

# Planning Commission Agenda Item

# **February 6, 2012**

TO: Chair Steiner and

**Members of the Planning Commission** 

**THRU:** Leslie Roseberry

**Planning Manager** 

FROM: Jennifer Le

Senior Planner/Environmental Review Coordinator

# **SUBJECT**

**PUBLIC HEARING**: An Ordinance amending Title 17 (Zoning) of the Orange Municipal Code to allow homeless shelters in the City's Light Manufacturing (M-1) and Industrial (M-2) zoning districts.

#### **SUMMARY**

The City is proposing to modify Title 17 (Zoning) of the Orange Municipal Code to allow homeless shelters as a permitted use in the M-1 and M-2 zoning districts, subject to certain requirements and standards. State law requires the City to establish zones where such facilities are permitted by right.

## RECOMMENDED ACTION

Adopt Planning Commission Resolution No. 07-12 entitled:

A RESOLUTION OF THE CITY OF ORANGE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL APPROVE AN ORDINANCE AMENDING TITLE 17 (ZONING) OF THE ORANGE MUNICIPAL CODE TO ALLOW HOMELESS SHELTERS IN THE M-1 AND M-2 ZONING DISTRICTS, SUBJECT TO CERTAIN DEVELOPMENT STANDARDS AND REQUIREMENTS.

# **AUTHORIZATION/GUIDELINES**

Orange Municipal Code (OMC) Section 17.08.020 authorizes the Planning Commission to review and take action on zoning ordinance amendments. The Planning Commission is advisory to the City Council. The City Council is the final decision making body.

# **PUBLIC NOTICE**

On January 26, 2012, a Public Hearing Notice was published in the Orange City News, as required per the OMC.

## **ENVIRONMENTAL REVIEW**

**Categorical Exemption:** The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15305 (Class 5 – Minor Alterations to Land Use Limitations). This exemption applies to projects involving minor alterations to land use limitations in areas with an average slope of less than 20%, which do not result in changes in land use or density.

The project is exempt because it involves a minor amendment to the zoning code which would add homeless shelters to the list of permitted uses in the M-1 and M-2 zones. This amendment is being undertaken to comply with State law. The amendment does not change the zoning designation on any individual property and does not affect existing land use or density. It also does not propose or require any specific development project. Any specific development project undertaken in the future pursuant to the amended zoning code would be required to comply with CEQA at that time. The proposed activity reasonably falls within the Class 5 exemption category and does not trigger any of the exceptions to exemptions listed in CEQA Guidelines Section 15300.2.

## PROJECT BACKGROUND

#### **State Law**

The California Legislature passed Senate Bill (SB) 2 (effective January 1, 2008) modifying State Housing Element law to require local planning and zoning regulations to facilitate and encourage "emergency shelters". Emergency shelters are defined by the State as "housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay" (Health and Safety Code Section 50801(e)).

Specifically, State law requires that at least one zoning district be identified where emergency shelters will be allowed "by right", that is without a conditional use permit (CUP) or other discretionary City approval. The zones identified must provide sufficient capacity to meet the City's identified homeless need, and must have a realistic potential for development or reuse opportunities.

State law requires that if the City's existing Zoning Code does not allow for emergency shelters by right, then the City is required to adopt a program as part of its General Plan Housing Element committing the City to amending its zoning code to meet State requirements within one year of Housing Element adoption. State law allows the City to include objective standards for emergency shelters as part of its zoning code amendment, such as standards for number of beds, parking, length of stay, lighting, and security.

# **General Plan Housing Element**

The City adopted its 2008-2014 General Plan Housing Element on April 13, 2010. As required by State law, the adopted Housing Element addresses SB 2 requirements and includes "Policy Action 30". Policy Action 30 requires the City to amend its zoning code to allow "emergency shelters" by right in at least one zoning district. The Housing Element identifies the M-1 and M-2 zones, the Public Institution (P-I) zone and the Urban Mixed Use (UMU) zone as possibilities for future consideration. The subject ordinance amendment implements State law requirements and General Plan Housing Element Policy Action 30.

#### **Homeless Characteristics**

Obtaining complete and accurate data for the homeless population is difficult due to the transient nature of the population and due to the existence of the "hidden homeless" (or persons that move around in temporary housing situations, but do not have fixed or regular housing).

The most recent available data comes from a 2009 Point-in-Time survey, completed in January 2009. The 2009 survey report estimates that Orange County has approximately 8,300 homeless persons at a given point in time. (21,500 persons in Orange County are estimated to experience homelessness in a year.) Based on the Point-in-Time survey, these 8,300 homeless persons represent a full spectrum of the population including men, women, children, veterans, people who are employed and people who are unemployed. A portion of this population has also been victims of domestic violence, have drug or alcohol addictions, and/or have mental health issues.

### **Shelter Demand**

Emergency shelters as defined by the State (referred to as "homeless shelters" throughout this report) are intended to address an immediate need for housing, where length of stay can range from one night up to six months. Although the primary purpose is temporary shelter, some minimal supportive services such as case management, counseling, classes, job training, etc. may also be provided. Criteria for entry into an emergency shelter are typically minimal.

In January 2010, the County adopted the "Orange County Ten Year Plan to End Homelessness". The plan states that the number of emergency shelter beds in Orange County is "woefully inadequate" to meet its need and identifies permanent year-round emergency shelters among the County's top priorities. Many of the County's existing shelter beds serve a specialized population like single women, youth or victims of domestic violence. In addition, a large percentage of the County's emergency shelter beds are seasonal. Examples include the Salvation Army's Hospitality House in Santa Ana and the seasonal emergency shelters associated with the National Guard Armories in Fullerton and Santa Ana.

In Orange, there are no permanent emergency shelters. However, there are 161 beds in eight "transitional" shelters in Orange. Transitional housing differs from an emergency shelter in that it typically involves tenant participation in a specific "program" where stays are from six months to two years, and tenants must meet specific criteria to participate. In addition, Orange has several

homeless service organizations providing homeless support services such as Mary's Kitchen and other programs operated by local churches. Based on a survey of homeless services providers, the 2010 General Plan Housing Element estimates that there are up to 500 homeless persons in Orange.

#### **Stakeholders Meetings and Feedback**

In order to find out more about homeless shelter operations and our local service organizations, City staff held a stakeholders meeting in February 2011. 16 individuals attended including County representatives, homeless shelter operators, and representatives from homeless service organizations. In November 2011, staff held a second stakeholders meeting and discussed a preliminary draft of the ordinance. 11 individuals attended this meeting.

Generally, the stakeholders indicated to staff that there are many diverse programs, models, types and approaches to operating a shelter. For example, some organizations focus on specialized groups of homeless persons and some do not. Some organizations provide extensive supportive services while others provide more limited services. The types of services offered depend greatly on the availability of funding and the organization's objectives and approach. Typically shelter operators are non-profit organizations, and community or faith-based organizations.

In general, stakeholder's comments pertained to the types of emergency shelters and supportive services allowed by the ordinance, required hours of operation, staffing levels, and length of stay. Stakeholder's comments are further discussed in the "Analysis/Statement of the Issues" section below.

## PROJECT DESCRIPTION

The City proposes to amend the Zoning Code to allow "homeless shelters" as a permitted use in the M-1 and M-2 zoning districts, subject to certain requirements.

Specifically, Zoning Code Section 17.04.024 "Definitions" would be amended to add a definition for "homeless shelter". In addition, Section 17.020.030 "Permitted Uses" would be amended to add "homeless shelters as a permitted use in the M-1 and M-2 zones. Also Section 17.20.050 "Special Use Regulations" would be amended to identify specific standards and requirements applicable to homeless shelters. Standards and requirements identified pertain to:

- Shelter location.
- Overnight occupancy limits.
- Required services and facilities.
- Lighting.
- Parking.
- Operational characteristics such as length of stay, hours of operation, staffing, client intake, safety and security.

The ordinance requires that an Operational Plan be submitted to the City demonstrating that specified requirements have been met. The Operational Plan would be approved as a ministerial

matter by the Community Development Director in consultation with the Orange Police Chief. Site Plan Review, Design Review, and building and fire permits would be required (as applicable) depending on the specifics of the site development proposal and per existing code requirements. The Ordinance is provided as an attachment to the Planning Commission Resolution.

# APPLICATION(S) REQUESTED/ REQUIRED FINDINGS

**Zoning Ordinance Amendment:** The request involves a Zoning Ordinance Amendment.

Required Findings: There are no required findings for a Zoning Ordinance Amendment since it is considered a legislative action. However, OMC Section 17.10.020 requires that when the Planning Commission makes a recommendation to the City Council, the Planning Commission include in its decision: 1) the reasons for the recommendation; 2) the relationship of the proposed amendment to the General Plan and applicable Specific Plans; and 3) the environmental determination. These three items are addressed in the Planning Commission Resolution. By adopting the Resolution, the Planning Commission will have complied with this Code provision.

## ANALYSIS/STATEMENT OF THE ISSUES

#### Issue 1: Compliance with State Law

State law requires the City to amend its zoning code to allow emergency shelters by right in at least one zoning district. The zones identified must provide sufficient capacity to meet the City's identified homeless need, and must have a realistic potential for development or reuse opportunities.

#### Resolution:

As required by State law, the subject ordinance adds "homeless shelters" to the list of permitted uses in the M-1 and M-2 zones. The M-1 and M-2 zoning districts are recommended because these zones are close to some of the City's existing homeless supportive services as well as transportation options, while also maintaining a reasonable separation from established residential neighborhoods and other sensitive uses.

Homeless service organizations such as Mary's Kitchen are already located within the industrial area. Further, churches, medical clinics, business colleges, trade schools, technical schools and adult education schools are allowed in this zone and may also provide support services. Regarding transportation, OCTA bus routes traverse the industrial area along Main Street, Batavia, Glassell Street, Katella Avenue and Taft Avenue. Most properties within the industrial area are within ½-mile of a bus stop.

There are 195 parcels zoned M-1 and 729 parcels zoned M-2 in the City, totaling 924 parcels. Considering the ordinance's shelter location requirements (e.g. shelters must be located at least 500 feet from residentially-used or residentially-zoned property, public or private parks or K-12 schools, etc.), 28 parcels zoned M-1 and 505 parcels zoned M-2 (totaling 533 parcels) meet the spatial parameters for homeless shelter location. Considering the City's estimated homeless population of

up to 500 persons, the identified zones provide sufficient capacity to meet the City's need for homeless shelters. In addition, though there are few undeveloped properties within this area, there are sufficient reuse opportunities within the identified zones.

The proposed ordinance allows for shelters that provide "immediate and short-term overnight sleeping accommodations for homeless persons or families, with limited onsite supportive services". The ordinance also specifies that a shelter "shall be used between the hours of 5:00 p.m. and 9:00 a.m." and that "clients must vacate the facility each morning". This language limits the types of shelters allowed to those providing overnight accommodations only, consistent with the minimum action required to comply with State law. It should be noted that this approach would not "by right" allow for an expanded set of supportive services such as counseling, job training, classes, child care, or day use at the shelter.

In addition, it should be noted that the proposed ordinance is not intended to apply to short-term and temporary shelters established in response to an emergency or disaster such as flood, fire, or cold-weather occurrences. The ordinance is also not intended to apply to short-term and temporary shelters that are ancillary to a church use. The intent of excluding shelters ancillary to a church use from the provisions of the ordinance is to allow for small-scale, short-term and temporary shelter uses, so long as they function as a minor and ancillary part of a church's primary function as a place of worship. The determination of whether a shelter use at a church is "ancillary" and meets the intent of the code is made by the Community Development Director.

# <u>Issue 2: Appropriateness of development and operational standards for homeless shelters</u>

In amending the zoning code to allow for the development of homeless shelters, the City recognizes the need for development standards and operational requirements to ensure that such facilities are developed and operated in a safe and orderly manner; and also do not have negative effects on surrounding neighborhoods and business districts.

#### Resolution:

The proposed ordinance establishes requirements and development standards for homeless shelters to the extent allowed by State law. The ordinance contains requirements addressing shelter location, overnight occupancy limits, length of stay, required services and facilities, lighting, and parking. The ordinance also requires an Operational Plan to be submitted that addresses operational characteristics such as hours of operation, staffing, client intake procedures, and safety and security. Shelters would also be required to comply with the development standards of the underlying zoning district. Staff believes that the standards identified are appropriate and achieve the goal of providing flexibility in terms of the specific operational characteristics of a shelter, while also providing sufficient controls on the use so that adverse impacts to surrounding properties do not occur.

#### Day Use/Supportive Services

During the stakeholders meetings, stakeholder's comments on the ordinance centered around four issue areas:

- Greater flexibility in the types of shelter operations and supportive services that would be allowed by the ordinance.
- Greater flexibility in the hours of operation.
- Greater flexibility in required staffing levels.
- Providing for a maximum length of stay of 45 days.

In response, staff revised the preliminary draft ordinance regarding hours of operation, staffing levels, and length of stay. Regarding day use and supportive services, staff's approach has been to define "homeless shelter" as a facility that provides overnight accommodations with minimal supportive services, consistent with the definition of "emergency shelter" provided in State law. For example, the proposed ordinance specifies that a shelter "shall be used between the hours of 5:00 p.m. and 9:00 a.m." and that "clients must vacate the facility each morning". This language limits the types of shelters allowed to those providing overnight accommodations only, with dining, laundry, storage and referral services also allowed. Other supportive services would not be allowed "by right". The determination as to whether individual supportive services would be permitted, conditionally permitted or not permitted would be based on the "permitted uses" table contained in OMC Section 17.20.030. For unlisted uses, the Community Development Director has the discretion to make the determination per OMC Section 17.20.040.

Stakeholders have indicated that there are many types of shelter operations, some of which provide overnight accommodations only and some which provide supportive services in addition to overnight accommodations. What types of supportive services are provided depends greatly on the availability of funding, and also on the capacity and goals of the shelter operator and the particular type of homeless population served. Stakeholders indicated a concern with restricting the types of shelters allowed to only one type (i.e. those that operate solely as an overnight facility), and expressed a desire for the City to allow for the possibility of different shelter types. These types could include shelters that provide for day use and/or function as a multi-purpose facility where a range of supportive services such as job training, classes, counseling, or childcare could be offered in concert with the provision of an overnight bed.

As an alternative to the ordinance's current approach, the Planning Commission may recommend revising the ordinance to allow for day use and/or an expanded suite of supportive services (i.e. services beyond overnight shelter), either as a permitted use (ancillary to the permitted homeless shelter use) or as a use which is subject to a Conditional Use Permit.

#### ADVISORY BOARD RECOMMENDATION

**Staff Review Committee:** The Staff Review Committee did not review the subject project, since it is an ordinance amendment. However, other City departments were consulted throughout the ordinance development process, including the Police Department, Fire Department, Economic Development, Building Official and the City Attorney's Office.

**Design Review Committee:** The Design Review Committee did not review the subject project, since it is an ordinance amendment. The Community Development Director is advisory to the

Planning Commission for Ordinance Amendments. The Planning Commission is a reviewing body for an Ordinance Amendment, while the City Council has final approval authority.

# ATTACHMENTS/EXHIBITS

# Attachments to Report:

- 1. Planning Commission Resolution No. 07-12
  - A. Draft Ordinance
- 2. Exhibit showing M-1 and M-2 zoned parcels where shelters would be allowed, considering the location requirements contained in the Draft Ordinance