

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Work Session: Homelessness Project Siting Discussion Follow-Up

Meeting Date: December 10th, 2012
Department: Planning & Development
www.eugene-or.gov

Agenda Item Number: 7
Staff Contact: Michael Wisth
Contact Telephone Number: 541-682-5540

ISSUE STATEMENT

The City Council is considering the possibility of implementing a pilot project of small scale, temporary housing for the homeless on City-owned property. On October 31, the council directed staff to develop a revised list of sites based on ownership, size and infrastructure criteria. A more thorough analysis of five sites was distributed in the November 15, 2012 packet. The analysis outlined potential state and local land use, building code and fire safety issues for such a project.

This work session is an opportunity for the City Council to discuss the site analysis and next steps in considering a pilot project of small scale, temporary housing for the homeless.

BACKGROUND

Following the commencement of the Opportunity Eugene Task Force, the council began a conversation exploring possibilities of developing a safe and secure place for homeless people in addition to existing services. Over the course of several meetings related specifically to this topic, the council directed staff to prepare an informational list of City-owned sites that met the following criteria:

- one acre or greater in size
- Within ¼ mile of transit service
- Excludes parks

On October 31, 2012, City staff met with the council to discuss the analysis leading to a list of sites for a potential pilot project for homeless individuals. Staff produced an analysis that listed six sites meeting criteria established by the council. The council asked staff to continue analysis of five of these sites for a more detailed analysis of regulatory and safety issues. Following that meeting, staff provided the council a memo outlining state and local land use regulation, building code and fire safety issues related to an as yet undefined homelessness project site concept.

On November 21, in recognition that the pilot project would not provide immediate winter solutions, the council approved \$225,000 of one-time funding to bolster existing services in advance of the winter season.

This work session presents an opportunity for the council to further the discussion regarding the selection of a City-owned site and addressing potential land use, building code and fire safety issues. Staff with expertise in these areas will be available during the work session to answer questions related to these issues.

This work session also presents an opportunity to continue discussions related to the site concept and explore other site-related issues. Some questions the council may wish to consider include:

1. Should the council hold a public hearing/forum or other City-sponsored neighborhood outreach on (a) whether the City should move forward with a pilot project for a small scale, temporary housing project for homeless individuals on a City-owned site, and if so, (b) one or more of the City-owned sites on the list of five sites? [If the answer to this question is yes, staff will schedule a public hearing/forum in January.]
2. Is there additional information (beyond potentially hearing from the public) that the council wants before deciding whether the City should move forward with the pilot project or a particular site? If so, what is that information?
3. If the council does not want to hold a public hearing/forum and does not need additional information, does the council want to move forward with a pilot project?

If the answer to question 3 is yes, then:

4. On which site should the pilot project be located?
5. Should staff develop for council review an RFP to solicit proposals from interested parties, in addition to the OVE proposal, or alternatively, does the council want to select OVE and its idea for the pilot project?
6. Should staff develop for council review an RFP to solicit proposals from interested parties, in addition to the OVE proposal, or alternatively, does the council want to select OVE and its idea for the pilot project?

COUNCIL OPTIONS

The council has a number of options to consider and the suggested questions are intended to help frame the conversation and develop a preferred option. The options and City Manager's recommendation are developed based on two possible scenarios:

1. The council has adequate information and is prepared to move forward with a pilot project on a preferred site(s); or
2. The council needs more information to determine whether to proceed with the pilot project and what site(s) should be selected.

CITY MANAGER’S RECOMMENDATION

Under scenario 1: Adopt a motion selecting one or two preferred sites and direct staff to return in January with (a) additional site information (if council chooses more than one preferred site), and (b) proposed criteria and process (such as an RFP) in order to implement the project.

Under scenario 2: Identify additional information and/or process that the council needs (in order to make the decisions), and staff will return in January with the additional information.

ATTACHMENTS

A. Site Analysis Memo to Council November 15, 2012

FOR MORE INFORMATION

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MEMORANDUM

Date: November 15, 2012
To: Mayor Piercy and City Council
From: Peggy Keppler, PWE
Subject: Potential Sites (map attached) for Temporary Transitional Housing Shelters

I. Council Motion

The following information is being provided in response to the two motions made by Councilor Brown at the October 17, 2012 meeting.

Motion 1 to direct the City Manager to return on Oct. 31 with a list of potential sites that could be leased to a non-profit to establish a pilot project for temporary transitional housing shelters for approximately 30 adults and their accompanying children. With exception of Park properties, the list should include City- controlled properties that are 1 acre or larger.

The list should:

- Indicate if there are buildings onsite that could be utilized.
- Indicate access to public transportation and bike paths.
- Indicate whether the site has utilities or not.
- Include properties that are underutilized and not routinely used for community events.

Motion 2 to direct the City Manager to return on Oct. 31 with an explanation of the legal requirements for establishing a pilot program for unhoused families with children as referenced in Motion 1. The information should address state and local ordinances, codes, zoning laws and all other legal requirements.

Council also directed staff to provide additional information on the following five potential sites for temporary transitional housing shelters.

Location and Background

Site No.	Map/Lot	Background	Environmental Risks
1	1703284001000 Commons Drive & S. Garden Way	While identified as right of way (proposed roadway), the site is used by EWEB. There are no structures or utility services on site.	This site is also located in FEMA Flood Hazard Zone X5 ¹

2	1703284000400 Near Commons Drive & S. Garden Way	While identified as right of way (proposed roadway), the site is used by EWEB. There are no structures or utility services on site.	This site is partially located in FEMA Flood Hazard Zone X5 ¹
3	1703283001600	This site is listed under joint ownership is EWEB & City and identified for Water Pipeline Use. No structures exist on the site, but it is heavily covered with overhead electric lines.	This site is located in FEMA Flood Hazard Zone X5 ¹ and AE ² And, some areas have 20' and 40' protected water quality setbacks requirements.
4	1704253000200 111 N. Garfield	This site was purchased for \$1,221,925 in 2002. The master plan for PW Maintenance identifies this area for future Fleet Facilities The site was previously improved as a Mobile Home Park with 33 spaces. Following acquisition, the city spent \$75,000 clearing and preparing the site for the future maintenance expansion. The on-site utility services were also removed. It is currently fenced and being used as storage, overflow parking, and training purposes.	This site is not identified as a DEQ Clean-up Site, but several properties around it are identified. Also, the site has 3000 sq.ft. leased for cell tower use.
5	1704364210400 13 th Ave. & Chambers St.	This site was purchased in 1946 for \$25,000. The Envision Eugene recommendation includes re-designating this site to multi-family housing for a future affordable housing development.	This site is identified as a DEQ Clean-up site and requires additional investigation

¹ Areas of 500-year flood, areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile, and areas protected by levees from 100-year flood.

² Areas of 100-year flood, base flood elevations determined.

II. Potential Risks & Liability

A question was asked about the City's potential liability for temporary transitional housing shelters operated on City property. While specifics regarding potential City liability will depend on the particulars of a site and the nature of the shelter operations, the question of potential liability can be broken down into three different categories; before shelter establishment, during shelter operations, and after shelter disbandment.

Before the shelter is established, if land use actions are taken to establish the shelter, the City's actions could be appealed to the Land Use Board of Appeals; the liability to the City would be the cost to defend its actions. Even if land use actions are unnecessary for shelter establishment, someone could challenge the City's action of establishing the shelter through a circuit court action, creating a similar liability to the City of defense costs.

During shelter operations, the City is potentially liable for code violations (such as building code or fire code violations), behaviors at the shelter that result in personal injuries or property damage, and damages or costs related to violations of state statutes such as state environmental laws (for example, if someone undertakes car repair and spills or dumps car oil into the environment). While the extent of the City's potential liability will depend on the nature of the claim, in order to protect the City against this legal risk, the City could require the operator of the shelter to obtain an

insurance policy in an amount sufficient to protect the City against anything occurring at the site.

Lastly, if/when the shelter is disbanded, the City could be liable for cleaning up the site. Depending on how the shelter operated, site cleanup could be a small or a substantial liability. To protect the City against this possibility, the City could require the shelter operator to provide the City with a type of performance-bond/security to insure that site is properly cleaned up after shelter disbandment.

III. Land Use Approval and Public Process

The broad purpose of zoning regulations is to protect and promote the public health, safety and welfare, and to provide the economic, social and environmental advantages which result from an orderly, planned use of land resources. Zoning’s origins result from a need to prevent unsafe uses next to each other, such as a heavy industrial use abutting a residential use. Land in Eugene is zoned to provide areas suitable for certain types of development. Each zone provides a set of regulations governing the uses, lot size, building setbacks, height and other development regulations in order to ensure the use is suitable for the site. Zoning regulations are provided in Chapter 9 (Land Use Code) of the city’s Municipal Code.

Transitional housing for the homeless as stated in the Council motion could take different forms. The options generally range from housing within existing or new buildings and including other supportive activities to simply a group camping site (tents or vehicles). Options for both ends of the spectrum are analyzed regarding which broad zoning categories allow the proposed use.

A. Allowance of Transitional Housing within the Land Use Code

Existing Land Use Requirements

Transitional housing for the homeless, with existing or new buildings, may be accommodated in certain zones in accordance with the Chapter 9 definition of a “Homeless Shelter,” which states:

“Homeless Shelter”: A non-profit or public agency providing food, temporary housing, clothing and other support services primarily for adult, transitory individuals.

Zoning and Zoning Requirements

Site No.	Base Zone	Overlay Zone	Zone Requirements for Siting Homeless Shelter
1	S-CN/PL Chase Node Special Area Zone, Public Land Subarea	-	Conditional Use Permit
2	S-CN/PL Chase Node Special Area Zone, Public Land Subarea	WQ, Water Quality	Conditional Use Permit Use of the site is restricted within water quality buffer area
3	S-CN/PL Chase Node Special Area Zone, Public Land Subarea Use	WQ, WR Water Quality, Water Resources	Conditional Use Permit Use of the site is restricted within water quality and water resource buffer areas
4	I-3, Heavy Industrial	-	Conditional Use Permit
5	PL, Public Land	-	Conditional Use Permit likely required; a portion of the site is within 300' of

			residentially zoned land.
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Public Process for Conditional Use Permits

For all five sites, a conditional use permit is required for a homeless shelter; the application process for a conditional use permit trigger several opportunities for public input and review of applicable development requirements.

- Prior to the submittal of conditional use permits, a pre-application conference between the applicant and neighborhood is required. Notification of the meeting must be sent to all properties within 300' of the subject property. The applicant shall provide a site plan of their proposal for the meeting.

- Excluding the time for which the application materials are prepared, a conditional use permit typically takes 4-6 months³ to process, including any appeal. The process includes:
 - A public hearing with a Hearings Official
 - Notification of the hearing to those within 300' of the subject property
 - The decision is appealable to the Planning Commission
 - A public hearing with the Planning Commission if appealed
 - Deliberation and action by the Planning Commission (final decision)
 - An enforceable performance agreement, signed by the applicant and the city, assurance construction and performance in accordance with the approved final plans.

³ This estimate is for the land use application process timeframe only; a building permit may still be needed and add additional time.

- Conditional use permits include several approval criteria that address special considerations such as the effect a use might have on adjoining land and the operating characteristics of the use. The approval criteria cover such areas as:
 - Compatible location, size, design, and operating characteristics
 - Convenient and functional living, working, shopping or civic environment
 - Adequate and safe circulation
 - Impacts to natural resources
 - Adequate public facilities and services (such as utilities and streets)
 - Risk to public health and safety
 - Other applicable development standards

Amend Land Use Requirements for Transitional Housing Shelters

Alternatively, the Council may choose to amend the land use code to address this specific use through a set of specialized provisions that better reflect the unique elements of a transitional housing proposal. This could include the specific development standards, allowed uses/activities and required public process for review of the project. For example, the conditional use permit process identified above does not afford the city council any input on the application. This option would allow the council to determine the appropriate decision authority. This option would require amending the land use code to establish these new provisions. A land use code amendment would take a minimum of 4 months. This would include a public hearing before the Planning Commission as well as a action/recommendation to the City Council. City Council would then hold its own public hearing followed by action on the proposed ordinance. Additional review time needed would be dependent on the type of new process that is established by the Council.

B. Allowance of Group Camping for Transitional Housing in the Permitted Overnight Sleeping Ordinance

Existing Overnight Sleeping Requirements

Another option may be relevant if the use was limited to group camping rather than a more comprehensive transitional housing use. Currently no large, group overnight sleeping is permitted at this time in the zoning code⁴ or in the Permitted Overnight Sleeping section of Chapter 6. The table below indicates the existing limitations in the Permitted Overnight Sleeping section. However, the Permitted Overnight Sleeping section could be amended to allow group camping for this purpose. Following are the existing requirements for overnight sleeping (camping).

Existing Code Requirements for Overnight Sleeping

Zoning	Siting requirements	Limit on number of sleeping
Any	Parking lot of a: <ul style="list-style-type: none"> • religious institution, • place of worship, • business or public entity that owns or leases property 	3 vehicles ⁵ at one time
Any	Paved or graveled surface located on a vacant or unoccupied parcel	3 vehicles ⁵ at one time
Residential	Back yard or driveway of a single family residence	1 family in a vehicle, camper or trailer. 1 tent or camping shelter in the backyard only

⁴ Camping is permitted as lodging in the Park, Recreation & Open Space zone but only when directly related to a special event.

⁵ In these instances, overnight sleeping is permitted in a vehicle, camper or trailer. Overnight sleeping is also permitted in a tent until April 15, 2012.

Amend Permitted Overnight Sleeping Requirements

Allowing larger groups of vehicle or tent camping would require an amendment by ordinance to the Permitted Overnight Sleeping Ordinance in Chapter 4. Per the Eugene Charter, the ordinance adoption process includes a public hearing and notification to the public through posting a notification on the City website and in the newspaper.

IV. Buildings/Structures Approval

The State of Oregon adopts building codes to safeguard the health, safety and general welfare of occupants and users of buildings and other structures. The codes establish minimum standards of construction to ensure safety to life and property from fire and other hazards associated with the built environment, and to provide for adequate structural strength, healthy interior environment, sanitation, energy conservation and accessibility. No particular class or group of persons benefits any more or less from the provisions of the codes, all are provided equal protections. The Oregon building codes are adopted for uniform application across the state, and the City administers the codes within the city limits and UGB.

Existing buildings on the sites

With one exception, there are no existing buildings located on the identified sites.

The N Garfield site has an existing building that was previously approved to be used for storage. It could be used as a storage building for the residents of a transitional housing facility with no need for additional approvals. There may be some potential for the building to be altered to include shared toilet, shower, laundry or cooking facilities, offices, or a small meeting space. Any such alteration would have to comply with applicable building code requirements and be done with permits. Use of the building for housing/sleeping would require significant alterations and expense, most notably for the installation of a fire sprinkler system, construction of physical fire-resistive separations between sleeping areas to prevent the spread of fire, and installation of thermal insulation.

Building code requirements for new construction

New buildings could potentially be constructed on any of the sites to be used for transitional housing accommodations. However, conditions on sites #2 (1703284000400) and #4 (1703283001600) may make construction more challenging and costly. Both sites 2 and 4 have inadequate water available (hydrants) for firefighting, and limited or no access currently for fire and EMS vehicles. *See* Emergency Services comments below. Site 4 is located within the 100-year flood area, and buildings constructed there would be required to be elevated above flood levels or otherwise designed to resist damage from flooding.

The Oregon state specialty codes and the fire code (i.e., “Building Codes”) regulate construction of structures on public or private property. All structures built to provide housing and all associated/shared structures, whether the structures are temporary or permanent, must comply with the Building Codes. The Building Official has some local administrative authority to allow alternate methods of construction that may be appropriate for transitional housing accommodations but are not specifically prescribed in the codes, provided that safety is maintained and the intent of the codes are met. As an example, the building code prescriptively requires that buildings be secured to a foundation or otherwise anchored to prevent movement. However, it may be possible to administratively allow portable or moveable transitional housing structures if they have no connections to utilities, are structurally sound, and could experience some lateral movement without causing any damage or hazard.

The Building Codes that would typically apply to the construction of residential structures and associated shared facilities may not provide the flexibility that is needed to construct the desired temporary transitional housing shelters. There is a state statute specifically governing the construction of transitional housing accommodations that offers some flexibility regarding application of the Building Codes.

Pursuant to ORS 446.265, a municipality can allow someone to establish (subject to certain limitations and requirements) transitional housing accommodations for persons “who lack permanent shelter and cannot be placed in other low income housing.” In accordance with this state statute, the transitional housing accommodations may consist of separate facilities for use as living units by one or more individuals or by families and may provide access to water, toilet, shower, laundry, cooking telephone or other services through separate or shared facilities. State statute requires that the accommodations provide parking facilities and walkways. If transitional housing accommodations and associated facilities are provided pursuant to ORS 446.265, some of

the residential building code requirements are relaxed for individual living units. For example, instead of constructing traditional living units, if proceeding under ORS 446.265 for the provision of transitional housing, the individual living units could be yurts or similar structures.

V. Emergency Services Access and Water Supply

General Eugene Fire Code (EFC) Requirements

EFC 503.1.1 requires that an approved fire apparatus access road be provided to within 150’ of all portions of a building or facility. This would require an access road to within 150’ of all portions of the shelter.

Facility is defined as: “A building or use in a fixed location... This term includes recreational vehicles, mobile home and manufactured housing parks, sales and storage lots.”

An approved fire apparatus access road is:

- Min. 20’ wide, 13’6” clear height, with 30’/50’ turning radii
- An all-weather driving surface capable of supporting an 80,000 lb vehicle; compacted gravel can meet this requirement.
- Dead ends more than 150’ in length need to be provided with an approved turnaround.

EFC D107.1 requires 2 separate access roads when there are more than 30 dwelling units. For a camp each sleep site would be considered a dwelling unit. Although not required for a shelter of 30 or less spaces, a second means of fire access is recommended. The second means of access could be provided through a normally locked gate.

EFC 507 requires hydrants be provided within 400’ of all portions of the facility. Hydrants should be capable of providing a minimum 1000 gpm @ 20 psi fire flow, and may need to provide 1500 gpm @ 20 psi fire flow if larger buildings (community center, common kitchen, restrooms, etc.) are provided on the site. Fire flows should be obtained from EWEB for the fire hydrants.

Access and Water Supply

Site No.	Access	Water Supply (Available Hydrants)
1	There is only 1 access road into the site. A gravel road less than 20’ wide runs along the south edge of the site. Because the site is less than 150’ wide, this road is within 150’ of all portions of the site. A turnaround would need to be provided. There is not a good means of secondary access.	Hydrant #98102 is located near the southwest corner of the site. The majority of the site is within 400’ of this hydrant.
2	There is only 1 access road into the site. A gravel road less 20’ wide arcs through the site. Because of the shape of the site, this access road is within 150’ of all portions of the site. A turnaround would need to be provided. There is not a good means of secondary access.	Hydrant #98102 is located on Commons Dr. where the access road starts. This hydrant is approx. 470’ from the south edge of the site, and is more than 1000’ from the west edge of the site.
3	There is no fire apparatus access to this site. There is	No hydrants are accessible to this site.

	a possible access from the apartment complex to the south near the southeast corner of the site. There is not a good means of secondary access.	If access is provided through the adjoining apartment complex, there are existing fire hydrants in the complex. The nearest hydrant is approx. 350' from the site boundary, and more 1,300' from the west edge of the site.
4	There is a paved access road into the site from N. Garfield St. that runs the entire east-west length of the site. All portions of the site are within 150' of this access road. There is also a narrow (approx. 14' wide) road that loops through the site. There is a secondary access on the north edge of the site from Eugene Public Works Yard. Either a 20' through drive would need to be created, or a fire apparatus turnaround provided on the site because the main access road exceeds 150' in dead end length.	Hydrant #1770 is located on the west side of N. Garfield St. near the main access point. The western half (approx.) of the site is within 400' of this hydrant. There is a hydrant located north of the site in the Eugene Public Works Yard that is within 400' of most of the eastern half of the site.
5	The site is bounded by 13 th Ave. on the north and 14 th Ave. on the south, providing excellent fire apparatus access up to the site boundary. An access road would need to be provided through the site.	Hydrant #1137 is located on the north side of 13 th Ave. near the center of the site. Hydrant #559 is located on the south side of 14 th Ave. approx. 250' east of the site.