

LAW OFFICES
William R. Seligmann
333 Church Street, Suite A
Santa Cruz, California 95060
Telephone: (831) 423-8383
Fax: (831) 438-0104

Mailing Address:
PO Box 481
Santa Cruz, California 95061

July 29, 2024

Silicon Valley Office:
(408) 356-1950

Watsonville City Council
275 Main St., Suite 400 (4th Floor)
Watsonville, CA 95076
citycouncil@cityofwatsonville.org

Re: Tiny Home Application – 118 & 120 First Street, 5 Cherry Court

Honorable Mayor Quiroz-Carter and Members of the City Council:

My firm has been retained to represent the interests of a neighborhood coalition of residents, businesses, and property owners affected by the current application to construct a transitional housing and navigation center (identified as Tiny Village) for currently homeless persons on the properties occupied by the Westview Presbyterian Church. While my clients recognize the need to afford housing opportunities to those less fortunate members of the community, they feel that certain neighborhoods in the City have become a dumping ground for the homeless, which has led to a disproportionate incidence of anti-social behavior, including public vandalism, breaking and entering, arson, trespassing, stalking, loitering, and public drug use.

My clients have asked me specifically to address the legal process for the proposed project. In this regard, there are two aspects that need to be addressed; (1) the inapplicability of Senate Bill 4 of 2023; and (2) the necessity for a Special Use Permit for the change in the church operations.

Senate Bill 4:

Senate Bill 4, also known as the Affordable Housing on Faith and Higher Education Lands Act of 2023, adopted California Government Code section 65913.16. This section allows for housing development projects on property owned by religious institutions when certain stringent requirements are met. Among these requirements, the property cannot be located within 1,200 feet of a site that is that is subject to permitting by an Air Resources District. (Cal. Gov. Code 65913.16(b)(4), (c)(6)(B).) In the instant case, the church property is located with 1,200 feet of eleven (11) such heavy industrial sites according to the website of the Monterey Bay Air Resources District. Consequently, the provisions of Senate Bill 4 do not apply.

Change in the Use of the Church Property Requires a Special Use Permit:

Given that Senate Bill 4 is inapplicable, the proposed project must comply with all of the applicable provisions of Watsonville's local land use regulations. Based on an application submitted to Watsonville on October 24, 2023, the proposed project consists of approximately 34 modular units to be operated in conjunction with navigation facility for currently unhoused persons and their animals.

It is my understanding that at the time that the application was submitted, the properties were zoned Institutional (N). While emergency shelters are a principally permitted use in the Institutional zoning district, transitional housing is specifically prohibited, and churches require a Special Use Permit (Watsonville Municipal Code ("WMC") § 14-16.802(a)(2), (e)(3), (5).) The current application specifically requests transitional housing, and does not meet the definition of "emergency housing," which is defined as "[h]ousing with minimal supportive services." (WMC § 14-16.803(e)(3)(i).) The current application proposes a navigation center staffed 24 hours a day, which is far from minimal services. Consequently, the proposed project would not be allowed under the Institutional zoning.

On November 23, 2023, Watsonville adopted the Downtown Watsonville Specific Plan ("DWSP"). Under DWSP, the church properties were placed in the in the Downtown Core zone. Interestingly, neither emergency shelters nor transitional housing are specifically listed as a permitted use in the Downtown Core zone of the DWSP; and while dwelling units are generically listed as permitted uses, **churches continue to require a Special Use Permit.** (Table 6-3.) In the present case, the existing church does not currently possess a Special Use Permit. As such, the church is either an illegal use or a nonconforming use. In either case, the church must now obtain the necessary Special Use Permit.

The pending project will drastically change the character and intensity of the current use of the properties. Instead of simply providing religious services, the church properties now will also offer transitional housing and navigation services to a currently unhoused population in addition to the current religious services. Pursuant to Watsonville Municipal Code section 14-20.050, "[a] nonconforming use may only be increased in . . . intensity or modified in . . . character through the granting of a special use permit." This radical change in use will thus require a Special Use Permit, which will undoubtedly entail consideration of modifications of the church structure to address its location in a flood plain, as well as obtaining approvals from CalTrans for expanded ingress and egress onto Highway 129. Similarly, sufficient church parking will need to be maintained to satisfy the Municipal Code (See WMC § 14-17.1101(g).)

The Housing Accountability Act ("HAA" - California Government Code section 65598.5) does not relieve the City from following the Special Use Permit process. While HAA limits the criteria that can be used to deny a housing development project, it neither dictates the review procedure nor prohibits the imposition of reasonable conditions. Likewise, it does not apply to assembly uses, such as churches. Consequently, the proposed project cannot be approved simply through the Zoning Clearance process.

I hope that this information is helpful to your consideration of this project; and if you have any questions, please feel free to contact me at your convenience.

Sincerely,

William R. Seligmann

William R. Seligmann

cc: *email only:*

City Manager

City Attorney

Community Development Director

Monterey County Board of Supervisors

Santa Cruz County Board of Supervisors

Executive Presbyter