

January 22, 2018

VIA ELECTRONIC MAIL: [jkbrewer@peak.org](mailto:jkbrewer@peak.org)



Mr. Jim Brewer  
Land Use Hearings Officer  
City of Salem  
Room 240 Civic Center  
555 Liberty Street NE  
Salem, OR 97301

RECEIVED

JAN 22 2018

COMMUNITY DEVELOPMENT

RE: Case No. CU-ZC17-14 (Union Gospel Mission)  
Our File No: 28696

Dear Mr. Brewer:

I am writing on behalf of Applicant Union Gospel Mission ("**Applicant**") for Case No. CU-ZC17-14, in response to the Rebuttal Argument and Evidence of David Glennie ("**Mr. Glennie**") dated January 5, 2018 (the "**Letter**"). Below is Applicant's response to Mr. Glennie's Letter.

**The Riverfront Overlay Zone (RO) permits the relocation and does not prohibit the expansion of an existing Non-Profit Shelter serving more than 75 people.**

The proposed use is allowed as a conditional use in the Riverfront Overlay (RO) Zone, as this zone permits the relocation and does not prohibit the expansion of an existing Non-Profit Shelter serving more than 75 people. Mr. Glennie correctly notes that the underlying zone, Central Business District (CB), contains the limitation that there can be no increase in bed capacity in a relocated shelter. The provision regarding relocation of an existing non-profit shelter in the RO Zone mirrors that of the CB Zone, with the notable *exception* of the prohibition against increasing capacity. As stated in the Staff Report for this case, one of the functions of the RO Zone is to allow additional uses beyond those allowed in the underlying zone. Staff Report, 16; *see also* SRC 110.020 ("An overlay zone establishes additional regulations beyond the base zone to address specific community objectives. In some cases, an overlay zone may provide exceptions to or supersede the regulations of the base zone.")

Mr. Glennie also argues that a shelter serving 300 persons "clearly exceeds the limits of both the CB and RO zones." Letter, 2. Again, this is inaccurate. As stated, there are no maximum size limitations for relocated shelters in the RO Zone, and the provisions of the RO Zone supersede those of the CB Zone. The general rule of statutory interpretation is also useful here: "In the construction of a statute, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted[.]" Oregon Revised Statute

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(ORS) 174.010. Had the Code's drafters meant for the CB Zone limitation on increased capacity to equally apply to the RO Zone, they would have included it there as well.

The intent of the relocation provision in the RO Zone is further demonstrated by a brief examination of the history of this proposal. This provision is the direct result of a 2014 City amendment of the "limitations and qualifications" section of SRC Table 617-2 to specifically include "Relocation of an existing Non-Profit Shelter from the CB zone serving more than 75 people, provided the shelter continually existed in the CB zone as of September 1, 1993." See Ordinance Bill No. 19-14. As stated in the Future Report dated September 8, 2014 for the City Council Meeting of September 22, 2014:

"The Union Gospel Mission (UGM) owns property within the Riverfront Overlay Zone and plans to build a new, *larger* shelter facility in this area. *The new facility will have capacity to serve a greater number of individuals* and is intended to replace the Union Gospel Mission's existing shelter facility in the downtown" (emphasis added).

This proposal is permitted as a conditional use pursuant to SRC 240.005(d)(1).

**Applicant has demonstrated that the reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.**

Applicant provides a sufficient description of the immediate neighborhood, including an analysis of specific tax lots and the uses thereon. Applicant's Statement ("**Application**"), 4-6; 8-9. Mr. Glennie suggests that the boundaries for the CANDO Neighborhood Plan should be the relevant "immediate neighborhood" for this examination. Letter, 6. This is impractical for several reasons. First, the CANDO neighborhood includes properties located up to a mile from the proposed site. See CANDO Neighborhood Plan at p. 4 of Mr. Glennie's Exhibit 18. Such properties are not in the immediate neighborhood by any definition and will not be affected by adverse impacts of the proposed use. Second, defining the scope of an immediate neighborhood to properties identified on a neighborhood plan would produce illogical effects. For example, if a subject property were located on the northernmost border of a neighborhood plan map, the property immediately to its north would not be included in the "immediate neighborhood" (while properties a mile away would). In order to best give effect to the criterion, it is reasonable to include those properties located immediately surrounding the subject property in demonstrating compliance with this criterion, as Applicant has done here.

In this criterion, the word "immediate" qualifies "neighborhood." If the criterion intended an applicant to consider the entire "neighborhood," as Mr. Glennie claims, there would be no need for the qualifier. Mr. Glennie consults Merriam-Webster's dictionary for terms that are undefined in the Code. The word "immediate" is defined in Merriam-Webster's dictionary to include: being without the intervention of another object; being near at hand (e.g. immediate neighborhood); directly touching or concerning a person or thing. This definition is consistent with Applicant's analysis of the immediate neighborhood.

Applicant also adequately identifies the reasonably likely adverse impacts the proposed use will create and demonstrates how they can be minimized through the imposition of conditions. Potential adverse impacts include increased motor vehicle and pedestrian traffic and sidewalk congregation. Application,

9. These potential impacts will be minimized through conditions of approval, as well as the design of the shelter to include a courtyard for gathering. The fact that Mr. Glennie may disagree with or believe there will be additional adverse impacts other than those identified by Applicant does not mean Applicant has not sufficiently met its burden.

Mr. Glennie appears to confuse the adverse impacts of homelessness with the adverse impacts of the proposed shelter. The shelter may, as stated, increase vehicular and pedestrian traffic. Negative externalities Mr. Glennie fears such as vandalism, urination, and profanity, to list a few, are those that may be associated with homeless persons. These impacts, to the extent they exist, will exist regardless of the presence of the shelter; the shelter will neither create nor exacerbate such impacts. Instead, as Applicant states, the shelter will provide assistance to those individuals who may have conduct or behavioral issues, helping alleviate the problem through counseling and job training. Application, 7; 9. Mr. Glennie's argument that the "massive" size of the proposed shelter makes it likely that adverse impacts will grow is also counterintuitive. As stated by Applicant, the purpose of the increased size of the shelter is to better serve the homeless population and to decrease these impacts. A larger shelter does not create more homeless people. Guests of the shelter already live in the downtown area, due to nearby services and transportation facilities. Mr. Glennie argues that, year after year, problems associated with homelessness "get worse," yet he opposes the very proposal that will help alleviate this problem.

Applicant has demonstrated that the reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.

**The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.**

Applicant has demonstrated that the proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property. As previously stated, Applicant included a sufficient description of the surrounding property, including an analysis of specific properties and the uses thereon. Surrounding properties consist of commercial retail, service, office, and industrial uses, and the new Salem Police facility will be located directly across the street. The shelter's anticipated impacts, including motor vehicle and pedestrian traffic and sidewalk congregation, will be minimized through conditions of approval and building design and will have minimal impact. The shelter is compatible with the intent of the RO Zone, which includes "promot[ing] a mixed use residential and commercial district." SRC Chapter 617.001. Applicant has met this criterion.

*An application for a conditional use permit shall be granted if all of the criteria under SRC 240.005(d) are met. Neither the CANDO Neighborhood Plan nor the Riverfront Downtown Urban Renewal Plan provide approval criteria for this application. Therefore, they are not addressed here.*

January 22, 2018

Mr. Jim Brewer

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**Conclusion**

For the reasons set forth in this letter and in the Application, Applicant has satisfied all relevant criteria for its proposed use, and the Application should be approved as submitted.

Sincerely,



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MDS/SLS:sig/hst

Enclosures

cc: Client

Bryce Bishop