

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. 2013-09 File No. _____

Ord No. _____

Agenda Item No.: _____

Date: October 23, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Barbara J. Redlitz, Director of Community Development

SUBJECT: Amendment to the Zoning Code to Allow Emergency Shelters as a Permitted Land Use in a Portion of the M-1 Zone (AZ 13-0006)

STAFF RECOMMENDATION:

It is requested that Council adopt Ordinance No. 2013-09 approving the amendment to the Zoning Code in order to comply with Senate Bill 2 pertaining to emergency shelters.

PLANNING COMMISSION RECOMMENDATION:

On September 24, 2013, the Planning Commission recommended approval of the proposed Zoning Code Amendment (5-1; Spann voted no and Winton was absent), with the direction to evaluate other areas in the community for establishing the Emergency Shelter Overlay that are closer to appropriate services, and to remove this area from the Overlay once another area is approved by separate ordinance.

PROJECT DESCRIPTION:

An amendment to the Zoning Code establishing Article 27 involving a zoning overlay to allow emergency shelters as a permitted use within a 74-acre portion of the Light Industrial (M-1) zone, and to establish appropriate development standards, including amending Article 39 regarding parking requirements. *There are no pending plans to operate an emergency shelter within the proposed overlay or elsewhere in the community.*

LOCATION:

Approximately 74 acres generally located on the northern and western sides of Country Club Drive, north of Hill Valley Drive currently zoned M-1 (Light Industrial).

FISCAL IMPACT:

None. State law does not require jurisdictions to purchase, construct, manage or finance emergency shelters.

GENERAL PLAN ANALYSIS:

Escondido’s Housing Element, a required component of the General Plan was found in compliance by the State Department of Housing and Community Development (HCD) and adopted by the City Council on December 12, 2012. The Element assesses the housing needs of all economic segments of the community and includes goals, policies and programs for resolving those needs. The Element’s implementation program requires a Zoning Code amendment to allow emergency shelters by right, in compliance with State Senate Bill 2. The proposed amendment is consistent with the General Plan since the proposed overlay area implements the Emergency Shelter Overlay area identified in Appendix C of the Housing Element.

ENVIRONMENTAL REVIEW:

In accordance with CEQA Section 15061(b)(3), “General Rule,” a Notice of Exemption was issued on September 3, 2013. The project (Zoning Code Amendment) will not impact the environment; therefore, the project is not subject to CEQA. Future applications to establish an emergency shelter at a specific location will be subject to separate environmental review. The zoning code amendment implements policies of the adopted Housing Element and associated Environmental Impact Report.

SENATE BILL 2 SUMMARY:

State Senate Bill 2 (SB 2), which requires jurisdictions to identify zoning categories for emergency shelters to locate without discretionary review, was enacted in October 2007. An emergency shelter is a year-round shelter for the homeless providing minimal supportive services onsite. The identified zone must have sufficient capacity to site at least one shelter to accommodate the city’s share of the regional unsheltered homeless population, which is determined to be 172 persons based on a ‘point-in-time’ census conducted mid-week in January 2013. Most cities in the region have already amended their codes to achieve compliance with SB 2 as identified in the following representative list:

JURISDICTION	AREA PERMITTED FOR EMERGENCY SHELTERS
Carlsbad	Planned Industrial and Industrial Zones*
Del Mar	North Commercial Zone ⁺
Encinitas	Light industrial Zone*
Irvine	Multi-Family & Transit Oriented Development Zones
Murietta	Park and Civic / Institutional Zones
Oceanside	Light Industrial Zone*
Poway	Apartment Zone ⁺
San Marcos	Light Industrial Zone
Santee	Industrial Zone
Solana Beach	General Commercial Zone ⁺
Temecula	Medium and High Density Residential Zones
Vista	C-2 Commercial Zone
*Jurisdiction seeking Housing Element approval from HCD	
⁺ Jurisdiction Housing Element approved by HCD; emergency shelter code provisions currently pending	

While SB2 requires emergency shelters to be permitted by right, it does allow jurisdictions to apply objective, specific development standards including maximum number of beds; off-street parking; size and location of exterior and interior waiting areas; provision of on-site management; proximity to other shelters; length of stay; lighting and security. Cities have up to one year from adoption of their Housing Element to comply with the law.

BACKGROUND:

In preliminary drafts of the Housing Element, staff proposed that the Emergency Shelter Overlay be located in the HP (Hospital Professional) zone, generally east of Downtown's Palomar Hospital, south of Valley Parkway, north of Grand Avenue, and west of Ash Street. The City Council directed staff to review alternative areas in the industrial zone and authorized the currently proposed overlay for inclusion in the Housing Element. Land use criteria established by the state for siting emergency shelters exclude heavy industrial areas and zones that permit the use of hazardous materials. Additionally, proximity to transit is evaluated to assure clients have access to transportation for receiving services elsewhere in the community.

Based on City Council direction and HCD's criteria for siting emergency shelters, properties zoned M-2 (heavy industrial) and within the city's Hazardous Chemical Overlay zone (which includes M-1 and M-2 zoned areas) were not considered in selecting the overlay area. Staff worked extensively with HCD to address their concerns regarding the proposed overlay's size and location before the state ultimately approved the draft Housing Element as compliant with SB 2. A map of the proposed overlay and an evaluation of the area were included in the Housing Element that was presented to the City Council for adoption on December 12, 2012.

PROPOSED AMENDMENT AND ANALYSIS:

The proposed Emergency Shelter Overlay is near the new hospital and the Nordahl transit station, which provides convenient bus and rail access to existing services elsewhere in the community. Article 27 proposes specific standards to address length of stay, parking, number of beds, and separation of facilities. As part of the administrative application a management plan would be required for emergency shelters that include site-specific details of the operating characteristics including on-site management, contact information, security, hours of operation, screening of residents, services provided and waiting areas.

Future proposed shelters will be limited to a maximum number of 50 beds. Other area jurisdictions allow a maximum number of beds per shelter ranging from 25 to 60, although most allow a maximum of 50. The length of stay of individuals in a particular shelter will be limited to six months, as that is the definition of an emergency shelter in SB 2. Shelters will also be required to have a minimum separation between facilities of 300 feet, the maximum permitted by state law.

An amendment to the Off-Street Parking Ordinance (Article 39) is proposed requiring that emergency shelters provide a ratio of one parking space per shelter employee, volunteer, service provider and non-client on-site during peak periods, plus one space per three beds, which is consistent with other jurisdictions' parking standards for emergency shelters. Storing non-operational vehicles and sleeping in vehicles on-site will not be permitted.

PLANNING COMMISSION DISCUSSION:

The Planning Commission voted 5-1 (Spann voted no, Winton was absent) to recommend approval of the Zoning Code Amendment as a temporary solution on September 24, 2013. Overall the commissioners opposed the state mandate, but expressed concern that not adopting any overlay would render the Housing Element non-compliant, forcing the city to accept emergency shelters without any operating standards. A majority of the Commissioners did not feel that emergency shelters were appropriate in the M-1 zone and felt that the CG (General Commercial) zone would make a better location. Commissioner McQuead also felt that the proposed site was too close to adjacent residential areas. Their recommendation included a request that staff identify and evaluate other areas in the community closer to appropriate services and remove this M-1 zoned area from the overlay once another area is designated.

PUBLIC COMMENT:

Several written communications have been received opposing the proposal (attached); including 41 form letters signed by residents of an adjacent San Marcos mobile home park (one letter is attached, while the others are in the City Council reading file). One letter from Interfaith Community Services expresses concern that the number of Escondido's unsheltered homeless is under-represented and that the development standards are burdensome.

Seventeen members of the public spoke at the hearing primarily comprising industrial business owners, industrial property owners and nearby residents. Business owners opposed the amendment citing potential crime concerns and that shelters would deter new businesses from locating nearby. In addition, they felt that the existing conditions in the industrial area, including machinery and traffic, could be dangerous to homeless residents, including children. Nearby residents expressed concern regarding reduced property values and personal safety.

An Interfaith Community Services representative commented on the vulnerability of unsheltered homeless persons, and that shelters do not pose a danger to the community. He also indicated that shelters do not attract the homeless from outside the community because all jurisdictions are required to accommodate homelessness within their own boundaries. He also indicated that the proposed parking standards, maximum number of clients, and separation requirements are excessive.

CONSEQUENCES FOR NOT ADOPTING AN EMERGENCY SHELTER OVERLAY

The City's Zoning Code will become inconsistent with the City's General Plan – Housing Element after December 12, 2013 if an emergency shelter zoning overlay is not adopted on or before this date. As a result, the Housing Accountability Act, Govt. Code § 65589.5, *would preclude the City from disapproving any emergency shelter in any industrial, commercial, and/or multi-family zone* without making express findings that would be very difficult to assert. Without the proposed zoning amendment, an emergency shelter could open without any of the operating standards prescribed in the proposed Article 27. The State Housing Law also allows an emergency shelter applicant or any person who would be eligible to apply for residency to bring a lawsuit to enforce the Housing Accountability Act and authorizes fines and fees to be awarded against the local agency if a violation is found.

POSSIBLE COURSES OF ACTION:

- 1) Adopt Ordinance No. 2013-09 approving the amendment to the Zoning Code in order to comply with Senate Bill 2 (staff recommendation).

Note: This would establish standards for emergency shelters and ensure the city's compliance with state law within the timeframe established in SB 2. If the City Council directs staff to seek alternative locations the city council could re-evaluate the status of the adopted overlay zone.

- 2) Adopt Ordinance No. 2013-09 approving the amendment to the Zoning Code in order to comply with Senate Bill 2, and direct staff to expand the overlay zone to other M-1 zoned areas or a combination of zones subject to additional public hearings.

Note: Expanding the overlay zone would disperse potential locations for siting emergency shelters throughout the city thus reducing the potential for over-concentration. In response to inquiries regarding other potential M-1 zoned areas staff identified additional locations that appear to meet HCD requirements (see attached map).

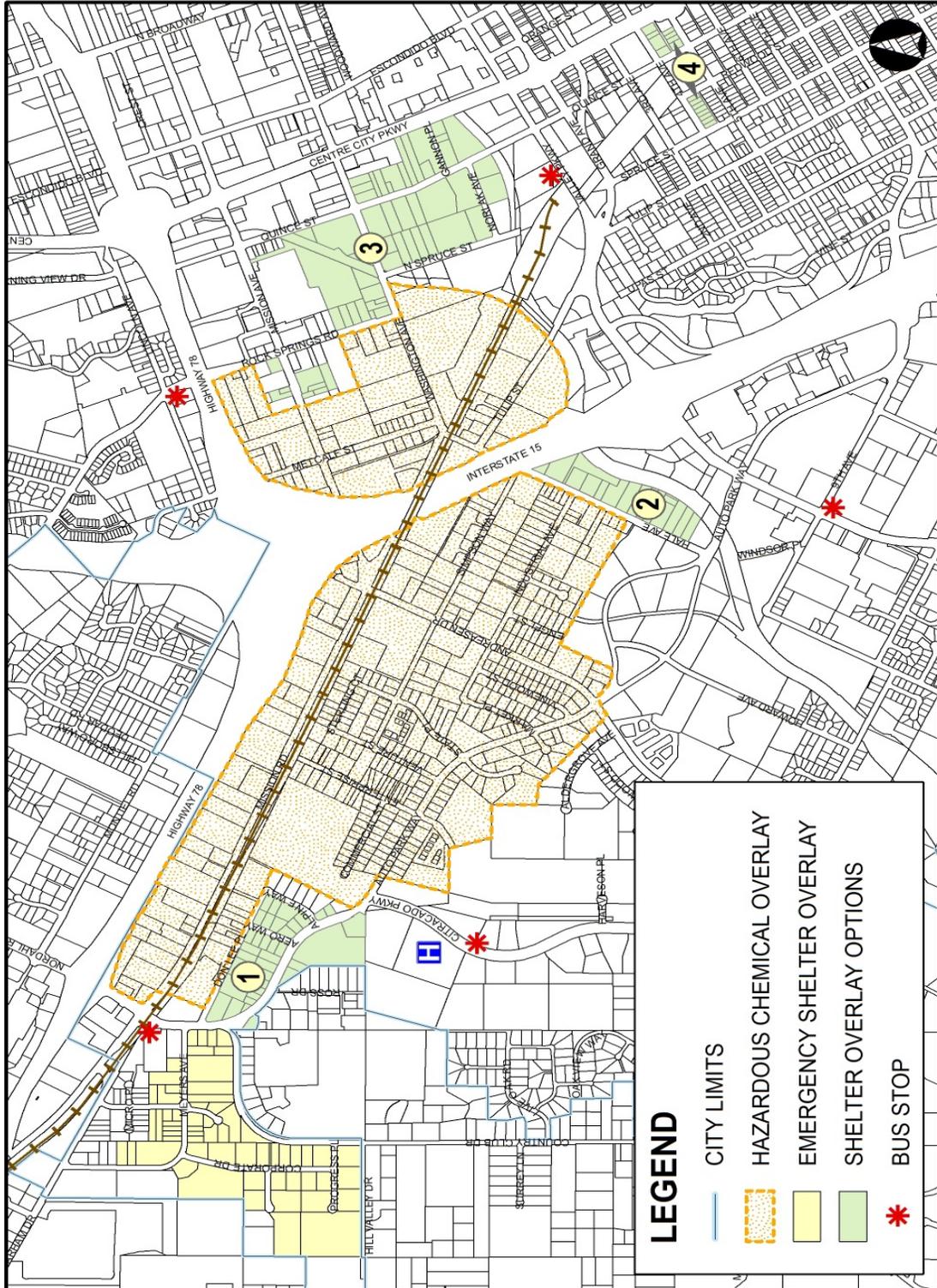
- 3) Adopt Ordinance No. 2013-09 approving the amendment to the Zoning Code in order to comply with Senate Bill 2, and direct staff to identify alternative area(s) for siting emergency shelters subject to additional public hearings (Planning Commission recommendation).

Note: An entirely new overlay area could be adopted provided it meets HCD requirements. The state would *not* need to affirm the alternate area(s) but the city would need to demonstrate the area's appropriateness *and* amend the Housing Element. If the Council desires an alternative area for establishing the emergency shelter overlay staff is seeking explicit direction on area(s) to evaluate for consideration.

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EMERGENCY SHELTER OVERLAY OPTIONS