belle Meade Highlands is a residential neighborhood consisting primarily of single-family homes and streets designed for local residential use. Cheekwood and the surrounding properties are zoned R20, a district designated for “low-to-moderate intensity one- and two-family residential development.” M.C.L. § 17.08.020(B)(2)(b). (Ex. 8).

17. The property was developed as the Cheek family’s private residence in 1932 and donated in 1957 for use as a public botanical garden and art museum. Cheekwood opened to the public in 1960 and operated for decades primarily as a garden and museum. (Ex. 7).

18. The property is zoned R20 and has not been rezoned. (Ex. 8).

19. The Metropolitan Zoning Code classifies uses within R20 as permitted, permitted with conditions, permitted only by special exception, or prohibited. The current R20 land-use table identifies restaurants, commercial amusement, and small and large outdoor music events as prohibited uses. (Ex. 1).

20. Beginning in approximately 1978,⁶ Cheekwood and Metro entered into a series of agreements permitting Cheekwood to use nearby park property temporarily for overflow parking during specified events or periods of high attendance. Those agreements described the arrangement as temporary rather than a permanent means of supporting Cheekwood’s operations or visitor capacity. (Ex. 9).

⁶ While the 1978 agreement has been referenced in multiple contemporaneous documents, Plaintiffs do not yet have access to this document. Regardless, upon information and belief, Cheekwood’s uses have expanded well beyond the uses allowed in this agreement.

21. In 1996, Cheekwood sought BZA approval to construct a greenhouse, two maintenance buildings, and an addition to the existing stables under the then-existing “Nonassembly, Cultural” classification. (Exs. 3 and 34). The “Nonassembly, Cultural” classification has since been eliminated as a permissible use on R20-zoned property. The elimination of the nonassembly cultural use as a special exception use in the R20 zoning district did not grant Cheekwood a use permit as a Cultural Center; it simply allowed Cheekwood to continue to operate a nonassembly cultural use on the property with the specific conditions set forth in the permit to mitigate the impact to the neighborhood.

22. In Appeal No. 96-171, the BZA approved that specified construction subject to five express conditions and the revised site plan submitted with the application (the “1996 Order”). (Ex. 3). The Order did not purport to approve every existing or future operation conducted on the property.

23. The 1996 Order granted Cheekwood conditional approval to operate as a “Nonassembly, Cultural” use. In granting that approval, the Board found that: (a) Cheekwood was designed, located, and proposed to be operated so that public health, safety, and welfare would be protected; (b) the location and design of the facility, and its statement of operational intent, were compatible with the surrounding property and uses; (c) the facility would not adversely affect other properties in the area and was compatible with surrounding land uses; (d) the use fell within the provisions governing conditional uses under COMZO § 17.60.030; and (e) the use conformed to applicable zoning provisions and was necessary for public convenience in that location due to the lack of similar nonassembly cultural operations in that area of the city. Those findings addressed *only* the application, plans, and operations presented to the BZA in 1996. (Ex. 3 and 34).

24. The 1996 Order imposed five express conditions: (a) parking areas were required to use brown aggregate concrete; (b) all construction traffic necessary to implement the approval was required to use Highway 100 and Cheek Road as the sole access for ingress and egress; (c) evergreen or similar trees were required for screening on the Cheek Road side of the property in lieu of wooden fencing, unless a substantial majority of adjacent neighbors informed the BZA in writing that they preferred wooden fencing; (d) additional light poles were limited to twenty feet in height; and (e) Cheekwood was required to comply with all other requirements in the revised site plan made an exhibit to the hearing.⁷

25. Plaintiffs' investigation has located the 1996 Order and references in Metro's records to an earlier proceeding identified as Appeal No. 78-328A. The underlying application, plans, and disposition of Appeal No. 78-328A have not been located despite searches by Plaintiffs and the Zoning Administrator. The located references describe a "small gift shop and tea room" measuring 65 feet by 66 feet across three levels, with a capacity of 80 persons. (Ex. 23).

26. Since entry of the 1996 Order, Cheekwood's operations, facilities, and visitor attendance have expanded substantially. Its business uses have expanded far beyond the ancillary business uses approved in the 1996 Order.

27. Cheekwood is a nonprofit corporation recognized by the Internal Revenue Service as a tax-exempt charitable organization under 26 U.S.C. § 501(c)(3). Cheekwood describes its charitable mission as preserving and developing its gardens, art, and historic property and providing educational and cultural experiences. In addition to those activities, Cheekwood conducts revenue-producing operations on the Property, including weddings and private events,

⁷ NFS has not been able to obtain the revised site plan incorporated into the 1996 Order and therefore does not yet know the full extent of the conditions imposed as part of that approval.

corporate events, and retail sales. Cheekwood also leases portions of its property to third parties that operate a café, a restaurant, and other food-and-beverage services.

28. Cheekwood now hosts year-round public programming and events, including seasonal festivals, concerts, educational programming, cultural celebrations, and recurring ticketed attractions. (Ex. 10).

29. From January 2023 through November 2026, publicly available records identify approximately 1,400 events or event listings at Cheekwood, excluding weddings, parties, and other private events not publicly listed. (Ex. 10).

30. Cheekwood markets the Property for weddings and other private events and serves as the exclusive provider of alcoholic beverages for those events. Cheekwood provides bartenders, barbacks, runners, event supervision and management, golf-cart transportation, and other event services. Cheekwood separately markets the Property for corporate meetings, parties, retreats, cocktail receptions, dinners, trade shows, expos, job fairs, and similar events. Its corporate-event materials offer individual venues as well as a “Campus Buyout,” through which a customer may reserve the entire 55-acre Cheekwood campus for a private event. (Ex. 24).

31. Cheekwood permits Perenn, an independent, for-profit restaurant operator, to use space in the Frist Learning Center to operate “Perenn at Cheekwood” as one of Perenn’s regular restaurant locations. Perenn operates multiple other locations in Tennessee and Nevada. Perenn at Cheekwood is open six days per week and sells breakfast, lunch, pastries, breads, espresso beverages, and other prepared foods. Cheekwood describes the arrangement as a “culinary partnership,” but its precise contractual and financial terms are not publicly available.

32. Perenn at Cheekwood is part of Transparent Hospitality, a privately held, for-profit, multi-state restaurant and hospitality group headquartered in Reno, Nevada. Transparent

Hospitality operates a growing portfolio of restaurants, bakeries, cafés, grocery concepts, catering businesses and food-production operations in Nevada and Tennessee, including Perenn Midtown, Perenn Rancharra, Perenn Grocery, Perenn at the Nevada Museum of Art and Claio Rotisserie in Reno, and Perenn Franklin, Perenn Bakery–Berry Hill, Perenn at Cheekwood, Tennessee Catering and Perenn Grocery in Nashville’s Wedgewood-Houston neighborhood. The company also operates a centralized bakery-production facility in Nashville.

33. As a tax-exempt charitable organization, Cheekwood annually files a Form 990 with the Internal Revenue Service. Its return separately identifies revenue from activities related to its charitable purposes and revenue from unrelated trades or businesses. For the fiscal year ending December 31, 2024, Cheekwood reported \$1,885,222 in gross rental revenue and \$1,035,585 in net rental income. Cheekwood classified \$907,122 of that net rental income as unrelated-business revenue. Cheekwood separately classified \$365,421 of its food-and-gift revenue as unrelated-business revenue. (Ex. 33).

34. In total, Cheekwood reported to the IRS that it operated trades or businesses unrelated to its charitable purposes that generated \$1,272,543 in revenue in 2024.

35. In connection with the parties’ dispute concerning the uses conducted on the Property, counsel for Cheekwood stated: “Cheekwood is a business.”

36. During the August 20, 2026 BZA hearing, a Board member similarly observed that “for all intents and purposes, [Cheekwood] is a business.” (Ex. 30 at 3:05:21)⁸.

37. Nonetheless, Cheekwood files taxes as a tax-exempt charitable organization. (Ex. 33).

⁸ https://www.youtube.com/live/0EPvO-k9onI?si=JzF7GqTpZ5j0_Agi

38. Cheekwood reports annual attendance of approximately 380,000 to 435,000 visitors and identifies itself as one of Nashville's three to five most visited attractions. (Ex. 2 at 4). In 2025, Cheekwood was ranked the third largest tourist attraction in Nashville by the Nashville Business Journal. (Ex. 2 at 1). Its increased attendance and operations generate corresponding increases in traffic, parking demand, event activity, amplified sound, and visitor circulation through the surrounding neighborhood.

39. Cheekwood itself markets the property as a wedding and private-event venue. It has solicited votes for recognition as Nashville's "Best Wedding Venue," "Best Place to Take Out-of-Towners," "Best Outdoor Fun," and "Best Summer Camp," and promoted Holiday LIGHTS as the Nashville Scene's "Best Event/Festival." (Ex. 25).

40. Cheekwood has celebrated and publicized these awards on its own website and social-media pages, identifying itself and its operations as Nashville's "Best Wedding Venue," "Best Place to Take Out-of-Towners," "Best Outdoor Fun," "Best Summer Camp," and "Best Event/Festival," and publicizing additional recognition for "Best Cultural Center" and "Best Art Happening." (Ex. 25).

41. As a result of Cheekwood's increased attendance and events, conditions in the surrounding neighborhood materially deteriorated. Residents have experienced recurring traffic congestion, gridlock and vehicle queues, impaired access to their homes, unsafe conditions for pedestrians and bicyclists, and interference with emergency-vehicle access. (Exs. 4, 11, 16, and 20).

42. Neighboring residents also experience recurring amplified sound from Cheekwood at and inside their homes, interfering with the use and enjoyment of their properties. (Ex. 18).

43. In 2024, Metro commissioned Kimley-Horn to evaluate traffic, access, and safety conditions in Belle Meade Highlands and recommend potential transportation improvements—the KH Study. Metro adopted the KH Study in January 2025. (Ex. 4).

44. The KH Study found that “Cheekwood’s traffic demand exceeds the recommended volumes for neighborhood streets.” It identified 1,000 vehicles per day as a rule-of-thumb acceptable volume for a neighborhood street and identified Page Road, West Brookfield Avenue, Cheek Road, and Belle Meade Boulevard as exceeding that threshold. Its traffic-count graphics depict volumes approximately two-and-a-half to three times the threshold at certain locations on a busy Saturday. (Ex. 4 at 19–21).

45. The KH Study documented the existing distribution and volume of Cheekwood-related traffic through Belle Meade Highlands and modeled substantial neighborhood-traffic reductions from new Highway 100 access. (Ex. 4 at 21–26).

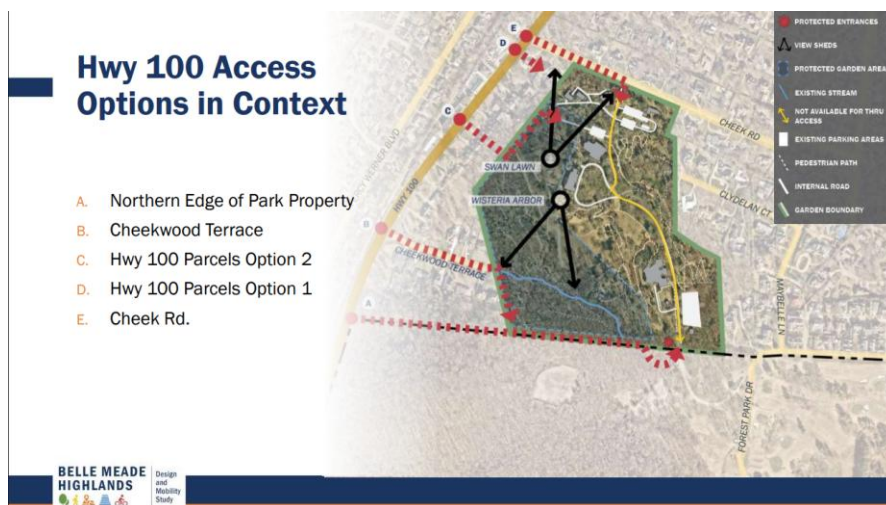
46. The KH Study described Belle Meade Highlands as a neighborhood-scale street network not designed to accommodate destination traffic. Many of its streets are approximately eighteen feet wide, with limited shoulders, passing space, and capacity for vehicles, pedestrians, bicyclists, and emergency vehicles during periods of congestion. These conditions create operational and safety concerns when traffic volumes exceed typical neighborhood use. (Ex. 4 at 5).

47. The KH Study recommended two principal improvements intended to address existing traffic and circulation problems: (a) a new entrance to Cheekwood from Highway 100 to reduce reliance on surrounding residential streets; and (b) increased on-site parking capacity at Cheekwood. (Ex. 4 at 27–45).

48. The KH Study identified Highway 100 as “the most immediate and logical arterial connection to Cheekwood.” (Ex. 4 at 19).

49. The KH Study identified five potential access alternatives (labeled A, B, C, D, and E on page 29 of Ex. 4) from Highway 100 to reduce Cheekwood’s reliance on the residential streets of Belle Meade Highlands.

50. The alternatives evaluated by the KH Study consisted of: (a) a new entrance from Highway 100 through Percy Warner Park; (b) a new entrance using existing Cheekwood Terrace property near Highway 100; (c) and (d) access improvements using combinations of existing road alignments and limited new construction; and (e) access via Cheek Road. (Ex. 4 at 29).



51. On January 9, 2025, the Metropolitan Planning Commission considered and adopted the KH Study and related implementation recommendations. (Ex. 4).

52. During deliberations, Commissioner Ed Henley introduced a motion regarding adoption of the recommendations. Before the motion was finalized, Vice Chair Jessica Farr requested that deliberations pause so that additional language could be inserted prioritizing evaluation of a “shared-use access” concept (i.e., shared use between Cheekwood and Metro

Parks). A revised motion was then presented and adopted with Farr’s “shared-use” prioritization language. (Ex 26)⁹.

53. Option A contemplated a shared-use route connecting Highway 100 to Cheekwood through or in conjunction with adjacent Warner Parks property and redirecting Cheekwood traffic away from Belle Meade Highlands. Unlike the other Highway 100 concepts evaluated in the KH Study, Option A contemplated the use of public Warner Parks land, shared transportation infrastructure, and Metro funding to construct the road.¹⁰ (Ex. 4 at 29).

54. Neither the Metropolitan Board of Parks and Recreation nor Friends of Warner Parks had, nor have they to this day, requested construction of a shared-use access road through park property. Metro Parks’ 2026 Plan to Play does mention a shared-use access road through park property. (Ex. 32).

55. According to Cheekwood’s project materials, the proposed Parking Pavilion would increase permanent on-site parking from approximately 350 spaces to approximately 750 spaces, adding approximately 400 spaces and more than doubling permanent parking capacity. (Ex. 21).

56. No corresponding Highway 100 access improvements have been proposed, approved, constructed, or made operational in connection with the project. The expanded parking capacity would therefore continue to depend upon the same residential streets that the KH Study found already carry traffic volumes approximately two-and-a-half to three times the recommended volume for neighborhood streets. (Ex. 4 at 20).

⁹ At the time of the meeting, Farr served as Vice Chair of the Planning Commission. Her husband, Reagan Farr, is the Chief Executive Officer and co-founder of Silicon Ranch, which Cheekwood Chairman Matt Kisber also co-founded. Plaintiffs presently allege no improper conduct arising from those relationships. However, this does create the appearance of a conflict of interest.

¹⁰ This proposed road is the subject of a separate lawsuit before this court, as it would be built on land donated by the Lea family and subject to reverter.

57. By increasing permanent parking capacity without providing direct access from Highway 100, the Parking Pavilion threatens to increase Cheekwood-related traffic on the surrounding residential streets and aggravate existing congestion, impaired ingress and egress, pedestrian hazards, and emergency-access risks. (Exs. 4, 21, and 31).

58. The most recent memorandum of understanding between Cheekwood and the Metropolitan Board of Parks and Recreation requires Cheekwood to discontinue parking on Metro park property. It does not require Cheekwood to construct the Parking Pavilion or prescribe where any replacement parking must be located. (Ex. 9 at 39).

59. Cheekwood chose to locate the Parking Pavilion adjacent to the Forrest Park Drive side of the Property, farther from Highway 100 than the other locations considered.

60. That location entrenches the Pavilion's dependence on access through the surrounding residential streets that the KH Study found already carry traffic volumes approximately two-and-a-half to three times the recommended volume for neighborhood streets. (Ex. 4 at 20).

61. Plaintiffs have located no deed, recorded easement, permit, or other instrument granting Cheekwood a permanent right of access to the entire Forrest Park Drive Entrance, portions of which are on park property.

62. In addition to traffic impacts, residents of Belle Meade Highlands have experienced recurring noise impacts associated with Cheekwood operations, including amplified music, concerts, event announcements, private events, weddings, and other amplified sound associated with public and private events. (Exs. 16, 22, and 29).

63. Metro's amplified sound equipment ordinance provides that, except for limited exceptions, "it shall be unlawful for any person to operate or allow the operation of any sound

amplification equipment so as to create sounds that are plainly audible from the boundary line of the nearest residentially occupied property.” M.C.L. § 9.20.010(A)(1). The ordinance defines “plainly audible” as “any sound which clearly can be heard by unimpaired auditory senses.” M.C.L. § 9.10.010.

64. Residents have submitted repeated complaints to Metro regarding amplified noise originating from Cheekwood events and programming. Amplified sound associated with Cheekwood’s operations is regularly plainly audible at and beyond the boundaries of neighboring residential properties and inside neighboring homes. Despite those complaints, Metro has failed to enforce its ordinance. (Exs. 16 and 22).

65. Amplified sound has become a recurring condition rather than an isolated occurrence and regularly interferes with the ordinary residential use, quiet enjoyment, and peaceful occupation of neighboring properties. (Ex. 22).

66. Cheekwood's notice of the governing noise standard and of recurring violations predates the formation of NFS. On December 24, 2019, a neighboring resident notified Cheekwood's President and Chief Executive Officer, Jane MacLeod, that holiday music from Cheekwood was “blaring” and audible inside the resident's home. The resident stated that this was the second complaint in three days and expressly advised that Metro's code prohibited prerecorded music from being audible at a neighboring property line. MacLeod responded that she was personally turning the music down. (Ex. 16 at 5).

67. On May 22, 2020, the same resident again notified MacLeod that recorded music from Cheekwood’s children’s playground was producing bass audible inside the resident’s home and backyard. The resident cited the property-line standard and asked that the music not become a constant nuisance. MacLeod responded that she had directed staff to reduce the volume, while

stating that staff had reported the music was “barely audible” at the perimeter and that Cheekwood would recheck the Code. (Ex. 16 at 4).

68. Later that day, the resident provided MacLeod and the District 34 Council Member with the text of M.C.L. § 9.20.010(A)(1), explained that Cheekwood was not zoned DTC or CF, and reiterated that recurring, all-day music was not an occasional special event. The resident also described a prior occasion on which Cheekwood's holiday music continued throughout Christmas Eve until approximately 6:00 a.m. (Ex. 16 At 4).

69. The Council Member referred the matter to Metro personnel and emphasized that the complaint concerned ongoing, all-day, everyday music rather than a wedding, party, seasonal event, or other discrete special event. She described the condition as a "persistent nuisance." (Ex. 16 at 3).

70. On May 26, 2020, Metro Council Office personnel, copying a Metro Codes official, advised that the "plainly audible" standard in M.C.L. § 9.20.010 generally governed Cheekwood. Metro personnel further concluded that the 85-decibel standard appeared to apply only to the ordinance's specified downtown areas and reported that no permit was found that would alter the applicable noise standard for Cheekwood's recurring operations. The Council Member forwarded that conclusion to the resident and stated that she would send it to Cheekwood as well. (Ex. 16 at 2)

71. By May 2020, Cheekwood and Metro had actual notice that Cheekwood's recurring amplified music was audible at and inside neighboring homes and that residents were invoking M.C.L. § 9.20.010(A)(1)'s plainly-audible property-line standard. Metro personnel had also advised that the plainly-audible standard generally governed Cheekwood. (Ex. 16).

72. Rather than conform its recurring amplified sound to that standard, Cheekwood obtained a legal opinion from Gullett Sanford Robinson & Martin PLLC (“GSRM”). On July 17, 2020, GSRM sent MacLeod a two-page letter concerning Metro's noise ordinances. (Ex. 17).

73. The GSRM letter stated that M.C.L. § 9.20.030 governed Cheekwood and represented that, as an "outdoor entertainment venue," Cheekwood could amplify music or other entertainment outside a dedicated structure between 7:00 a.m. and 11:00 p.m. at levels no greater than 85 dB(A). The letter further represented that § 9.20.030 exempted outdoor entertainment venues from the general plainly-audible rule in § 9.20.010. (Ex. 17).

74. The GSRM letter’s assertion of a blanket 85 dB(A) operating threshold was materially misleading. Section 9.20.010(A)(1) applies outside the Downtown Code (“DTC”) district and Core Frame (“CF”) properties contiguous to the DTC district and prohibits amplified sound plainly audible from the boundary of the nearest residentially occupied property. Cheekwood is zoned R20, not DTC or CF. Section 9.20.030(C) imposes an 85 dB(A) boundary limit on a mass gathering, but Cheekwood is not a permitted mass-gathering site and that provision does not grant Cheekwood a blanket right to conduct recurring amplified-sound operations below 85 dB(A).

75. Section 9.20.030(A) addresses the location and hours of outdoor amplified entertainment at facilities within fifty feet of a residence or natural conservation area. It does not state that private outdoor entertainment venues are categorically exempt from § 9.20.010(A)(1). The GSRM letter did not address the independent plainly-audible restriction that Metro personnel had identified as governing Cheekwood.

76. On June 1, 2023, a neighboring resident again complained of amplified sound from Cheekwood and contacted Metro Police. On June 2, 2023, MacLeod responded by forwarding the

GSRM letter and characterizing it as “legal documentation” establishing Cheekwood's claimed “ability to provide amplified music below the 85-decibel level.” MacLeod represented that Cheekwood was "abiding by the rules" and emphasized that Cheekwood staff were taking decibel readings. (Ex. 17).

77. MacLeod copied the District 34 Council Member on that response and noted that the Council Member had received the GSRM letter in 2020. Cheekwood thus disseminated and relied on its blanket 85-decibel interpretation to assert that its amplified-sound practices complied with Metro law, despite prior notice that the plainly-audible standard generally governed. (Exs. 16 and 17).

78. Metro did not correct Cheekwood's inaccurate interpretation or enforce § 9.20.010(A)(1). Cheekwood continued to treat decibel readings, rather than audibility at the nearest residential property line, as the governing measure. The recurring amplified-sound impacts therefore continued and remain part of Cheekwood's event-oriented operations. (Exs. 16 and 18).

79. Cheekwood and Metro have thus had actual notice of the recurring amplified-sound intrusions and the applicable plainly-audible standard for years. Cheekwood nevertheless continued its amplified-sound operations, and Metro failed to enforce § 9.20.010(A)(1). (Exs. 16, 17, and 18).

80. In addition to its museum and botanical garden functions, Cheekwood presently operates, among other things, gift and retail operations, multiple private event venues, and other visitor services associated with destination-oriented attendance. (Ex. 27) Cheekwood also leases portions of its property to third parties that operate a café, a restaurant, and other food-and-beverage services.

81. These operations occur on property that remains zoned R20 and under the same zoning designation and conditional-approval framework originally established for substantially lower-intensity operations. The 1996 Order approved specified construction under a “Nonassembly, Cultural” classification; it did not authorize restaurants, retail operations, commercial entertainment, outdoor music events, weddings, or private-event venues. (Ex. 3).

82. The current R20 land-use table classifies restaurants, commercial amusement, and small and large outdoor music events as prohibited uses. (Ex. 1).

83. Over time, these activities have become a substantial and recurring component of Cheekwood’s overall operations rather than merely incidental or occasional support functions to a museum or botanical garden. (Exs. 2, 10, and 24).

84. The cumulative effect of increased attendance, expanded event programming, retail activity, food and beverage operations, increased parking demand, and expanded infrastructure has materially altered the intensity and character of operations occurring on the property as compared to the operations contemplated at the time of the 1996 approval.

85. Beginning in April 2024, residents of Belle Meade Highlands began organizing in response to Cheekwood-related traffic, parking, stormwater, noise, and safety concerns. Those residents later formed NFS to pursue lawful solutions to those conditions.

86. Belle Meade Highlands residents made at least 38 individual and collective attempts to engage Cheekwood and Metro concerning construction, traffic, noise, and related issues. (Exs. 14, 16, 18, and 19).

87. Throughout 2024 and 2025, NFS attempted to resolve the dispute without litigation. NFS formed a nonprofit organization, retained counsel, and engaged in repeated MOU negotiations with Cheekwood focused on Highway 100 access, the proposed Parking Pavilion

location, construction traffic, and interim operating conditions. A June 2025 chronology reflects that NFS understood Cheekwood had moved the proposed Pavilion from Lot A to Lot E, but negotiations later reached an impasse. (Ex. 14).

88. Only after outreach, public participation, complaints, requests for information, Metro meetings, Parks Board and planning communications, neighborhood petitions, and MOU negotiations failed did NFS proceed with formal legal action. After a Cheekwood consultant circulated notice of imminent blasting on or about June 16, 2026, NFS filed its original Complaint on June 30, 2026. (Superseded Compl.).

89. Before filing suit, NFS and Belle Meade Highlands residents repeatedly sought practical solutions involving Highway 100 access, safer traffic circulation, clearer capacity information, responsible construction planning and practices, and protection of the surrounding residential streets. (Ex. 14).

90. On July 17, 2026, Cheekwood emailed neighbors regarding construction of the Parking Pavilion and Welcome Plaza and informed them that, according to its contractor, VCE Technical, rock blasting was scheduled to begin on Monday, July 20, 2026. Cheekwood advised that blasting could occur Monday through Saturday between 9:00 a.m. and 3:00 p.m. (Ex. 5).

91. Cheekwood's current operations exceed what is permitted under the property's unchanged R20 residential zoning designation and exceed the scope of the conditional nonassembly cultural approval granted in the 1996 Order. Those operations include uses that the current R20 land-use table prohibits and assembly-oriented activities not authorized by the 1996 Order. (Exs. 1 and 3).

92. Metro has repeatedly failed to enforce applicable provisions of the Metropolitan Code and the conditions imposed in the 1996 Order despite notice of alleged violations, repeated

resident complaints, and Metro's own findings regarding neighborhood traffic and safety impacts. That inaction has allowed the resulting traffic, access, noise, and residential-property harms to continue. (Exs. 3, 4, 16, 18, and 26).

93. Construction of the Parking Pavilion is proceeding without any corresponding Highway 100 access having been approved, constructed, or made operational. The project's construction activities, including rock blasting, are occurring near neighboring homes and have created additional noise, vibration, property-damage, and safety concerns. (Ex. 18 and 29).

94. Once operational, the Pavilion's approximately 400 additional permanent parking spaces will continue to rely on the residential street network that Metro's own study found already carries unsustainable traffic volumes, absent direct access from Highway 100. The Pavilion therefore threatens to aggravate the existing traffic, access, safety, and nuisance conditions. (Exs. 4 and 26).

95. Cheekwood has continued its expanded operations despite actual notice of the resulting traffic, access, noise, safety, and property harms. Metro, despite actual notice of the same conditions, has failed to enforce the zoning, access, and noise requirements enacted to protect neighboring residents and their properties. As a result, the Neighbor Plaintiffs continue to suffer substantial interference with the use and enjoyment of their homes, impaired ingress and egress, safety risks, and actual damages.

V. CAUSES OF ACTION

COUNT I

STATUTORY ACTION TO PREVENT AND ABATE UNLAWFUL LAND USES

TENN. CODE ANN. § 13-7-208(a)(2)
(Neighbor Plaintiffs and NFS v. Cheekwood)

96. Plaintiffs incorporate the preceding allegations as if fully set forth herein.

97. Tennessee Code Annotated § 13-7-208(a)(2) authorizes an adjacent or neighboring property owner who would be specially damaged by the use of land in violation of a municipal zoning ordinance to institute an action for injunction, mandamus, or other appropriate relief to prevent, correct, or abate the unlawful use.

98. Each Neighbor Plaintiff and all affected members of NFS identified in Exhibit 22 owns or resides at property adjacent to or near Cheekwood and is specially damaged by the alleged unlawful uses through recurring amplified sound, traffic congestion, impaired ingress and egress, safety risks, and substantial interference with the use and enjoyment of that property.

99. The Cheekwood property is zoned R20. M.C.L. § 17.08.020 defines the R20 district as a residential zoning district intended for “low-to-moderate intensity one- and two-family residential development.”

100. The Metropolitan Zoning Code classifies restaurants, commercial amusement, and small and large outdoor music events as prohibited uses in the R20 district. M.C.L. § 17.08.030. Cheekwood regularly operates or conducts those prohibited uses on the property.

101. The 1996 Order approved specific construction under a “Nonassembly, Cultural” classification.

102. The application, plans, and other materials approved through the 1996 Order did not include Cheekwood’s present restaurants, commercial-amusement facilities, outdoor music venues and events, assembly-oriented event facilities, or expanded visitor facilities. (Ex. 3).

103. Cheekwood constructed, established, or placed those uses and facilities into operation after entry of the 1996 Order. They were not presented to, considered by, or authorized by the BZA in 1996. (Ex. 27).

104. No presently located approval considered or authorized those later-added uses and facilities.

105. The 1996 Order cannot authorize operations that did not exist and were not considered by the BZA at the time of the application.

106. To the extent Cheekwood invokes the statutory grandfathering protection afforded to an industrial, commercial, or other business establishment, any protection is limited to the activities lawfully permitted and conducted before the applicable zoning change. Tenn. Code Ann. § 13-7-208(b)–(c).

107. A claimed expansion must constitute an actual continuation and expansion of the previously permitted business activities and must avoid nuisances to adjoining landowners. Tenn. Code Ann. § 13-7-208(c).

108. Grandfathering does not protect later-added or different uses. Cheekwood bears the burden of proving that each claimed use qualifies for grandfathered protection, which Tennessee courts construe strictly against the party seeking it.

109. Cheekwood's later-added uses and facilities generate substantial traffic, amplified sound, congestion, and event activity that impair the Neighbor Plaintiffs' ingress and egress and substantially interfere with the use and enjoyment of their properties.

110. Cheekwood's operation of uses prohibited in the R20 district constitutes a continuing violation of the Metropolitan Zoning Code.

111. That violation specially damages the Neighbor Plaintiffs and will continue absent judicial relief.

112. Under Tenn. Code Ann. § 13-7-208(a)(2), the Neighbor Plaintiffs are entitled to appropriate relief preventing, correcting, and abating Cheekwood’s unlawful uses, as well as damages. The form and scope of that relief are set forth in Plaintiffs’ consolidated prayer for relief.

COUNT II
STATUTORY ENFORCEMENT OF THE COLLECTOR-STREET-ACCESS REQUIREMENT
TENN. CODE ANN. § 13-7-208(a)(2)
(Neighbor Plaintiffs and NFS v. Cheekwood)

113. Plaintiffs incorporate the preceding allegations as if fully set forth herein.

114. Through the 1996 Order, Metro granted Cheekwood conditional-use approval for specified construction under the then-existing “Nonassembly, Cultural” classification. (Ex. 3).

115. The Metropolitan Zoning Code was redrafted in 1998 and now classifies a cultural center as a special-exception use in the R20 district.

116. When the Code was redrafted in 1998, it eliminated the “nonassembly” versus “assembly” distinction for a cultural center. That subsequent amendment did not retroactively enlarge the language or scope of the 1996 Order.

117. The elimination of the nonassembly cultural use as a special exception use in the R20 zoning district did not grant Cheekwood a use permit as a Cultural Center; it simply extended the protections of MCL§§17.40.640, 17.40.650, and 17.40.660 to the property and allowed Cheekwood to continue to operate a nonassembly cultural use on the property with the specific conditions set forth in the permit to mitigate the impact to the neighborhood.

118. Cheekwood has materially expanded the facilities, uses, visitor capacity, event programming, and intensity of its operations since receiving the limited “Nonassembly, Cultural” approval in 1996. (Ex. 27).

119. Those expansions include restaurants, commercial-amusement facilities, outdoor music events, assembly-oriented event facilities, expanded visitor amenities, and annual attendance reaching approximately 380,000 to 435,000 visitors. (Ex. 2).

120. M.C.L. § 17.16.140 expressly governs the expansion of preexisting cultural centers that do not satisfy the subsequently applicable land-use development standards. Such cultural centers “may expand under the authority of the board of zoning appeals subject to demonstrating compliance with the general provisions.”

121. Those general provisions state that a special-exception permit “shall not be considered an entitlement” and may be granted only after the applicant demonstrates to the BZA that “all of the required standards are met.” M.C.L. § 17.16.150(A). The proposed use must also “comply with all applicable regulations, including any specific standards for the proposed use set forth in this title.” M.C.L. § 17.16.150(B).

122. Cheekwood was required to submit plans for its material expansion to the BZA for review through the special-exception process. That process requires a public hearing and notice to affected property owners. M.C.L. §§ 17.40.310, 17.40.720.

123. The specific standards governing cultural centers require that, “[a]t a minimum, primary access shall be from a collector street which has primary access to a street designated on the major street plan.” M.C.L. § 17.16.170(B)(4).

124. The Metro Nashville “Major and Collector Street Plan” defines a collector street as “a street designated as such on the adopted collector street plan or otherwise classified as such by the metro traffic engineer based on traffic volumes.” (Ex. 15 at 32).

125. Under the Major and Collector Street Plan, the only streets near Cheekwood designated as collector streets or classified at a higher level in the street hierarchy are Highway 100 and Belle Meade Boulevard. (Ex. 15 at 32–55).

126. The access requirement set forth in M.C.L. § 17.16.170(B)(4) is mandatory.

127. Cheekwood does not currently have direct access to either Highway 100 or Belle Meade Boulevard. (Ex. 4).

128. Cheekwood’s primary public access occurs through Forrest Park Drive, Page Road, and surrounding neighborhood streets. (Ex. 4 at 19).

129. No BZA order presently located authorizes Cheekwood’s post-1996 construction or expansion or determines that the expanded use satisfies the collector-street-access requirement.

130. Even if the use historically approved for Cheekwood was exempt from the collector-street-access requirement, any such exemption was limited to the nature and scope of the use lawfully authorized and conducted before that requirement came into force.

131. Section 17.16.140 does not authorize a preexisting, noncompliant cultural center to expand as of right. It permits expansion only under BZA authority and subject to the applicant’s demonstration of compliance with the general provisions governing special exceptions.

132. Those general provisions require compliance with all applicable regulations and all specific standards governing the proposed use. M.C.L. § 17.16.150(A)–(B). For a cultural center, those standards include the collector-street-access requirement imposed by M.C.L. § 17.16.170(B)(4).

133. Cheekwood has materially expanded its facilities, operations, and visitor capacity without obtaining BZA approval for that expansion, demonstrating compliance with the collector-street-access requirement, or providing the required collector-street access.

134. Cheekwood instead uses narrow residential streets as the access infrastructure for one of Nashville's most heavily attended visitor destinations. (Ex. 4).

135. Metro's own study found that those streets carry approximately two-and-a-half to three times the recommended neighborhood traffic volume. (Ex. 4 at 20).

136. Cheekwood's noncompliance results in recurring congestion, impaired ingress and egress, pedestrian hazards, and emergency-access risks that specially damage the Neighbor Plaintiffs and affected members of NFS and substantially interfere with their use and enjoyment of their properties. (Exs. 11, 18, and 22).

137. Cheekwood's continued operation of the expanded use without the collector-street access required by M.C.L. § 17.16.170(B)(4) constitutes a continuing violation of the Metropolitan Zoning Code.

138. That violation and the resulting special injuries will continue absent judicial relief.

139. Under Tenn. Code Ann. § 13-7-208(a)(2), the Neighbor Plaintiffs are entitled to appropriate relief preventing, correcting, and abating Cheekwood's continued operation of the expanded use without the required collector-street access. The form and scope of that relief are set forth in Plaintiffs' consolidated prayer for relief.

COUNT III
PRIVATE NUISANCE—TRAFFIC AND IMPAIRED ACCESS
(Neighbor Plaintiffs and NFS v. Cheekwood)

140. Plaintiffs incorporate the preceding allegations as if fully set forth herein.

141. A private nuisance exists when a property owner uses its property in a manner that substantially and unreasonably interferes with another property owner's use and enjoyment of

property. *Lane v. W.J. Curry & Sons*, 92 S.W.3d 355, 364–65 (Tenn. 2002); *Pate v. City of Martin*, 614 S.W.2d 46, 47 (Tenn. 1981).

142. The interference need not occur on the injured property. The relevant inquiry is whether conduct attributable to the defendant substantially and unreasonably interferes with the plaintiff's use and enjoyment of the plaintiff's property.

143. Cheekwood schedules, advertises, sells admission to, and conducts concerts, festivals, seasonal celebrations, weddings, private functions, and other events that attract hundreds of thousands of visitors to its property each year.

144. Cheekwood controls the timing, frequency, attendance capacity, parking arrangements, and operational scale for those operations.

145. Cheekwood conducts those activities without primary access from a collector street and relies instead upon Forrest Park Drive, Page Road, and the surrounding residential streets for visitor access.

146. Metro's study found that traffic on these streets reaches approximately two-and-a-half to three times the recommended volume for neighborhood streets. (Ex. 4 at 20).

147. Cheekwood's operations generate substantial and recurring vehicle queues, congestion, blocked or impaired driveways, restricted ingress and egress, pedestrian and bicycle hazards, and impediments to emergency access. (Ex. 11).

148. Those conditions substantially interfere with the Neighbor Plaintiffs' ability to enter and leave their homes, receive visitors and services, travel safely through their neighborhood, use their yards and other outdoor areas, and obtain timely emergency assistance.

149. The Neighbor Plaintiffs and affected members of NFS suffer injuries different in kind and degree from those experienced by the public generally. The congestion occurs

immediately outside their homes, impairs access to their properties, and directly interferes with their residential use and enjoyment of those properties.

150. Cheekwood creates and maintains these conditions by attracting visitors in volumes its property and available access routes cannot reasonably accommodate without shifting the resulting traffic, circulation, and safety burdens onto the surrounding residential community.

151. Cheekwood has actual notice of those conditions through resident complaints, neighborhood communications, traffic photographs and recordings, the KH Study, public proceedings, and repeated efforts by NFS and affected residents to obtain corrective action. (Exs. 4, 16, and 18).

152. Cheekwood has continued and expanded the operations producing these conditions despite that actual notice.

153. Cheekwood's proposed expansion of permanent parking capacity, without corresponding access from Highway 100, will increase its ability to accommodate visitors while continuing to route them through the same residential streets already carrying unsustainable traffic volumes.

154. Metro's own study identified Highway 100 as "the most immediate and logical arterial connection to Cheekwood" and recommended new Highway 100 access together with increased on-site parking as complementary measures to reduce reliance on neighborhood streets and address existing traffic and safety conditions. Cheekwood is proceeding with expanded parking without the corresponding Highway 100 access. (Ex. 4 at 19, and 33–34).

155. The locality and residential character of the surrounding area, the magnitude and duration of the interference, the nature of the property rights invaded, the availability of corrective

measures, and Cheekwood's knowing continuation of the conditions establish that the interference is substantial and unreasonable.

156. Cheekwood's conduct creates and maintains a private nuisance.

157. That nuisance has caused each Neighbor Plaintiff and affected member of NFS distinct injury, including impaired ingress and egress, loss of use and quiet enjoyment, disruption, inconvenience, and exposure to recurring traffic and safety hazards.

158. The nuisance is continuing and will recur absent judicial abatement.

159. The Neighbor Plaintiffs are entitled to compensatory damages and appropriate equitable relief abating the nuisance. The form and scope of that relief are set forth in Plaintiffs' consolidated prayer for relief.

COUNT IV
PRIVATE NUISANCE—AMPLIFIED SOUND
(Neighbor Plaintiffs and NFS v. Cheekwood)

160. Plaintiffs incorporate the preceding allegations as if fully set forth herein.

161. Each Neighbor Plaintiff and affected member of NFS owns or occupies residential property adjacent to or near Cheekwood.

162. Tennessee defines a private nuisance as anything that annoys or disturbs the free use of property, renders its ordinary use or physical occupation uncomfortable, or obstructs its reasonable and comfortable use. The interference must be substantial and unreasonable under the circumstances. *Lane v. W.J. Curry & Sons*, 92 S.W.3d 355, 364–65 (Tenn. 2002); *Pate v. City of Martin*, 614 S.W.2d 46, 47 (Tenn. 1981).

163. Amplified music, bass, announcements, event sound, and other noise originating from Cheekwood repeatedly cross Cheekwood's property boundaries and enter the neighboring residential properties and homes. (Ex. 18).

164. The amplified sound originates from Cheekwood's concerts, festivals, seasonal attractions, weddings, private events, playground programming, and other recurring operations. It includes amplified music, announcements, and low-frequency bass that penetrates neighboring homes.

165. The sound is not isolated or occasional. It recurs throughout the year, often continues for extended periods, and includes low-frequency bass and amplified sound capable of penetrating residential structures.

166. The amplified sound forces the Neighbor Plaintiffs and affected members of NFS to close windows and doors, remain indoors, abandon outdoor areas, interrupt ordinary household activities, and, at times, leave their homes to escape the intrusion. (Ex. 18).

167. Metro's noise ordinance prohibits the operation of sound-amplification equipment outside specified downtown areas when the resulting sound is plainly audible from the boundary of the nearest residentially occupied property. M.C.L. § 9.20.010(A)(1).

168. "Plainly audible" means sound that "clearly can be heard by unimpaired auditory senses." M.C.L. § 9.10.010.

169. Cheekwood's amplified sound is repeatedly plainly audible from the boundaries of neighboring residential properties. (Ex. 16 at 2.).

170. Cheekwood has had actual notice of the recurring sound intrusions and the governing property-line standard since at least 2019. Neighboring residents repeatedly informed Cheekwood that its amplified sound was audible at and inside their homes. (Ex. 16).

171. Cheekwood initially responded to those complaints by reducing the volume, confirming both its control over the sound and its ability to mitigate the intrusion. (Ex. 16).

172. Metro personnel have advised that the plainly-audible property-line standard governed Cheekwood's R20 property and no permit authorized a different standard. (Ex. 16 at 2).

173. Cheekwood nonetheless continued its amplified-sound operations despite actual notice that the sound crossed its property boundaries, entered neighboring homes, and interfered with the residential use of surrounding properties.

174. The resulting interference exceeds the level of sound reasonably expected in the surrounding residential neighborhood.

175. The amplified-sound intrusion is frequent and sustained. It occurs during recurring weekend events and, during seasonal programming such as Holiday LIGHTS, on an almost daily basis for extended periods. It is therefore a regular incident of Cheekwood's operations, not an isolated or occasional disturbance. (Ex. 22).

176. The locality and residential character of the area, the frequency and duration of the sound, its penetration into neighboring homes, the nature of the residential interests invaded, Cheekwood's ability to control the sound, and its knowing continuation after notice establish that the interference is substantial and unreasonable.

177. Cheekwood's recurring amplified-sound operations create and maintain a continuing private nuisance.

178. The Neighbor Plaintiffs and affected members of NFS suffer injuries different in kind and degree from those experienced by the public generally. The sound reaches their properties and directly interferes with their ability to sleep, converse, work, rest, care for their children, use outdoor areas, open windows and doors, and otherwise occupy and enjoy their homes.

179. Cheekwood's conduct has caused the Neighbor Plaintiffs loss of use and enjoyment, annoyance, inconvenience, discomfort, disruption, and other compensable injury.

180. Cheekwood's actual notice, ability to control the sound, and deliberate continuation of the offending operations support an award of punitive damages upon the showing required by Tennessee law.

181. The nuisance and resulting injuries will continue absent judicial abatement.

182. The Neighbor Plaintiffs are entitled to compensatory damages. NFS, on behalf of its affected members, and the Neighbor Plaintiffs are entitled to appropriate declaratory and equitable relief abating Cheekwood's recurring amplified-sound nuisance, as specified in Plaintiffs' consolidated prayer for relief.

COUNT V
PUBLIC NUISANCE—OBSTRUCTION AND UNSAFE USE OF PUBLIC STREETS
(Neighbor Plaintiffs and NFS v. Cheekwood)

183. Plaintiffs incorporate the preceding allegations as if fully set forth herein.

184. A public nuisance is an unreasonable interference with the public's use and enjoyment of a public place or with rights common to the public. *Sadler v. State*, 56 S.W.3d 508, 511 (Tenn. Ct. App. 2001).

185. The same conduct may constitute both a public and private nuisance when it interferes with public rights and with the use and enjoyment of private property. *Wayne County v. Tenn. Solid Waste Disposal Control Bd.*, 756 S.W.2d 274, 283–84 (Tenn. Ct. App. 1988).

186. The public has a common right to the safe and reasonable use of Forrest Park Drive, Page Road, Belle Meade Boulevard, and the other public streets surrounding Cheekwood.

187. As alleged above, Cheekwood's high-attendance operations direct extraordinary volumes of visitor traffic onto the public streets surrounding its property, repeatedly producing vehicle queues, gridlock, impaired passage, pedestrian and bicycle hazards, and impediments to

emergency access. Plaintiffs incorporate the KH Study's findings concerning excessive traffic volumes, unsustainable conditions, and resulting safety concerns. (Ex. 4 at 19–23).

188. Cheekwood has actual notice of these conditions through the KH Study, resident complaints, photographs and recordings, public proceedings, and repeated communications from NFS and affected residents. (Exs. 4, 14, and 16).

189. These recurring conditions unreasonably interfere with public travel, public safety, and emergency access and constitute a continuing public nuisance.

190. The Neighbor Plaintiffs and affected members of NFS suffer injuries different in kind from those experienced by the public generally. The nuisance occurs immediately outside their homes, impairs ingress to and egress from their properties, restricts access by visitors and service providers, and threatens timely emergency access to their residences.

191. Those special injuries entitle the Neighbor Plaintiffs to seek damages and abatement of the public nuisance. NFS, on behalf of its affected members, is entitled to seek declaratory and equitable relief abating the nuisance. *State ex rel. Cunningham v. Feezell*, 218 Tenn. 17, 24 (1966); *Memphis St. Ry. Co. v. Rapid Transit Co.*, 133 Tenn. 99, 117 (1915); *accord Memphis Light, Gas & Water Div. v. Goss*, 494 S.W.2d 766, 769 (Tenn. 1973).

192. Cheekwood's public nuisance and the resulting special injuries will continue absent judicial abatement.

193. The Neighbor Plaintiffs are entitled to compensatory damages. The Neighbor Plaintiffs and NFS, on behalf of its affected members, are entitled to appropriate declaratory and equitable relief abating the public nuisance, as specified in Plaintiffs' consolidated prayer for relief.

COUNT VI
ANTICIPATORY NUISANCE—PARKING PAVILION CONSTRUCTION AND
OPERATION
(Neighbor Plaintiffs and NFS v. Cheekwood)

194. Plaintiffs incorporate the preceding allegations as if fully set forth herein, including the allegations concerning Cheekwood’s existing traffic, noise, event operations, lack of collector-street access, and interference with neighboring properties.

195. Cheekwood is constructing a permanent Parking Pavilion within 350 feet of occupied residential structures.¹¹

196. The Pavilion’s selected location also leaves its operation dependent on Forrest Park Drive and on portions of an access route over which Cheekwood lacks a permanent, legally enforceable right.

197. The Pavilion is not merely a parking structure. Its plans classify the occupied roof as a Group A-3 assembly occupancy with an occupant load exceeding 1,000 persons. (Ex. 31).

198. The Pavilion’s assembly-classified roof is designed to accommodate large gatherings immediately adjacent to residential properties. Its intended operation will generate crowd noise, amplified sound, lighting, pedestrian activity, and concentrated vehicle arrivals and departures.

¹¹ This Count challenges the existing and threatened nuisance arising from the construction and intended operation of the Parking Pavilion. Plaintiffs do not, in this Count or otherwise in this action, seek judicial review of the BZA’s decision concerning the Parking Pavilion permit. Any challenge to that decision is reserved for a separate petition for writ of certiorari following entry of the BZA’s final order.

199. Cheekwood has never received approval for an assembly use of the property. Its operative special-exception approval remains the 1996 Order's expressly limited "Nonassembly, Cultural" classification.¹²

200. The Pavilion will also increase Cheekwood's permanent, authorized on-site parking capacity from approximately 350 spaces to 750 spaces—an increase of approximately 400 spaces. (Ex. 9).

201. The proposed facility contains fewer parking "spaces" only when compared with the maximum number of vehicles Cheekwood previously dispersed across its property and adjacent public parkland during peak attendance, including vehicles parked on lawns, hills, swales, and portions of parkland outside the areas authorized for parking under the Metro Parks MOU. That comparison improperly treats temporary, improvised, and unauthorized parking as equivalent to permanent, purpose-built parking capacity. (Ex. 9).

202. The 750 permanent spaces will increase Cheekwood's ability to accommodate visitors and support high-attendance events throughout the year. Every additional vehicle accommodated by that expanded permanent capacity will continue to enter and leave through the surrounding residential streets.

203. Cheekwood is constructing that expanded parking and assembly infrastructure without providing corresponding access from Highway 100 or any other route capable of diverting its traffic from Belle Meade Highlands.

204. As alleged above, Metro's own study found that the surrounding residential streets already carry traffic volumes approximately two-and-a-half to three times the recommended

¹² The 1998 revision of the Metropolitan Zoning Code eliminated the former distinction between "assembly" and "nonassembly" cultural uses. It did not retroactively enlarge the expressly limited "Nonassembly, Cultural" use approved by the BZA in 1996 or authorize a new assembly use never presented to or approved by the BZA.

neighborhood volume and identified Highway 100 as the most immediate and logical arterial connection to Cheekwood. (Ex. 4).

205. The Pavilion will therefore increase Cheekwood's capacity for parking, attendance, and assembly activity while preserving the same deficient means of access that already produces recurring congestion, impaired ingress and egress, pedestrian hazards, and emergency-access risks.

206. The Pavilion's permanent parking capacity, assembly-classified roof, Cheekwood's existing attendance and event schedule, lack of Highway 100 access, and documented neighborhood impacts establish that the resulting traffic, noise, lighting, and assembly-related interference is reasonably certain—not merely possible or speculative.

207. Construction of the Pavilion separately subjects neighboring properties to construction traffic, noise, dust, vibration, lighting, and blasting immediately adjacent to their homes. Cheekwood has commenced those activities while continuing its ordinary visitor and event operations. (Ex. 5).

208. The Pavilion's construction and operation threaten substantial and unreasonable interference with properties owned by the Neighbor Plaintiffs and affected members of NFS, including increased traffic and congestion, further impairment of ingress and egress, additional safety risks, and recurring noise, lighting, vibration, and assembly-related activity.

209. Those threatened injuries cannot be adequately remedied solely through damages after they occur. NFS, on behalf of its affected members, and the Neighbor Plaintiffs are entitled to prospective relief preventing or restricting the threatened nuisance before it becomes permanent and recurring.

210. NFS, on behalf of its affected members, and the Neighbor Plaintiffs seek declaratory and injunctive relief protecting their properties from the threatened nuisance. The form and scope of that relief are set forth in Plaintiffs’ consolidated prayer for relief.

COUNT VII
DECLARATORY AND INJUNCTIVE RELIEF—APPLICABLE AMPLIFIED-SOUND
STANDARD
(Neighbor Plaintiffs and NFS v. Cheekwood and Metro)

211. Plaintiffs incorporate the preceding allegations as if fully set forth herein.

212. M.C.L. § 9.20.010(A)(1) provides that, outside the Downtown Code (“DTC”) zoning district and properties zoned Core Frame (“CF”) that are contiguous to the DTC district, “it shall be unlawful for any person to operate or allow the operation of any sound amplification equipment so as to create sounds that are plainly audible from the boundary line of the nearest residentially occupied property.”

213. Cheekwood’s property is zoned R20. It is not located within the Downtown Code district or on Core Frame property contiguous to that district.

214. Sections 9.20.010(B) and 9.20.030(B) impose 85 dB(A) restrictions only in the geographic areas identified in those provisions, which do not include Cheekwood’s R20 property. Section 9.20.030(C) caps sound at the boundary of a mass-gathering site, but Cheekwood is not a permitted mass-gathering site. None of those provisions grants Cheekwood a blanket right to conduct recurring amplified-sound operations below 85 dB(A).

215. Section 9.20.030(A) regulates the location and hours of certain outdoor amplified entertainment. It does not categorically exempt Cheekwood from the independently applicable plainly-audible property-line restriction in M.C.L. § 9.20.010(A)(1).

216. Cheekwood has asserted and acted upon a contrary blanket interpretation under which it may operate amplified sound below 85 dB(A), regardless of whether the sound is plainly audible from neighboring residential property lines. (Ex. 16).

217. Metro personnel previously advised that the plainly-audible standard generally governed Cheekwood's property and reported finding no permit authorizing a different standard. (Ex. 16 at 2).

218. Despite actual notice of the governing standard and repeated complaints, Cheekwood continues to generate amplified sound plainly audible at and inside neighboring residences. Metro has not enforced the plainly-audible property-line standard.

219. An actual and justiciable controversy therefore exists among Plaintiffs, Cheekwood, and Metro concerning the amplified-sound standard applicable to Cheekwood's operations.

220. Plaintiffs seek a declaration binding Cheekwood and Metro that M.C.L. § 9.20.010(A)(1)'s plainly-audible property-line standard applies to amplified sound generated or permitted by Cheekwood on its R20 property.

221. Plaintiffs further seek prospective injunctive relief prohibiting Cheekwood from operating or allowing the operation of amplified-sound equipment in a manner that creates sound plainly audible from the boundary line of the nearest residentially occupied property.

222. Plaintiffs also seek prospective equitable relief requiring Metro, when administering and enforcing its amplified-sound ordinance as to Cheekwood, to apply the plainly-audible property-line standard imposed by M.C.L. § 9.20.010(A)(1).

223. Cheekwood's recurring violations, and Metro's failure to apply and enforce the governing standard, substantially and unreasonably interfere with properties owned by the

Neighbor Plaintiffs and affected members of NFS. Those injuries will continue absent declaratory and injunctive relief. The form and scope of that relief are set forth in Plaintiffs' consolidated prayer for relief.

COUNT VIII
STATUTORY ENFORCEMENT—1996 ORDER CONSTRUCTION-TRAFFIC CONDITION
(Neighbor Plaintiffs and NFS v. Cheekwood)

224. Plaintiffs incorporate the preceding allegations as if fully set forth herein.

225. The 1996 Order granted Cheekwood conditional approval under the expressly limited “Nonassembly, Cultural” classification. (Ex. 3).

226. As an express condition of that approval, the BZA ordered that “[a]ll construction traffic necessary for the implementation of this conditional use permit shall use HWY 100 and Cheek Rd. as the sole access for ingress and egress to the property.” (Ex. 3).

227. Cheekwood continues to rely upon the 1996 Order as the operative land-use approval for its activities on the property.

228. Cheekwood is now constructing the Parking Pavilion as infrastructure supporting the same operations for which it relies upon the 1996 Order.

229. Construction traffic associated with the Pavilion has used Forrest Park Drive and surrounding residential streets rather than Highway 100 and Cheek Road. (Ex. 11).

230. To the extent Cheekwood contends that the Pavilion is authorized as part of the use approved by the 1996 Order, the construction undertaken to implement that claimed authority remains subject to the conditions attached to it.

231. Alternatively, if the Pavilion is not construction implementing the use approved by the 1996 Order, the Order supplies no authority for that construction or its associated expansion of Cheekwood's operations.

232. Cheekwood's use of residential streets for Pavilion construction traffic increases congestion, creates additional safety risks, interferes with residential ingress and egress, and specially damages the Neighbor Plaintiffs and affected members of NFS.

233. Under Tenn. Code Ann. § 13-7-208(a)(2), the Neighbor Plaintiffs are entitled to relief preventing, correcting, and abating Cheekwood's violation of the conditions governing its use of the property.

234. NFS seeks corresponding declaratory and injunctive relief on behalf of its affected members. The form and scope of that relief are set forth in Plaintiffs' consolidated prayer for relief.

COUNT IX
DECLARATORY RELIEF AND ALTERNATIVE MANDAMUS—METRO'S FAILURE TO
APPLY GOVERNING ZONING LAW
(Neighbor Plaintiffs and NFS v. Metro)

235. Plaintiffs incorporate the preceding allegations as if fully set forth herein.

236. Metro enacted its zoning requirements to protect public health and safety, neighboring properties, and the residential use and character of districts such as R20.

237. M.C.L. § 17.40.010 charges the Zoning Administrator with administering and enforcing Title 17, processing and reviewing zoning-permit applications to ensure compliance, and issuing zoning permits and certificates.

238. Metro has actual notice that Cheekwood conducts restaurants, commercial-amusement activities, outdoor music events, assembly-oriented activities, and other uses prohibited in the R20 district or outside the scope of Cheekwood's existing special-exception approval.

239. Metro has actual notice that Cheekwood has materially expanded its operations without demonstrating compliance with the collector-street-access requirement applicable to an expanded cultural center use.

240. Metro's own study confirms that Cheekwood-related traffic is routed through residential streets carrying approximately two-and-a-half to three times the recommended neighborhood traffic volume and experiencing unsustainable conditions and safety concerns. (Ex. 4).

241. Metro has received repeated complaints identifying the alleged zoning violations and resulting property-specific injuries. (Ex. 16).

242. Metro has nevertheless failed to determine and apply the zoning requirements governing Cheekwood's current uses and expansion.

243. Despite actual notice of the alleged violations, Metro has allowed Cheekwood's prohibited uses, expanded operations, and deficient access to continue unabated.

244. Metro cannot nullify mandatory zoning and noise requirements through indefinite non-enforcement or treat those requirements as optional for a single property owner.

245. Metro's continuing non-enforcement has allowed Cheekwood to shift the traffic, access, safety, and operational burdens of its activities onto the surrounding residential community.

246. An actual and justiciable controversy exists concerning the zoning requirements applicable to Cheekwood, Metro's obligation to administer those requirements under the correct legal standards, and Plaintiffs' rights to the protections those requirements provide.

247. Plaintiffs seek declarations establishing that Cheekwood's present operations remain subject to the prohibited-use classifications governing R20 property, the requirements

governing expansion of a special-exception use, the collector-street-access requirement, and the conditions of any approval upon which Cheekwood relies.

248. After the Court declares the governing requirements, Plaintiffs seek prospective equitable relief requiring Metro to apply those requirements to the specific continuing violations proved in this action and to perform any nondiscretionary duties imposed by law.

249. Plaintiffs do not ask the Court through this Count to review the BZA's decision concerning the Parking Pavilion permit or to control any matter lawfully committed to administrative discretion.

250. Plaintiffs seek to prevent Metro from refusing to apply the governing law, treating mandatory requirements as optional, or failing to perform duties expressly imposed upon it.

251. Only to the extent Metro has failed or refused to perform a specific ministerial duty imposed by applicable law, Plaintiffs alternatively seek mandamus compelling performance of that duty. Plaintiffs do not seek through mandamus to control any lawful exercise of administrative discretion.

252. Metro's continued failure to apply and enforce the governing requirements leaves the Neighbor Plaintiffs and affected members of NFS exposed to recurring and irreparable injuries for which monetary relief against Metro would not provide an adequate remedy.

253. NFS, on behalf of its affected members, and the Neighbor Plaintiffs are entitled to declaratory relief and, to the extent supported by a specific nondiscretionary duty, prospective equitable or mandamus relief requiring Metro to apply the governing zoning requirements. The form and scope of that relief are set forth in Plaintiffs' consolidated prayer for relief.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Neighbors for Safety BMH, Inc. and the Neighbor Plaintiffs respectfully request that the Court enter judgment in their favor and grant the following relief:

- A. Declare that the Cheekwood property is subject to the restrictions applicable to property zoned R20;
- B. Declare that Cheekwood's expanded cultural center use is subject to the collector-street-access requirement in M.C.L. § 17.16.170(B)(4);
- C. Declare that M.C.L. § 9.20.010(A)(1)'s plainly-audible property-line standard applies to amplified sound generated or permitted by Cheekwood on its R20 property;
- D. Declare that Cheekwood's recurring traffic and amplified sound constitute private nuisances as to the Neighbor Plaintiffs and affected members of NFS;
- E. Declare that Cheekwood's recurring obstruction and unsafe impairment of the surrounding public streets constitute a public nuisance and that the Neighbor Plaintiffs and affected members of NFS suffer special injuries distinct from those sustained by the public generally;
- F. Temporarily, preliminarily, and permanently enjoin Cheekwood from engaging in uses prohibited in the R20 district unless and until Cheekwood obtains the land-use authority required by law;
- G. Temporarily, preliminarily, and permanently enjoin Cheekwood from operating or allowing the operation of amplified-sound equipment in a manner that creates sound plainly audible from the boundary line of the nearest residentially occupied property;

- H. Temporarily, preliminarily, and permanently enjoin Cheekwood from conducting its operations in a manner that obstructs residents' ingress and egress, impedes emergency access, or creates unsafe conditions on the surrounding public streets;
- I. Order Cheekwood, by a date certain established by the Court, to bring its expanded cultural center use into compliance with the collector-street-access requirement imposed by M.C.L. § 17.16.170(B)(4), and enjoin operation of the expanded use after that date unless and until the required access is provided;
- J. Temporarily, preliminarily, and permanently enjoin construction and operation of the Parking Pavilion to the extent necessary to prevent the threatened nuisance arising from its traffic, assembly use, amplified sound, lighting, construction traffic, dust, vibration, and blasting;
- K. Declare that Metro must administer the Metropolitan Zoning Code and amplified-sound ordinance under the legal standards declared by the Court;
- L. Require Metro, when administering and enforcing the amplified-sound ordinance as to Cheekwood, to apply the plainly-audible property-line standard imposed by M.C.L. § 9.20.010(A)(1);
- M. Require Metro to apply the prohibited-use classifications governing R20 property, the requirements governing expansion of a special-exception use, the collector-street-access requirement, and the conditions of any approval upon which Cheekwood relies to the specific continuing violations proved in this action;
- N. Require Metro, within a date certain established by the Court, to perform all specific ministerial duties imposed upon it by applicable law concerning the violations established in this action; and to the extent Metro has failed or refused to perform a specific ministerial

duty imposed by law, issue a writ of mandamus compelling performance of that duty without controlling any lawful exercise of administrative discretion;

- O. Award the Neighbor Plaintiffs compensatory damages against Cheekwood in an amount to be determined at trial for the loss of use and enjoyment of their properties and other injuries proximately caused by Cheekwood's private nuisances;
- P. Award the Neighbor Plaintiffs punitive damages against Cheekwood upon clear and convincing proof that Cheekwood acted intentionally, fraudulently, maliciously, or recklessly;
- Q. Award Plaintiffs their taxable costs, reasonable attorney's fees to the extent authorized by law, prejudgment and post-judgment interest, and all other recoverable litigation expenses; and
- R. Grant such further legal and equitable relief as the Court deems just and proper.

Plaintiffs do not, through this action seek judicial review of the BZA's decision concerning the Parking Pavilion permit. Any challenge to that decision is reserved for a separate petition for writ of certiorari following entry of the BZA's final order.

Plaintiffs demand a trial by jury on all issues so triable.

Respectfully submitted,

/s/ Chanelle Acheson
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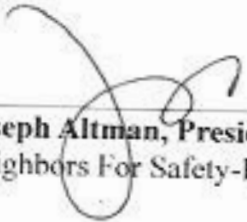
VERIFICATION

I, **Joseph Altman**, am an individual residing in the Belle Meade Highlands neighborhood and the acting President of **Plaintiff, Neighbors For Safety-Belle Meade Highlands** ("NFS"). I am making this verification in my individual capacity and am authorized to do the same on behalf of NFS. I have read the foregoing Amended Complaint for Declaratory Judgment, Injunctive Relief, and Writ of Mandamus.

I declare under penalty of perjury that the factual allegations contained in the foregoing Amended Complaint are true and correct based upon my direct, personal knowledge and as to matters stated, I believe them to be true and correct.

I further declare that based on my direct personal knowledge, the factual allegations concerning Plaintiffs' request for temporary and injunctive relief, including the facts concerning the immediate and irreparable injuries alleged therein, are true and correct.

Executed on this 14 day of September, 2026.



Joseph Altman, President
Neighbors For Safety-Belle Meade Highlands

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 14th day of September 2026, a true and correct copy of the foregoing has served via the Court's Electronic Filing System and/or emailed to:

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/s/ Chanelle R. Acheson
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