

TO: HEARINGS OFFICER

FROM: LISA ANDERSON-OGILVIE, AICP, DEPUTY COMMUNITY DEVELOPMENT DIRECTOR AND PLANNING ADMINISTRATOR

SUBJECT: SUPPLEMENTAL FINDINGS FOR CONDITIONAL USE & QUASI-JUDICIAL ZONE CHANGE CASE NO. CU-ZC17-14; FOR PROPERTY LOCATED IN THE 700 TO 800 BLOCKS OF COMMERCIAL STREET NE

BACKGROUND

On December 20, 2017, a public hearing before the Hearings Officer was held to review a consolidated application submitted by the Union Gospel Mission of Salem for a Conditional Use Permit and Zone Change for property located in the 700 to 800 blocks of Commercial Street NE.

The application includes:

- 1) A Conditional Use Permit to allow the relocation the UGM's existing Non-Profit Shelter with an expanded capacity to serve approximately 300 persons; and
- 2) A Zone Change to change the zoning of the property from CO (Commercial Office) with Riverfront Overlay to CB (Central Business District) with Riverfront Overlay in order to establish the existing UGM retail store located at the northern end of the property as a permitted conforming use rather than an existing non-conforming use.

After evidence and testimony was received regarding the proposed development, a request was made to the Hearings Officer to leave the public hearing record open to allow for submission of additional evidence and testimony regarding the proposal. The Hearings Officer granted the request and left the record open as follows:

- 1) January 5, 2018 – For all parties to submit additional evidence and testimony; and
- 2) January 22, 2018 – For rebuttal by the applicant.

In order to accommodate the additional open record period, the applicant agreed to a 30-day extension of the State mandated 120-day decision deadline. The 30 additional days extends the 120-day local decision deadline from March 21, 2018, to April 20, 2018.

SUPPLEMENTAL FACTS AND FINDINGS

The following supplemental facts and findings are provided to address issues raised in public testimony provided at the December 20, 2017, public hearing. Included is a summary of issues raised, followed by a staff response to the issue.

Issues raised in testimony provided at the December 20, 2017, public hearing included the following:

1. **Proposed shelter will dominate the City's Riverfront Overlay Zone and negatively impact redevelopment and other residential and mixed-use projects**

in the area. Testimony provided explains that the proposed shelter will dominate the City's Riverfront Overlay Zone by occupying 2.3 acres, or roughly one-third of the land area included within the overlay zone. The testimony further provided that the applicant's and staff's assertion that there are no residential uses in the immediate vicinity is incorrect because there are two mixed-use developments located a few blocks from the location of the proposed shelter and the property is also located a few feet from the City's Riverfront High Density Residential Overlay Zone, all of which will be impacted by the proposed homeless shelter.

Response: As indicated in the December 20, 2017, staff report, UGM's proposed relocated shelter will be located on property in the 700 to 800 blocks of Commercial Street NE. The UGM's existing retail store is proposed to remain at the north end of the site and the proposed new shelter will be located at the southern end of the site.

Testimony provided states that the proposed relocated shelter will dominate the City's Riverfront Overlay zone by occupying roughly one-third of the land area included within the Riverfront Overlay Zone. This statement, however, is incorrect. The Riverfront Overlay Zone applies not only to land located between Commercial Street and Front Street to south of Mill Creek, but also to land located between Commercial Street and the Willamette River to the north of Mill Creek (**Attachment A**). The total area of land included within the Riverfront Overlay Zone is approximately 40 acres. The 2.3 acre UGM property comparatively represents only approximately 5.8 percent, or roughly one-seventeenth, of the total land area included within the Riverfront Overlay Zone. Because the 2.3 acre site represents a small percentage of the overall land area included in the overlay zone, the proposed shelter will not dominate the City's Riverfront Overlay Zone.

In regards to the presence of residential uses in the immediate vicinity, as indicated in the December 20, 2017 staff report, existing uses in the immediate vicinity include a mixture of non-residential office, commercial service, retail, and industrial-type uses. While there are, as indicated in the testimony provided, residential uses in two mixed-use developments to the northeast of the property, these uses are more than 1,000 feet away from the property and located in an area that is not characterized as, or intended to be, a purely residential neighborhood, but which instead is a mixed-use use residential and non-residential area where a variety of different uses are allowed and intended to be accommodated.

The site for the proposed relocated shelter is in a similar area located near the downtown core of the City where a variety of uses are intended and allowed, all of which co-exist in an urban framework where adequate access to transportation facilities, bike and pedestrian facilities, and necessary support services are available.

Rather than locating in close proximity to a residential neighborhood, the proposed shelter location allows for the redevelopment of an underutilized property in an industrial area characterized with a mixture of uses and a railroad line. The facility proposed will be a new modern facility better suited to meet the needs of the UGM and the individuals they serve. The facility will be required to meet the applicable design review requirements of the overlay zone; thereby ensuring the desired development pattern for the overlay zone is achieved.

2. **Proposed shelter is not consistent with the Riverfront Overlay Zone, the Riverfront Downtown Urban Renewal Plan, and different plans and visioning projects for this area.** Testimony provided indicated that the location of the proposed shelter is not consistent with the Riverfront Overlay Zone, the Riverfront Downtown Urban Renewal Plan, or different plans and visioning projects for this area which envision a mixed-use residential and employment district and a vibrant community of housing, commercial, employment, and recreational uses. The testimony provided indicates that a 300 bed homeless shelter directly across from the City's Riverfront High Density Residential Overlay District will negatively impact development and redevelopment in this area and is not consistent with the purpose, goals, and policies of the Urban Renewal Plan.

Response: The subject property is located within the Riverfront Overlay Zone (**Attachment A**). As provided under SRC 617.001, the purpose of the Riverfront Overlay Zone is to identify allowed uses and establish development standards to promote a mixed-use residential and commercial district within an emphasis on office development and pedestrian access to and along the Willamette River. In order to implement this stated purpose, the overlay zone identifies allowed land uses and establishes additional development standards to regulate land use and development within the overlay zone. Pursuant to SRC 617.015(c), Table 617-2, relocation of an existing non-profit shelter from the CB zone serving more than 75 persons is specifically allowed as a conditional use in the overlay zone, and development of the shelter will be required to conform to the development standards and design review requirements of the overlay zone.

The subject property is also located within the City's Riverfront Downtown Urban Renewal Area (RDURA) (**Attachment B**). The UGM currently has facilities in two different areas of the RDURA. UGM's existing retail store, which is located on the northern portion of the subject property, is located in the north area of the urban renewal area and provides job opportunities through its retail store in alignment with the urban renewal plan goals and objectives relating to economic development.

UGM's existing men's shelter at 345 Commercial Street NE is within the downtown area of the urban renewal area. Since the UGM's shelter is already in the URA, moving it to the proposed new location won't change that status or create an additional impact, but instead will lessen the impact by consolidating their operations onto a single property and thereby freeing up additional land within the RDURA for redevelopment.

As indicated in the testimony provided, there have been several studies, plans, and visioning projects for this area, and surrounding areas, over the years such as Vision 2020, the Sustainable Cities Initiative, and other community forums. These plans and studies have identified various development concepts and visions that, while informative, are not formally adopted land use plans upon which approval or denial of a land use application can be based.

As indicated the December 20, 2017, staff report, and provided in these supplemental findings, the Riverfront Overlay Zone, which establishes the applicable land use and development regulations for this area, specifically allows the proposed relocated

shelter as a conditional use that is subject to the additional development standards and design review requirements of the overlay zone intended to ensure the desired development pattern for this area is achieved.

3. **Impacts of the proposed shelter on economic development and livability of surrounding property have not been considered.** Testimony provided indicates that one of the key approval criteria for the conditional use permit requires the applicant to provide that the proposed use will be reasonably compatible with and minimal impact on the livability or appropriate development of surrounding property. The testimony provided indicates that there has been no meaningful effort by the applicant or staff to interpret or apply the "livability" standard in SRC 240.005(d), relative to the site and surrounding property, given the regulatory context of the City's Riverfront Overlay Zone, Riverfront High Density Residential Overlay Zone, Urban Renewal Plan, and the existence of high density residential, office, retail, and mixed-use development that has already been built nearby.

Specific concern was expressed regarding the impact of the shelter on adjacent properties, especially by using the narrow alley between Division Street and D Street as the main access paths for guests to enter the shelter. The testimony provided explains that the alley is currently a busy route used by the UGM retail store and employees, customers, and delivery trucks associated with existing adjacent businesses. It is indicated that adding approximately 300 homeless men with their bikes, carts, dogs, and belongings as a gathering place near the alley is a public safety problem waiting to happen.

Response: As indicated in the December 20, 2017, staff report, the proposed shelter satisfies the applicable approval criteria. The proposed shelter is located in an area characterized with a mixture of non-residential office, commercial-service, retail, and industrial uses; in proximity to the downtown, thereby helping to ensure the shelter and its guests are not isolated from other social service organizations and agencies in the community that help to provide additional support and services to the homeless; and across Commercial Street from the City's future new police facility, the presence of which will provide the benefit of enabling a quick response to address any incidents that may arise and the potential of deterring undesired activity from occurring in the immediate neighborhood.

As indicated in the testimony provided, the main guest entry into the proposed shelter is located on the western side of the proposed building. The applicant indicates that locating the main guest entry at this location is intended to lessen the impact adjacent to Commercial Street by directing guests to the rear of the site via the alley where a courtyard/plaza space is provided. In order to ensure the safety of individuals utilizing the alley, a condition of approval, Condition No. 2, has been recommended to require the main guest entrance into the shelter to be connected via a pedestrian connection to a public sidewalk abutting a public street. If the pedestrian connection to the sidewalk is provided in the alley, it must be visually distinct from the rest of the alley in order to ensure it is clearly delineated and safe.

In addition, because the proposed relocation allows UGM to construct a modern new facility at this location, the shelter is being designed with an increased capacity and a greater amount of space to accommodate guests and storage of belongings; thereby

helping to minimize impact and allow for more people to be accommodated inside the building than the current shelter allows.

4. **Inadequate Notice.** Testimony provided indicates that notice of the hearing and meeting was not listed in its customary place on the City's website and that by oversight on intention, it is concerning that such an important matter would not be widely publicized and scheduled at a time other than the height of the Holiday Season.

Response: Procedural requirements for the processing of land use applications are established under SRC Chapter 300. As with all land use applications submitted for review, the proposed land use application has been processed according to the applicable procedural requirements of the Salem Revised Code. SRC 300.620(b) establishes public notice requirements for Type III land use applications. Pursuant to the requirements of this section, public notice on a Type III application is required to be mailed and posted on the property. As indicated in the December 20, 2017, staff report, required notice was mailed on November 30, 2017, and posted on the property on December 7, 2017, pursuant to SRC requirements.

The notice referred to in the public testimony located on the City's website under the, "What's happening" section is not a required notice under the SRC, but is instead provided as a courtesy. The absence of the December 20, 2017 meeting from that section of the website was an oversight that was corrected when staff was made aware of the issue. Nevertheless, despite the meeting not being identified on that particular section of the website, the staff report and the agenda for the proposal was available prior to the hearing, as required under SRC 300.620(c), and posted on the Hearings Officer section of the website seven days prior to the hearing at the following location:

<https://www.cityofsalem.net/Pages/hearings-officer.aspx>

Furthermore, because the public hearing record for the proposal was left open for an additional 16 days to allow for the submittal of additional testimony, the additional open record period provides a remedy for the error on the website.

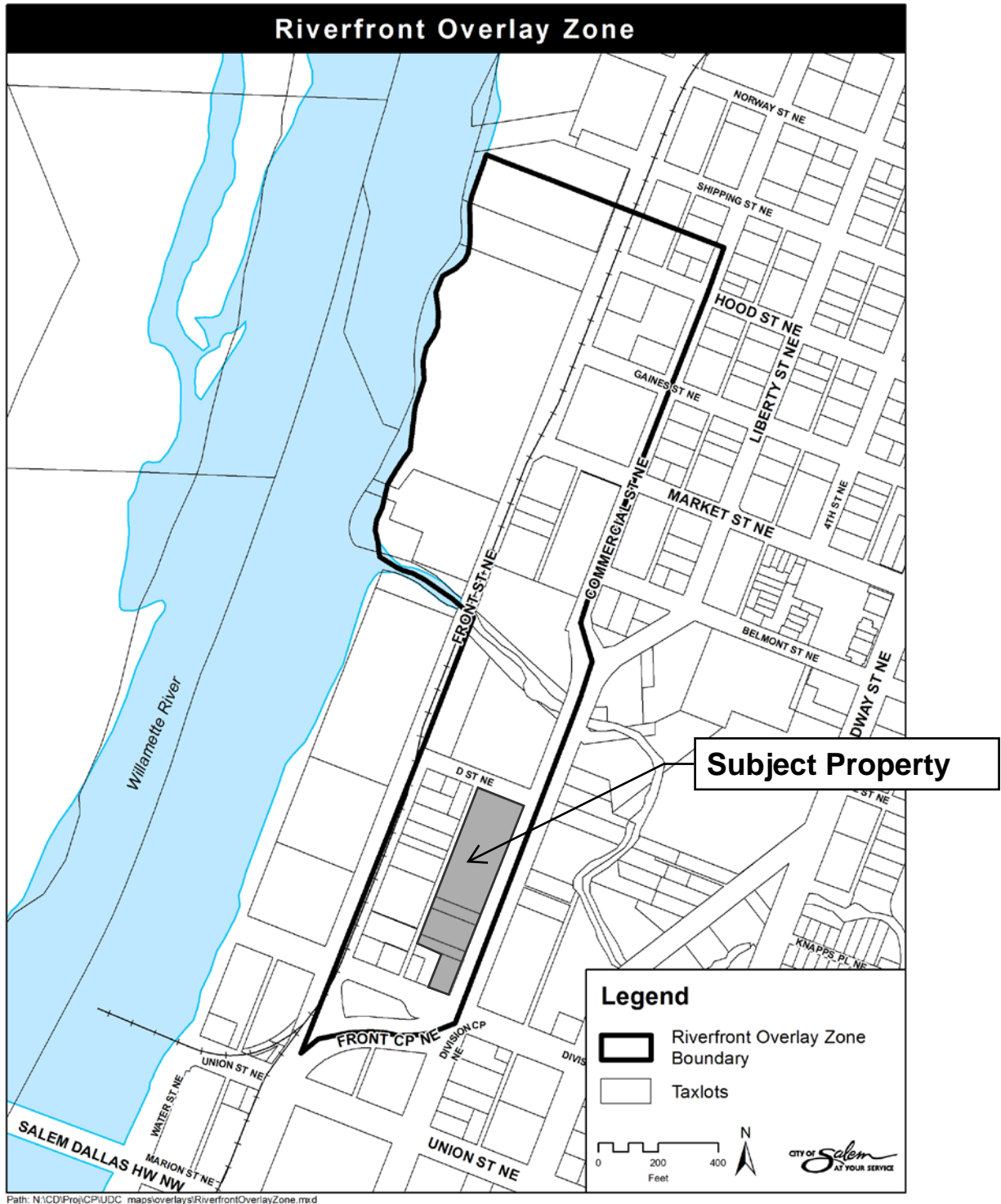
CONCLUSION

Based on the findings included in the December 20, 2017, staff report and the supplemental findings included herein, the proposed Conditional Use Permit and Quasi-Judicial Zone change, as recommended to be conditioned, satisfy the applicable criteria contained under SRC 240.005(d) and SRC 265.005(e) for approval.

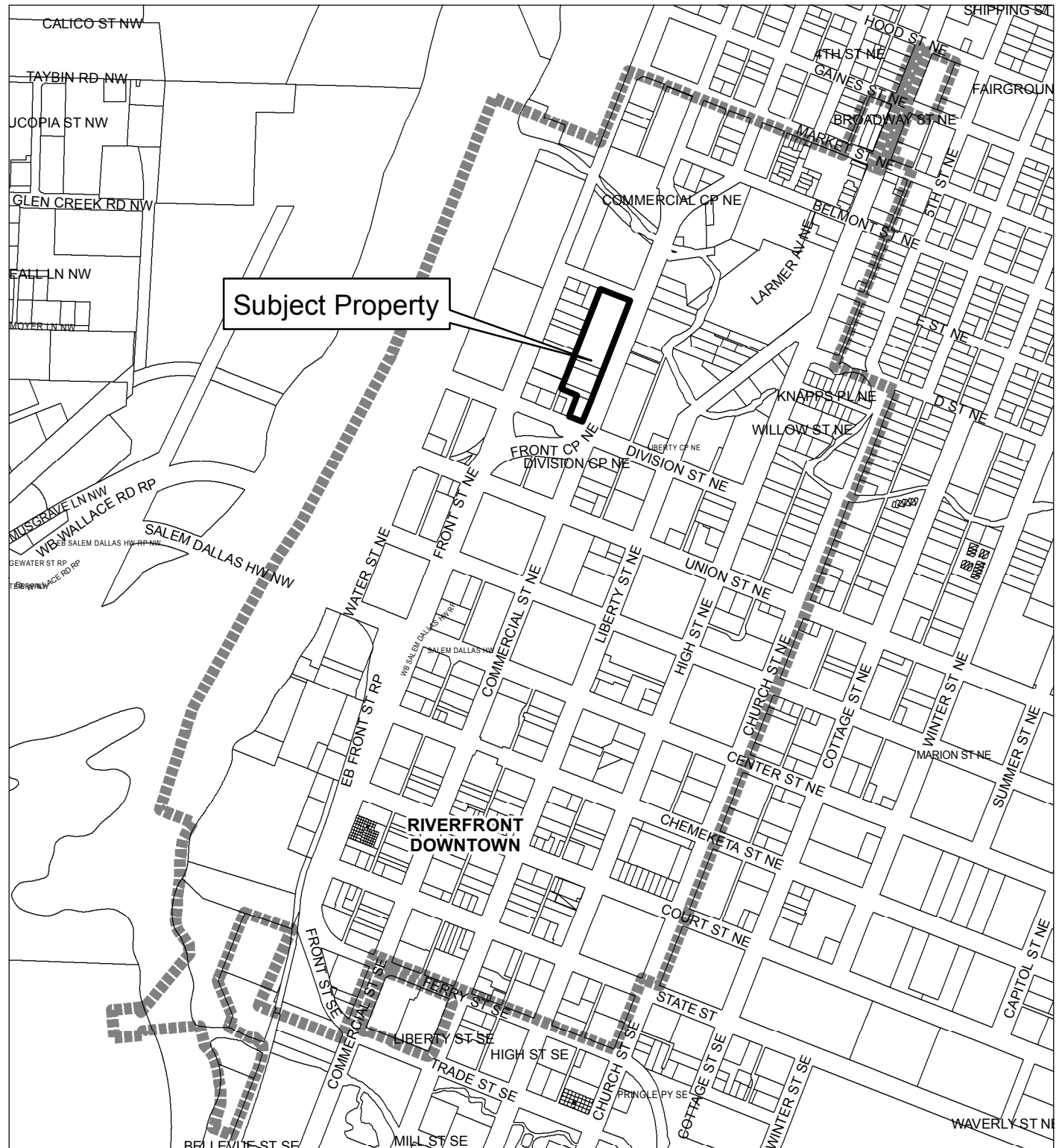
Attachments: A. Riverfront Overlay Zone Map
B. Riverfront Downtown Urban Renewal Area

Prepared by Bryce Bishop, Planner II








**FIGURE 617-6
RIVERFRONT OVERLAY ZONE**



Riverfront Downtown Urban Renewal Area



Legend

- 
-  Base Zoning
 -  Urban Growth Boundary
 -  Outside Salem City Limits
 -  Taxlots
 -  Parks
 -  Schools

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