

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF REDMOND**

In the Matter of the Application of)	No. LAND-2016-01036
)	
)	
Evangelical Chinese Church)	BelRed Family Resource Center
)	
For)	FINDINGS, CONCLUSIONS,
Conditional Use Permit)	AND DECISION
_____)	

SUMMARY OF DECISION

The requested conditional use permit to use an existing single-family dwelling at 2321 - 173rd Avenue NE in Redmond, Washington as a homeless women and children’s shelter is **DENIED**. The use is not allowed in the zone.

SUMMARY OF RECORD

Request:

Peter Su, of the Evangelical Chinese Church (ECC, Applicant), together with John Coster of Creekside Covenant Church (CCC, co-Applicant), requested a conditional use permit to upgrade an existing single-family dwelling for use as a homeless women and children’s shelter. The subject property is located at 2321 - 173rd Avenue NE in Redmond, Washington. The shelter is proposed as an accessory use to Creekside Covenant Church located next door at 2315 - 173rd Avenue NE, which has an underlying conditional use entitlement for a religious facility.

Hearing Date:

The City of Redmond Hearing Examiner conducted an open record hearing on the request on February 5, 2018. Due to the volume and nature of comments submitted shortly prior to and at the hearing, the record was held open to allow responses in writing from the City (through February 26th) and the Applicants (through March 5th), which resulted in a decision issuance deadline of March 19, 2018. However, prior to decision issuance during deliberation, the undersigned asked the Applicants (via the hearing clerk) to extend the decision issuance timeline by five additional business days. The Applicants granted this request.

Testimony:

At the open record hearing, the following individuals presented testimony under oath:

- Sarah Pyle, Senior Planner
- Dr. Elton Lee, Applicant Representative, Evangelical Chinese Church
- Jennifer Browning, Applicant witness, Union Gospel Mission
- Paul Larose, Applicant witness, Union Gospel Mission
- Brynjar Peterson, Applicant Legal Representative
- Kevin Damour
- Tim Alexander
- Danielle Madrid

Katherine Zinger
Ramesh Parameswaran
Gerard Rebagliati
Theodore Vander Wel,¹ Attorney, representing five neighbors of the property: Bob Shade,
Aditya Dube, Margaret Leiberton, Corey Miller, and Michelle A. Damour
Dae Kim
Sheila Sloan-Evans
Bob Settles
Shannon Koh
Srikrishna Chavali
John Watson
Dan Nicolescu
Marlene Taylor Houtchens
Arkadiy Tseytlin
Hooshang Jafarzhdeh
Sergey Chub
Suman Tedla
David Sowers
Juan Goni
Willy Chen
Frederic Mokren
April Mobley
Sujit Kuruvilla
Usha Pinreddy
Ayelet Winer
Li Li
Douglas Hall
Natalya Krilov
Smita Parasa
Gor Nishanov
Yevgeniy Goldenberg

Exhibits:

At the open record hearing, the following exhibits were admitted in the record:

Exhibit 1 Technical Committee Report to the Examiner, with the following attachments:

1. Notice of Application, Certificate of Public Notice, and Public Notice
2. Notice of Application public comment letters (See Appendix 1)
3. Staff responses to public comment letters and emails
4. Follow up questions and responses to public comments (See Appendix 2)
5. Neighborhood meeting comment cards

¹ Notice of the public hearing included the information that public comment would be limited to a period of four minutes per person. Mr. Vander Wel inquired in advance whether his clients could pool their time to allow him longer for testimony, and this request was granted.

6. Responses to neighborhood meeting comment cards
7. Notice of Public Hearing and Certificates of Posting
8. Additional operation information and details
9. Pictures of current structure
10. Traffic study
11. Planning conditions site plan
12. Code of conduct
13. Completeness letter
14. General application form
15. Vicinity map
16. Plan set, received December 6, 2017
17. Neighborhood meeting notice 1
18. Neighborhood meeting notice 2
19. Stormwater report, received August 11, 2017
20. Supplemental information and data submitted by Applicants
21. Parking agreement

Exhibit 2 PowerPoint presentation from Planning Staff

Exhibit 3 Public comments received after publication of the Staff Report, with Staff responses (See Appendix 3)

Exhibit 4 Previous permit information consisting of:

1. Site Plan of subject property, date stamped received by the City July 15, 2011
2. Eleven pages of information from City files related to CUP 10 and SDP-85-2
3. Twenty-six pages related to SDP-85-2
4. Seven pages related to SDP-85-2
5. Eight pages related to SDP-85-2
6. Eighteen pages related to SDP-86-1

Exhibit 5 Comments submitted during notice of hearing comment period (See Appendix 4)

Exhibit 6 Comments submitted at hearing (see Appendix 5)

Exhibit 7 Email from Bob Rosain, dated February 12, 2018 (submitted post hearing)

Exhibit 8 Planning Staff's post-hearing response to public comment, submitted in accordance with the timeline established on the record on February 25, 2018

Exhibit 9 Letter from the City Attorney addressing legal argument from project opponents, submitted in accordance with the timeline established on the record on February 25, 2018

Exhibit 10 Applicants' response to legal argument from project opponents, undated, submitted by March 5, 2018 in accordance with the timeline established on the record

Upon consideration of the testimony and exhibits admitted, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. Peter Su, of the Evangelical Chinese Church (ECC, Applicant), together with John Coster of Creekside Covenant Church (CCC, co-Applicant), requested a conditional use permit to upgrade an existing single-family dwelling for use as a homeless women and children's shelter.² The subject property is located at 2321 - 173rd Avenue NE in Redmond, Washington. According to Planning Staff, the shelter is proposed as an accessory use to Creekside Covenant Church located next door at 2315 - 173rd Avenue NE, which has an underlying conditional use entitlement for a religious facility. *Exhibits 1, 1.14, and 1.16.*
2. The 0.5-acre subject property is developed with a 5,016 square foot single-family residence owned by ECC. The project seeks to upgrade the interior of the existing dwelling for use as a homeless women and children's shelter to be operated by trained staff from Seattle's Union Gospel Mission (SUGM). Homeless mothers with their minor children (up to approximately 25 total persons) would reside in the six-bedroom residence for a period not intended to last longer than 90 days while they receive assistance designed to help them secure stable housing, employment, and other services as appropriate. The proposed maximum occupancy of no more than 40 persons includes both the women and children to be sheltered in the dwelling and the staff and consultants who would visit the premises to manage the facility and provide such services as housing, employment, mental health, and other counseling services to the temporary residents of the shelter. School aged children residing in the shelter would continue to attend school. No changes are proposed to the exterior of the existing residence except the addition of a six-foot tall perimeter fence around the parcel to provide screening and privacy. All existing trees and vegetation on-site would be retained. *Exhibits 1, 1.8, 1.16, and 2 (page 6).*

² Initially the proposal was submitted solely by ECC and known as ECC Women and Children's House; however, on July 26, 2017, the application was updated to include Creekside Covenant Church as co-applicant, and the project name was changed to the BelRed Family Resource Center. *Exhibits 1.13 and 1.14; Sarah Pyle Testimony.* This change is not reflected in the cover page of the Technical Committee Report, but is reflected in the notice of public hearing. *Exhibits 1 and 1.7.*

3. The project would be a year round, 24-hour shelter serving women with minor children who lack permanent housing. In 2016, the King County 211 Crisis Clinic hotline received 474 calls from eastside residents of Bellevue, Kirkland, and Redmond seeking emergency shelter, including 130 Redmond families. During the 2016-2017 school year, Lake Washington School District served 385 students who met the criteria for homelessness. Residents of Redmond would receive first priority admission at the proposed facility, and if space remains available, families from other eastside communities would be admitted. Admitted families would be allowed to maintain bed space at the center for up to 90 days, making it possible for Redmond families currently dwelling in cars or the homes of acquaintances to remain in the community in which they live, work, and attend school while they receive assistance in working towards stable, permanent housing. *Exhibits 1, 1.8, 1.20, and 2; Jennifer Browning Testimony.*

4. The proposed facility would be operated with two staff on-site 24 hours a day, seven days a week, on three shifts: 7:00 am to 3:30 pm, 3:00 pm to 11:30 pm, and 11:00 pm to 7:30 am. Overnight staff would remain awake and alert at all times. A 9:00 pm curfew would be imposed for all guests, with exceptions allowed in verified cases of employment obligations. Families would be screened over the phone before being allowed on-site; there would be no waiting line outside the shelter. Women actively fleeing domestic violence situations would be referred to domestic violence shelters and programs elsewhere and not admitted. Shelter guests would complete the Coordinated Entry for All assessments offered through King County as a step toward permanent housing. Women and children staying at the facility would have a safe place to stay overnight and access to services, including meals, showers, laundry, case management, housing assistance, employment searches, children’s activities, and life skill classes. Staff would work with guests to identify barriers and potential solutions, set goals, and find options for stable housing. Volunteers on-site during daytime hours (6:30 am to 8:00 pm) would assist in meal preparation, help with homework, provide children’s activities, etc. All volunteers must pass a background check and sign up through Seattle’s Union Gospel Mission online platform. Visiting professional service providers, including tutors, case workers, social workers, health care professionals, and others would be on-site typically during off-peak travel hours. Between shelter residents, staff, volunteers, and professional service providers, a maximum occupancy of 40 persons would be strictly enforced. Applicants ECC and CCC have executed a shared parking agreement for the use of up to 20 spaces in the adjacent CCC parking lot. The parking lot would be monitored by staff and video surveillance. *Exhibits 1, 1.8, 1.20, and 2; Jennifer Browning Testimony.*

5. The Applicants asserted that serving homeless persons is an integral part of their religious faith and that use of the property to shelter homeless women and children is proposed in furtherance of the mission of each of the two churches.³ *Dr. Elton Lee Testimony;*

³ Both the Technical Committee Report and the co-Applicants’ post-hearing materials indicate that Westminster Chapel, located at 3646 - NE 24th Street in Bellevue, is also a project proponent. *Exhibits 1 and 10.* However, there is no signature representing Westminster Chapel on the application or any other Applicant submittal, and no Westminster Chapel representative provided testimony supporting the assertion of their participation at hearing.

Exhibit 10. In the Technical Committee Report, Planning Staff characterized the project as an accessory use to the religious institution use operated by Applicant CCC on the adjacent parcel. Staff noted that the subject parcel was formerly part of Creekside Covenant Church’s property at the time that property obtained CUP approval for its church next door. *Exhibit 1; Sarah Pyle Testimony.*

6. After the City determined the application was complete, the project underwent change in terms of project name and also apparently in project applicants and permit type. The June 7, 2017 determination of application completeness letter informed ECC that the Technical Committee would be approving, denying, or conditioning the project, but the revised July 26, 2017 application is for a Type III CUP, to be decided by the hearing examiner. *Exhibits 1.13 and 1.14.* The July 28, 2017 revised notice of application characterized the requested permit application as a “Conditional Use - Change of Use” application. *Exhibit 1.1.* The January 12, 2018 notice of public hearing characterized the request simply as a conditional use permit application. *Exhibit 1.7.* At hearing, Planning Staff identified the proposed project as a “religious institution” land use. Referencing the “change of use” notation on the July 28th notice of application, Staff stated that the subject property currently has CUP and SDP (site development permit) entitlements to operate a church, a school associated with the church, a parsonage, and office space associated with the church. *Exhibits 2 and 4; Sarah Pyle Testimony.*
7. The subject property is comprised of one tax parcel in the Idylwood Neighborhood. Bound on the east by 173rd Avenue NE and on the north by NE 24th Street, the site contains no critical areas and is within Wellhead Protection Zone 4. The property abuts single-family residential zoning to the north (R-6), and to the south, east, and west (R-3), with existing residential development to the south and west. *Exhibits 1, 1.1, and 1.15.*
8. The subject property is zoned R-3, Single Family Constrained Residential. *Exhibit 1.* Religious institutions are allowed outright in the R-3 zone if they have fewer than 250 seats; conditional use approval is required for a religious institution use in the R-3 district if it has more than 250 seats. *Redmond Zoning Code (RZC) Table 21.08.050.C, line 25.*
9. Planning Staff indicated that the existing structure satisfies all bulk dimensional development standards of the R-3 zone, including front, side, and rear setbacks, lot coverage by structure and impervious surface area, open space, and structure height, and therefore that the proposal, which would make no external changes to the structure, would be consistent with the requirements of the zone. *Exhibit 1; Sarah Pyle Testimony.*
10. Planning Staff identified the following City of Redmond Comprehensive Plan policies as applicable to the instant application:

LU-29: Designate allowed residential densities and housing types to provide for a housing stock that includes a range of choices to meet all economic segments and

Notice of hearing identifies only ECC and CCC as applicants. *Exhibit 1.7.* Staff’s PowerPoint presentation refers to the “two co-applicants”. *Exhibit 2, page 5.*

household types, including those with special needs related to age, health or disability.

HO-5: Cooperate with private and nonprofit developers, including the King County Housing Authority and social and health service agencies, to address local housing needs.

HO-11: Encourage the development of a variety of housing types, sizes and densities throughout the city to accommodate the diverse needs of Redmond residents through changes in age, family size and various life changes including:

- Development that provides smaller units with a mix of attached and detached housing units,
- Homes with ground floor master suites, and
- Homes with all living areas on one floor.

HS-1: Support the provision of a continuum of human services, from preventive to remedial, focused on ensuring that residents are able to be self-sufficient, contributing members of the community.

FW-46: Improve the welfare and independence of Redmond residents by supporting the availability of human services to all in the community.

Planning Staff submitted the position that the proposal would be consistent with these Comprehensive Plan goals and policies because it would: provide additional shelter beds in Redmond combined with services in support of families in need of finding permanent housing; directly improve the welfare and independence of Redmond residents; provide shelter to women and children experiencing homelessness in Redmond; and allow existing Redmond families currently dwelling in cars or the homes of acquaintances to remain in the community in which they are already living, working, and attending school while they work towards stable housing. *Exhibits 1, 2, and 8; Sarah Pyle Testimony.*

11. Addressing criteria for CUP approval, Planning Staff stated that the proposal would be compatible with the surrounding neighborhood in that it would not alter the exterior of the existing dwelling in any way that would render its appearance or function to be other than that of residential use. The proposed BelRed Family Resource Center would continue to maintain the appearance of a single-family residence, meaning the intended character, appearance, quality of development, and physical characteristics of the property would not be affected. Because the only exterior change proposed is the addition of a perimeter fence, Staff asserted that the project would comport with the CUP criterion prohibiting approval of conditional uses that would hinder circulation or discourage the development of permitted uses in the neighborhood. Staff agreed with the Applicants that the proposed staffing and operation by SUGM, with a curfew, maximum number of guests, house rules, and other shelter management techniques employed at SUGM's other facilities, would prevent the use from resulting in unusual hazards or

adverse impacts to surrounding residential development. *Exhibits 1, 1.9, and 2; Sarah Pyle Testimony.*

12. Based on a professionally prepared trip generation report, the proposed facility would generate a total of four net new PM hour peak trips. According to the traffic report, the project would not significantly impact levels of service for either NE 24th Street or 173rd Avenue NE during peak traffic periods. City transportation staff determined that no further traffic study is needed. The proposal would provide three feet of right-of-way dedication and nine feet of public utility easement to satisfy roadway standards for any future improvements on NE 24th Street; no right-of-way dedication or additional easement are required on 173rd Avenue NE. The project does not require frontage improvements, per RZC 21.17.010.F.d. Existing public transportation is located on the corner of 173rd Avenue NE and NE 24th Street via the 249, 888, and 895 bus lines, and the 226 bus line is accessible with a half mile. *Exhibits 1 and 1.10.*
13. One deviation from code requirements was administratively granted to the proposal on April 5, 2017. The code deviation allows additional parking required to be provided off-site on the CCC property (tax parcel 2525059040) through an executed cooperative parking agreement. *Exhibits 1 and 1.21; RZC21.40.010.D.*
14. The State Environmental Policy Act (SEPA) requires applicants to disclose probable, significant, adverse environmental impacts that could occur as a result of development. Because it does not involve ground disturbing work and would be premised on the use of a single-family residence, the project is categorically exempt from SEPA review. *RZC 21.70.010.C; WAC 197-11-800(6).*
15. The Applicants hosted a neighborhood meeting at City Hall on May 1, 2017. The City hosted a second neighborhood meeting at City Hall on August 24, 2017. Notice was provided in advance of both meetings. *Exhibits 1, 1.17, and 1.18.* Planning Staff provided comment cards to those in attendance. The cards were collected and responses were provided during the meeting. Staff also submitted responses to the questions via e-mail and posted on the City website. *Exhibits 1, 1.5, and 1.6; Sarah Pyle Testimony.*
16. Notice of application was published; posted at City Hall, the Redmond Regional Library, and on the subject property; and mailed to owners of property within 500 feet of the site on June 23, 2017 and re-issued on July 28, 2017 with an updated property description. *Exhibits 1 and 1.1.*
17. The City received 31 written comment letters during the notice of application public comment period expressing concerns including: increased crime, safety for neighboring residents and property, traffic impacts, loitering, impacts on property values, lack of adjacent services, and an increase in homeless people coming to the neighborhood. The comments raised questions regarding whether there is a local need for a women and children's shelter, whether a shelter is a permitted use in R-3 zone, and whether the previously approved permits for the site are valid or relevant to the proposal. The City also received letters in support of the proposal. *Exhibits 1 and 1.1.*

18. Notice of the February 5, 2018 public hearing was published; posted on-site, at City Hall, and at the Redmond Regional Library; and mailed to owners of property within 500 feet of the subject property and all parties of record on January 12, 2018. *Exhibit 1.7.*
19. The City received well over one hundred written public comments during the public comment period following notice of hearing, both before and at the hearing. *Exhibits 3, 5, and 6.* Approximately thirty-three members of the public testified at the hearing. In the following findings, the summarized content of the comments is organized into those opposed to and those in favor of the project.
20. The following (paraphrased) concerns were submitted in opposition to the proposal:

Zoning compliance:

Many argued that a shelter use would be incompatible with existing development in the R-3 Single-Family Constrained Residential neighborhood, given the intended presence of up to 40 persons on-site, as well as the alleged incompatibility of a homeless services facility with the character of the neighborhood. Many questioned how the existing structure could house up to 40 persons. They also disagreed with the City's interpretation of the proposal as a religious institution, given the requirements established for places of "religious assembly" under RZC 21.08.280. Several argued that the proposed use falls under the definition of "social assistance, welfare, and charitable services," which is not allowed in the R-3 zone. They argued that the site has not been used for church services in years, rendering any previous CUP approval of a religious institution on-site expired; and also that the residential use of the site has not been accessory to the next door church for years, arguing that prior permitting was abandoned. A few expressed concerns about the long-term commitment of the Applicants.

Safety, health, and services:

Concerns about loitering, camping, drug/alcohol use, and criminal activity were raised; this concern was centered around teen and adult males not permitted to be at the shelter who would be drawn to the area due to family housed on-site. Some questioned how the shelter rules would be enforced and whether there would be adequate policing. Many comments asserted that there would be safety risks to neighborhood residents, especially children walking to and from school and playing in the neighborhood. Several comments questioned where the individuals being served at the facility would go at the end of their allowed stay and whether this could lead to homeless encampment problems in the neighborhood.

Some questioned whether the subject parcel would be a safe location for the proposed child residents of the shelter, due to speeding and heavy traffic at the intersection. There was question regarding overcrowding, given the size of the structure, which could lead to health risks. One questioned whether the current water system could support the number of people proposed to be on-site, and another raised potential sanitation problems.

Some questioned whether this temporary shelter is a viable option that would actually improve lives. Several believe the shelter would be better suited in downtown

Redmond or another area located closer to other services. One noted there are a number of organizations separately trying to address the homeless issue, rather than working together for overall solutions, which could lead to duplication in services.

Parking, traffic, and transportation:

Some comments questioned whether there would be sufficient parking for the residents and staff and questioned how residents would be transported to the shelter. Some noted the public transportation as limited, with the site having low walkability and transit scores. Concern was raised about the existing use of the parking on-site by Creekside Church members and whether there would actually be parking available for shelter use. One person submitted video of the neighborhood purported to be taken during a Sunday service at CCC, showing most of the on-street parking fully occupied.

Economic impacts:

Many comments submitted that the placement of a homeless shelter in the proposed location would diminish their property values. One stated a local real estate agent indicated the values would be negatively impacted. Another stated an added taxpayer cost would be incurred, as the school district would be transporting children to their home schools rather than having the shelter guest children attending nearby schools.

General:

Many comments simply stated the shelter would be a “bad fit” for the neighborhood. One neighbor residing immediately behind the subject property requested privacy screening landscaping and that the location of the designated smoking area not be in the backyard near their parcel, if approval is granted. Several comments expressed concern about communication from the Applicants and the City during the process, asserting that the City did not adequately address questions and concerns raised and did not adequately study the impacts to the neighborhood. Some felt the name of the shelter in the City’s notices was misleading, and that it was not clear that the proposal was for a temporary homeless shelter. Some comments questioned whether the application materials were compliant with code requirements, as Applicants’ names were not consistent.

Exhibits 3, 4, 5, and 6; Testimony of Kevin Damour, Tim Alexander, Katherine Zinger, Ramesh Parameswaran, Gerard Rebagliati, Theodore Vander Wel, Dae Kim, Shannon Koh, Srikrishna Chavali, Dan Nicolescu, Marlene Taylor Houtchens, Arkadiy Tseytlin, Hooshang Jafarzadeh, Sergey Chub, Suman Tedla, David Sowers, Juan Goni, Willy Chen, Frederic Mokren, April Mobley, Sujit Kuruvilla, Usha Pinreddy, Ayelet Winer, Li Li, Douglas Hall, Natalya Krilov, Smita Parasa, Gor Nishanov, and Yevgeniy Goldenberg.

21. The City also received comments expressing support for the proposal, some from people who work or volunteer for agencies serving homeless populations, including the following: appreciation for the Applicant’s efforts to provide shelter to women and children; testimony of personal experience that shelters were a step out of homelessness to a better life; objection to the characterization of all homeless persons as having drug

problems, committing crime, and interfering with neighbors' enjoyment of their residences; the opinion that hosting a shelter here could foster a sense of inclusive community; and statements of support for Union Gospel Mission's ability to manage the facility with well-trained staff. *Testimony of Danielle Madrid, Sheila Sloan-Evans, Bob Settles, and John Watson; Exhibits 3 and 7.*

22. Theodore Vander Wel, Attorney, spoke at hearing and submitted a legal brief with attachments on behalf of five neighboring property owners. *Exhibit 6.4.* The brief argued the following points. Evangelical Chinese Church, the sole owner of the subject property, has two churches: one 5.2 miles away in Redmond, and one 16.6 miles away in Seattle. Creekside Community Church has no ownership interest in the subject property. There is no homelessness in the immediate neighborhood of the subject property. The brief argues that ECC and CCC do not share an underlying conditional use entitlement to operate religious uses on the subject parcel. The 1968 CUP for church use has been abandoned as to the subject property; it has been used solely as a single-family residence since at least 1974. Even with authorization granted in 1985 to use the subject residence as additional classroom or office/storage space for the adjacent religious school, it was only ever used as a residence. The City issued a 2007 building permit for the parcel that restricted use of the existing building to that of a residence for a pastor or occasional guest. The brief argues that nothing legally binds Seattle Union Gospel Mission, Creekside Covenant Church, or Westminster Chapel to support the operation of the homeless shelter, and ECC could end up solely responsible even though it is not located nearby. It contends that the project cannot be considered an accessory use to Creekside Covenant Church because it is not a use customarily incidental to and on the same parcel as the CCC church. It argues that a homeless shelter is not an incidental use to a church because it is not subordinate, minor in significance, and bearing a reasonable relationship to the primary use. This opposing legal brief argues that the fact that the co-Applicants are churches does not entitle them to use the subject parcel for any purpose they choose, and that land use regulations still apply, especially in the case where the religious entity owning the land does not have its place of worship on the same land. The brief argues that the proposal falls within the definition of a social assistance, welfare, and charitable services land use, which is not a type of use allowed in the R-3 zone. It also argues that the project would constitute multifamily housing rather than single-family housing, inconsistent with the RZC's definition of "family". Based on impacts to neighborhood character alleged by the neighboring property owners, the brief argues that the project cannot satisfy the criteria for conditional use approval because: it is inconsistent with Comprehensive Plan goals and policies pertaining to residential development; the number of occupants proposed exceeds that contemplated for single-family residences; serving homeless persons on-site would result in unusual hazards and adverse impacts to surrounding residential uses; traffic from 40 persons on-site would conflict with neighboring uses; and the proposed 40-person occupancy could not be adequately served by existing facilities and services. *Exhibit 6.4; Argument submitted by Theodore Vander Wel.*
23. As requested, Planning Staff submitted a post-hearing response to public comment offered shortly prior to and at hearing. In this response, Staff clarified that the City

considers the proposal a religious use, but one that would remain in appearance consistent with a single-family home and with the neighborhood in scale, height, materials, entry, and all other design and visual appearances. Staff noted that the proposed six-foot perimeter fence is allowed outright under the current code and is not an uncommon feature of a residential use on a corner lot. With respect to concerns about crime, Staff noted that the Applicants provided information and emergency call data on two other similar facilities that did not indicate an uptick in crime around those sites due to the services provided or clients served. Addressing concerns that notice had not been properly given, Staff responded that the large white posted notice sign and the mailed notices met all adopted Redmond Zoning Code criteria. Staff asserted that no data, evidence, or non-opinion information was provided that confirmed any additional hazards would result in the neighborhood from the proposed use, especially in light of emergency data from similar facilities showing no increase in hazard or crime. Finally, Staff clarified that the proposal is not to modify the previous CUP, and asserted that whether uses previously entitled for the structure have been terminated is not relevant to this proposal for a new CUP. *Exhibit 8.*

24. As requested, the City Attorney submitted a response to the legal argument in the record from neighboring property owners opposed to the project. The City Attorney contended that the RZC definition of religious institution is broad and includes other types of religious institutional housing, such as monasteries, and that the proposal meets this definition rather than that of a social assistance, welfare, and charitable services land use. Citing the Washington State Supreme Court decision *City of Woodinville v. Northshore Church of Christ*, the letter stated, “The City...interprets this definition to include uses that are fundamental to an organization’s religious mission, even if the use could fit within another, secular definition.” The City Attorney asserted that this interpretation of the definition helps ensure compliance with the City’s obligations under the First Amendment. The City Attorney agreed with project opponents that the project would not be an accessory use to the Creekside Covenant Church in the “term-of-art” meaning of the phrase, but rather that “accessory use” is meant to convey that the proposal would be centrally related to the church’s religious mission. The City Attorney noted that, as a religious institution with fewer than 250 seats, the project could have been allowed outright in the R-3 zone; however, because CCC operates pursuant to an approved CUP, and the project would be a significant expansion of the religious use, a conditional use permit is required to expand the previously approved church use. The City Attorney’s letter offered argument about support for the proposal in the Comprehensive Plan and urged the undersigned to interpret the City Code in light of the constitutional context of the case. *Exhibit 9.*
25. As requested, counsel for the Applicants responded to public comment as well. The Applicants’ response asserts the following: that the City asked ECC to undertake to address homelessness; that Westminster Chapel is a project participant; and that serving the homeless is a central tenet of the religious faith of all four religious organizations involved (including the Seattle Union Gospel Mission). The Applicants contend that a shelter operated by four religious organizations is a religious institution, that religious institutions are permitted outright in the R-3 zone, that the undersigned should decide that

not even a CUP is required, and that the project can be operated without a permit and without conditions, aside from a traffic mitigation plan. The Applicants agree that the previous CUP for the subject property expired, but disagree that the CUP on the adjacent CCC site has any relationship to the instant proposal. They pointed out that the opponents did not submit data or evidence supporting their claims of concern about crime and property values, and they asserted that their traffic study shows the shelter would not adversely impact the local road network. Finally, the Applicant contended that if the code is found to deny the proposal, the code is inconsistent with the US Constitution. *Exhibit 10.*

CONCLUSIONS

Jurisdiction:

Pursuant to RZC 21.76.050.C (Table B) and RZC 21.76.060.F, the Hearing Examiner has jurisdiction to hear and issue the City's final decision on requests for conditional use permit.

Criteria for Review:

Pursuant to RZC 21.76.070.K.4, applications for conditional use permit may be approved if the Applicant demonstrates compliance with the following criteria for approval:

- a. The conditional use is consistent with the RZC and the Comprehensive Plan;
- b. The conditional use is designed in a manner which is compatible with and responds to the existing or intended character, appearance, quality of development, and physical characteristics of the subject property and immediate vicinity;
- c. The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;
- d. The type of use, hours of operation, and appropriateness of the use in relation to adjacent uses minimize unusual hazards or characteristics of the use that would have adverse impacts;
- e. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and
- f. The conditional use will be supported by adequate public facilities or services, and will not adversely affect public services to the surrounding area or conditions are established to mitigate adverse impacts on such facilities.

Other Applicable Code Provisions

RZC 21.78 Definitions

R Definitions

Religious Institutions. Churches, temples, synagogues, monasteries, and similar establishments operated by religious organizations.

S Definitions

Social Assistance, Welfare, and Charitable Services. The provision of social assistance services, including shelters, directly to individuals in need.

RZC 21.08.280 Churches, Temples, Synagogues, and Other Places of Worship

- A. Purpose. This section is intended to ensure that the unique impacts associated with church, temple, synagogue, and mosque uses are addressed while still allowing for a wide range of possible locations for religious assembly.
- B. Calculation of Seating Capacity. For the purposes of this regulation, a seat shall be defined as either:
1. One individual fixed seat; or
 2. A length of 18 inches on a pew or bench; or
 3. A measurement of seven square feet per person for the area seating the general assembly with movable chairs or other portable seating fixtures. The total area includes aisle space, but excludes areas such as stage and podium areas, space for musical instruments, and lobbies.
- C. Requirements. The following development criteria shall apply to places of worship and related activities without regard to the zone in which it is located or the permit under which the use is processed:
1. Lighting for parking lot areas, structures, statuary and signage shall comply with the development regulations for parking, lighting and signs, and the Design Standards of RZC 21.60, Citywide Design Standards.
 2. The use shall comply with the parking regulations for assembly uses, except that in no event shall parking be in excess of one space per three seats in a residential zone.
 3. The storage of buses or vans over 10,000 pounds gross weight is permitted on-site under the following conditions:
 - a. The location of the parking areas for these vehicles is indicated on the site plan at the time of application;
 - b. Vehicles must be leased or owned by the owner or tenant of the site, must be in operable condition, and must have a current vehicle registration;
 - c. Vehicles shall not intrude into public rights-of-way or obstruct sight visibility from any driveway;

- d. Structural and/or natural screening, as approved by the City, shall screen the vehicles from neighboring properties. The screening requirement or amount of screening may be eliminated or reduced in light industrial zones to the extent that the storage of vehicles is treated uniformly with other uses in the same zone.
 4. Places of Worship Within Shorelines. Within the Shoreline Jurisdiction, site development shall comply with the general standards of the zone in which it is located, except as otherwise provided in subsection RZC 21.08.280.D below. The maximum building height, exclusive of steeples, bell towers, crosses or other symbolic religious icons mounted on the rooftop is 35 feet. An additional building height allowance of 15 feet is allowed for symbolic religious icons located on the building. (*SMP*)
 5. A traffic mitigation plan shall be submitted for approval by the City. The plan shall address traffic control, parking management (including the mitigation of overflow parking into adjoining residential areas), and traffic movement to the arterial street system. In addition to on-site parking requirements, parking in excess of the maximum may be permitted on existing off-site satellite parking lots, subject to City approval of a joint use agreement. Off-site parking in residential zones shall be limited to lots shared with existing institutional uses, such as schools.
 6. The maximum height for separate structures on-site, such as bell towers, crosses, statuary, or other symbolic religious icons, shall be 15 feet.
 7. The proposed structure(s) shall comply with the applicable design criteria contained in RZC 21.60, Citywide Design Standards, for the zone in which the use is located.
 8. Additional standards are applicable to the use. The underlying zoning and size of the facility shall determine which additional criteria shall apply. The additional criteria for residential zones can be found below, depending on seating capacity.
- D. Development Criteria for Seating Capacities in a Residential Zone.

1. Places of worship with a seating capacity of less than 250 seats:
 - a. The facility shall be located within 1,200 feet, as measured along the centerline of the right-of-way, of an arterial (collector, minor or principal);
 - b. The facility shall be located on a paved road having two lanes with a minimum width equal to the public works standard for a local access street;
 - c. Buildings shall maintain a minimum setback of 20 feet from all property lines; building setbacks shall be increased by five feet for every one foot in building height over 30 feet;
 - d. The maximum building height does not exceed 50 feet inclusive of steeples, bell towers, crosses, or other symbolic religious icons;
 - e. The minimum lot size shall be the same as that required in the zone in which the proposed facility is located;

- f. The maximum lot coverage of structures may not exceed 35 percent, and total impervious surfaces may not exceed 75 percent of lot area;
 - g. No more than two large vehicles may be stored on-site at a given period of time; and
 - h. Structures, parking lots and lighting shall be designed to avoid excessive light and glare impacts on adjacent properties. Restrictions on light pole height and type, deflectors and other such measures may be required as necessary to prevent overspill and excessive intensity of light.
2. Places of worship with a seating capacity of between 250 to 750 seats:
- a. The proposed facility must be located adjacent to at least one arterial (collector, minor or principal);
 - b. Buildings shall maintain a minimum setback of 20 feet from all property lines;
 - c. The maximum building height may not exceed 50 feet, inclusive of steeples, bell towers, crosses, or other symbolic religious icons. However, building setbacks shall be increased five feet for every one foot in building height over 30 feet;
 - d. The maximum lot coverage of structures may not exceed 35 percent, and total impervious surfaces may not exceed 75 percent of the lot area; and
 - e. No more than two large vehicles may be stored on-site at a given period of time.

Conclusions Based on Findings:

1. The proposed land use – an overnight shelter for women and children and on-site services intended to help shelter guests find housing and employment, and meet other family needs – falls squarely within the Redmond Zoning Code’s definition of a “social assistance, welfare, and charitable services” land use. The definition of that use reads: “[t]he provision of social assistance services, including shelters, directly to individuals in need.” *RZC 21.78, S Definitions, Social Assistance, Welfare, and Charitable Services.*
2. The Applicants and the City contend that because the shelter is proposed by churches, the shelter should be considered a "religious institution", which land use is allowed in the R-3 zone with or without a CUP depending on capacity. The RZC defines religious institutions as: “Churches, temples, synagogues, monasteries, and similar establishments operated by religious organizations.” The City further addresses religious institutions in use-specific development standards at RZC 21.08.280, “Churches, Temples, Synagogues, and Other Places of Worship”, which section is “intended to ensure that the unique impacts associated with church, temple, synagogue, and mosque uses are addressed while still allowing for a wide range of possible locations for religious assembly.” Of note, the proposed shelter is not a place of religious assembly.
3. The RZC allows social assistance, welfare, and charitable services land uses outright (without permits) in all mixed use zones, including but not limited to Downtown, Old

Town, and Town Center. It also allows them in several Southeast Redmond areas and in Northeast, Marymoor, and Bear Creek Design Districts. The City's residential zoning districts are focused primarily on single- and multifamily residential uses. The RZC defines family as "...two or more persons related by blood or marriage; eight or fewer nonrelated persons living together in a single dwelling unit..."⁴ Other permitted non-related family residential uses include adult family homes⁵ and residential care facilities⁶, which are limited to eight and 15 persons, respectively. Both of these unrelated-family based land uses allow far fewer than the 40-person occupancy of the instant proposal.

4. The City argues that since monasteries are a type of religious institutional housing that are expressly allowed, a homeless shelter operated by churches should also be considered religious housing under this definition. The RZC doesn't define monastery. Webster's Ninth New Collegiate dictionary defines monastery as, "a house for persons under religious vows; an establishment for monks." The core concept of a communal religious living arrangement is not fundamentally that it is a type of housing, but rather that it is a religious community. The undersigned is not persuaded that the proposed shelter is similar in nature to a monastery, nor that it meets the definition of a religious institution.
5. Washington courts have held that "an ordinance should not be construed in a manner that renders any portion superfluous"⁷, and that "every provision in an ordinance must be read in relation to every other provision such as to harmonize the terms and avoid internal conflicts."⁸ *Jones v. King County*, 74 Wn.App. 467, 475-476 (1994). To adopt the Applicants' and City's interpretation of "religious institution" to include the proposed homeless shelter renders the RZC's definition for "social assistance, welfare, and charitable services" land uses superfluous. To categorize a proposed land use in light of the proponents' motivation or intention, rather than in light of the activities encompassed in the use, could potentially render all RZC land use definitions superfluous. While the adjacent Creekside Covenant Church is a stakeholder, and the record contains no credible doubt as to the sincerity of the Applicants' religious belief and motivation, the proposed

⁴ RZC 21.78, F Definitions, Family: An individual or two or more persons related by blood or marriage; eight or fewer nonrelated persons living together in a single dwelling unit, unless a grant of reasonable accommodation as identified in RZC 21.76, Review Procedures, allows an additional number of persons.

⁵ RZC 21.78, A Definitions, Adult Family Home: The regular family abode of a person or persons who are providing personal care, room, and board under a license issued pursuant to RCW Chapter 70.128, to more than one but not more than four adults who are not related by blood or marriage to the person or persons providing the services; except that a maximum of six adults may be permitted if the Washington State Department of Social and Health Services determines that the home and the provider are capable of meeting standards and qualifications provided for by RCW Chapter 70.128.

⁶ RZC 21.78, R Definitions, Residential Care Facility: A facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services for at least five, but not more than 15 functionally disabled persons and which is not licensed under RCW Chapter 70.128. A residential care facility shall not provide the degree of care and treatment that a hospital or long-term care facility provides.

⁷ *Jones* 74 Wn.App at 476, citing *Avlonitis v. Seattle Dist. Ct.*, 97 Wash.2d 131, 138, 641 P.2d 169 (1982).

⁸ *Jones* 74 Wn.App. at 475, citing *Addleman v. Board of Prison Terms & Paroles*, 107 Wash.2d 503, 509, 730 P.2d 1327 (1986).

use is more of a standalone social services center that happens to be operated by a group of churches than it is a religious institution. Following the Applicants' and City's logic, other types of uses by proposed religious groups would have to be approved on any property owned by any religious institution regardless of zoning, including but not limited to transitional housing for youth released from detention or adults released from prison, drug and alcohol rehabilitation facilities, medical clinics, and other charitable enterprises inspired by religious faith.

6. Both the City and the Applicants cited *City of Woodinville v. Northshore United Church of Christ*, 166 Wn.2d 633 (Wash. 2009) for the proposition that homeless encampments on church property can be religious uses if sincerely related to a church's central beliefs. They both also generally assert that this case means the City's authority to restrict religious uses on properties owned by churches is preempted by the First Amendment to the US Constitution. With all due respect, hearing examiners are "creatures of the legislature without inherent or common-law powers and may exercise only those powers conferred either expressly or by necessary implication." *Chaussee v. Snohomish County Council*, 38 Wn. App. 630, 636 (1984). While the facts of the case point to constitutional issues, the local land use hearing is a forum limited in scope to determining the correct answer under local regulations.
7. To the extent that constitutional analysis is required of the undersigned due to the facts of the case, the following thoughts are offered.⁹ *Northshore* was a Tent City case in which the City of Woodinville had a moratorium on processing any permits in the R1 zone, and the church wanted a temporary permit for a homeless encampment on its R1-zoned property. The burden on religion in that case was the inability to apply for permit *at all*. The Court found that the City could not apply a moratorium to refuse to consider a permit request from the Church. *Northshore* can be factually distinguished from the instant proposal in several ways. First, the subject property is not a church; there is no place of religious assembly on-site. All parties agree that any previously approved CUP for religious use has expired as to the subject parcel. Additionally, the religious housing in *Northshore* was a temporary use, while the instant proposal would be permanent. Of note, the *Northshore* decision does not stand for the proposition that a city must issue any permit any church requests even if it does not meet applicable criteria. On the contrary, the court held as follows:

Government burdens religious exercise "[i]f the 'coercive effect of [an] enactment' operates against a party 'in the practice of his religion....' ". This does not mean any slight burden is invalid, however. If the constitution forbade all government actions that worked some burden by minimally affecting "sentiment, belief [or] worship," then any church actions argued to be part of religious exercise would be totally free from government regulation. Our constitution expressly provides to the contrary. The argued burden on religious exercise must be more, it must be substantial. Here, the total refusal to process a permit application is such a burden.

⁹ The outcome of the decision is not changed if this analysis is excluded.

Northshore, 166 Wn.2d at 643, citing *First Covenant*, 120 Wash.2d at 226, 840 P.2d 174 (*emphasis added, internal citations omitted*). The court also noted, “Housing the homeless may be a part of religious belief or practice, but it is different from prayer or services, for example, which are at the core of protected worship.” *Northshore*, 166 Wn.2d at 644.

The *Northshore* court acknowledged that a homeless facility likely affects the neighbors who live nearby far more than it impacts most parishioners, who typically spend only hours in church weekly while neighbors must live continuously with the facility. The court further held, “By way of analogy, while healing the sick is...connected to worship, a church must still comply with reasonable permitting processes if it wants to operate a hospital or clinic.” *Id.*

In the final analysis, the RZC allows both churches and shelters; the Applicants are not barred from pursuing the mission of their faith – to help and house homeless women and children – in the City. The use proposed would be allowed in other zones. They are simply not allowed to operate a shelter in a residential neighborhood, because the RZC expressly defines shelters and direct service facilities in a land use category that is not allowed in the R-3 zone, regardless of the identity or motivation of the applicant. The undersigned would respectfully suggest that, if the parties find the adopted definitions too restrictive of religious uses, the appropriate remedy is to seek to amend the code in order allow the proposed use at the subject property. Lastly, whether the adopted code is appropriately narrowly tailored to achieve a compelling public interest, or is not and is thus inconsistent with the federal and state Constitutions, is a determination for a higher authority.

8. Finally, while the neighbors have strenuously objected to the project based on alleged adverse effects on neighborhood safety, property values, and other impacts they associate with the presence of homeless women and children, the instant denial is not premised on these alleged impacts, of which no evidence was offered.

DECISION

While the record demonstrates credible need for such a facility in Redmond and while the Applicants' goal of service is commendable, the requested conditional use permit to operate a women and children's homeless shelter in a single-family residence at 2321 - 173rd Avenue NE in Redmond, Washington must be **DENIED** because the use is not allowed in the R-3 zone.

Decided March 26, 2018.

By:



Sharon A. Rice
City of Redmond Hearing Examiner

Note: Pursuant to Ordinance 2902 and RZC Table 21.76.050.A, the decision of the hearing examiner in this Type III permit process is appealable King County Superior Court.

APPENDIX 1

Notice of Application public comment letters, submitted at Exhibit 1.2

1. Email from Angel Chang, dated April 25, 2017
2. Email from Ayelet and Sagiv Winer, dated July 12, 2017
3. Emails from Corey Miller and Katherine Zinger, dated July 10, 2017 and August 18, 2017, with email response from Staff, dated July 11, 2017
4. Email from Chris Steele, dated July 12, 2017
5. Email from Fan Bao, dated August 18, 2017
6. Email from Heidi Allen, dated August 14, 2017
7. Email from Hu Li, dated August 21, 2017
8. Email from Jay Ongg, dated July 11, 2017
9. Email from Josh Sutton, dated August 18, 2017
10. Email from Joyce Woodard, dated May 1, 2017
11. Email correspondence between Kevin Damour, Tim Alexander, Ted Mobley, Suntosh Sreenivasan, and Hank Myers, dated April 25, 2017
12. Email from Linda Nguyen and Mark Marron, dated August 14, 2017
13. Public comment form, Corey Miller, with attached written comment, dated July 10, 2017
14. Public comment form, Marlene Taylor Houtchens, with attached written comment and attachments B, C, D, E, and F, dated July 11, 2017
15. Public comment form, Xianguei Hongzhu, dated August 21, 2017
16. Public comment form, Noel Bellour
17. Public comment forms, Heidi Allen
18. Public comment form, Li Li
19. Public comment form, Mimi Reid
20. Written comment from Kevin and Michelle Damour, dated July 7, 2017
21. Public comment form, Hooshang Jafarzhdeh
22. Written comment from Kevin and Michelle Damour, dated May 1, 2017
23. Written comment from Margaret Leiberton and Ramarathnam, "Supplemental Neighborhood Comments Opposing Application for Modified Conditional Use Permit for Homeless Shelter in Single-Family Residence"

24. Written comment from Margaret Leiberton, "Comment Submission No. 3"
25. Written comment from Luke, Mahsa, and Ryan Olsen, dated July 11, 2017
26. Email from Patricia and Gustavo Rubio, dated July 19-21, 2017, with email response from Staff, dated July 20, 2017
27. Email from Robert Barry Bonnell, dated April 25, 2017
28. Written comment from Sergey Chub, dated June 26, 2017
29. Email from Steve Salzman, dated July 13, 2017
30. Email from Ziv Kasperski, dated July 12, 2017, with email response from Staff, dated July 13, 2017
31. Emails from Tim Alexander, dated July 11-12, 2017, with email response from Staff, dated July 12, 2017
32. Email from Sue Andres, dated April 30, 2017
33. Email from Suntosh Sreenivasan, dated July 12, 2017
34. Emails from Thomas Gutschmidt and Susan Nowers, dated July 12, 2017 and August 18, 2017
35. Email from Tim Alexander, dated April 25, 2017, with attached prior correspondence between Suntosh Sreenivasan, Applicant, and City officials
36. Email from Vishnu and Smita Sadhana, dated August 13, 2017
37. Email from Voon Yee, dated April 19, 2017
38. Email from Wes Meyers, dated May 1, 2017
39. Written comment from Robert Shade
40. Email from Evangeline Schmitt, dated May 30, 2017
41. Email from Divya Paul, dated August 15, 2017

APPENDIX 2

Follow up questions and responses to public comment, submitted at Exhibit 1.4

1. Follow up questions and comment from Tim Alexander
2. Emails from Tim Alexander, dated August 24-30, 2017, with email responses from Staff, dated August 24-30, 2017
3. Emails from Fan Bao, dated August 18-28, 2017, with email response from Staff, dated August 28, 2017
4. Email from Margaret Leiberton, dated September 5, 2017, with email response from Staff, dated September 6, 2017
5. Emails from Tim Alexander, dated September 10-22, 2017 and November 6, 2017, with email responses from Staff, dated September 8-25, 2017 and November 8, 2017

6. Emails from Margaret Leiberton, dated September 9-13, 2017, with email responses from Staff, dated September 8-13, 2017
7. Emails from Kevin Damour, dated September 5-18, 2017, with email responses from Staff, dated September 6-22, 2017

APPENDIX 3

Public comments received after publication of the staff report, some with staff responses, submitted at Exhibit 3

1. Email from Dorine Rassaian, dated February 5, 2018
2. Email from Stefan Sharkansky, dated February 5, 2018
3. Email from Lana Kim, dated February 5, 2018
4. Email from Giles and Nicole van der Bogert, dated February 5, 2018
5. Email from Sally Lawrence, dated January 17, 2018, with email response from Staff, dated January 18, 2018
6. Emails from Sheila Sloan-Evans, dated January 25 and February 5, 2018, with email response from Staff, dated January 29, 2018
7. Email from William and Deanna Hickman, dated February 5, 2018
8. Email from Tom and Cindy Hopson, dated February 5, 2018
9. Email from Alyona and Oleksandr Anikieva, dated February 5, 2018
10. Email from Julia Yang-Snyder, dated February 5, 2018
11. Email from Bob and Jody Rosain, dated February 5, 2018
12. Email from Zoya Bashirova, dated February 5, 2018
13. Email from Hrushikesh Gandhi, dated February 4, 2018, with email response from Staff, dated February 5, 2018
14. Email from Elizaveta Hatch, dated February 4, 2018, with email response from Staff, dated February 5, 2018
15. Email from Padma Madhavan, dated February 5, 2018, with email response from Staff, dated February 5, 2018
16. Email from Jerilyn Twydell, dated February 5, 2018, with email response from Staff, dated February 5, 2018
17. Email from Greg Vandenbrouck, dated February 4, 2018, with email response from Staff, dated February 5, 2018
18. Email from Suman Tedla, dated January 31, 2018, with email response from Staff, dated February 5, 2018
19. Emails from Sandra Stromme, dated October 24, 2017 and February 3, 2018, with email responses from Staff, dated October 24, 2017 and February 5, 2018

20. Email from Dan Nicolescu, dated February 5, 2018, with email response from Staff, dated February 5, 2018
21. Emails from John and Lisa Robinson, dated February 4-5, 2018, with email response from Staff, dated February 5, 2018
22. Email from Sari Sichel, dated February 4, 2018, with email response from Staff, dated February 5, 2018
23. Email from Theckla and Mike Roginski, dated February 4, 2018, with email response from Staff, dated February 5, 2018
24. Email from Rachel Currier, dated February 4, 2018, with email response from Staff, dated February 5, 2018
25. Email from Usha Busa, dated February 4, 2018, with email response from Staff, dated February 5, 2018
26. Email from Mariko and Evan Rose, dated February 4, 2018, with email response from Staff, dated February 5, 2018
27. Email from Kassandra Berger, dated February 4, 2018, with email response from Staff, dated February 5, 2018
28. Email from Smita Parasa, dated February 5, 2018, with email response from Staff, dated February 5, 2018
29. Email from Noel Bellour, dated February 4-5, 2018, with email response from Staff, dated February 5, 2018
30. Email from Colleen Hild, dated February 4-5, 2018, with email response from Staff, dated February 5, 2018
31. Email from Alena Hrynkevich, dated February 4, 2018, with email response from Staff, dated February 5, 2018
32. Email from Eckhard and Manjiri Papproth, dated February 4, 2018, with email response from Staff, dated February 5, 2018
33. Email from Anatoly Girko, dated February 4, 2018, with email response from Staff, dated February 5, 2018
34. Email from Natalia Yablokova, dated February 4, 2018, with email response from Staff, dated February 5, 2018
35. Email from Alyona Sukretna and Oleksandr Anikieva, dated February 5, 2018, with email response from Staff, dated February 5, 2018
36. Email from Bob Settles, dated February 3, 2018, with email response from Staff, dated February 5, 2018
37. Emails from Sharadha Chandran, dated February 4-5, 2018, with email response from Staff, dated February 5, 2018
38. Emails from Margaret Leiberton, dated January 17, 2018 - February 1, 2018, with email responses from Staff, dated January 18, 2018 - February 5, 2018

39. Email from Don and Anita Matheson, dated January 31, 2018, with email response from Staff, dated February 5, 2018
40. Email from Rob Moe, dated February 5, 2018, with email response from Staff, dated February 5, 2018
41. Emails from Bob Rosain, dated October 13, 2017 and February 5, 2018, with email responses from Staff, dated October 13, 2017 and February 5, 2018
42. Email from Ramesh Parameswaran, dated February 4, 2018, with email response from Staff, dated February 5, 2018
43. Email from Marlene Taylor Houtchens, dated February 5, 2018, with email response from Staff, dated February 5, 2018
44. Email from Bryn Peterson, dated February 5, 2018, with email response from Staff, dated February 5, 2018
45. Email from Jay Ongg, dated February 4, 2018, with email response from Staff, dated February 5, 2018
46. Email from Maria Ka, dated February 5, 2018, with email response from Staff, dated February 5, 2018
47. Email from alias Human Venus, dated February 4, 2018, with email response from Staff, dated February 5, 2018
48. Email from Sasha Zabihi with attached letter, dated February 5, 2018, with email response from Staff, dated February 5, 2018
49. Email from Susan Nowers, dated February 5, 2018, with email response from Staff, dated February 5, 2018
50. Email from Robert Edwards, dated February 5, 2018, with email response from Staff, dated February 5, 2018
51. Email from Lin Chang, dated February 5, 2018, with email response from Staff, dated February 5, 2018
52. Email from Deborra and Kevin Lane, dated February 4, 2018, with email response from Staff, dated February 5, 2018
53. Emails from Yevgeniy Goldenberg, dated February 5, 2018, with email responses from Staff, dated February 5, 2018
54. Email from Jason Berger, dated February 4, 2018, with email response from Staff, dated February 5, 2018
55. Emails from Dae Kim, dated February 4-5, 2018, with email responses from Staff, dated February 5, 2018
56. Email from Anna and Michael Popov, dated February 4, 2018, with email response from Staff, dated February 5, 2018
57. Email from Pavel Rebriy, dated February 4, 2018, with email response from Staff, dated February 5, 2018

58. Email from Anastasia Paushkina, dated February 4, 2018, with email response from Staff, dated February 5, 2018
59. Email from Karina Demurova, dated February 4, 2018, with email response from Staff, dated February 5, 2018
60. Email from Roy Leung, dated February 3, 2018, with email response from Staff, dated February 5, 2018
61. Email from 'chankamsingsimon', dated February 4, 2018, with email response from Staff, dated February 5, 2018
62. Email from Saloni Gupta, dated February 5, 2018, with email response from Staff, dated February 5, 2018
63. Emails from Gabrielle Yang, dated February 4-5, 2018, with email responses from Staff, dated February 5, 2018
64. Emails from Sara Guasco Gattavecchi, dated February 4-5, 2018, with email response from Staff, dated February 5, 2018
65. Email from Simone Guasco, dated February 4, 2018, with email response from Staff, dated February 5, 2018
66. Email from Yongijun Chen, dated February 4, 2018, with email response from Staff, dated February 5, 2018
67. Email from Alisa Goldenberg, dated February 4, 2018, with email response from Staff, dated February 5, 2018
68. Email from David Sowers, dated February 5, 2018, with email response from Staff, dated February 5, 2018
69. Email from Joey Gill, dated February 4, 2018, with email response from Staff, dated February 5, 2018
70. Email from Shannon Koh and Molly Hu, dated February 4, 2018, with email response from Staff, dated February 5, 2018
71. Email from Li Li, dated February 4, 2018, with email response from Staff, dated February 5, 2018
72. Email from Mary and David Ruble, dated February 4, 2018, with email response from Staff, dated February 5, 2018
73. Email from Veronika Ruzin, dated February 4, 2018, with email response from Staff, dated February 5, 2018
74. Email from Jeff Chen, dated February 5, 2018, with email response from Staff, dated February 5, 2018
75. Email from Yu Zhao, dated February 5, 2018, with email response from Staff, dated February 5, 2018
76. Email from Weiwei Chen, dated February 5, 2018, with email response from Staff, dated February 5, 2018

77. Email from John Zhu, dated February 4, 2018, with email response from Staff, dated February 5, 2018
78. Email from Yu Zhao, dated February 5, 2018, with email response from Staff, dated February 5, 2018
79. Email from Chenyun Chu, dated February 5, 2018, with email response from Staff, dated February 5, 2018
80. Email from Grigori and Olga Melnik, dated February 3, 2018, with email response from Staff, dated February 5, 2018
81. Email from Natasha Krilov, dated February 4, 2018, with email response from Staff, dated February 5, 2018
82. Email from Earl Kwei, dated February 5, 2018, with email response from Staff, dated February 5, 2018
83. Email from Carolyn Munro-Swett, dated February 5, 2018, with email response from Staff, dated February 5, 2018
84. Email from Alberto Swett, dated February 5, 2018, with email response from Staff, dated February 5, 2018
85. Email from Anamika Dwivedy, dated February 5, 2018, with email response from Staff, dated February 5, 2018
86. Email from Devarshi Dwivedy, dated February 4, 2018, with email response from Staff, dated February 5, 2018
87. Emails from Suman Tedla, dated February 3-4, 2018, with email responses from Staff, dated February 5, 2018
88. Email from Sathyanarayanan Krishnan and Jayanthi Lakshmanan, dated February 5, 2018, with email response from Staff, dated February 5, 2018
89. Email from Supradha Sankaran, dated February 5, 2018, with email response from Staff, dated February 5, 2018
90. Email from SaiSudhir Padmanaban and Supradha Sankaran, dated February 5, 2018, with email response from Staff, dated February 5, 2018
91. Email from Chaitanya Vemula, dated February 5, 2018, with email response from Staff, dated February 5, 2018
92. Email from Taranjeet Arora and Kaviraj Singh, dated February 5, 2018, with email response from Staff, dated February 5, 2018
93. Email from Padma Madhavan, dated February 4, 2018, with email response from Staff, dated February 5, 2018
94. Email from Srikrishna Chavali and Bhavani Vanka, dated February 5, 2018, with email response from Staff, dated February 5, 2018
95. Email from Aditya Dube, dated February 2, 2018, with email response from Staff, dated February 5, 2018

96. Email from Sujatha Sagiraju, dated February 2, 2018, with email response from Staff, dated February 5, 2018
97. Emails from Linda Nguyen and Mark Marron, dated January 18, 2018 and February 4, 2018, with email responses from Staff, dated January 22, 2018 and February 5, 2018
98. Email from John Kelly, dated February 4, 2018, with email response from Staff, dated February 5, 2018
99. Email from Douglas Hall, dated February 5, 2018, with email response from Staff, dated February 5, 2018
100. Emails from Kevin Damour, dated January 15-31, 2018 and February 4-5, 2018, with email responses from Staff, dated January 17-18, 2018 and February 5, 2018
101. Email from Abdul Qahir Khwaja, dated February 4, 2018, with email response from Staff, dated February 5, 2018
102. Email from Tharika Chandrasekhar, dated February 5, 2018, with email response from Staff, dated February 5, 2018
103. Email from Vimal Kocherla, dated February 5, 2018, with email response from Staff, dated February 5, 2018
104. Email from Thierry Perraut, dated February 4, 2018, with email response from Staff, dated February 5, 2018
105. Emails from Divya (Sujit) Paul, dated August 15, 2017 and February 1-5, 2018, with email responses from Staff, dated February 5, 2018
106. Email from Nancy Davis, dated February 5, 2018, with email response from Staff, dated February 5, 2018
107. Email from Mita Patel, dated February 4, 2018, with email response from Staff, dated February 5, 2018
108. Email from Suntosh Sreenivasan, dated February 4, 2018, with email response from Staff, dated February 5, 2018
109. Emails from Ted and April Mobley, dated February 4-5, 2018, with email response from Staff, dated February 5, 2018
110. Email from Nick Berezansky, dated February 5, 2018, with email response from Staff, dated February 5, 2018
111. Email from Heidi Allen, dated February 4, 2018, with email response from Staff, dated February 5, 2018
112. Email from Jim Long, dated February 5, 2018, with email response from Staff, dated February 5, 2018
113. Email from Paty Carlos Padilla, dated February 5, 2018, with email response from Staff, dated February 5, 2018
114. Email from Katherine Zinger, dated January 18, 2018, with email response from Staff, dated January 18, 2018

115. Emails from Tim Alexander with attachments, dated September 10-22, 2017, November 6, 2017, and January 14-25, 2018; with email responses from Staff, dated September 8-25, 2017, November 8, 2017, and January 16-29, 2018

APPENDIX 4

Comments submitted during notice of hearing comment period, submitted at Exhibit 5

1. Email from Clare Moe, dated February 5, 2018
2. Email from Dorine Rassaian, dated February 5, 2018
3. Email from Ludovic Tirtiaux, dated February 5, 2018
4. Photograph
5. Email from Linju Chang, dated February 5, 2018, with email response from Staff, dated February 5, 2018
6. Emails from Lana Kim, dated February 5, 2018
7. Email from Li Li, dated February 4-5, 2018, with email response from Staff, dated February 5, 2018
8. Emails from Veronika Ruzin, dated February 4-5, 2018, with email response from Staff, dated February 5, 2018
9. Emails from Giles and Nicole van der Bogert, dated February 5, 2018
10. Email from Tim Alexander, dated February 5, 2018
11. Email from Dan Nicolescu, dated February 5, 2018
12. Email from Stefan Sharkansky, dated February 5, 2018
13. Email from Hongthao Nguyen and Quan Le, dated February 5, 2018

APPENDIX 5

Comments submitted at hearing, submitted at Exhibit 6

1. Written comment from Kevin Damour, dated February 4, 2017 but submitted at hearing
2. Written comment from Ramesh Parameswaran
3. Written comment from Gerard Rebagliati
4. Legal argument against the project submitted by Theodore Vander Wel, with attachments
5. Written comment from Marlene Taylor Houtchens