



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Office of the Director**

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner  
 Paul L. Scarlett, Director  
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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

September 26, 2013

Ibrahim Mubarak  
 Right 2 Dream Too  
 4635 NE Garfield Avenue  
 Portland, OR 97211

T.B. Dame  
 President  
 Williams/Dame & Associates, Inc.  
 1308 NW Everett Street  
 Portland, OR 97209

Re: Lot 7, Station Place  
 Portland, OR

Gentlemen:

You each requested a Tier 3 zoning confirmation letter to verify that a proposed use of property located at NW Lovejoy Court and NW Station Way and known as Lot 7, Station Place, is permitted by the applicable zoning (Attachments A – C). Your letters have been assigned BDS numbers PR 13-206922 ZCL (Right 2 Dream Too) and PR 13-207594 ZCL (Williams/Dame). Taken together, your requests ask seven specific questions as follows:

1. Does the EXd [zone] permit overnight rest areas, campgrounds or campsites as permitted, conditional or limited uses? If there is no such use listed under permitted, conditional or limited uses, is the use contained in the list of examples under PCC 33.920?
2. Is a campsite or rest area a Group Living, Short-Term Housing or Mass Shelter use as those terms are currently defined by the code?
3. If a use is not on the permitted, conditional or limited use list for the EXd zone and it is not in the list of examples in the EXd zone, can I develop the use without a land use review?
4. Does the design overlay in this zone require design review for a campsite or rest area? Under what circumstances would design review be required for a use that includes tents and utility connections?

5. There is a previous Central City Parking Review approval on this site and the approval allocates 65 parking spaces on the site to specific lots and uses. The CCPR does not allow those parking spaces to be used for camping. Does the change in use from parking to camping require an amendment to that land use approval? If so, please describe that approval process?
6. Lastly, if the use is not allowed by the code, can I simply enter a Use Agreement or Good Neighbor Agreement as an alternative to the code?
7. What zoning code regulations apply to the fence made of doors?

Consistent with ORS 227.160(2)(b), this letter is the Bureau of Development Services' recommended response to your requests. This letter is a recommendation only and is not a final determination. Since there is great public interest in the proposed use of Lot 7 by Right 2 Dream Too, the Commissioner in Charge of BDS has directed me to prepare a recommended response to your requests and submit that response to the City Council for review and final approval. Only when the Council affirms and adopts this proposed recommendation will there be a final response to your zoning confirmation requests. My recommendation is limited to addressing only the zoning code (Title 33) and does not address compliance with other city code titles.

My response first describes the site and your proposed use of it and then addresses the relevant questions and zoning code sections considered in my analysis. My recommendation is that the proposed rest area with tents to be located on Lot 7 should be classified as a Community Services use that is permitted outright in the EXd zone without any required land use review or building permit and, as a result, should be considered camping that is specifically authorized by the city code. Other permits, such as electrical and plumbing permits, may be required, but these require no land use review. If the rest area will include either a new fence or relocating the "fence made of doors" from Right to Dream Too's existing site, the fence may trigger design review or an adjustment, as discussed below in Section II.D.

## I. Background

### A. Property Information

The relevant information concerning the property is as follows:

- o **Location:** Lot 7 is located at NW Lovejoy Court and NW Station Way under the NW Lovejoy ramp at the west end of the Broadway Bridge (See Attachment C)
- o **Tax Account #:** R533589
- o **Property Owner:** Portland Development Commission (PDC)
- o **Site Area:** 25,519 sf
- o **Zoning Designations:** Central Employment (EX) zone with a Design (d) Overlay zone, Central City Plan District, River District Subdistrict, North Pearl Subarea

### B. Current Use of the Property

Lot 7 is currently fenced and improved with an existing paved parking lot.

### C. Proposed Use/Activity at the Site

The information available to me about the nature and operation of Right 2 Dream Too's proposed rest area is based on Right 2 Dream Too's description of the proposed rest area/tent camp contained in Attachment D. I understand the proposed rest area on Lot 7 will be substantially similar in nature and operation to the rest area located at Right to Dream Too's current site.

The proposed use/activity of Lot 7 is for a temporary rest area with tents for overnight shelter for people experiencing homelessness. The rest area/tent camp is expected to be at this location for up to one year, with 100 people staying there at any given time. Individuals may be located at the site for one night or longer. The rest area will be managed by Right 2 Dream Too, a nonprofit corporation. The rest area will be self-governed by individuals staying there and these individuals may volunteer to assist each other with various activities, such as sharing food, clothing, and information about accessing social services. There will be no employees at the site. No buildings are proposed. There will be portable toilets, water service, gray water disposal, electrical service, and a solid waste disposal area. It is unknown whether the use will include the existing fence made of doors that is located on Right 2 Dream Too's current site at NW 4<sup>th</sup> and Burnside.

## II. Code Analysis

### A. Introduction

Analyzing how the zoning code applies to the proposed use of Lot 7 requires consideration of several questions including: (1) What is the appropriate zoning use classification for the proposed temporary rest area? (2) Once the appropriate zoning use classification is determined, is this use classification allowed, conditionally permitted, or prohibited in the EXd zone? (3) Does the proposed rest area involve development that is subject to design review? (4) Are there any relevant land use reviews that preclude your use of the site or must be modified before your use of the site begins? Each of these questions is addressed below.

One code section to consider at the outset is PCC 33.700.070.C. It is part of a code section entitled "General Rules for Application of the Code Language" and states:

**Situations where the code is silent.** Proposals for uses, development, or land divisions where the Code is silent or where the rules of this section do not provide a basis for concluding that the proposal is allowed are prohibited. The Planning Director may initiate an amendment to Title 33 to add a new use category, or make other amendments, as stated in Chapter 33.835, Goal, Policy, and Regulation Amendments.

This language requires me to consider whether the code is truly silent about classifying the proposed use of Lot 7 and whether the rules in PCC 33.700.070 lead to a conclusion that the proposed rest area is prohibited. My answer to both questions is "no."

The zoning code does not purport to list every possible type of use or development that might occur in the City. Subsection G of “this section” (33.700.070) underscores this feature of the code and states:

**Applying the code to specific situations.** Generally, where the code cannot list every situation or be totally definitive, it provides guidance through the use of descriptions and examples. In situations where the code provides this guidance, the descriptions and examples are used to determine the applicable regulations for the situation. If the code regulations, descriptions, and examples do not provide adequate guidance to clearly address a specific situation, the stated intent of the regulation and its relationship to other regulations and situations are considered.

This language strongly suggests the code is “silent” only when code language offers no guidance through descriptions, examples, or a stated intent to assist me in determining which regulations apply to a particular situation. This language is reinforced by the code’s description of the City’s method for determining what use category to assign to a particular use. Subsection 1 of PCC 33.920.030 states: “Uses are assigned to the category whose description most closely describes the nature of the primary use” and Subsection 2 identifies the factors to be “considered to determine what use category the use is in.”

As discussed below, the use category descriptions in the zoning code provide enough descriptions and examples to guide me in determining the appropriate use category for the proposed rest area even though the words “rest area” or “campsite” do not appear in the code. As a result, the code is not silent about the proposed use. The language of Subsection G is one of the “rules of this section” referenced in Subsection C. Together with PCC 33.920.030.A.1 and 2, Subsection G tells me how to analyze the nature of the proposed rest area for purposes of determining the appropriate use category. Therefore, PCC 33.700.070.C is not a basis for concluding this use is prohibited by the zoning code.

#### B. Appropriate Use Category

The purpose of PCC Chapter 33.920 (Description of the Use Categories) is as follows:

This Chapter classifies land uses and activities into use categories on the basis of common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and certain site factors. The use categories provide a systematic basis for assignment of present and future uses to zones. The decision to allow or prohibit the use categories in the various zones is based on the goals and policies of the Comprehensive Plan.

This purpose statement indicates that the use category descriptions in Chapter 33.920 are not intended to identify or list every possible use that could be assigned to each use category. The



reference to “present and future uses” underscores the nonexclusive nature of the uses described or listed as examples in each category. Rather, the chapter provides a way to consider the key features of a use and decide with which use category it shares functional, product, or physical characteristics. A use is not prohibited merely because the description and examples in a use category do not enumerate it specifically.

PCC 33.920.030.A.1 directs that uses should be assigned to the category whose description “most closely describes the nature of the primary use.” Subsection A.2 contains a list of factors that are considered “to determine what use category the use is in” as follows:

- The description of the activity(ies) in relationship to the characteristics of each use category;
- The relative amount of site or floor space and equipment devoted to the activity;
- Relative amounts of sales from each activity;
- The customer type for each activity;
- The relative number of employees in each activity;
- Hours of operation;
- Building and site arrangement;
- Vehicles used with the activity;
- The relative number of vehicle trips generated by the activity;
- Signs;
- How the use advertises itself; and
- Whether the activity would be likely to be found independent of other activities on the site.

Many of these considerations do not apply in determining the appropriate use category for the proposed rest area. There is no equipment, sales, customers, employees, vehicle trips, or advertising via signs associated with the rest area. The most relevant considerations are comparing the activities of the rest area with the characteristics of possible use categories, the site arrangement, and how the use will operate. These considerations are discussed below.

Among the use categories listed in the zoning code, the proposed rest area could be considered a potential fit under three of these categories: Community Services, Retail Sales and Service, and Group Living. Based on the analysis below, the Community Services Use category best describes the proposed rest area. Within the Community Services Use category, I consider whether the rest area is Short-Term Housing or a Mass Shelter and conclude that it does not match the characteristics of either of these facilities as defined in the zoning code. For the reasons explained in Attachment F, the rest area is neither a Retail Sales and Service nor a Group Living use.

#### 1. Community Services Use Category

PCC 33.920.420 sets out the following description of community services uses:

**A. Characteristics.** Community Services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community.

Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join at any time, (for instance, any senior citizen could join a senior center). The use may provide mass shelter or short term housing where tenancy may be arranged for periods of less than one month when operated by a public or non-profit agency. The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature.

- B. Accessory uses.** Accessory uses may include offices, meeting areas, food preparation areas, food membership distribution, parking, health and therapy areas, daycare uses, and athletic facilities.
- C. Examples.** Examples include libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, ambulance stations, drug and alcohol centers, social service facilities, mass shelters or short term housing when operated by a public or non-profit agency, vocational training for the physically or mentally disabled, crematoriums, columbariums, mausoleums, soup kitchens, park-and-ride facilities for mass transit, and surplus food distribution centers.
- D. Exceptions.**
  - 1. Private lodges, clubs, and private or commercial athletic or health clubs are classified as Retail Sales And Service. Commercial museums (such as a wax museum) are in Retail Sales And Service.
  - 2. Parks are in Parks And Open Areas.
  - 3. Uses where tenancy is arranged on a month-to-month basis, or for a longer period are residential, and are classified as Household or Group Living.
  - 4. Public safety facilities are classified as Basic Utilities.

Analysis: In terms of characteristics, the proposed rest area provides a local service (a temporary place to rest and sleep overnight in tents under the shelter of a bridge ramp) for homeless people in the Portland community. This service will be provided on Lot 7 on an ongoing basis for one year and not just for special events. The customers (i.e., those who will use this service) similar to those utilizing the services provided in a number of the examples listed in PCC 33.920.240.C. Right 2 Dream Too has no employees, but individuals staying at the rest area may volunteer their time without payment. These volunteers may help others at the site with sanitation, food, clothing, and pursuing social services with appropriate social service agencies. These volunteer activities can be considered charitable in nature. Right 2 Dream Too is not a public agency. There are no membership requirements and any member of the public may seek to use this rest area on a temporary basis. All of these characteristics are consistent with the characteristics of a Community Services use. Right 2 Dream Too has not indicated that the rest area will offer formal counseling, education, or training of a public, nonprofit or charitable nature, which are possible and permissive elements of a community service use, but not required.

A Community Service use may take the form of a mass shelter or short term housing, but is not required to take either of those two forms. The proposed rest area is neither a mass shelter nor short-term housing as the code defines those terms. A "Mass shelter" is defined as follows:

A structure that contains one or more open sleeping areas, or is divided only by non-permanent partitions, furnished with cots, floor mats, or bunks. Individual sleeping rooms are not provided. The shelter may or may not have food preparation or shower facilities. The shelter is managed by a public or non-profit agency to provide shelter, with or without a fee, on a daily basis. (33.910.030)

The definition refers to a structure, furnished with cots, floor mats or bunks. The zoning code defines a "structure" as: "Any object constructed in or on the ground. Structure includes buildings, decks, fences, towers, flag poles, signs, and other similar objects. Structure does not include paved areas or vegetative landscaping materials." The examples given are all things that are semi-permanent. The tents individuals will erect at the rest area are temporary in nature and are not "structures" as defined in the Zoning Code. As a result, the individuals at the rest area will not be occupying a structure, which is an essential element of a "mass shelter." The portable toilets are temporary in nature and are not structures. Additionally, Right 2 Dream Too will not provide furnishings such as cots, floor mats or bunks, nor will there be an open sleeping area or areas divided by partitions. Right 2 Dream Too is a nonprofit corporation and will manage the site, but is not a public agency. Based on these considerations, the proposed rest area has none of the characteristics of a "mass shelter."

Lot 7 is surrounded on three sides by a chain link fence. The fence made of doors may be moved from Right 2 Dream Too's current site to the proposed site to separate the rest area on a portion of Lot 7 from the existing parking spaces on the remainder of the lot. Since a fence is a structure, I considered whether the proposed rest area surrounded by fences is "a structure that contains one or more sleeping areas" that is characteristic of a mass shelter. My determination is that it is not.

Multiple temporary tents on the site are not like a single open sleeping area or multiple sleeping areas separated by non-permanent partitions that are characteristic of a mass shelter. The standards for mass shelters in PCC Chapter 33.285 refer to a building and floor area, and differentiate between indoor and outdoor activities. The concept of a "structure" that contains sleeping areas separated by non-permanent partitions expressed in the definition of a "mass shelter" is more characteristic of a shelter in a building, like the Portland Rescue Mission, than a site with a collection of tents surrounded by a fence. Additionally, the tents do not function solely as sleeping rooms, but as a place that individuals use for other daily activities as well. After considering all of these factors, my recommendation is that the presence of a fence surrounding the rest area does not convert it into a mass shelter.

For similar reasons, the rest area is not "short-term housing," which the code defines as:

A structure that contains one or more individual sleeping rooms, and where tenancy of all rooms may be arranged for periods of less than one month. The short term housing facility may or may not have food preparation facilities, and shower or bath facilities may or may not be shared. The facility is managed by a public or non-

profit agency to provide short term housing, with or without a fee. Examples include transitional housing, and emergency shelter where individual rooms are provided. Where individual rooms are not provided, the facility may be a mass shelter. (PCC 33.910.030)

The definition refers to a structure, rooms, food preparation facilities, and bath facilities, and assumes there is a building. The proposed rest area does not include a building, individual sleeping rooms, or the type of facilities mentioned in the definition of short-term housing. Right 2 Dream Too has not indicated that individuals must make reservations or be referred to the site in order to use the rest area, nor is there any indication that parking will be required, which are among the standards for short-term housing in PCC Chapter 33.285. The proposed rest area lacks many of the key characteristics of short term housing and my recommendation is that it is not a short-term housing facility.

The zoning code lists certain kinds of uses that are “exceptions” and are not considered to be a Community Services Use. One exception is for “uses where tenancy is arranged on a month-to-month basis, or for a longer period.” This type of use is considered to be residential in nature and falls under the Household Living or Group Living use categories. The proposed rest area does not include arranging tenancy, whether on a month-to-month basis or longer. Individuals may use the rest area for overnight sleeping as necessary. The length of time individuals may stay at the rest area may vary from one day to several weeks or longer. As a result, the proposed rest area does not fit within this exception and is not considered to be a Household Living or Group Living use.

None of the listed examples perfectly captures the nature and operational qualities of the proposed rest area. However, the examples listed in each use category are not intended to be exclusive as the code makes clear. PCC 33.700.070.D.4 states: “Lists of items that state ‘including the following,’ ‘such as,’ or similar language are not limited to just those items. The lists are intended to provide examples, but not to be exhaustive of all possibilities.” The zoning code also explains that the uses listed in the “example” section of a use category description are generic and it is the actual activity on a site, not what a use calls itself, that determines whether it should be assigned to a particular use category. (PCC 33.920.030.D) Like many of the uses listed in the examples, the rest area/tent camp will offer individuals a place to gather on a temporary basis for a common purpose. Based on consideration of the characteristics of the proposed rest area, I conclude that the Community Services Use category most closely describes the nature of this use.

#### C. Allowed, Conditionally Allowed or Prohibited Use in the Exd Zone

Lot 7, the site of the proposed rest area, is zoned Central Employment (EX). The use regulations for the EX zone are found in PCC 33.140.100 and Table 140-1. Community Services uses are allowed by right in the EX zone with the exception of short term housing and mass shelters. Under PCC 33.140.100.B.10, short term housing and mass shelters may be allowed by right if they meet the standards of PCC Chapter 33.285 or may be a conditional use. For the reasons explained in Attachment A and in section II.B above, the proposed rest area is not short-term housing or a mass shelter and is not subject to the development standards of PCC Chapter 33.285 or conditional use review. The proposed rest area is a Community Services use that is allowed outright under the EX zoning regulations applicable to Lot 7.

#### D. Design Review

The Design (d) overlay zone has also been applied to Lot 7, which triggers a requirement for design review for certain types of development activities unless specifically exempted by the “d” overlay regulations. PCC 33.420.041 broadly describes the types of projects or development that require design review “unless exempted by Section 33.420.045.” That section then lists a subset of the projects types or development described in PCC 33.420.041 that are exempt from design review.

I considered two potential types of developments that require design review and concluded that the proposed rest area may initially fit one of these circumstances. The first is “new development” under PCC 33.420.041.A, which is defined as “development of a site that was previously unimproved or that has had previously existing buildings demolished.” Lot 7 is currently fenced and improved with a paved parking lot. As a result, this site is not “previously unimproved” and there are no existing buildings that will be demolished to make way for the rest area. For these reasons, the rest area will not result in new development that requires design review.

The second type of development I considered that triggers design review is “exterior alterations to existing development” under PCC 33.420.041.B. The Zoning Code defines exterior alterations as:

A physical change to a site that is outside of any buildings. Exterior alteration does not include normal maintenance and repair or total demolition. Exterior alteration does include the following:

- Changes to the facade of a building;
- Increases or decreases in floor area that result in changes to the exterior of a building;
- Changes to other structures on the site or the development of new structures;
- Changes to exterior improvements;
- Changes to landscaping; and
- Changes in the topography of the site.

Locating the proposed rest area on Lot 7 may include changes to exterior improvements, specifically installing a faucet, sink, electrical panel with outlets, solid waste disposal area, and portable toilets. All of these result in physical changes to the site that are outside of a building and can be considered “exterior alterations” to the existing development (the parking lot on Lot 7). Unless exempted by PCC 33.420.045, these exterior alterations require design review.

Additionally, if it is moved from Right 2 Dream Too’s existing site, installing the fence made of doors on Lot 7 may constitute an exterior alteration. In the EX zone, a fence along a street lot line may be up to 3.5 feet high within 10 feet of a street lot line or, if the fence is 50% or less sight-obscuring, may be up to 8 feet high within 10’ of the street lot line. Fences along all other lot lines may be up to 8 feet high within the required setback, but a fence over 6 feet high requires a building permit. (PCC 33.140.275.B-D) If the fence of doors exceeds 6 feet in height, it requires a building permit and initially triggers a requirement for design review. If the fence is taller than 3.5 feet and within 10 feet of a street lot line, an adjustment may be required, but no design review or building permit.



Projects or activities that might otherwise be subject to design review under Subsection A may nevertheless be exempted from design review under PCC 33.420.045. One of the listed exemptions in 33.420.045.J is for “[p]roposals where a building or sign permit is not required.” A building permit is not required to install a faucet, sink, electrical board, solid waste disposal area, or portable toilets on Lot 7. If the fence made of doors is 6 feet or less in height, it does not require a building permit. As a result, the proposed rest area will not include any structures, buildings or development for which a building or sign permit is required and installation of a faucet, sink, electrical board, portable toilets, and fence less than 6 feet in height are exempt from design review. For these reasons, I conclude that the rest area is not subject to design review.

A development review (DR) permit will be required for the proposed rest area. A DR permit is neither a building permit nor a zoning permit. Its purpose is to provide a review and permitting process for projects in that middle ground where multiple technical codes may be applicable and the project requires more than a single plumbing or electrical permit, but not a building permit. The process provides an opportunity for the different bureaus to ensure a project complies with all of the applicable technical codes and document compliance. For example, the Bureau of Environmental Services will review the proposed rest area for compliance with applicable storm and sanitary sewer requirements. BDS will review the proposal for compliance with applicable plumbing and electrical codes. The Fire Bureau will check for compliance with any applicable fire code requirements, such as propane tank spacing. Additionally, a plumbing permit will be required for the water service and gray water disposal, and an electrical permit for the electrical service. None of these permits trigger a requirement for design review.

#### E. Previous Land Use Reviews

You identified a prior Central City Parking Review involving Lot 7: LU 12-179799 PR. This review allocated a total of 65 parking spaces to Lot 7 (40 Residential spaces to serve the Station Place Tower and 25 Growth Parking spaces to serve a future use on Lot 5). There is no minimum parking requirement in the Central City Plan District. (PCC 33.510.265.F.1) The purpose of the Central City Parking Review is to determine whether parking to support particular types of development is allowed at all, while managing the negative effects of parking in the Central City. Thus, the 2012 Central City Parking Review was “permissive” in allowing or allocating 65 parking spaces on Lot 7 to uses on other lots; there is no requirement that Lot 7 be used for parking. In fact, one of the properties that Lot 7 parking is allowed to serve (Lot 5) remains undeveloped.

The 2012 Central City Parking review allows Lot 7 to be used for parking, but does not require that it be used in this fashion and does not preclude use of the lot for other purposes. Information available to me indicates that Lot 7 is currently underutilized for parking. There is not yet any development on Lot 5 for which the 25 Growth Parking spaces are needed. The rest area proposed for Lot 7 will make a portion of the lot temporarily unavailable for use as vehicle parking, but will not eliminate the paved parking pad or spaces and will not prevent the lot from being used for parking in the future. A portion of Lot 7 will retain existing parking spaces and will remain available for vehicle parking. In short, the parking approved in 2012 and the proposed rest area are not mutually exclusive uses and an amendment to the 2012 Central City Parking Review is not required to locate the proposed rest area on Lot 7. Additionally, the proposed rest area is not a change from one type of parking to another, which would otherwise

trigger a Central City Parking Review under PCC 33.510.265.F.7. For these reasons, a Central City Parking Review is not required to use Lot 7 for the proposed rest area.

F. Use Agreement or Good Neighborhood Agreement

My recommended determination is that the proposed rest area is a Community Services use that is permitted outright in the EXd zone without a land use review or design review. This recommended determination eliminates the need to respond to the sixth question listed at the outset of this letter. I note, however, that there is nothing in the zoning code that either requires parties to enter into a Use Agreement or Good Neighbor Agreement to address operation and management of the proposed rest area or that precludes parties from doing so. Such a voluntary agreement is outside the scope of the zoning code.

G. Conclusion

My recommended response to your requests for a zoning confirmation letter is based on information provided by Right 2 Dream Too as well as the Bureau of Development Services' review of zoning regulations and land use case history pertaining to Right 2 Dream Too's site. This information is current, but zoning regulations change over time. These regulations may affect the use and/or development of Lot 7.

Sincerely,



Paul L. Scarlett, Director  
Bureau of Development Services

Attachments

- A – Zoning Confirmation Request (Right 2 Dream Too)
- B – Zoning Confirmation Request (Williams/Dame)
- C – Zoning Map
- D – Description of Right 2 Dream Too's Rest Area/Tent Camp
- E – Diagram of Site
- F – Discussion of Retail Sales and Service and Group Living Use Categories



# City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 • 503-823-7526 • www.portlandoregon.gov/bds



## Zoning Confirmation Request

File Number: 13-206922 PR

### FOR INTAKE, STAFF USE ONLY

Date Received 9.18.13

Received By D. HARDY

Qtr Sec Map(s) 2929

Overlay Zone d Base Zone EX

☒ ☐ Unincorporated MC

Plan District CENTRAL CITY

Bill # \_\_\_\_\_

Building Permit # \_\_\_\_\_

Related File# \_\_\_\_\_

**APPLICANT: Complete all sections below that apply to the proposal. Please print legibly.**

**Application Type** - The purpose of a zoning confirmation letter is to verify in writing the allowed uses, development standards, and regulations applicable to a specific site. Zoning confirmation letters may fall into either the Tier 2 or Tier 3 category. Please indicate below which type of letter you are requesting.

☐ **Tier 2 - Bank Letter - \$250**

- Description of current zoning
- Summary of uses allowed by zoning
- List of applicable land use history
- Response in 3 to 4 weeks

☒ **Tier 3 - Complex Zoning Analysis - \$850**

- Description of zoning and zoning history
- Details of building permit and land use history
- Responses to specific questions
- Development analysis upon request
- Response in 6 to 8 weeks

**Requirements** - To ensure the most accurate information, the properties listed below should include all of the lots that make up the site. You may use www.portlandmaps.com or call Planning and Zoning Review at 503-823-7526 to confirm property information. Submit an 8.5 x 11 inch site plan, showing property lines and all existing development. (For Tier C applications, please include a list of specific questions or zoning issues you would like addressed in the letter. The site plan submitted must include enough information to respond to the request.)

**Note:** Please address mailed applications to Bureau of Development Services - Planning & Zoning.

Site Address or Location NW LOVEJOY CT @ NW STATION WAY

Site Tax Account Number(s) and Legal Description(s)

Tax Account #	Property ID #	State ID #	Tax lot/Lot Block Addition/Section #
R 533589	R	1N1E34BB 1307	LOT 7, STATION PLACE
R	R		
R	R		

Applicant Name RIGHT 2 DREAM TOO

Street Address \_\_\_\_\_

City PORTLAND

State OR

Zip Code \_\_\_\_\_

Day Phone \_\_\_\_\_

FAX \_\_\_\_\_

email \_\_\_\_\_

Letter should be addressed to ☒ Applicant ☐ Other, address below

Other \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

Day Phone \_\_\_\_\_

FAX \_\_\_\_\_

email \_\_\_\_\_

**Zoning Confirmation Request for Right 2 Dream Too**  
**NW Lovejoy Court at NW Station Way**

Please address the following questions in the requested Zoning Confirmation Letter for Right 2 Dream Too:

- 1) Is the Zoning Code silent about the proposed use, or does it fit into one or more of the Use Categories in Zoning Code Chapter 33.920?
- 2) Which, if any, Use Category most closely describes the nature of the proposed use?
- 3) If the use is not prohibited, is the use allowed outright, or does the use require a Land Use Review, such as a Conditional Use Review?
- 4) Is the proposed development allowed by the Zoning Code?
- 5) Does the proposed development require Design Review?
- 6) What Zoning Code regulations apply to the proposed fence made of doors?
- 7) Do the previous Central City Parking Reviews, which allocate parking spaces to the existing parking lot at the subject property, preclude it from being used as a temporary rest area/camping area?

Amber Jackson Berg  
[aberg@radlerwhite.com](mailto:aberg@radlerwhite.com)  
971-634-0208

September 17, 2013

VIA FIRST CLASS MAIL

Mike Hayakawa  
Bureau of Development Services  
1900 SW Fourth Avenue  
Portland, OR 97201

RE: Zoning Confirmation Request

Dear To Whom It May Concern:

Enclosed please find a Zoning Confirmation Request for the Site located at NW Lovejoy Court; Lot 7 (map enclosed). The enclosed request is accompanied by the applicable filing fee of \$850.00 for a Tier 3 review.

Very truly yours,



Amber Jackson Berg

Enclosure(s)

RADLER WHITE PARKS  
ALEXANDER LLP  
ATTORNEYS AT LAW

311 SW COLUMBIA STREET, SUITE 1100 PORTLAND, OREGON 97201 P 971 634 0200 F 971 634 0222



RADLER WHITE PARKS &amp; ALEXANDER LLP

10920

DATE	DESCRIPTION	INVOICE #	CHECK		NET AMOUNT
			AMOUNT	DEDUCTION	
09/17/13	City of Portland Bureau of Dev. Services Client Cost Adv. 1138.002	CK REQUEST	850.00		850.00

CHECK DATE	CONTROL NUMBER	TOTALS	Gross:	Ded:	Net:
09/17/13	10920		850.00	0.00	850.00

**RADLER WHITE PARKS & ALEXANDER LLP**  
111 SW COLUMBIA ST. STE. 1100  
PORTLAND, OR 97201  
971-634-0200

UMPQUA BANK  
ROSEBURG, OR  
96-605/1232

10920

DATE 09/17/13 AMOUNT \*\*\*\*\*\$850.00

**PAY**

\*\*\* EIGHT HUNDRED FIFTY &amp; 00/100 DOLLARS

TO THE  
ORDER  
OF:

City of Portland Bureau of Dev. Services

TWO SIGNATURES REQUIRED OVER \$5,000.00

  
\_\_\_\_\_  
AUTHORIZED SIGNATURE

MEMO: Client Cost 1008.002

⑈010920⑈ ⑆123205054⑆ 973945892⑈



# City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 • 503-823-7526 • www.portlandoregon.gov/bds



## Zoning Confirmation Request

File Number:

### FOR INTAKE, STAFF USE ONLY

Date Received \_\_\_\_\_

Received By \_\_\_\_\_

Qtr Sec Map(s) \_\_\_\_\_

Overlay Zone \_\_\_\_\_

Base Zone \_\_\_\_\_

[Y] [N] Unincorporated MC

Plan District \_\_\_\_\_

Bill # \_\_\_\_\_

Building Permit # \_\_\_\_\_

Related File# \_\_\_\_\_

**APPLICANT: Complete all sections below that apply to the proposal. Please print legibly.**

**Application Type** - The purpose of a zoning confirmation letter is to verify in writing the allowed uses, development standards, and regulations applicable to a specific site. Zoning confirmation letters may fall into either the Tier 2 or Tier 3 category. Please indicate below which type of letter you are requesting.

☐ **Tier 2 - Bank Letter - \$250**

- Description of current zoning
- Summary of uses allowed by zoning
- List of applicable land use history
- Response in 3 to 4 weeks

☒ **Tier 3 - Complex Zoning Analysis - \$850**

- Description of zoning and zoning history
- Details of building permit and land use history
- Responses to specific questions
- Development analysis upon request
- Response in 6 to 8 weeks

**Requirements** - To ensure the most accurate information, the properties listed below should include all of the lots that make up the site. You may use www.portlandmaps.com or call Planning and Zoning Review at 503-823-7526 to confirm property information. Submit an 8.5 x 11 inch site plan, showing property lines and all existing development. (For Tier C applications, please include a list of specific questions or zoning issues you would like addressed in the letter. The site plan submitted must include enough information to respond to the request.)

**Note:** Please address mailed applications to Bureau of Development Services - Planning & Zoning.

Site Address or Location NW Lovejoy Court ; lot 7 ; parking area

Site Tax Account Number(s) and Legal Description(s) (map attached)

Tax Account #	Property ID #	State ID #	Tax lot/Lot Block Addition/Section #
R 533589	R 193100360	1N1E34BB	1307
R	R		
R	R		

Applicant Name Williams Dame & Associates

Street Address 1308 NW Everett

City Portland State Oregon Zip Code 97209

Day Phone 503 227-6493 FAX 503-227-7996 email svsan@wddcorp.com

Letter should be addressed to ☒ Applicant ☐ Other, address below

Other \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Day Phone \_\_\_\_\_ FAX \_\_\_\_\_ email \_\_\_\_\_

## PortlandMaps Detail Report

## PortlandMaps

700-899 NW LOVEJOY ST - PEARL  
- PORTLAND[New Search](#) | [Mapping](#) | [Advanced](#) | [Google Earth](#) | [Help](#) | [PortlandOnline](#)[Explorer](#) | [Property](#) | [Maps](#) | [Projects](#) | [Crime](#) | [Census](#) | [Environmental](#) | [Transportation](#)[Summary](#) | [Assessor](#) | [Permits/Cases](#) | [Block](#) | [Schools](#) | [Parks](#) | [Development](#) | [Garbage/Recycling](#) | [Noise](#) | [Historic Permits](#) | [Water](#) | [Documents](#)

## General Information

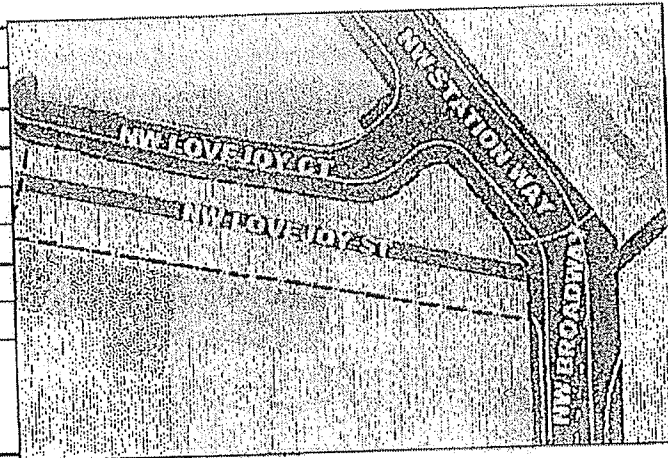
Property ID R533589
County MULTNOMAH
State ID 1N1E34BB 1307
Alt Account # R793100350
Map Number

## Site Info

Site Address NW LOVEJOY CT
City/State/Zip PORTLAND OR 97209

## Owner Info (Privacy)

PORTLAND CITY OF(PDC)
Owner(s) (LEASED
Name SP TOWERS LLC
ATTN REAL ESATE DEPT
Owner Address 222 NW 5TH AVE
City/State/Zip PORTLAND OR 97209-3812



## Property Description

Tax STATION PLACE, LOT 7, DEFERRED ADDITIONAL TAX	Use PARKING LOT
Roll LIABILITY	Block
Lot 7	
Tax Districts	
101 PORT OF PORTLAND	130 CITY OF PORTLAND
130L CITY OF PORTLAND - NEW LEVIES	130M CITY OF PORTLAND PARKS LOP
143 METRO	170 MULTNOMAH COUNTY
170L MULT CO LIBRARY LOCAL OPT TAX	171 URBAN RENEWAL PORTLAND
173 URB REN SPECIAL LEVY - PORTLAND	198 TRI-MET TRANSPORTATION
304 MULTNOMAH ESD	309 PORTLAND COMM COLLEGE
311 PORTLAND SCHOOL DIST #1	

## Deed Information

Sale Date	Type	Instrument	Sale Price
	OTHER	BP20542425	\$0.00

## Land Information

Type	Acres	SQFT
COMMERCIAL LAND	0.5900	25,519

## Improvement Information

WILLIAMS/DAME & ASSOCIATES, INC.

September 16, 2013

Rebecca Esau  
Bureau of Development Services  
1900 SW Fourth Avenue, Suite 5000  
Portland, Oregon 97201

Re: Zoning Confirmation Request

Dear Ms. Esau,

Please find attached the complete application form and filing fee for a Tier 3 Zoning Confirmation Request.

The property in question is zoned EXd. As part of your response to this request we would like the following specific questions answered:


1. Does the EXd permit overnight rest areas, campgrounds or campsites as permitted, conditional or limited uses? If there is no such use listed under permitted, conditional or limited uses, is the use contained in the list of examples under PCC 33.920?
2. Is a campsite or rest area a Group Living, Short Term Housing or Mass Shelter use as those terms are currently defined by the code?
3. If a use is not on the permitted, conditional or limited use list for the EXd zone and it is not in the list of example uses in the EXd zone, can I develop the use without a land use review?
4. Does the design overlay in this zone require design review for a campsite or rest area? Under what circumstances would design review be required for a use that includes tents and utility connections?
5. There is a previous Central City Parking Review approval on this site and the approval allocates the 65 parking spaces on the site to specific lots and uses. The CCPR does not allow those parking spaces to be used for camping. Does the change in use from parking to camping require an amendment to that land use approval? If so, please describe that approval process.
6. Lastly, if the use is not allowed by the code, can I simply enter a Use Agreement or Good Neighbor Agreement as an alternative to the code?

September 16, 2013  
Page 2

Thank you for your timely response to these questions. As I now understand it, the City has determined that campsites or overnight rest areas are permitted by the zoning code and do not require a land use review. In order to understand how I may utilize my property and how my similarly-zoned neighbors may utilize their property I must understand how the City is applying the code under the questions enumerated above.

Best regards,

WILLIAMS/DAME & ASSOCIATES

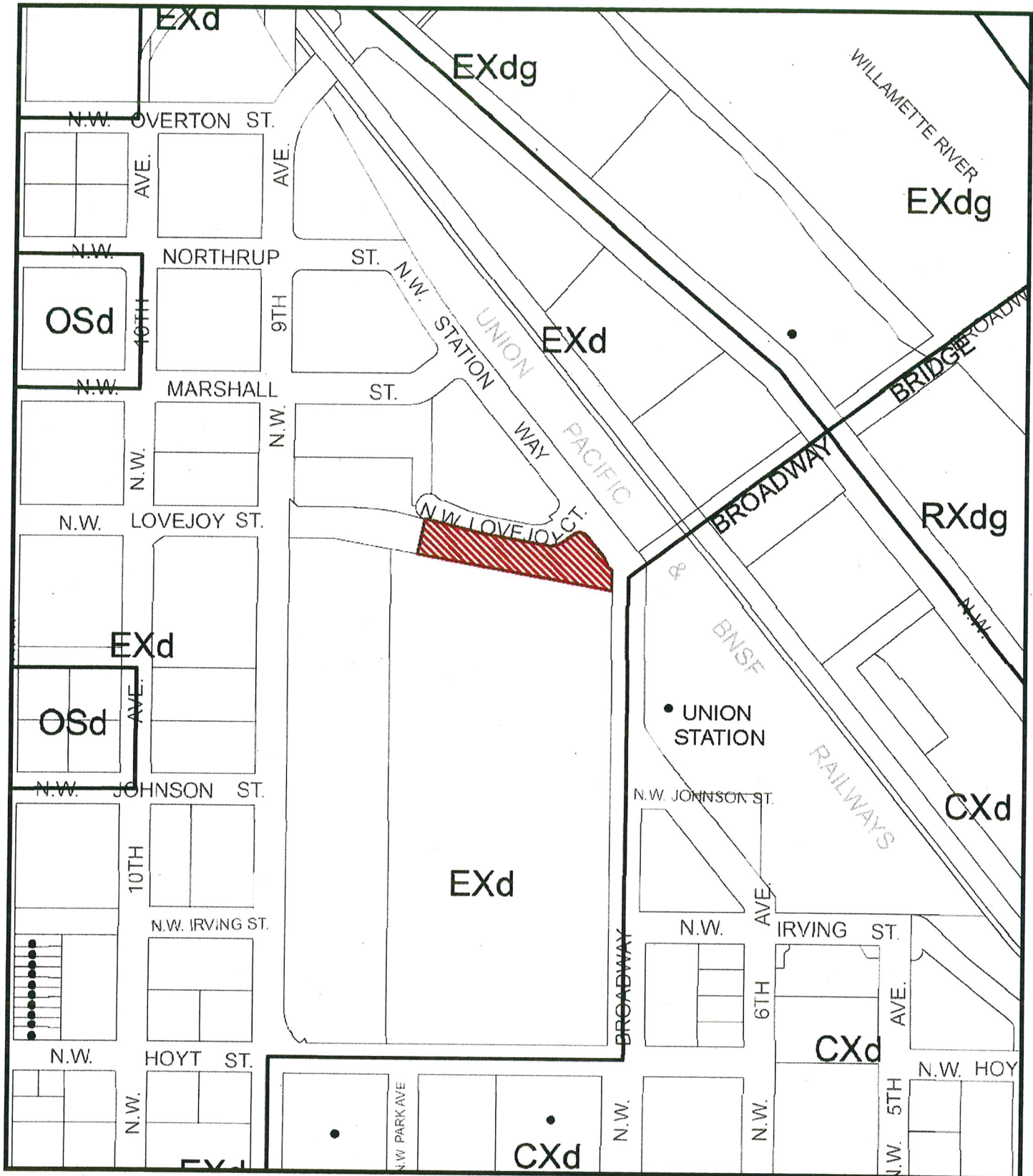


T.B. Dame, President

TBD/sg

Enclosure





# ZONING



Site



Historic Landmark

This site lies within the:  
CENTRAL CITY PLAN DISTRICT  
RIVER DISTRICT SUBDISTRICT  
NORTH PEARL SUBAREA



NORTH

File No. PR 13-206922 ZCL, PR 13-207594 ZCL

1/4 Section 2929

Scale 1 inch = 250 feet

State\_Id 1N1E34BB 1307

Exhibit B (Sep 24, 2013)

Description of Right 2 Dream Too's rest area/tent camp:

---Temporary rest area with tents to provide overnight shelter for people experiencing homelessness; individuals will erect their own tents

---Duration: up to 1 year

---Maximum of 100 people at any given time

---Individuals may stay at the site for varying lengths of time (one night or more)

---To be managed by Right 2 Dream Too

---Individuals staying at the site may volunteer to help each other by sharing food, clothing, and information about accessing social services, among other things

---Self-governed by individuals staying there

---No employees

---No buildings will be built on site

---Will have portable toilets, water service (faucet and sink), gray water disposal, electrical panel, and solid waste disposal area

---May move fence made of doors from 4<sup>th</sup> and Burnside onto site

---To be located on western portion of Lot 7

*Ibrahim Mubarek - 831*



CONTRACTOR TO VERIFY EXISTING UTILITIES PRIOR TO CONSTRUCTION. DO NOT INTERRUPT EXISTING UTILITY SERVICES.

SAWCUT PAVEMENT IN STRAIGHT LINES. CONTRACTOR TO CONSTRUCT 12"-WIDE TRENCH.

WATER PIPING SHALL BE PVC SCHEDULE 40 PIPE PER ASTM D 1785 WITH SCHEDULE 40 SOCKET FITTINGS PER ASTM D 2466.

- 1 CONNECT TO EXISTING WATER SERVICE BEHIND EXISTING  
METER AND PRIOR TO EXISTING IRRIGATION DOUBLE  
CHECK.
- 2 INSTALL 3" PVC OR COPPER WATER LINE. HAND  
EXCAVATE TO AVOID CUTTING OR DAMAGING EXISTING  
UTILITIES. PROTECT EXISTING SIDEWALK AND FENCE.  
CONTRACTOR SHALL BE RESPONSIBLE FOR REPLACING  
ANY DAMAGE CAUSED BY CONSTRUCTION.
- 3 INSTALL 3" DCVA COMPLETE IN VAULT. FIELD LOCATE.
- 4 INSTALL POST MOUNTED MERRILL CNL-1000 SERIES  
FROST PROOF YARD HYDRANT MODEL #CNL7502. INSTALL  
PER MANUFACTURERS RECOMMENDATIONS CONSTRUCT  
24"x24" CONCRETE SPLASH PAD TO INCLUDE POST.
- 5 INSTALL 1" AND 2-1/2" ELECTRICAL CONDUIT IN 12"  
TRENCH. BACKFILL TRENCH WITH CONTROLLED DENSITY  
FILL (CDF).
- 6 CONNECT POWER TO EXISTING ELECTRICAL PANEL. SEE  
ELECTRICAL PLAN.
- 7 EXTEND 1" CONDUIT TO PAY TO PARK PAD.
- 8 CONNECT POWER TO PROPOSED PANEL. SEE ELEC PLAN.



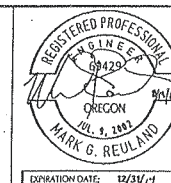
1. PIPE BEDDING SHALL BE ODOT 3/4-INCH MINUS

2 TYPICAL  
SCALE: NTS



**kpff** Consulting Engineers  
111 SW Fifth Avenue, Suite 2400, Portland, OR 97204  
Tel. 503-227-3251 \* Fax 503-274-4681  
Eugene • Everett • Irvine • Lacey • Long Beach • Los Angeles  
New York • Pasadena • Phoenix • Portland • St. Louis • Sacramento  
San Diego • San Francisco • Seattle • Tacoma • Walnut Creek

**PDC** | PORTLAND  
DEVELOPMENT  
COMMISSION



STATION PLACE - LOT 7

JOB NO.  
J12208.03

SHEET NO.

C1

Attachment FDiscussion of Retail Sales and Service and Group Living Use Categories

The proposed rest area is not a Retail Sales and Service or Group Living use for the reasons explained below.

1. Retail Sales and Services Use Category

A Retail Sales and Service Use is defined in PCC 33.920.250 as relevant:

**A. Characteristics.** Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.

**B. Accessory uses.** Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, food membership distribution, and parking.

**C. Examples.** Examples include uses from the four subgroups listed below:

- \* \* \* \*
- \* \* \* \*

3. Entertainment-oriented: Restaurants, cafes, delicatessens, taverns, and bars; indoor or outdoor continuous entertainment activities such as bowling alleys, ice rinks, and game arcades; pool halls; indoor firing ranges; theaters, health clubs, gyms, membership clubs, and lodges; hotels, motels, recreational vehicle parks, and other temporary lodging with an average length of stay of less than 30 days.

There are no relevant “exceptions” to consider.

Analysis: The service being provided at the proposed rest area (a temporary place for homeless individuals to rest and sleep) is a personal service, which is one of the characteristics of a Retail Sales and Service Use. The rest area will not include any of the uses listed as accessory uses or anything similar in nature. The most similar examples listed as an “entertainment-oriented” Retail Sales and Service Use include recreational vehicle parks and other temporary lodging with an average length of stay of less than 30 days. Some individuals will stay at the rest area for less than 30 days and in this respect the proposed rest area could be considered a form of temporary lodging. However, recreational vehicle parks and temporary lodging listed as “entertainment-oriented” Retail Sales and Service Uses more closely describe RV Campgrounds or KOA-type campgrounds for RVs or tents for recreational purposes. The purpose of the proposed



rest area is not for entertainment or for recreational purposes, but to provide a temporary place for homeless individuals to rest and sleep overnight.

Conclusion: Although the proposed use could be considered a personal service providing temporary lodging, there is a disconnect with the "entertainment-oriented" sub-category. Individuals will be using the proposed rest area because they have no other available lodging and sleeping in tents is not for the purpose of entertainment or recreation. As a result, I conclude the Retail Sales and Service Use category does not describe the nature of the proposed rest area in any meaningful way and the rest area is not a Retail Sales and Service use.

## 2. Group Living Use Category

PCC 33.920.100 describes a "Group Living" use as follows:

**A. Characteristics.** Group Living is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of Household Living. The size of the group will be larger than the average size of a household. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales And Service and Community Service categories). Generally, Group Living structures have a common eating area for residents. The residents may or may not receive any combination of care, training, or treatment, as long as they also reside at the site. Group Living may include the State definition of residential facility (see Chapter 33.910, Definitions).

**B. Accessory Uses.** Accessory uses commonly found are recreational facilities, parking of autos for the occupants and staff, parking of vehicles for the facility, and food membership distribution.

**C. Examples.** Examples include dormitories; communes; fraternities and sororities; monasteries and convents; nursing and convalescent homes; some group homes for the physically disabled, mentally retarded, or emotionally disturbed; some residential programs for drug and alcohol treatment; and alternative or post incarceration facilities.

**D. Exceptions.**

1. Lodging where tenancy may be arranged for periods less than one month is considered a hotel or motel use and is classified in the Retail Sales And Service category. However, in certain situations, lodging where tenancy may be arranged for periods less than one month may be classified as a Community Service use such as short term housing or mass shelters.



2. Lodging where the residents meet the definition of Household, and where tenancy is arranged on a month-to-month basis, or for a longer period is classified as Household Living.
3. Facilities for people who are under judicial detainment and are under the supervision of sworn officers are included in the Detention Facilities category.

Analysis: The individuals using the site will not be occupying a structure. A "structure" is defined in the Zoning Code as: "Any object constructed in or on the ground. Structure includes buildings, decks, fences, towers, flag poles, signs, and other similar objects. Structure does not include paved areas or vegetative landscaping materials." The examples given are all things that are semi-permanent. A tent is not semi-permanent and is not a "structure" as defined in the Zoning Code. There is currently no proposal for a structure with a common eating area for residents. There is no proposal for residents to receive any combination of care, training, or treatment as long as they rest or camp at the site. The rest area is not a facility for people who are under judicial detainment and under the supervision of sworn officers. As a result, it is not considered to be a Detention Facility Use.

The length of time individuals will stay at the rest area may vary from one day to longer than a month. The term "transient lodging" is not defined in the Zoning Code, but the dictionary definition of "transient" is "not lasting long" and "staying somewhere only a short time." The proposal is to use Lot 7 for one year to provide a temporary rest area and temporary lodging for homeless people. There is no requirement in the proposed operation of the rest area for homeless people to commit to stay for any specific period of time (such as on a month-to-month basis) or to sign a lease or any other form of tenancy agreement. These factors indicate the proposed rest area is a form of transient lodging, but is not a Group Living use, hotel or motel.

The proposed rest area will not include any of the activities or development identified as uses accessory to a Group Living use (automobile parking or food distribution). Similarly, the rest area is not similar to the uses listed as "examples," all of which are buildings or structures where a group of people may live or stay for an extended period of time and for a specific purpose (religious, treatment, or incarceration).

The "exceptions" stated in Subsection D indicate that some forms of transient lodging may be classified as a Community Services use while others are better classified as short term housing or mass shelters. This subsection uses the term "such as," which indicates these are examples and are not an exhaustive list of all possibilities. Community Services uses for lodging where tenancy may be arranged for periods less than one month can take other forms than short term housing or mass shelters. As explained in the body of this zoning confirmation letter, the proposed rest area/temporary (transient) lodging is best described as a Community Services use, and not short term housing or a mass shelter.

Conclusion: The proposed rest area is not consistent with the characteristics of a Group Living use and I conclude it is not Group Living use.