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Re: Your [12/29/2023 Request](#) for Appeal of the Planning Director's Zoning Verification/Clearance dated 12/21/2023.

Due to widespread misinformation surrounding Safe Space Winter Shelter (SSWS) use of the site at 101 Main Street, I will use this opportunity to clarify some information before moving to a response to the SSWS request for Appeal of the Planning Director's Zoning Verification/Clearance dated 12/21/2023.

Per Title 19 of the Chico Municipal Code, the purpose of land use regulations:

19.01.020 Purpose.

A. The purpose of the city in enacting, amending, and administering these Regulations is to promote and protect the public health, safety, and general welfare by adopting a Zoning Map (Section [19.01.040](#)) and regulations generally providing for:

2. The protection of the established character of the various zoned areas within the city and orderly development by regulating the uses of land, and the location, size, and character of structures or improvements erected or placed on the land, including alterations or additions to existing structures or improvements. (excerpted)

In the area of homeless support, the City of Chico spends approximately \$4.7 million per year to operate the Genesis Shelter. And that does not include millions more in Public Works staff time, Police Department time, legal costs, hazardous materials and refuse disposal costs, and administration time that are not broken out and isolated as that would require additional time and resources. The efforts to support this small population relative to Chico's estimated population of 105,000 presents extremely high opportunity costs to the citizens of the Chico. Further, the City of Chico provides [\\$50,000 per year to Safe Space](#) for its operations.

On November 28, 2023 [KRCR news coverage](#) indicated that Safe Space secured an intake site, but it did not provide the location.

On December 14, 2023, Chico City staff learned that Safe Space began operations at the 101 Main Street site from [media coverage](#). And citizen complaints began immediately. Code Enforcement contacted Safe Space and advised Safe Space to contact the City Planning Division to seek a zoning verification or clearance. Safe Space failed to respond to the request and on Dec 19, 2023, the attached [Notice of Violation](#) was issued together with the zoning verification application. Safe Space provided the [Zoning Verification/Clearance application](#) at approximately 04:30 PM on December 20, 2023.

In order to continue to expedite the matter above many others, Planning Director Vieg provided a [Zoning Verification/Clearance letter](#) the next day on December 21, 2023.

The Zoning Verification represents the Planning Director's application of the City of Chico land use regulations to SSWS's intended use of the site. It is not an approval or denial of a land use decision.

Chico City staff cannot simply ignore the City of Chico's land use regulations. Particularly when we have business owners, property owners and other citizens demanding that we follow the City of Chico land use regulations.

SSWS and the property owner chose the 101 Main Street location and chose the timing and sequence of events leading up to the Notice of Violation.

The SSWS appeal request claims some specious conflict regarding the appeal process contained in Table 2.1 in Section [19.12.020 of the Chico Municipal Code](#). There is no such conflict or ambiguity. With Note 2, the section very clearly refers an appeal of a Planning Director's Zoning Clearance to the process contained in Section [19.12.040](#).

The SSWS appeal request indicates that SSWS *"attempted to contact both the Planning Department and the City Manager's office"*. This appears to be a false narrative as I have only been able to identify one voice mail left for Planning Director Brendan Vieg on Friday 12/29/2023 with full knowledge of the holiday closure of City Hall. Likewise, there was no voice mail and no email from SSWS in the City Manager's office until the SSWS appeal request email of 12-29-2023 at 3:03 PM. I responded [within 4 minutes](#). Specifically, I have been a party to no fewer than 8 emails with SSWS in the past 8 months so my email address is well known to SSWS: [2023-05-02](#); [2023-11-20](#); [2023-12-19a](#); [2023-12-19b](#); [2023-12-19c](#); [2023-12-20](#); [2023-12-21](#); and clearly used it on [2023-12-29](#). Other regular points of contact for SSWS are Public Works Director Erik Gustafson (as designated in the SSWS funding agreement) and Deputy City Manager Jennifer Macarthy who also received no communications from SSWS.

The SSWS appeal request indicates that *"A timeline of SSWS's efforts to find an Intake Center and its communication with the City of Chico are found in Appendix 1"*. This singular effort occurred on [November 20, 2023](#) (as opposed to "October" as quoted in the media), and was responded to on [November 29, 2023](#). Unfortunately, City facilities by design are usually purpose-built facilities, are often fully (or more than fully) utilized and often contain sensitive vital infrastructure. A good match was not found among City owned buildings.

The SSWS appeal request indicates *"The Intake Center operates from about 5:00 pm to about 8:00 pm each evening."* This description is incomplete. Materials are stored at the site and in the morning the bulk of the participants are brought back to the site to retrieve their materials and are left there. The cascading adverse impacts to surrounding businesses and properties is well known, including, but not limited to camping, loitering, obstruction of sidewalks, garbage, etc. I expect that the realities of the impacts to the site and surrounding properties was a deterrent to a successful search for a different private property owner host.

The SSWS appeal request states *“No explanation is given regarding why SSWS’ proximity to CSU, Chico and Chico High School is incompatible so we cannot respond to this allegation. Chico Junior High School is 0.6 miles from the building which cannot be accurately described as “close proximity”.* See previous paragraph. In planning documents, the measurement between properties is measured in a straight line. The site is 0.2 miles from Chico Junior High, 0.35 miles from Chico Senior High, and 0 miles and directly across the street from Children’s Park and the CSU Chico campus, a university that is already suffering from enrollment decline, and these kinds of activities near the campus are given some significant credit for that decline. An [April 2019 memo](#) from then CSU Chico President Hutchinson regarding a similar proximity issue provides additional perspective. Further, the incompatibility with the fragile economy of the Downtown business district could not be more clear.

Regarding the Zoning Verification/Clearance Dated 12/21/2023:

No land use regulation can ever contemplate all possible scenarios. In the absence of absolute clarity, we look to a reasonable interpretation of legislative intent.

The SSWS appeal request states: *“We dispute that SSWS’ intended use of a building at 101 Main Street (“Building”) as an Intake Center requires zoning clearance because we qualify for temporary use by right under 19.22.020 (C) and (N). Since the temporary use ordinance allows emergency shelters by right, it would be a similar use to allow an emergency shelter intake center. (Chico Municipal Code 19.22.020(N).)”*

SSWS refers to Chico Municipal Code Section [19.22.020](#) *Temporary uses, allowed by right.* And more specifically that the SSWS use is allowed by subsections C and N:

CMC Section [19.22.020](#) C. *Emergency Facilities. Emergency public health and safety needs/land use activities.*

“Emergency public health and safety needs” would be expected to involve a temporary emergency response by police, fire, and/or medical responders to a local disaster or sudden calamity. Whereas in sharp contrast, SSWS is an annual planned activity that occurs regularly each summer and winter and does not involve police, fire and/or medical responders. I do not believe that an ordinary reasonable person would find that the legislative intent included a planned and regularly occurring use such as that proposed by SSWS intake center, and I cannot otherwise stretch this code section to include SSWS planned activities.

CMC Section [19.22.020](#) D. describes “temporary” as an operation for a maximum of 27 days in any 90-day period. SSWS operations at 101 Main Street exceed this definition of temporary.

CMC Section [19.22.020](#) N. *Similar Temporary Uses. Similar temporary uses which, in the opinion of the Zoning Administrator, do not require a use permit and are compatible with the zoning district and surrounding land uses.*

SSWS has never asked the Zoning Administrator for such a determination. SSWS made the determination itself, unilaterally. The Zoning Administrator did not make the required determination. A review of the facts does not support the notion that the use would be deemed compatible within the DN (Downtown

North) zoning district, or the surrounding land uses nor is it similar to those uses that are allowed by CMC Section 19.22.020.

To accept SSWS reasoning is to accept the notion that SSWS operations and those similar in nature are completely exempt at all times from City of Chico land use regulations and that they may simply ignore customary land use public noticing, public review processes, public approval processes and regulations and can be placed adjacent to any home, business or school with impunity. This is simply not the case.

The Planning Director's Zoning Verification/Clearance dated 12/21/2023 is affirmed. The appeal is denied.

Respectfully yours,



Mark Sorensen
City Manager
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Attached (Hyperlinked):

2019-04-11 [CSU Chico Memo](#)
2023-11-28 [KRCR news coverage 2023-11-28](#)
2023-12-14 [ChicoER A2](#)
2023-12-19 [Notice of Violation](#)
2023-12-20 [SSWS Zoning Verification/Clearance application](#)
2023-12-21 [Planning Director's Zoning Verification](#)
2023-12-29 [SSWS Appeal request](#)
[Safe Space funding agreement](#)

Emails:

[2023-05-02](#)
[2023-11-20](#)
[2023-12-19a](#)
[2023-12-19b](#)
[2023-12-19c](#)
[2023-12-20](#)
[2023-12-21](#)
[2023-12-29 SSWS request for appeal](#)
2023-12-29 [email confirming receipt](#)