



City of Santa Barbara California

PLANNING COMMISSION

STAFF REPORT

REPORT DATE: June 5, 2014
AGENDA DATE: June 12, 2014
PROJECT TITLE: Proposed Amendments to the Municipal Code Related to Emergency Shelter Zoning
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
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I. RECOMMENDATION

That the Planning Commission review proposed amendments to the Municipal Code satisfying the requirements of Senate Bill 2 (SB2) regarding emergency shelter zoning and forward a recommendation to the City Council.

II. BACKGROUND

SB2 was enacted in 2007, requiring all cities and counties in California to provide at least one zoning district which allows emergency shelters without a conditional use permit or other discretionary approval. The Housing Element must identify the zoning district(s) and demonstrate that there is sufficient land capacity to accommodate the locality's need for emergency shelters and at least one year-round emergency shelter facility.

To comply with this mandate, the 2011 Housing Element included Implementation Action H4.1 to amend the Commercial Manufacturing (C-M) zoning district to allow emergency shelters without a conditional use permit or other discretionary action within one year of adoption of the Housing Element (the one year timeline is stipulated by SB2).

However upon further review and consultation with the City Attorney, it was determined that the City already complies with SB2 as it provides multiple zones where overnight accommodations for the homeless can be developed without a conditional use permit. Overnight accommodations are allowed in the R-4 (Hotel-Motel-Multiple Residential), HRC-1 & HRC-2 (Hotel and Related Commerce), R-H (Resort-Residential), C-P (Restricted Commercial), C-L (Limited Commercial), C-1 (Limited Commercial), C-2 (Commercial), C-M (Commercial Manufacturing), OC (Ocean-Oriented Commercial), M-1 (Light Manufacturing) and OM-1 (Ocean-Oriented Light Manufacturing) zones.

On November 12, 2013, Staff presented two options to the City Council for consideration: 1) permit emergency shelters with minimal supportive services by right in existing zones where overnight accommodations are currently allowed, or 2) limit the development of emergency shelters with minimal supportive services by right to specific zones (see Exhibit A, Attachment 1). The City Council directed Staff to proceed with option 1 and prepare municipal code amendments

permitting emergency shelters with minimal supportive services by right in zones that currently allow overnight accommodations. Council also directed that the ordinance amendments be reviewed by the Ordinance Committee and Planning Commission before returning to them for final approval (see Exhibit A, Attachment 2).

On May 13, 2014, the Ordinance Committee considered draft language to the Municipal Code permitting emergency shelters by right in existing City zones that permit overnight accommodations. The HRC-1, HRC-2, R-H, OC, and OM-1 zones were removed from consideration due to unsuitability of the zone and/or Local Coastal Program (LCP) Update timing issues. The Ordinance Committee voted 2 to 1 to accept Staff's recommendation and forward the ordinance amendments to the Planning Commission for further review and refinement, before returning to the City Council for introduction and adoption.

Committee Member Hotchkiss did not vote in favor of the motion. He preferred that emergency shelters be allowed by right in a single zone (e.g., C-M zone), rather than multiple zones. Committee Members Rowse and Murillo felt it would be more advantageous to designate multiple zoning districts where emergency shelters can develop, as this approach would provide more land to meet the City's homeless need.

III. DISCUSSION

A discussion of the proposed emergency shelter zoning ordinance amendments is provided below. The draft ordinance text changes are included as Exhibit B.

Emergency Shelter Definition

The definition of "Emergency Shelter" is included in the draft ordinance amendments (28.04.273) to define the parameters of shelters with minimal supportive services pursuant to SB2. The definition is consistent with SB2 and the Health and Safety Code (Section 50801(e)) and also clarifies that emergency/homeless shelters that provide supportive services beyond those described in the definition would be required to obtain a Conditional Use Permit.

Permitted Zones

In November 2013, the City Council determined that the City already complies with SB2 requirements because there are existing multifamily and commercial zones that allow overnight accommodations. Homeless shelters provide transitional accommodations similar to hotel use and therefore can be developed without a conditional use permit in these zones. Staff has since determined that the R-H, OC, OM-1, HRC-1 HRC-2, and M-1 zones are unsuitable to satisfy the requirements of SB2 and recommends removal of these zones from the proposed ordinance amendments.

The R-H zone is specific to the El Encanto Hotel and is unsuitable because there are insufficient parcels zoned R-H to accommodate an emergency shelter. The OC and OM-1 zones currently allow hotels with a conditional use permit. Because these zones do not allow hotels by right, they would not be appropriate to satisfy the requirements of SB2. Additionally, the OC and OM-1 zones are in the coastal zone and would require Coastal Commission approval to amend the Municipal Code to allow emergency shelters by right in these zones. Moreover, the Coastal Commission has not supported residential uses in certain areas of the coastal zone due to concerns that residential uses may become the dominant use in these areas.

At the Ordinance Committee meeting of May 13, 2014, Staff further recommended that the HRC-1 and HRC-2 zones be eliminated from the ordinance amendments. Due to timing issues between the Local Coastal Program (LCP) and the requirement that emergency shelter zoning be in place prior to the submittal of the draft Housing Element to the State Department of Housing and Community Development (HCD), including coastal zones would be problematic at this time. The Ordinance Committee agreed with Staff's recommendation that the R-H, OC, OM-1, HRC-1, and HRC-2 zones be removed from the proposed ordinance amendments.

Although hotel use is allowed in the M-1 zone, this zoning district discourages residential uses and therefore could be considered incompatible with emergency shelter use. The M-1 zone was originally included in the ordinance amendments primarily due to Council's determination that emergency shelters are similar to other overnight accommodations (hotel use). However, after further review with respect to suitability of allowing residential or emergency shelter uses adjacent to heavy industrial uses, Staff recommends that the M-1 zone not be included in the proposed ordinance.

Therefore, the proposed ordinance (see Exhibit B) includes amendments to the R-4, C-P, C-L, C-1, C-2 and C-M zones allowing the development of emergency shelters without a conditional use permit, but subject to certain development and management standards as allowed by State law.

Development and Management Standards

SB2 allows the application of certain development and management standards for the operation of emergency shelters (e.g., number of beds, length of stay, parking, lighting, etc.). However, the law is clear that these standards as well as any permit processing procedure must be designed to encourage and facilitate the development of an emergency shelter and not unduly impede the operation.

Staff researched existing emergency shelters (Casa Esperanza, Rescue Mission, and Transition House) in the City to help develop reasonable and objective standards as permitted by SB2 (see Exhibit C). Based on this research, development/management standards are proposed to assist in the operation of emergency shelters. The standards discussed below are incorporated into the allowed uses section of each zone where emergency shelters would be an allowed use:

- **Capacity** – Based on the homeless need identified in the Housing Element, as well as the number of beds currently provided by existing facilities, Staff proposes that shelters developed in the R-4 zone be limited to a maximum of 50 beds, shelters located in the other identified commercial zones would be limited to a maximum of 100 beds.
- **Length of Stay** – According to the State's definition of an Emergency Shelter is limited to six months or less. A review of several local shelters found that length of stay ranged from 10 days to 120 days, with extensions available on a case by case basis. Staff proposes that the length of stay for emergency shelters with minimal supportive services be limited to six months or less.
- **Intake/Waiting Area** – Most if not all emergency shelter facilities provide intake and waiting areas. Adequate interior intake and waiting areas are necessary to reduce queuing outside or loitering in adjacent properties. Based on other jurisdictions, approximately 10 square feet of space per bed is needed to provide sufficient intake and waiting areas. The

proposed ordinance specifies that 10 square feet per bed must be provided to accommodate intake and waiting areas. In addition, these areas shall be located within the building.

- **Outdoor Area/Activity** – Most emergency shelter facilities provide outdoor gathering areas for their residents. The proposed ordinance amendments require outdoor areas that are used for gathering and activities to be screened from the public right of way and adjacent properties. Policies related to outdoor activities would be addressed in the facility's management plan (see discussion below).
- **Parking** – Off-street parking based on demonstrated need would be required for this use. However, SB2 mandates that the standard may not require more parking for emergency shelters than for other residential or commercial uses within the same zone. Consistent with other City shelter facilities, the proposed ordinance amendment would require that sufficient parking be provided based on demonstrated need identified by a parking study. Based on the parking demand of existing emergency shelters (Rescue Mission, Transition House, Casa Esperanza), Staff believes that parking for new shelters based on their demand would comply with SB2 as it would likely be less parking than that required by other residential or commercial uses in the zones where emergency shelters would be allowed.
- **Lighting** – The proposed ordinance amendments require that lighting be provided in compliance with the City's Outdoor Lighting Ordinance. In addition, the emergency shelter would be required to provide adequate on-site external lighting to ensure a safe and secure environment.
- **Concentration of Uses** – SB2 allows local governments to regulate the proximity of emergency shelters to other shelters provided that they are not required to be more than 300 feet apart. The proposed ordinance directs that no more than one shelter shall be within 300 feet of another shelter.
- **On-Site Management** – An on-site management plan would be required to address certain operational and management aspects of the shelter. The management plan addresses operational procedures and policies related to shelter uses and amenities, such as hours of operation, on-site management and security, cooking/dining facilities, laundry facilities, and outdoor gathering and activity policies. The shelter's management plan must be submitted for review with the master application and would be subject to approval by the Community Development Director.
- **Ability to Pay** – State law prohibits the denial of emergency shelter to a homeless individual or household's due to an inability to pay. The proposed amendments specify this requirement.

Conditional Use Permits

State law defines Emergency Shelter 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.*"

Proposed Section 28.04.273 defines an emergency shelter with minimal supportive services, including administrative office, intake and waiting areas, kitchen/dining facilities, and laundry facilities that are directly related to and for the exclusive use of the residents. Emergency

shelters with supportive services beyond those listed in proposed Section 28.04.273 must obtain a conditional use permit pursuant to Section 28.94.030.W. of the municipal code. This section would be amended to include emergency shelters with expanded supportive services and programs (e.g., health services, counseling, etc.) as a permitted use upon the granting of a conditional use permit.

IV. ENVIRONMENTAL REVIEW

The Final Program Environmental Impact Report (FEIR) for the *Plan Santa Barbara* General Plan Update was certified by the Planning Commission September 2010 and by the City Council December 2011. The FEIR evaluated citywide effects on the environment from growth to the year 2030 under the proposed General Plan policies (up to 1.35 million feet of net additional non-residential and up to 2,800 additional housing units).

California Environmental Quality Act (CEQA) Statutes Section 21083.3 and CEQA Guidelines Section 15183 provide that projects which are consistent with the development density established by General Plan policies and zoning for which an EIR was certified shall not require additional environmental review except as needed for project-specific effects peculiar to the project and not covered by the General Plan EIR.

To comply with SB2, the City's 2011 Housing Element identified and analyzed the C-M zone as suitable to accommodate the development of at least one additional year-round emergency shelter. It was determined to have sufficient land capacity to support an emergency shelter or shelters to meet the City's unmet need for emergency shelter beds. The Housing Element was adopted by the City Council in 2011 and certified by the State Department of Housing and Community Development (HCD) in 2012.

Subsequent to the certification of the Housing Element, City Council determined that the City meets the requirements of SB2 because multiple zones exist which allow the development of hotels that are, in effect, "overnight accommodation" uses similar to overnight emergency shelters for the homeless. Facilities that provide overnight shelter to the homeless are considered short-term, transitional accommodations similar to a hotel use.

Based on this determination, emergency shelters are considered an allowed use under the City's current Zoning Ordinance and would not involve a change in land use type or increase in development potential. The proposed ordinance amendments are primarily intended to clarify that emergency shelters are permitted in the R-4, C-1, C-2, C-L, C-M, and C-P zones where overnight accommodations are currently allowed. Therefore, the emergency shelter ordinance amendments are consistent with the development density established by existing zoning for which the Program EIR was certified.

Emergency shelters would be subject to the same development standards (e.g., lot area, height, setbacks, etc.) that apply to residential and commercial uses within the same zone. Therefore their development characteristics would be consistent with future citywide residential and commercial development identified by the General Plan and analyzed in the Program EIR. Emergency shelters would also be subject to additional development and management standards related to the number of beds, the length of stay of residents, the amount of intake/waiting area space, parking, security lighting, proximity to other emergency shelters, etc., which would further regulate the use. Based on this, the development of emergency

shelters would not result in more severe impacts than anticipated by the General Plan Program EIR.

A Statement of Overriding Considerations was adopted by the City Council for the 2011 General Plan, finding that the significant environmental effects of citywide development under the 2011 General Plan were outweighed by the benefits of the Plan and therefore deemed acceptable. The Statement of Overriding Considerations remains applicable for the proposed emergency shelter zoning ordinance amendments.

The proposed emergency shelter zoning ordinance amendments are within the scope of review for the General Plan Update and FEIR. City Staff has determined that the proposed implementing ordinance amendments for emergency shelter zoning do not trigger additional environmental review requirements for the following reasons: There are no additional project-specific significant effects which are peculiar to the proposed zoning amendments; there are no new significant effects not addressed in the prior FEIR; and there is no new information since the FEIR that would involve more significant impacts than identified in the FEIR.

Based on this analysis, no further environmental document is required for this project pursuant to the California Environmental Quality Act (Public Resources Code §21083.3 and Code of Regulations §15183- Projects Consistent with the General Plan) and the CEQA Certificate of Determination (Exhibit D). The City Council environmental findings adopted for the 2011 General Plan apply to this project. A City Council finding that the project qualifies for the §15183 CEQA determination is required.

V. NEXT STEPS

- a. Planning Commission Review/Recommendation (June 12, 2014)
- b. Council Ordinance Committee Review (if necessary)
- c. Council Introduction and Adoption (July/August 2014)

Exhibits:

- A. Council Agenda Report including Attachments, dated May 13, 2014
- B. Draft Ordinance Amendments
- C. Emergency Shelter Development/Management Standards Table
- D. CEQA Certificate of Determination