



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: October 21, 2015

PLANNER: Amber Gregg, Associate Planner *cdg*

SUBJECT: Zoning Ordinance Amendment (ZA) 15-333, a request to consider amending portions of the ordinance to further encourage and facilitate the development of, or conversion to, emergency shelters as provided in State Law SB2.

REQUIRED FINDINGS

Prior to approval of the proposed project, the following findings shall be made. The draft Resolution (Attachment 1) and analysis section of this report provide an assessment of the project's compliance with these findings.

Zoning Amendment, Section 17.16.040

1. The proposed amendment is consistent with the General Plan.
2. The proposed amendment will not adversely affect the public health, safety and welfare.

BACKGROUND

On August 19, 2014, the City Council adopted an Emergency Shelter Overlay zone, and development standards, to be in compliance with State mandate Senate Bill 2 (SB2). On September 15, 2015, the City Council initiated a Zoning Amendment to the Zoning Ordinance to consider updates to housing requirements relating to homeless shelters. The proposed updates are modifications to the Emergency Shelter Ordinance, and are intended to further encourage and facilitate the development of, or conversion to, emergency shelters in our community.

Noticing

An 1/8 page add was published on October 9, 2015 in the local paper.

PROJECT DESCRIPTION

The proposed modification are consistent with State mandate SB2 requirements. The existing Emergency Shelter Overlay section of the Municipal Code can be found under

Attachment 2. After reviewing the Ordinance, staff believes the following amendments should be made to help encourage and facilitate emergency shelters:

1. Delete subdivisions E (bed floor area requirement) and G (screening of entries and outdoor use area) of Section 17.56.103.
2. Delete the following requirements from Section 17.56.104, subdivision D (portion of Management Plan):
 - Preparation of a Neighborhood Relations Plan and enforcement provisions
 - Drug and alcohol screening requirements
 - Annual reporting and review requirements
 - Provisions to allow an on-site kennel or off-site pet care for shelter clients
3. Modify the requirement in the Management Plan regarding security measures to state that depending on the location, fencing and surveillance measures may be required.

GENERAL PLAN CONSISTENCY

Housing Element, Program 21 states "Review and amend the Zoning Code to implement State requirements to remove barriers to the development of special needs housing, including emergency shelters and transitional/supportive housing consistent with the requirements of Senate Bill 2 of 2007.

The proposed amendment is consistent with this policy as it will amending portions of the ordinance to further encourage and facilitate the development of, or conversion to, emergency shelters as provided in State Law SB2.

ENVIRONMENTAL REVIEW/COMPLIANCE (CEQA):

The proposed amendments have been reviewed in accordance with the California Environmental Quality Act (CEQA) and the Environmental Administrator has determined that the activity is not a "project" as defined by CEQA because it will not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and is exempt per Section 15061(b)(3): "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with staff and recommend approval of the proposed project.

This action would result in the project moving forward for review and consideration by the City Council.

2. The Planning Commission can, at its discretion, add, modify or delete provisions of the proposed project or conditions.

This action would result in any modifications being reviewed and considered by the City Council.

3. The Planning Commission can recommend denial of the proposed project.

This action would result in the Commission's recommendation being forward for review and consideration by the City Council.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission forward a recommendation of approval for ZA 15-333, SB2 Emergency Shelter Update, subject to the attached resolution.

Attachments:

1. Resolution No. 15-055
Exhibit A- Zoning Ordinance Amendment
2. Existing Emergency Shelter (SB2) Ordinance

RESOLUTION NO. PC 15-055

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE AMENDING SECTIONS 17.56.103 AND 17.53.104 OF TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO EMERGENCY SHELTERS

WHEREAS, on September 2, 2014, City enacted an Emergency Shelter ordinance (the "Emergency Shelter Ordinance") pursuant to SB2 (2007 Cal. Stats., ch. 633, codified at Government Code Section 65833), codified at Sections 17.56.100 *et seq.*, of the City of San Clemente Municipal Code; and

WHEREAS, the Emergency Shelter Ordinance was enacted following due consideration by the City Council of all the documents and testimony provided to the City Council at its July 15 and August 19 meetings; and

WHEREAS, upon further review of the Emergency Shelter Ordinance, the City of San Clemente now desires to amend portions of the ordinance to further encourage and facilitate the development of, or conversion to, emergency shelters as provided in SB2.

WHEREAS, the proposed amendments have been reviewed in accordance with the California Environmental Quality Act (CEQA) and the Environmental Administrator has determined that the activity is not a "project" as defined by CEQA because it will not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and is exempt per Section 15061(b)(3): "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

WHEREAS, on October 21, 2015, at a duly noticed regular meeting, the Planning Commission considered evidence presented by the City staff and other interested parties for the subject applications and recommends that the City Council Zoning Ordinance to further encourage and facilitate the development of, or conversion to, emergency shelters as provided in State Law SB2.

NOW, THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

SECTION 1. Findings. The Planning Commission hereby makes the following findings:

1. The proposed amendments are consistent with the General Plan and pertinent specific plans, and will implement City Housing Element Program 21.
2. The proposed amendments will not adversely affect the public health, safety, and welfare in that the proposed modifications will further encourage and facilitate the development of, or conversion to, emergency shelters as provided in State Law SB2.

SECTION 2. Zoning Ordinance Amendment, ZA 15-333. The Planning Commission recommends the City Council amend the Zoning Ordinance as shown in Exhibit "A", to modify the Emergency Shelter (SB2) 2 Overlay Zone and Development Standards to further encourage and facilitate the development of, or conversion to, emergency shelters as provided in State Law SB2.

PASSED AND ADOPTED, at a regular meeting of the Planning Commission of the City of San Clemente held on October 21, 2015.

Chair

TO WIT:

I HEREBY CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente held on October 21, 2015, and carried by the following roll call vote:

NOES:	COMMISSIONERS:
AYES:	COMMISSIONERS:
ABSTAIN:	COMMISSIONERS:
ABSENT:	COMMISSIONERS:

Secretary of the Planning Commission

Exhibits:

A. Zoning Ordinance Amendment

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SECTIONS 17.56.103 AND 17.53.104 OF TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO EMERGENCY SHELTERS

WHEREAS, on September 2, 2014, City enacted an emergency shelter ordinance (the "Emergency Shelter Ordinance") pursuant to SB2 (2007 Cal. Stats., ch. 633, codified at Government Code Section 65833), codified at Sections 17.56.100 *et seq.*, of the City of San Clemente Municipal Code; and

WHEREAS, the Emergency Shelter Ordinance was enacted following due consideration by the City Council of all the documents and testimony provided to the City Council at its July 15 and August 19 meetings; and

WHEREAS, upon further review of the Emergency Shelter Ordinance, the City of San Clemente now desires to amend portions of the ordinance to further encourage and facilitate the development of, or conversion to, emergency shelters as provided in SB2.

WHEREAS, the proposed amendments have been reviewed in accordance with the California Environmental Quality Act (CEQA) and the Environmental Administrator has determined that the activity is not a "project" as defined by CEQA because it will not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and is exempt per Section 15061(b)(3): "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

NOW, THEREFORE, the City Council of the City of San Clemente, California, hereby ordains as follows:

Section 1: The City Council hereby makes the following findings:

1. The proposed amendments are consistent with the General Plan and pertinent specific plans, and will implement City Housing Element Program 21.
2. The proposed amendments will not adversely affect the public health, safety, and welfare in that the proposed modifications will further encourage and facilitate the development of, or conversion to, emergency shelters as provided in State Law SB2.

Section 2: Section 17.56.103 of the Municipal Code of the City of San Clemente is hereby amended to delete subdivisions E and G thereof, and to read in its entirety as follows:

“17.56.103 – Development Standards.

Emergency Shelters shall comply with the following standards:

A. **Separation.** An Emergency Shelter shall not be established or operated at any location less than 300 feet from another Emergency Shelter providing shelter and other services to homeless persons.

B. **Number of emergency Shelters.** The number and capacity of Emergency Shelters allowed without use permit review shall be limited to that required to meet the shelter needs of the number of estimated homeless persons in the city, as established by current reliable information and approved by the City Council.

C. **Emergency Shelter as Accessory Use to Churches and Other Religious Institutions.** Emergency Shelters shall also be allowed, by right, as an accessory use to Churches and Religious Institutions located outside the ES Overlay District, subject to a 10-bed limited per facility.

D. **Maximum Number of Beds.** The maximum number of beds per Emergency Shelter facility shall not exceed 20 within the ES Overlay District. The maximum number of Emergency shelter beds in a Church or other Religious Institution shall not exceed a maximum of 10 beds per facility.

E. **On-site Waiting and Intake Areas.** On-site waiting and client intake areas shall be provided within the Emergency Shelter building. Outdoor waiting areas, if provided, shall be visually screened from the public right-of-way and from adjacent land uses.

F. **Parking.** On-site parking shall be supplied at a ratio of not less than one vehicle space per five beds, plus one additional space for the resident manager and each additional staff person. Parking spaces shall be designed to meet City standards. Enclosed, secure bicycle parking shall be provided on-site at the ratio of not less than one bicycle parking space per 10 beds.

G. **Site Lighting.** Site lighting shall be provided for safety and security, consistent with City standards and Design Guidelines.

H. **Architectural Review.** Emergency Shelters shall comply with the City's Design Guidelines, specific plans, and zoning ordinance regarding architectural and development standards to ensure shelters are compatible with their surroundings, provide adequate privacy between uses, and minimize potential impacts of the proposed shelter on adjacent uses.

Section 3: Section 17.56.104 of the Municipal Code of the City of San Clemente is here by amended to read as follows:

“17.56.104 – Emergency Shelters. Operational Standards.

Emergency Shelters shall be operated in conformance with the following standards:

A. **Shelter Operator.** The Emergency Shelter shall be operated by a responsible Social Service Provider with experience in managing or providing social services.

B. **Supervision.** The Emergency Shelter shall provide at least one qualified on-site supervisor at all times, plus one attendant for each 20 occupants.

C. **Maximum Stay.** Occupancy for any individual or family shall not exceed 180 days in a 365-day period.

D. **Management Plan.** Each Emergency Shelter operator shall submit a management plan for the Community Development Director's review and approval prior to commencement of shelter operations. Said Plan shall include:

1. Site security measures, which, depending on the location of the Emergency Shelter, may be required to include fencing, appropriate surveillance measures, and on-site security personnel;

2. Client intake and screening processes;

3. A description of services to be provided at the Emergency Shelter;

4. Length of stay allowed for clients;

5. Parking provisions;

6. Hours of operation;

7. Signage for the property;

8. Staff training;

9. Case Management, monitoring and oversight measures; and

10. Emergency plan, including, but not limited to emergency contact numbers, evacuation plans and on-site safety measures."

Section 4: If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of San Clemente hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 5: The City Clerk shall certify to the passage of this ordinance and cause the same to be published as required by law, and the same shall take effect as provided by law.

APPROVED AND ADOPTED this _____ day of _____, 2015.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

I, **JOANNE BAADE**, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of _____, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the _____ day of _____, _____, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

CITY ATTORNEY

ATTACHMENT 2

17.56.100 - Emergency shelters.

A. **Purpose and Intent.** The purpose of the Emergency Shelter "ES" Overlay designation is to identify those areas where Emergency Shelters are allowed by right, subject to the development and operational standards set forth in this Chapter 17.56. The ES Overlay meets the requirements of State law by designating specific areas where Emergency Shelters, also referred to as "homeless shelters", may be established and operated by right, to meet the shelter needs based on homeless population estimates in the City's General Plan Housing Element. The goals for areas with this designation are as follows:

1. To facilitate efforts to address the needs of homeless persons in the City of San Clemente by identifying locations where Emergency Shelters are allowed by right and by establishing objective development and operational standards for Emergency Shelters.
2. To protect public safety, maintain land use compatibility, and preserve property values neighborhood quality and economic vitality while addressing an identified humanitarian need.
3. To locate such facilities, to the maximum extent possible, close to public transportation, public and community services, near job centers, away from residential neighborhoods, schools, and parks.
4. To allow small-scale, family-oriented Emergency Shelters as an accessory use to Churches and other Religious Institutions.
5. To ensure that Emergency Shelters are designed in accordance with applicable standards, as allowed under State law, and that they comply with City standards and guidelines applying to all other uses in the zone.
6. To ensure that Emergency Shelters are operated in a responsible and community-sensitive manner that prevents and avoids impacts to adjacent neighborhoods and enables residents, businesses and property owners to support, monitor, communicate with shelter operators, and seek City action to protect public health, safety and welfare.
7. To minimize illegal use of open space areas within the City of San Clemente for homeless encampments, loitering, littering and other problems associated with homeless camps.
8. To achieve a Housing Element which complies with State law and that fully addresses all housing needs in the community while balancing other important community needs and goals, to protect public safety, neighborhood peace and aesthetics, and economic vitality.

(Ord. No. 1585, § 2(Exh. A), 9-2-2014)

17.56.101 - Application of emergency shelter (ES) overlay zone requirements.

The requirements of this section are for Emergency Shelters within the ES Overlay Zone, and for Emergency Shelters allowed as accessory uses to Churches and other Religious Institutions. Emergency Shelters that comply with these standards may be established without use permit or any other discretionary City review.

(Ord. No. 1585, § 2(Exh. A), 9-2-2014)

17.56.102 - Emergency shelter overlay district established.

The City hereby establishes an "Emergency Shelter Overlay Zone" (ES) or District. In this District, Emergency Shelters which meet the standards set forth in this Chapter 17.56 shall be allowed by right. The ES Overlay shall consist of:

- A. Public and Civic Center zoned properties; excluding parcels with schools or school facilities; and
- B. City owned parcels, in Commercial, Business Park or Industrial zoning districts, and a minimum of 500 feet from residential zoned properties.

(Ord. No. 1585, § 2(Exh. A), 9-2-2014)

17.56.103 - Development standards.

Emergency Shelters shall comply with the following standards:

- A. **Separation.** An Emergency Shelter shall not be established or operated at any location less than 300 feet from another Emergency Shelter providing shelter and other services to homeless persons.
- B. **Number of Emergency Shelters.** The number and capacity of Emergency Shelters allowed without use permit review shall be limited to that required to meet the shelter needs of the number of estimated homeless persons in the City, as established by current reliable information and approved by the City Council.
- C. **Emergency Shelter as Accessory Use to Churches and Other Religious Institutions.** Emergency Shelters shall also be allowed, by right, as an accessory use to Churches and Religious Institutions located outside the ES Overlay District, subject to a 10-bed limit per facility.
- D. **Maximum Number of Beds.** The maximum number of beds per Emergency Shelter facility shall not exceed 20 within the ES Overlay District. The maximum number of Emergency Shelter beds in a Church or other Religious Institution shall not exceed a maximum of 10 beds per facility.
- E. **Floor Area Requirement.** Emergency Shelters shall provide a total building floor area of not less than 125 square feet per shelter bed.
- F. **On-Site Waiting and Intake Areas.** On-site waiting and client intake areas shall be provided within the Emergency Shelter building. Outdoor waiting areas, if provided, shall be visually screened from the public right-of-way and from adjacent land uses.
- G. **Entries and Outdoor Use Areas.** Entries and outdoor use areas shall be located and fully screened with landscaping, fencing or similar measure so that they are not visible from a public street or adjacent use.
- H. **Parking.** On-site parking shall be supplied at a ratio of not less than one vehicle space per five beds, plus one additional space for the resident manager and each additional staff person. Parking spaces shall be designed to meet City standards. Enclosed, secure bicycle parking shall be provided on-site at the ratio of not less than one bicycle parking space per 10 beds.
- I. **Site Lighting.** Site lighting shall be provided for safety and security, consistent with City standards and Design Guidelines.
- J.

Architectural Review. Emergency Shelters shall comply with the City's Design Guidelines and where applicable, the Rancho San Clemente Specific Plan and West Pico Specific Plan architectural and development standards to ensure shelters are compatible with their surroundings, provide adequate privacy between uses and minimize potential impacts of the proposed shelter on adjacent uses.

(Ord. No. 1585, § 2(Exh. A), 9-2-2014)

17.56.104 - Emergency shelters. Operational Standards.

Emergency Shelters shall be operated in conformance with the following standards:

- A. **Shelter Operator.** The Emergency Shelter shall be operated by a responsible Social Service Provider with experience in managing or providing social services.
- B. **Supervision.** The Emergency Shelter shall provide at least one qualified on-site supervisor at all times, plus one attendant for each 20 occupants.
- C. **Maximum Stay.** Occupancy for any individual or family shall not exceed 180 days in a 365-day period.
- D. **Management Plan.** Each Emergency Shelter operator shall submit a management plan for the Community Development Director's review and approval prior to commencement of shelter operations. Said Plan shall include site security measures including, but not limited to fencing, surveillance measures, and on-site security personnel; Neighborhood Relations Plan and enforcement provisions; client intake and screening; services to be provided; length of stay; drug and alcohol screening requirements; parking provisions; hours of operation; signage; staff training; monitoring, Case Management and oversight measures; annual reporting and review; emergency plan, including, but not limited to emergency contact numbers, evacuation plans and on-site safety measures; and provisions to allow an on-site kennel or off-site pet care for shelter clients.

(Ord. No. 1585, § 2(Exh. A), 9-2-2014)

17.56.105 - Definitions.

- A. **"Emergency Shelter"** (also referred to as "homeless shelter") means housing with minimal supportive services for homeless persons, and that is limited to occupancy of six months or less by a homeless person.
- B. **"Church or Religious Institution"** means a building which is used as an established place of worship, has a regular congregation and regularly offers religious service, represents a recognized creed and form of worship and is affiliated with an organization of ordained clergy. Legal, conforming churches and religious institutions may operate an Emergency Shelter as an accessory use, pursuant to this [Chapter 17.56](#).
- C. **"Social Service Provider"** means an agency or organization licensed or supervised by any federal, state or local health/welfare agency that participates in the federal Homeless Management Information System (HMIS) and has demonstrated experience with the homeless population by assisting individuals and families achieve economic self-sufficiency and self-determination through a comprehensive array of programs and actions.
- D.

"Case Management" means a system for arranging and coordinating care and services whereby a case manager assesses the needs of the client and client's family and arranges, coordinates, monitors, and advocates for services to meet the client's needs.

- E. **"Neighborhood Relations Plan"** means (1) a description of operational rules and procedures to be followed to maintain safety, security and compatibility with adjacent land uses, businesses, residents, and property owners, (2) protocol to respond to neighbor or public questions or complaints on a 24-hour basis, and (3) Public information resources and communication methods to be used maintain clear communication between the Emergency Services Provider, the City, local Police, Fire and Medical agencies, businesses and residents.

(Ord. No. 1585, § 2(Exh. A), 9-2-2014)