

TO: HEARINGS OFFICER

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

**SUBJECT: APPEAL OF THE MODIFICATION OF CONDITIONAL USE AND ZONE
CHANGE CASE NO. CU-ZC17-14MOD1; FOR PROPERTY LOCATED IN
THE 700 TO 800 BLOCKS OF COMMERCIAL STREET NE & 253 to 275
DIVISION STREET NE
(AMANDA APPLICATION NO. 19-104587-ZO)**

REQUEST

Appeal of the Planning Administrator's April 26, 2019, decision approving a modification of Conditional Use Permit and Zone Change Case No. CU-ZC17-14 to modify the conditional use permit approval for the relocation of the Union Gospel Mission (UGM) of Salem's men's shelter to incorporate two additional properties located at 253 to 275 Division Street NE into the proposed development. No change to the maximum number of persons approved to be served at the shelter is proposed and all conditions of approval established under the original conditional use permit will continue to apply.

The subject property, including the two additional properties proposed to be included in the development, totals approximately 2.54 acres in size, is zoned CB (Central Business District) and CO (Commercial Office) with Riverfront Overlay, and is located in the 700 to 800 blocks of Commercial Street NE and 253 to 275 Division Street NE ((Marion County Assessor Map and Tax Lot Numbers: 073W22AC03300 and 073W22DB01600, 1700, 1800, 1900, 2000 & 2100).

APPLICANT / OWNER: Union Gospel Mission of Salem

AGENT: Craig Chaney, of Merrick Lentz Architecture

APPELLANT: Gerald Bieze; Gerald Bieze on behalf of 9th Street LLC & Second and Center St. LLC

RECOMMENDATION

Based upon the Facts and Findings contained in this staff report, staff recommends the Hearings Officer **AFFIRM** the April 26, 2019, Planning Administrator's decision approving the Union Gospel Mission of Salem's requested modification to their conditional use permit to incorporate two additional properties located at 253 to 275 Division Street NE into their conditional use permit approval for the relocation of their existing men's shelter from its current location at 345 Commercial Street NE to the proposed new location in the 700 to 800 blocks of Commercial Street NE and 253 to 275 Division Street NE.

PROCEDURAL FINDINGS

1. On February 5, 2019, an application to modify the approval of Conditional Use / Zone Change Case No. CU-ZC17-14 was submitted by the Union Gospel Mission (UGM) of Salem.

Conditional Use / Zone Change Case No. CU-ZC17-14 approved the proposed relocation of the UGM's men's shelter from its current downtown location at 345 Commercial Street NE to the proposed new location on property located in the 700 to 800 blocks of Commercial Street NE. In addition to the approval of the conditional use permit to allow the relocation of the UGM's men's shelter, a zone change to change the zoning of the property from CO (Commercial Office) to CB (Central Business District) was also approved.

2. After additional requested information was provided by the applicant, the application was deemed complete for processing on March 7, 2019, and notice was mailed, pursuant to SRC requirements, on March 14, 2019.
3. On April 26, 2019, the Planning Administrator issued a decision approving the requested modification to the conditional use permit subject to all of the conditions of approval to the original conditional use permit approval.
4. On May 13, 2019, an appeal of the Planning Administrator's decision was filed Gerald Bieze (**Attachment A**).
5. On May 23, 2019, notice was subsequently provided pursuant to SRC requirements for the public hearing on the appeal. Notice was also posted on the subject property pursuant to SRC requirements on May 31, 2019.
6. The appeal hearing before the Hearings Officer is scheduled for June 12, 2019. The state-mandated 120-day local decision deadline for the application is July 5, 2019.

BACKGROUND

On February 9, 2018, the Salem Hearings Officer approved Conditional Use / Zone Change Case No. CU-ZC17-14. This was an approval for a Conditional Use Permit, to allow the relocation the Union Gospel Mission (UGM) of Salem's existing Non-Profit Shelter located in the downtown at 345 Commercial Street NE to the proposed new location in the 700 to 800 blocks of Commercial Street NE with an expanded capacity to serve approximately 300 persons, as well as a Zone Change to change the zoning of the property from CO (Commercial Office) to CB (Central Business District) in order to establish the existing UGM retail store located at the northern end of the property as a permitted conforming use.

The Hearings Officer's decision was appealed to the City Council and the Council subsequently voted to affirm the Hearings Officer's decision, with modifications, and approve the conditional use permit subject to the following 11 conditions of approval:

- Condition 1:** As a condition of the future development of the property, the applicant 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 impeded vehicular access to the ally.
- 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.
- 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 36inches 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 applicant 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.

Subsequent to the City Council's May 29, 2018, decision, the UGM purchased the abutting property located at 275 Division Street NE and is in the process of acquiring the property located at 253 Division Street NE (**Attachment B**). Once the property at 253 Division Street is acquired, the UGM will own all of the property located on the eastern half of the block between Division Street and D Street. However, because the two additional Division Street properties were not included in the original conditional use permit request, the UGM was required to modify their original conditional use permit in order to include them in the approval and allow them to be used to accommodate the proposed relocated shelter.

In addition to the conditional use permit modification, the UGM also filed separate applications for a replat (Case No. REP19-03) and a consolidated Class 3 Design Review, Class 3 Site Plan Review, and Class 2 Adjustment (Case No. DR-SPR-ADJ19-03).

The purpose of the replat application is to consolidate the five properties included under the original conditional use permit approval, located in the 700 to 800 blocks of Commercial Street NE, and the two additional properties included under the conditional use permit modification, located at 253 to 275 Division Street NE, into one lot in order to accommodate the proposed development. On May 10, 2019, the replat application was approved by the Planning Administrator (**Attachment C**) and the decision is now final.

The purpose of the consolidated design review, site plan review, and adjustment application is to review the proposed new relocated shelter for conformance with the design review requirements of the Riverfront Overlay Zone and the applicable standards of the Salem Revised Code (SRC); as well as to review the proposed adjustment requests to reduce the minimum required off-street parking for the proposed shelter, eliminate the minimum required 5-foot setback between the shelter's proposed loading space and the alley, eliminate the minimum required 5-foot separation between the parking/vehicle use area and the southern end of the existing retail store building, and allow a continuous 3-foot tall hedge to be substituted for the required 3-foot tall wall to screen the proposed parking lot abutting Commercial Street NE.

A public hearing on the design review, site plan review, and zoning adjustment application was held on June 4, 2019. After receiving public testimony on the application the Planning Commission voted to approve the proposed development subject to conditions of approval.

PROPOSAL

The application under appeal to the Hearings Officer is a modification of the original conditional use permit approved by the City Council on May 29, 2018, allowing the relocation of the UGM's existing men's shelter (**Attachment D**). As previously discussed, the modification is necessary in order to incorporate two additional properties located at 253 to 275 Division Street NE into the approval so they can be utilized for the proposed development. As a result of the incorporation of these additional properties, the proposed shelter building has changed slightly to increase in size from approximately 54,000 square feet, as originally proposed, to approximately 58,282 square feet; the existing office building at 253 Division Street NE will be retained; a landscaped

plaza/entry area between the client entrance on the south side of the building and Division Street will be provided; and the number of off-street parking spaces available to serve the development has increased by nine spaces from 105 to 114.

Though some slight changes to the configuration and design of the shelter have been proposed as a result of the requested modification, all of the conditions of approval established as part of the original conditional use permit approval will continue to apply; the number of individuals served by the shelter is not proposed to be increased; the redevelopment of the site will continue to include the retail store at the northern end of the site and the new shelter at the southern end of the site, with shared parking in the middle between them to serve both uses; and vehicular access will remain the same with two driveway approaches onto Commercial Street NE, together with access to the existing alley along the west side of the subject property.

SUMMARY OF RECORD

The following items are submitted to the record and are available upon request: All materials submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, and stormwater reports; any materials and comments from public agencies, City departments, neighborhood associations, and the public; and all documents referenced in this report.

FACTS AND 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 Planning Administrator a total of five public comments were received that are included as **Attachment E**. Of those five comments, four expressed support for the proposed modification and one expressed concern and opposition.

The comment received in opposition to the proposed modification raised, in summary, the following issues:

- New Conditional Use Permit Required. The comment received indicated that the project requires approval of a new conditional use permit because the proposal does not meet the approval criteria for a modification due to the significant changes to the physical appearance of the development, use of the site, and impacts on surrounding properties resulting from the increase in the building's size, it's expansion onto the two new properties, and the

corresponding relocation of its primary client entry from the alley to Division Street.

- Additional Conditional of Approval. The comment received indicated that should a new conditional use permit not be required for the proposed development, an additional condition of approval should be incorporated into the modified conditional use permit requiring the applicant to reorient the primary client entry to the shelter so that the entrance and outside storage and waiting areas are accessed from and oriented to the north, facing the proposed parking lot.

As of the date of completion of this staff report, no additional public comments have been received.

- 3. Approval Criteria.** The applicable criteria that must be satisfied in connection with the approval of a modification to a conditional use permit are set forth under SRC 240.010.

SRC 240.010(d) provides:

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

- (1) The proposed modification is not substantially inconsistent with the conditions of the original approval; and*
- (2) When compared with the original approval, the proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.*

4. Appeal

Prior to the expiration of the May 13, 2019, appeal deadline, an appeal of the Planning Administrator's decision was filed by Gerald Bieze. The appeal letter from Mr. Bieze's attorney, Susan Baird, of Baird Law Office, LLC, is included as **Attachment A.**

The UGM's proposal reviewed by the Planning Administrator was a modification to their conditional use permit for the relocation of their existing men's shelter. At issue in the appellant's appeal is the approval of the conditional use permit modification. The issues raised in the appellant's appeal letter pertain to the following:

- The decision failed to conform to SRC 240.001 and 240.005 because, based on its scope, the proposed modification does not satisfy the applicable approval criteria and should have been reviewed as a new conditional use permit under the criteria set forth in SRC 240.005; as such, the reasonably likely adverse impacts of the modified use on the appellant's property should have been considered.
- The decision failed to conform to SRC 240.010(d)(1) because the proposed modification is substantially inconsistent with the conditions of the original approval.

- The decision failed to conform to SRC 240.010(d)(2) because the proposed modification will result in significant changes when compared with the original conditional use approval.
- The decision failed to consider or address the 114 parking spaces proposed, which exceed the number of parking spaces permitted in the original approval.
- The decision failed to conform to SRC 110.065 which requires development and approvals to be in conformity with all applicable regulations in the UDC.

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

A. Conditional use permit purpose and applicability.

The appeal filed by the appellant indicates that the Planning Administrator's decision failed to conform to the purpose and applicability established for conditional use permits under SRC 240.001 and 240.005. The appellant explains, in summary, that the purpose of a conditional use permit is to determine whether the imposition of conditions is necessary to minimize the negative impacts on uses in the surrounding area. The appellant indicates the decision erred in failing to consider the likely adverse impacts of the modified use on the appellant's property, which is an adjacent property in the immediate neighborhood. The appellant explains that these likely adverse impacts could, and should, have been minimized through conditions of approval and therefore the proposed modification should be reviewed as a new conditional use permit under the criteria set forth in SRC 240.005.

Staff Response: SRC 240.001 provides that the purpose of the conditional use chapter (SRC Chapter 240) is to, "allow uses that are similar to other uses permitted outright in a zone but because of the manner in which the use may be conducted, or the land and buildings developed for the use, review is required to determine whether the imposition of conditions is necessary to minimize the negative impacts on uses in the surrounding area."

In regards to applicability, SRC 240.005(a)(2) provides, that, "No use for which a conditional use permit has been granted shall be expanded, relocated, or changed to another conditional use, and no building or structure devoted to such use shall be structurally altered or enlarged, unless a new conditional use permit, or a modification of an existing conditional use permit, has been granted pursuant to this chapter for such expansion, relocation, change, structural alteration, or enlargement; provided, however, a new conditional use permit, or modification of an existing conditional use permit, shall not be required for interior construction or tenant improvements that involve no change of use, or for alterations required to address a building code violation or to comply with the Americans with Disabilities Act."

As established under the original conditional use permit approval, the proposed use is allowed as an additional conditional use within the Riverfront Overlay Zone and is therefore allowed on both the portion of the property zoned CB (Central Business District) approved with the original conditional use permit and the portion of the property zoned CO which is proposed to be incorporated into the original

conditional use permit approval with this requested modification.

As provided under SRC 240.005(a)(2), when a use which has received conditional use permit approval is proposed to be subsequently expanded, relocated, or changed, it must either receive approval for either a new conditional use permit or a modification of the existing conditional use permit. Whether a new conditional use permit or a modification to an existing conditional use permit is required depends upon the degree of the proposed change and whether it conforms to the approval criteria for a modification.

SRC 240.010(d) provides that a modification of a conditional use permit approval shall be granted if all of the following criteria are met:

- (1) The proposed modification is not substantially inconsistent with the conditions of the original approval; and
- (2) When compared with the original approval, the proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

As identified in the findings included in the Planning Administrator's April 26, 2019, decision approving the requested modification to the conditional use permit **(Attachment F)**, all of the conditions of approval established under the original conditional use permit will continue to apply and the incorporation of the two additional properties, and the resulting slight change to the size and configuration of the shelter, do not result in significant changes to the physical appearance of the development, use of the site, or impacts on surrounding properties. As such, the applicant's request satisfies the criteria for a modification to the original conditional use permit rather than requiring a new conditional use permit.

Because the changes to the proposed development are minimal and allow the development to better conform to the conditions of approval established under the original conditional use permit, and because these minimal changes do not trigger a requirement for a new conditional use permit, an analysis to determine whether additional conditions of approval are necessary to mitigate the impacts of the proposal is not required.

The proposed use has already been reviewed and approved through the conditional use permit review process to identify the appropriate conditions of approval to mitigate any reasonably likely adverse impacts of the proposed use on the immediate neighborhood; and the proposed development will be required to conform to these conditions of approval. The extent of the changes to the proposed development as a result of the requested modification do not necessitate any changes to the existing conditions of approval because the changes do not result in a significant change to the physical appearance of the development, use of the site, or impacts on surrounding properties. The request is also proceeding through the required conditional use permit modification process under SRC 240.010. As identified, the proposal therefore conforms to conditional use purpose and applicability requirements of SRC 240.001 and SRC 240.005(a).

B. Consistency with original conditions of approval.

The appeal filed by the appellant indicates that the Planning Administrator's decision failed to conform to SRC 240.010(d)(1) because the proposed modification is substantially inconsistent with the conditions of the original approval. The appellant indicates, in summary that the decision made inadequate findings to support the conclusion that the modification is consistent with Condition 1 of the original approval requiring video surveillance of the entire surface of the alleyway, Condition 4 of the original approval requiring a pedestrian connection to be provided within the development to connect the main guest entrance into the proposed shelter to a public sidewalk in an abutting street or alley, and Condition 8 of the original approval requiring the primary entrance for emergency shelter users to not be located along the Commercial Street frontage.

Concerning Condition 1, the appellant indicates that the decision failed to consider the purposes and rationale for imposing this condition in the original approval, which purposes and rationale should have been reconsidered in light of the reorientation of the development and incorporation of the additional properties that substantially changed the reasons for imposing the condition. The appellant explains that the decision erred in summarily concluding that merely apply the same conditions that existed in the original approval to the modification resulted in consistency.

Concerning Condition 4, the appellant indicates that the decision made inadequate findings to support the conclusion that the modification is consistent with the requirement of this condition to provide a pedestrian connection within the development to connect the main guest entrance into the proposed shelter to a public sidewalk within an abutting street or alley.

Concerning Condition 8, the appellant indicates that the decision failed to make adequate findings to support the conclusion that the modification is consistent with the requirement of the condition to not locate the primary entrance for emergency shelter users along the Commercial Street frontage. The appellant explains that in apply Condition 8 to the modification application, the decision failed to address the applicable design standards of the Riverfront Overlay Zone.

Staff Response: As provided in the Planning Administrator's April 26, 2019, decision (**Attachment F**), the proposed modification conforms to SRC 240.010(d)(1). Under the proposed modification, all eleven conditions of approval from the original conditional use permit will continue to apply and therefore no aspect of the proposed modification will be inconsistent with the original conditions of approval. Under the proposed modification:

- Video surveillance of the alley will be provided to ensure safety as required under Condition 1;
- Signage directing clients to outside waiting areas on the property and discouraging loitering and obstruction of the public sidewalk will be provided as required under Condition 2;

- The development will be required to obtain State Highway access permits for the proposed driveways onto Commercial Street as required under Condition 3;
- A pedestrian connection is provided between the main guest entry into the shelter and a public sidewalk within an abutting street – in the case of the proposed modification, Division Street – as required under Condition 4;
- Any outside storage areas will be screened as required under Condition 5;
- The proposed shelter will continue to be limited to a maximum of 300 overnight occupants, of which a minimum of 78 beds shall be committed to transition housing occupants, as required under Condition 6;
- Secure covered storage for client and personal belongings will be provided as required under Condition 7;
- The primary entrance for shelter users is not located along the Commercial Street frontage, the proposed exterior gathering space in front of the main shelter entrance will be visible from within the building, and shrubs will be limited in height as required under Condition 8;
- The site will be monitored by staff 24-hours a day as required under Condition 9;
- a photometric plan identifying the site's proposed light fixtures, placements, and illumination intensity will be provided as required under Condition 10; and
- A restroom available to men 24-hours a day will be provided as required under Condition 11.

Furthermore, 300.820(a)(1) provides that conditions of approval shall be stated in clear and unambiguous terms; be reasonably related to the public health, safety, and welfare; and be designed to reasonably effectuate the intended purpose. In addition, SRC 300.820(b) provides that conditions of approval shall be construed and enforced, in all respects, as provisions of the UDC relating to the use and development of land.

In order to conform to SRC 240.010(d)(1) it must be found that the proposed modification is not substantially inconsistent with the conditions of the original approval. Pursuant to SRC 300.820, because conditions of approval must be clear and unambiguous and are treated as development standards of the code, conformance with this approval criterion is achieved if the conditions of approval are met. Based on the provisions of SRC 300.820, this determination is intended to be a yes or no answer. A development will either meet the condition/development standard or not meet the condition/development standard. It is not possible, however, for a development to meet a condition/development standard, but somehow at the same time not satisfy the condition/development standard because the underlying purpose for why it was established has changed. As provided in the Planning Administrator's decision, the eleven conditions of the original conditional use permit approval will continue to apply; therefore, the proposed modification is fully consistent with the conditions of the original approval.

In addition, the changes to the development as a result of the proposed modification are minimal and do not change the underlying purpose for which the conditions of approval were originally established. Condition 1 of the original approval, concerning visual surveillance of the alley, was established to promote safety and security for the proposed development. While one consideration in establishing this condition was to address the proposal's original preliminary design which directed shelter guests from the main entry to the alley (**Attachment G**), the underlying purpose to ensure safety and security along the entire length of the alley where safety and security concerns are potentially more prominent remains under the requested modification. In addition, as shown on the proposed site lighting and security camera plan (**Attachment H**), not only are security cameras provided to capture video surveillance along the entire length of the alley, they are also distributed around the proposed building, including adjacent to the guest plaza/entry area on the southern side of the building. The proposed modification is fully consistent with Condition 1.

Condition 4 of the original approval required a pedestrian connection to be provided within the development to connect the main guest entrance into the proposed shelter to a public sidewalk within an abutting street. The condition further specifies that 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. The purpose underlying this condition was to ensure that shelter guests had a safe means to access the property and enter the shelter from the public street right of way. Under the original proposed preliminary site plan, the primary entrance to the shelter was tucked in behind the two properties at 253 to 275 Division Street NE which forced shelter guests to walk down the alley in order to access the site and enter the shelter. Because of the safety issues and pedestrian/vehicle conflicts this would site configuration would potentially create, Condition 4 required the alley to be improved to visually define an area for pedestrians to walk without impeding vehicular traffic. This requirement would only apply, however, as a last resort option if there was no other means available to direct shelter guests from the public street right-of-way to the primary shelter entrance.

Under the proposed modification (**Attachment I**), the inclusion of the two additional properties has allowed for a more open, inviting, safe, and visible plaza entry on the south side of the building facing Division Street which is fully consistent with Condition 4.

Condition 8 of the original approval in part required the primary entrance for emergency shelter users to not be located along the Commercial Street frontage. As shown on the proposed modified site plan (**Attachment I**), and illustrated by the proposed building elevations (**Attachment J**), the primary guest entrance for emergency shelter users is not located along the Commercial Street frontage. Instead, the entrance is located along the frontage of Division Street fully consistent with Condition 8.

Because the subject property is located within the Riverfront Overlay Zone, it must conform to either the design review standards or design review guidelines of the overlay zone included under SRC 617.030(a)-(d). As previously indicated, the applicant also filed an application for a consolidated design review, site plan review, and zoning adjustment application for the proposed development in addition to the requested conditional use permit modification. The design review component of the application is for a Class 3 Design Review based on the design review guidelines of the Riverfront Overlay Zone.

A public hearing on the consolidated design review, site plan review, and zoning adjustment application was held before the City's Planning Commission on June 4, 2019. Subsequent to receiving public testimony on the proposal, the Planning Commission approved the proposed development subject to conditions. As provided in the Planning Commission's decision, the proposed development meets the applicable design review guidelines of the Riverfront Overlay Zone.

In the statement provided from the appellant it is indicated that the decision failed to address the applicable design standards of the Riverfront Overlay Zone in relation to the application of Condition 8. The Riverfront Overlay Zone has one design standard pertaining to building entrances adjacent to streets that is included under SRC 617.030(a)(2)(B)(ii). This design standard provides that,

"A primary building entrance shall be provided on each building façade facing a street. If a building has frontage on more than one street, a single primary building entrance may be provided at the corner of the building where the streets intersect."

Though this design review standard is not specifically applicable to the proposed development because the proposal was reviewed for conformance with the applicable corresponding design review guidelines, the proposed development nevertheless conforms to this standard. As shown on the proposed modified site plan, and illustrated by the proposed building elevations, the proposed building includes multiple primary entrances. Two of these entrances, the entrance to the UGM administrative offices and the entrance for visitors, face Commercial Street; and a third entrance, the primary entrance for shelter and dayroom guests, faces Division Street NE. Because the proposed development includes a primary entrance on each building façade facing a street, and because the primary entrance for shelter guests is not located along the frontage of Commercial Street, the requested modification conforms to the building entrance requirements of the Riverfront Overlay Zone and is fully consistent with Condition 8.

As provided in the findings above, the proposed modification is consistent with the conditions of the original approval and therefore conforms to SRC 240.010(d)(1).

C. Significant changes to physical appearance of the development, use of the site, and impacts on surrounding properties.

The appeal filed by the appellant indicates, in summary that the Planning Administrator's decision failed to conform to SRC 240.010(d)(2) because the proposed modification will result in significant changes to the physical appearance

of the development, including the location of the building, the location and orientation of the primary client entry, and an increase in the proposed number of off-street parking spaces; significant changes to the use of the site, including how and where UGM clients access the shelter and how client activity will be monitored; and significant changes to impacts on surrounding properties, especially those near Division Street NE where client activity will be focused.

Staff Response: As provided in the Planning Administrator's April 26, 2019, decision (**Attachment F**), the proposed modification conforms to SRC 240.010(d)(2). Under the modification, the proposed shelter facility will continue to remain on the southern portion of the site, there is no proposed increase to the maximum number of overnight occupants the facility is approved to serve, and all of the conditions established as part of the original conditional use permit approval to mitigate the potential impacts of the use on the immediate neighborhood will continue to apply.

Though incorporation of the two additional properties located at 253 and 275 Division Street NE into the proposed development allows for a portion of the use to extend onto those properties, thereby resulting in a slightly larger building (*approximately 54,000 sq. ft. under the original proposal and 58,282 sq. ft. under the proposed modification*), the proposed addition of only approximately 4,282 sq. ft. to the overall building area does not represent a substantial or significant change to the physical appearance of the development or use of the site. The added area allows for a building design with an improved interior spatial layout to better accommodate the conditions of the original approval which require secure covered storage for client and personal belongings and a men's restroom that is available 24-hours a day.

In addition, incorporation of the two additional properties also allows for improved and safer access for shelter users to the site which is not oriented towards Commercial Street, consistent with original Conditions 4 and 8. The large open landscaped front entry area off of Division Street will be clearly visible from within the building by UGM staff to ensure improved visual surveillance and safety and will provide a safer and more direct connection to the public street. Under the original approval, the main guest entry area was a long narrow corridor located to the back of the building where visual surveillance was limited and the only pedestrian access to the entry was provided via the alley.

In regards to parking, the appellant indicates that the decision entirely failed to address the 114 parking spaces proposed, which exceeds the number of parking spaces permitted in the original approval. Under the original preliminary site plan a total of 105 off-street parking spaces were identified. As shown on the proposed modified site plan (**Attachment I**) a total of 114 spaces are proposed to be provided. The original conditional use permit did not approve the specific number of parking spaces for the proposed development because approval of parking and other specific details of development are instead reviewed and approved at the site of site plan review. As previously indicated, a consolidated design review, site plan review, and adjustment application for the proposed development has been submitted and approved by the Planning Commission. This application included

an adjustment to reduce the minimum required number of off-street parking spaces for the proposed shelter. The 114 spaces shown on the modified site plan reflect the number of parking spaces now approved to serve the proposed development as a result of the Planning Commission's decision on the consolidated design review, site plan review, and adjustment application. Limiting the proposed development to the 105 spaces shown on the original preliminary site plan would result in the development falling further below the minimum parking requirements of the code. The nine additional spaces proposed with the modification brings the development into closer conformance with minimum parking requirements. These nine additional spaces will likewise help the development to fulfill its parking needs and reduce the potential for impacts related to parking.

Because the number of individuals that will be served by the shelter is not proposed to be increased and the degree of changes to the site and building design are minimal, the proposed modification does not result in significant changes to the physical appearance of the development, use of the site, or impacts on surrounding properties. Under the original preliminary design shelter guests had less usable area to gather outside of the building and would therefore likely need to leave the site and walk down the alley to the closest street, Division Street. The proposed modification allows for safer access where guests will no longer be required to walk down the alley in order to get to the nearest sidewalk and it also provides an improved gathering space for guests in front of the building rather than behind it. No evidence has been provided by the appellant demonstrating that inclusion of the two additional properties, and the resulting slight change to the size and configuration of the building, will result in a significant change in impacts on surrounding properties. Instead, the number of individuals served will remain the same, those individuals will be located on the southern end of the property near Division Street due to the location of the proposed shelter, and moving the primary guest entrance a relatively short distance to the north side of the building would not change potential impacts and instead take the design of the building out of conformance with the design review requirements of the overlay zone which require buildings to have entrances facing the street.

As identified, the proposed modification does not result in a significant change to the physical appearance of the development or the use of the site. The proposed modification will also not result in significant changes to impacts on surrounding properties because the intensity of the use is not proposed to change, the maximum number of allowed overnight guests will remain the same, and all of the conditions established as part of the original approval to mitigate the impacts of the proposed development will continue to apply.

The proposed modification allows for a facility that is better designed to meet the needs of the individuals it serves and provides for improved access and safety. The proposed modification conforms to SRC 240.010(d)(2).

D. Use not allowed in the zone.

The appeal filed by the appellant indicates that the Planning Administrator's decision failed to conform to SRC 110.065 which requires developments and

approvals to be in conformity with all applicable regulations of the UDC. The appellant indicates, in summary, that the additional properties to be included in the modified conditional use permit approval are zoned CO (Commercial Office) and within the Riverfront Overlay Zone. The appellant indicates that within the underlying CO zone room and board facilities serving more than 75 persons are specifically prohibited and that within the Riverfront Overlay Zone, pursuant to SRC 617.015, any use that is prohibited in the underlying zone is prohibited in the overlay zone. The applicant explains that because room and board facilities serving more than 75 people are not allowed in the underlying CO zone, they are also not allowed in the Riverfront Overlay, and therefore a rezone changing the zoning of the additional properties on Division Street from CO to CB would be required before modification of the original approval could even be considered.

Staff Response: SRC 110.065 provides that:

“No property shall be developed, redeveloped, or changed in use; no building, structure, or premises shall be used or occupied; and no building or structure or portion thereof shall be erected, constructed, moved, structurally altered, or enlarged unless done so:

- (a) In conformity with all applicable regulations in the UDC;
- (b) In compliance with all conditions improved in any applicable land use action; and
- (c) Only after applying for and securing all permits, licenses, or other approvals required by applicable laws and ordinance.”

As the appellant indicates, the two properties proposed to be incorporated into the UGM's conditional permit approval are zoned CO (Commercial Office) and located within the Riverfront Overlay Zone.

Within the City of Salem, overlay zones allow uses and prescribe development standards that are intended to go beyond what is provided in an underlying zone. As such, overlay zones include standards that can be more or less restrictive than the standards provided in the underlying zone. In the case of the Riverfront Overlay Zone (SRC Chapter 617), additional uses beyond those allowed and prohibited in the underlying zone, and development standards and design review requirements beyond those applicable in the underlying zone, are established.

In the appeal filed by the appellant it is explained that because room and board facilities serving more than 75 persons are specifically prohibited within the underlying zone, and because the overlay zone also prohibits any use that is prohibited in the underlying zone, the proposed use is not allowed on the two additional CO zoned properties proposed to be included in the applicant's conditional use modification request.

Pursuant to SRC 400.040(c), and as provided in the original conditional use permit approval, the proposed use of the property is classified as a Non-Profit Shelter, not a room and board facility as indicated in the appellant's written statement.

Within the CO zone, pursuant to SRC 521.005, Table 521-1, non-profit shelters serving five or fewer persons are allowed as a permitted use, non-profit shelters serving six to 75 persons are allowed as a conditional use, and non-profit shelters serving more than 75 persons are prohibited. Because the proposed shelter will serve a maximum of 300 persons, the proposed shelter is a prohibited use in the CO zone, but because the property is located within the Riverfront Overlay Zone, it is also subject to the provisions of that overlay zone which includes requirements that apply beyond what is typically allowed or required in the underlying CO zone.

Pursuant to SRC 617.015, the Riverfront Overlay Zone provides that:

“Except as otherwise provided in this section, any use that is a permitted, special, conditional, or prohibited use in the underlying zone is a permitted, special, conditional, or prohibited use in the Riverfront Overlay Zone.

In the appeal filed by the appellant it is indicated that SRC 617.015 prohibits any use that is prohibited in the underlying zone, and because the CO zone prohibits the proposed use it is likewise prohibited in the underlying zone. This statement by the appellant is incorrect because it fails to recognize the proviso included at the beginning of SRC 617.015, which provides, “Except as otherwise provided in this section...”

After the introductory sentence of SRC 617.015, it goes on to identify five specific subsections, SRC 617.015(a)-(e), which further prescribe how the overlay zone further modifies and refines allowed uses. One of these subsections is SRC 617.015(c). This subsection is titled, “Additional conditional uses,” and goes on to provide that, “The uses set forth in Table 617-2 are additional conditional (C) uses in the Riverfront Overlay Zone.” Pursuant to this subsection, non-profit shelters are allowed as an additional conditional use within the Riverfront Overlay Zone and are specifically limited to, “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.”

As approved under the original conditional use permit, the proposed shelter is being relocated from a CB zoned location in the downtown at 345 Commercial Street NE, it has continually existed in the CB zone as of September 1, 1993, and it serves more than 75 people. As such, the proposed use qualifies as an additional conditional use within the overlay zone and because the overlay zone is intended to allow uses beyond those allowed in the underlying zone, whether it's CB, as with the original conditional use permit approval, or CO, under the requested modification, the proposed shelter is an allowed use on the property and therefore conforms to the provisions of SRC 110.065.

Furthermore, the proposed development will conform to all conditions of the land use actions approved for the project and all required permits and approvals will be obtained. The proposed development conforms to SRC 110.065

RECOMMENDATION

Based upon the Facts and Findings contained in this staff report, staff recommends the Hearings Officer **AFFIRM** the April 26, 2019, Planning Administrator's decision approving the Union Gospel Mission of Salem's requested modification to their conditional use permit to incorporate two additional properties located at 253 to 275 Division Street NE into their conditional use permit approval for the relocation of their existing men's shelter from its current location at 345 Commercial Street NE to the proposed new location in the 700 to 800 blocks of Commercial Street NE and 253 to 275 Division Street NE.

- Attachments:**
- A. Notice of Appeal Submitted by Gerald Bieze
 - B. Vicinity Map
 - C. Planning Administrator Decision on Replat Case No. REP19-03 (May 10, 2019).
 - D. City Council Decision on Conditional Use / Zone Change Case No. CU-ZC17-14 (May 29, 2018)
 - E. Public Comments Received During Initial Review of Application
 - F. Planning Administrator Decision on Modification of Conditional Use Permit Case No. CU-ZC17-14MOD1 (April 26, 2019)
 - G. Original Proposed Preliminary Site Plan
 - H. Applicant's Proposed Site Lighting & Security Camera Plan
 - I. Applicant's Proposed Modified Site Plan
 - J. Applicant's Proposed Building Elevations

Prepared by Bryce Bishop, Planner II



LAND USE APPEAL APPLICATION

1. GENERAL DATA REQUIRED [to be completed by the appellant]

CU-ZC17-14MOD1

April 26, 2019

Case # Being Appealed

Decision Date

700-800 Block of Commercial St. NE and 253-275 Division Street NE

Address of Subject Property

1118 Northshore Road, Lake Oswego, OR 97034

Appellants Mailing Address with zip code

gmbieze@gmail.com

503-807-1226

Appellant's E-mail Address

Day-time Phone / Cell Phone

Appellant's Representative or Professional to be contacted regarding matters on this application, if other than appellant listed above:

[Please see attached]

Name

Mailing Address with ZIP Code

E-Mail Address

Day-time Phone / Cell Phone

2. SIGNATURES OF ALL APPELLANTS

Signature:

Date:

5/13/19

Gerald Bieze, an individual

Printed Name:

Signature:

Date:

5/13/19

Gerald Bieze, as member of 9th Street LLC and as member of Second and Center St. LLC

Printed Name:

3. REASON FOR APPEAL Attach a letter, briefly summarizing the reason for the Appeal. Describe how the proposal does not meet the applicable criteria as well as verification establishing the appellants standing to appeal the decision as provided under SRC 300.1010

FOR STAFF USE ONLY

Received By: HEF

Date: 5/13/19

Receipt No: 19-104587-20

Appeal Deadline: May 13th 2019

Case Manager: Bryce Bishop

NOTICE OF APPEAL

May 13, 2019

To: City of Salem Planning Division
Room 305
555 Liberty Street SE
Salem, OR 97301

Re: Appeal of Decision of the Planning Administrator (the “**Decision**”)
Modification of Conditional Use and Zone Change
Case NO.: CU-ZC17-14MOD1 (the “**CUP Modification**”)
Application No.: 19-104587-ZO
700-800 block of Commercial St. NE and 253-275 Division St. NE
Notice of Decision Date: April 26, 2019

Appellants: Mr. Gerald Bieze, an individual
9th Street LLC, an Oregon limited liability company
Second and Center St. LLC, an Oregon limited liability company

Appellants’ Address: 1118 Northshore Road, Lake Oswego, OR 97034

Appellants’ Standing: Appellants have standing to appeal under SRC § 300.520(f)(2) because they are property owners of record within 250 feet of the subject property that were entitled to notice of the Decision pursuant to SRC § 300.520(e)(1)(E). Appellant Gerald Bieze is a member of both 9th Street LLC, an Oregon limited liability company and Second and Center St. LLC, an Oregon limited liability company – the entities that own the property located at 250 Division St. NE, Salem, OR 97301 (“**Appellants’ Property**”). Appellants’ Property is located directly across Division St. NE from 253-275 Division St. NE (also known as Tax Lots 2000 and 2100), the properties at issue in the Decision (the “**Additional Properties**”).

Appellants also have standing to appeal under SRC § 300.520(f)(2) because Mr. Bieze provided comment during the public comment period on behalf of himself and the entities which own the Appellants’ Property. On March 25, 2019, Appellants’ attorney submitted Appellants’ written comments regarding the CUP Modification (“**Appellants’ Comment Letter**”) to Mr. Bryce Bishop, City of Salem Planner II/Planning Administrator Designee via electronic mail. A summary of Appellants’ comments was provided in the Decision.

Appellants' Susan Baird
Representatives Baird Law Office, LLC
 P.O. Box 373, Dundee, OR 97115
 susan@bairdlawoffices.com

Laura Westmeyer and Tommy Brooks
Cable Huston, LLP
1001 SW Fifth Avenue, Suite 2000, Portland, Oregon 97204-1136
lwestmeyer@cablehuston.com and tbrooks@cablehuston.com

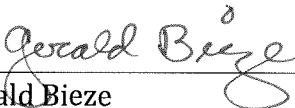
Appellants are appealing the Decision on the following grounds. Appellants reserve the right to raise additional issues and arguments and to present additional evidence at the de novo hearing.

1. The Decision failed to conform to SRC § 240.001. SRC § 240.001 provides that the very purpose of Chapter 240 is to undertake a "review" in order "to determine whether the imposition of conditions is necessary to minimize the negative impacts on uses in the surrounding area." The Decision erred in failing to consider the likely adverse impacts of the modified use on Appellants' Property, which is an adjacent surrounding property in the immediate neighborhood of the Additional Properties. These likely adverse impacts on the adjacent surrounding property could, and should, have been minimized through the imposition of reasonable additional conditions of approval.
2. The Decision failed to conform to SRC § 240.005. The proposed modification should have been reviewed as a new conditional use permit under the criteria set forth in SRC § 240.005.
3. The Decision failed to conform to SRC § 240.010. The proposed modification does not meet the criteria set forth in SRC § 240.010(d) for granting modification of a conditional use permit and therefore requires submittal of a new application for conditional use permit pursuant to SRC § 240.010(a).
4. The Decision failed to conform to SRC § 240.010(d)(1). The proposed modification is substantially inconsistent with the conditions of the original approval.
 - a. The Decision made inadequate findings to support the conclusion that the modification is consistent with Condition 1 of the original approval requiring video surveillance of the entire surface of the alleyway. The Decision erred in failing to consider the purposes and rationale for imposing Condition 1 in the original approval, which purposes and rationale should have been reconsidered in light of the reorientation of the development and incorporation of the Additional Properties that substantially changed the reasons for imposing

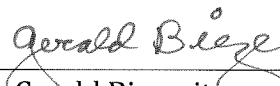
Condition 1 in the original approval. The Decision erred in summarily concluding that merely applying the same conditions that existed in the original approval to the modification application resulted in consistency.

- b. The Decision made inadequate findings to support the conclusion that the modification is consistent with Condition 4 of the original approval requiring a pedestrian connection to be provided within the development to connect the main guest entrance into the proposed shelter to a public sidewalk within an abutting street or alley.
 - c. The Decision made inadequate findings to support the conclusion that the modification is consistent with Condition 8 of the original approval requiring that the "primary entrance for emergency shelter users shall not be located along Commercial Street frontage."
 - i. In applying Condition 8 to the modification application, the Decision failed to address the applicable design standards of the Riverfront Overlay Zone.
5. The Decision failed to conform to SRC § 240.010(d)(2). The proposed modification will result in significant changes when compared with the original conditional use approval.
- a. The proposed modification will result in significant changes to the physical appearance of the development, including the size of the building, the location of the building, and the location and orientation of the primary client entry. The Decision concluded the changes were "better" without applying the proper criteria set forth in SRC § 240.010(d)(2) of "significant change."
 - b. The proposed modification will result in significant changes to the use of the site, including how and where UGM clients access the shelter and how client activity will be monitored. The Decision concluded the intensity of use would not increase, but failed to apply the SRC § 240.010(d)(2) criteria of "significant change" to the changes in use.
 - c. The proposed modification will result in significant changes to the impacts on surrounding properties, especially those properties near Division Street NE, where client activity will be focused. The Decision concluded Division Street NE was "*arguably* the best location" (italics added) for client entry, but the Decision failed to apply the SRC § 240.010(d)(2) criteria of "significant change" to the changes in impacts on surrounding properties.


- i. The Decision failed to consider or require conditions of approval to mitigate adverse impacts to the Appellants' Property, as required by SRC § 240.001 and § 240.005(d);
6. The Decision entirely failed to consider or address the 114 parking spaces proposed, which exceed the number of parking spaces permitted in the original approval. SRC § 240.005(c)(3).
7. The Decision failed to conform to the City of Salem Unified Development Code ("UDC") Section 110.065, requiring developments and approvals to be in conformity with all applicable regulations in the UDC.
 - a. The Additional Properties are located within the Commercial Office ("CO") Zone and the Riverfront Overlay Zone ("**Overlay Zone**"). In the Overlay Zone, relocations of an existing nonprofit shelter serving more than 75 persons may be allowed as a conditional use; however, SRC § 617.015 provides that any use that is prohibited in the underlying zone is prohibited in the Overlay Zone. In the underlying CO Zone, the development of room and board serving more than 75 persons is specifically prohibited under SRC §521.005, Table 521-1; therefore, it is also prohibited in the Overlay Zone. Under the applicable provisions of the UDC, a rezone changing the zoning of the Additional Properties from CO to CB would be required before the modification of the original approval could even be considered.


Gerald Bieze

9th Street LLC,
an Oregon limited liability company

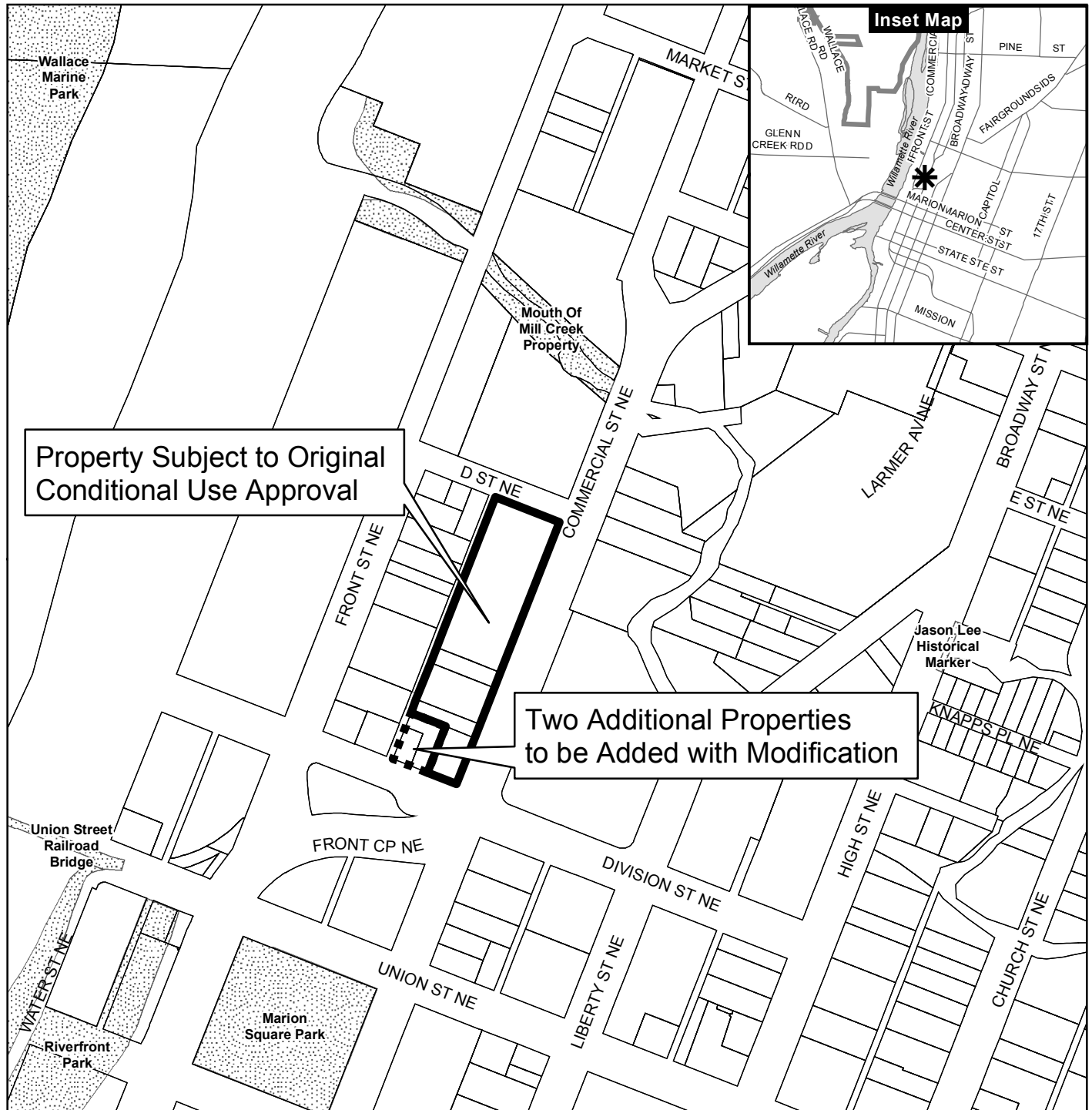
By: 
Gerald Bieze, its member

Second and Center St. LLC,
an Oregon limited liability company

By: 
Gerald Bieze, its member

Vicinity Map

700 to 800 Blocks of Commercial Street NE; 253 to 275 Division Street NE



Legend

- | | |
|-----------------------|---------------------------|
| Taxlots | Outside Salem City Limits |
| Urban Growth Boundary | Historic District |
| City Limits | Schools |

Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited.

0 100 200 400 Feet



*Si necesita ayuda para comprender esta informacion
503-588-6173*

DECISION OF THE PLANNING ADMINISTRATOR

REPLAT CASE NO.: REP19-03

APPLICATION NO. : 19-106447-LD

NOTICE OF DECISION DATE: May 10, 2019

SUMMARY: An application to consolidate seven existing properties into one lot approximately 2.57 acres in size in order to accommodate the proposed relocation and development of the Union Gospel Mission (UGM) of Salem's men's shelter.

REQUEST: A replat to consolidate seven existing properties (comprised of Lots 1-4 of Block 54 and Lots 1-4 of Block 55 of the Salem plat) into one lot approximately 2.57 acres in size. The subject property is zoned CB (Central Business District) and CO (Commercial Office) with Riverfront Overlay, and is located in the 700 to 800 blocks of Commercial Street NE and 253 to 275 Division Street NE (Marion County Assessor Map and Tax Lot Numbers: 073W22AC03300 and 073W22DB01600, 1700, 1800, 1900, 2000 & 2100).

APPLICANT: Union Gospel Mission of Salem

LOCATION: 700 to 800 Blocks of Commercial Street NE & 253 to 275 Division Street NE / 97301

CRITERIA: Salem Revised Code 205.025(d)

FINDINGS: The findings are in the attached Decision dated May 10, 2019.

DECISION: The Planning Administrator **APPROVED** Replat Case No. REP19-03 subject to the following conditions of approval:

Condition 1: For the existing slope easement (Reel 189, Page 1300) shown to be vacated on the replat tentative plan, the applicant shall either:

- a) Obtain City approval to quitclaim the easement prior to final plat approval; or
- b) Show the existing slope easement on the final plat.

The rights granted by the attached decision must be exercised, or an extension granted, by **May 29, 2021** or this approval shall be null and void.

| | |
|----------------------------------|-----------------------|
| Application Deemed Complete: | <u>March 21, 2019</u> |
| Notice of Decision Mailing Date: | <u>May 10, 2019</u> |
| Decision Effective Date: | <u>May 29, 2019</u> |
| State Mandate Date: | <u>July 19, 2019</u> |

Case Manager: Bryce Bishop, bbishop@cityofsalem.net,

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005

CITY OF Salem
AT YOUR SERVICE

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, **no later than 5:00 p.m., Tuesday, May 28, 2019.** The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 205. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Salem Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>



COMMUNITY DEVELOPMENT DEPARTMENT

555 Liberty St. SE / Room 305 • Salem, OR 97301-3503 • (503) 588-6173 • (503) TTY 588-6353 • (503) Fax 588-6005

May 30, 2018

Si necesita ayuda para comprender esta informacion, por favor llame 503-588-6173.

**NOTICE OF FINAL LAND USE DECISION Conditional Use / Quasi-Judicial Zone Change
Case No. CU-ZC17-14
for property located at 700-800 Blocks of
Commercial Street NE**

YOU ARE HEREBY NOTIFIED that the City Council at their May 29, 2018 session, adopted findings affirming and modifying the Hearings Officer's decision for the Union Gospel Mission of Salem's Conditional Use and Quasi-Judicial Zone Change application. A copy of the Order is attached.

Any person with standing may appeal the City Council's decision by filing a "Notice of Intent to Appeal" with the Land Use Board of Appeals, 775 Summer St NE, Suite 330, Salem OR 97301-1283, **not later than 21 days after May 30, 2018.** Anyone with questions regarding filing an appeal with the Oregon Land Use Board of Appeals should contact an attorney.

The complete case file, including findings, conclusions, modifications, and conditions of approval, if any is available for review at the Community Development Department, 555 Liberty St SE, Room 305, Salem OR 97301. If you have any further questions, you may contact the City of Salem Planning Division at 503-588-6173.

Lisa Anderson-Ogilvie, AICP
Deputy Community Development Director
and Planning Administrator

Attachment: Order

BEFORE THE CITY COUNCIL OF THE CITY OF SALEM

| | |
|--------------------------------------|---------------------------------------|
| IN THE MATTER OF THE APPEAL |) ORDER NO. 2018-04 CU-ZC17-14 |
| OF DECISION OF THE HEARINGS |) CONDITIONAL USE / |
| OFFICER FOR CONDITIONAL USE / |) QUASI-JUDICIAL ZONE CHANGE |
| QUASI-JUDICIAL ZONE CHANGE |) CASE NO. CU-ZC17-14 |
| CASE NO. CU-ZC17-14 |) |

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 29th day of May, 2018.

ATTEST:


City Recorder

Checked by: Bryce Bishop

*Si necesita ayuda para comprender esta informacion, por favor llame
503-588-6173*

DECISION OF THE HEARINGS OFFICER

CONDITIONAL USE / QUASI-JUDICIAL ZONE CHANGE CASE NO. CU-ZC17-14

APPLICATION NO. : 17-122248-ZO & 17-122249-ZO

NOTICE OF DECISION DATE: FEBRUARY 9, 2018

SUMMARY: A consolidated application for a Conditional Use Permit and Zone Change for the proposed relocation of the Union Gospel Mission (UGM) of Salem's men's shelter.

REQUEST: A consolidated application for a Conditional Use Permit and Zone Change for the proposed relocation of the Union Gospel Mission (UGM) of Salem's men's shelter from its current downtown location at 345 Commercial Street NE to a proposed new location on property located in the 700 to 800 blocks of Commercial Street NE.

The application includes the following:

- 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.

The subject property totals approximately 2.3 acres in size, is currently zoned CO (Commercial Office) with Riverfront Overlay, and is located in the 700 to 800 blocks of Commercial Street NE (Marion County Assessor Map and Tax Lot Numbers: 073W22AC03300 and 073W22DB01600, 1700, 1800, & 1900).

APPLICANT: Dan Clem for Union Gospel Mission of Salem

LOCATION: 700-800 Blocks of Commercial Street NE / 97301

CRITERIA: Conditional Use: SRC Chapter 240.005(d)
Quasi-Judicial Zone Change: SRC Chapter 265.005(e)(1)

FINDINGS: The findings are in the attached Order dated February 9, 2018.

DECISION: The Hearings Officer **APPROVED** Conditional Use / Quasi-Judicial Zone Change Case No. CU-ZC17-14 subject to the following 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

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



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.

The rights granted by the attached decision for Conditional Use Case No. CU-ZC17-14 must be exercised, or an extension granted, by **February 27, 2020** or this approval shall be null and void.

Application Deemed Complete: November 21, 2017
Public Hearing Date: December 20, 2017
Notice of Decision Mailing Date: February 9, 2018
Decision Effective Date: February 27, 2018
State Mandate Date: April 20, 2018

Case Manager: Bryce Bishop, bbishop@cityofsalem.net; 503.540.2399

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than **5:00 p.m., February 26, 2018**. Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 240 and 265. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing.

If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Salem City Council will review the appeal at a public hearing. After the hearing, the City Council may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

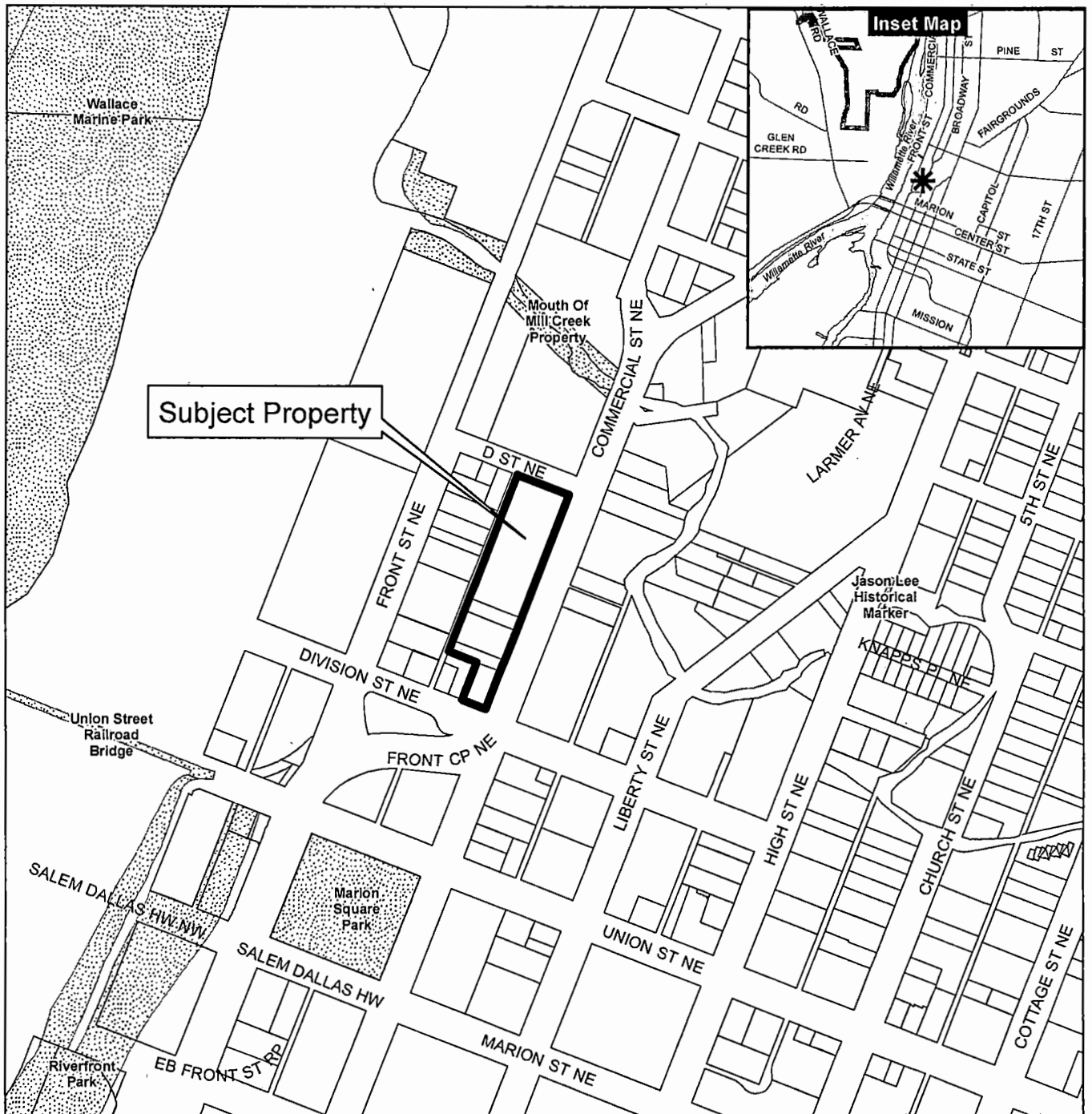
The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

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Vicinity Map

700 to 800 Blocks of Commercial Street NE



Legend

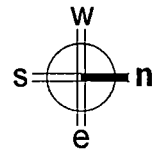
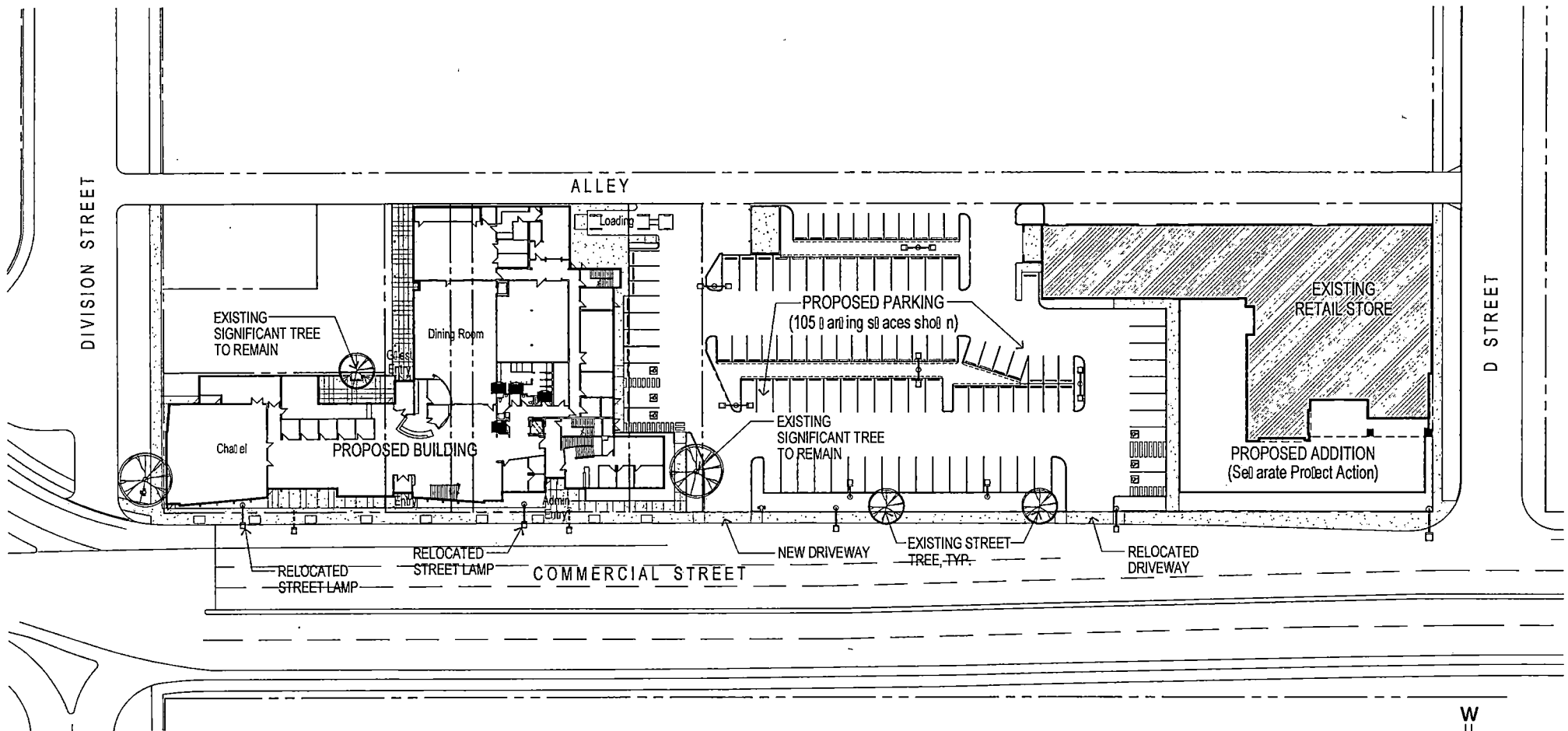
- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools
- Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

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MERRICK LENTZ ARCHITECT
 ARCHITECTURE - PLANNING
 12815 NE 126th Place . Kirkland, WA . 98034

Project Name:
UGM Salem - Commercial St NE Emergency Shelter
Conditional Use Permit

Description:
Proposed Site Plan

Date: 11/27/17
 Scale: 1" = 50'-0"

Drawing Number:
CU1.2

Bryce Bishop

From: Bryce Petersen <brycepetersen12@gmail.com>
Sent: Thursday, March 28, 2019 12:02 PM
To: Bryce Bishop
Subject: UGM Property

Hi There,

I am writing in support of the new UGM facility. As a board member of UGM I am proud of the work we've done to make this new space community focused and built to honor the local businesses.

Thanks,
Bryce

Bryce Bishop

From: Lee Klampe <LeeKlampe@bhhsnwrep.com>
Sent: Thursday, March 28, 2019 12:25 PM
To: Bryce Bishop
Subject: Conditional Use Permit

Good day,I am contacting you in support of allowing the Union Gospel Mission the Conditional Use permit that includes the 2; parcels ,Mike's and BAM. I have been associated with the UGM for 26 years as a member of their Board of Directors. We simply seek providing a building that can change men's lives by restoring their dignity with a building that is safe and provides a situation where learning can occur and addictions can be healed . If not the UGM who will try to help these men to lead productive lives?Thank you for your consideration. Lee Klampe

Lee Klampe

Broker Licensed in State of Oregon

Berkshire Hathaway HomeServices

Real Estate Professionals

1220 20th Street SE

Salem, Oregon 97302

Direct: 503-931-2990

What is YOUR home worth?

Click here for three FREE estimates.

Bryce Bishop

From: Myron Jones <MJones@UGMSalem.Org>
Sent: Thursday, March 28, 2019 12:27 PM
To: Bryce Bishop
Subject: Support

I support UGM isn't heir attempt to add the two parcels to their Building proposal.

Sent from my iPad

Bryce Bishop

From: Candi Hughes <hughesks@yahoo.com>
Sent: Thursday, March 28, 2019 4:43 PM
To: Bryce Bishop
Subject: Support for Union Gospel Mission of Salem

Dear Mr Bishop,

I wanted to send you a quick note concerning the application to modify the Conditional Use Permit (CUP) to include the 2 parcels (Mike's and BAM) for the Union Gospel Mission of Salem.

The mission has been in Salem downtown area for over 65 years. The services they have provided for homeless people in Marion and Polk counties have helped with life change, getting men and women off the streets. Please vote in favor to modify the conditional use permit to include the 2 parcels mentioned.

I have been a volunteer at UGM since 1991 and have seen first hand the work they have done. Moving to this new location will give them the space needed to serve more homeless in our community.

Thank you,

Candi Sue Hughes

Chairman of the Board of Directors

Union Gospel Mission of Salem

Sent from Yahoo Mail on Android

Mr. Gerald Bieze
9th Street LLC
Second and Center St. LLC
1118 Northshore Road
Lake Oswego, OR 97034

Bryce Bishop, Case Manager
City of Salem, Planning Division
via e-mail to: bbishop@cityofsalem.net

March 25, 2019

Re: Adjacent property owner comments re:
Modification of Conditional Use Permit Case No. CU-ZC17-14MOD1
AMANDA Application No. 19-104587-ZO (the "**Proposal**")
Project Address: 700-800 blocks of Commercial St. NE and
253-275 Division St. NE, Salem, OR 97301

Mr. Bishop:

I have reviewed the Proposal referenced above and present the following comments on behalf of myself, Gerald Bieze, and on behalf of 9th Street LLC, an Oregon limited liability company and Second and Center St. LLC, an Oregon limited liability company – the entities which own the property located at 250 Division St. NE, Salem, OR 97301, which is currently leased to and operated by the State of Oregon, Teachers' Standards and Practices Commission (the "**Teachers' Property**").

The Teachers' Property is located directly across Division St. NE from Tax Lots 2000 and 2100 – the additional properties applicant seeks to incorporate into its proposed development and include within the scope of Conditional Use Permit Case No. CU-ZC17-14MOD1 (the "**CUP**") via the proposed modification.

As detailed below, owners of the Teachers' Property object to the proposed CUP modification on the following grounds:

- (i) The proposed modification requires submittal of a *new* application for conditional use permit, rather than the modification of the existing CUP; and
- (ii) If the City proceeds with modification of the existing CUP, then additional conditions of approval (including reorientation of the proposed project) should be included in the modified CUP.

I. The proposed modification requires submittal of a new application for conditional use permit.

Salem Revised Code ("**SRC**") Section 240.010(a) states: "A conditional use permit approval may be modified after its effective date if the proposed modification meets the criteria in this section. Proposed modifications that do not meet the criteria in this section require submittal of a new application for conditional use permit." SRC 240.010(d) states that an application for modification of a conditional use permit approval shall be granted only if all of the following criteria are met: "(1) The proposed modification is not substantially inconsistent with the conditions of the original approval; and (2) When compared with the original approval, the proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties." In this case, the Proposal does not satisfy either of the mandatory criteria for modification of an existing CUP; therefore, the modification should be denied and the applicant should seek a new conditional use permit for Tax Lots 2000 and 2100.

The proposed modification is substantially inconsistent with the conditions of original approval, in violation of SRC 240.010(d)(1).

The proposed modification requires submittal of a new conditional use application because the proposed modification is substantially inconsistent with the conditions of original approval. Original approval Condition 1, specifically, aims to mitigate the impacts of the original project design in which primary access for Union Gospel Mission ("**UGM**") clients was to be made via the alleyway. To wit, original approval Condition 1 states: "As a condition of the future development of the property, the applicant shall install video surveillance cameras and appropriate signage that capture video of the entire surface of the alleyway from Division to D Street NE." (emphasis added) This condition is inconsistent with the current Proposal, in which primary client access is oriented toward and made from Division Street. The City's Supplemental Findings for CU-ZC17-14 state: "...impacts of increased pedestrian use are being mitigated through conditions of approval." However, those conditions were not developed with the inclusion of Tax Lots 2000 and 2100 in mind, nor were those conditions intended to mitigate the impacts created by orienting the client access toward Division Street NE.

In fact, throughout the original approval process, much analysis and deliberation was directed toward client access being made via the alleyway or Commercial Street; no consideration was given to the situation (now presented in the Proposal) in which primary client access is oriented toward Division Street. A review of the record will demonstrate that applicant, appellant, and various commentators deliberated whether the project should be oriented toward Commercial Street or the alleyway, yet none of them considered or deliberated a project oriented toward Division Street. Likewise, the Hearing Officer and the City Council constructed their conditions of approval with the Commercial Street versus alleyway access in mind, but no discussion was had, nor were any conditions developed, concerning

orientation of client access toward Division Street. In addition, neither the Fire Department, nor the Building and Safety Division, nor the Public Works Department, nor Portland General Electric, nor any other public agencies or public or private service providers have had the opportunity to provide conditions of approval relevant to the modified project and the significant change in client access which was neither addressed nor accounted for in the existing conditions of approval.

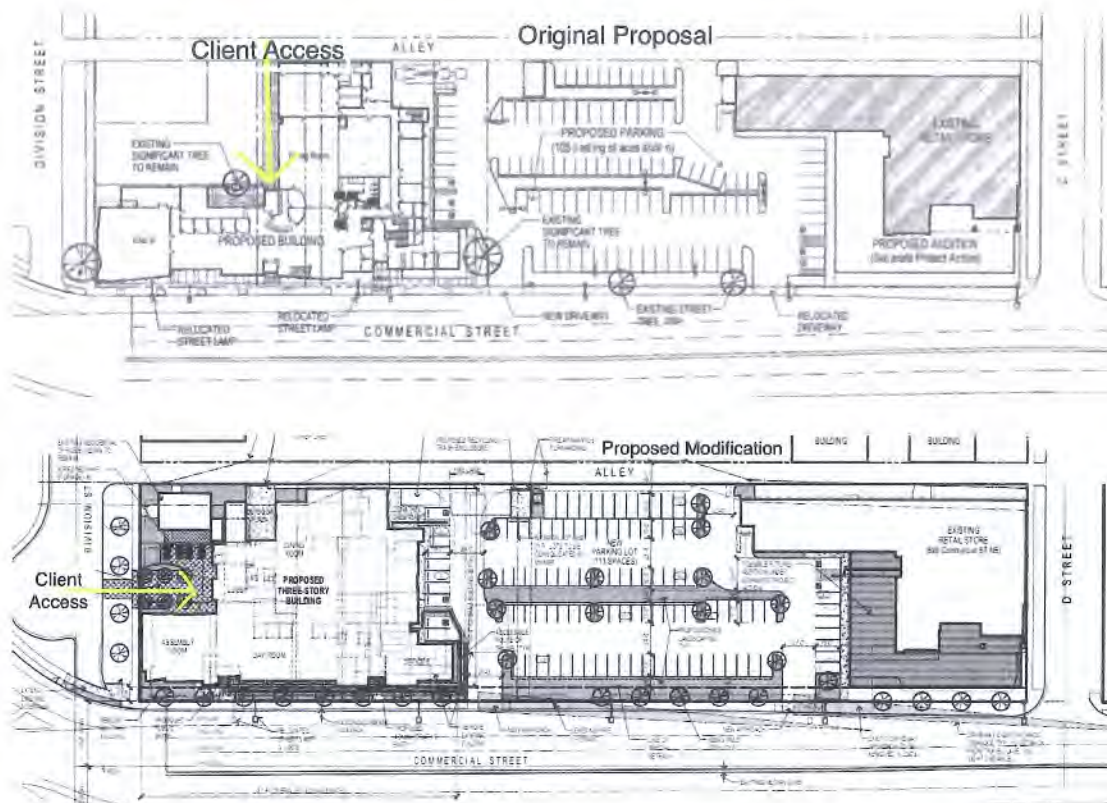
In summary, the proposed modification is inconsistent with the conditions of original approval because the conditions of original approval address (and aim to mitigate the impacts relating to) a project in which client access is oriented toward the alleyway. By adding two additional properties, redesigning the project layout, relocating the 300-bed men's shelter building, and reorienting client access such that the primary client entrance and outside storage and waiting areas are oriented toward Division Street instead of the alleyway, the proposed modification is entirely different from the project which was considered in the original approval and addressed by the original conditions. The conditions of original approval are inconsistent with and inapplicable to the current project. As such, the newly proposed project requires new conditions of approval, as well as the benefit of the full and complete review afforded by a new conditional use permit application as a Type III procedure.

When compared with the original approval, the proposed modification will result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties, in violation of SRC 240.010(d)(2).

Even if the City were to find the criteria of SRC 240.010(d)(1) satisfied, the City is nonetheless required to reject the proposed modification under subsection (2). SRC 240.010(d)(2) requires that "the proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties." As detailed below, the proposed modification will in fact result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

Significant changes to the physical appearance of the development and the use of the site.

As depicted below, the proposed modification completely changes the physical appearance of the development and the use of the site by relocating the proposed shelter and, most significantly, by reorienting the entire project so that the primary client entrance and outside storage and waiting areas are oriented toward Division Street, instead of the alleyway as was addressed in the original approval.



In the modified plan, as opposed to the original approval, the 3-story men's shelter building has changed orientation and location, the overall footprint of the proposed building appears to have increased, and, most significantly, the design and orientation of the primary client access has been completely altered. In the original proposal, the applicant had provided a long walkway from the alleyway to the primary client entrance to the building, thereby creating substantial distance between the entrance and the alleyway, which could have the effect of decreasing loitering in the alleyway and minimizing the impact to businesses along the alleyway from potential loitering. In contrast, in the proposed modification, there is a much shorter distance between Division Street and the entrance to the building, increasing the likelihood of loitering in Division Street and onto the adjacent Teachers' Property. In the modified plan, access to the shelter is further removed from access to the retail store and from the entrances used by UGM employees and guests. This distancing not only changes the appearance and use of the site, but further removes clients from passive surveillance that may have been afforded by UGM employees and guests using other areas of the project adjacent to the alleyway.

The Proposal's changes to the physical appearance of the development and use of the site also create potential safety issues for UGM clients. Because the Proposal places the client entry courtyard so close to Division Street, UGM clients accessing the entry, loitering nearby, and any overflow clients waiting for access to the courtyard and shelter will be in harms way of delivery vehicles, waste management vehicles, and the various other vendor trucks that utilize the Division Street cul de

sac. Just as applicant and the City Council determined it would be unsafe for clients to access the project via Commercial Street, so would it be unsafe for clients to access the project via Division Street. A far safer approach, as detailed below in section II of this comment letter, would be to orient the client entry to the north, facing the applicant's parking lot and away from all public streets; however, because the Proposal is attempting to make such significant changes to the appearance and use of the site without a proper Type III review, options for optimizing UGM client safety have not been fully vetted. Given the significant changes applicant is proposing to make, client safety is another reason applicant must apply for a new conditional use permit, as required by SRC 240.010(d)(2).

Applicant seems to imply that its proposed changes do not rise to the level of SRC 240.010(d)(2) "significance" because Tax Lots 2000 and 2100 only increase the overall size of the project by 9.6% (Proposal page 7). However, this ignores the fact that with the inclusion of the additional properties, the applicant has completely revamped the project design and reoriented the client entrance point. While the percentage of land added to the overall site may be small, applicant's complete overhaul and redesign of the project is anything but insignificant.

Of all the changes to the physical appearance and use of the site, applicant's reorientation of the primary client access is the most significant. Orientation of the client access area was discussed at length during the original approval process; however, that discussion considered only whether client access should be oriented toward the alleyway or Commercial Street; it did not include an analysis of client access oriented toward Division Street, as applicant now proposes. Given the depth of analysis, discussion, and negotiation devoted to client access orientation in the original approval process (and considering the conditions of original approval were drafted, negotiated, and revised because of the issue of orientation), it is clear this is a significant issue. How can it be, then, that applicant could completely change the project's orientation without this being a "significant" change to the appearance and use of the project under SRC 240.010(d)(2)? This most definitely is a significant change and, pursuant to SRC 240.010(d)(2), this issue, alone, requires that the Proposal be denied and the applicant seek a new conditional use permit.

Significant impacts to surrounding properties.

In addition, under SRC 240.010(d)(2), the proposed modification should be denied because it will result in significant impacts to surrounding properties, most notably to the adjacent Teachers' Property. As noted above, the Teachers' Property is leased by the State of Oregon and houses the State of Oregon Teacher Standards and Practices Commission. Many teachers from across the State of Oregon come to this building to renew their teaching certificates. These teachers, as well as the staff employed at the State of Oregon Teacher Standards and Practices Commission office building, enter the Teachers' Property via a driveway near the building and exit at the driveway that opens into the Division Street cul-de-sac, the very same area in which applicant proposes to locate the primary UGM client entry, out of sight of the

Police station and virtually any other assistance. If these teachers and staff are unable to utilize the Teachers' Property driveway because of loitering or an overflow from the UGM shelter, or if they feel concerned for their safety, then the Teacher Standards and Practices Commission will no longer be able to operate out of this building and the property will decrease in value. Hence, owners of the Teachers' Property have concerns about the significant impacts the Proposal could have on the Teachers' Property – concerns which were not considered or addressed during the original approval process because the original project did not include Tax Lots 2000 and 2100 and did not propose orienting the primary client entry toward Division Street.

As originally approved, the men's shelter would have been located within Tax Lots 1700-1900 and, as noted above, the primary client entry would have been accessed from the alleyway on the east side of the project, to the north of Tax Lot 2000. Now, however, applicant proposes for the shelter to be located further south on the project site and, most significantly, for the primary client entrance and outside storage and waiting areas to be accessed from and oriented toward Division Street – directly across from and adjacent to the Teachers' Property.

As it stands, even without the existence of a 300-bed men's shelter facing their driveway, the users of the Teachers' Property are already dealing with multiple loitering and related issues (see attached Exhibit A photographs). According to an address survey of the Teachers' Property provided by the Salem Police Department, from November of 2013 to September of 2018, there were nine Police actions required outside the Teachers' Property, including calls for trespassing, urinating or defecating in public, disorderly conduct, FTA bench warrant or arraignment warrant, suspicious person, unlawful entry vehicle / Theft III, interference with Police Officer and FTA bench warrant, Criminal Mischief II, and vandalism. Most of these resulted in an arrest. In addition, users of the Teachers' Property are required to call the Police on a weekly basis, simply to ask loiterers to move along. Whether such incidents relate to the proximity of the UGM retail store, owners of the Teachers' Property cannot say; however, it is foreseeable that such impacts will increase with the development of a men's shelter across the street and it is clear that such impacts are incompatible with use of the Teachers' Property as a commercial office building.

In his review, the Hearing Officer noted that adverse impacts at the current shelter location included "improper and illegal behavior" and he posited that such impacts "may be due to the deficiencies of that location – the size, lack of available space for people waiting to be served...." (CU-ZC17-14 February 9, 2018, page 21) Although the project includes a 300-bed facility, restrooms, and the ability to accommodate far more clients than the existing facility, there is no evidence to support the idea that this new facility will be sufficient to meet the needs of all potential clients, nor has applicant provided evidence that the proposed courtyard will be sufficient to prevent overflow onto Division Street and the Teachers' Property.

To the contrary, in the original approval process, the applicant explained: "the facility will be likely to attract a large amount of pedestrian traffic and that measures should be taken to discourage loitering on or obstructing the public sidewalk." (CU-ZC17-14 February 9, 2018, page 23) In addition, the Hearing Officer noted: "Regarding pedestrian and bicycle traffic, the proposed shelter will generate increased amounts (of) pedestrian and bicycle activity in the area." In order to minimize the potential of the public sidewalks being obstructed due to loitering, the Hearing Officer noted that the "proposed preliminary shelter design locates the main guest entry into the shelter, along with an adjacent plaza area, on the west side of the building facing the alley. The rear guest entry is reached via a pedestrian connection which leads to the alley, but does not connect to any other pedestrian route with a sidewalk...."

Thus, both the applicant and Hearing Officer acknowledged that the project will cause increased bicycle and pedestrian traffic and that steps need to be taken to minimize loitering and other adverse impacts, including improper and illegal activities. However, the mitigation efforts proffered by the applicant and the Hearing Officer and modified by the City Council -- specifically the orientation of the primary client access and storage areas toward the alleyway and video surveillance of the alleyway -- will not mitigate the impacts to the Teachers' Property from a project in which the primary client access and storage areas are oriented toward and located immediately adjacent to Division Street and the Teachers' Property. Accordingly, given that the modification will cause impacts to the Teachers' Property which were not considered or mitigated against in the original approval, pursuant to SRC 240.010(d)(2), the Proposal must be denied and applicant must seek a new conditional use permit for the additional properties.

II. If the City proceeds with modification of the existing CUP, additional conditions of approval should be incorporated into the modified CUP, including the requirement to reorient the primary client entry towards the north.

The owners of the Teachers' Property contend that the provisions of SRC 240.010 require that the Proposal for modification of the existing CUP be denied and that the applicant seek a new conditional use permit for Tax Lots 2000 and 2100. Nonetheless, in the event the City proceeds with modification of the existing CUP, then additional conditions of approval should be incorporated into the modified CUP, including the requirement that applicant reorient the primary client entry such that the entrance and outside storage and waiting areas are accessed from and oriented to the north, facing the applicant's parking lot.

As detailed below, owners of the Teachers' Property request a condition of approval requiring such reorientation because facing the primary client entry to the north, toward the applicant's parking lot would (i) comply with the conditions of the existing CUP, (ii) allow for increased passive surveillance by both UGM employees

and by the future Police station, and (iii) significantly decrease adverse impacts to neighboring properties.

- (i) *North-facing orientation of the primary client entry would comply with the conditions of the existing CUP.*

The Proposal envisions the primary client entry onto Division Street and states, on page 4: "Client access to the proposed shelter is from Division Street, as required by the conditions of the 2018 determination." (emphasis added) However, this is a mischaracterization of the existing CUP. The 2018 determination does not require that client access come from Division Street NE; rather, Condition 8(c) requires that the primary entrance for emergency shelter users "not be located along the Commercial Street frontage." Accordingly, there are alternate orientations of the project which would also comply with Condition 8(c), including a north-facing orientation in which the primary client entry faces the applicant's parking lot.

- (ii) *North-facing orientation of the primary client entry would allow for increased passive surveillance.*

Both the conditions of the existing CUP and the applicant's own Proposal have highlighted the need for transparency and passive surveillance, yet orienting the client's primary entry toward Division Street is far less effective in accomplishing these goals than orienting the entry to the north, toward the applicant's parking lot.

As noted in the Proposal, the new Salem Police facility will be constructed in the vacant lot to the east of the proposed project. If the primary client entry point is along Division Street, then the client entrance will be south of, and out of view of, the Police station. In fact, Police Officers called to respond to issues arising along Division Street would not have a direct route to access this area, as Division Street is a dead-end cul de sac and does not connect to Commercial Street. In contrast, if the project is reoriented so that client access is located on or near Tax Lot 1600, facing north into the UGM parking lot, clients would be within plain view and in direct line of sight of the future Police station and the Police station parking lot.

The Proposal states that the proposed modification will allow for "transparency from multiple points within the facility to the exterior gathering spaces, enhancing the passive surveillance of those approaching the shelter entrance courtyard." As this is applicant's goal, then orienting the primary client entrance to the north, facing the applicant's parking lot, would actually allow far greater transparency and passive surveillance than hiding the entrance in the far end of the project site, out of sight of the new Police facility.

In addition, under the Proposal's Division Street orientation, client access would be physically and visually separated from the staff and visitor entrance. This seems not only counter to the UGM's mission of integrating homeless clients with society, but also counter to the need for passive surveillance. By orienting the client entry to the

north, towards the parking lot, clients would be more integrated into the project as a whole, there would be more opportunities for passive surveillance, and clients would have easier access to the UGM retail store.

- (iii) *North-facing orientation of the primary client entry would decrease adverse impacts to neighboring properties.*

By reorienting the project so the client access area faces the UGM parking lot, the majority of client overflow or loitering or camping issues would be within view of the Police station and UGM employees and such issues would be primarily contained within the UGM project site. Containing such impacts within the UGM site would mean UGM staff could appropriately deal with any concerns themselves or determine when it is necessary to involve the Police. This not only would likely result in far fewer impacts to neighboring properties, but also would likely decrease the amount of calls the Police are required to respond to. UGM staff are presumably better trained and positioned to handle such issues than neighboring property users and they would have far greater flexibility in dealing with such impacts, including possibly cordoning off portions of their parking lot or making other on-site changes, as necessary, to accommodate the overflow and loitering issues that may arise.

III. Conclusion.

In conclusion, owners of the Teachers' Property respectfully request that the Proposal for modification of the existing CUP be denied and applicant be required to apply for a new conditional use permit with respect to Tax Lots 2000 and 2100 or, at the very least, that approval of the Proposal be conditioned on reorientation of the project such that the primary client entrance and outside storage and waiting areas are accessed from and oriented to the north, facing the applicant's parking lot.

Owners of the Teachers' Property understand and appreciate the benefit a 300-bed men's shelter will provide to our community and we support UGM in their efforts. Our intent is not to hinder development of the shelter, but rather to insure that the review and eventual approval of this project proceed through the proper channels to ensure the safest and most universally beneficial result for UGM, the UGM clients, the surrounding properties, and our community as a whole.

Finally, owners of the Teachers' Property respectfully request that this comment letter be incorporated into the City's final record on this matter so that we may reserve our right to appeal.

[Signature page follows.]

Sincerely,

Gerald Bieze
Gerald Bieze

9th Street LLC,
an Oregon limited liability company

By: Gerald Bieze, member
Gerald Bieze, its member

Second and Center St. LLC,
an Oregon limited liability company

By: Gerald Bieze, member
Gerald Bieze, its member

EXHIBIT A



NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



*Si necesita ayuda para comprender esta informacion, por favor llame
503-588-6173*

DECISION OF THE PLANNING ADMINISTRATOR

MODIFICATION OF CONDITONAL USE AND ZONE CHANGE CASE NO.: CU-ZC17-14MOD1

APPLICATION NO. : 19-104587-ZO

NOTICE OF DECISION DATE: APRIL 26, 2019

SUMMARY: A proposed modification to the Conditional Use Permit approval granted to the Union Gospel Mission (UGM) of Salem for the proposed relocation of their men's shelter from its current downtown location at 345 Commercial Street NE to the proposed new location on property located in the 700 to 800 blocks of Commercial Street NE. The purpose of the proposed modification is to incorporate the two remaining properties located on the eastern half of the block located at 253 to 275 Division Street NE into the proposed development. No change to the maximum number of persons approved to be served at the shelter is proposed and all conditions of approval established under the original conditional use permit will continue to apply.

REQUEST: A modification of Conditional Use Permit and Zone Change Case No. CU-ZC17-14 to modify the conditional use permit approval for the relocation of the Union Gospel Mission (UGM) of Salem's men's shelter to incorporate two additional properties located at 253 to 275 Division Street NE into the proposed development. No change to the maximum number of persons approved to be served at the shelter is proposed and all conditions of approval established under the original conditional use permit will continue to apply.

The subject property, including the two additional properties proposed to be included in the development, totals approximately 2.54 acres in size, is zoned CB (Central Business District) and CO (Commercial Office) with Riverfront Overlay, and is located in the 700 to 800 blocks of Commercial Street NE and at 253 to 275 Division Street NE (Marion County Assessor Map and Tax Lot Numbers: 073W22AC03300 and 073W22DB01600, 1700, 1800, 1900, 2000 & 2100).

APPLICANT: Craig Chaney of Merrick Lentz Architecture on behalf of the Union Gospel Mission of Salem

LOCATION: 700-800 Block of Commercial St NE and 253-275 Division St NE

CRITERIA: Salem Revised Code (SRC) Chapter 240.010(d)

FINDINGS: The findings are in the attached Decision dated April 26, 2019.

DECISION: The **Planning Administrator APPROVED** Conditional Use CU-ZC17-14MOD1 subject to the applicable standards of the Salem Revised Code, the findings contained in the attached Decision, and the findings and conditions adopted in the original approval for Conditional Use / Zone Change Case No. CU-ZC17-14.

The rights granted by the attached decision must be exercised, or an extension granted, by May 30, 2021 or this approval shall be null and void.

| | |
|----------------------------------|-----------------------|
| Application Deemed Complete: | <u>March 7, 2019</u> |
| Notice of Decision Mailing Date: | <u>April 26, 2019</u> |
| Decision Effective Date: | <u>May 14, 2019</u> |
| State Mandate Date: | <u>July 5, 2019</u> |

Case Manager: Bryce Bishop, 503-540-2399, bbishop@cityofsalem.net.

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than 5:00 p.m., Monday, May 13, 2019. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter 240. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Hearings Officer will review the appeal at a public hearing. The Hearings Officer may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

***Si necesita ayuda para comprender esta información, por favor llame 503-588-6173
<http://www.cityofsalem.net/planning>***

Conditional Use / Zone Change Case No. CU-ZC17-14 approved the proposed relocation of the UGM's men's shelter from its current downtown location at 345 Commercial Street NE to the proposed new location on property located in the 700 to 800 blocks of Commercial Street NE. In addition to the approval of the conditional use permit to allow the relocation of the UGM's men's shelter, a zone change to change the zoning of the

property from CO (Commercial Office) to CB (Central Business District) was also approved.

2. After additional requested information was provided by the applicant, the application was deemed complete for processing on March 7, 2019, and notice was mailed, pursuant to SRC requirements, on March 14, 2019. The state-mandated 120-day local decision deadline for the application is July 5, 2019.

SUBSTANTIVE FINDINGS

1. Salem Area Comprehensive Plan (SACP)

The subject property is designated "River Oriented Mixed-Use" on the Salem Area Comprehensive Plan map.

2. Zoning

The majority of the subject property is zoned CB (Central Business District). The two additional properties located at 253 to 275 Division Street NE proposed to be included in the development with this modification request are zoned CO (Commercial Office). The entire subject property, including the two additional CO zoned lots to be included in the development, is also within the Riverfront Overlay Zone. The zoning of surrounding properties is as follows:

North: Across D Street NE, CB (Central Business District) with Riverfront Overlay;
South: Across Division Street NE, CO (Commercial Office) with Riverfront Overlay Zone;
East: Across Commercial Street NE, CB (Central Business District) with General Retail/Office Overlay;
West: Across alley, CO (Commercial Office) with Riverfront Overlay Zone.

3. Background/Proposal

The application under review by the Planning Administrator is a modification of the conditional use permit approval for the relocation of the Union Gospel Mission of Salem's Men's shelter from its current location in the downtown to the proposed new location a short distance to the north on property located in the 700 to 800 blocks of Commercial Street NE (**Attachment A**).

On February 9, 2018, the Salem Hearings Officer approved the original conditional use permit request. The Hearings Officer's decision was subsequently appealed to the City Council and the Council voted to affirm the Hearings Officer's decision, with modifications, and approve the conditional use permit subject to additional conditions of approval (**Attachment B**).

Since the City Council's May 29, 2018, decision, the UGM purchased the abutting property located at 275 Division Street NE and is in the process of acquiring the property located at 253 Division Street NE. Once the property at 253 Division Street is acquired, the UGM will

own all of the property located on the eastern half of the block between Division Street and D Street. However, because these two additional Division Street properties were not included in the original conditional use permit request, the UGM is required to modify their original conditional use permit in order to include them in the approval and allow them to be used to accommodate the proposed relocated shelter.

The conditional use permit modification application submitted by the UGM seeks to include the Division Street properties into their conditional use permit approval for the shelter relocation. The proposed modification does not change the maximum number of persons approved to be served at the shelter and all conditions of approval established under the original conditional use permit will continue to apply. As shown on the preliminary site plan (**Attachment C**), the proposed shelter will continue to be located on the southern portion of the property; the existing retail store, with a possible future addition, is still located on the northern portion of the property; the shared off-street parking area to serve both uses continues to be located in the middle of the property between them; and vehicular access to the site will continue to be provided from two proposed driveway approaches onto Commercial Street NE and the alley which runs along the western side of the property.

4. Applicant's Plans and Statement.

Land use applications must include a statement addressing the applicable approval criteria and be supported by proof they conform to all applicable standards and criteria of the Salem Revised Code. The preliminary site plan submitted by the applicant depicting the proposed development, and in support of the proposal, is included as **Attachment C**.

The written statement provided by the applicant addressing the applicable approval criteria associated with the proposal is included as **Attachment D**.

5. Neighborhood Association Comments

The subject property is located within the boundaries of the Central Area Neighborhood Development Organization (CANDO) neighborhood association. No comments were received from the neighborhood association.

6. Public Comments

Notice of the proposal was mailed to property owners and tenants within 250 feet of the subject property. A total of five public comments were received on the proposal. Of the five comments received, four expressed support for the proposed modification and one expressed concern and opposition.

The comment received in opposition to the proposed modification objects to the proposal, in summary, based on the following:

A. New Conditional Use Permit Required.

The comment received indicates that the proposal requires submittal of a new application for conditional use permit, rather than a modification of the existing conditional use permit, because the proposal does not meet the approval criteria for a modification of a conditional use permit.

The comment received indicates, in summary, that the proposed modification is substantially inconsistent with the conditions of the original approval because the conditions of the original approval were specifically intended to address and mitigate the impacts of client access to the property from the alley rather than Division Street. By relocating the main client entry to the shelter to Division Street, the impacts of clients entering the shelter from this location have not been properly considered or addressed in the original conditions of approval.

The comment received also indicates that the proposed modification will result in significant changes to the physical appearance of the development, use of the site, and impacts on surrounding properties due to a proposed increase in building's size and location by expanding onto the two new properties and a corresponding relocation of the shelter's primary client entry from the alley to Division Street. It is explained that relocation of the shelter's main client entry to Division Street results in:

- Less room for shelter clients to gather than was identified on the original plan;
- Increased safety concerns for shelter clients having to contend with delivery, waste collection, and other service vehicles using the Division Street cul-de-sac;
- Less safety associated with, and passive visual surveillance provided for, the shelter client entry due to its location further from the retail store and the entrances used by UGM employees and guests; and
- Increased impacts of undesirable activity occurring on surrounding property, most notably the adjacent property to the south located at 250 Division Street NE which is occupied by the State of Oregon Teacher Standards and Practices Commission.

Staff Response: As indicated in the written statement provided by the applicant (**Attachment D**) and in the findings included under Section 9 of this decision, the requested conditional use permit modification meets the approval criteria established under SRC 240.010(d). As such, an application for a new conditional use permit is not required.

The incorporation of the two additional properties into the proposed development and the corresponding extension of the proposed building onto these properties, together with the relocation of the primary shelter guest entrance, do not represent a significant change to the physical appearance of the development or use of the site. Rather, as indicated in the written statement provided by the applicant, the proposed modification facilitates an improved building design and site design with an improved arrangement of internal and external space to better meet the needs of the individuals it will serve and the conditions of the original approval, such as providing a pedestrian connection between the main guest entrance and a public sidewalk in an abutting street (Condition 4), increased area to accommodate secure storage of guests' belongings (Condition 7),

exterior gathering space visible from within the building (Condition 8), and an indoor restroom available to men 24 hours a day (Condition 11).

The proposed modification similarly will not result in a development which is substantially inconsistent with the original conditions of approval. As identified in the findings included under Section 9 of this decision, all eleven conditions established under the original conditional use approval will continue to apply to the proposed development. These conditions of approval were established to help to minimize any potential adverse impacts of the use on the immediate neighborhood. Conditions established specifically with regard to the guest entry require a pedestrian connection between the primary guest entry and the public sidewalk in an abutting street (Condition 4), and require the guest entry to be located away from the Commercial Street frontage (Condition 8). The proposed entry onto Division Street satisfies both of these conditions of approval and provides for a safer and more visible entry area for guests than was proposed under the original approval.

B. Additional Recommended Condition of Approval:

The comment received also indicated that should a new conditional use permit not be required for the proposal, additional conditions of approval should be incorporated into the modified conditional use permit requiring the applicant to reorient the primary client entry to the shelter such that the entrance and outside storage and waiting areas are accessed from and oriented to the north, facing the applicant's parking lot. It is explained that this proposed condition would comply with the conditions of the existing conditional use permit, allow for increased passive surveillance by both UGM employees and by the future Police station, and significantly decrease adverse impacts to neighboring properties.

Staff Response: As identified under the findings included in Section 9 of this decision, the proposed modification will not result in an increase in the intensity of the proposed development and all conditions established as part of the original conditional use approval will continue to apply. These conditions of approval were established to mitigate the impacts of the proposed use. The proposed modification does not request a substantial or significant change to the original approval. The proposed reorientation of the main guest entry away from the alley and instead to Division Street results in a safer and more visible guest entry into the proposed facility that better conforms to the conditions of approval.

In addition, the property is located within the Riverfront Overlay Zone. Within the Riverfront Overlay Zone the design review standards require a primary building entrance to be provided on each building façade facing a street. If a building has frontage on more than one street, a single primary building entrance may be provided at the corner of the building where the streets intersect. Because the subject property has frontage on both Commercial Street and Division Street, either both façades of the building facing Commercial Street and Division Street must each include primary building entrances or a single primary entrance at the corner of Commercial Street and Division Street may be provided. Provision of a guest entry at the corner of Commercial

Street and Division Street would conflict with Condition 8 which requires the primary entrance for emergency shelter users to not be located along the Commercial Street frontage, and provision of the primary entrance on the north side of the building facing the parking lot, as suggested in the comment provided, would not conform to the design review standards of the Riverfront Overlay Zone. As such, the proposed relocated entrance facing Division Street conforms to both the design standards of the Riverfront Overlay Zone and the conditions of the original approval.

7. City Department Comments

- A. The Salem Fire Department, Building and Safety Division, and Public Works Department reviewed the proposed modification and indicated they have no objections to it.

8. Public Agency & Private Service Provider Comments.

Notice of the proposal was provided to public agencies and to public & private service providers. No comments were received from any public agencies or public and private service providers.

9. Conditional Use Permit Modification Approval Criteria.

SRC 240.005(a)(2) provides that no use for which a conditional use permit has been granted shall be expanded, relocated, or changed to another conditional use, and no building or structure devoted to such use shall be structurally altered or enlarged, unless a new conditional use permit, or a modification of an existing conditional use permit, has been granted.

Pursuant to SRC 240.010(a), a conditional use permit approval may be modified after its effective date if the proposed modification meet the criteria set forth in SRC 240.010(d). Proposed modifications that do not meet the applicable criteria require submittal of an application for a new conditional use permit.

Pursuant to SRC 240.010(d), the modification of a conditional use permit shall be granted if the following criteria are met:

- (1) *The proposed modification is not substantially inconsistent with the conditions of the original approval; and*
- (2) *When compared with the original approval, the proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.*

The following subsections are organized with the approval criteria shown in ***bold italic***, followed by findings evaluating the proposed modification for conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the modification, or for the issuance of certain conditions to ensure the criteria are met.

A. SRC 240.010(d)(1): *The proposed modification is not substantially inconsistent with the conditions of the original approval; and*

Finding: The written statement provided by the applicant (**Attachment D**) indicates that the proposed modification will apply all the conditions of the existing Conditional Use approval for lots 3300, 1600, 1700, 1800 and 1900 to lots 2000 and 2100. All lots are located contiguous to each other and are on the same block. Lots 2000 and 2100 are the smallest lots on the block, representing about 9.6% of the total site area on the block, and are located on the southwest corner, adjacent to the alley and Division Street, on the side closest to the Downtown core and away from Commercial Street. These lots are located on the dead end of Division Street adjacent to the alley, arguably the best location on the block to situate the proposed use, with the least expected impact to the neighborhood. The applicant indicates that their small size means that extension of the proposed use to them should not increase the impact of the shelter facility. The two lots are within the Riverfront Overlay Zone and this zone includes "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." as an Additional Conditional Use, SRC 617.015(c), Table 617-2. The applicant explains that the UGM shelter satisfies these specific pre-requisites because it is an existing non-profit shelter that is currently in the CB zone, and it has been at its current location continuously since 1953. The applicant indicates there is nothing in the location, characteristics, use, adjacencies, or configuration of lots 2000 and 2100 that would make the conditions of the existing Conditional Use determination less effective or insufficient to address the concerns underlying the establishment of those conditions in the original determination if the Conditional Use is modified to include them. The applicant explains that inclusion of the parcels will permit the applicant to better address some of the conditions. The applicant indicates the parcels will be especially important in allowing the design of a gracious primary pedestrian entrance courtyard for shelter users that is large enough to prevent cueing and loitering along public streets and in the alley, and allow those users to be shielded from Commercial Street NE. It will also facilitate the design of a large, secure and safe area for storage of the clientele's personal belongings. The applicant also explains the use of the additional parcels enhances the ability to provide transparency from multiple points within the facility to the exterior gathering spaces, enhancing the passive surveillance of those approaching the shelter entrance courtyard.

Staff concurs with the findings included in the applicant's written statement. As identified by the applicant, the proposed modification of the conditional use permit to incorporate the two additional properties into the development, as well as the corresponding increase in the size of the building and the relocation of the primary client entrance from the alley to Division Street as a result of the two additional properties being incorporated into the development, results in an improved design for the shelter that better meets the conditions of approval of the original conditional use permit, better meets the needs the individuals that will be served by the shelter, and better meets the programmatic needs of the facility.

The original conditional use permit approval included the following eleven conditions:

- **Condition 1:** As a condition of the future development of the property, the applicant 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 impeded vehicular access to the ally.
- **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.
- **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 36inches 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 applicant 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 identified conditions were placed on the approval of the original conditional use permit in order to ensure the proposed shelter conformed to the conditional use permit approval criteria and that any reasonably likely impacts of the use on the immediate neighborhood are minimized.

Under the proposed modification, all eleven of the original conditions of approval will continue to apply and therefore no aspect of the proposed modification will be inconsistent with the original conditions of approval. Under the proposed modification video surveillance of the alley will be provided to ensure safety as required under Condition 1; signage directing clients to outside waiting areas on the property and discouraging loitering and obstruction of the public sidewalk will be provided as required under Condition 2; the development will be required to obtain State Highway access permits for the proposed driveways onto Commercial Street as required under Condition 3; a pedestrian connection is provided between the main guest entry into the shelter and a public sidewalk within an abutting street – in the case of the proposed modification, Division Street – as required under Condition 4; any outside storage areas will be screened as required under Condition 5; the proposed shelter will continue to be limited to a maximum of 300 overnight occupants, of which a minimum of 78 beds shall be committed to transition housing occupants, as required under Condition 6; secure covered storage for client and personal belongings will be provided as required under Condition 7; the primary entrance for shelter users is not located along the Commercial Street frontage, the proposed exterior gathering space in front of the main shelter entrance will be visible from within the building, and shrubs will be limited in height as required under Condition 8; the site will be monitored by staff 24-hours a day as required under Condition 9; a photometric plan identifying the site's proposed light fixtures, placements, and illumination intensity will be provided as required under Condition 10; and a restroom available to men 24-hours a day will be provided as required under Condition 11.

Because all eleven conditions of approval applicable to the original conditional use permit will continue to apply to the proposed modification, the proposed modification is not substantially inconsistent with the conditions of the original approval. The proposed modification therefore conforms to this approval criterion.

B. SRC 240.010(d)(2): When compared with the original approval, the proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

Finding: The written statement provided by the applicant (**Attachment D**) indicates, in summary, that modifying the Conditional Use to include lots 2000 and 2100 will not result in an increase of the proposed Men's Shelter building program. The applicant explains that the site will remain limited to 300 total overnight beds, with a minimum of 78 transitional beds, per the conditions; the program for supporting functions and their proposed areas within the building will not change significantly; the building height, massing, and modulation will be similar; and the general proposed configuration will not change. The applicant indicates that the new shelter building will continue to be located on the south end of the property, the existing retail building will remain on the north end of the property, and parking will be located between.

The applicant explains that approval of the proposed modification will not alter the proposed use of the site as permitted by CU-ZC17-14. The existing downtown Non-Profit Shelter with more than 75 beds will be relocated to this site as permitted as a conditional use under the Riverfront Overlay zone and approved in the project action noted above, with no change to the conditions of approval or to the proposed program provided as a basis for the original Conditional Use application. The applicant indicates that, as noted previously, the proposed shelter use will be located at the south end of the property and the existing retail use will remain at the north end of the property, in substantial conformance to the original approved application.

The applicant indicates that approval of the modification of the Conditional Use will not increase the impact on surrounding properties. The applicant explains that, conversely, the additional site area made available by approval of the modification to include lots 2000 and 2100 will allow some conditions to be addressed with enhanced solutions that further reduce the potential impacts on the surrounding properties. The applicant indicates that with the additional site area a large entry courtyard is now proposed that will provide an off street gathering and queuing space, accessed from the Division Street and screened from Commercial Street. The entry courtyard will discourage loitering on Commercial Street, Division Street, and in the alley. The applicant explains that transparent walls looking into the courtyard will serve to increase the monitoring of pedestrians by building staff and that the additional lots will also provide area to meet the requirement for screened and secure space for bicycles, and a larger personal effects storage space. The applicant also indicates that the additional property allows these elements to be oriented in such a way to provide an efficient and clear arrangement of the many design elements that need to interact at the building entry, while enhancing security and streamlining user interactions and access to the facility.

Staff concurs with the findings included in the applicant's written statement. Under the modification, the proposed shelter facility will continue to remain on the southern portion of the site, there is no proposed increase to the maximum number of overnight occupants the facility is approved to serve, and all of the conditions established as part of the original conditional use permit approval to mitigate the potential impacts of the use on the immediate neighborhood will continue to apply.

Though incorporation of the two additional properties located at 253 and 275 Division Street NE into the proposed development allows for a portion of the use to extend onto those properties, thereby resulting in a larger building, the proposed additional building space does not represent a substantial change to the physical appearance of the development or use of the site and the added area allows for an improved building design and an improved interior spatial layout within the interior of the building, as indicated by the applicant, in order to better meet the programmatic functions of the building and meet user needs.

In addition, incorporation of the two additional properties also allows for improved access for shelter users to the site with a large open front entry area off of Division Street that will be clearly visible from within the building by UGM staff to ensure improved visual surveillance and safety. Under the original approval, the main guest entry area was a long narrow corridor located to the back of the building where visual surveillance was limited and the only pedestrian access to the entry was provided via the alley. In order to improve pedestrian safety and mitigate the impacts of the main guest entry being oriented towards the alley, a condition of approval, Condition 4, was established requiring a pedestrian connection to be provided within the development to connect the main guest entrance to the public sidewalk within an abutting street. If the option to connect the main guest entrance to the sidewalk in an abutting public street was not possible, only then could the alley be used to make that connection but only when a visually distinct or raised pedestrian path was provided in the alley.

In addition to Condition 4 being established to mitigate the impacts of the original proposed alley access for shelter guests, the Hearings Officer also imposed Condition 1 which required the primary guest entrance to the shelter to either be reoriented to Commercial Street or video surveillance be provided along the full length of the alley. Condition 1, however, was later modified upon appeal to eliminate the option of orienting the main guest entry toward Commercial Street and additional Condition 8 was established requiring the primary entrance for the emergency shelter to not be located along the Commercial Street frontage.

The relocated guest entry facing Division Street proposed with this modification better meets Condition 4 by providing a direct and highly visible pedestrian connection between the main guest entry and the public sidewalk in Division Street; thereby eliminating the need to attempt to improve the safety of the alley for primary pedestrian access. The relocated guest entry facing Division Street also conforms to Condition 8 which requires the primary shelter entrance to not be located along the Commercial Street frontage.

The proposed modification incorporating the two additional properties into the development and the resulting extension of the building onto portions of those properties together with the relocation of the primary guest entry to face Division Street, rather than the ally, do not result in a significant change to the physical appearance of the development or the use of the site. The proposed modification will also not result in significant changes to impacts on surrounding properties because the intensity of the

use is not proposed to change, the maximum number of allowed overnight guests will remain the same, and all of the conditions established as part of the original approval to mitigate the impacts of the proposed development will continue to apply.

The proposed modification allows for a facility that is better designed to meet the needs of the individuals it serves and provides for improved access and safety. The proposed modification conforms to this approval criterion.

10. Effect on Expiration Period of Original Approval:

The final decision on Conditional Use Permit and Zone Change Case No. CU-ZC17-14 was issued on May 30, 2018. Pursuant to SRC 300.850, Table 300-3, the various components of the original application are set to expire on the following dates:

Original Expiration Periods:

- | | |
|---------------------------|-----------------------------|
| ▪ Zone Change: | <u>No Expiration Period</u> |
| ▪ Conditional Use Permit: | <u>May 30, 2020</u> |

Pursuant to SRC 240.010(e), when a conditional use permit approval is modified, the effect of the modification upon the expiration period of the original approval, if any, shall be established in the modification decision.

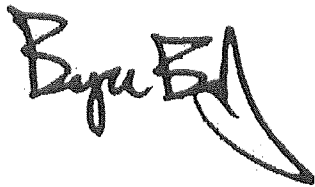
Because other land use approvals are still required before development of the proposed shelter can commence, and because roughly one year of time has elapsed since the original conditional use permit approval was issued on May 30, 2018, the original expiration date for the Conditional Use Permit shall be extended for a period of one year. As such, the expiration date for the modified Conditional Use Permit is as follows:

New Expiration Period:

- | | |
|---------------------------|---------------------|
| ▪ Conditional Use Permit: | <u>May 30, 2021</u> |
|---------------------------|---------------------|

IT IS HEREBY ORDERED

The requested modification of Conditional Use Permit and Zone Change Case No. CU-ZC17-14 to modify the conditional use permit approval for the relocation of the Union Gospel Mission (UGM) of Salem's men's shelter to incorporate two additional properties located at 253 to 275 Division Street NE into the proposed development; affecting property totaling approximately 2.54 acres in size, zoned CB (Central Business District) and CO (Commercial Office) with Riverfront Overlay, and located in the 700 to 800 blocks of Commercial Street NE and at 253 to 275 Division Street NE (Marion County Assessor Map and Tax Lot Numbers: 073W22AC03300 and 073W22DB01600, 1700, 1800, 1900, 2000 & 2100), is hereby **APPROVED** subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the findings and conditions adopted in the original approval of Conditional Use Permit and Zone Change Case No. CU-ZC17-14.



Bryce Bishop, Planner II
Planning Administrator Designee

Attachments: A. Vicinity Map
B. Final Decision Approving Conditional Use Permit and Zone Change Case No. CU-ZC17-14
C. Modified Site Plan
D. Applicant's Written Statement

Application Deemed Complete: March 7, 2019
Notice of Decision Mailing Date: April 26, 2019
Decision Effective Date: May 14, 2019
State Mandated Decision Date: July 5, 2019

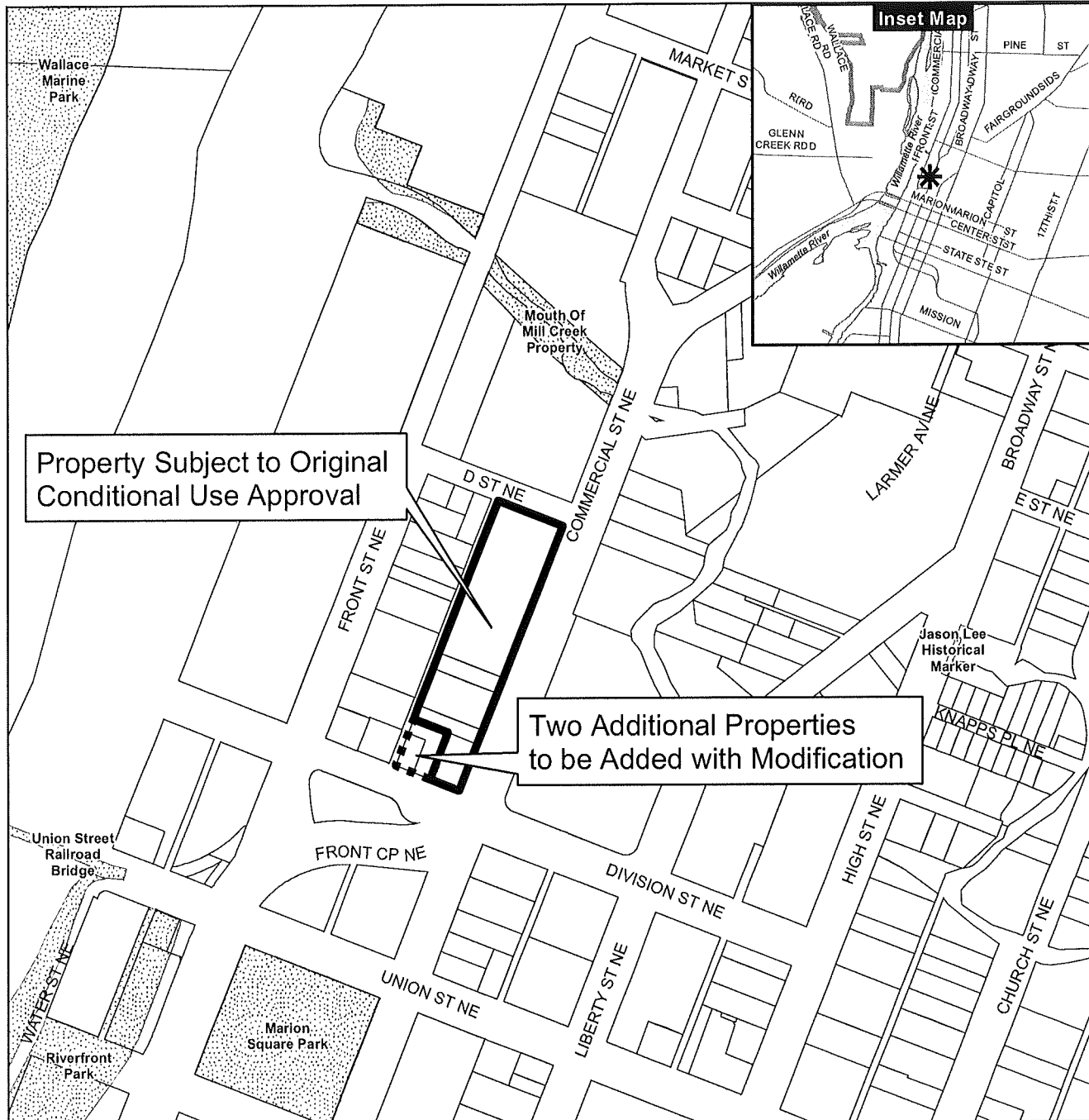
A copy of the complete Case File is available for review during regular business hours at the Planning Division office, 555 Liberty Street SE, Room 305, Salem OR 97301.

This decision is final unless written appeal from a party with standing to appeal, along with an appeal fee, is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem, Oregon 97301, no later than **Monday, May 13, 2019, 5:00 p.m.** The notice of appeal must contain the information required by SRC 300.1020. The notice of appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the notice of appeal is untimely and/or lacks the proper fee, the notice of appeal will be rejected. The Hearings Officer will review the appeal at a public hearing. The Hearings Officer may amend, rescind, or affirm the action or refer the matter to staff for additional information.

cc: Alan Kessler, GIS

Vicinity Map

700 to 800 Blocks of Commercial Street NE; 253 to 275 Division Street NE



Legend

Taxlots

Urban Growth Boundary

City Limits

Outside Salem City Limits

Historic District

Schools

Parks

CITY OF *Salem*
AT YOUR SERVICE
Community Development Dept.

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ATTACHMENT B



COMMUNITY DEVELOPMENT DEPARTMENT

555 Liberty St SE / Room 305 • Salem, OR 97301-3503 • (503) 588-6173 • (503) TTY 588-6353 • (503) Fax 588-6005

May 30, 2018

Si necesita ayuda para comprender esta informacion, por favor llame 503-588-6173.

**NOTICE OF FINAL LAND USE DECISION Conditional Use / Quasi-Judicial Zone Change
Case No. CU-ZC17-14
for property located at 700-800 Blocks of
Commercial Street NE**

YOU ARE HEREBY NOTIFIED that the City Council at their May 29, 2018 session, adopted findings affirming and modifying the Hearings Officer's decision for the Union Gospel Mission of Salem's Conditional Use and Quasi-Judicial Zone Change application. A copy of the Order is attached.

Any person with standing may appeal the City Council's decision by filing a "Notice of Intent to Appeal" with the Land Use Board of Appeals, 775 Summer St NE, Suite 330, Salem OR 97301-1283, **not later than 21 days after May 30, 2018**. Anyone with questions regarding filing an appeal with the Oregon Land Use Board of Appeals should contact an attorney.

The complete case file, including findings, conclusions, modifications, and conditions of approval, if any is available for review at the Community Development Department, 555 Liberty St SE, Room 305, Salem OR 97301. If you have any further questions, you may contact the City of Salem Planning Division at 503-588-6173.

Lisa Anderson-Ogilvie, AICP
Deputy Community Development Director
and Planning Administrator

Attachment: Order

BEFORE THE CITY COUNCIL OF THE CITY OF SALEM

| | |
|--------------------------------------|---------------------------------------|
| IN THE MATTER OF THE APPEAL |) ORDER NO. 2018-04 CU-ZC17-14 |
| OF DECISION OF THE HEARINGS |) CONDITIONAL USE / |
| OFFICER FOR CONDITIONAL USE / |) QUASI-JUDICIAL ZONE CHANGE |
| QUASI-JUDICIAL ZONE CHANGE |) CASE NO. CU-ZC17-14 |
| CASE NO. CU-ZC17-14 |) |

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 29th day of May, 2018.

ATTEST:

City Recorder

A handwritten signature in black ink, appearing to read "Rusty Ann Stillmeyer". The signature is written in a cursive, flowing style.

Checked by: Bryce Bishop

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005

NOTICE OF DECISION



Exhibit 1

*Si necesita ayuda para comprender esta informacion, por favor llame
503-588-6173*

DECISION OF THE HEARINGS OFFICER

CONDITIONAL USE / QUASI-JUDICIAL ZONE CHANGE CASE NO. CU-ZC17-14

APPLICATION NO. : 17-122248-ZO & 17-122249-ZO

NOTICE OF DECISION DATE: FEBRUARY 9, 2018

SUMMARY: A consolidated application for a Conditional Use Permit and Zone Change for the proposed relocation of the Union Gospel Mission (UGM) of Salem's men's shelter.

REQUEST: A consolidated application for a Conditional Use Permit and Zone Change for the proposed relocation of the Union Gospel Mission (UGM) of Salem's men's shelter from its current downtown location at 345 Commercial Street NE to a proposed new location on property located in the 700 to 800 blocks of Commercial Street NE.

The application includes the following:

- 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.

The subject property totals approximately 2.3 acres in size, is currently zoned CO (Commercial Office) with Riverfront Overlay, and is located in the 700 to 800 blocks of Commercial Street NE (Marion County Assessor Map and Tax Lot Numbers: 073W22AC03300 and 073W22DB01600, 1700, 1800, & 1900).

APPLICANT: Dan Clem for Union Gospel Mission of Salem

LOCATION: 700-800 Blocks of Commercial Street NE / 97301

CRITERIA: Conditional Use: SRC Chapter 240.005(d)
Quasi-Judicial Zone Change: SRC Chapter 265.005(e)(1)

FINDINGS: The findings are in the attached Order dated February 9, 2018.

DECISION: The Hearings Officer **APPROVED** Conditional Use / Quasi-Judicial Zone Change Case No. CU-ZC17-14 subject to the following 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.

The rights granted by the attached decision for Conditional Use Case No. CU-ZC17-14 must be exercised, or an extension granted, by **February 27, 2020** or this approval shall be null and void.

Application Deemed Complete: November 21, 2017
Public Hearing Date: December 20, 2017
Notice of Decision Mailing Date: February 9, 2018
Decision Effective Date: February 27, 2018
State Mandate Date: April 20, 2018

Case Manager: Bryce Bishop, bbishop@cityofsalem.net; 503.540.2399

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than **5:00 p.m., February 26, 2018.** Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 240 and 265. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing.

If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Salem City Council will review the appeal at a public hearing. After the hearing, the City Council may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

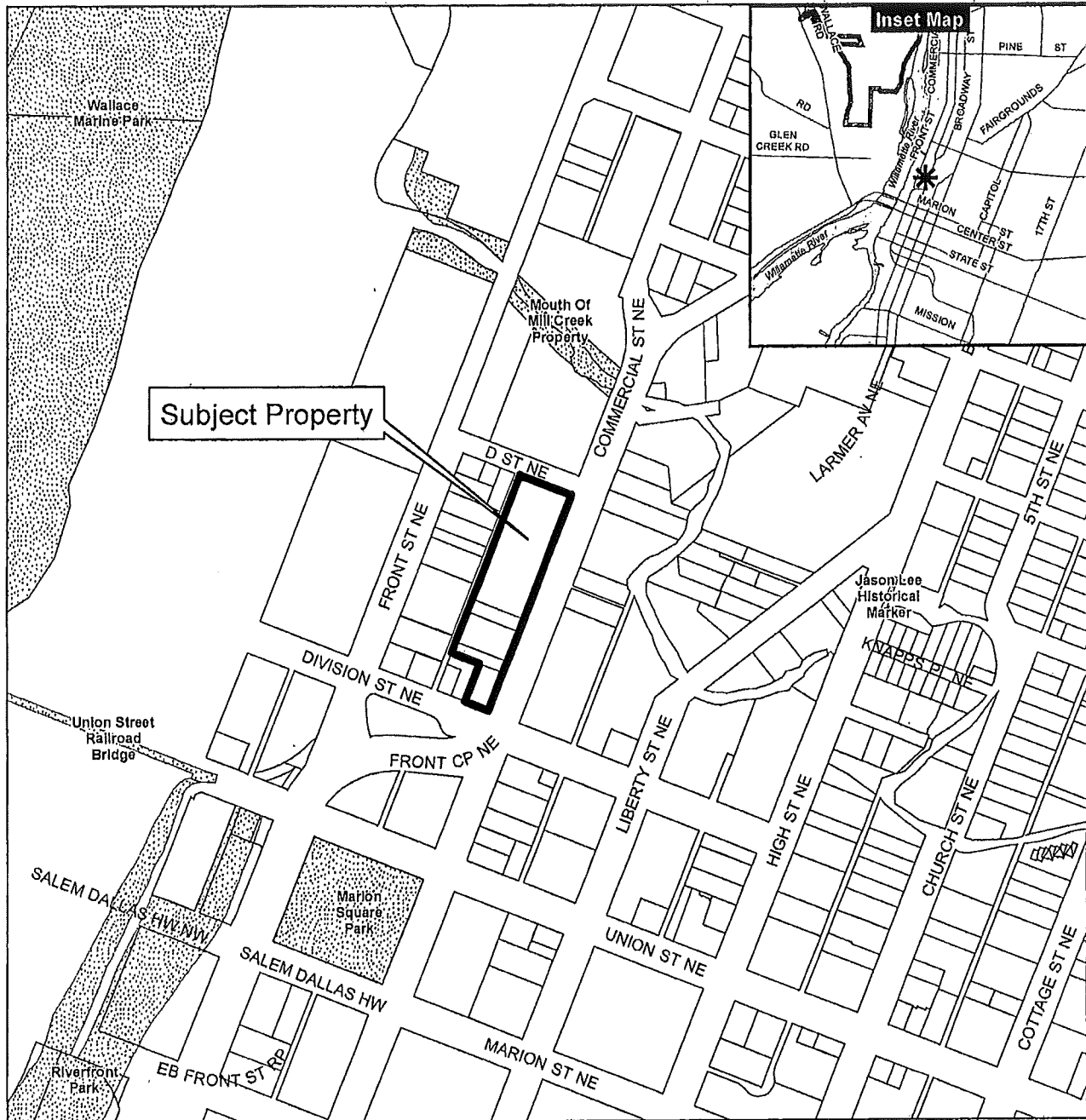
The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

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Vicinity Map

700 to 800 Blocks of Commercial Street NE



Legend

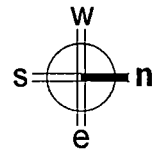
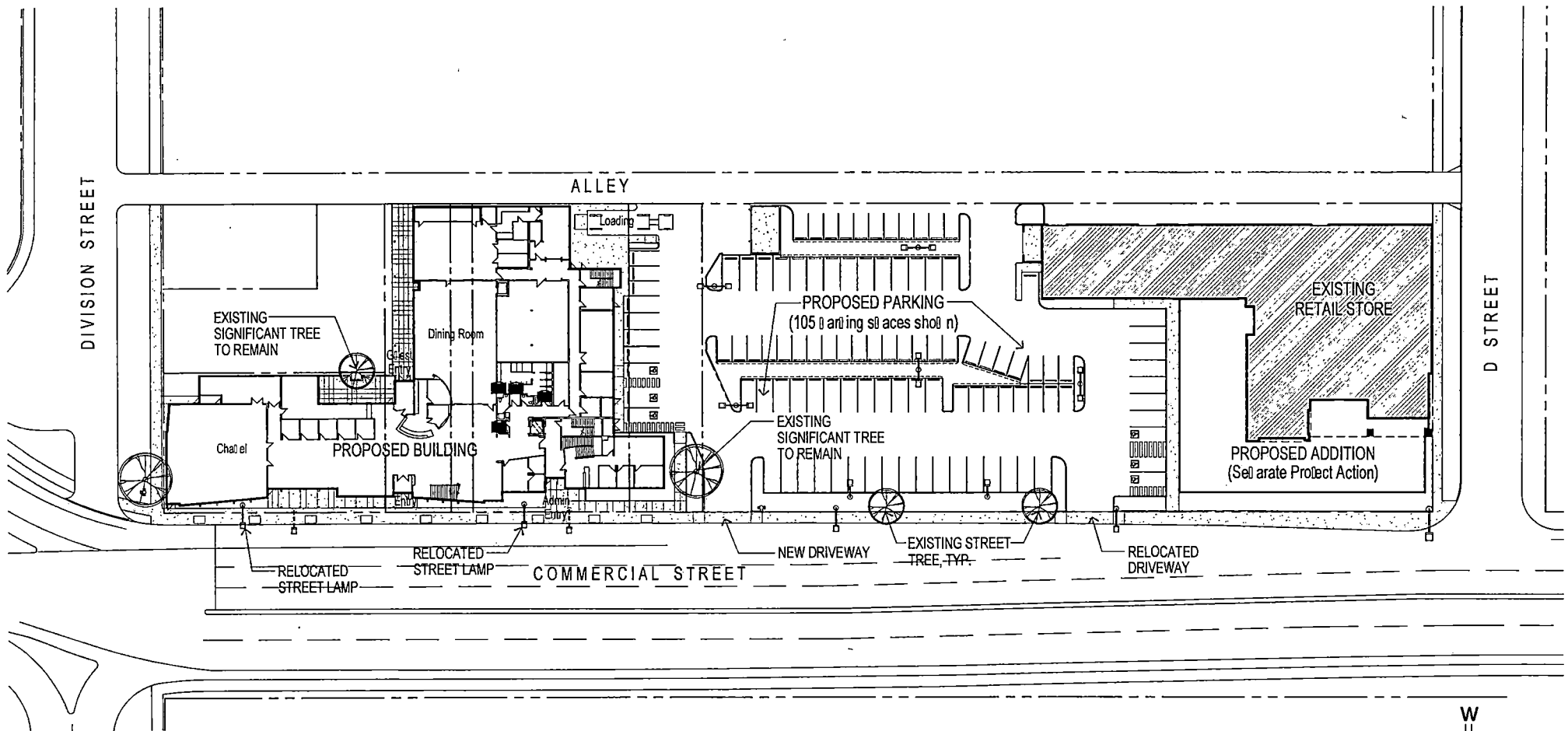
- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools
- Parks

CITY OF *Salem*
AT YOUR SERVICE
Community Development Dept.

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0 100 200 400 Feet





MERRICK LENTZ ARCHITECT
 ARCHITECTURE - PLANNING
 12815 NE 126th Place . Kirkland, WA . 98034

Project Name:
UGM Salem - Commercial St NE Emergency Shelter
Conditional Use Permit

Description:
Proposed Site Plan

Date: 11/27/17
 Scale: 1" = 50'-0"

Drawing Number:
CU1.2

LANDSCAPING NOTES

PROPOSED PERIMETER LANDSCAPING: 5388 SF
PROPOSED TOTAL LANDSCAPING AREA: 8731 SF
TOTAL SITE AREA: 104,712 SF
PERCENTAGE OF SITE AREA LANDSCAPED: 8.34 %

PARKING LOT LANDSCAPING NOTES

OFF STREET PARKING AREA: 41,897 SF
INTERIOR LANDSCAPING REQUIRED (5% MIN): 2095 SF
INTERIOR LANDSCAPING PROPOSED: 3343 SF

REQUIRED INTERIOR TREES (1/12 STALLS): 10 Trees
PROPOSED INTERIOR TREES: 13 Trees

PARKING NOTES

REQUIRED PARKING

| USE | AREA | SF/SPACE | REQ. SPACES |
|--------------------|-----------|-----------|-------------|
| SHELTER | | | |
| SHELTER USE | 51,285 SF | 1/350 SF* | 146 SPACES* |
| ADMINISTRATION | 6,997 SF | 1/350 SF | 20 SPACES |
| THRIFT STORE | | | |
| RETAIL | 9185 SF | 1/250 SF | 37 SPACES |
| RETAIL (FURNITURE) | 2797 SF | 1/900 SF | 4 SPACES |
| WAREHOUSE | 2682 SF | 1/1500 SF | 2 SPACES |
| OFFICE | 739 SF | 1/350 SF | 3 SPACES |
| TOTAL | | | 212 SPACES* |

PROPOSED PARKING

| | |
|-----------|------------|
| FULL SIZE | 58 SPACES |
| COMPACT | 55 SPACES |
| TOTAL | 113 SPACES |

BICYCLE PARKING

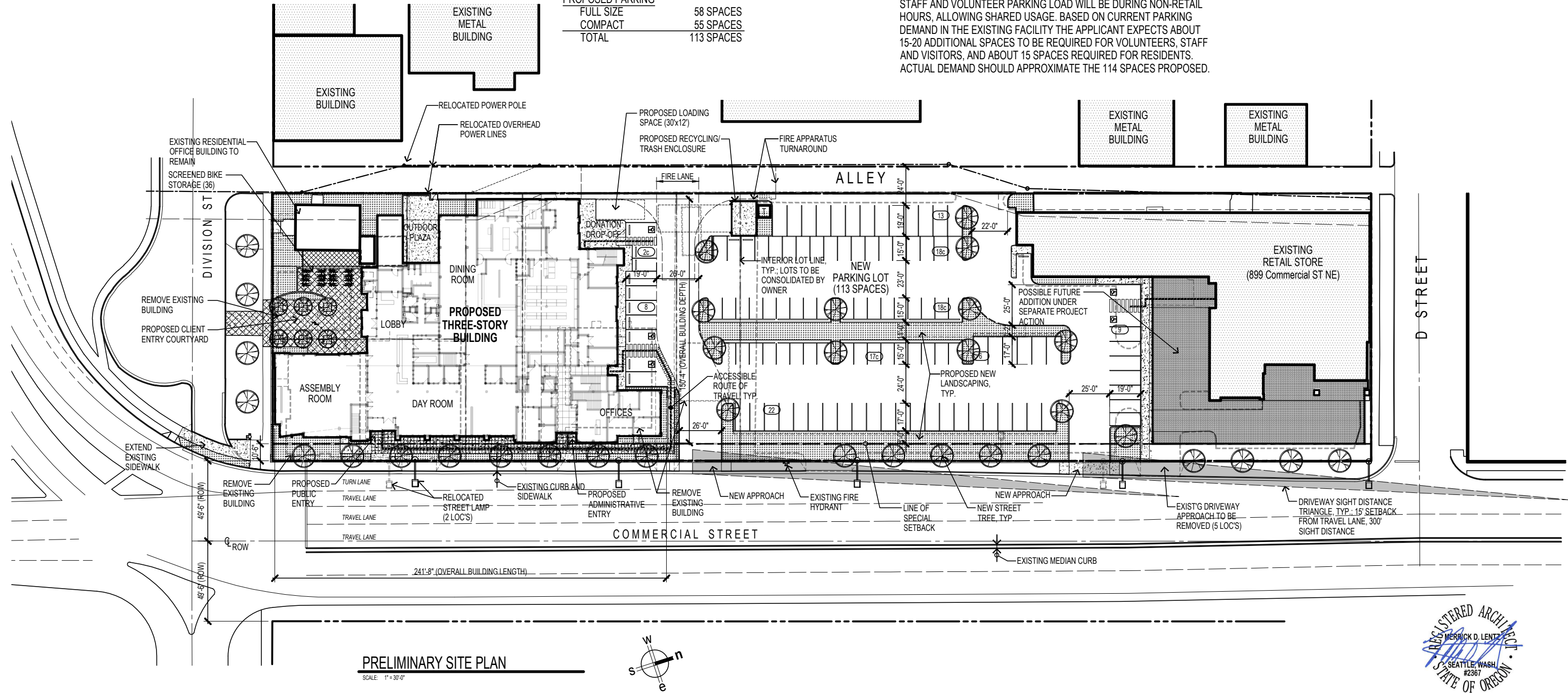
| USE | AREA | SPACES | REQ. SPACES | PROPOSED |
|---------|-----------|-------------|-------------|-----------|
| SHELTER | 58,282 SF | 1/3500 SF** | 16 SPACES | 32 SPACES |
| RETAIL | 15,403 SF | 4 MIN. | 4 SPACES | 4 SPACES |

**FOR THE FIRST 50,000 SF. 1/7000 SF THEREAFTER.

* NOTE: APPLICANT WILL PURSUE AN ADJUSTMENT PER CHAPTER 250 TO THE REQUIRED PARKING LOAD FOR THE SHELTER USE. 1 SPACE PER 350 GROSS SF GREATLY EXCEEDS THE ACTUAL PARKING DEMAND FOR THIS USE BASED ON ESTABLISHED HISTORICAL USAGE. VERY FEW OF THE SHELTER CLIENTS WILL HAVE PERSONAL VEHICLES AND PEAK STAFF AND VOLUNTEER PARKING LOAD WILL BE DURING NON-RETAIL HOURS, ALLOWING SHARED USAGE. BASED ON CURRENT PARKING DEMAND IN THE EXISTING FACILITY THE APPLICANT EXPECTS ABOUT 15-20 ADDITIONAL SPACES TO BE REQUIRED FOR VOLUNTEERS, STAFF AND VISITORS, AND ABOUT 15 SPACES REQUIRED FOR RESIDENTS. ACTUAL DEMAND SHOULD APPROXIMATE THE 114 SPACES PROPOSED.

PROPOSED ADJUST

1. REQUIRED PARKING.
2. SINGLE LOADING SPACE FOR THE SHELTER INSTEAD OF THE TWO REQUIRED BY THE CODE.
3. MAXIMUM SETBACK ALONG DIVISION ST. INCREASED FROM 12'-0", TO ALLOW THE CONSTRUCTION OF THE ENTRY COURTYARD, AND MEET CONDITIONS OF THE CONDITIONAL USE PERMIT.
4. PARKING SETBACK FROM DIVISION REDUCED TO 6', WITH A MAX. 36" HIGH HEDGE.
5. REMOVE THE 5' LANDSCAPE BUFFER TO ALLEY FOR LOADING SPACE.
6. FRONTAGE MODULATION REQUIREMENTS: TO BE ADDRESS IN DESIGN REVIEW.
7. DUMPSTER SETBACK?



Union Gospel Mission of Salem

CONDITIONAL USE PERMIT CU-ZC17-14 MODIFICATION for

Proposed New Men's Shelter at 715-745 Commercial Street - Lots 2000 and 2100

Proposal to Modify CU-ZC17-14 to extend Conditional Use Determination to Lots 2000 and 2100.

BACKGROUND

The Union Gospel Mission of Salem (UGM) proposes to relocate its men's shelter, currently located at 345 Commercial Street NE in the downtown Central Business District, to the north at a site along the west side of Commercial Street, north of Division Street. UGM's administrative offices and retail/resale store are currently located on this block with the administrative office mid-block at 745 Commercial, and the retail store at the north end of the block at 885-899 Commercial, bordering D Street. The retail store has been at this location since 1987, and the administrative offices have been there since 2009.

The UGM ownership along Commercial Street is composed of six contiguous lots that extend from Division Street to D Street. These are identified as Tax Lots 1600, 1700, 1800, 1900 and 2000, on Marion County Assessor's map 7-3W-22DB; and Tax Lot 3300 on map 7-3W-22AC. The six lots are addressed as 715, 745, 771, and 885-899 Commercial St. NE, and 275 Division Street SW. The retail store is on Tax Lot 3300, and the administration office is in a separate building on Tax Lot 1700. An old house occupies parcel 1600, an office building is on Tax Lot 1900, and an electric motor repair shop occupies Tax Lot 2000. Additionally, UGM has executed a purchase agreement with the owner of Tax Lot 2100, the lone remaining parcel on the block not owned by UGM, the address of which is 253 Division Street, and is occupied by an existing residence converted to a commercial office building.

The contiguous site totals 2.57 acres. Lots 3300, 1600, 1700, 1800, and 1900 are currently zoned CB, having been rezoned recently under project action CU-ZC17-14. This project action also

granted a Conditional Use Permit for the proposed UGM Shelter relocation with conditions. Tax Lots 2000 and 2100 remain zoned CO, and are not included in the existing Conditional Use Permit determination. All lots on the block are within the Riverfront Overlay (RO) Zone, Area 2 (SRC Chapter 617). It is designated River Oriented Mixed-Use on the Comprehensive Plan (SACP) map.

The River Oriented Mixed-Use designation and Riverfront Overlay Zone were adopted by the City in 1998 to promote the redevelopment and renewal of the older industrial and commercial area north of the downtown central business district. The intent of the Riverfront Overlay Zone is to "...promote a mixed-use residential and commercial district with an emphasis on office development and pedestrian access to and along the Willamette River." (SRC Chapter 617.001). Area 1 of the Overlay is between the Willamette River and Front Street, and is designated for multiple family high density residential use. Area 2 is between Front Street and Commercial Street, and is currently designated CO, which allows both office uses and multifamily residential use (SRC Chapter 521).

The site for the new Salem Police facility, recently acquired by the City, is directly east across Commercial Street from the UGM property. It is zoned CB, but is not within the Overlay Zone.

In 2014, the City Council amended the Riverfront Overlay Zone to include non-profit shelters serving more than 75 persons as an "Additional Conditional Use" (Code Amendment Case CA14-03, Ordinance Bill 19-14). The amendment was requested by the UGM in anticipation of relocating its shelter to this site with an expanded capacity to address its persistent need to serve more individuals than its current site allowed. Prior to the Code Amendment shelters were included as a Conditional Use in the CO zone, but were limited to serving a maximum of 75 persons. The provision in the RO zone is limited to "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." (SRC 617.015(c), Table 617-2). Because shelters were previously a Conditional Use in the underlying CO zone it is important to note that the Code

Amendment did not introduce a completely new use to this location, but only altered the allowable scope of that use, and limited it to satisfaction of specific pre-requisites. The existing Conditional Use Permit decision determined that the proposed UGM shelter at this location satisfies these specific pre-requisites because it is an existing non-profit shelter that is currently in the CB zone, and it has been at its current location continuously since 1953.

The Proposal

Permit action CU-ZC17-14 approved with conditions a Condition Use Permit for the relocation of the men's shelter to Tax Lots 3300, 1600, 1700, 1800 and 1900 and the rezone of those lots to CB. UGM requests a modification to the CU-ZC17-14 Conditional Use Permit to extend the determination and its conditions to the remaining lots on the block under their current or contracted ownership, Tax Lots 2000 and 2100, pursuant to the requirements of SRC Section 240.010. UGM has acquired Tax Lot 2000 and has executed a sale and purchase agreement for Tax Lot 2100 which will bring that property under UGM ownership by October 1, 2019. UGM acquired these additional lots after the Land Use Conditional Use and Rezone action was underway, so they are not included in the original rezone or land use determination. This Conditional Use Permit Modification will permit the relocated UGM men's shelter to utilize the entire site for the development and better meet the conditions required by the City Council determination, making the highest and best use of the property.

UGM proposes the modification of the Conditional Use Permit but is not requesting a rezone of lots 2000 and 2100. The Conditional Use Permit for the proposed use is a provision of the Riverfront Overlay Zone and is applicable regardless of whether the underlying base zone is rezoned to CB or remains CO. For this reason this Land Use action is limited to the Conditional Use modification and does not include a rezone of the two CO lots.

Preliminary Site Plan

A preliminary site plan is provided with this application to show a concept of how the site could

be redeveloped for the proposed shelter. This site plan is preliminary but incorporates conditions assigned to the approval of the CU-ZC17-14 application, and is subject to the City's required Site Plan Review process.

The preliminary plan shows the new shelter situated at the south end of the site. It is planned to be a multi-story building providing approximately 58,000 square feet of space. The new facility will replace the existing administration building, the old house, the office building and the electric motor repair shop building currently on the building site. The retail store will remain at its current location at the north end of the property, with a possible future addition. Parking is provided between the existing and new buildings, with 113 spaces shown. Access to the property is provided by two driveways to Commercial St. and by the alley that runs along the west side of the site. A median in Commercial Street prevents left turns into or out of the Commercial Street driveways, restricting traffic to right-in/right-out southbound movements. Client access to the proposed shelter is from Division Street, as required by the conditions of the 2018 determination. The existing office building on Tax Lot 2100 will remain under this proposal and will be used in support of the proposed new shelter.

Surrounding Land Uses and Transportation Facilities

The immediate neighborhood surrounding the UGM site is characterized by a mix of commercial retail, service, office, and industrial activities, and the major transportation corridors north of downtown. The surrounding properties, and those across the bordering streets, have experienced little change in use since the adoption of the Overlay Zone. The major change to date has been on the property to the east across Commercial Street, which has been vacated by the former car dealership, and acquired by the City for the new Police facility.

West of the alley FCC Inc. occupies Tax Lot 2200, and a heating and cooling contractor occupies Tax Lots 2300 and 2400. West of the site, along Front Street, the McNary Square office building is on Tax Lot 2600 (map -22DB). A vacant auto repair shop is on Tax Lot 2300, and a tavern is on D Street just east of Front, on Tax Lot 2700. An office building is at D Street and the alley, on

Tax Lot 2800 (map -22AC). South of Division Street, the offices of the State Teachers Standards and Practices Commission is on Tax Lot 3301.

The west side of Front Street is currently occupied mainly by commercial and industrial uses. Cascade Door & Millwork Co. and Building Materials Bargain Center are on Tax Lot 2000. A church now occupies part of that former commercial space. A warehouse building, planned for redevelopment as a residential care facility is on Tax Lot 1900 (map - 22AC). The extensive Truitt Bros. food processing operation is located along both sides of Front Street, north of Mill Creek. The Truitt site west of Front Street is now zoned RH (Multiple Family High Rise Residential) which reflects the intent of the River Oriented Mixed-Use designation. However, the industrial operation is included as a "Continued Use" in the Riverfront Overlay Zone, SRC 617.015(a), which provides for its continuing use, intensification, and enlargement, and there as yet is no proposal or approved plan for the redevelopment of that property.

The lands north of D Street, between Commercial and Front and extending to Mill Creek, include the Grocery Outlet store on Tax Lot 3200, and a vacant industrial building west of the grocery store on Tax Lot 2900 (map - 22AC). Those two properties are currently zoned CB, as a result of separate, recent Zone Changes requested by the property owners (DR-ZC-VAR-SPR 12-04, and ZC14-01). North of the creek an office building is located on Tax Lot 1000. North of the office property is an industrial warehouse along Front Street on Tax Lot 1100, and School District 24J's Riverfront Learning Center, a facility providing special programs for high school-age students with specialized learning needs, on Tax Lot 600.

As noted, the new Salem Police facility will be directly east across Commercial St. from the UGM property, on Tax Lot 800 (map -22AC). That site is also zoned CB. An office building is located north of the Police facility site.

There is no property in residential use in the immediate neighborhood surrounding the proposed UGM site. The nearest residential use is the Broadway Town Square development located north

of Belmont Street, a half-block east of Liberty Street, approximately three blocks from the site of the proposed UGM shelter. Two single family homes are located along the north side of Market Street east of Commercial St.

The UGM site is served by the major transportation routes that extend north of the downtown core. The primary access to the site is Commercial St. NE, which borders the east side of the property. This street is classified as a Parkway on the Salem Transportation System Plan (STSP, Map 3-1 Street Plan). This street classification is defined for an average daily traffic (ADT) volume of 30,000-60,000 vehicles per day (Table 3-1). It is the highest volume classification for an urban street in the STSP (the Freeway classification applies to Interstate 5). Front Street, a half-block to the west, is classified as a Minor Arterial, which is defined for an ADT of 7,000-20,000 vehicles per day. An active freight railroad line runs along Front Street at grade, without separation from vehicle travel lanes.

Division Street, which borders the south end of the site, extends east from Front Street and ends in a cul-de-sac. It does not connect to Commercial Street.

Summary

Conditional Use Permit CU-ZC17-14 has been issued to allow UGM to relocate its men's shelter to the site, excluding Tax Lots 2000 and 2100. The proposed Conditional Use Permit Modification to include lots 2000 and 2100 in the determination will allow UGM full use of the property when relocating from its longtime home in the downtown core. The use of the two lots allows the development to better address the conditions imposed by CU-ZC17-14 while eliminating land use "islands" at the southwest corner of the property and encouraging the highest and best use of the entire property. The proposed location is separate from, and minimizes its proximity to, any existing residential development. The proposal is consistent with the specific terms of the Code Amendment adopted in 2014 to allow the shelter in the RO zone.

CRITERIA

Conditional Use Modification Criteria, SRC 240.010(d)

The proposed relocation of the UGM shelter to a portion of the site including lots 2000 and 2100 requires modification of the standing Conditional Use Permit. Note that the May 28, 2018 Conditional Use Permit approval for Lots 3300, 1600, 1700, 1800, and 1900, contiguous to these lots, determined that the proposed use with conditions satisfies the City's approval criteria. The criteria for a Conditional Use Permit Modification are addressed as follows:

(d) *Criteria.* An application for modification of a conditional use permit approval shall be granted if all of the following criteria are met:

- (1) The proposed modification is not substantially inconsistent with the conditions of the original approval;

The proposed modification would apply all the conditions of the existing Conditional Use approval for lots 3300, 1600, 1700, 1800 and 1900 to lots 2000 and 2100. All lots are located contiguous to each other and are on the same block. Lots 2000 and 2100 are the smallest lots on the block, representing about 9.6% of the total site area on the block, and are located on the southwest corner, adjacent to the alley and Division Street, on the side closest to the Downtown core and away from Commercial Street. These lots are located on the dead end of Division Street adjacent to the alley, arguably the best location on the block to situate the proposed use, with the least expected impact to the neighborhood. Their small size means that extension of the proposed use to them should not increase the impact of the shelter facility. The two lots are within the Riverfront Overlay Zone and this zone includes "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." as an Additional Conditional Use, SRC 617.015(c), Table 617-2. The UGM shelter satisfies these specific pre-requisites because it is an existing non-profit shelter that is currently in the CB zone, and it has been at its current location continuously since 1953. There is nothing in the location, characteristics, use, adjacencies or configuration of lots 2000 and 2100 that would make the conditions of the existing CU determination less effective or

insufficient to address the concerns underlying the establishment of those conditions in the original determination if the CU is modified to include them. In fact, the inclusion of the parcels will permit the applicant to better address some of the conditions. The parcels will be especially important in allowing the design of a gracious primary pedestrian entrance courtyard for shelter users that is large enough to prevent cueing and loitering along public streets and in the alley, and allow those users to be shielded from Commercial Street NE. It will also facilitate the design of a large, secure and safe area for storage of the clientele's personal belongings. Finally, the use of the additional parcels enhances the ability to provide transparency from multiple points within the facility to the exterior gathering spaces, enhancing the passive surveillance of those approaching the shelter entrance courtyard. For these reasons this criteria is satisfied.

- (2) When compared with the original approval, the proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

Modifying the Conditional Use to include lots 2000 and 2100 will not result in an increase of the proposed Men's Shelter building program. The site will remain limited to 300 total overnight beds, with a minimum of 78 transitional beds, per the conditions. The program for supporting functions and their proposed areas within the building will not change significantly. The building height, massing and modulation will be similar, although the length of the building's Commercial Street façade will likely be reduced, since lots 2000 and 2100 may be used, allowing the building to have a more rectangular shape. This should result in a slight reduction of the perceived scale of the building to the neighborhood. However, the proposed configuration will not change: The new shelter building will be located on the south end of the property, the existing retail building will remain on the north end of the property, and parking will be located between.

Approval of the proposed modification will not alter the proposed use of the site as permitted by CU-ZC17-14. The existing downtown Non-Profit Shelter with more than 75 beds will be relocated to this site as permitted as a conditional use under the Riverfront

Overlay zone and approved in the project action noted above, with no change to the conditions of approval or to the proposed program provided as a basis for the original Conditional Use application. As noted previously, the Shelter use will be located at the south end of the property and the existing retail use will remain at the north end of the property, in substantial conformance to the original approved application.

Approval of the modification of the Conditional Use will not increase the impact on surrounding properties. Conversely, the additional site area made available by approval of the modification to include lots 2000 and 2100 will allow some conditions to be addressed with enhanced solutions that further reduce the potential impacts on the surrounding properties. With the additional site area the applicant proposes a large entry courtyard that will provide an off street gathering and cueing space, accessed from the Division Street and screened from Commercial Street. The entry courtyard will discourage loitering on Commercial Street, Division Street, and in the alley. Transparent walls looking into the courtyard will serve to increase the monitoring of pedestrians by building staff. The additional lots will also provide area to meet the requirement for screened and secure space for bicycles, and a larger personal effects storage space. In addition, the additional property allows these elements to be oriented in such a way to provide an efficient and clear arrangement of the many design elements that need to interact at the building entry, while enhancing security and streamlining user interactions and access to the facility. For these reasons this criteria is satisfied.

Conditions

The applicant proposes to modify Conditional Use Permit CU-ZC17-14 (for the adjacent lots) to extend it together with all of its Conditions to lots 2000 and 2100. These conditions are as follows:

Condition 1: As a condition of the future development of the property, the applicant 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.

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.

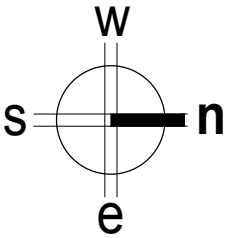
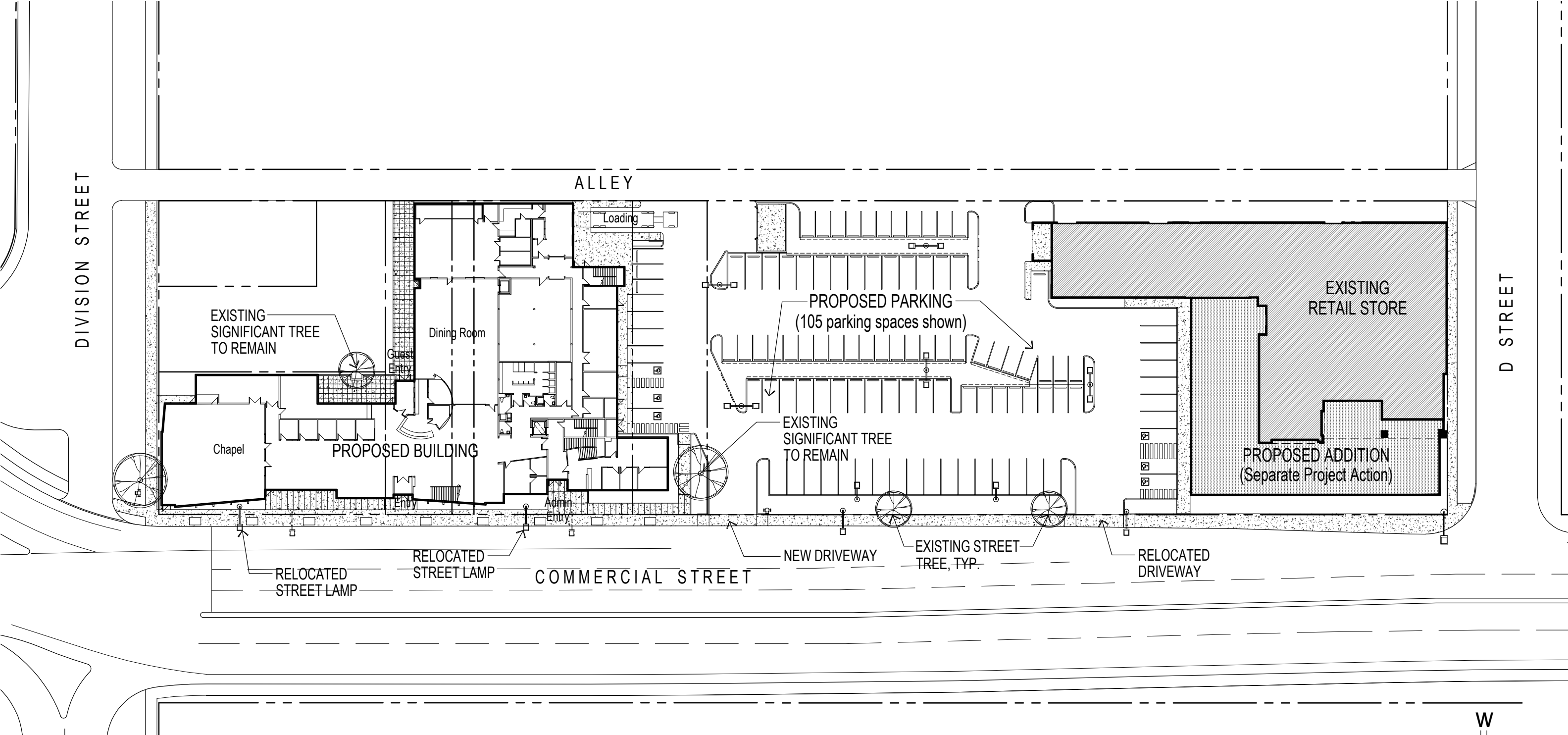
Summary

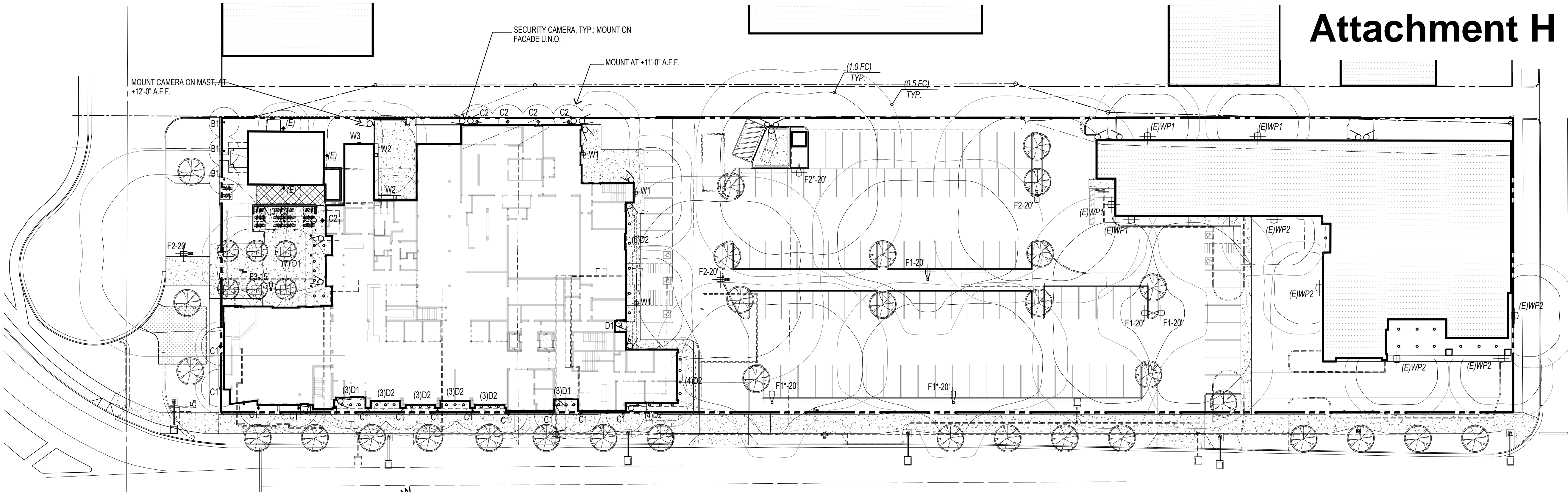
The Conditional Use Permit modification will provide for the shelter use with the capacity and facilities to serve the needs of the community while best utilizing the characteristics and features of the property. This proposal will serve to consolidate the primary activities of the Union Gospel Mission at a single site and creates an opportunity for the future redevelopment and renewal of its current downtown location.

As was demonstrated in the original Conditional Use application the proposed modification is compatible with the existing uses and the intended land use pattern of the immediate surrounding area. The shelter location is consistent with the intent of the RO zone and the RDURA. The existing transportation system is adequate to serve the proposed uses. Additionally, the modification satisfies the criteria set forth in SRC 240.010(d), and will enable the applicant to

produce a building solution that exceeds the minimum requirements set forth in the conditions, ensuring a facility that positively contributes to the growth, vibrance and well-being of the Riverfront/North Downtown neighborhood and city of Salem.

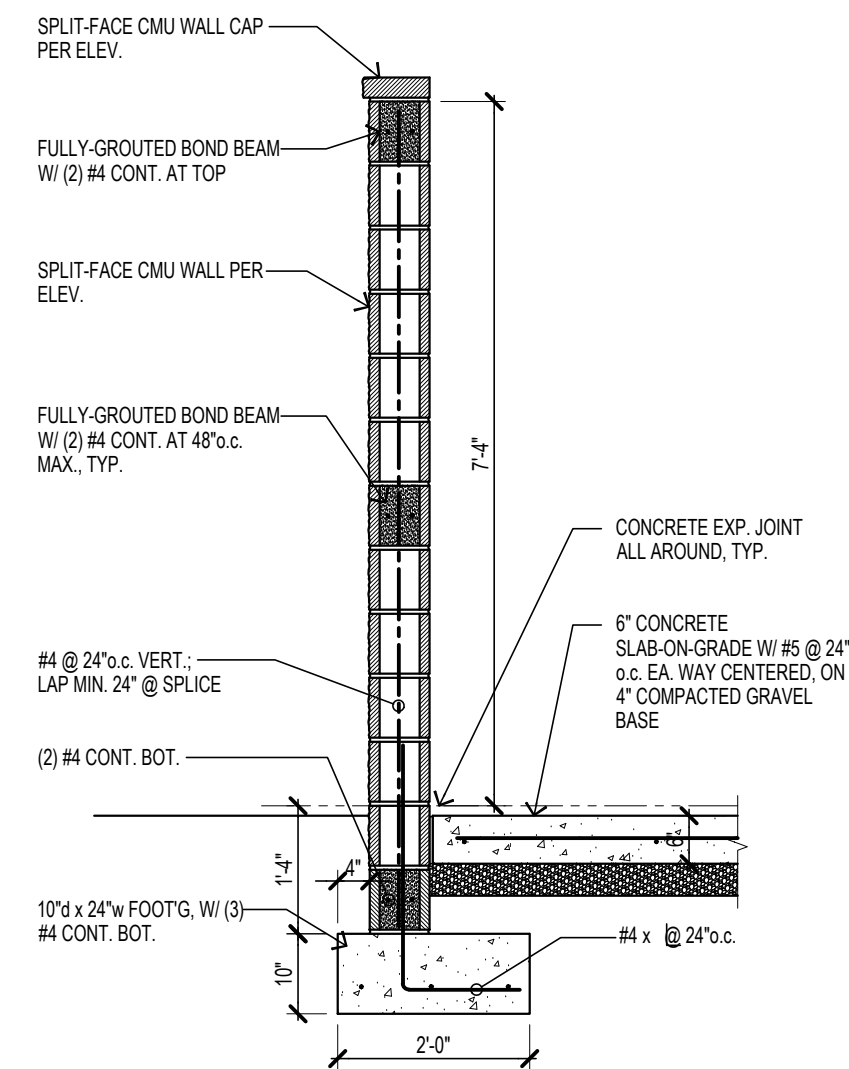
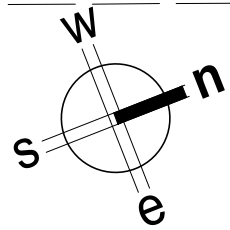
For the facts and reasons presented, the proposal satisfies the criteria for a modification to Conditional Use Permit CU-ZC17-14 to include Lots 2000 and 2100.





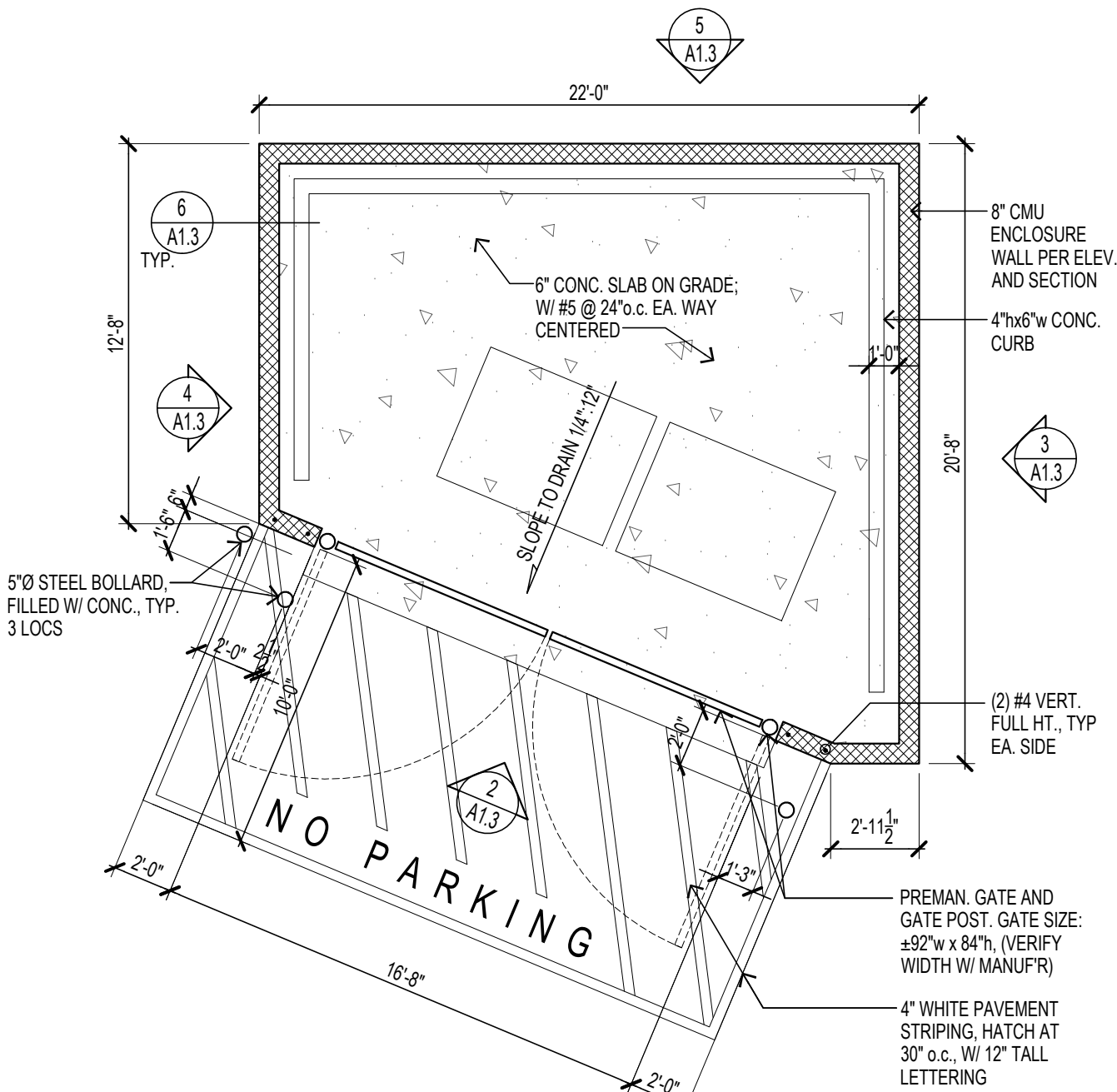
SITE LIGHTING/SECURITY CAMERA PLAN

SCALE: 1" = 30'-0"



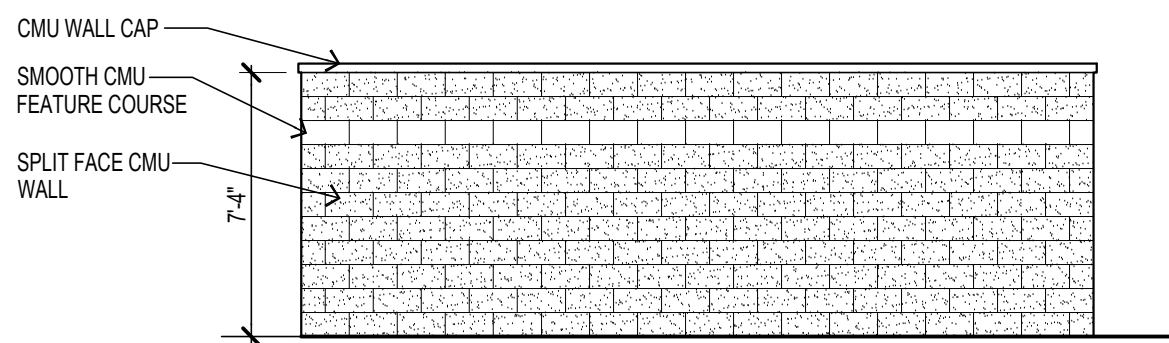
6 SECTION - DUMPSTER ENCLOSURE

SCALE: 1/2" = 1'-0"



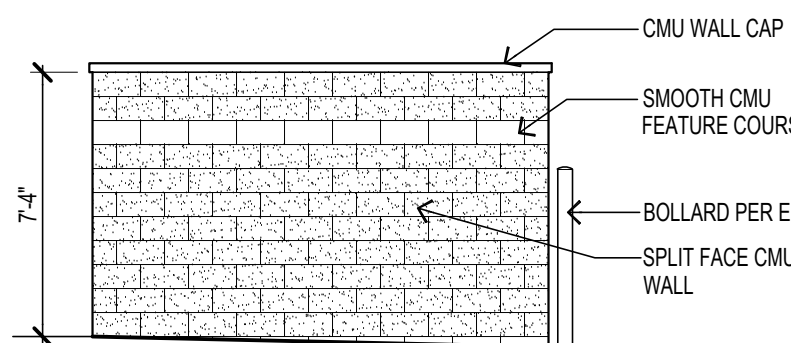
1 DETAIL PLAN - DUMPSTER ENCLOSURE

SCALE: 3/16" = 1'-0"



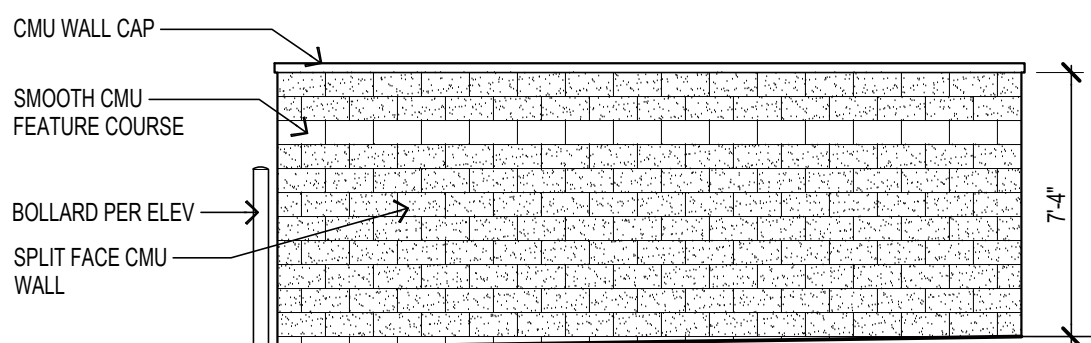
5 ELEVATION - DUMPSTER ENCLOSURE

SCALE: 3/16" = 1'-0"



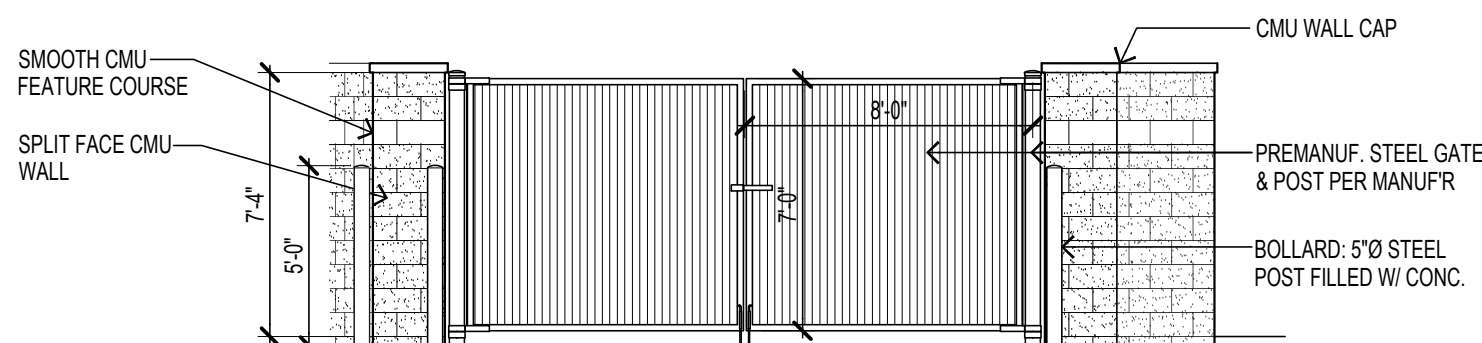
4 ELEVATION - DUMPSTER ENCLOSURE

SCALE: 3/16" = 1'-0"



3 ELEVATION - DUMPSTER ENCLOSURE

SCALE: 3/16" = 1'-0"



2 ELEVATION - DUMPSTER ENCLOSURE

SCALE: 3/16" = 1'-0"

EXTERIOR LIGHTING SCHEDULE

| TYPE | DESCRIPTION | LOCATION | MANUF. | MODEL | LAMP | FINISH | NOTES |
|--------|------------------------------------|----------|------------------|--|---------------|-------------|--|
| B1 | Bollard | Exterior | Hydrel | 3120C H6 4COB 40Kk MVOLT SYM STG | 72W LED | Steel Gray | |
| C1 | Surface-mounted Cylider | Exterior | Lumiere Lighting | 9004-W2-RW-LED3590-M-M-BK-L1-UNV-WIS | 10W LED Up/Dn | Black | Cutoff fixture |
| C2 | Surface-mounted Cylider | Exterior | Lumiere Lighting | 9004-W1-RW-LED3590-W-BK-L2-UNV-WIS | 20W LED Dn | Black | Cutoff fixture |
| C3 | Surface-mounted Cylider | Exterior | Lumiere Lighting | 1003-A2-RCS-RW-LED3590-F-BK-L2-UNV-RSM | 2-20W LED Dn | Black | |
| D1 | Recessed LED Downlight 4" aperture | Exterior | Aculux | AS4SQ A 22LM 35K 80CRI 35D GZ1 MVOLT ICAT 4SQDBV BD BLSF | 22.5W LED | Black | |
| D2 | Recessed LED Downlight 3" aperture | Exterior | Aculux | AS3SQ D G4 12LM 35K 80CRI 35D GZ1 MVOLT ICAT 3SQD BD SF | 11W LED | Black | |
| F1-X | Parking Lot Area Light | Exterior | Lithonia | DSF1 LED P5 30K T4M MVOLT SPA (EGS) DDBXD | 138W LED | Dark Bronze | Pole height Indicated; EGS Shield at *; Cut-off fixture w/ forward wide throw |
| F2-X | Parking Lot Area Light | Exterior | Lithonia | DSF1 LED P5 30K T5M MVOLT SPA (EGS) DDBXD | 138W LED | Dark Bronze | Pole height Indicated; Type V throw; EGS at * |
| F3-X | Parking Lot Area Light | Exterior | Lithonia | DSF1 LED P3 30K T4M MVOLT SPA (EGS) DDBXD | 102W LED | Dark Bronze | Pole height Indicated; forward wide throw |
| W1 | Wall Pack Area Light | Exterior | Lithonia | WST LED P3 4000K VW MVOLT DDBXD | 50W LED | Dark Bronze | Sloped Ceiling: 1:12 Slope w/ 36" length at low end. Flat ceiling at "A". |
| W2 | Wall Pack Area Light | Exterior | Lithonia | WST LED P2 3000K VW MVOLT DDBXD | 25W LED | Dark Bronze | Install per NEC 700.148.15 so that lighting activates when power is interrupted. |
| W3 | Wall Pack Area Light | Exterior | Lithonia | WST LED P2 3000K VW MVOLT DDBXD | 25W LED | Dark Bronze | Wall-mounted Exit Sign LED, Battery Backup, Green Letters |
| (E)WP1 | Existing Wall Pak | Exterior | | | 250W MH | | |
| (E)WP2 | Existing Wall Pak | Exterior | | | 250W MH | | |
| (E) | Existing Wall Entry Fixture | Exterior | | | 100W MH | | |



Attachment I

SUMMARY TABLE

| | |
|-------------------|------------------------------------|
| ZONE: | CB (89.8% OF SITE AREA - 94,045sf) |
| | CO (10.2% OF SITE AREA - 10,721sf) |
| TOTAL SITE AREA: | 104,766 SF |
| GROSS FLOOR AREA: | TOTAL: 58,282 SF |
| | SHELTER USE: 51,285 SF |
| | OFFICE USE: 6,997 SF |
| BUILDING HEIGHT: | 52'-0" |
| PARKING: | FULL SIZE |
| | COMPACT |
| | ACCESSIBLE |
| | TOTAL |
| LOT COVERAGE: | BUILDINGS |
| | PARKING |
| | SIDEWALKS |
| | TOTAL |

PROPOSED ADJUSTMENTS

1. MINIMUM PARKING REQUIREMENT FOR SHELTER BUILDINGS.
2. A CONTINUOUS 36" TALL HEDGE IN LIEU OF A 36" TALL DECORATIVE SCREENING WALL AT THE 6' PARKING SETBACK FROM COMMERCIAL ST.
3. N.E. REMOVE THE 5' LANDSCAPE BUFFER TO ALLEY FOR LOADING SPACE.
4. MINIMUM SETBACK BETWEEN VEHICLE USE AREAS AND BUILDINGS

PARKING NOTES

| USE | AREA | SF/SPACE | REQ. SPACES |
|--------------------------------|-----------|-----------|-------------|
| SHELTER BUILDING | | | |
| SHELTER USE | 58,282 SF | 1/350 SF* | 167 SPACES* |
| EXISTING RETAIL STORE BUILDING | | | |
| RETAIL USE | 15,403 SF | 1/250 SF | 62 SPACES |
| EXISTING OFFICE BUILDING | | | |
| OFFICE USE | 1722 SF | 1/350 SF | 5 SPACES |
| TOTAL | | | 234 SPACES* |

* APPLICANT IS PURSUING AN ADJUSTMENT PER CHAPTER 250 TO THE REQUIRED PARKING LOAD FOR THE SHELTER USE. PLEASE REFER TO THE INCLUDED NARRATIVE FOR DETAILED FINDINGS.

| USE | AREA | SF/SPACE | REQ. SPACES |
|--------------------------------|-----------|----------|--------------|
| SHELTER | | | |
| SHELTER USE | 58,282 SF | | 47 SPACES** |
| EXISTING RETAIL STORE BUILDING | | | |
| RETAIL USE | 15,403 SF | 1/250 SF | 62 SPACES |
| EXISTING OFFICE BUILDING | | | |
| OFFICE USE | 1722 SF | 1/350 SF | 5 SPACES |
| TOTAL | | | 114 SPACES** |

**ADJUSTED REQUIREMENT

PROPOSED PARKING

| | |
|-----------|------------|
| FULL SIZE | 55 SPACES |
| COMPACT | 59 SPACES |
| TOTAL | 114 SPACES |

BICYCLE PARKING

| USE | AREA | SPACES | REQ. SPACES | PROPOSED |
|---------|-----------|--------------|-------------|-----------|
| SHELTER | 58,282 SF | 1/3500 SF*** | 15 SPACES | |
| OFFICE | 1722 SF | 4 min. | 4 SPACES | |
| TOTAL | | | 19 SPACES | 24 SPACES |

***FOR THE FIRST 50,000 SF, 1/7000 SF THEREAFTER, ROUNDED TO NEAREST WHOLE NUMBER.

TOTAL SITE AREA: 104,766 SF
PERCENTAGE OF SITE AREA LANDSCAPED: 11.7 %

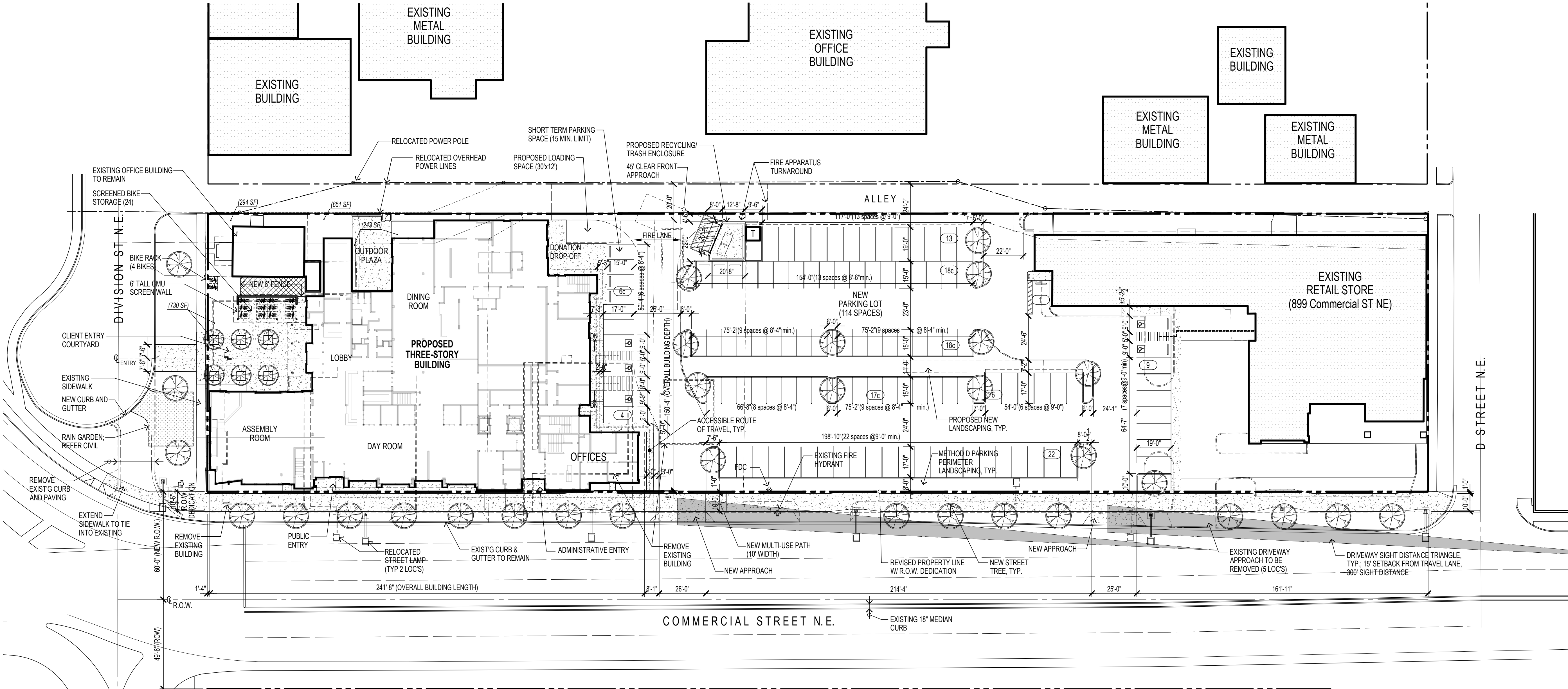
SITE AREA ZONED CO: 10,721 SF
CO ZONE LANDSCAPING REQUIRED (15%): 1608 SF
CO ZONE LANDSCAPING PROPOSED: 1904 SF

*EXCLUDES 10'-6" RIGHT-OF-WAY DEDICATION.

PARKING LOT LANDSCAPING NOTES

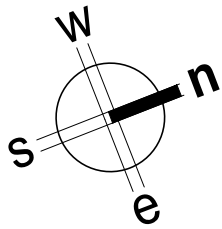
OFF STREET PARKING AREA: 41,897 SF
INTERIOR LANDSCAPING REQUIRED (5% MIN): 2095 SF
INTERIOR PARKING LANDSCAPING PROPOSED: 3674 SF

REQUIRED INTERIOR TREES (1/12 STALLS): 10 Trees
PROPOSED INTERIOR TREES: 13 Trees



PRELIMINARY SITE PLAN

SCALE: 1" = 30'-0"



UNPUBLISHED WORK
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stamp



consultant

project name



Union Gospel Mission
of Salem

Men's Recovery
and
Services Center

715 Commercial St. NE
Salem, OR 97301

site plan / design review

drawing title

PRELIMINARY
SITE PLAN

drawn by

checked by

5/1/19 DESIGN REVIEW REVISIONS

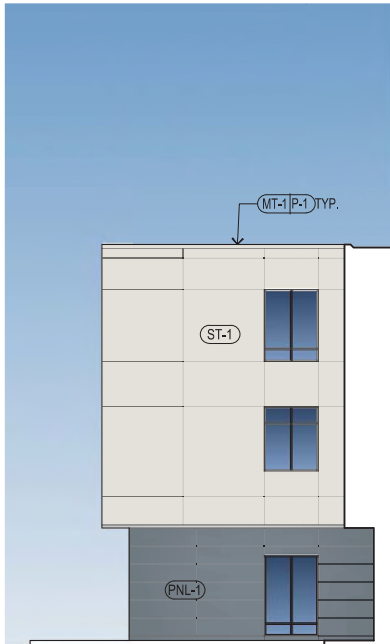
3/18/19 DESIGN REVIEW

issued date description



ELEVATION - EAST (COMMERCIAL ST. N.E.)

SCALE: 3/32" = 1'-0"



ELEVATION - WEST (PARKING LOT)

SCALE: 3/32" = 1'-0"



ELEVATION - NORTH

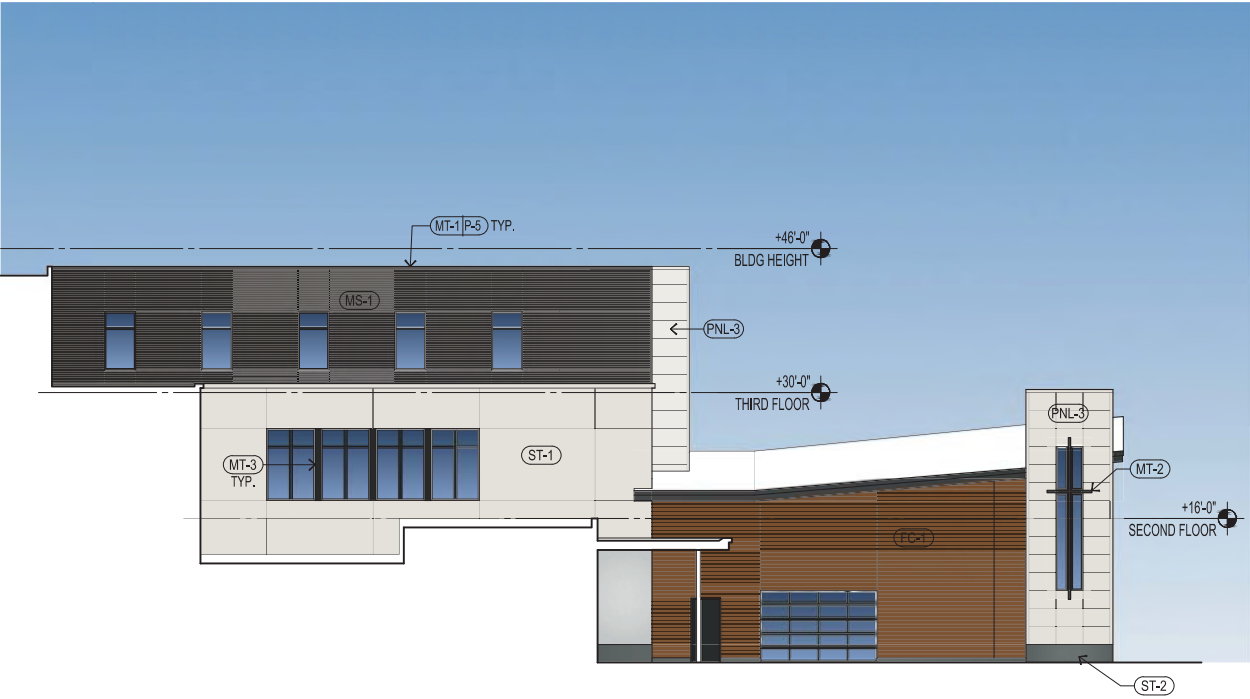
SCALE: 3/32" = 1'-0"

EXTERIOR FINISH SCHEDULE

| TAG | DESCRIPTION | MANUFACTURER | MODEL/FINISH | NOTES |
|-------|---|--|--|---|
| BR-1 | Brick Veneer Panel | The Best Panel Company 270.786.3535 | Util-A-Crete System #710 Winter Storm | With corner units and loose thin bricks for details as required; grout color: |
| ST-1 | Direct-Applied System: Acrylic stucco over cement board | Dryvit | Dryvit Cement Board MD Color: P-1 | |
| ST-2 | Pilaster Base: Direct-Applied System | Dryvit | Dryvit Cement Board MD Color: P-4 | w/ high impact reinforcing mesh |
| PNL-1 | Fiber Cement Panel | | Color: P-1 | 24" panel, stacked layout, vertical seams per elev.; Conceal fasteners |
| PNL-2 | Fiber Cement Panel | | Color: P-2 | 24" x 96" panel, running bond layout w/ 50% offset; Conceal fasteners |
| PNL-3 | Fiber Cement Panel | | Color: P-2 | 24" panel, stacked layout, vertical seams per elev.; Conceal fasteners |
| FC-1 | Fiber Cement Lap siding | Woodtone 800.663.9844 | Rustic Series Color: Mountain Cedar | Cauk; OSI# 223, or eq. |
| MS-1 | Metal Siding, Corrugated | AEP-Span 800.733.4955 | Nu-Wave Corrugated Color: Slate Gray | Horizontal orientation |
| AWN-1 | Fabric-covered Awning | Fabric: Sunbrella | Color: Black Clarity 83008-0000 | Architect to make final color selection from Manufacturer's color samples |
| MT-1 | Prefinished metal trim/flashing | | Color: P-3, unless noted otherwise | |
| MT-2 | Steel Fabrication per elevation | Various | Color: P-3, unless noted otherwise | |
| MT-3 | Prefinished aluminum brake metal panel | | Color: Match storefront system color | |
| MT-4 | Prefinished aluminum brake metal panel | | Color: P-3, unless noted otherwise | |
| MT-5 | Prefinished metal trim | | Color per elevation | |
| SF-1 | Storefront system | Kawneer | Trifab VG 451T Color: Permafluor Charcoal | Front-Glazed |
| SF-2 | Curtain Wall system | Kawneer | 1600 Wall System 4 Color: Permafluor Charcoal | |
| TR-1 | 1x_FRC Trim (3/4" nom.) | | Finish: Smooth Color: Per Elevation | Match adjacent finish color if not designated |
| TR-2 | 5/4x_FRC Trim (1" nom.) | | Finish: Smooth Color: Per Elevation | Match adjacent finish color if not designated |

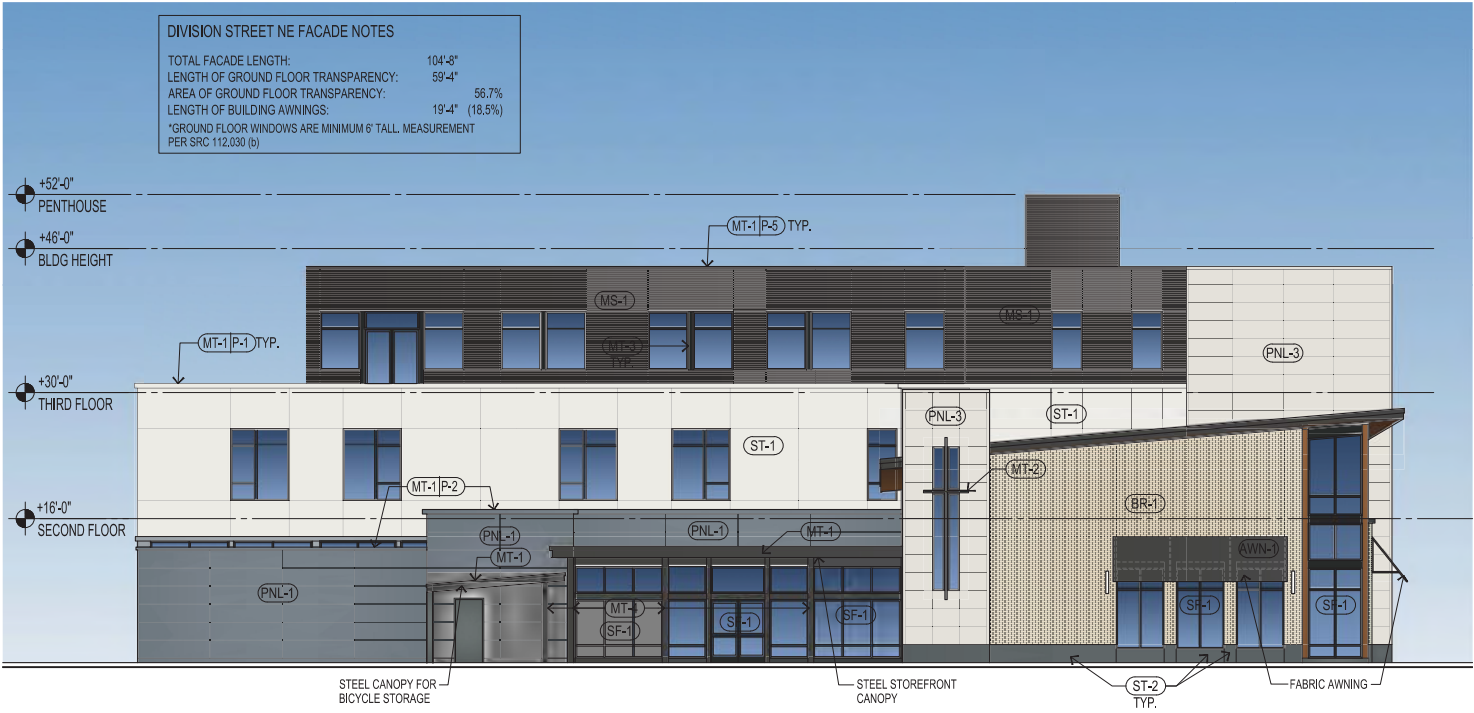
EXTERIOR PAINT COLORS

| TAG | MANUFACTURER | COLOR | FINISH |
|-----|------------------|------------------------|--------|
| P-1 | Sherwin Williams | SW7636 Origami White | |
| P-2 | Sherwin Williams | SW6249 Storm Cloud | |
| P-3 | Sherwin Williams | SW7069 Iron Ore | |
| P-4 | Sherwin Williams | SW7075 Web Gray | |
| P-5 | Sherwin Williams | Match AEP Siding Color | |



ELEVATION - EAST (ENTRY COURTYARD)

SCALE: 3/32" = 1'-0"



ELEVATION - SOUTH (DIVISION ST. N.E.)

SCALE: 3/32" = 1'-0"



ELEVATION - SOUTH (INTERIOR COURTYARD)

SCALE: 3/32" = 1'-0"



ELEVATION - WEST (ALLEY)

SCALE: 3/32" = 1'-0"

