

**BEFORE THE CITY COUNCIL OF THE CITY OF SALEM**

<b>IN THE MATTER OF THE APPEAL</b>	<b>) ORDER NO. 2018-04 CU-ZC17-14</b>
<b>OF DECISION OF THE HEARINGS</b>	<b>) CONDITIONAL USE /</b>
<b>OFFICER FOR CONDITIONAL USE /</b>	<b>) QUASI-JUDICIAL ZONE CHANGE</b>
<b>QUASI-JUDICIAL ZONE CHANGE</b>	<b>) CASE NO. CU-ZC17-14</b>
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This matter coming regularly for hearing before the City Council, at its April 23, 2018, meeting, and subsequently deliberated upon, at its May 14, 2018, meeting; and the City Council, having received evidence and heard testimony, makes the following findings, and adopts the following order affirming and modifying the decision of the Hearings Officer in Conditional Use/Quasi-Judicial Zone Change Case No. CU-ZC17-14, and approving the application.

**PROCEDURAL FINDINGS:**

- (a) On November 14, 2017, Jeff Tross, of Tross Consulting, Inc., filed a consolidated conditional use permit and quasi-judicial zone change application on behalf of the applicant and property owner, the Union Gospel Mission of Salem, to allow for the relocation of the UGM's existing men's shelter at 345 Commercial Street NE to a proposed new location in the 700 to 800 blocks of Commercial Street NE and to change the underlying zoning of the property from CO (Commercial Office) to CB (Central Business District).
- (b) On December 20, 2017, a public hearing on the proposal was conducted before the Hearings Officer. Prior to the close of the public hearing a request was received by David Glennie to hold the hearing open to allow for additional time to review the proposal and provide additional comments. The Hearings Officer closed the public hearing and held open the record until January 5, 2018, for the submission of new evidence, and January 22, 2018, for rebuttal by the applicant.
- (c) On February 9, 2018, after receiving additional evidence and argument from the public and final rebuttal from the applicant, the Hearings Officer issued a decision approving the quasi-judicial zone change and approving the conditional use permit, subject to conditions of approval (**Exhibit 1**).
- (d) On February 23, 2018, an appeal of the Hearings Officer's decision was filed by Mr. Glennie (the appellant).
- (e) On April 23, 2018, the City Council conducted a hearing to receive evidence and testimony regarding the appeal of the Hearings Officer's February 9, 2018, decision.
- (f) After receiving evidence and testimony on the appeal, a request was made by the applicant and the appellant to leave the record open to allow for the submission of additional evidence and argument in response to new information and materials presented during the public hearing. The City Council granted the request and voted to close the public hearing and leave the written record open until April 30, 2018, for the submission of new evidence and argument; May 7, 2018, for rebuttal from all parties (but no new evidence); and May 11, 2018 for final argument from the applicant.
- (g) On May 14, 2018, the City Council conducted deliberations on the appeal and voted to affirm the Hearings Officer's decision approving the application, subject to modifications to the

conditions of approval of the conditional use permit as provided herein. The City Council hereby adopts the findings of fact and conclusions of law in the Hearings Officer's decision in their entirety; together with the supplemental findings of fact included in **Exhibit 2**.

- (h) The original state mandated local decision deadline for this application was March 21, 2018. Subsequent extensions to the state mandated local decision deadline granted by the applicant have extended the 120-day local decision deadline to May 30, 2018.

## **SUBSTANTIVE FINDINGS:**

The City Council adopts the following findings for this decision:

- (a) As provided in the February 9, 2018, Hearings Officer Decision, the requested quasi-judicial zone change to change the zoning of the subject property from CO (Commercial Office) to CB (Central Business District) meets all of the criteria for approval of a quasi-judicial zone change set forth in SRC 265.005(e). The CB zone is equally or better suited for the property than the existing CO zone. The zone change complies with all applicable provisions of the Salem Area Comprehensive Plan, Statewide Planning Goals, and administrative rules adopted by the Department of Land Conservation and Development. The zone change will not significantly affect a transportation facility and the property is currently served with public facilities and services necessary to support the uses allowed by the CB zone.
- (b) The February 9, 2018, Hearings Officer Decision established five conditions of approval to minimize the reasonably likely adverse impacts of the proposed use on the immediate neighborhood in conformance with SRC 240.005(d). During the course of the proceedings before the City Council on the appeal of the Hearings Officer's decision, the following six additional conditions of approval were recommended by the Applicant and staff:

**Condition 6:** The shelter and transitional housing facility shall be limited to a maximum number of 300 overnight occupants, of which a minimum of 78 beds shall be committed for transitional housing occupants.

**Condition 7:** The applicant shall install secure, covered storage for client personal belongings.

**Condition 8:** The design of the proposed shelter shall incorporate the following additional requirements:

- a) Exterior gathering spaces shall be visible from within the buildings;
- b) Shrubs shall not exceed 36 inches in height; and
- c) The primary entrance for emergency shelter users shall not be located along the Commercial Street frontage.

**Condition 9:** The site's grounds shall be monitored 24-hours a day by staff through video surveillance or patrols.

**Condition 10:** As a condition of site plan review application submittal, the applicant shall provide a photometric plan identifying the site's proposed lighting fixtures, placements, and illumination intensity.

**Condition 11:** The shelter shall provide an indoor restroom to be available to men twenty-four hours a day.

The above conditions respond to comments received during the application review process and further demonstrate that the potential adverse impacts of the proposed use can be minimized by conditions of approval as required by SRC 240.005(d)(2).

- (c) Additional Condition No. 8.c requires the primary entrance for shelter users to not be located along the Commercial Street NE frontage. This condition of approval was proposed by the Applicant and recommended by staff in order to direct shelter users away from Commercial Street so as to minimize impacts from pedestrian congestion in the front of the building along Commercial Street NE. This condition of approval, however, conflicts with Condition No. 1 established in the Hearings Officer's decision which requires the primary customer entrance to be either oriented to Commercial Street or to the alley, in conjunction with video surveillance of the alleyway.

In the Applicant's final written argument dated May 11, 2018, the Applicant requested Condition No. 1 of the Hearings Officer's decision be modified as follows to reflect the Applicant's election of the video surveillance option allowed under the condition, in lieu of orienting client access and storage off Commercial Street:

**Condition 1:** As a condition of the future development of the property, the applicant ~~shall either reorient the development so that the primary customer entrance and outside storage and waiting areas are accessed from and oriented towards Commercial Street NE, rather than the alley, or~~ shall install video surveillance cameras and appropriate signage that capture video of the entire surface of the alleyway from Division to D Street NE. Video files shall be continuously stored on site for no less than 14 days. Camera and sign locations shall be determined at the time of site plan review and design review.

- (d) As provided in the supplemental findings of fact, included as **Exhibit 2**, the evidence and testimony included in the record, and the February 9, 2018, Hearings Officer Decision, included as **Exhibit 1**, except as modified herein, the requested conditional use permit to allow the relocation of the Applicant's existing non-profit shelter from its existing location at 345 Commercial Street NE, to the proposed new location in the 700 to 800 blocks of Commercial Street NE, with an expanded capacity meets all of the criteria for approval of a conditional use permit set forth in SRC 240.005. The proposed use is a conditional use within the Riverfront Overlay Zone; the reasonably likely adverse impacts of the proposed use on the immediate neighborhood can and will be minimized through the conditions of approval established for this decision; and the proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development pattern of surrounding property.
- (e) The supplemental findings of fact, attached hereto as **Exhibit 2** are incorporated to this decision as if set forth herein.
- (f) The February 9, 2018, Hearings Officer's Decision, attached hereto as **Exhibit 1**, except as modified herein, is incorporated into this decision as if set forth herein; specifically, the findings of fact pertaining to SRC 240.005(d) and the related conditions of approval beginning on page 18 and ending on page 26 are expressly superseded by this Order and the supplemental findings of fact adopted as **Exhibit 2**.
- (g) The City Council therefore APPROVES the application for the conditional use permit and quasi-judicial zone change, as proposed and subject to the additional recommended conditions of approval and the proposed modification to Condition No. 1.

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF SALEM, OREGON:**

**Section 1.** The Hearings Officer's decision for Conditional Use Permit and Quasi-Judicial Zone Change Case No. CU-ZC17-14 is hereby modified to include the revisions to Condition 1 shown in ~~bold-strikethrough~~ below; together with the following additional conditions of approval shown in underline:

- Condition 1:** As a condition of the future development of the property, the applicant ~~shall either reorient the development so that the primary customer entrance and outside storage and waiting areas are accessed from and oriented towards Commercial Street NE, rather than the alley, or~~ shall install video surveillance cameras and appropriate signage that capture video of the entire surface of the alleyway from Division to D Street NE. Video files shall be continuously stored on site for no less than 14 days. Camera and sign locations shall be determined at the time of site plan review and design review.
- Condition 6:** The shelter and transitional housing facility shall be limited to a maximum number of 300 overnight occupants, of which a minimum of 78 beds shall be committed for transitional housing occupants.
- Condition 7:** The applicant shall install secure, covered storage for client personal belongings.
- Condition 8:** The design of the proposed shelter shall incorporate the following additional requirements:
- a) Exterior gathering spaces shall be visible from within the buildings;
  - b) Shrubs shall not exceed 36 inches in height; and
  - c) The primary entrance for emergency shelter users shall not be located along the Commercial Street frontage.
- Condition 9:** The site's grounds shall be monitored 24-hours a day by staff through video surveillance or patrols.
- Condition 10:** As a condition of site plan review application submittal, the applicant shall provide a photometric plan identifying the site's proposed lighting fixtures, placements, and illumination intensity.
- Condition 11:** The shelter shall provide indoor restroom to be available to men twenty-four hours a day.

**Section 2.** This order constitutes the final land use decision and any appeal must be filed with the Oregon Land Use Board of Appeals within 21 days of the date that notice of this decision is mailed to persons with standing to appeal.

ADOPTED by the City Council this 29<sup>th</sup> day of May, 2018.

ATTEST:

City Recorder

Checked by: Bryce Bishop