

PLANNING COMMISSION AGENDA

CITY OF BROOKINGS
Council Chambers - 898 Elk Drive
August 1, 2023 at 7:00 PM



1. CALL TO ORDER - PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. PLANNING COMMISSION CHAIR PERSON ANNOUNCEMENTS
4. PUBLIC HEARINGS - The below applications are Quasi-judicial hearings and the Planning Commission will make a decision on each of these matters.

4.1 In the matter of File No. CUP-8-23, a request for approval of a Conditional Use Permit to operate a Short Term Rental facility at 211 Marine Drive Spur, Assessor's Map & Tax Lot No. 4113-05B-01100; zoned R-1. The owner/applicant is Salomeja Lescinskas. Criteria used to decide this matter can be found in Brookings Municipal Code Chapter 17, Sections: 17.20.040(Q) Single Family Residential Conditional Uses; 17.124.170 – Short-Term Rentals; and 17.136 - Conditional Uses.

4.2 Continuation In the matter of File No. APP-1-23, an appeal to the Planning Commission of a Notice of Abatement issued April 14, 2023 to St. Timothy's Episcopal Church, at 401 Fir Street, Assessor's Map & Tax Lot No. 4113-05BC-07300. Criteria used to decide this matter is found in Brookings Municipal Code Chapters 17.156 (Appeal to Planning Commission), 17.01.040 (Compliance with code provisions) and [17.124.050](#) (Benevolent meal service).

5. MINUTES FOR APPROVAL
 - 5.1 Minutes of Planning Commission meeting June 26, 2023.
6. UNSCHEDULED PUBLIC APPEARANCES
7. REPORT FROM THE PLANNING STAFF
8. COMMISSION FINAL COMMENTS
9. ADJOURNMENT

Unscheduled public appearances and comments are limited to 5 minutes. All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with advance notification. You can view the Planning Commission meeting LIVE on television on Charter PEG Channel 181; stream it LIVE on a computer by copying and pasting the following link inside your web browser: <mms://68.185.2.46:8080>; or to stream it LIVE on a mobile device you will need to download the VLC Media Player which is available at: <https://or-brookings2.civicplus.com/252/Watch-Meetings-Live> and follow directions and links for your device.



City of Brookings

898 Elk Drive, Brookings, OR 97415
(541) 469-1103 Fax (541) 469-3650 TTY (800) 735-1232
www.brookings.or.us

PUBLIC WORKS AND DEVELOPMENT SERVICES DEPARTMENT

Email: June 26, 2023

Publish: July 5, 2023 - Curry Coastal Pilot

NOTICE OF PUBLIC HEARING BEFORE THE BROOKINGS PLANNING COMMISSION

NOTICE IS HEREBY GIVEN that a public hearing will be held before the Brookings Planning Commission on Tuesday, August 1, 2023 at 7:00 PM in the Council Chambers of Brookings City Hall, 898 Elk Drive, Brookings, OR 97415. The below application is a Quasi-judicial hearing and the Planning Commission will make a decision on this matter.

1. In the matter of File No. CUP-8-23, a request for approval of a Conditional Use Permit to operate a Short Term Rental facility at 211 Marine Drive Spur, Assessor's Map & Tax Lot No. 4113-05B-01100; zoned R-1. The owner/applicant is Salomeja Lescinskas. Criteria used to decide this matter can be found in Brookings Municipal Code Chapter 17, Sections: 17.20.040(Q) Single Family Residential Conditional Uses; 17.124.170 – Short-Term Rentals; and 17.136 - Conditional Uses.

The public is invited to attend and participate in the public hearing. All persons wishing to address this matter will have an opportunity to do so in person at the hearing or by submitting written evidence to the Brookings Planning Department at the address above. If you wish to speak at the hearing, you will be asked to sign in and afforded five (5) minutes to speak. Failure to raise an issue accompanied by statements or evidence sufficient to afford the Planning Commission and parties an opportunity to respond to the issues precludes appeal to the Oregon Land Use Board of Appeals (LUBA).

A copy of the application, all documents and evidence submitted on behalf of the applicant is available for public inspection at no cost at the Brookings Planning Department, 898 Elk Drive, Brookings, OR. The staff report prepared in this case will be available seven days prior to the hearing. Copies of documents may be obtained at reasonable cost.

All public meetings are held in accessible locations, auxiliary aids will be provided upon request with advance notification. Please contact 541-469-1103 to make appropriate arrangements or for additional information. TTY 800-735-1232.

CITY OF BROOKINGS PLANNING COMMISSION
STAFF AGENDA REPORT

SUBJECT: Conditional Use Permit
FILE NO: CUP-8-23
REPORT DATE: July 20, 2023

HEARING DATE: August 1, 2023
AGENDA ITEM NO: 4.1

GENERAL INFORMATION

APPLICANT/OWNER: Salomeja Lescinskas
REQUEST: Authorize a Conditional Use Permit to allow use of an existing single-family dwelling as a short-term rental
TOTAL LAND AREA: .83 acres/36,155 square feet
LOCATION: Subject property is located at 211 Marine Drive Spur
ASSESSOR'S NUMBER: 4113-05B Tax Lot 01100

ZONING / COMPREHENSIVE PLAN INFORMATION

EXISTING: R-1-6 (Single-family residential)
PROPOSED: Same
SURROUNDING: Subject property is surrounded by R-1 (Single-family residential)
COMP. PLAN: Residential

LAND USE INFORMATION

EXISTING: Subject property is developed with a single-family dwelling
PROPOSED: A Short-term Rental in the existing single-family dwelling
SURROUNDING: The subject property is surrounded by residentially developed parcels
PUBLIC NOTICE: Mailed to all property owners within 250 feet of subject property and published in local newspaper.
APPLICABLE CRITERIA: Land Development Code – Ordinance No. 06-O-572
a. Section 17.124.170-Short Term Rentals
b. Chapter 17.136-Conditional Use Permits
c. Section 17.20.040(Q) Single-Family Residential (R-1) Conditional Uses

BACKGROUND INFORMATION

The subject property is regular in shape, .83 acre in size and located on the southwest side of Marine Drive Spur. The property is accessed from Marine Drive, which has a paved travel surface approximately 40 feet in width and Marine Drive Spur which is a private road and has a paved travel surface approximately 12 feet in width. There are no other public improvements in the right-of-way. The property is developed with a single-family three bedroom, two bath, 1,625 square feet dwelling constructed in 1945, a two car garage and a paved driveway large enough to accommodate four vehicles (Attachment A & B – Vicinity Map/Property Photo).

PROPOSED CONDITIONAL USE PERMIT

The applicant is requesting to use the single-family dwelling as a short-term rental. Any existing single family dwelling in a single family residential (R-1), general commercial (C-3), tourist commercial (C-4) zone and industrial park (I-P) zone can be used for short-term rental purposes with approval of a Conditional Use Permit. Regulations for short-term rentals are found in Brookings Municipal Code (BMC) section 17.124.170. These criteria will be required as Conditions of Approval if approved. The applicants' Findings (Attachment C) affirm their intentions to abide by these regulations.

ANALYSIS, FINDINGS, AND CONCLUSIONS

17.136.050 Conditional Use Permit

The following is staff's analysis of the proposed Conditional Use Permit (CUP) in relation to the general Conditional Use Permit criteria.

Criterion 1 - Adequate size and shape

The subject property is approximately 36,155 square feet in size and contains a 1,625 square foot single-family dwelling with three bedrooms and two bathrooms. The single-family dwelling has an existing paved driveway used for access large enough to accommodate four vehicle parking spaces and parking is also provided in a two car garage. Based on similar uses, two off-street vehicle parking spaces are needed in order for the subject property to accommodate the proposed short-term rental. Staff believes Criterion 1 is met.

Criterion 2 - Relation of streets

The subject property is accessed by Marine Drive Spur, which has a paved travel surface 12 feet wide with no other public improvements. This street provides access to nine dwelling units. The dedication of additional right-of-way or street improvements would not be beneficial. Vehicular traffic generated by a short-term rental would only be a factor when the dwelling unit is rented and no traffic would be generated when the unit is vacant. This use involves less traffic than dwellings rented or occupied on a full time basis. Marine Drive will accommodate the traffic generated by the proposed use. Staff believes Criterion 2 is met.

Criterion 3 - Neighborhood impact

The impact on the surrounding neighborhood is the primary issue concerning residents in the neighborhood where a short-term rental is being proposed. The proposed Conditions of Approval require the owners of the property to provide a local manager for the short-term rental, pursuant to the provisions of BMC 17.124.170, who has the authority to resolve issues that may arise from the operation of the dwelling as a short-term rental. The applicant has advised that a manager residing within the urban growth boundary will manage the rental. With this as a Condition of Approval, staff believes Criterion 3 is met.

Criterion 4 - Historic, scenic or cultural attributes

There are no listed historic, scenic or cultural attributes listed in the Comprehensive Plan. Staff believes Criterion 4 is met.

Criterion 5 - Comprehensive Plan

The Comprehensive Plan designation for this property is "residential". The proposal is to use the existing dwelling for residential use. Staff believes Criterion 5 is met.

BMC 17.124.170 Short Term Rentals

Any existing single family dwelling in a single family residential (R-1), general commercial (C-3) , tourist commercial (C-4) zone and industrial park (I-P) zone can be used for short-term rental purposes and pursuant to certain regulations as follows:

- A. The property owner or holder shall register the dwelling with the City as a short term rental on a separate form.
- B. A transient room tax will be applied pursuant to Chapter 3.10 BMC.
- C. The property owner shall provide the name, address and telephone number of a local representative, either a property management business or an individual residing in the Brookings Urban Growth Boundary, who has the authority to, make or have repairs made, resolve disputes and/or terminate occupancy if necessary.
- D. Representative’s name and telephone number shall be posted within the dwelling and provided to all adjacent neighboring property owners.
- E. The Applicant shall subscribe to a scheduled waste collection service and provide garbage receptacles on the property.
- F. Short term rental conditional use permits are specific to the owner of the dwelling unit and shall not run with the land. To continue with the use, within six months of the sale of the property, the new owner shall submit a minor change application pursuant to MBC 17.116.090 to address the criteria in this section. If the minor change is not approved by the planning commission or no application is submitted, the approval shall terminate.
- G. A minimum of two off street parking spaces are required for a three bedroom dwelling with one additional off street parking space required for each additional bedroom. Recreational vehicles (RV’s) and travel trailers are prohibited.
- H. The dwelling will be subject to an annual inspection by the City Manager or designee on or around the anniversary date of the approved conditional use permit.

These criteria will be included in the Conditions of Approval. The Applicant has submitted Findings stating these criteria will be met (Attachment C).

RECOMMENDATION

Staff recommends APPROVAL of CUP-8-23, based on the findings and conclusions stated in the applicant’s findings, the staff report, and subject to the Conditions of Approval.

Staff has prepared a FINAL ORDER to be considered at this meeting.

ATTACHMENTS

Attachment A - Vicinity Map

Attachment B - Property Photo

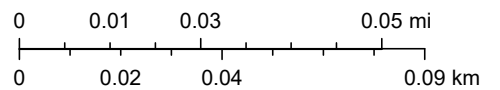
Attachment C - Applicant’s Findings

Curry County Web Map



6/14/2023, 5:39:20 PM

1:2,257



Maxar, Microsoft, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, USGS, EPA, USDA

Created by LCOG for Curry County

The information on this map was derived from digital databases from the Curry County regional geographic information system by LCOG. Care was taken in the creation of this map, but no warranty is provided



APPLICANT'S FINDINGS

Conditional Use Permit Application
Short Term Rental (ORD.17.124.170)

ATTACHMENT C

Property Address	211 MARINE DR. BROOKINGS
Applicant/Owner	SALOMEJA LESCIYSKAS

1. The intent is to utilize this property as a short term vacation rental. The residence is 1,600 sf, 3 bedroom, 2 bath, built in 1943 on 1 acres. There is a 2 car garage that will / will not (circle one) be available for guest parking. There is on-site driveway space for 6 vehicles (this does not include street parking), for a total of 8 on-site parking spaces. The driveway is / is not (circle one) a hard surface.
2. Traffic will consist of passenger sized vehicles. RV and travel trailer parking will not be allowed.
3. The proposed use will not have an adverse impact on the adjoining properties. There is the required number of parking spaces within the property boundaries.
4. There are no areas designated as requiring preservation of historic, scenic or cultural attributes.
5. The proposed use of the property is in keeping with a residential Comprehensive Plan.

Additionally

- A. We will register as a Short Term Rental and pay the applicable annual fees.
- B. We will schedule an annual inspection by the City Manager's designee.
- C. We will collect and submit monthly transient occupancy taxes (TOT) on all short-term rentals of the property even if the gross monthly rents are zero.
- D. We subscribe to utilities, scheduled waste collection service and provide trash receptacles on the site.

Our local representative lives within the Brookings Urban Growth Boundary and will be available to make or have repairs made, resolve disputes and/or terminate occupancy if necessary. The representative's contact information will be posted within the dwelling and we will provide the adjacent neighboring property owners with the representative's name and phone number.

Representative's Name:	SALOMEJA LESCIYSKAS; VIKTORAS LESCIYSKAS	
Residence Address:	211 MARINE DR. BROOKINGS OR	
Phone:	541-254-3070	Email: sunny@century21apac.com

We understand a Conditional Use Permit for a Short Term Rental does not run with the land and is revocable by the Planning Commission if TOT's are not paid monthly, multiple complaints are received, and/or CUP criteria and Conditions of Approval do not continue to be met.

Owner/ Applicant	SALOMEJA LESCIYSKAS	Date	06/08/23
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**BEFORE THE PLANNING COMMISSION
CITY OF BROOKINGS, COUNTY OF CURRY
STATE OF OREGON**

In the matter of Planning Commission File No. CUP-8-23; an)
application for approval of a Conditional Use Permit to establish a) **Final ORDER**
short-term rental at 211 Marine Drive Spur; Salomeja Lescinskas,) **and Findings of Fact**
Owner and Applicant)

ORDER approving an application for a Conditional Use Permit to establish a short-term rental at: 211 Marine Drive Spur; Assessor’s Map 4113-05B, Tax Lot 01100; zoned R-1-6 (Single Family Residential).

WHEREAS:

1. The Planning Commission duly accepted the application filed in accordance with the Brookings Municipal Code, pursuant to Chapter Section 17.124.170; Chapter 17.136 and Section 17.20.040(Q); and
2. Such application is required to show evidence that all of the above criteria have been met; and
3. The Brookings Planning Commission duly set this matter upon the agenda of a public meeting and considered the above described application with the public hearing a matter of record of the Planning Commission meeting of August 1, 2023; and
4. At the public meeting on said Conditional Use Permit application, evidence and testimony was presented by the Applicant and recommendations were received from and presented by staff in the form of a Staff Report, dated July 20, 2023 and oral presentation of same; and
5. At the conclusion of the public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the Planning Commission, upon a motion duly seconded, accepted the Staff Agenda Report and **APPROVED** the request for the subject Conditional Use Permit and directed staff to prepare a Final Order and Findings of Fact to that affect.

THEREFORE, LET IT BE HEREBY ORDERED that the application for the Conditional Use Permit on the subject property is **APPROVED**. This approval is supported by the applicant's findings, attached to the staff report, and by the following findings and conclusions:

CRITERIA, FINDINGS, AND CONCLUSIONS

17.136.050 Conditional Use Permit

The following is staff's analysis of the proposed Conditional Use Permit (CUP) in relation to the general Conditional Use Permit criteria.

Criterion 1 - Adequate size and shape

The subject property is approximately 36,155 square feet in size and contains a 1,625 square foot single-family dwelling with three bedrooms and two bathrooms. The single-family dwelling has an existing paved driveway used for access large enough to accommodate four vehicle parking spaces and parking is also provided in a two car garage. Based on similar uses, two off-street vehicle parking spaces are needed in order for the subject property to accommodate the proposed short-term rental. Staff believes Criterion 1 is met.

Criterion 2 - Relation of streets

The subject property is accessed by Marine Drive Spur, which has a paved travel surface 12 feet wide with no other public improvements. This street provides access to nine dwelling units. The dedication of additional right-of-way or street improvements would not be beneficial. Vehicular traffic generated by a short-term rental would only be a factor when the dwelling unit is rented and no traffic would be generated when the

unit is vacant. This use involves less traffic than dwellings rented or occupied on a full time basis. Marine Drive will accommodate the traffic generated by the proposed use. Staff believes Criterion 2 is met.

Criterion 3 - Neighborhood impact

The impact on the surrounding neighborhood is the primary issue concerning residents in the neighborhood where a short-term rental is being proposed. The proposed Conditions of Approval require the owners of the property to provide a local manager for the short-term rental, pursuant to the provisions of BMC 17.124.170, who has the authority to resolve issues that may arise from the operation of the dwelling as a short-term rental. The applicant has advised that a manager residing within the urban growth boundary will manage the rental. With this as a Condition of Approval, staff believes Criterion 3 is met.

Criterion 4 - Historic, scenic or cultural attributes

There are no listed historic, scenic or cultural attributes listed in the Comprehensive Plan. Staff believes Criterion 4 is met.

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Any existing single family dwelling in a single family residential (R-1), general commercial (C-3) , tourist commercial (C-4) zone and industrial park (I-P) zone can be used for short-term rental purposes and pursuant to certain regulations as follows:

- A. The property owner or holder shall register the dwelling with the City as a short term rental on a separate form.
- B. A transient room tax will be applied pursuant to Chapter 3.10 BMC.
- C. The property owner shall provide the name, address and telephone number of a local representative, either a property management business or an individual residing in the Brookings Urban Growth Boundary, who has the authority to, make or have repairs made, resolve disputes and/or terminate occupancy if necessary.
- D. Representative’s name and telephone number shall be posted within the dwelling and provided to all adjacent neighboring property owners.
- E. The Applicant shall subscribe to a scheduled waste collection service and provide garbage receptacles on the property.
- F. Short term rental conditional use permits are specific to the owner of the dwelling unit and shall not run with the land. To continue with the use, within six months of the sale of the property, the new owner shall submit a minor change application pursuant to MBC 17.116.090 to address the criteria in this section. If the minor change is not approved by the planning commission or no application is submitted, the approval shall terminate.
- G. A minimum of two off street parking spaces are required for a three bedroom dwelling with one additional off street parking space required for each additional bedroom. Recreational vehicles (RV’s) and travel trailers are prohibited.
- H. The dwelling will be subject to an annual inspection by the City Manager or designee on or around the anniversary date of the approved conditional use permit.

These criteria will be included in the Conditions of Approval. The Applicant has submitted Findings stating these criteria will be met.

The following Conditions of Approval are hereby made a part of this Final Order.

**CUP-8-23 - CONDITIONS OF APPROVAL
211 Marine Drive Spur - Short-Term Rental**

1. Approval of this Conditional Use Permit will expire two years from approval if the property owner or holder does not register the dwelling with the City of Brookings as a short term rental and pay annual registration fee. The City of Brookings may extend the permit for an additional one-year period at the request of the applicant. Annual renewal is required to keep the Conditional Use Permit active.
2. The Conditions of Approval stated herein are mandatory and must be completed. Failure to comply with any condition will result in the review and possible revocation of your permit pursuant to BMC 17.136.110, Violation of Conditions. Violations may result in the loss of your Conditional Use Permit.
3. The property owner or holder shall register the dwelling with the City as a short term rental on a separate form.
4. Transient Occupancy Taxes (TOT) will apply and be submitted monthly pursuant to BMC Chapter 3.10.
5. Property owner shall provide the name, address, and telephone number of a local representative, either a property management business or an individual living in the Brookings Urban Growth Boundary, who has the authority to make or have repairs made, resolve disputes and/or terminate occupancy if necessary.
6. Representative's name and telephone number shall be posted within the dwelling and provided to all adjacent neighboring property owners.
7. Applicant shall subscribe to a scheduled waste collection service and provide garbage receptacles on the property.
8. No less than two (2) parking spaces must be maintained on the subject property and the parking spaces provided shall be clearly delineated. Recreational vehicles (RV's) and travel trailers are prohibited.
9. Access to and around the structure must remain accessible to fire fighting vehicles. Smoke detectors must be in accordance with Oregon Revised Statutes 479.250 - 479.300.
10. The dwelling will be subject to an annual inspection by the City Manager or designee on or around the anniversary date of the approved conditional use permit.
11. The address shall be clearly visible and posted at the driveway entrance.
12. Ongoing neighborhood disturbances can result in Planning Commission review and possible revocation of the Conditional Use Permit pursuant to BMC 17.136.110.
13. Upon change of property ownership Conditional Use Permit will expire after six (6) months unless the new property owner applies for and receives approval for a Minor Change to the Conditional Use Permit.

Dated this 1st day of August, 2023

ATTEST:

Skip Watwood, Chair
Brookings Planning Commission

Anthony Baron, PWDS Director

APP-1-23
Supplemental Planning Commission Packet II

Page #	From:	Description:
File No. APP-1-23		
1-2	Karen Pringle Cunningham	Letter of Support of St. Timothy's Church Appeal
3-4	Allison Reynolds	Letter of Support of St. Timothy's Church Appeal
5-7	Bernie Lindley	Letter of Support of St. Timothy's Church Appeal
8-9	Linda Lee	Letter of Support of St. Timothy's Church Appeal
10-14	Allison Reynolds	Letter of Support of St. Timothy's Church Appeal
15-20	Allison Reynolds	Final Legal Argument in Support of St. Timothy's Church Appeal

From: Karen Pringle Cunningham [mailto:kappy.kp@gmail.com]
Sent: Tuesday, June 27, 2023 5:50 PM
To: LZiemer@brookings.or.us
Subject: Public Comment Item #4.2

Here are my comments for tonight's meeting.

Karen Pringle Cunningham

To the Brookings Planning Commission June 27, 2023:

My name is Karen Pringle Cunningham and I live in Brookings Oregon. I worked my way up from Assistant Planner to Planner II in Missoula City and County Planning Department in the 1980s to mid 1990s. My education was a BA in Geography and Land Use Planning and I continued in this field of study with the American Planning Association. Later I submitted Community Economic Development Plans for five different counties in Montana, necessary for communities to establish Small Business Development centers and qualify for state and Federal grants.

I am retired and a grandmother now but one with relevant experience to talk to you about the foundational principles of the Planning Commission laid out in the Oregon Planning Commissioner Handbook of 2015. I want to call your attention to the principles that I don't see addressed as they should be in the staff report.

From the Oregon Planning Commissioner Handbook 2015

"Purpose of the Goals: Development and Preservation

Taken as a whole, the goals are best understood as devoted to creating and maintaining sustainable, livable, and equitable communities.

The overall principle of the Planning Commission is to provide for the public's health, safety, and welfare. Each community defines this separately and it changes as time progresses, but it is this mandate from the federal and state constitutions that creates the basis for planning and related activities."

Look at this next principle in your foundational documents:

"Assure that a long-term perspective is taken in the decisions: It is not easy to remember that decisions must be made with those not at the hearing and those yet unborn in mind, as well as the applicant. It is the combination of good process with good values that will lay the foundation for good planning in your community."

All of this is to say the role of the planning commission is to take into account the larger public good. The benevolent activity which is the mission of the church is not only a basic public good but foundational to the church, that is providing fish (meals, showers, laundry) as well as teaching people how to fish (through advocacy.)

St Timothy's is providing a public good through gifts, grants and volunteers that the local government is unable or not inclined to provide. They are a resource for public well-being. Why would anyone want to penalize them for gathering people and resources to deal with problems of poverty whether that poverty is situational (loss of a job or ill health) which can happen to anyone of us, or intergenerational poverty, which requires a different set of ministerial activities.

You know the metaphor of “why do we have to catch people drowning in the river downstream when we can keep them from falling into distress up river.” This is the role of St. Timothy’s ministries, to do both.

The recommendation to curtail or reduce the mission of the church is like saying we can only help the needy if you fall into the river on Monday and Tuesday, and we can’t give you the kind of help you need because local planning commission recommended limitations. And what are those limitations based upon?

It is in Brookings public interest that the church helps people reunite with their families; to help a person or family find the medical care they need, a job, a home.

Consider the planning principles outlined in the Planning Commission Handbook:

Prepare for the future... *St Timothy’s is helping the community prepare for the future. Imagine where we would be if they had not stepped forward to provide testing and vaccination services as well as the stay at home wrap around services at the height of the epidemic.*

Anticipate change... *St Timothy’s anticipated the needs and gathered together the qualified professionals and volunteers.*

Maximize community strengths... *St Timothy’s is leveraging benefits for those in need and for the community. Helping people help themselves.*

Minimize community weaknesses. *St. Timothy’s is helping to overcome local deficiencies in service for those in need.*

Protect scarce resources... *St. Timothy’s is a scarce resource that is benefiting the public’s interest in a livable community.*

Consider the future of Brookings without these basic ministries from St. Timothy’s.

In establishing the evidence for you to make a decision in this case, the staff report is silent on the public interest and limited to technical remarks which are at times inconclusive and the tone adversarial.

The staff report lacks the long term perspective and does not address the very planning principles and goals found in your foundational documents, the principles from which you operate.

I recommend you support St Timothy’s appeal and withdraw the Notice of Abatement issued to St. Timothy’s and recognize them as an essential ministerial organization that makes our community sustainable, livable and equitable.

Info from Public Comment Form:

*Karen Cunningham
520 Redwood Street
Brookings, OR 97415*

July 4, 2023

VIA EMAIL

Planning Commission
Attn: Lauri Ziemer
City of Brookings
898 Elk Drive,
Brookings, OR 97415

Re: Second Evidentiary Submission in Support of St. Timothy's Church Appeal of the April 14, 2023, Notice to Abate.

Dear Planning Commission Members:

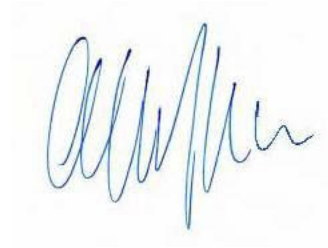
This office represents St. Timothy's Episcopal Church ("St. Tim's") in the above referenced matter. St Tim's operates a church use ("Church") at the subject property at 401 Fir Street ("Property"). St. Tim's received a Notice to Abate issued by the City of Brookings (the "City") on April 14, 2023. Prior to the City of Brookings Planning Commission Meeting on June 27th, we submitted a packet of evidence on St. Tim's for the Planning Commissions review.

During the public hearing, we requested that the record be kept open for an additional 7 days and for the opportunity to submit final legal argument. Accordingly, the record will be kept open for all parties to submit additional evidence until July 4, 2023, with the deadline for rebuttal evidence (all parties) on July 11, 2023, and the deadline for final legal argument by the St. Tim's on July 18, 2023.

Please find the following documents attached for submittal to the record.

- On the issue of the Church's non-conforming use
 - o Letter from Father Bernie dated July 3, 2023
- On the issue of "typical" church uses
 - o Written testimony from Deacon Linda Lee (presented orally at the public commission hearing)

Very truly yours,

A handwritten signature in blue ink, appearing to read "Allison J. Reynolds". The signature is written in a cursive style with a large initial "A" and "R".

Allison J. Reynolds

July 3, 2023

Via Email

Planning Commission
Attn: Lauri Ziemer
City of Brookings
898 Elk Drive
Brookings, OR 97415

**Re: Evidence in Support of St. Timothy's Episcopal Church Appeal of April 14, 2023,
Notice to Abate.**

Dear Planning Commission Members:

I am the Reverend Bernie Lindley, the vicar of St. Timothy's Episcopal Church here in Brookings. This letter supplements the letter I sent on July 27, 2023. In this letter, I would like to provide additional evidence of a continuous conditional use at the Church with regards to the "social services" mentioned in the Notice to Abate.

Pre-1989 Uses:

The City agrees that because St. Tim's use of the church pre-dates the Brookings Code (which was adopted in 1989), the St. Tim's has 'de facto' conditional use rights. This is my knowledge about church operations at the site prior to 1989.

In 1981, St. Tim's began a major addition to the church building. It was completed in 1982. This project doubled the size of the building, adding the current parish hall and kitchen downstairs, as well as the addition upstairs of two offices, the parish library, the sacristy, and two bathrooms, one of which had a shower installed during the building project. That shower was put in for the purpose of being used by non-church members and has been used by non-church members ever since.

In 1984, we started hosting the Food Bank in our old parish hall (the basement of the original church building, directly under the worship space). The Food Bank stayed in our building until about 2004 or 2005 when they relocated to a larger space. I do not know how many people were served each week, but they were, to my recollection, all low-income folks, and included both housed and un-housed individuals.

Also, between 1980-1987, our vicar, Fr. Tom, had a discretionary fund that he used for alms for the poor. The vicars at St. Tim's have never had a practice of telling anyone to whom we distribute our alms, so I am not sure what exactly that fund was used for between 1980-87. It is not something we specifically report or take a financial tally of because we want to respect the privacy of the individuals we provide alms to. However, I am certain that such services were provided because when I was sorting through old church files several years ago (well before the COVID-19 pandemic), I discovered records of checks written in this period. Because of the

amount of time that had passed and to protect the privacy of the individuals we provided alms to, I recycled those records at the time.

Pre-1999 Uses:

St. Tim's applied for a conditional use permit to expand the church building in 1999, which was granted by the City. As the City recognizes, that amended conditional use permit also authorized the church's use as it was occurring in 1999. This is my knowledge about church operations at the site between 1989 and 1999.

In 1999 we started a project to expand the worship space upstairs to accommodate growth in the Sunday attendance. I filled out the amendment to an existing conditional use application that is attached to the staff report.

During the 1990s, we were still doing the food bank and almsgiving. I cannot remember what other outreach ministries we had on the church grounds at that time. But homeless people would often join us in the church library for Wednesday Bible studies. They would be offered a cup of coffee as well as other hospitable things, even tents and sleeping bags. Father Bill handled most of that. In addition, the Church office hours we provide today were the same as in the 1990s – Monday, Wednesday and Friday from 9 to noon. The same activities occurred – people were able to use the shower, have fellowship with others, and receive advice on a range of topics. Many people would come in for alms during office hours just like they do today. I saw them and Father Bill would mention it to me occasionally (since he was in charge of providing alms at that time).

The Church is the only place the un-housed can go.

Some of the testimony at the meeting on June 27 raised concerns about safety and security in the areas surrounding the church. We do not permit un-housed folks to sleep at the church (we have in the past had special permits for certain situations but those are not active at the moment). However, the church is near Azalea Park and this is an area where un-housed people tend to find rest. We do not encourage people sleep or congregate in Azalea Park, but—like the rest of this town—we are aware that it occurs.

Un-housed folks utilize Azalea Park because it contains one of the only public bathrooms. The bathrooms at the other City parks are kept locked, as well as the bathroom near Mill Beach. We do not ask people who come to St. Tim's for office hours where they are sleeping or if they are utilizing Azalea Park, so we are not able to provide data about whether the people we serve during office hours are un-housed. However, we do know that at least 10-15% of the people who come to the church during office hours are housed because they are looking for help with rent and utilities related to their housing. Our purpose is to assist anyone who comes in our doors, regardless of their circumstances.

Even if people who are un-housed and stay in Azalea Park are visiting the church, the impact on the neighborhood from their visits to the church is minimal because those individuals would not have to walk through the residential area to access the Church. As the vicinity map shows, individuals in Azalea Park would only need to cross Old Country Road where it intersects Fir Street to access the church.

Thank you for your time.

Bernie Lindberg

For: Agenda Item #4.2 in support of Appeal -File #APP-1-23 Notice of Abatement
June 27, 2023, Testimony for Brookings Planning Commission Hearing
Reverend Linda Lee with St. Timothy's Episcopal Church
Po Box 7174 Brookings, Or. 97415 (503) 309-9083

Hello, my name is Deacon Linda Lee

The very core of Christian ministry at St. Timothy's Episcopal Church is building relationships and in particular, with those who are in need. One of those many significant relationships have to do with a woman who grew up here in Brookings and is still a resident. She had been coming to the church regarding her need for companionship and shelter as well as due to the chronic pain she had been suffering. This is when I met her late last summer. It was very clear that her status within the community was a hinderance to her getting proper and adequate ongoing medical care. Through my relationship with St. Timothy's Church, she has had a volunteer to be her medical advocate every single week since the fall of 2022 when the diagnosis of a life-threatening cancer was given. The threat to her life was great and was going to require multiple 4-day chemotherapy sessions in the hospital at OHSU with surgery to follow. Her medical team was large and complicated. Issues around her housing, transportation, and emotional support were ongoing. Her prognosis was very dire, and rehabilitation from extensive surgery problematic. Today she is tumor free and on the road to full recovery. And due to St. Timothy's presence in the community to represent her needs she is now in her own home for the first time in years. It is building relationship with those in crisis that makes all the difference. It is St. Timothy's Episcopal Church presence in this community that has made this kind of stability and healing possible. This is just one example of what the people connected to this church do because we are called by our baptism to follow Jesus and serve God's people.

And for me personally, this is part of my ordination vows as a deacon. Deacons are expected to be an example of service in the church and to uphold the acts of mercy and justice. We all know poverty, weakness, sickness, and loneliness are global conditions. The focus of the ministry of an ordained deacon in the Church worldwide is right out of scripture readings which have existed since the Apostle Luke wrote about this in The Book of Acts. Included are teachings about deacons ministering to those in need as well as the work of seeking out the causes of oppression.

Out of this service of mercy flows concerns for justice. The Church worldwide focuses on this need for Christian service and as an ordained minister of the Church this is why am associated with St. Timothy's Episcopal Church...they more than many are doing this necessary work within the community.

As to what is a Church: it is folly to think one can worship God only from the church sanctuary, participating in the prayers only, and praising the God in heaven while you turn away from God's children here on earth who are in deep need and may even be unsheltered. Pure folly. Scripture reminds us we are to look for God among the vulnerable, the weary, the traveler, the lonely and the stranger. Because this Abatement document purports to knowledge of what a Christian Church is created for then I must assume you understand the portion of the New Testament called Matthew 25 where Jesus teaches his disciples about the importance of loving and serving others as if they were serving Jesus himself

As followers of Jesus, we have a choice: We can respond to unsettling realities in fear and withdraw or we can follow Him in responding to the greatest needs of our day with compassion, mercy, love, and with hope. Jesus could not have been clearer – that a warm welcome to a stranger, one in need, is nothing less than an act of worship. This is the foundational part of the Christian faith...to be outwardly oriented towards those in the midst of a crisis.

The Church is where I live out my Baptismal promises as well as my Ordination vows. The Church is where I would connect with and join with others to help those in need. Christianity is also based on the sharing of alms. The deacons share in this activity of giving away a portion of the church's donated resources to those who do not have enough. In scriptures again and again we read that the care of the poor and oppressed was a central feature of Jesus's ministry alongside the proclamation of the Good News which was that God is Love. Ironically given the nature of today's meeting, Jesus's teaching was also challenged by the Temple authorities regarding the story of the Good Samaritan. Jesus commended the one who answered correctly regarding the appropriate action of the those in that story...The answer was," The one who showed mercy". Throughout the Bible, mercy is linked with worship. Out of this service of mercy flows concerns for justice. Thank you for your time and may God bless you.



June 27, 2023

Allison J. Reynolds
760 SW Ninth Avenue, Suite 3000
Portland, OR 97205
D. 503.294.9625
allison.reynolds@stoel.com

VIA EMAIL

Planning Commission
Attn: Lauri Ziemer
City of Brookings
898 Elk Drive,
Brookings, OR 97415

**Re: Legal Argument in Support of St. Timothy’s Church Appeal of the April 14, 2023,
Notice to Abate.**

Dear Planning Commission Members:

This office represents St. Timothy’s Episcopal Church (“St. Tim’s”) in the above referenced matter. St Tim’s operates a church use (“Church”) at the subject property at 401 Fir Street (“Property”). St. Tim’s received a Notice to Abate issued by the City of Brookings (the “City”) on April 14, 2023, directing the Church to file a conditional use permit application to abate the Benevolent Meal Service violation and stop providing “a variety of other social services” (the “Notice”). Prior to the request for an appeal, the City agreed to stay the benevolent meal service violation because of the ongoing federal litigation regarding the City’s Benevolent Meal Service ordinance. **The staff report contains several factual mischaracterizations which we correct in this submission. This letter also provides further support that St. Tim’s activities at the Property, (referred to as the “social services” in the Notice), are a typical church use and do not violate the Brookings’s Municipal Code (“BMC”).**

I. DISCUSSION

A. Clarification of the activities occurring at St. Tim’s Church.

The facts cited by the Staff Report supporting the staff recommendation to deny the appeal and continue the City’s enforcement actions against St. Tim’s misstate or misconstrue the

current activities at the Property. It important to correct the record of the Church's activities, since the City is threatening enforcement action based on what appear to be incorrect assumptions.

Attached as exhibits A & B to this letter are Letters from Father Bernard Lindley ("Fr Bernie") and Sister Cora Rose ("Sister Cora"). As explained in the letters from Fr Bernie and Sister Cora, the following activities that the City appears to classify as "social services" and which appear to be the subject of the Notice are ongoing at the Church:

- "Advocacy clinic" and "legal clinic": The "advocacy clinic" and "legal clinic" are a time when the Church opens its doors for visitors to receive spiritual advice from Fr. Bernie, Deacon Linda and Sister Cora. This guidance includes assisting people in navigating processes like obtaining birth certificates and identification cards, enrolling in health insurance, connecting to therapy and treatment, and applying for jobs and housing, and referrals to service providers. As stated by Sister Cora, the "legal clinic," is part of the "advocacy program, but is focused on either assisting with or providing for referrals for legal issues . These activities coincide with the "day program" and occur within the same time period: Monday, Wednesday and Friday from 9am to noon. St. Tim's also occasionally refers to this period of time when the Church is open (Monday, Wednesday, and Friday from 9 AM to noon) as office hours.
- "Day program": The "day program" consists of the Church opening its doors from 9am to noon on Monday, Wednesday, and Friday to allow people to enter the Church building use shower facilities, participate in fellowship with others, rest, and access the advocacy and legal clinic which are a part of what goes on in the Church during the day program.
- Attendance: Approximately 20-30 people total (including those seeking advocacy and legal assistance) visit the Church during the day program hours.
- Staffing: The Church has several paid staff (all part time) that are involved in the various activities at the Church in addition to the day program (and its components). The paid staff involved with the advocacy program are Fr Bernie, Sister Cora, and Machell Carroll. In addition, St. Tim's has two part-time parish secretaries and one unpaid deacon, who primarily are involved with church services on Sundays, but sometimes volunteer in the day program and advocacy clinic. As is common at any church, parishioners also volunteer their time to provide ministry. During the day program hours there are typically 5 paid staff or volunteers present at the Church providing ministry in one way or another.

Several statements in the Notice and Staff Report seem to contradict these facts and are inaccurate as follows:

- The Staff Report states that “the City has also become aware of information suggesting that the number of people served by the Church’s social services activities exceeds the number of church parishioners,”¹ but does not provide evidence to support this conclusion. Father Bernie’s letter clarifies that the Church welcomes around 45 people to its Sunday services, while seeing up to 30 people during its office hours (M, W, F from 9:00-12:00).
- The Staff Report inserts *select* portions of the deposition of Father Bernie in the federal litigation that overstate the activities occurring at the church. The Staff Report states that “the Church operates a “legal” clinic for 19-20 hours per week. As the letter from Sister Cora indicates, she only meets with “clients” during office hours which occur during the day program. People are not coming and going from the church to visit the legal clinic for 19-20 hours per week.
- The Staff Report misstates that the Church has 6-7 paid employees “for these activities,” referring to the “social services.” Father Bernie is a paid as a member of the clergy, not just for advocacy. Sister Cora and Machell Carroll are paid primarily for their work administering alms and providing guidance through the day and advocacy program. In addition, there are two other paid employees, the parish secretaries, whom are associated with the administering of alms during office hours and they, too have additional voluntary roles at the Church beyond assistance with the day program and office hours.
- The Notice indicates that an “outreach clinic” is occurring and the Staff Report states that weekly HIV testing occurs at the Church. The outreach clinic is no longer occurring at the Church. Testing for HIV and communicable diseases is offered by a third party on St. Timothy’s property during office hours, currently one day per week.

B. St. Tim’s Has Provided Sufficient Evidence that “social services,” including the particular social services at issue are a typical church use.

The Staff Report concedes that the BMC does not provide a definition of “church” use or otherwise explain what types of activities this use includes. Thus, what constitutes a “church” is a matter of interpretation. Staff advocates for using the dictionary definition of church as a “building for public and especially Christian worship.” We do not necessarily disagree with that definition, since “worship” is a broad term that encompasses many activities (for example, Black’s Law Dictionary defines public worship as “[w]orship conducted by a religious society according to the society’s system of ecclesiastical authority, ritual propriety, and rules and regulations.”)² and the leaders of St. Tim’s and other congregations regularly refer to their

¹ Staff Report at 12.

² *Worship*, BLACK’S LAW DICTIONARY (11th ed. 2019).

service of the poor as “worship.” However, Staff chooses to narrowly define “worship” as including only sermons held for the public at a church service (typically on Sundays). This narrow definition is not consistent with the activities churches typically engage in and is not a reasonable reading of the BMC.

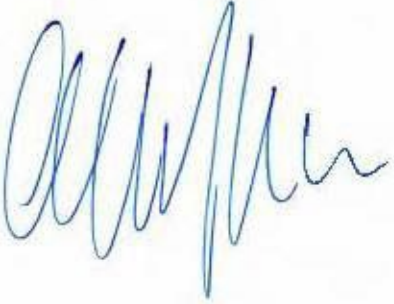
“Church” use should be defined as encompassing both sermons and the typical activities churches engage in during the week as part of their ministry. Service ministries are a key tenant of the Christian faith and churches regularly engage in serving the poor. The Staff Report states that St. Timothy’s has not provided sufficient evidence of the fact that services for the poor are a typical church use. Several members and leaders of nearby churches have submitted letters to the record regarding their service ministries and their experience with churches as people of faith and leaders who have devoted their lives to ministry. In addition to this testimony from religious experts, we have attached the following evidence of church service activities. These activities, many of which are occurring in residential zones in Brookings, are examples of church service to the poor. The types of service ministry St. Tim’s engages in (as clarified above) are typical church functions and must be included in the City’s interpretation of “church” use.

- **Clarification of St. Tim’s use, history and service as part of church use**
 - Letter from Reverend Bernard Lindley
 - Letter from Sister Cora Rose
- **A day program that provides showers, internet and weekly HIV/HEP-C screening is a typical church use:**
 - Jackie Rehwald, *New Church in North Springfield Partners with Gathering Friends to Serve Poor, Homeless* (July 21, 2019), <https://www.news-leader.com/story/news/local/ozarks/2019/07/21/new-church-north-springfield-focuses-those-poverty-homeless/1760513001/>;
 - [The Connecting Grounds, *Get Involved*](https://www.theconnectinggrounds.com/getinvolved), <https://www.theconnectinggrounds.com/getinvolved> (last visited June 16, 2023).
- **A legal clinic is a typical church use:**
 - Neighborhood Christian Legal Clinic, *Home*, <https://www.nclegalclinic.org/> (last visited Apr. 23, 2023)
 - Fame Church LA, *FAME Legal Clinic*, <https://www.famechurchla.org/free-legal-clinic/> (last visited Apr. 23, 2023)
 - Catholic Charities of Oregon, *Immigration Legal Services*, <https://www.catholiccharitiesoregon.org/services/immigration-legal-services/> (last visited June 16, 2023)
- **An advocacy team/caseworker assistance is a typical church use:**
 - Brookings Nazarene, *Community Care*, <https://www.brookingsnaz.org/community-care> (last visited Apr. 21, 2023)

- Catholic Charities of Oregon, *Services*, <https://www.catholiccharitiesoregon.org/services/> (last visited June 16, 2023)³

Thank you for your time and consideration.

Very truly yours,



Allison J. Reynolds

³ In our request for appeal, we included a variety of sources that showed other church activities that could be considered social services but were allowed. We have not listed those articles here, but still attached them to our submission.

July 18, 2023

VIA EMAIL

Planning Commission
Attn: Lauri Ziemer
City of Brookings
898 Elk Drive,
Brookings, OR 97415

Re: Final Legal Argument in Support of St. Timothy’s Church Appeal of the April 14, 2023, Notice to Abate.

Dear Planning Commission Members:

This office represents St. Timothy’s Episcopal Church (“St. Tim’s”) in the above referenced matter. St Tim’s operates a church use (“Church”) at the subject property at 401 Fir Street (“Property”). St. Tim’s received a Notice to Abate issued by the City of Brookings (the “City”) on April 14, 2023. During the public hearing, we requested and received the opportunity to submit final legal argument.

Introduction

The City’s Notice to Abate (“Notice”) does not identify any actual harms or impacts from St. Tim’s operations at the Property on the surrounding community. Even the testimony in support of the Notice (opposing the appeal), recognized that restricting St. Tim’s religious activities rather than addressing purported impacts (of which there is no evidence in the record), was inappropriate and seemed confusing. City staff interprets the Brookings Municipal Code (“BMC”), which allows a “church” in residential zones, to mean that only church “worship” activities (which staff argues include only prayer and sermons) are authorized or can be authorized, while any other activities are not an allowed aspect of church use. This is an absurdly narrow interpretation of the term “church” that unduly restricts religious practice. Staff seems to imply that this narrow definition of “church” applies only in residential zones, but fails to recognize that a “church” use is authorized only in the City’s residential zones, and there are

not any zones in the City that allow both “church” and “social services” where a church could practice its faith through service to the poor.¹ Staff’s interpretation prohibits churches in Brookings from providing services to the poor as part of their church use, City-wide. The Notice does not identify any interest, much less a compelling interest, that the City is attempting to serve by imposing these restrictions. The City must interpret its code consistent with state and federal law which protect religious practice from arbitrary restrictions and allow the free exercise of religion.

People have organized to practice their faith for centuries, while zoning restrictions are a fairly recent development. The situation the City faces here is common: a church, established long before City zoning regulations, has a right to continue operating but the parameters of the use are not clear in the way a decision to establish a same church use today might be. To determine if the Notice is valid, the Planning Commission must first determine what a “church” use, which St. Tim’s has the undisputed right to continue at the Property, encompasses. This term is not defined in the BMC, so is a matter of interpretation. We argue and the evidence in the record shows that “church” use includes worship through service to the poor in the manner provided by St. Tim’s. If a church use under the BMC includes services to the poor, the inquiry ends there since St. Tim’s is authorized to conduct a church use at the Property. The record includes overwhelming evidence that a “church” use includes the types of religious services cited in the Notice.

However, if the Planning Commission determines that the activities that St. Tim’s engages in are *beyond* the scope of “church” use under the Code (and “church” does not include services to the poor), whether St. Tim’s has the right to continue its specific activities depends on whether St. Tim’s de facto or specifically granted conditional use permit authorizes these activities. The evidence in the record shows that St. Tim’s has provided services to the poor since its establishment under its de facto conditional use permit. The City reauthorized St. Tim’s use and allowed an expansion in 1999. St. Tim’s service to the poor prior to 1999 are very similar to the services it provides today and have continue since the time the Church expansion was authorized by the 1999 conditional use permit. Even if the Planning Commission determines that “church” as defined in the BMC does not encompass some of St. Tim’s service to the poor, St. Tim’s has a legal right to continue its service activities because these are authorized by its de facto conditional use permit and reauthorized by the 1999 conditional use permit.

Argument

¹ We note that “places of worship” (also not a defined term) is an allowed use in the certain commercial zones, but “social services” (also not a defined term) is not an allowed use in any of these zones.

The City receives significant deference to plausible interpretation of provisions of its own code and so long as the interpretation is not contrary to law.² An interpretation is plausible when the City interprets the term consistently with its expressed language and purpose or underlying policy.³ Even if an interpretation is plausible, that interpretation cannot be contrary to state and federal law.⁴

A. **St. Tim’s service ministries are a facet of typical “church” use and an expected part of the use that a church would conduct on its property. The City’s interpretation of “church” use must include these service ministry components.**

The staff report urges this Commission to adopt an unreasonably narrow definition of “church” use that is clearly contrary to the general understanding of what a “church” use typically involves or could involve. The record clearly establishes that service to the poor, also known as almsgiving, is a central tenant of Christian faith. Typical church activities *also* include weekly hours when a church opens its doors to the community for fellowship and counseling.

The Staff Report concludes that a church use only includes “worship,” not any other religious activities, and then chooses to narrowly define “worship” (also undefined in the BMC) to include only sermons and pray activity. Other definitions of worship are broader and include the service ministries performed by St. Tim’s. Merriam-Webster also defines worship as an act that honors or shows reverence for a divine being.⁵ This definition is more consistent with other dictionaries and common conceptions of the duties of a church in performing worship than the definition selected by staff. As another example, Black’s Law Dictionary defines public worship as “[w]orship conducted by a religious society according to the society’s system of ecclesiastical authority, ritual propriety, and rules and regulations.”⁶ This broad definition captures both

² *Siporen v. City of Medford*, 349 Or 247, 261, 243 P3d 776 (2010); *Estroff v. City of Dundee*, 79 Or LUBA 189, 192-93 (2019).

³ *Klein v. Lane County*, 80 Or LUBA 287, 290 (2019); *id.*

⁴ U.S. Const., Art. VI; *Klein*, 80 Or LUBA at 290.

⁵ Merriam-Webster, *Worship*, <https://www.merriam-webster.com/dictionary/worship> (July 12, 2023); *see also*, *Worship*, WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY (3d ed. 2002); Cambridge English Dictionary, *Worship*, <https://dictionary.cambridge.org/us/dictionary/english/worship> (last visited July 12, 2023) (showing “a strong feeling of respect and admiration for God or a god”); Dictionary.Com, *Worship*, <https://www.dictionary.com/browse/worship> (last visited July 12, 2023) (“homage paid to God or a sacred personage, or to any object regarded as sacred”); The Britannica Dictionary, *Worship*, <https://www.britannica.com/dictionary/worship> (last visited July 12, 2023) (“to show respect and love for God or for a god”).

⁶ *Worship*, BLACK’S LAW DICTIONARY (11th ed. 2019).

prayers to a divine being and other religious practices like the provision of social services to the needy.

The City received testimony from other churches in the region confirming that they also provide “social services” including, a place to charge electronics, dance lessons, financial assistance, food bags, NA and AA meetings, bathrooms, community gardens, on-site counseling, refugee services, and housing education among many other services to the needy. Local citizens also testified about their experience with churches and the integral nature of service ministry to a church use. For example, Pastor Jon Meyers indicated that his church, located in a residential zone in Grants Pass, has several programs that would be described as “social services” that serve people outside of the congregation. Reverend Linda Lee and Louise Abbott both noted that a warm welcome to a stranger or someone in need is an act of worship.

Given the common understanding of church use in the community and beyond, it is not plausible for the City to interpret the “church” use category to exclude service ministries like the activities occurring at St. Tim’s which are a typical part of church use.

B. While the City has considerable leeway when interpreting its own Code, any interpretation must be consistent with federal and state law.

Religious practices are protected by the Oregon Constitution and the laws of the State of Oregon.⁷ This is especially true in situations like this where the City has not identified any compelling or even rationale interest for restricting the use of churches in Brookings to such a narrow set of activities.

There is also strong protection for churches practicing their faith under the Religious Land Use and Institutionalized Persons Act (“RLIUPA”). Congress passed this law after local communities used their zoning restrictions to prevent the establishment of faith communities in certain areas and restrict the types of activities churches could engage in. The law recognizes that providing services to the poor is an essential tenant of Christian faith in all its forms. Assuming there is another zone and property where a church can practice (which is not the case in Brookings), the law *also* recognizes that requiring a church to move its ministry to the poor to another location is a substantial burden on a church's practice of its religion. A determination that defined Church as narrowly as staff is proposing here would directly contravene RLUIPA.

⁷ Or Const., Art I, §§ 2-3.

Moreover, in Brookings, where there are not *any* zones that allow “social services” and there are no zones that allow a church to conduct these types of activities.

C. **St. Tim’s service ministry is part of its established conditional use and allowed to continue.**

The staff report finds, and we agree, that St. Tim’s established a “church” at the Property prior to the enactment of the BMC and, as such, has a “de facto” conditional use to continue that church use. The staff report also finds that St. Tim’s received a conditional use permit for alternations to the building and expansion of the church use in 1999, which provides conditional use authorization for the activities occurring at that time. During this formal evaluation of the activities occurring at St. Tim’s, which included a public hearing, the City did not impose any additional restrictions on St. Tim’s use or “social service” activities.

The evidence submitted shows that St. Tim’s has continually, since its establishment, provided services to the poor. The evidence also shows that St. Tim’s was providing “social services” of the same type and in the same manner at the time the City granted the 1999 conditional use permit as St. Tim’s provides today.

As far as we are aware, the BMC language addressing “church” use at the time the City evaluated St. Tim’s conditional use in 1999 is identical to the BMC language today. If St. Tim’s service to the poor in 1999 was not an allowed part of its “church” operations the City should not have approved an expansion of the church use without conditions addressing or disallowing the service ministry. Instead, the City *did* approve the church expansion and found that there would be little to no impact on the surrounding neighborhood from the expansion of the church use.

Father Bernie testified that prior to the Church’s expansion in 1999, the church held the same office hours as today (Monday, Wednesday, and Friday from 9 am to noon). During that time, the same activities that occur today were occurring. As Father Bernie put it, “people were able to use the shower, have fellowship with others, and receive advice on a range of topics.” (July 3, 2023 Letter from Father Bernie, 2). Today, those same services are offered during office hours, and are also referred to as the “day program,” “advocacy program,” and “legal clinic.”

Father Bernie also provided testimony that a shower was added during an expansion of the church in the early 1980s. This was not put in for anyone living on the property, but rather as something community members can use. Allowing those seeking fellowship to use the shower as a part of St. Tim’s alms-giving practice has continued since the shower was installed in the

early 1980's and was ongoing in 1999. The same shower is available for use in the same manner today during St. Tim's office hours.

In sum, since St. Tim's establishment at the property, it has done what every church does. In addition to providing regular services for prayer and sermons, it provides services to the poor. The evidence on the record, including dictionary definitions, churches nationwide, and even testimony from local citizens, provides overwhelming evidence that a "church" use includes the religious services offered by St. Tim's. Even if St. Tim's activities are outside the scope of a "church" use in Brookings, St. Tim's has a right to continue to offer these services because they are similar in type and manner to the services authorized by its de facto conditional use permit and reauthorized by the 1999 conditional use permit.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Allison J. Reynolds". The signature is cursive and somewhat stylized, with the first name being the most prominent.

Allison J. Reynolds

BROOKINGS PLANNING COMMISSION MINUTES
June 27, 2023

CALL TO ORDER

The regular meeting of the Brookings Planning Commission was called to order by Chair Watwood at 7:01 pm in the Council Chambers at Brookings City Hall followed by the Pledge of Allegiance.

ROLL CALL – Introduction of new Planning Commissioner Sage Bruce

Commissioners Present: Anthony Bond, Sage Bruce, Cody Coons, Skip Hunter, Clayton Malmberg, Gerry Wulkowicz, Chair Skip Watwood.

Staff Present: PWDS Director Tony Baron, Deputy Director PWDS Lauri Ziemer, City Attorney Lori Cooper participating by phone

Others Present: APP-1-23 - Applicant's Attorney Allison Reynolds participating by phone. 28 audience members

Media Present: 1

PLANNING COMMISSION CHAIR PERSON ANNOUNCEMENTS - None

PUBLIC HEARINGS

4.1 In the matter of File No. CUP-7-23, a request for approval of a Conditional Use Permit to operate a Short Term Rental facility at 1111 Easy Street; Assessors Map & Tax Lot No. 4113-05BD-01601.

There was no ex parte contact, bias, personal interest, or conflicts of interest declared and no objection to the jurisdiction of the Planning Commission to hear the matter. The public hearing was opened at 7:10 pm. PWDS Director Tony Baron reviewed the staff report.

Applicant's representative, Ron Reel, Premier Ocean Properties, was present to answer any questions. No members of the public spoke in opposition and no participant requested additional time to submit materials. Public hearing was closed at 7:15 pm.

The Commission deliberated. **Motion made by Commissioner Coons to approve File No. CUP-7-23 a request for a Conditional Use Permit to operate a short term rental at 1111 Easy Street based on the findings and conclusions stated in the staff report and subject to the Conditions of Approval; motion seconded and with no further discussion by a 7-0 vote the motion carried.**

Motion made by Commissioner Wulkowicz to approve the Final Order regarding file CUP-7-23, based on the findings and conclusions stated in the staff report and subject to the Conditions of Approval; motion seconded and with no further discussion by a 7-0 vote the motion carried.

4.2 In the matter of File No. APP-1-23, an appeal to the Planning Commission of a Notice of Abatement issued April 14, 2023 to St. Timothy's Episcopal Church, at 401 Fir Street, Assessor's Map & Tax Lot No. 4113-05BC-07300.

Commissioner Hunter recused himself on APP-1-23 and removed himself from the meeting. There was no ex parte contact, bias, personal interest, or conflicts of interest declared and no objection to the jurisdiction of the Planning Commission to hear the matter. The public hearing was opened at 7:17 pm. PWDS Director Tony Baron reviewed the staff report.

Applicant's attorney, Allison Reynolds presented applicant's response to the Abatement notice.

Robert O'Sullivan, 96734 DeMoss, Brookings, OR spoke in support of St. Timothy's Church.

Diana Cooper, 805 Paradise Lane, Brookings, OR spoke in support of St. Timothy's Church.

John Malaer, 431 Redwood, Brookings, OR spoke in opposition of St. Timothy's Church.

Jon Myers, 909 NE A St, Grants Pass, OR spoke in support of St. Timothy's Church.

Maria Sudduth, 95880 Eggers Road, Brookings, OR spoke in support of St. Timothy's Church.

Rev. Linda Lee, PO Box 7174, Brookings, OR spoke in support of St. Timothy's Church.

Louise Abbott, 18659 Gardner Ridge, Brookings, OR spoke in support of St. Timothy's Church.
Rev. James Abbott, 18659 Gardner Ridge, Brookings, OR spoke in support of St. Timothy's Church.
Sister Cora Rose, 401 Fir St, Brookings, OR spoke in support of St. Timothy's Church.
Michael Tompkins, 268 4th St, Crescent City, CA spoke in support of St. Timothy's Church.
Patricia Black, 268 4th St, Crescent City, CA spoke in support of St. Timothy's Church.
Ron Reel, PO Box 7500, Brookings, OR spoke in support of St. Timothy's Church.
Henry Cunningham, 520 Redwood St, Brookings, OR spoke in support of St. Timothy's Church.
Karen Cunningham, 520 Redwood St, Brookings, OR spoke in support of St. Timothy's Church.
Brandon Usry, 412 Fir Street St, Brookings, OR spoke in opposition of St. Timothy's Church.
Joanie Lindenmeyer, 15569 Oceanview, Brookings, OR spoke in support of St. Timothy's Church.

Applicant's attorney requested additional time to submit materials and leave record open for an additional seven days.

Motion made by Commissioner Coons to continue File APP-1-23 for an additional seven days to July 4th; motion seconded and with no further discussion by a 6-0 vote the motion carried.

MINUTES FOR APPROVAL

5.1 Minutes of regular Planning Commission meeting of May 2, 2023.

Motion made by Commissioner Malmberg to approve the Planning Commission minutes of May 2, 2023; motion seconded and with no further discussion by a 6-0 vote the motion carried.

UNSCHEDULED PUBLIC APPEARANCES - None

REPORT FROM THE PLANNING STAFF - None

COMMISSION FINAL COMMENTS - None

ADJOURNMENT

Chair Watwood adjourned the meeting at 9:01 pm.

Respectfully submitted,

Skip Watwood, Brookings Planning Commission Chair
Approved at the August 1, 2023 meeting