



4.4

DEPARTMENT OF  
PLANNING AND DEVELOPMENT

**CITY OF SACRAMENTO**  
CALIFORNIA

1231 I STREET  
ROOM 300  
SACRAMENTO, CA  
95814-2904

DEVELOPMENT  
SERVICES  
916-264-5381  
FAX 916-264-8329

March 28, 2000

CONTINUED  
FROM April 13, 2000  
TO May 9, 2000

City Council  
Sacramento, California

Honorable Members in Session:

SUBJECT:           **CALL UP - UNION GOSPEL MISSION**

Special Permit Modification to develop a 5,900± multi-use building for an existing residential care facility on 1.36± acres in the Heavy Industrial -West Special Planning District (M-2(W)SPD) zone (Z99-048).

LOCATION:           400 Bannon Street  
APN: 001-0052-009, 011, 020

COUNCIL DISTRICT:     District 1

RECOMMENDATION: The Planning Commission and Planning staff recommend that the City Council **adopt the attached Notice of Decision**

CONTACT PERSONS:     Steve Peterson, Senior Planner, 264-5981  
                                  Jeanne Corcoran, Associate Planner, 264-5317

FOR COUNCIL MEETING OF:     April 13, 2000

SUMMARY:

The appeal of the Zoning Administrator's approval of the special permit modification to the existing Union Gospel Mission was approved and the project denied by the Planning Commission. The project was subsequently "called-up" by Councilmember Fargo (D1). The Councilmember wanted Union Gospel Mission to have the opportunity to present their proposal to the full Council. The "call-up" procedures (Chapter 7, Section 2-D of the Zoning Ordinance) allow the Council to deny, approve, or modify the requested entitlements.

4.4



# FAX TRANSMISSION

LEGAL SERVICES OF NORTHERN CALIFORNIA  
515 - 12TH STREET, SACRAMENTO, CALIFORNIA 95814  
TELEPHONE: (916) 551-2150  
FAX: (916) 551-2196

To: Mayor and City Council Members      Date: April 13, 2000  
Fax: (916) 264-7680      Pages: 5 Pages  
From: Lisa Noling      (including cover sheet)  
Subject: *Item No. 4.4 - Union Gospel Mission Special Permit Modification Meeting of the City Council, April 13, 2000 - 2:00 p.m.*

**Comments:**

See attached.

If you do not receive all pages of this transmission, please call *Kris Liberato* at Legal Services of Northern California, (916) 551-2115, as soon as possible after receipt.

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Hand-delivered & by facsimile

April 13, 2000

Mayor Jimmie Yee  
Members of the City Council  
Mr. Robert Thomas, City Manager  
Mr. Sam Jackson, City Attorney  
915 I Street, Room 205  
Sacramento, California 95814

Re: Meeting of the City Council, April 13, 2000, 2:00 p.m.  
Item No. 4.4 Union Gospel Mission Special Permit Modification

Dear Gentilepersons:

Legal Services of Northern California (LSNC) represents very low income residents of the City of Sacramento. We are writing to provide you with information about the impact of Union Gospel Mission's application in the context of the City's pending consideration of the draft housing element of the general plan.

As you know, Union Gospel Mission (UGM) applied for a Zoning Administrator's Special Permit to modify its existing special permit to allow the construction of a building to facilitate the administration of its existing shelter, social and religious services for the poor. The application does not contemplate any expansion of UGM's existing programs -- to the contrary, as a condition of the permit modification, UGM agreed to *reduce* its existing meal service, *eliminate* services such as women's clothing, mail pick-up, and *deny needed services* to UGM's clients who violate facility rules *including unspecified violations in the "neighborhood."* Although the application was found by Planning staff and the Zoning Administrator (ZA) to be consistent with the community and specific plans for the area, and various City Council resolutions restricting new or expanded social services for the poor in the Richards Boulevard area, at the request of the Capitol Station District, the Planning Commission overturned the ZA's determination. This matter is now before you on "call up" by Councilwoman Heather Fargo.

We urge you to confirm the determination of your Zoning Administrator and to allow the permit modification. It is the policy of the state that a local government not reject or make infeasible affordable housing developments which contribute to meeting the housing needs identified in the City's housing element "without a thorough analysis of the economic, social, and environmental effects of the action" and without making the findings required by Government Code section 65589.5(d), the so-called "Anti-NIMBY" statute. The City is required to make these findings if it chooses to deny UGM's permit application.

Mayor Jimmie Yee  
Members of the City Council  
Robert Thomas, City Manager  
Sam Jackson, City Attorney  
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As you know, the City is in the process of preparing the housing element of the City's general plan - a required general plan element that is now more than 10 years overdue. The state Department of Housing and Community Development has found that the City's draft housing element requires significant revision in order to comply with State law. In the absence of a final, adopted housing element, the City cannot make the required finding of general plan consistency required for all actions taken pursuant to State Planning and Land Use law. In the absence of a valid housing element and if ordered by a court, the City could be enjoined from issuing building permits and permitting any development other than those projects affordable to low and very low income households in the City. (Gov't Code Section 65755(b)).

Under state housing element law, the City is required in the housing element to analyze and quantify the housing needs of special populations such as the homeless. The City's draft housing element indicates that Countywide there is a need for 2794 beds for homeless individuals and 2350 beds for families. However, there are only 1440 and 976 beds, respectively, to serve these people - a shortfall of 2755 beds.<sup>1</sup> The City is required to identify "adequate sites" to meet this need, and to remove governmental constraints to assure the feasible development of housing to meet the needs of the homeless in Sacramento. The draft element includes programs to identify sites and to remove governmental constraints to shelter and transitional housing development (Programs 4.1 & 4.10). We have proposed additional amendments to those programs to comply with housing element law, Government Code section 65008, state and federal fair housing laws, and equal protection under the state and federal constitutions, as described in our previous letters to the Council and Planning Commission.

Until these draft housing element programs are adopted and implemented by the City, however, the City may not deny an application such as that of UGM which would improve existing services for the City's homeless.

In addition, on behalf of our very low income clients who rely on UGM and other shelter providers for food and shelter, we have a number of concerns about the process and conditions placed on UGM's permit modification. We have also raised these concerns in the context of the housing element review process as illegal governmental constraints to the development of housing for the poor.

---

The draft housing element concludes that the City's share of the Countywide homeless population is 34% of the total, for an unmet need in the City of 34 emergency shelter beds for families and 101 emergency shelter beds for individuals. ISNC has previously commented that this calculation understates the City's share of the regional need because it does not take into account the greater proportion of lower income individuals who reside in the City, as compared with the County.

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For example, UGM was required to develop and implement a Good Neighbor Policy in concert with the Capitol Station District, a non-profit Business District Association in the Richards Boulevard area. The GNP contains numerous vague and overbroad restrictions on UGM's activities, and grants neighboring property owners and businesses unprecedented involvement in the operation of the programs at UGM. The ZA's conditions of approval specify that UGM must develop a security plan which outlines and implements "sanctions and/or terminates clients who have repeated violations of facility rules which will include *violations in the neighborhood unless prohibited by law.*" (Emphasis added.) This provision is vague and overbroad. What is the definition of "neighborhood"? Are other businesses in the area required to sanction or terminate their clients for undefined rule violations in the neighborhood?

We are concerned about the imposition of permit conditions and Good Neighbor Policies on social service uses and not other land uses in the City. These policies may have an illegal discriminatory effect on African-Americans and people with disabilities. For example, the draft housing element indicates that 42% of homeless persons in Sacramento are African American, while only 14.8% of the general population are African American. Moreover, recent studies show that as many as 1/3 of homeless persons have some form of mental disability. The imposition of conditions and policies on housing and social services providers for the homeless -- unless similar conditions and policies are imposed on uses serving non-homeless people -- may violate the Fair Housing Amendments Act (see e.g., Oxford House, Inc. v. City of St. Louis, 843 F. Supp. 1556 (E.D. Mo. 1994), the Americans with Disabilities Act (see e.g., Bay Area Addiction Research and Treatment, Inc., 179 F.3d 725 (9<sup>th</sup> Cir. 1999), and Govt. Code section 65008 (prohibiting zoning actions which have a disparate impact based on race and disability or income status, see e.g., See Bruce v. City of Alameda, 166 Cal.App.3d 18, 212 Cal.Rptr. 304 (1985) and Keith v. Voine, 858 F.2d 467 (9<sup>th</sup> Cir. 1988).

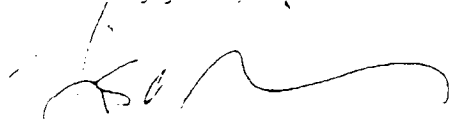
Finally, requiring housing and service providers to notify or meet with neighbors before, or as a condition of, project approval may be illegal unless the notification requirement applies to all housing and service providers without regard to the protected status of the potential occupants of the housing. (See e.g., Larkin v. State of Michigan, 89 F.3d 285 (6<sup>th</sup> Cir. 1996) and Potomac Group Home Corp. v. Montgomery County, 823 F. Supp. 1285 (D. Md. 1993). And governmental policies or programs that seek to disperse housing or services for persons in protected classes to address alleged "overconcentration" of particular housing facilities have been found to violate the FHA. (See e.g., Children's Alliance v. City of Bellevue, 950 F. Supp. 1491 (W.D. Wash. 1997); Larkin v. State of Michigan, 89 F.3d 285 (6<sup>th</sup> Cir. 1996) and Association for the Advancement of the Mentally Handicapped, Inc. v. City of Elizabeth, 876 F. Supp. 614 (D.N.J. 1994); Horizon House Developmental Services, Inc. v. Township of Upper Southampton, 804 F. Supp. 683 (E.D. Pa. 1992), aff'd, 995 F.2d 217 (3<sup>rd</sup> Cir. 1997) and Keith v. Voine, 858 F.2d 467 (9<sup>th</sup> Cir. 1988)).

Mayor Jimmie Yee  
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This letter constitutes notice under Government Code section 65009(d) of a possible legal challenge to the denial of the application, on the grounds stated in this letter and in testimony presented by members of the public to the Planning Commission. We are writing this letter to preserve our clients' rights to challenge the denial of this application, in the event that the City Council fails to adopt and implement proposed housing element programs to identify adequate sites and remove governmental constraints to development of emergency shelter and transitional housing for the homeless in Sacramento.

We urge your approval of the UGM special permit application. Thank you for this opportunity to comment.

Sincerely yours,



Elizabeth S. Noling  
Staff Attorney

cc: Union Gospel Mission



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# Gunmaker backs away from parts of firearms sale agreement

Hair Today..



By Associated Press, 4/13/00

SPRINGFIELD – Smith & Wesson is backing away from parts of its landmark agreement with the Clinton administration that called on it to crack down on gun dealers.

A "clarification" posted on the company's Web site contends that the company's agreement requiring dealers of Smith & Wesson guns to make background checks and impose other restrictions on sales only applies to the sale of the gunmaker's firearms.

The government claims all dealers wishing to sell Smith & Wesson products must apply the same restrictions to all makes of guns.

The company also said that criminal background checks it agreed to for gun-show sales would apply only to firearms sold by licensed dealers and not by private citizens.

"We can't agree to control things that we have no way to control," Ken Jorgensen, a spokesman for Smith & Wesson, told The Baltimore Sun.

Jorgensen didn't immediately return phone-calls today to The Associated Press.

Smith & Wesson's Web site said the company would abide by other major parts of the agreement. The Web site said Smith & Wesson would still include external safety locks with all handguns, install internal locks within two years and work on developing "smart" technology that limits a gun's use to its rightful owner.

Due to the March 17 agreement, Smith

& Wesson was dropped from lawsuits that federal, state and local governments filed against gunmakers.

Clinton administration officials and a lawyer representing several municipalities dismissed Smith & Wesson's interpretation of its responsibilities as a public relations ploy, the Sun reported today.

However, they said they would be willing to go to court to force Smith & Wesson into compliance.

"The language of the deal is clear on all these points," Neal Wolin, general counsel of the Treasury Department, told the newspaper.

Since the accord was signed, Smith & Wesson has come under sharp criticism from other gunmakers, dealers and gun rights activists.

However, Smith & Wesson's altered position was backed by the Violence Policy Center, a gun-control group that has criticized the deal from the beginning.

"On its face, the agreement was ambiguous," Kristen Rand, the group's director of federal policy, told the Sun. "It was never clear how Smith & Wesson could impose its will on its competitors."

On the Net: [www.smith-wesson.com](http://www.smith-wesson.com)



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# Philadelphia Sues Gunmakers

## Legal Action May Put City at Odds With State

April 12, 2000

PHILADELPHIA (AP) – Claiming the firearms industry has acted in a way "that is harmful to all who reside, work or travel in the city," Philadelphia has become the latest municipality to take gunmakers to court.

The city is suing to recover costs from gun violence, including medical care, police protection, emergency services and prisons.

The lawsuit, filed Tuesday, also seeks to force the 14 gunmakers named as defendants to add safety features to guns and change how the weapons are marketed and distributed.

The defendants include Smith & Wesson, which agreed in March to make its handguns safer in exchange for a promise that no new federal, state or city lawsuits would be filed seeking to hold them responsible for shootings committed with their guns.

### Pennsylvania law bars suits

The governor's office is reviewing the lawsuit. In December Gov. Tom Ridge signed a bill barring local governments from suing firearms manufacturers.

Philadelphia City Solicitor Kenneth Trujillo said the

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Kenneth Trujillo said the state law was narrowly tailored to ban lawsuits against the legal marketing of guns. The city contends that gunmakers marketed their products illegally, he said.

Gunmakers

Court Allows  
Historic Suit  
Against  
Gunmaker

Mandates  
Trigger Locks

Cop-Killer  
Makes Last Bid  
for Clemency

The lawsuit accuses gunmakers of "knowingly engaging in a ... pattern of conduct, for their own financial benefit, that is harmful to all who reside, work or travel in the city."

Killer's Daughter  
Still Hopes

Mass. Makes  
Guns a Matter of  
Consumer  
Safety

It claims gunmakers have failed to provide sufficient built-in safety devices; have flooded the market with cheap guns, knowing many of them would be used in crimes; knowingly supplied disreputable dealers; and failed to require dealers to limit gun purchases.

Guns Soon to  
Be Top Kid-  
Killer, Doctors  
Say

Opponents say it is improper to hold gun manufacturers responsible for crimes.

Clinton to Push  
Gun Issue in  
Colorado

"We have always monitored how our products are distributed," said Smith & Wesson spokesman Ken Jorgensen.

N.H. Moves to  
Impeach Its Top  
Court

At least 30 other U.S. cities have sued gunmakers, including Los Angeles, Chicago, Miami, Boston, Atlanta, Cleveland, Detroit, Cincinnati, St. Louis, San Francisco and Washington, D.C. Three of the lawsuits were dismissed and are under appeal.

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