



CITY COUNCIL AGENDA REPORT

MEETING DATE: Tuesday, March 11, 2025
TO: CITY COUNCIL
WRITTEN BY: *Interim Community Development Director Orbach*
RECOMMENDED BY: INTERIM COMMUNITY DEVELOPMENT DIRECTOR MEEK
APPROVED BY: TAMARA VIDES, CITY MANAGER

SUBJECT: APPEAL (#PP2024-8380) OF PLANNING COMMISSION’S DENIAL OF AN APPEAL (#PP2024-7954) OF ZONING ADMINISTRATOR APPROVAL OF AN ADMINISTRATIVE REVIEW PERMIT FOR A LOW-BARRIER NAVIGATION CENTER (#PP2023-6297) LOCATED AT 118 1ST STREET, 5 CHERRY COURT, AND 120 1ST

RECOMMENDATION:

Staff recommends that the City Council deny the appeal (#PP2024-8380) of the Planning Commission’s denial of the appeal (#PP2024-7954) and upholding the Zoning Administrator’s approval of an Administrative Review Permit for a low-barrier navigation center (#PP2023-6297) located at 118 1st Street, 5 Cherry Court, and 120 1st Street (APN: 017-172-32, 31, & 35) and upholding approval by the Zoning Administrator of an Administrative Review Permit and finding the project exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15268.

SUMMARY:

The item before the Council is the appeal of the Planning Commission’s denial of an appeal of a Zoning Administrator determination approving a Low Barrier Navigation Center (LBNC) at 118 1st Street, 5 Cherry Court, and 120 1st Street (APN: 017-172-32, 31, & 35).

Under the applicable statutory provisions, a LBNC is a use by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses and the City is required to permit a LBNC if it meets the following specified requirements:

- Access to permanent housing.
- Use of a coordinated entry system.
- Use of Housing First according to Welfare and Institutions Code section 8255.
- It has a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System as defined by section 578.3 of Title 24 of the Code of Federal Regulations.

[\(Government Code Section 65662\)](#)

BACKGROUND:

In June 2023, the County of Monterey received a notice of award from the State of California for their Encampment Resolution Funding (ERF) grant application in the requested amount of \$7,986,354 to provide funding for the Recurso de Fuerza Village program. The program includes development of 34-individual, non-congregate, low barrier, service rich shelter beds and provision of housing navigation and supportive services to people living along the Pajaro River (Attachment 2).

On October 17, 2023, the County of Monterey, applicant, on behalf of Westview Presbyterian Church, property owner, submitted an application (#PP2023-6297) for a Zoning Clearance/Administrative Review Permit (ARP) for a housing navigation center located at 5 Cherry Court (Attachment 3).

On November 29, 2023, the City of Watsonville provided the applicant with a guidance letter outlining the additional information required for permit processing based on the understanding that the project was an emergency shelter that would be subject to Watsonville Municipal Code (WMC) Chapter 14-43 (Attachment 4).

Between December 2023 and July 2024, Principal Planner Matt Orbach and Building Official Joseph DeSante met with the applicant's design team to review interim plan designs/test fits and identify and discuss applicable building code and site and building design issues. Through these conversations, it was determined by City staff that the proposed project was not an "emergency shelter" as defined in [Government Code § 65582\(g\)](#) and [Health and Safety Code § 50801\(e\)](#). Per those sections, an "emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. The County of Monterey ERF grant application was for a "non-congregate" and "low barrier interim housing project" providing "housing resources navigation services." As such, the project met the definition of a low-barrier navigation center as defined in [Government Code § 65660\(a\)](#). Per that section, a "low barrier navigation center" means a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.

On July 11, 2024, the County of Monterey resubmitted plans for ARP #PP2023-6297 that showed the proposed LBNC located on the parcel at 118 1st Street rather than 5 Cherry Court.

On July 26, 2024, the City of Watsonville provided the applicant with a response to the July 11th resubmittal requesting an amended Zoning Clearance/Administrative Review Permit application including an updated scope of work for the proposed project identifying the specific parcels where all project elements (LBNC, parking, fire access, etc.) would be located as well as a detailed description of the proposed use for each of the parcels and confirmation of whether the proposed project should be considered as an "emergency shelter" as defined in WMC Section 14-18.331 (Attachment 5).

On August 23, 2024, the County of Monterey resubmitted project plans with an amended Zoning Clearance/Administrative Review Permit application and an amended memorandum (Attachments 6 & 7).

On September 4, 2024, the County of Monterey resubmitted an amended version of the memorandum that was submitted with the amended Zoning Clearance/Administrative Review Permit application on August 23, 2024. The amended memo removed a paragraph on page two stating that the project was "intended to be an 'emergency shelter'" and replaced it with a paragraph stating that the project was "intended to be a low barrier navigation center that will provide unsheltered individuals living along the Pajaro River with low barrier access to temporary living facilities, housing navigation and supportive services as defined in [California Government Code § 65660 \(2023\)](#)" (Attachment 8).

On September 20, 2024, the Zoning Administrator determined that ARP #PP2023-6297 for a LBNC was complete and approved the permit (Attachment 9). The determination letter included comments and requests for additional information that should be included with the building permit application submittal.

On October 2, 2024, City staff received application #PP2024-7954 appealing the Zoning Administrator approval of ARP #PP2023-6297 (Attachment 10).

On October 10, 2024, City staff received a response to appeal application #PP2024-7954 from the County of Monterey Office of the County Counsel (Attachment 11).

On November 19, 2024, City staff received a letter of support and technical assistance from the California Department of Housing and Community Development (HCD) Division of Housing Policy Development expressing support for the proposed Low-Barrier Navigation Center at 118 1st Street and providing technical assistance regarding the obligations of the City of Watsonville under state law with respect to the project (Attachment 12).

On December 3, 2024, the Planning Commission conducted a public hearing, received public comment, closed the public hearing, and voted unanimously to deny the appeal. The Planning Commission staff report, minutes and resolution are attached as Attachments 20, 21, and 22. All meeting documents, including attachments, can be found here:

<https://pub-cityofwatsonville.escribemeetings.com/FileStream.ashx?DocumentId=23721>

Video of the December 3rd Planning Commission meeting can be found here:

<https://pub-cityofwatsonville.escribemeetings.com/Players/ISISStandAlonePlayer.aspx?Id=c29292eb-7660-4f02-92cf-6e82839d15cf>

On December 16, 2024, City staff received application #PP2024-8380 appealing the Planning Commission's denial of appeal #PP2024-6297 (Attachment 15).

On February 21, 2025, City staff received a response to appeal application #PP2024-8380 from Sonia M. De La Rosa, County Administrative Officer for the County of Monterey (Attachment 16).

STANDARD OF REVIEW:

The decision on an appeal of the Planning Commission's denial of an appeal is an adjudicative or quasi-judicial decision. Adjudicative or quasi-judicial decisions apply already adopted policies or standards to individual cases. Adjudicative/quasi-judicial decisions are based on evidence and must always be supported by findings for approval or denial that are supported by substantial evidence.

PROCESS:

Administrative Review Permit

The purpose of the Administrative Review Permit (ARP) is to ensure, prior to the establishment of an otherwise principally permitted use within an existing facility or new construction not requiring Design Review, that the provision of the Watsonville Municipal Code and other appropriate State and local regulations are met ([WMC § 14-12.300](#)). The Zoning Administrator reviews the application to ensure compliance with the Municipal Code. No conditions can be attached to the approval of an APR other than those directly related to ensuring compliance with established standards and provisions of the Municipal Code. ([WMC § 14-12.301](#)).

APPEALS:

Appeals of the decisions of the Zoning Administrator, or any other administrative official or advisory body in taking any of the actions authorized by this title shall be made to the Planning Commission through its Secretary, pursuant to the process described in [WMC Chapter 14-10 Part 11: Appeals](#).

Per [WMC § 14-10.1106\(a\)](#), the Planning Commission, at the conclusion of the hearing on the appeal, may sustain, modify, or overrule the action of the Zoning Administrator. The decision of the Planning Commission shall be final unless an appeal to the City Council is filed pursuant to [WMC § 14-10.1101](#). Unless otherwise determined by the Planning Commission, the hearing shall be limited to the issues identified in the notice of appeal.

Upon the timely appeal of a Planning Commission decision, the City Council considers whether the action taken by the Planning Commission was erroneously taken and may sustain, modify, or overrule Planning Commission's action. In order for the Planning Commission's decision to be overturned on appeal, the City Council must find that the action taken by the Planning Commission was erroneous and inconsistent with the intent of the Zoning District regulations (and in this case [Government Code Section 65660 et seq](#)) that regulate the proposed action ([WMC § 14-10.1106](#)).

DISCUSSION:

Existing Site

The project site includes three parcels:

1. 118 1st Street (APN: 017-172-32)
2. 5 Cherry Court (APN: 017-172-31)
3. 120 1st Street (APN: 017-172-35)

All three parcels are designated Downtown Central Core on the General Plan Land Use Map and are located within the Downtown Core zoning district. The Downtown Core zoning district is a mixed-use zone in which multifamily residential uses are principally permitted.

The main site location, 118 1st Street, is occupied by the Westview Presbyterian Church. The church is the property owner of all three parcels and the project applicant. The 5 Cherry Court parcel includes a large portion of the church parking lot, the ingress driveway from 1st Street, a single-family home, and the full length of Cherry Court. The 120 1st Street parcel includes only a small portion of the front of the parking lot and the egress driveway to SR-129. Cherry Court and the single-family residence are separated from the rest of the church parking lot by a chain link fence. The rear corner of the 5 Cherry Court parcel is unpaved and vacant.



FIGURE 1 Aerial view of the project site and surrounding area
 Source: Santa Cruz County GIS, 2020

Proposed Project

The proposed project involves construction of a 34-bed low-barrier navigation center¹ to be developed by Dignity Moves and the Counties of Monterey and Santa Cruz, in partnership with the site property owner, Westview Presbyterian Church.

The project is designed to be a service-enriched shelter that helps persons experiencing homelessness connect with resources that lead to permanent housing. The project will consist of 26 single bed units, 2 double units (4 beds), and 2 separated Americans with Disabilities Act (ADA) units (4 beds), indoor and outdoor dining areas, office units, an intake area, a check-in unit, wet units for a multi-purpose room with one sink, laundry and hygiene facilities, trash and utility

¹ Per Government Code § 65660(a), a low-barrier navigation center is Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.

yard areas, a garden, a pet relief area, bike racks, and storage located within a gated and fenced facility with parking and utility/emergency vehicular access, to be built on three parcels owned by Westview Presbyterian Church.

The project plans are included as Attachment 1.

The project would offer services to connect people to permanent housing through a defined service plan that details services and staffing. The project incorporates low-barrier access features, including a “Housing First” approach, 24/7 on-site staff, provisions for pets, storage of personal belongings, and privacy. The Housing First requirements were adopted by the State of California and apply to programs receiving funding from ERF grants. Under the Lead Me Home Monterey and San Benito County Continuum of Care “Operational Standards for Emergency Shelters,” the project is required to utilize the Homeless Management Information System (HMIS) for entering and storing information as to client stays, demographics, income, and exit destination, participate in the local Coordinated Entry System, and comply with Chapter 6.5 or Division 8 of the Welfare and Institutions Code (Attachment 13).

Assembly Bill 101/Government Code § 65660-65668

Communities across California continue to confront ever-increasing challenges posed by a scarcity of housing, particularly affordable housing. The State Legislature has responded to the housing shortage by passing and amending laws, particularly in recent years, designed to facilitate, expedite, and reduce constraints on residential development, including laws that pertain to emergency shelters, transitional and supportive housing, and now low-barrier navigation centers.

Assembly Bill 101 (AB 101) was signed into law in 2019. According to the Senate Committee on Budget and Fiscal Review, it provided statutory changes necessary to enact the housing and homelessness-related provisions of the Budget Act of 2019, including streamlining the approval of low-barrier navigation centers.

AB 101 requires a Low Barrier Navigation Center (LBNC) to be a use by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses if it meets specified requirements, including:

- Access to permanent housing.
- Use of a coordinated entry system (i.e., Homeless Management Information System).
- Use of Housing First according to [Welfare and Institutions Code \(WIC\) Section 8255](#) (Gov. Code § 65660).
- A system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System as defined by [Section 578.3 of Title 24 of the Code of Federal Regulations](#).

Per [Government Code § 65583.2\(i\)](#), “use by right” means that that the local government’s review may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of the California Environmental Quality Act.

AB 101 applies to all cities and counties, including charter cities and counties.

AB 101 added Article 12 – Low Barrier Navigation Centers, comprising section 65660-65668, to Chapter 3 of Division 1 of Title 7 (Planning and Land Use) of the Government Code. [Government Code § 65660\(a\)](#) defines a “Low Barrier Navigation Center” as a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.

Per [WIC § 8255\(d\)](#), “Housing First” means the evidence-based model that uses housing as a tool, rather than a reward, for recovery and that centers on providing or connecting homeless people to permanent housing as quickly as possible.

Housing First providers offer services as needed and requested on a voluntary basis and that do not make housing contingent on participation in services.

“Low Barrier” means practices that reduce barriers to entry, and may include, but are not limited to:

1. The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth.
2. Pets.
3. The storage of possessions.
4. Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms ([Gov. Code § 65660\(a\)](#)).

Per [Government Code § 65662](#), a LBNC development is a use by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses if it meets the requirements of section 65662 and a local jurisdiction shall permit a LBNC development if it meets the following requirements:

- a) It offers services to connect people to permanent housing through a services plan that identifies services staffing.
- b) It is linked to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing. “Coordinated entry system” means a centralized or coordinated assessment system developed pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections read on January 1, 2020, and any related requirements, designed to coordinate program participant intake, assessment, and referrals.
- c) It complies with Chapter 6.5 (commencing with Section 8255) of Division 8 of the Welfare and Institutions Code.
- d) It has a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System as defined by Section 578.3 of Title 24 of the Code of Federal Regulations.

Per [Government Code § 65664](#), within 30 days of receipt of an application for a LBNC development, the local jurisdiction shall notify a developer whether the developer’s application is complete pursuant to [Section 65943](#). The public agency’s review is limited to determining whether the application includes the information required by Government Code § 65662 above. If the application is incomplete, the lead agency shall provide the applicant with a written determination specifying those parts of the application which are incomplete and indicating the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. Within 60 days of receipt of a completed application for a LBNC development, the local jurisdiction shall act upon its review of the application.

Administrative Review Permit

Per [WMC § 14-12.300](#), the purpose of the Administrative Review Permit is to assure, prior to establishment of an otherwise principally permitted use (i.e., use by right) within an existing facility or new construction not requiring Design Review, that the provisions of the zoning code and other appropriate State and local regulations are met. In this case, no provisions of the zoning code apply to the proposed LBNC project. However, because the project involves a LBNC and the site is zoned for mixed use, the project qualifies for and was reviewed for compliance with the requirements of [Government Code § 65662](#). Analysis with supportive evidence is below.

- a) It offers services to connect people to permanent housing through a services plan that identifies services staffing.

Supportive Evidence: The project will comply with the County of Monterey shelter/navigation center operational standards as approved by the Monterey County Continuum of Care (CoC). Those standards include the Lead Me Home Monterey and San Benito County Continuum of Care “Operational Standards for Emergency Shelters” and the County of Monterey Homeless Services “Good Neighbor Protocol” (Attachments 13 & 14). Services staffing will be provided by several agencies, including CSUMB Community Health Engagement (CHE), HomeFirst, and Community Action Board (CAB) (Attachment 2).

- b) It is linked to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing. “Coordinated entry system” means a centralized or coordinated assessment system developed pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections read on January 1, 2020, and any related requirements, designed to coordinate program participant intake, assessment, and referrals.

Supportive Evidence: The LBNC will participate in the local Coordinated Entry System as required by the Lead Me Home Monterey and San Benito County Continuum of Care “Operational Standards for Emergency Shelters.”

- c) It complies with Chapter 6.5 (commencing with Section 8255) of Division 8 of the Welfare and Institutions Code (WIC).

Supportive Evidence: Housing First requirements apply to all programs receiving Encampment Resolution Funding (ERF) grants. The project was awarded \$7,986,354 in ERF grant funding, so the LBNC will comply with Chapter 6.5 of Division 8 of the WIC. In addition, Housing First requirements are required by the Lead Me Home Monterey and San Benito County Continuum of Care “Operational Standards for Emergency Shelters.”

- d) It has a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System as defined by Section 578.3 of Title 24 of the Code of Federal Regulations.

Supportive Evidence: The Lead Me Home Monterey and San Benito County Continuum of Care “Operational Standards for Emergency Shelters” requires all emergency shelter programs, including LBNCs, to enter participant data into the Homeless Management Information System (HMIS) managed by the Coalition of Homeless Services Providers (CHSP). Programs must follow CHSP’s HMIS policies and procedures. Program staff will enter complete and accurate information into HMIS in a timely manner for all participants. Participant information, including universal data elements and program-specific data elements, will be accurate, complete, and current.

On September 20, 2024, based on the supportive evidence above, the Zoning Administrator approved ARP #PP2024-7954 (Attachment 9).

APPEAL OF ZONING ADMINISTRATOR DETERMINATION

On October 2, 2024, City staff received an appeal application (#PP2024-7954) from Catalina Torres requesting that the Planning Commission overrule and rescind the Zoning Administrator’s approval of ARP #PP2023-6297 (Attachment 10). The appellant contended that the approval was “defective and improper” and included a list of fifteen reasons for the

appeal. On October 10, 2024, City staff received a response to the appeal application from the County of Monterey Office of the County Counsel (Attachment 11). The Monterey County Counsel opined that the City lacks authority to entertain a discretionary appeal on this ministerial project because, as long as the statutory requirements for a LBNC are met, the City must approve the project.

On December 3, 2024, the Planning Commission conducted a public hearing, received public comment, closed the public hearing, and voted unanimously to deny the appeal and uphold the Zoning Administrator's determination.

APPEAL TO THE CITY COUNCIL

On December 16, 2024, Catalina Torres appealed the decision of the Planning Commission upholding the Zoning Administrator's decision on the project (Attachment 15).

Pages 2-6 of the appeal include:

- A. **Summary of Appeal, Response, and Rebuttal:** The issues raised in this section of the appeal letter are addressed in the itemized responses below.
- B. **The Entitlement Review Process:** The issues raised in this section of the appeal letter are addressed in the itemized responses below. In addition, the use of the term "entitlement review process," "entitlement" is meant to refer to the Administrative Review Permit for the LBNC and the "process" is the Zoning Administrator's review and determination on the Permit.
- C. **Government Code Section 65662:** The issues raised in this section of the appeal letter are addressed in the itemized responses below.
- D. **Letter from William R. Seligmann:** The issues raised in this section of the appeal letter are addressed in the itemized responses below, in particular, please see the response set forth in item 2 below.

The appeal also includes 32 items of alleged "procedural defects of the Commission and Meeting, serving as further grounds for petitioning to overturn the Commission's decision." Each of the 32 points are addressed below.

1. Defective Commission Agenda Report Format

Appellant asserts that the Planning Commission staff report was defective because "... *it didn't have a formal document date shown*" and that this "*is contrary to best document management practices and leads to confusion in future referencing.*"

Both the Planning Commission and the staff report for Planning Commission appeal hearing clearly identify the meeting date of December 3, 2024. This is consistent with the City's practice of identifying agenda documents. It is also clear on the City's website that these documents related to the December 3, 2024, meeting. This is a non-substantive issue and is not a basis to overturn the Planning Commission's denial of the appeal.

2. Staff improperly failed to include the legal analysis by William R. Seligmann in the Agenda Package distributed publicly on Wednesday, November 27, 2024.

Mr. Seligmann submitted a letter to the City Council dated July 29, 2024, with the subject line "*Tiny Home Application – 118 & 120 First Street, 5 Cherry Court.*" Ms. Torres contends that failure to include Mr.

Seligmann's letter in the Planning Commission packet was a procedural defect and is a basis to overturn the Planning Commission's decision. This is inaccurate for a number of reasons, including:

- It was not submitted as a public comment to the Planning Commission;
- It was not included in Ms. Torres' appeal documents – she indicates that the letter is referenced in the appeal so that it should have been included, however, all of the issues raised in the appeal to the Planning Commission were addressed by staff, and if Ms. Torres wanted the letter included it should have been attached to the appeal;
- The letter was submitted to the Planning Commission as an attachment to an email from Marta Bulaich on the morning of December 2, 2024. The letter is essentially two pages long and the Commissioners had ample opportunity to review it prior to the Planning Commission meeting on December 3.

As indicated above, Mr. Seligmann's July 29, 2024, letter is addressed to all of the Council members. It is also attached to the appeal to the City Council as an attachment to Marta Bulaich's email (appeal attachment 2). However, to ensure that the Council has easy access to the letter it is attached here as Attachment 17.

Mr. Seligmann's letter identified two areas that he believed needed to be addressed related to the project:

- *"The inapplicability of Senate Bill 4 of 2023; and*
- *The necessity for a Special Use Permit for the change in church operations."*

First, the project approved by the Zoning Administrator was not submitted under Senate Bill (SB) 4 but rather, it was submitted under the provisions of Government Code Section 65660, *et seq.*, as a LBNC. Under SB 4, the "Affordable Housing on Faith and Higher Education Lands Act of 2023," 100% affordable housing projects located on "religious institutions" or an "independent institution of higher education" are a "use by right." Mr. Seligmann indicated his belief that the project did not comply with the requirements of SB 4 on the basis that it would be within 1,200 feet of a site that is subject to permitting by an Air Resources District² and that therefore: ***"Given that Senate Bill 4 is inapplicable, the proposed project must comply with all of the applicable provisions in Watsonville's local land use regulations."*** (emphasis added). Mr. Seligmann then concludes that the existing church on the project site must obtain a Special Use Permit."

The existing church is now a "non-conforming" use in that it existed prior to the previous and current zoning. Under the previous Institutional (N) zoning, church uses required a Special Use Permit. With the adoption of the Downtown Watsonville Specific Plan (DWSP), a Special Use Permit is now required for churches in the Downtown Core zoning district (DWSP Table 6-3, Land Use Regulations). However, the church use existed prior to the adoption of either of those zoning code updates, so the church use is a legal nonconforming use. Regarding Non-Conforming Uses, [WMC Section 14-20.050](#) provides:

"A nonconforming use may only be increased in size or intensity or modified in location or character through the granting of a special use permit after making findings that such expansion or modification will not adversely affect adjoining properties and those findings required by Section 14-10.607. Residential nonconforming uses may not be expanded to increase the number of dwelling units on a lot where the minimum standards of land-area-per-dwelling-unit for the district cannot be met."

² While this requirement is applicable to a SB 4 project, it is not applicable to a LBNC submitted under Government Code Section 65662.

Mr. Seligmann's conclusion that a Special Use Permit is required for the existing church is predicated on the inapplicability of the use by right provisions of SB 4. However, the same logic that would allow by right development of affordable housing under SB 4 without the church acquiring a Special Use Permit also applies to the by right development of a LBNC in accordance with Government Code Section 65600, *et seq.* In addition, the LBNC is a project submitted by the County of Monterey, not the existing church. The LBNC is a separate and distinct use on the site which is allowed by right. It is not part of the existing church use. Even if the provisions of [WMC Section 14-20.050](#) could be applied to the project, none of the criteria triggering the need for a Special Use Permit are met. The proposed project does not increase the size of the church, it does not increase the intensity of the church's use of the property, and it does not modify the location or character of the church use.

- 3. Staff improperly failed to provide a functional audiovisual support system during the Planning Commission meeting, which led to statements made by various speakers being inaudible to the public audience as well as inaudible on the uploaded video recording.**

While the primary audio support system in the City Council Chambers was not available, the City provided a secondary audio system for the meeting. No members of the audience present at the meeting raised concerns about any comments being inaudible during the meeting and the meeting video and minutes were posted as soon as they were available to the City Planning Commission Agendas and Minutes page at <https://www.watsonville.gov/195/Planning-Commission>. This is a non-substantive issue and is not a basis to overturn the Planning Commission's denial of the appeal.

- 4. Staff misled the Commission both in the Commission Agenda Report and in their presentation on the timeline of the entitlement review process.**

Please see response to item B, above, regarding the entitlement review process. This entitlement process, which is separate and distinct from the grant application process undertaken by Monterey County, started when an application was submitted to the City for the project on October 17, 2023. The information presented in the Planning Commission Agenda Report and the presentation is accurate, as the Zoning Administrator is not involved in the entitlement process until an application is submitted to the City of Watsonville.

- 5. Staff gave invalid guidance in the Commission Agenda Report and presentation to the Commission on the situation and particulars of the existing Church on the property as a conditional use.**

As indicated by staff during the Planning Commission public hearing on the appeal and as described above in response to item no. 2, the existing church on the property is a legal non-conforming use because it existed prior to the existing and previous zoning. Under the previous Institutional (N) zoning, church uses required a Special Use Permit. With the adoption of the Downtown Watsonville Specific Plan (DWSP), a Special Use Permit is now required for churches in the Downtown Core (DWSP Table 6-3, Land Use Regulations). The fact that a new church use is considered a conditional use in the Downtown Core zoning district is not relevant to the Zoning Administrator's decision on the LBNC because the decision involves the establishment of a new LBNC use on the property, separate and distinct from the legal nonconforming church use. See response to no. 6 below.

- 6. Staff gave invalid guidance in the Commission Agenda Report and presentation to the Commission on the particulars and applicability of the Watsonville nonconforming uses ordinance.**

As indicated by staff during the Planning Commission public hearing on the appeal and as described above in response to item no. 2, a non-conforming use may remain and is not required to obtain a Special Use Permit so long as the use is not increased in size or intensity or modified in location or character. None of those factors apply to the existing church use. In addition, the proposed project is a new use, not an expansion of the church use.

- 7. Staff failed to identify in the Commission Agenda Report that the Church was an existing use and would be continuing as a use after the LBNC was to be established. Staff also failed to identify that the Church was a conditional use (as per the Downtown Watsonville Specific Plan zoning regulations) and would continue to be a conditional use after the LBNC was established.**

See response to items 2, 5, and 6 above. In addition, the existing church is shown on the project plans that are included in the Planning Commission agenda packet and that are attached here (Attachment 1). Specifically, the existing church is identified as Parcel 1A in the Project Information and Parcel Map. In addition, the existing church use is identified on page 2 of the Memorandum-Amended dated September 4, 2024, from Sonia M. De La Rosa, Administrative Officer of the County of Monterey (CAO) as existing uses. The Amended Field Data section of Table 1 indicates "APN: 017-172-32 church parking lot and church building site (project site will not impact church site)."

- 8. Staff failed to identify in the Commission Agenda Report and presentation to the Commission that the Church lacked a Special Use Permit. Staff failed to identify the Church as a nonconforming use in the Commission Agenda Report.**

See responses to items 2, 5, 6, and 7 above.

- 9. Staff failed to identify in both the Commission Agenda Report and presentation that establishing the LBNC would change the intensity of the Church's nonconforming use on the parcels such that a Special Use Permit was required to be approved for the Church before the LBNC could be established on the property.**

See response to items 2, 5, 6, 7, and 8 above. In addition, the proposed project is a separate use from the church use and is not an intensification of the church use.

- 10. Matt Orbach improperly advised the Commission that the Church could obtain a Special Use Permit after the LBNC was established, which is in violation of the City's nonconforming use ordinance.**

See responses to items 2, 5, 6, 7, 8, and 9 above. The LBNC is a new use, separate and distinct from the legal nonconforming church use, and can be approved under Government Code Section 65662 without any consideration of existing uses on the property. Regardless, this allegation is not a basis to grant the appeal.

- 11. City Attorney Mary Anne Wagner gave incoherent legal guidance on what a legal nonconforming use means.**

Staff and the City Attorney's office accurately explained what a nonconforming use is and advised the Commission of the events that would lead to the church needing to obtain a Special Use Permit, none of which are present with respect to the proposed project. Regardless, this allegation is not a basis to grant the appeal.

- 12. Staff misled the Commission by not explaining that the LBNC was also allowed by right in the Downtown Watsonville Specific Plan regulations.**

While the LBNC use is allowed by right in the DWSP area, neither the DWSP nor the City's Zoning Ordinance have any development standards related to a LBNC. The proposed project is not a church use so the applicable standards related to churches are not applicable. Regardless, this allegation is not a basis to grant the appeal.

13. **Staff incorrectly determined both in the Commission Agenda Report and presentation that the LBNC project met the requirements of Government Code Section 65662 when in fact, the project did not do so.**

The appellant contends that project does not comply with Government Code Section 65662(a), which requires that the LBNC "offer services to connect people to permanent housing through a services plan that identifies services staffing." The ERF-2 grant application was not included in the application materials submitted for the ARP application. However, in reviewing the application, the Zoning Administrator located the ERF-2 grant application on the County of Monterey website and reviewed it for additional details related to the proposed facility and associated services. The grant application includes a detailed summary of services to be provided and services staffing on pages 12-14. Based on this information, the Zoning Administrator determined that the project met the requirements of Government Code Section 65662(a).

14. **Staff misled the Commission in both the Commission Agenda Report and the presentation regarding false statements that the Zoning Administrator and her superiors (two City Managers) made to the Council, media, and public.**

Per the project background section above, ARP Application #PP2023-6297 was officially submitted on October 17, 2023, and the City issued a guidance letter on November 29, 2023. At that point, the application was deemed "incomplete" and required a resubmittal to move forward to a second completeness review. The City did not receive a formal resubmittal until July 11, 2024, at which time staff conducted a second formal review of the project application. Delays between completeness determinations and resubmittals is common for entitlement applications after initial submittals, as preliminary reviews often raise important questions, identify issues, and require additional analysis and design work that can take a significant amount of time to complete prior to resubmittal.

Staff disagrees Appellant's characterization of statements made by the Zoning Administrator and City Managers. It also appears that some of the Appellant's concerns are related to statements dealing with the timing of the submittal of the ERF-2 grant application for the LBNC by the County, which occurred well before the submittal of ARP #PP2023-6297. Regardless, this allegation is not a basis to grant the appeal.

15. **Staff improperly referenced in both the Commission Agenda Report and its presentation data from the ERF-2 Grant application to support the Zoning Clearance Permit Application.**

See response to no. 13 above.

16. **City Attorney Mary Anne Wagner improperly gave invalid and incompetent guidance to the Commission that the Commission Appeal hearing was not the appropriate forum to air a California Public Records Act concern.**

The item before the Planning Commission on December 3, 2024, was an appeal of the decision of the Zoning Administrator. Discussion of the Public Records Act was not agendaized. Public Records Act requests are handled by the City Clerk's office and any concerns related to the production of documents in response to a PRA request should first be addressed to the City Clerk's office. Public Records Act requests and disputes are

not the purview of the Planning Commission. The City did receive a Public Records Act request from William Seligmann dated April 27, 2024. The City provided Mr. Seligmann with all non-exempt documents that were responsive to this request. Regardless, this allegation is not a basis to grant the appeal.

17. **Matt Orbach misled the Commission in both the Commission Agenda Report and presentation about the nature of the Caltrans correspondence, in which his letter specifically referenced a "building permit submission" prior to Zoning Clearance approval.**

As part of the application review, City staff reached out to Caltrans staff to inform them of the proposed work along SR-129 and inquire about whether they had any questions or concerns that could be addressed during the future building permit process because the project frontage is in the Caltrans right of way. Consultation with regional agencies is a normal part of the development review process.

Appellant claims that characterization of the Applicant's submittal as "a Building Permit Submittal" or whether there would be a "... future building permit process" was material to the Commission's decision. It quite simply was not, the issue before the Commission for decision was the Zoning Administrator's decision related to the application for a LBNC.

A building permit application for the proposed project was not submitted until December 18, 2024.

Regardless, this allegation is not a basis to grant the appeal.

18. **Staff erroneously claimed that a qualifying requirement of Government Code Section 65662(a) for the LBNC was met.**

See response to item 13 above.

19. **Staff misled the Commission by stating it could only consider four criteria of Government Code Section 65662 to resolve issues raised in the Appeal.**

Staff correctly identified that the issue on appeal, for the Planning Commission and now the Council, is determining if the Zoning Administrator's action was correct. That action was based on a determination that the project complied with the four requirements in Government Code Section 65662. In that regard, the Commission and now the Council are considering whether the Zoning Administrator erred in determining that the project complied with the four requirements in Government Code Section 65662 applicable to a LBNC. The Planning Commission also considered each of the points raised in the appeal to the Commission. In fact, the Commission walked through each of the points raised in the appeal letter and asked questions of staff related to those points. The Council should also consider the items raised in the appeal to the Council. However, the legal basis for granting the appeal is whether the project, as proposed, complies with the requirements of section 65662.

20. **Failure by the Planning Commissioners to properly evaluate the Rebuttal.**

Appellant claims that the Commission should have continued the hearing on the appeal to review voluminous documentation submitted to the Commission "over an hour prior to the Planning Commission" However, the appellant had ample time to provide information to the Commission and did so in a 14-page appeal application. The Commission was not required to continue the meeting to consider this additional submittal by Marta Bulaich. The "Rebuttal" is a 16-page document that was submitted at 4:52 p.m. on the day of the hearing. It is attached hereto as Attachment 18. This email, along with the 402-page "Folio" document

submitted at 4:02 p.m. on the day of the hearing, were included in the updated public comment attachment emailed to the Planning Commissioners at 5:13 p.m. on the day of the hearing. See response to item 30 below for additional information.

21. Failure by the Planning Commissioners to properly evaluate the Folio.

Appellant claims that the Commission should have continued the hearing on the appeal to review voluminous documentation submitted to the Commission “within two hours prior to the Planning Commission” The “Folio,” also called a “Collection of Data and Documents Highlighting Watsonville’s Improper Zoning Procedure for the Tiny Village,” is a 402-page document that was sent to the Commission via email by Marta Bulaich at 4:02 p.m. on the day of the Commission hearing (December 3, 2024). The “Folio” is included in pages 68-512 of Attachment 15. However, the appellant had ample time to provide information to the Commission and did so in a 14-page appeal application. The Commission was not required to continue the meeting to consider this additional submittal. This late mail, along with the 16-page “Rebuttal” document submitted by Marta Bulaich at 4:52 p.m. on the day of the hearing, were included in the updated public comment attachment emailed to the Planning Commissioners at 5:13 p.m. on the day of the hearing. See response to item 30 below for additional information.

22. Failure of Planning Commissioner and Vice Chair Peter Radin to provide a fair approach toward's [sic] Appellant's concerns.

The statements of Vice Chair Radin included in the appeal are taken out of context and do not support the contention that the Vice Chair was not a fair and impartial decision maker at the hearing. The record shows that Vice Chair asked staff to walk through each of the grounds for the appeal, allowing the Commissioners an opportunity to ask questions of staff related to each ground, and inviting discussion on each of the grounds for the appeal.

23. Failure of Planning Commissioner Dan Dodge to critically examine the Appeal process.

Appellant lists questions Commissioner Dodge asked of staff and the appellant in support of Appellant’s contention that Commissioner Dodge “failed” to “critically examine the Appeal process.” However, the quotes included in the appeal are taken out of context. In addition, Commissioners are free to ask questions of staff and the applicant or the applicant team. Commissioner Dodge has access to all of the information in the agenda packet and was free to ask questions as the Commissioner saw fit.

24. Failure of Planning Commissioner Lucy Rojas to critically examine the Appeal process.

Appellant contends that Commissioner Rojas deferred to staff for guidance and was confused about the Zoning Clearance Permit Application. The quotes in the appeal are taken out of context and do not support the contention that Commissioner Rojas “failed” to “critically examine the Appeal process.” In addition, with respect to the Public Records Act item please see response to item no. 16 above. Regardless, there is no indication that Commissioner Rojas exhibited impermissible bias at the hearing.

25. Failure of Brando Sencion to comment on the Appeal.

There is no evidence to support the contention that a lack of comment by Commissioner Sencion is “evasion.” Commissioners are free to ask questions and comment on the project/appeal or not. Commissioner Sencion did ask clarifying questions of staff. Regardless, there is no indication that Commissioner Sencion exhibited impermissible bias at the hearing.

26. Failure of Vanessa Meldahl to comment on the Appeal.

There is no evidence to support the contention that a lack of comment by Commissioner Meldahl is “evasion.” Commissioners are free to ask questions and comment on the project/appeal or not. Regardless, there is no indication that Commissioner Meldahl exhibited impermissible bias at the hearing.

27. Failure of Jenni Veitch-Olson to appear neutral in her response regarding her conflict of interest with the project.

Commissioner Veitch-Olson complied with the requirements of the Political Reform Act, Government Code Section 6250, *et seq.* (PRA), by stating that although no conflict under the PRA existed because neither the applicant, the County of Monterey, or the church, were a source of income to the Commissioner or the Commissioner’s immediate family, she chose to recuse herself to avoid any basis for further appeals or litigation. Commissioner Veitch-Olson made this statement immediately after the agenda was called and prior to the presentation of the staff report to the Planning Commission. Commissioner Veitch-Olson then left the room and did not participate in the item.

28. Staff improperly failed to include its slides in the Agenda Package uploaded to the City's website within 24-48 hours.

The agenda package for the December 3, 2024, Planning Commission meeting was posted to the City website on Tuesday, November 26, 2024. The presentation slides were uploaded to the City website on Thursday, December 5, 2024. Regardless, this allegation is not a basis to grant the appeal.

29. Staff improperly failed to upload a publicly accessible video recording of the Commission meeting within a proper time frame after the meeting.

The video recording of the Planning Commission meeting of December 3, 2024, was published on the City’s website on December 5, 2024. Regardless, this allegation is not a basis to grant the appeal.

30. Staff improperly failed to download and integrate the Folio, a large attachment that had multiple links, into the Agenda Package.

The public comment deadline for items going to Planning Commission meetings is 3:00 p.m. on the meeting date. The public comment mentioned above was received on December 3, 2024, at 4:02 p.m. The public comment consisted of an email referencing a document titled “A Collection of Data and Documents Highlighting Watsonville’s Improper Zoning Procedures for the Tiny Village.” Because the document file size was too large to include in an email, the email included Google Drive and Dropbox links to the document. Any public comment documents submitted after 3:00 p.m. can be presented at the Planning Commission meeting and will be uploaded at a later date. However, City staff emailed the documents to the Commissioners at 5:13 p.m. Staff’s email included a PDF with all public comments received, including the 4:02 p.m. email from Marta Bulaich with the links to the 402-page “Folio” (Attachment 19) and an additional email Ms. Bulaich submitted at 4:52 p.m. that contained a 16-page rebuttal to staff’s analysis in the agenda package. Regardless, this allegation is not a basis to grant the appeal.

31. Staff improperly failed to include one of the slides Matt Orbach projected during the Planning Commission Meeting in the Agenda Package.

The PDF of the December 3, 2024, Planning Commission meeting presentation was published on the City website on December 5, 2024. On Thursday, December 12, 2024, Marta Bulaich contacted City Clerk Irwin Ortiz to inform him that the presentation published on the City website was missing one slide that was presented at the December 3, 2024, Planning Commission meeting. The discrepancy was due to the fact that there was one “hidden” slide presented at the meeting that had not been included in the PDF published on the City website. Staff printed a new PDF with the missing slide, published it to the website, and shared it with Marta Bulaich on Friday, December 13, 2024. Regardless, this allegation is not a basis to grant the appeal.

32. Staff improperly removed the Agenda Package from the City of Watsonville website.

The agenda packet was not removed from the City website. The agenda packet was updated with the latest presentations (including the “Folio” referenced in #30 above) on Thursday, December 5, 2024, and when it was published the PDF version of the document did not sync in eScribe (the City’s agenda creation and publishing software). As a result, the updated agenda package was available to the public in the HTML version only. As soon as City staff was made aware of this issue with the PDF version, it was corrected and republished and both the PDF and HTML versions of the agenda packet were available again on Saturday, December 7, 2024. Regardless, this allegation is not a basis to grant the appeal.

APPLICANT RESPONSE TO APPEAL OF PLANNING COMMISSION DECISION

On February 21, 2025, City staff received a response to appeal application PP2024-8380 to the City Council to Overrule the City Planning Commission’s Denial of Appeal #PP2024-7954 relevant to a by-right development of a Low Barrier Navigation Center, proposed for 118 1st Street (#PP2023-6297) from the County of Monterey Office of the County Counsel (Attachment 11). The Monterey County Counsel indicates their position that the City lacks authority to entertain a discretionary appeal on this ministerial project because, as long as the statutory requirements for a LBNC are met, and the City must approve the project. The response letter is included as Attachment 16.

The appeal was submitted properly, in compliance with all requirements listed in [WMC Chapter 14-10 Part 11: Appeals](#). As such, the City is providing the applicant with their due process rights by accepting and considering the appeal.

HCD Letter of Support and Technical Assistance

On Tuesday, November 19, 2024, City staff received a letter of support and technical assistance from the California Department of Housing and Community Development (HCD) related to the appeal (#PP2024-7954) of ARP #PP2023-6297. HCD is the state agency charged with administering, interpreting, and enforcing state housing law in California. The letter includes an overview of applicable state housing laws and states that the City acted appropriately in approving the Project ministerially. The letter concludes by reminding the City that, pursuant to [Government Code § 65585\(j\)](#), HCD may notify the Office of the Attorney General if HCD finds that any local government has taken an action in violation of state housing law, including but not limited to By-Right Low Barrier Navigation Center law ([Gov. Code, § 65585, subd. \(j\)\(9\)](#)) (Attachment 12).

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) DETERMINATION:

Approval of the Administrative Review Permit is statutorily exempt as a ministerial use from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15268. Government Code § 65660 provides for Low Barrier Navigation Centers (LBNC) and specifies that an LBNC is a use by right, which has the same definition used in Government Code § Section 65583.2(i) that states local government review may not require a

conditional use permit or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

STRATEGIC PLAN:

Denial of the appeal supports the City Council’s 2023-2025 Strategic Plan Priority 3: Housing and Priority 6: Community Engagement & Well-being.

FINANCIAL IMPACT:

Denial of the appeal may have a financial impact in the form of litigation fees and costs if the appellant pursues litigation. If the appeal is granted, there may be a financial impact in the form of litigation fees and costs if the County of Monterey or the California Department of Housing and Community Development pursue litigation.

ALTERNATIVE ACTION:

The Council could grant the appeal. In this case, staff requests direction regarding how to make the finding required by Watsonville Municipal Code Section 14-10.1106, that the action taken by the official or advisory body was taken erroneously and was inconsistent with the intent of the zoning district regulations that regulate the proposed action (in this case, Government Code Section 65662). Staff would return with a resolution granting the appeal at a subsequent meeting.

REFERENCES:

Government Code

GOV § 65582(g)

GOV § 65583.2(i)

GOV § 65585(j)

GOV § 65660(a)

GOV § 65662

GOV § 65664

GOV § 65943

Health and Safety Code

HSC § 50801(e)

Welfare and Institutions Code

WIC § 8255(d)

Watsonville Municipal Code

WMC § 14-12.300

WMC § 14-12.301

WMC § 14-10.1101

WMC § 14-10.1106

WMC § 14-18.331

ATTACHMENTS:

1. 118 1st Street – Final Plan Set
2. County of Monterey ERF Grant Application
3. ARP Application #PP2023-6297 – 10.17.2023
4. Guidance Letter for ARP #PP2023-6297 – 11.29.2023
5. City Response to Memo Regarding Guidance Letter – 07.26.2024
6. Amended ARP Application #PP2023-6297 – 08.23.2024
7. Amended ARP Application Memo – 08.23.2024
8. Updated Amended ARP Application Memo – 09.04.2024
9. Zoning Administrator Determination Letter – 09.20.2024
10. Appeal Application #PP2024-7954 – 10.02.2024
11. Monterey County Counsel Response to Appeal #PP2024-7954 – 10.10.2024
12. HCD Letter of Support and Technical Assistance – 11.19.2024
13. Lead Me Home Monterey and San Benito County Continuum of Care Operational Standards for Emergency Shelters
14. County of Monterey Homeless Services Good Neighbor Protocol
15. Appeal Application PP2024-8380 – 12.16.2024
16. Monterey County Response to Appeal PP2024-8380 – 02.21.2025
17. Tiny Homes Project Letter – William Seligmann – 07.29.2024
18. Marta Bulaich Rebuttal Document – 12.03.2024
19. Public Comment Email with Links to Folio – 12.03.2024
20. December 3, 2024 Planning Commission staff report
21. December 3, 2024 Planning Commission minutes
22. December 3, 2024 Planning Commission Resolution no. 14-24