

# Agenda Report

November 18, 2013

**TO:** Honorable Mayor and City Council

**FROM:** Planning & Community Development Department

**SUBJECT: ZONING CODE AMENDMENT TO ALLOW EMERGENCY SHELTERS  
(FOR 12 PERSONS OR LESS) BY RIGHT IN SPECIFIC ZONING  
DISTRICTS**

## **RECOMMENDATION:**

It is recommended that the City Council:

1. Adopt a Negative Declaration under Section 15070 of the Guidelines for the California Environmental Quality Act (CEQA), because, based on the Revised Initial Study (see Attachment C), there is no substantial evidence that the proposed Zoning Code amendments may have a significant impact on the environment and direct the staff to file a Notice of Determination within five days;
2. Adopt the following findings of consistency for Zoning Code amendments as supported by the evidence contained in this report and in the administrative record: (1) The proposed amendment is in conformance with the goals, policies, and objectives of the General Plan, and (2) The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City;
3. Approve the amendments to the Zoning Code as outlined in this report with the additional Planning Commission recommendation that after three years, the City conduct a review of the ordinance to determine if there is still an unmet need for shelter beds and whether the ordinance should be amended; and
4. Direct the City Attorney to draft an ordinance and return within 60 days.

## **PLANNING COMMISSION RECOMMENDATION:**

On September 25, 2013, the Planning Commission recommended that the City Council adopt:

1. The Negative Declaration, the findings of consistency for Zoning Code amendments, and the proposed Zoning Code Amendments regarding emergency shelters for the homeless in compliance with applicable State law;

2. A recommendation that after three years, the City conduct a review of the ordinance to determine if the City continues to have an unmet need for emergency shelters and whether this amendment is still needed; and
3. A recommendation that as part of the three-year review cycle, the City would consider additional distance requirements for public and private schools and parks and to conduct a Citywide review to determine if allowing emergency shelters by right can be allowed in additional zoning districts.

### **EXECUTIVE SUMMARY:**

This is a proposed Zoning Code amendment that will bring the City into compliance with State law regarding emergency shelters. State law does not require that a city build emergency shelters, but requires local jurisdictions to permit emergency shelters by right, with no discretionary approval, in at least one zoning district, if the jurisdiction has an unmet need for emergency shelters for persons who are homeless. Pasadena has an unmet need of 89 beds.

The proposed Zoning Code amendments would create a new land use called *Emergency Shelter, Limited*, with specific land use standards, and would permit the use by right in two areas. The first area, called the Study Area - West, is the CD-6, the IG SP-2 (Industrial, South Fair Oaks Specific Plan). The second area, called the Study Area - East, includes the EPSP- d1-IG zoning district (see Attachments A and B, maps of both areas). The proposed new use would be limited to 12 persons per shelter.

Standards that are intended to minimize any impacts of this use are also proposed. These requirements include a separation requirement of 300 feet from other emergency shelters, and a distance requirement of 150 feet from residential zoning districts. Additional standards address issues related to: staffing, hours of operation, security, meal programs, management, waiting areas and parking. The standards for *Emergency Shelters, Limited* are designed for facilities that supplement, rather than replace, the development of shelters that offer a wider range of services.

### **BACKGROUND:**

State law requires local jurisdictions to permit emergency shelters by right, with no discretionary approval, in at least one zoning district if the jurisdiction has an unmet need for emergency shelters for persons who are homeless. The zoning districts must have sufficient capacity for shelters to accommodate the quantified unmet need.

The Zoning Code has two uses for emergency shelters. The first use is called, *Emergency Shelters*. This use is allowed through the approval of a Minor Conditional Use Permit (MCUP) in the CG, IG, and CD Districts as well as the CG and IG Districts of Specific Plan areas.

This use is not permitted in the Northwest area of the City. This use has no limitations on the number of persons or beds permitted or any specific use standards. The operational standards and the number of persons or beds permitted are set through the MCUP process.

The second type of emergency shelter allowed under the Zoning Code is a temporary emergency shelter. This type of shelter is allowed in conjunction with a religious facility and allows them to operate a shelter where homeless persons may reside a maximum of 60 days.

### Unmet Need

Under State law, the City has an unmet housing need for 318 beds for people who are homeless and not living in a shelter of any kind. However, this does not take into account several key factors as described below.

The City's approach to homelessness follows the Housing First Model because it can be more effective in addressing the needs of chronically homeless people. Under the Housing First Model, chronically homeless individuals are moved directly into permanent housing where services can be immediately provided that stabilize their living situation rather than residing in homeless shelters.

In the 2013 homeless survey, the City determined that there were 772 individuals who are homeless. Of the 772 homeless individuals, 304 are individuals who are not in emergency shelters, transitional housing or are utilizing motel vouchers. Of the 304 homeless individuals, it is estimated that 215 are chronically homeless and do not typically avail themselves of temporary shelters, but can be placed in permanent housing. Therefore, the resulting unmet need would be 89 emergency shelter beds. Accordingly, in recognition of the City's Housing First Model and so as not to undermine that Model, this proposed amendment addresses the need for 89 beds because the amendment would allow for up to 420 beds.

### **PROPOSED AMENDMENTS:**

#### New Emergency Shelter Use

To comply with State law, the proposed Zoning Code amendments would add a third use classification: *Emergency Shelters, Limited*. The use would be permitted by right, without discretionary review in the IG SP-2 and the EPSP- d1-IG zoning districts and would include standards to limit the extent of on-site activities and potential impacts on surrounding land uses. New shelters would be required to comply with the existing development standards for these districts. The proposed amendments are designed to complement both the citywide Housing First Model and also the existing provisions for emergency shelters.

The proposed additional classification would have a limit of twelve beds. At twelve beds, a shelter would be manageable by a single paid staff, with the option of volunteers as well. The number of beds per facility is sufficiently large, however, to allow dispersal of facilities within the two zoning districts, without adverse effects within the districts.

The proposed *Emergency Shelter, Limited* land use will be defined as follows:

A nonprofit facility that provides short-term lodging without a fee or rent on a first-come first-serve basis for not more than twelve persons at one time where people must vacate the facility each morning and have no guaranteed bed for the next night.

The proposed amendments would add the phrase "without a fee or rent" to the existing *Emergency Shelter* land use classification for consistency with State law.

#### Location

Two areas have been identified as the appropriate location for allowing the new use, *Emergency Shelters, Limited*. The first area (see Attachment A) is the CD-6 and IG SP-2 Districts (Study Area - West) which was identified because:

- An emergency shelter and an intake and counseling center are currently located in the area;
- A variety of health care providers are within close proximity;
- The area is well served with transit and bus lines;
- The area has a mixture of commercial and light industrial uses that would be compatible with an emergency shelter;
- Compared to the CG District, this area was large enough that *Emergency Shelters, Limited* could be located away from residential zoning districts; and
- The area is just over 114 acres (excluding streets) and has 260 lots; 49 percent of the lots are 10,000 sq. ft. or less and, 32 percent are between 10,001 and 25,000 sq. ft.; only 19 percent of the lots are greater than 25,000 sq. ft.

The second area identified was the industrial area north of Colorado Blvd. in the East Pasadena Specific Plan Area and is called Study Area - East (see Attachment B). This area was considered a logical choice because:

- It is located near medical facilities that can serve the homeless. These facilities include: Pasadena Community Urgent Care, on Del Mar Blvd., Prototypes at E. Colorado Blvd., and Pacific Clinics on E. Foothill Boulevard;
- The area is predominately light industrial uses and could accommodate the proposed use; and
- The East Area is approximately 60.71 acres (excluding streets) and has 135 lots. 57 percent of the lots are 10,000 sq. ft. or less, 28 percent of the lots are 10,001 sq. ft. to 25,000 sq. ft., and 15 percent are greater than 25,000 sq. ft.

The exception to this is the single block of Eloise Ave. just north of Colorado Blvd. This block was not historically zoned industrial until the 1960's and still retains its residential character. The recommendation is to not allow any emergency shelters on this block.

### Separation Requirement

State law allows for the City to establish a distance requirement between *Emergency Shelter, Limited* uses to a maximum of 300 feet. To minimize the potential impact of this use, the recommendation is to include this distance requirement.

### Distance Requirement from Residential Districts

The proximity of shelters to residential districts is an issue that was raised by the Planning Commission. Staff reviewed this issue by mapping the proposed areas and determining what the impact of a distance requirement would be on the potential number of sites. Staff concluded that a distance requirement could be imposed, and the City would still meet the requirement that there be sufficient sites available for emergency shelters.

Staff is proposing a distance requirement of 150 feet. This eliminates the use from locating in areas that are adjacent to residential districts. In the Study Area - West, the greater distance requirement would result in not allowing any shelters on the east side of Arroyo Parkway and along the west side of Fair Oaks Ave. from Alessandro south to the City Limits.

In the Study Area - East, the greater distance requirement would result in not allowing any shelters on a parcel that is north of Foothill Blvd. This is owned by the State as part of the 210 Freeway.

Further legal research after the Planning Commission meeting shows that State law limits the types of standards that can be placed on emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone, with minor exceptions such as the separation requirement discussed above. It is permissible to impose the distance requirement from residential districts primarily because such a requirement does not restrict the ability of the City to accommodate its unmet need, and because select other developments within the same zones are also subject to residential distance requirements.

It would likely be a violation of State law to impose additional separation requirements, such as additional distance requirements for public and private schools. Doing so would be imposing a requirement on emergency shelters that does not exist for other development in the same zones, and would impact the City's ability to accommodate its unmet need. For these reasons, staff does not recommend that the Council adopt the Planning Commission's recommendation to consider additional distance requirements from public and private schools.

### Theoretical Number of Sites

Staff mapped the number of theoretical sites that would result from the proposed 300-foot separation requirement and the addition of a 150-foot distance requirement from residential districts. The purpose of this mapping is to demonstrate that there are potential sites in these areas. In the Study Area - West, (Attachment D) this would result in a maximum theoretical number of 24 sites. In the Study Area - East, (Attachment E) it would allow a maximum of 13 sites. With the removal of the block of Eloise Ave. in the Study Area - East (two sites), the citywide theoretical number is 35 sites. Thirty-five sites would allow a maximum of 420 beds where 89 beds are the City's unmet need. As proposed, this amendment will meet State law requirements.

### Operational Standards

The following standards are proposed for *Emergency Shelter, Limited* land uses. These are intended to ensure compatibility and require that services are provided to patrons of the shelters and are the result of discussions with existing emergency shelter operators. They are designed to ensure a facility would not create excessive activity, especially outside the hours of operation on neighboring uses. The provisions concerning storage areas or lockers and outdoor waiting areas are intended to bring the activities of homeless persons within the shelter, rather than encouraging people to linger immediately outside.

The operational standards include a limitation on the hours that clients could be admitted. This would be from 7 am to 10 pm in order to minimize impacts on adjacent uses.

1. Lodging and meals shall be provided only for clients, paid staff and volunteers;
2. At least one paid staff shall be present whenever clients are present;
3. A storage area or a locker of eight square feet shall be provided for each bed;
4. Parking will be required at one space for every four beds (the same parking as full shelters);
5. Outdoor waiting areas are not allowed;
6. Parking areas shall have lighting to provide security for clients, visitors and employees;
7. Staff and counseling services shall be provided to assist clients in obtaining permanent housing and a source of income;
8. Temporary shelters shall be available to clients for no more than six continuous months;
9. The provider shall have a written management plan subject to the review and approval of the Zoning Administrator. It shall include provisions for staff training, neighborhood outreach, security, screening of clients to ensure compatibility with proposed services provided, counseling (particularly for assisting in finding

permanent housing), training and treatment programs for clients, and an exit strategy; and

10. A refuse storage area shall be provided in accordance with the Zoning Code.

**PLANNING COMMISSION RECOMMENDATION:**

The Planning Commission in addition to recommending approval of this code amendment approved a recommendation that after three years, the City will evaluate the need for this Zoning Code amendment as it relates to the unmet need for shelter beds. If there is no longer an unmet need, the City could modify or repeal this amendment. Staff supports having this review in three years.

Additionally, the Planning Commission requested that in the three year review, consideration be given to requiring Emergency Shelters to have a specified distance requirement from private and public schools and parks, and staff conduct a Citywide review to determine if allowing emergency shelters by right can include additional zoning districts. Staff does not support this recommendation for two reasons. First, state law appears to prohibit such a distance requirement, as discussed above. Further, the unmet need for shelter beds is 89, and any additional distance requirements would eliminate additional sites and make it more difficult to meet the State's requirements.

Second, including additional zoning districts would impact residential districts. A review of the various zoning districts was performed as part of this amendment. When this amendment was initially proposed, the Planning Commission asked staff to further review other zoning districts. These districts were chosen because locating emergency shelters in these districts minimized impacts on residential districts. Other districts adjoined residential districts.

**PROPOSED GENERAL PLAN:**

In 2013, the Council directed staff to study the environmental impacts of a draft land use diagram, caps and land use policies. For Central Pasadena, changes to the Study Area - West are proposed. This area will have a greater mixture of uses that will include housing around the Fillmore Light Rail Station. It is proposed to have a maximum FAR of 3 and allow a maximum of 800 housing units.

The Study Area - East is proposed to be relocated into the E. Colorado Specific Plan. The area is envisioned to be a research and development area that would allow a wide variety of commercial, office, and light industrial uses, but not permit residential uses. It is proposed to have a FAR of 1.25.

**FINDINGS:**

The Code requires that prior to the approval of a Zoning Code Amendment, the following findings must be made:

1. The proposed amendments are in conformance with the goals, policies, and objectives of the General Plan in that they are consistent with, among others, Objective 13 of the Land Use Element, to “provide adequate support for business and institutions that serve the needs of Pasadena’s diverse residents, including...shelters...” In support of the objective, Policy 13.4 states: “Ensure in the land use planning process that future needs will be met, such as meeting the expanding need for adult day care facilities, and meeting the need to locate services near transportation.” Further, the 2008-2014 Housing Element of the General Plan includes a program (16.D), with an objective to amend the Zoning Code to permit emergency shelters by right, with objective development standards to facilitate, encourage, and regulate shelters, in IG and CD-6 and/or other districts. The proposed Zoning Code amendments implement the Housing Element program objective and are thus consistent with the Housing Element and other adopted General Plan elements.
2. The proposed amendments would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City, because they permit a land use, with standards for the operation of the use, that provides overnight accommodations for homeless persons who would otherwise sleep in public places and that provides opportunities for homeless persons to initiate a transition from homelessness. The amendments will not change any development standards such as height, setbacks or floor area that could impact adjacent properties.

#### **ENVIRONMENTAL ANALYSIS:**

Under Article 6, Section 15070 of the Guidelines for the California Environmental Quality Act (CEQA), a Negative Declaration may be prepared and proposed when the Initial Study shows there is no substantial evidence that the project may have a significant impact on the environment. The proposed Zoning Code amendments establish a new land use classification and standards for the land use, to be permitted in three zoning districts, but the project under CEQA does not include identification of specific sites or proposed development projects. As analyzed in the revised Initial Study (Attachment B), it will not have a significant impact on the environment.

#### **COUNCIL POLICY CONSIDERATION:**

The City has adopted a 10-Year Strategy to End Homelessness. The goal of this Strategy is to locate homeless persons in permanent housing so that they are not on the street. This proposed amendment fits into this strategy because it requires operators of shelters to develop a case plan to move homeless clients into permanent housing.

State law now requires local jurisdictions to permit emergency shelters by right, with no discretionary approval, in at least one zoning district, if the jurisdiction has an unmet need for emergency shelters for persons who are homeless. The zoning district or districts must have sufficient capacity for shelters to accommodate the quantified unmet need. Pasadena’s 2008-2014 Housing Element includes Program 16.D, Sites for

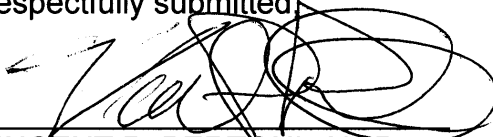


Emergency Shelters, with the objective of amending the Zoning Code to address the State law requirement.

**FISCAL IMPACT:**

The adoption of the Homeless Shelters Zoning Code Amendment will not result in a specific fiscal impact as the inventory creates a database related to emissions.

Respectfully submitted,



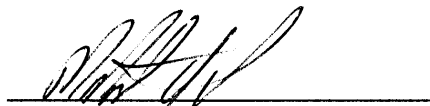
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Attachments:

- Attachment A - Map of Study Area - West
- Attachment B - Map of Study Area - East
- Attachment C - Initial Study
- Attachment D - Shelter Analysis - Study Area - West
- Attachment E - Shelter Analysis - Study Area - East