

Legislation Details (With Text)

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On agenda: 4/23/2018 **Final action:**

Title: Appeal of Hearings Officer decision approving Conditional Use / Quasi-Judicial Zone Change Case No. CU-ZC17-14 for property located in the 700 to 800 blocks of Commercial Street NE.

Ward(s): Ward 1
Councilor(s): Kaser
Neighborhood(s): CANDO

Sponsors:

Indexes:

Code sections:

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Date	Ver.	Action By	Action	Result
4/23/2018	1	City Council	tabled	Pass

TO: Mayor and City Council
THROUGH: Steve Powers, City Manager
FROM: Norman Wright, Community Development Director

SUBJECT:

Appeal of Hearings Officer decision approving Conditional Use / Quasi-Judicial Zone Change Case No. CU-ZC17-14 for property located in the 700 to 800 blocks of Commercial Street NE.

Ward(s): Ward 1
Councilor(s): Kaser
Neighborhood(s): CANDO

ISSUE:

Shall the City Council affirm, amend, or reverse the decision of the Hearings Officer for Conditional

Use / Quasi-Judicial Zone Change Case No. CU-ZC17-14 approving the Union Gospel Mission of Salem's consolidated application for a conditional use permit to relocate their existing men's shelter from its current location at 345 Commercial Street NE to a proposed new location in the 700 to 800 blocks of Commercial Street NE and quasi-judicial zone change to change the zoning of that property from CO (Commercial Office) to CB (Central Business District) in order to make their existing retail store a conforming use?

RECOMMENDATION:

Affirm the February 9, 2018, Hearings Officer's decision approving the Union Gospel Mission of Salem's consolidated application for a conditional use permit to relocate their existing men's shelter from its current location at 345 Commercial Street NE to a proposed new location in the 700 to 800 blocks of Commercial Street NE and quasi-judicial zone change to change the zoning of that property from CO (Commercial Office) to CB (Central Business District) in order to make their existing retail store a conforming use.

SUMMARY AND BACKGROUND:

On February 9, 2017, the Hearings Officer approved a consolidated application submitted by the Union Gospel Mission (UGM) of Salem seeking approval of a:

- a. Conditional use permit to allow the relocation of the UGM's existing men's shelter with an expanded capacity to serve approximately 300 persons; and*
- b. Quasi-judicial zone change to change the zoning of the property from CO (Commercial Office) to CB (Central Business District).*

The property subject to the proposed conditional use and quasi-judicial zone change request totals approximately 2.3 acres in size, is zoned CO (Commercial Office) with Riverfront Overlay, and is located in the 700 to 800 blocks of Commercial Street NE (**Attachment 1**).

The conditional use permit is required in order to allow the relocation of the shelter from its existing location at 345 Commercial Street NE to the proposed new location on subject property. The quasi-judicial zone change to change the zoning of the property from CO (Commercial Office) to CB (Central Business District) has been requested by the applicant in order to establish the existing UGM retail store located at the northern end of the subject property as a permitted conforming use. Under the property's current CO zoning, the retail store is not allowed and is therefore a non-conforming use.

The preliminary site plan submitted by the applicant showing the UGM's concept for the future development of the property is included as **Attachment 2**. As shown on the preliminary site plan, the proposed relocated shelter will be located on the southern portion of the property; the existing retail store, with a proposed future addition, is located on the northern portion of the property; and an off-street parking area to serve both uses is provided between them in the middle portion of the property.

The Hearings Officer's February 9, 2017, decision (**Attachment 3**) approved the zone change and approved the conditional use permit subject to the following five conditions of approval:

- 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 2:** As a condition of the future development of the property, appropriate signage directing patrons to the outside waiting areas on the property and discouraging loitering or obstructing the public sidewalk shall be installed on the property. Signage shall be at locations and in a form determined at the time of site plan review and design review.
- Condition 3:** As a condition of the future development of the property, a State Highway Approach/access permit shall be obtained for each proposed driveway connection onto Commercial Street NE.
- Condition 4:** A pedestrian connection shall be provided within the development to connect the main guest entrance into the proposed shelter to a public sidewalk within an abutting street. If the only means of connecting to a public sidewalk within an abutting street is via the existing alley, the pedestrian connection shall be visually contrasted from the alley either by a change in material or a grade separation above the alley in a manner that will not impede vehicular access to the alley.
- Condition 5:** Any outside storage areas, including outside storage areas for personal belongings, shall be screened by a minimum 6-foot-tall sight-obscuring fence, wall, or hedge.

Prior to the expiration of the appeal deadline, an appeal of the Hearings Officer decision was filed by David Glennie (the "appellant"). The appeal letter is included as **Attachment 4**. The appeal contests the approval of the conditional use permit for the homeless shelter relocation, but does not contest the approval of the quasi-judicial zone change of the property from CO to CB.

FACTS AND FINDINGS:

Procedural Findings

1. On November 14, 2017, Jeff Tross, of Tross Consulting, Inc., filed a consolidated conditional use 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).

2. On November 21, 2017, the application was deemed complete for processing. Notice of the public hearing on the proposal was subsequently provided pursuant to SRC requirements on November 30, 2017. Notice was also posted on the subject property by the applicant pursuant to SRC requirements on December 7, 2017.
3. On December 20, 2017, a public hearing on the proposal was held before the Hearings Officer. Prior to the close of the public hearing a request was received by Mr. 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.
4. On February 9, 2018, after receiving additional evidence from the public, the applicant, and staff and final rebuttal from the applicant, the Hearings Officer issued a decision approving the conditional use permit and quasi-judicial zone change application (**Attachment 3**).
5. On February 23, 2018, an appeal of the Hearings Officer's decision was filed by David Glennie (**Attachment 4**).
6. On March 6, 2018, notice was sent for an appeal public hearing originally scheduled for March 26, 2018. However, subsequent to the public notice being provided, a request was received by the UGM to reschedule the public hearing to a later date. In further consultation with the applicant and the appellant it was determined that rescheduling the appeal public hearing for April 23, 2018, would work for all of the parties.
7. On March 15, 2015, a second notice was provided notifying the public of the rescheduled appeal public hearing. Notice of the appeal hearing was also posted on the subject property.
8. The appeal hearing before the City Council is scheduled for April 23, 2018.
9. The original state-mandated 120-day local decision deadline for the application was March 21, 2018. The applicant has granted an extension to the 120-day state-mandated local decision deadline to May 14, 2018.

Substantive Findings

1. Neighborhood Association Comments.

The subject property is located within the Central Area Neighborhood Development Organization (CAN-DO) neighborhood association. No comments were received from the neighborhood association during the initial review of the application and no comments have been submitted as of the date of completion of this staff report on the appeal.

2. Public Comments.

During the review of the application by the Hearings Officer comments were received from 15 property owners within the vicinity of the subject property and members of the public at large. Of those comments submitted eight expressed support for the proposal and seven indicated concerns or opposition. Comments received are included as **Attachment 5**.

Testimony provided in favor, in summary, expressed support for the relocation and expansion of the existing shelter due to:

- The increasing number of homeless within the community and the greater need for the services the shelter provides;
- The inadequacy of the existing facility to meet those needs;
- The benefits the new facility will provide by allowing the UGM to provide increased services to meet better meet the wide variety of needs of the City's homeless; and
- The location of the new facility remaining close to the downtown where other services are provided, and in close proximity to the City's proposed new Police facility with the potential benefit of better safety and security.

Testimony provided in opposition, in summary, expressed concerns regarding:

- The increase in size of the facility;
- The negative impacts on existing businesses and residents in the area and the long-term viability of the neighborhood;
- Increased impacts from theft, vandalism, and other undesirable activities as a result of the increased number of homeless the facility will serve;
- Impacts on adjacent properties as a result of directing people to the rear of the property via the alley;
- Disinvestment in the area rather than investment due the problem being consolidated in a single area;
- The scale of the facility being difficult for the UGM to manage; and
- The effects the increased amount of homeless in the area will have on the envisioned future redevelopment of the area.

3. Approval Criteria.

- A. **Quasi-Judicial Zone Change.** The applicable criteria that must be satisfied in connection with the approval of a quasi-judicial zone change are set forth under SRC 265.005(e)(1).

SRC 265.005(e)(1) provides:

A quasi-judicial zone change shall be granted if all of the following criteria are met:

- (A) *The zone change is justified based on the existence of one or more of the following:*
- (i) *A mistake in the application of a land use designation to the property;*
 - (ii) *A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the proposed zone would be compatible with the vicinity's development pattern; or*

- (iii) *A demonstration that the proposed zone is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited for the property than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.*
- (B) *If the zone change is City-initiated, and the change is for other than City-owned property, the zone change is in the public interest and would be of general benefit.*
- (C) *The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.*
- (D) *The zone change complies with applicable statewide planning goals and applicable administrative rules adopted by the Department of Land Conservation and Development.*
- (E) *If the zone change requires a comprehensive plan change from an industrial designation to a non-industrial designation, or a comprehensive plan change from a commercial or employment designation to any other designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the comprehensive plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the comprehensive plan to address the proposed zone change; or include both the demonstration and an amendment to the comprehensive plan.*
- (F) *The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.*
- (G) *The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed zone.*

B. **Conditional Use.** The applicable criteria that must be satisfied in connection with the approval of a conditional use permit are set forth under SRC 240.005(d).

SRC 240.005(d) provides:

An application for conditional use permit shall be granted if all of the following criteria are met:

- (1) The proposed use is allowed as a conditional use in the zone;*
- (2) The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions; and*
- (3) The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.*

C. Facts and findings demonstrating the proposal's conformance with the applicable quasi-judicial zone change and conditional use approval criteria are included in the Hearings Officer's February 9, 2018, decision, which is included as **Attachment 3**, and the following documents:

- Applicant's January 22, 2018, rebuttal (**Attachment 6**);
- January 5, 2018, supplemental findings by staff (**Attachment 7**);

- Applicant's January 4, 2018, revised written statement (**Attachment 8**);
- December 20, 2017, staff report (**Attachment 9**).

4. Appeal.

At issue in the appellant's appeal is the approval of the conditional use permit for the homeless shelter relocation and expansion. The issues raised in the appeal letter (**Attachment 4**) pertain to the following:

- The Hearings Officer's decision violates SRC 240.005(d)(1) because the proposed use is not allowed as a conditional use in the zone.
- The Hearings Officer's decision violates SRC 240.005(d)(2) because the reasonably likely adverse impacts of the proposed use on the immediate neighborhood cannot be minimized though the imposition of conditions.
- The Hearings Officer's decision violates SRC 240.005(d)(3) because the proposed use will not be reasonably compatible with and will not have minimal impacts on the livability or appropriate development of surrounding property.

A summary and response to the issues raised in the appeal are provided below.

A. Proposed Use Not a Conditional Use in Zone.

The appellant's appeal indicates that the Hearings Officer's decision violates SRC 240.05(d)(1) because the proposed use is not allowed as a conditional use in the zone.

In testimony provided to the Hearings Officer (**Attachment 10**), the appellant asserted that the CB zone and Riverfront Overlay Zone allow relocation of existing Non-Profit Shelters from the CB zone serving more than 75 people but do not allow the expansion of a relocated shelter. Further the Riverfront Overlay Zone, per SRC Table 617-2, does not expressly or implicitly allow a relocated shelter to expand. The appellant indicated that in the code when there is an intent for something to be enlarged or expanded words such as "expansion," "expanded," or "increase" are used. The appellant also asserted that there was no evidence in the record establishing that the UGM had continually existed in the CB zone as of September 1, 1993.

Staff Response: SRC 240.050(d)(1) requires that in order for a conditional use to be approved it must be demonstrated that the proposed use is allowed as a conditional use in the zone. As identified in the Hearings Officer decision, the proposed relocated shelter is allowed as a conditional use in the Riverfront Overlay Zone and therefore satisfies SRC 240.005(d)(1).

On October 8, 2014, the City Council adopted Ordinance Bill No. 19-14 (**Attachment 11**) amending the Riverfront Overlay Zone (SRC Chapter 617) to allow Non-Profit Shelters serving more than 75 persons as a conditional use within the overlay zone. The amendment was in response to a request from the UGM of Salem to allow the relocation of their existing shelter to the proposed new site *with an increased capacity* exceeding 75 persons.

Under the amended language, SRC 617.015(c), Table 617-2, allows the following Non-Profit Shelters as additional conditional uses within the Riverfront Overlay Zone:

"Relocation of an existing nonprofit shelter from the CB zone serving more than 75 people, provided the shelter continually existed in the CB zone as of September 1, 1993."

Testimony provided by the appellant contends there is no substantial evidence in the record that UGM's existing shelter has continually existed in the CB zone at its current location since September 1, 1993, serving a capacity greater than 75 persons and, as such, does not meet the requirement for an existing shelter to relocate to the Riverfront Overlay Zone pursuant to SRC 617.015(c), Table 617-2.

As illustrated on the City's zoning map, UGM's existing shelter facility at 345 Commercial Street NE is zoned CB (Central Business District). The existing shelter serves more than 75 people and has continually operated at that location since prior to September 1, 1993. Under UGM's proposal, their existing shelter will be relocated from a CB zoned property to the proposed new location within the Riverfront Overlay Zone. As a pre-requisite to relocating to the overlay zone, a conditional use permit is required and the UGM applied for the required conditional use permit pursuant to the requirements of the overlay zone under SRC 617.015 (c), Table 617-1.

Evidence supporting the number of people served and the existing shelter's continual operation since September 1, 1993, can be found in an October 5, 1993, Planning Commission staff report associated with an earlier amendment to the Salem Revised Code concerning UGM's existing facility (**Attachment 12**).

On November 8, 1993, the City Council adopted Ordinance Bill No. 59-93 (**Attachment 13**) which amended the CB (Central Business District) zone by adding a provision allowing, as a conditional use, the relocation of larger than 75-person homeless shelter facilities in existence as of September 1, 1993 from one CB zone site to another site with the CB zone, providing there is no increase in bed capacity. Like the amendment to the Riverfront Overlay Zone in 2014, this amendment was also based on a request from the UGM to allow the relocation of their existing facility at 345 Commercial Street NE and was in response to earlier amendments to the SRC in 1990, which, under Ordinance Bill No. 13-90, established capacity limits on both homeless shelters and room and board facilities throughout the City, established a maximum 75-bed limit on homeless shelters within the CB zone, and had the effect of making the existing UGM shelter a non-conforming use as to capacity at its existing location and preventing any plans UGM had to relocate their existing facility to another location with a capacity of more than 75 persons.

Due to the impact the 75-bed limit placed on the UGM's plans to relocate, an amendment to the requirements of the CB zone was requested in 1993 to allow their existing facility with a capacity in excess of 75 people to relocate to another location within the CB zone. The amendment was adopted by the Council and included a provision that precluded any increase in capacity beyond their current bed capacity.

The October 5, 1993, Planning Commission staff report establishes that the existing shelter had been in operation with a capacity in excess of 75 persons prior to 1993 under the following pages/sections:

- Page one of the planning commission staff report, within the first paragraph under "Background" section states:

"As an existing shelter facility with 130 beds at the time capacity limits were instituted by the City in 1990, the Union Gospel Mission was exempted from this limit at their current location. The proposed relocation is subject to the capacity limitations, and the Union Gospel Mission has requested a code amendment to allow the relocation of their facility with the existing 130 bed capacity."

- Page two of staff report, within the first paragraph under the "Facts and Findings" section:

"The Salem Revised Code (SRC) limits homeless shelter facilities to a capacity of 75 persons/beds. New, expanding, or relocating shelter facilities are subject to this limitation. The Union Gospel Mission would not be able to relocate to the proposed site under the present code provisions. The Mission would be able to expand beyond their 130 bed capacity at their existing location, subject to Building Code requirements."

As is evidenced by the above findings in the October 5, 1993, Planning Commission staff report, UGM's shelter has operated at the existing location since at least 1990 with a capacity exceeding 75 persons. As such, the proposed shelter relocation satisfies the provisions of the Riverfront Overlay Zone which require any existing shelter proposed to be relocated as a conditional use to be one that serves more than 75 persons and which has been in continual operation since September 1, 1993.

In addition, unlike the requirements of the CB zone which specifically preclude any shelter facility relocation with an increase in bed capacity, the provisions of the Riverfront Overlay zone, which establish requirements beyond the requirements of the base zone for property within the overlay area, specifically and intentionally omit the language precluding increase in bed capacity established in the underlying CB zone in order to allow the UGM to relocate their existing facility to the overlay zone with an increased capacity to meet the community's increasing need.

Because UGM's existing shelter has continually existed in the CB zone since, at least, September 1, 1993, with a capacity in excess of 75 persons and because the Riverfront Overlay Zone allows for such existing shelter facilities to be relocated to the overlay zone with an increased capacity as a conditional use, the proposed use is a conditional use in the zone and this approval criterion is therefore met.

B. Impacts of Proposed Use Cannot be Minimized Through Conditions.

The appellant contends that the Hearings Officer's decision violates SRC 240.050(d)(2)

because the reasonably likely adverse impacts of the proposed use on the immediate neighborhood cannot be minimized though the imposition of conditions.

In testimony provided to the Hearings Officer by the appellant argues (**Attachment 10**) that the proposal does not meet approval criterion SRC 240.050(d)(2) because:

- The term “immediate neighborhood” has not been adequately defined and analyzed so as to accurately evaluate the proposal’s conformance with the approval criterion;
- The reasonably likely adverse impacts of the use on the immediate neighborhood have not been adequately identified and analyzed by the applicant; and
- The reasonably likely adverse impacts of the proposed use on the immediate neighborhood are significant and cannot be minimized through the imposition of conditions.

Staff Response: SRC 240.050(d)(2) requires that in order for a conditional use to be approved it must be demonstrated that the reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.

As identified in the Hearings Officer decision, the reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized and have been so through the conditions of approval.

In regards to impacts on the immediate neighborhood, testimony provided by the appellant (**Attachment 10**) asserts that both the applicant and staff incorrectly conflated the term “immediate neighborhood” to mean the same as “vicinity” or “adjacent” and in doing erred in the interpretation is this approval criterion. The appellate contends that instead of considering the impacts of the proposed use on properties nearer to the subject property, all of the properties located within the boundary of the Central Area Neighborhood Development Organization (CAN-DO) neighborhood association boundaries should have been considered as constituting the “immediate neighborhood” for purposes of applying this conditional use permit criterion.

As is indicated in the Hearings Officer decision and explained by the applicant, considering an entire neighborhood boundary as the “immediate neighborhood” would require no meaning be given to the word “immediate” in applying this approval criterion and would require consideration of properties that are not located in the immediate neighborhood by any definition and thusly not affected by the proposed use.

Because under this approval criterion the word “immediate” qualifies the word “neighborhood” the Hearings Officer concluded that an “immediate neighborhood” read in the context of the SRC has the same meaning as “immediate vicinity” and would therefore include adjacent uses and be much smaller than the boundary of the CAN-DO neighborhood.

Based on the requirement to consider the reasonably likely adverse impacts of the proposed use on the immediate neighborhood, the applicant’s and staff’s analysis considered the reasonably likely adverse impacts of the use on the properties in the surrounding area. The

Hearings Officer concurred with staff's analysis and accordingly adopted it as the reasonable and correct interpretation of the term "immediate neighborhood" for reviewing the proposal.

In regard to ability to minimize the adverse impacts of the proposed use, testimony provided by the appellant (**Attachment 10**) indicates that the reasonably likely adverse impacts of the proposed homeless shelter on the immediate neighborhood are significant and cannot be minimized through the imposition of conditions of approval. The appellant explains that impacts will result from the increased size and scale of the shelter which will have the effect of making it a massive regional homeless shelter attracting homeless men from the greater Salem area and beyond; most of the men temporarily lodged in the facility overnight will return to the streets during the day; undesirable activity such as theft, vandalism, loitering, and other unwanted activities will increase, and general livability and reinvestment in the area will be impacted as a result of the increased number of homeless.

The appellant further explains that many of the problems associated with the proposed shelter facility cannot be minimized through the imposition of conditions because the shelter cannot control the activities of its clients and the police have limited resources and tools to control homeless behavior. The appellant indicates that by increasing the size of the existing shelter facility all of its associated problems will be multiplied and that the proposed conditions of approval miss the mark on mitigating these impacts.

As indicated in the applicant's January 22, 2018 rebuttal testimony, the proposed shelter may increase vehicular and pedestrian traffic, but the negative impacts identified by the appellant such as vandalism, urination, profanity, etc. are those that are associated with homeless persons. The applicant explains that the shelter will provide assistance and help to those individuals who may have conduct or behavioral issues, through counseling and job training; and that the purpose of the increased size of the shelter is to better serve the homeless population and to decrease these impacts. The applicant explains that a larger shelter does not create more homeless people as guests of the shelter already live in the downtown area due to nearby services and transportation facilities.

As identified in the Hearings Officer's decision and in the testimony provided to the Hearings Officer, the reasonably likely adverse impacts of the proposed use on the immediate neighborhood are minimized through:

- Selection of a site located in an underutilized area characterized with a mixture of non-residential office, commercial-service, retail, industrial uses, and a railroad line; located away from predominantly residential neighborhoods; and in proximity to 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 access to transportation facilities, bike and pedestrian facilities, and necessary support services are available, and where the shelter and its guests will not be isolated from other social service organizations and agencies in the community that help to provide additional support and services to the homeless;
- Proximity of the shelter across Commercial Street from the City's proposed police facility, the presence of which will provide the benefit of enabling quick response to

address incidents that may arise and the potential of deterring undesired activity from occurring in the immediate neighborhood;

- Construction of a new modern facility better suited to meets the needs of the UGM and the individuals they serve that will be designed to meet the design review requirements of the Riverfront Overlay zone; thereby ensuring the envisioned development pattern within the overlay zone area is achieved; and
- Establishment of conditions of approval relating to the location, safety, and security of the primary guest entrance into the facility; appropriate signage directing guests to outside waiting areas on the property and discouraging loitering or obstruction of the sidewalk; provision of a pedestrian connection between the main guest entry into the facility and a public sidewalk within an abutting street; and screening of any outside storage areas.

As is identified in the Hearings Officer's decision and summarized above, this approval criterion is met.

C. Proposed Use Not Reasonably Compatible with and Will Not Have Minimal Impacts on Surrounding Property.

The appellant contends that the Hearings Officer's decision violates SRC 240.05(d)(3) because the proposed use will not be reasonably compatible with, and will not have minimal impacts on, the livability or appropriate development of surrounding property.

In testimony provided to the Hearings Officer by the appellant (**Attachment 10**) indicates that the applicant and staff did not define the key ambiguous terms, "livability" and "appropriate development pattern," utilized in this approval criterion in order to provide a sufficient analysis. The appellant further contends that based on the size, scale, and location of the proposed relocated shelter it will not be reasonably compatible with and will have significant adverse impacts on the livability and appropriate development of surrounding property.

Staff Response: SRC 240.050(d)(3) requires that in order for a conditional use to be approved the applicant must demonstrate that the proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.

As identified in the Hearings Officer decision, the proposed use will be reasonably compatible with and have minimum impact on the livability and appropriate development pattern of the surrounding area. Rather than locating in close proximity to a residential neighborhood, the proposed shelter location allows for the redevelopment of an underutilized property in an area characterized with a mixture of uses and a railroad line.

In regards to impacts to livability and the appropriate development of surrounding property, existing uses in the immediate vicinity include a mixture of non-residential office, commercial

service, retail, and industrial-type uses. Where there are, as indicated in the appellant's testimony, residential uses, these uses are 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.

The location of the shelter in proximity to the downtown ensures that the facility will not be isolated from other social service providers in the community that provide support and services to the homeless, and the proximity of the shelter to the City's new police facility will help to provide a potential deterrent to minimize undesirable activity in the surrounding area.

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.

In regards to impacts of the use on the appropriate development of surrounding property, the Riverfront Overlay Zone identifies allowed uses and establishes specific development standards to ensure development within the overlay zone achieves the intended purpose and desired development pattern for the area.

The shelter proposed by the UGM will be a new modern facility better suited to meet the needs of the UGM and the individuals they serve. Because the proposed use is an allowed use in the overlay zone and because the shelter will be required to be designed to conform to the applicable development standards and design review requirements of the overlay zone, the proposed new shelter will be compatible with the envisioned development pattern for the area.

As is identified in the Hearings Officer's decision and summarized above, this approval criterion is met.

5. Conclusion.

Based on the facts and findings included within this staff report and the Hearings Officer's February 9, 2018 decision, the proposed Quasi-Judicial Zone Change and Conditional Use Permit satisfy the applicable approval criteria of SRC 265.005(e) and 240.005(d).

Bryce Bishop
Planner II

Attachments:

1. Vicinity Map.
2. Applicant's Preliminary Site Plan
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