

**REBUTTAL DOCUMENT TO STAFF'S ANALYSIS IN THE
DECEMBER 3, 2024 PLANNING COMMISSION AGENDA PACKAGE**

- 1. City Staff (Staff) improperly withheld critical information from certain City Council Members regarding collaboration by Staff with local county government officials as to siting the project at the Westview Presbyterian Church (Church) location.**

Staff Analysis: This comment is not related to the entitlement review process and does not identify any actions erroneously taken by the Zoning Administrator. Therefore, this is not grounds for modifying or overruling the Zoning Administrator's approval of ARP #2023-6297. Staff also disagrees with this characterization.

Rebuttal: Staff's assertion that the withholding of critical information is unrelated to the entitlement process and does not provide grounds for overruling the Zoning Administrator's approval is incorrect. Integrity of the entitlement review process depends on transparency, completeness, and adherence to procedural requirements. Withholding critical information from City Council Members undermines these principles.

Staff activity is sustained by public funds for benefit of the community. Council Members rely upon Staff to provide timely information on impending events to begin education and orientation for themselves and their constituents to enable functional public involvement so that urban planning adequately addresses public concerns. Staff's use of public funds in order to cripple the Council Members adversely prejudiced the entitlement review process.

The Zoning Administrator's decision is invalid as it was based on a procedurally flawed process that lacked essential transparency, resulting in an erroneous decision, which is grounds for overruling the ARP #2023-6297 approval (Approval).

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2. Staff improperly made false statements to the City Council and the public regarding predicated involvement by Staff with a state grant application for funding the project.

Staff Analysis: This comment is not related to the entitlement review process and does not identify any actions erroneously taken by the Zoning Administrator. Therefore, this is not grounds for modifying or overruling the Zoning Administrator's approval of ARP #2023-6297. Staff also disagrees with this characterization.

Rebuttal: Staff's assertion that the false public statements by Staff are unrelated to the entitlement review is incorrect. False statements can impact the evaluation of the project's feasibility, funding sources and compliance with local, state, and federal requirements. These issues are central to the entitlement review process.

Staff activity is sustained by public funds for benefit of the community. Council Members and the public rely upon Staff to provide true statements regarding Staff involvement with grant applications which are to fund the project. True statements from Staff enable Council Members and the public to adequately assess the grant's purpose and the related priorities of the public as well as the legitimacy of the grant particulars.

Accurate disclosure of Staff's involvement with pursuit of controversial grant funding empowers the public and the Council Members to monitor and address impending and ongoing conflicts of interest and illicit self-serving motivation.

The entitlement process is a public process that requires transparency and accountability. False statements by Staff undermine public trust in the city's governance, which includes the entitlement review process.

The Zoning Administrator's decision is invalid as it was based on a procedurally flawed process that lacked essential transparency, resulting in an erroneous decision, which is grounds for overruling the Approval.

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3. Staff improperly accepted the Application. This is because the Application was defective due to significant omission of important information.

Staff Analysis: City staff is required to accept entitlement applications, which are then reviewed for completeness. The project went through several rounds of review and received several 'incomplete letters' before the application was deemed complete and the project application was approved. This is common practice for entitlement applications, which are generally incomplete or require plan changes to comply with development standards and other regulations at the beginning of the review process.

Rebuttal: Staff's response is a narrative of how the project application was handled and a declaration that such actions are common with them. This recital of how Staff is content with how they do things does not rebut the Appeal Reason 3.

The Appeal Letter gave details of the defects of the information provided in the application and those defects still exist. Some elaboration is warranted. It is common for applications to be incomplete, but only to a certain degree. It is also common for applications to undergo iterations in the review process.

However, when the errors and omissions are significant, then the process becomes dysfunctional with critical details being overlooked and improper prejudice being fostered. Integrity of the review process becomes compromised. Staff should have required the applicant to re-submit the application until the significant errors and omissions were adequately corrected before processing it further.

Ever worse is the inequitable impact on the affected public that results from acceptance of significantly defective applications. Staff first accepted (in covert manner) the application in October of 2023 with outrageous omissions and defects and maintained the defects for eight months. Staff only started to remedy the defects after massive public controversy erupted once the extent of the fraudulent application processing was exposed.

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The Zoning Administrator's decision is invalid as it was based on a disorderly and inequitable application process that led to an erroneous decision, which is grounds for overruling the Approval.

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4. Staff improperly approved the Application without examining and determining the existing uses and conditions on the project site and surrounding environment.

Staff Analysis: The project site is zoned Downtown Core, which is an area zoned for mixed-use. Therefore, the provisions of [Government Code § 65662](#) apply. [Government Code § 65662](#) does not include any requirements related to the project site or surrounding environment.

Rebuttal: Staff asserts that Government Code Section (Sec. 65662) applies to the project site and that Sec. 65662 does not include any requirements required related to the project site or surrounding environment. Staff's assertion is superficial and nonresponsive.

Using a qualifier, if it is assumed that Staff meant to say that Sec. 65662 exempts analysis and consideration of existing uses and conditions of the site and surrounding environment, then Staff's assertion is incorrect.

Sec. 65662 outlines provisions related to supportive housing projects; however, it does not exempt the city from its obligation to consider existing uses and conditions, particularly when existing uses are conditional.

The Zoning Administrator failed to examine and determine the existing uses and conditions on the project site and surrounding environment, which led to an erroneous decision, which is grounds for overruling the Approval.

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5. Staff improperly conducted defective informational meetings for adjacent residents and businesses by erratic and incompetent noticing and scheduling.

Staff Analysis: This comment is not related to the entitlement review process and does not identify any actions erroneously taken by the Zoning Administrator. Therefore, this is not grounds for modifying or overruling the Zoning Administrator's approval of ARP #2023-6297. Staff also disagrees with this characterization.

Rebuttal: Staff's assertion that defective informational meetings are not related to the entitlement review process is incorrect.

Informational meetings are a vital source of public input that informs the Zoning Administrator's decision. Improperly noticed and scheduled meetings deny affected parties the opportunity to voice concerns or provide relevant information leading to a decision that does not fully account for the project impacts.

It should be noted that at numerous times, various government officials enthusiastically made public declarations that informational meetings were held that addressed neighborhood concerns. The use by reference to defective meetings in order to promote public acceptance and approval of the project is adversely prejudicial to the public interest.

The Zoning Administrator's decision is invalid as it was based on a procedurally flawed process that lacked equitable public engagement resulting in an erroneous decision, which is grounds for overruling the Approval.

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6. Staff improperly withheld critical public documents from the attorney representing the neighbors in the vicinity of the Church, violating the California Public Records Act (CPRA).

Staff Analysis: This comment is not related to the entitlement review process and does not identify any actions erroneously taken by the Zoning Administrator. Therefore, this is not grounds for modifying or overruling the Zoning Administrator's approval of ARP #2023-6297. Staff also disagrees with this characterization.

Rebuttal: Staff's assertion that withholding public documents from the attorney representing the neighbors in the vicinity of the church is not part of the entitlement review process is incorrect.

Withholding public documents prevents stakeholders, journalists, attorneys and public members from adequately reviewing and addressing the project impacts.

The California Public Records Act (CPRA) ensures public access to information that allows for meaningful participation in governmental decision-making.

Such action compromises public trust and legitimacy of the Zoning Administration decision. Procedural fairness, including compliance with the CPRA is a foundational requirement for land use decisions.

The Zoning Administrator's decision is invalid as it was based on a procedurally flawed process that lacked proper disclosure of public documents, resulting in an erroneous decision, which is grounds for overruling the Approval.

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7. Staff improperly made false public statements alleging that the Application did not exist for the project, which led to public misdirection.

Staff Analysis: This comment is not related to the entitlement review process and does not identify any actions erroneously taken by the Zoning Administrator. Therefore, this is not grounds for modifying or overruling the Zoning Administrator's approval of ARP #2023-6297. Staff also disagrees with this characterization.

Rebuttal: Staff's assertion that the false public statements made by Staff are not related to the entitlement process is incorrect. The entitlement review process depends on transparency and accountability. False statements create confusion and obstruct meaningful public participation. This misdirects neighbors and public members and compromises their ability to provide informed feedback on the project.

The Zoning Administrator's decision is invalid as it was based on a procedurally flawed process that lacked essential transparency, resulting in an erroneous decision, which is grounds for overruling the Approval.

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- 8. Staff improperly failed to guide the applicant to obtain, by necessity, a special use permit for the Church as a predicated step for the entitlement of the project.**

Staff Analysis: The LBNC is a 'use by right.' Per [Government Code § 65583.2\(i\)](#), "use by right" means 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 (CEQA). Therefore, no special use permit may be required by the City as a predicated step for entitlement of the project.

Rebuttal: Staff's assertion that no special use permit (SUP) may be required as a predicated step for the project is incorrect. It is agreed that the LBNC is a "use by right" as per Government Code Section 65583.2(i). However, that code section only applies to the project itself and not to any conditional use on the site, such as the church. As a conditional use that lacks a use permit, the church is a nonconforming use. By authority of Watsonville Zoning Code Section 14-20.050, the Church is required to obtain an SUP when a change is being proposed to the existing characteristics of the church use on the property. Establishing an LBNC on the property would change such characteristics. As a result, the church is required to get an SUP before the LBNC can be entitled on the property.

Because the Zoning Administrator approved the LBNC entitlement without first requiring the church to get an SUP, the Zoning Administrator acted erroneously in violating the Watsonville Zoning Code, which is grounds for overruling the Approval.

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9. Staff improperly failed to respond to the legal analysis presented by the neighborhood attorney.

Staff Analysis: This comment is not related to the entitlement review process and does not identify any actions erroneously taken by the Zoning Administrator. Therefore, this is not grounds for modifying or overruling the Zoning Administrator's approval of ARP #2023-6297. Staff also disagrees with this characterization.

Rebuttal: Staff's assertion that Staff's failure to respond to the legal analysis presented by the neighborhood attorney is not related to the entitlement review process is incorrect. During the entitlement review process, stakeholders, including attorneys representing affected parties, have the right to present legal arguments addressing compliance with laws and regulations. Staff is obligated to consider and respond to these arguments to ensure all relevant issues are addressed. Ignoring a legal analysis denies stakeholders their procedural right to meaningful participation.

Ignoring a legal analysis is not consistent with the principles of due process, fairness, and transparency. California land use laws require that public agencies engage with legal issues raised during the review process.

The Zoning Administrator's decision is invalid as it was based on a procedurally flawed process that lacked essential engagement and response, resulting in an erroneous decision, which is grounds for overruling Approval.

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- 10. Staff improperly approved the Application without determining the size, location, capacity, and character of the project that would be used as an emergency shelter as defined and regulated in the Watsonville Zoning Code.**

Staff Analysis: The LBNC is not regulated under the Watsonville Zoning Code because it is not an emergency shelter. The requirements of [Government Code § 65662](#) do not allow consideration of the size, location, capacity, or character of LBNCs. However, the size, location, capacity, and character of the project were clearly stated in the ARP application materials and reviewed by City staff prior to project approval.

Rebuttal: Staff's response states that the LBNC is not an emergency shelter and, thus, not regulated by the Watsonville Zoning Code. The accuracy of Staff's response is unclear. Staff presents no evidence of even trying to determine if this claim is true. Staff claims that Government Code Section 65662 does not allow consideration of some details of an LBNC. Staff's evasion under the Government Code is overly broad. While Section 65662 limits certain discretionary review, it does not prevent Staff from ensuring that the project is well-defined and designed in alignment with local planning standards. At a minimum, the Commission should require further inquiry and investigation into this issue before perfecting the entitlement.

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11. Staff improperly failed to require that the applicant specify the entity responsible for managing the emergency shelter and provide the qualifications of said operator.

Staff Analysis: [Government Code § 65662\(a\)](#) only requires that the project have a services plan that identifies services staffing. The application materials identified the Community Action Board (CAB) as the provider of services staffing.

Rebuttal: Staff asserts that Government Code Section 65662(a) only requires that the project have a services plan that identifies services staffing and that the Community Action Board (CAB) was identified as the provider of services staffing. Staff's assertion is non-responsive and consequently incorrect. [Government Code § 65662\(a\)](#) does not exempt the city from ensuring that the identified operator is qualified to manage the project effectively.

Moreover, CAB is not identified in the Zoning Clearance Application but merely in the ERF-2 Grant, and this is not a valid identification of the operator.

The Zoning Administrator's decision is invalid as it relied on incomplete and omitted information resulting in an erroneous decision, which is grounds for overruling the Approval.

12. Staff improperly submitted a Building Permit Submission to Caltrans in July of 2024 prior to approving the Zoning Clearance Occupancy Permit Application.

Staff Analysis: As part of the application review, City staff reached out via email to Caltrans staff to inform them of the proposed work along CA-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.

Rebuttal: Staff's reply is that they communicated with Caltrans to inform them of proposed work along CA-129 and to respond to questions and that such communication is normal. Staff's reply is non-responsive and consequently incorrect. In reality, the evidence indicates that Staff provided Caltrans with a building permit submission related to the project before the Zoning Clearance process was complete. By engaging Caltrans in a manner that suggests the building permit is underway before zoning is secure gives the appearance that the project approval is a foregone conclusion which undermines the integrity of the entitlement process.

The Zoning Administrator's decision is invalid as it was based on a procedurally flawed process that lacked procedural integrity, resulting in an erroneous decision, which is grounds for overruling the Approval.

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13. **Staff improperly failed to evaluate the animal policy of the emergency shelter, including the density of domestic animals and/or farm animals that will reside on the Church property. (Chapter 1 of Title 6 of Watsonville Municipal Code)**

Staff Analysis: The animal policy of the emergency shelter cannot be considered under the review requirements in [Government Code § 65662](#).

Rebuttal: Staff's reply is that the animal policy of the emergency shelter cannot be considered under the review requirements of Government Code Section 65662. **Here, Staff now admits that the project is an emergency shelter whether in whole or in part.** Certainly the emergency shelter component is subject to evaluation of the referenced municipal animal policies.

However, even if one assumes that Government Code Section 65662 is applicable to part of the shelter, Staff's assertion is still incorrect. Government Code Section 65662 does not exempt the city from enforcing their operational code pertaining to animals.

The Zoning Administrator's decision is invalid as it failed to evaluate the animal policy of the emergency shelter, resulting in an erroneous decision, which is grounds for overruling the Approval.

14. Staff improperly failed to require an adequate Good Neighbor Policy.

Staff Analysis: A good neighbor policy is not one of the review requirements in [Government Code § 65662](#). However, the project is required to comply with the County of Monterey Homeless Services Good Neighbor Protocol, which was submitted as part of the ARP application documentation.

Rebuttal: Staff's reply is that a good neighbor policy is not one of the review requirements of Government Code Section 65662.

From this Staff concedes that they made no review for adequacy of the good neighbor policy, and they offer justification for the procedural defect by citing Government Code Section 65662. Staff's reasoning is invalid. Government Code Section 65662 does not prohibit consideration of adequate good neighbor policies.

As declared in the previous items of the Appeal, the extensive defects in sincere and competent engagement with the affected public regarding the likely adverse impact from the project would have presented a serious hurdle for Staff to conduct a proper review. However, the fact is that Staff didn't even bother to try and dismissed such initiative by means of evasion behind an inapplicable state law.

The Zoning Administrator's decision is invalid as it did not require an adequate good neighbor policy, resulting in an erroneous decision, which is grounds for overruling the Approval.

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15. Staff improperly failed to consider issues pertaining to the Loaves & Fishes institutional operation at 150 Second Street, Watsonville, CA.

Staff Analysis: The Loaves & Fishes institutional operation at 150 Second Street is not a part of the project and cannot be considered under the review requirements in [Government Code § 65662](#).

Rebuttal: Staff's assertion is that Loaves & Fishes is not part of the project and cannot be considered under the review requirements in Government Code § 65662 is incorrect. Loaves & Fishes is an illicit nearby nuisance use in the neighborhood that is a likely interactive entity with the project. As such, the operation and contextual impacts and interactions need to be considered to ensure the compatibility of the project. In addition, Government Code § 65662 does not preclude the consideration of nearby uses and their potential impact on the project.

The Zoning Administrator's decision is invalid as it did not consider issues pertaining to the Loaves & Fishes operation, resulting in an erroneous decision, which is grounds for overruling the Approval.