

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: June 19, 2017

SUBJECT: FILE NO. PP17-015: AMENDMENTS TO TITLE 20 OF THE SAN JOSE MUNICIPAL CODE (THE ZONING CODE) FOR INCIDENTAL SHELTER OF HOMELESS PEOPLE:

- **AMEND SECTIONS 20.80.1600, 20.80.1610 AND 20.80.1620, AND ADD SECTIONS 20.80.1630 AND 20.80.1640 TO PART 17, CHAPTER 20.80; ADD DEFINITIONS OF “ASSEMBLY USE”, “INCIDENTAL SHELTER”, AND “PLACES OF ASSEMBLY”;**
- **CREATE STANDARDS FOR INCIDENTAL SHELTER OF HOMELESS INDIVIDUALS AND FAMILIES; AND**
- **ALLOW INCIDENTAL SHELTER USE AS AN INCIDENTAL PERMITTED USE TO AN EXISTING LEGAL ASSEMBLY USE WHERE THE SHELTER IS PROVIDED INSIDE EXISTING BUILDINGS THAT ARE CONSTRUCTED AND OPERATING IN COMPLIANCE WITH THE SAN JOSE MUNICIPAL CODE.**

RECOMMENDATION

On June 14, 2017, the Planning Commission voted 5-0-2 (Commissioners Abelite and Allen absent) to recommend that the City Council adopt a resolution approving the Initial Study/Negative Declaration for the project and adopt an ordinance amending Title 20 of the San José Municipal Code (the Zoning Code) to revise land use provisions for incidental shelter of homeless people as described above.

OUTCOME

If adopted by the City Council, the proposed ordinance would amend the Zoning Code provisions pertaining to incidental shelter of homeless people in places of assembly based on City Council direction to staff as discussed in public hearings held on December 8, 2015, and June 28, 2016.

BACKGROUND

On June 14, 2017, the Planning Commission conducted a public hearing on the proposed amendments to the Zoning Code. The attached Staff Report to the Planning Commission provides a full analysis, description of public outreach, and coordination conducted on the proposed item.

ANALYSIS

At the Planning Commission public hearing, staff summarized the proposed amendments to the Zoning Code and explained the context of Council direction for the recommended changes.

Public Testimony

At the Planning Commission hearing, thirteen members of the public spoke on the item, including three church shelter coordinators, two volunteers, and a representative from the Affordable Housing Network and citizens who had encountered homeless situations. Several speakers commented that they were grateful to the Housing Department staff for conducting community meetings and working with stakeholders, and that they fully supported the new ordinance. They were appreciative of the increased number of homeless individuals that could be served and of the opportunity to provide year-round shelter. One of the speakers indicated that safety was a major concern for homeless individuals, especially women, in addition to protection from inclement weather conditions.

A representative from the Affordable Housing Network expressed support for the proposed Zoning Code changes because of the serious misery that homeless individuals can encounter on the streets; the speaker said he was grateful to the faith community for their efforts in serving the homeless.

A volunteer indicated that with the current housing crisis, many solutions have to be supported, and the proposed ordinance would allow other facilities such as schools, libraries, and community centers to provide shelter to the homeless.

Several speakers stated that the proposed ordinance would provide a fresh approach to an old problem. Some speakers mentioned that they fully support a permanent ordinance that would allow sheltering year-round and provide engagement. They stated that they felt a responsibility to help their fellow residents of San José who were unhoused.

Planning Commission Discussion

Commissioner Yesney asked whether the Housing Department would assist interested organizations in preparing for registration to provide incidental shelter to the homeless. Housing Department staff responded that they would assist these applicants and explained that the Housing Department employs inspectors for sites proposed for incidental shelter.

Commissioner Bit-Badal made a motion to recommend to the City Council the adoption of the proposed Negative Declaration resolution and adoption of the proposed ordinance amending the Zoning Ordinance as recommended by staff. She stated that she was glad that there were organizations that would open up their homes to the community, and that the testimonials she heard were not only emotional, but they came from the heart. She added that the proposed land use changes will benefit not only the communities and assembly uses, but also the entire City of San José.

Commissioner Pham said that he was proud of the community that came out to support this proposal. He emphasized the importance of meeting the housing and service needs of homeless individuals and that they do matter.

The motion to support staff's recommendation passed 5-0-2 (Abelita and Allen absent).

EVALUATION AND FOLLOW-UP

If the proposed Zoning Ordinance amendments are approved by Council, City staff will evaluate current compliance with the new Zoning Ordinance provisions prior to registering applicants from places of assembly that provide incidental shelter, and monitor future compliance after registration.

POLICY ALTERNATIVES

Alternative 1: Do not approve the recommended changes to the Zoning Code.

Pros: If the changes to the Zoning Code are not approved, the status quo will be maintained.

Cons: The proposed changes to the Zoning Code are intended to implement Council direction pertaining to providing incidental shelter at places of assembly. If the ordinance is not adopted by Council, Council's previous direction cannot be implemented.

Reason for not recommending: Staff was directed by Council to propose changes to the Zoning Code to facilitate the provision of incidental shelter in places of assembly year-round.

HONORABLE MAYOR AND CITY COUNCIL

June 19, 2017

Subject: PP17-015 Zoning Code Amendments for Incidental Shelter

Page 4

PUBLIC OUTREACH

Staff posted information about the proposed Zoning Code changes on the Planning Division's website in compliance with applicable requirements of the San José Municipal Code and State law. Staff has been available to discuss this item with interested members of the public. Public outreach included community meetings during September and October 2016, a presentation at a Developers and Construction Roundtable Meeting on March 10, 2017, and a community meeting on May 18, 2017. Staff has also been available to respond to comments from the public.

COORDINATION

Preparation of this memorandum, the draft resolution, and the draft Zoning Code changes were coordinated with the Housing Department and the City Attorney's Office.

CEQA

File No. PP17-015: Initial Study/Negative Declaration for the Incidental Homeless Shelter Municipal Code Amendment.

/s/

ROSALYNN HUGHEY, SECRETARY
Planning Commission

For questions please contact Jenny Nusbaum, Principal Planner, PBCE at (408) 535-7872.

Attachment: Planning Commission Staff Report



Memorandum

TO: PLANNING COMMISSION

FROM: Rosalynn Hughey

SUBJECT: SEE BELOW

DATE: June 14, 2017

SUBJECT: PP17-015: Amendments to Title 20 of the San José Municipal Code (the Zoning Code) for incidental shelter of homeless people including:

- 1) Amending Sections 20.80.1600, 20.80.1610 and 20.80.1620, and adding Sections 20.80.1630 and 20.80.1640 to Part 17, Chapter 20.80, adding definitions of “Assembly Use”, “Incidental Shelter”, and “Places of Assembly”; creating standards for incidental shelter of homeless individuals and families, by allowing the incidental shelter as an incidental permitted use to an existing legal assembly use, and where the shelter is provided inside existing buildings that are constructed and operating in compliance with the San José Municipal Code; and
- 2) Making other technical, formatting or non-substantive changes in the Zoning Code.

RECOMMENDATION

Recommend that the Planning Commission consider the Negative Declaration and recommend to the City Council the approval of an ordinance amending Title 20 of the San José Municipal Code (the Zoning Code) to revise land use provisions for incidental shelter of homeless people as described above.

OUTCOME

If adopted by the City Council, the proposed ordinance would amend the Zoning Code provisions pertaining to incidental shelter of homeless people in places of assembly based on City Council direction to staff as discussed in public hearings held on December 8, 2015, and June 28, 2016.

BACKGROUND

In the fall of 2015, the City Council heard testimony from homeless advocates and homeless individuals regarding the lack of affordable housing and the insufficient number of shelter beds to meet the immediate housing demand of the homeless population in San José. They stated that given the impending winter weather conditions, it was critical to provide immediate shelter to as many people as possible to prevent illness and potential death from exposure.

The Bishop of San José had initially forwarded a letter to all Catholic churches in the area encouraging them to participate in sheltering unhoused homeless people. Advocates stated that the City's Zoning Code requirement to obtain a Development Permit was a barrier to participation, and that suspension of this requirement would increase the number of facilities willing to offer shelter to homeless people.

Council Direction

In response to public input, the City Council directed staff to streamline the process of providing temporary shelter to homeless persons in legal spaces for religious assembly use. On December 8, 2015, the San José City Council adopted an interim ordinance on an urgency basis (Ordinance No. 29663) amending Section 20.80.1620 of Part 17 of Chapter 20.80 of the Zoning Code (the Temporary Shelter in Church Ordinance) and suspending Sections 20.80.1600 and 20.80.1610 of the Zoning Code until June 30, 2016.

On June 28, 2016, the City Council further extended the suspension of Sections 20.80.1600 and 20.80.1610 until June 30, 2017 (Ordinance No. 29767). The City Council amended Section 20.80.1620 to allow a religious facility use, if it is a legal use, to provide temporary shelter to homeless persons without obtaining a Special Use or Conditional Use Permit subject to the existing limitations specified in Section 20.80.1620. This interim ordinance includes the following provisions:

1. Religious facilities may be used as temporary shelter per location up to two times in any calendar year.
2. The total amount of days for such temporary shelter may not exceed 90 days (increased from a maximum of 35 days) per location in any calendar year.
3. Religious facilities may provide temporary overnight shelter to no more than 30 persons (increased from a maximum of 15 persons) per location in one 24-hour period.

ANALYSIS

The City Council's approval of an interim ordinance on June 28, 2016, has allowed religious assemblies to continue to provide time-limited temporary shelter to homeless people, with the goal to improve the breadth of services provided. The intent of the currently proposed non-interim ordinance is to address the homeless crisis by creating a streamlined process that would allow year-round incidental shelter, as a permitted incidental use to legally established religious or non-religious assembly, if the use complies with applicable provisions in the Zoning Code, as proposed by staff.

Zoning Code Changes

The proposed Zoning Code changes would allow incidental shelter use to be offered on a voluntary basis by existing legally-established places of assembly that are currently in use. An assembly use would include all religious assemblies and organizations, and any other place

where the public can assemble, such as but not limited to gymnasiums, libraries, and theaters. Approval of a use-type of Development Permit for operation of incidental shelter use would not be required, provided the use could meet specific performance standards and other requirements in the Zoning Code.

A shelter use would qualify as “incidental” if it occupies less than 50 percent of the usable square footage of the buildings that are primarily used for assembly use on a parcel. The shelter must be provided inside existing buildings that are constructed and operating in compliance with the San José Municipal Code.

A use-type of Development Permit as defined in the Zoning Code, such as a Conditional or Special Use Permit, to allow the use conditionally on a case-by-case basis subject to specific findings in the Zoning Code, would be required if the assembly use or incidental shelter use cannot meet the criteria and performance standards that would allow the use by-right as a Permitted use. The use permit requirement is specifically for the primary assembly use (religious and non-religious), and thereby cannot conditionally approve incidental shelter as a primary use.

The proposed ordinance would add the following performance standards, and modify the provisions of the interim ordinance described above (see attached draft Zoning Code changes shown as underlined and strike-out text):

1. The maximum occupancy for any Incidental Shelter use shall be fifty (50) persons or as set forth by the City’s Fire Code, whichever is more restrictive.
2. The Incidental Shelter use shall be allowed on a legal Parcel that is at least three thousand (3,000) square feet in size.
3. The Incidental Shelter use shall be located on a Site that has a Frontage and legal access to the Parcel where Incidental Shelter is provided.
4. The Parcel containing the Incidental Shelter use shall be located within the City’s Urban Service Area.
5. The Incidental Shelter use shall not be located closer than a minimum distance of five hundred (500) feet from any Parcel on which another Incidental Shelter use exists, where the distance between the Parcels is measured from the nearest Parcel line to the nearest Parcel line.
6. The portion of a Building containing the Incidental Shelter use shall not be located at a distance closer than a minimum of one hundred and fifty (150) feet from any residential use that is located on another Parcel, measured from the nearest Building wall containing the Incidental Shelter use to the nearest Parcel line of a Parcel containing a residential use.
7. The Parcel containing the Incidental Shelter use shall comply with City Council Policy Number 4-3 on Outdoor Lighting for Private Developments, as may be amended from time to time.
8. Any Development Permit requirement associated with interior or exterior modifications for the Building containing the Incidental Shelter shall not be waived by this Section.

9. Incidental Shelter uses shall be registered with the Housing Department, on such forms as may be approved by the Director of Housing.
10. Facilities containing Incidental Shelter uses shall be inspected for occupancy compliance with the Fire Code.
11. Quiet hours on any Parcel containing an Incidental Shelter use shall be maintained between 10:00 p.m. and 7:00 a.m., seven (7) days a week, 365 days a year. Quiet hours do not preclude outdoor activities, such as smoking in designated outdoor areas or exiting the Site.
12. Any Site containing an Incidental Shelter use including public access and parking shall be maintained in a clean and safe condition, and in compliance with a management plan that is completed as part of registration with the Housing Department.
13. The Incidental Shelter Use shall comply with the requirements of Section 20.80.1630.

Registration with Housing Department

The Housing Department has been providing support to homeless advocates to establish a program for interim shelter in places of assembly in San José. The program's approach includes a mandatory registration process with the Housing Department. As proposed in conjunction with the draft non-interim ordinance, the Housing Department would provide guidelines for the operation of an incidental shelter use, materials required to complete the registration process, and relevant information for incidental shelter operators such as any operational issues that must be considered. In addition, the registration process may require submittals such as contact information, a service management plan, an emergency disaster plan, an evacuation plan, and a fire watch log.

The Housing Department would provide a checklist, or template, to assist incidental shelter operators to assess the facility's conformance to applicable Municipal Code regulations, and the Housing Department's registration process. Upon receipt of a registration packet, the Housing Department would arrange an inspection of the assembly use to determine the maximum occupancy capacity (i.e., maximum number of persons) of the proposed incidental shelter (see attached "Incidental Shelter Registration Packet").

GENERAL PLAN CONSISTENCY

The Envision San José 2040 General Plan 2040 (General Plan) includes goals, policies, and actions related to the shelter of homeless people in the City. Additionally, the General Plan's Housing Element Work Plan includes investing in activities to end homelessness. The Housing Element Work Plan incorporates policies, programs, and partnerships to meet San José's changing housing needs, with a goal to increase the supply of permanent supportive housing for

homeless people, and explores opportunities to create homes with supportive services in the City. The proposed changes to the Zoning Code are consistent with the following Housing policies in the General Plan:

Policy H-1.2: Facilitate the provision of housing sites and structures across location, type, price and status as rental or ownership that respond to the needs of all economic and demographic segments of the community including seniors, families, the homeless and individuals with special needs.

Policy H-2.7: Support strategies in collaboration with other jurisdictions and agencies to end homelessness by creating permanent housing solutions combined with services such as medical, education, and job placement.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although the proposed Zoning Code changes do not meet any of these criteria, staff posted information about the proposed Zoning Code changes on the Planning Division's website in compliance with applicable requirements of the San José Municipal Code and State law. Staff has been available to discuss this item with interested members of the public. Staff will also send e-mail notification of this agenda item to its list of self-subscribed e-mail addresses that have requested notification prior to the scheduled Planning Commission hearing date. Community outreach included community meetings during September and October 2016, a presentation at a Developers and Construction Roundtable Meeting on March 10, 2017, and a community meeting on May 18, 2017.

In general, stakeholders expressed a desire for greater flexibility and a streamlined process for providing incidental shelter, especially if such changes help immediately address the homeless crisis. A summary of the community meetings schedule and stakeholder input received is described below.

Community Meetings

Meeting Date	Site	Address	Target Population
9/7/16	Roosevelt Community Center	901 E Santa Clara St.	Homeless advocates/last season’s participating faith organizations
9/15/16	Vineland Branch Library	1450 Blossom Hill Rd.	Public – community members
9/21/16	Roosevelt Community Center	901 E Santa Clara St.	Public – community members
9/22/16	City of San José Wing 120	200 E Santa Clara St.	Public – community members
9/26/16	Bascom Community Center	1000 S Bascom Ave	Public – community members
9/29/16	Mayfair Community Center	2039 Kammerer Ave	Public – community members
10/6/16	Tully Community Branch Library	88 Tully Rd	Homeless & formerly homeless individuals
05/18/17	San José City Hall	200 E Santa Clara Street	Public – community members

Stakeholder Input

A summary of comments from stakeholders is listed below:

- Desire for as much flexibility for the individual organizations as possible.
- Use the City’s definition of “incidental use” to set parameters.
- Each organization should get to determine how long to operate the shelter program.
- Allow for a year-round shelter; no limit to number of days.
- Determine whether or not a guest maintains tenant’s rights after 28 days of shelter and if so, does a tenant/landlord agreement need to be developed?
- Prefer that capacity be determined by each organization and/or fire marshal.
- Capacity must not exceed permitted building occupancy.
- Need for fire and building safety inspection should be coordinated by the City.
- Simplify the City’s program registration packet.

PLANNING COMMISSION

June 14, 2017

Subject: Zoning Code Changes for Incidental Shelter

Page 7 of 8

- Develop consistent/clear standards for usable shelter space (for example, basement use, accessibility requirements, etc.).
- Require security and basic needs (showers, food, medical services and trash receptacles should be available for guests). It is not necessary to have all needs mandatory, for example showers can be optional.
- Security and availability of basic needs should be provided at the discretion of the individual organizations.
- Screen guests for safety of entire program (level determined by each organization preferred).
- Two-way neighborhood engagement process should be implemented.
- Conduct outreach to neighborhoods early in the planning process; encourage collaboration.
- The ordinance should spell out a feedback/complaint/comment process (for the community as well as guests).
- Assign a point of contact for addressing concerns at each site.
- Develop a grievance process for guests/whistleblower protection against retaliation.
- Provide signage/posting authorizing shelter use/compliance with the ordinance.
- Allow expression of faith as religious liberty to shelter homeless (sanctuary).
- Shelter providers want the City to subsidize payment of permit fees to convert the use of the building.
- Coordinate with public and private entities to use public properties, vacant buildings and open spaces for shelter use (have a regional approach to address homelessness).
- Faith organizations want the City to seek federal, State and County government assistance for faith organizations.
- Prioritize elderly, sick, injured and vulnerable populations.
- Shelter providers prefer that the City provide guidelines, rather than mandates, to allow for flexibility of service based on the individual locations.
- Provide guidelines to address distance from schools, loitering, criminal activity, and supportive services.
- Partner and collaborate with service agencies.
- Address the disconnect between homelessness and the job/housing ratio.

The proposed changes to the Zoning Code with guidance and registration provided by the Housing Department are intended to address these issues raised by the public.

PLANNING COMMISSION

June 14, 2017

Subject: Zoning Code Changes for Incidental Shelter

Page 8 of 8

COORDINATION

Preparation of this report, the draft resolution, and the draft Zoning Code changes were coordinated with the Housing Department and the City Attorney's Office.

CEQA

File No. PP17-015: Initial Study/Negative Declaration for the Incidental Homeless Shelter Municipal Code Amendment. There is no significant impact on infrastructure and public services from allowing homeless shelters as incidental to a legal and established primary assembly use.



ROSALYNN HUGHEY, INTERIM DIRECTOR
Planning, Building and Code Enforcement

For questions, please contact Aparna Ankola, Project Manager, Ordinance and Policy Team at 408-535-7845.

Attachments:

- 1) Draft Zoning Code Changes shown as underlined and strike-out text
- 2) Incidental Shelter Registration Packet
- 3) Draft CEQA Resolution
- 4) Public Correspondence

CITY OF SAN JOSE MUNICIPAL CODE

TITLE 20 – ZONING

CHAPTER 20.80 – SPECIFIC USE REGULATIONS

Part 17 – ~~TEMPORARY~~ SHELTER AS AN INCIDENTAL USE IN CHURCH PLACE OF ASSEMBLY

20.80.1600 Definitions

The following definitions are for purposes of this Part:

1. “Assembly Building” means a Building that is primarily used for Assembly Use.
2. “Assembly Use” means a use involving the gathering of persons to participate in a group or common activity or to observe a presentation, performance, or exhibition.
3. “Incidental Shelter” means the providing of shelter of homeless people as an incidental use to an existing primary Assembly Use provided that the incidental use occupies less than fifty (50%) percent of the usable square footage of the Assembly Building(s), and the shelter is provided inside existing Building(s) that are constructed and operating in compliance with the San José Municipal Code. Incidental Shelter is not an Emergency Residential Shelter.
4. “Place of Assembly” means a Site that contains Assembly Uses including but not limited to religious assemblies, gymnasiums, libraries, theaters, schools, and community centers.

20.80.160010 - Permit required.

- A. An ~~church/religious~~ Assembly Use ~~which~~ that is a legal use may provide ~~temporary~~ Incidental Shelter to homeless persons:
 1. If specifically allowed by a conditional use permit or Planned Development permit issued for the ~~church/religious~~ Assembly Use; or
 2. With an amendment to an existing conditional use permit or Planned Development permit for the ~~church/religious~~ Assembly Use; or
 3. With a special use permit if no conditional use permit or Planned Development permit is required for the ~~church/religious~~ assembly.
- B. A management plan shall be submitted as part of any permit application for ~~temporary~~ Incidental Shelter in ~~church/religious~~ Assembly Building(s).

20.80.161020 - Findings.

- A. The Director or Planning Commission may issue a special use permit only after finding that:
 1. The ~~temporary~~ Incidental Shelter use at the location requested will not adversely affect the health, safety, or welfare of persons residing or working in the surrounding area.

2. The proposed site is adequate in size and shape to accommodate the ~~temporary- Incidental Shelter~~ use.
- B. The application shall be denied where the information which is either submitted by the applicant or presented at the public hearing fails to satisfactorily substantiate such findings.

20.80.162030 - Conduct of use.

~~An church/religious~~ Assembly ~~Use which that~~ is a legal use may provide ~~temporary- Incidental Shelter~~ to homeless persons subject to each of the following limitations:

1. ~~Church/religious~~ Assembly ~~Buildings facilities~~ may be used as ~~temporary- Incidental Shelter~~ on a legal Parcel that is at least three thousand (3,000) square feet in size. ~~up to two (2) times in any calendar year. The total amount of days for such temporary shelter may not exceed ninety (90) days in any calendar year.~~
2. ~~Church/religious~~ Assembly Buildings ~~facilities~~ may provide ~~temporary- Incidental overnight Shelter~~ to no more than ~~thirty fifty (350)~~ persons in one twenty-four (24) hour period.
3. At no time shall the number of persons sheltered in any ~~church/religious- Assembly Buildings facility~~ exceed the maximum square footage and occupancy standards set forth in Title 17 of this Code.
4. No ~~church/religious~~ Assembly Building or ~~other~~ Structure shall be erected, enlarged or modified ~~for temporary shelter~~ without an approved Development Permit as required by Chapter 20.100 of this Title.
5. All persons receiving ~~temporary- Incidental Shelter~~ shall sleep and eat within ~~church/religious~~ Assembly Buildings. No person shall eat or be housed in tents, lean-tos or other temporary facilities.
6. The proposed ~~temporary- Incidental Shelter~~ shall be operated in a manner ~~which that~~ is fully in conformance with all State and local laws including regulations and permit requirements which are not otherwise in conflict with the provisions of this Part.

20.80.1640 – Exception – Conditional Use Permit or Special Use Permit.

Notwithstanding Sections 20.80.1610 and 20.80.1620 of this Part, no conditional use permit or special use permit shall be required for any Incidental Shelter use that meets and remains in full compliance with all of the following requirements:

1. The maximum occupancy for any Incidental Shelter use shall be fifty (50) persons or as set forth by the City's Fire Code, whichever is more restrictive.
2. The Incidental Shelter use shall be allowed on a legal Parcel that is at least three thousand (3,000) square feet in size.
3. The Incidental Shelter use shall be located on a Site that has a Frontage and legal access to the Parcel where Incidental Shelter is provided.

4. The Parcel containing the Incidental Shelter use shall be located within the City's Urban Service Area.
5. The Incidental Shelter use shall not be located closer than a minimum distance of five hundred (500) feet from any Parcel on which another Incidental Shelter use exists, where the distance between the Parcels is measured from the nearest Parcel line to the nearest Parcel line.
6. The portion of a Building containing the Incidental Shelter use shall not be located at a distance closer than a minimum of one hundred and fifty (150) feet from any residential use that is located on another Parcel, measured from the nearest Building wall containing the Incidental Shelter use to the nearest Parcel line of a Parcel containing a residential use.
7. The Parcel containing the Incidental Shelter use shall comply with City Council Policy Number 4-3 on Outdoor Lighting for Private Developments, as may be amended from time to time.
8. Any Development Permit requirement associated with interior or exterior modifications for the Building containing the Incidental Shelter shall not be waived by this Section.
9. Incidental Shelter uses shall be registered with the Housing Department, on such forms as may be approved by the Director of Housing.
10. Facilities containing Incidental Shelter uses shall be inspected for occupancy compliance with the Fire Code.
11. Quiet hours on any Parcel containing an Incidental Shelter use shall be maintained between 10:00 p.m. and 7:00 a.m., seven (7) days a week, 365 days a year. Quiet hours do not preclude outdoor activities, such as smoking in designated outdoor areas or exiting the Site.
12. Any Site containing an Incidental Shelter use including public access and parking shall be maintained in a clean and safe condition, and in compliance with a management plan that is completed as part of registration with the Housing Department.
13. The Incidental Shelter Use shall comply with the requirements of Section 20.80.1630.

DRAFT



Assembly Use Incidental Shelter Program in San José

GENERAL INFORMATION

INTRODUCTION

If your organization is interested in providing temporary shelter to homeless persons within San José, the City Housing Department can offer some guidance on what is needed to demonstrate initial compliance with health and safety standards, best practice information on how to operate a temporary shelter, as well as access to outreach and case management support for those seeking shelter. Please complete the following packet to participate in the Assembly Use Incidental Shelter Program in San José.

BACKGROUND

- **December 8, 2015:** To deal with displacement impacts from extreme inclement weather and catastrophic events, the San José City Council adopted an interim ordinance on an urgency basis (Ordinance No. 29663) amending Section 20.80.1620 of Part 17 of Chapter 20.80 of Title 20 of the San José Municipal Code (the Temporary Shelter in Church Ordinance) and suspending Sections 20.80.1600 and 20.80.1610 until June 30, 2016.
- **June 28, 2016:** The San José City Council extended the suspension of Sections 20.80.1600 and 20.80.1610 until June 30, 2017. The City Council amended Section 20.80.1620 to allow a religious facility use if it is a legal use to provide temporary shelter to homeless persons without obtaining a Special Use or Conditional Use Permit subject to the existing limitations specified in Section 20.80.1620. An amendment to the urgency ordinance included:
 - a. Religious facilities may be used as temporary shelter per location up to two times in any calendar year.
 - b. The total amount of days for such temporary shelter may not exceed 90 days (increased from a maximum of 35 days) per location in any calendar year.
 - c. Religious facilities may provide temporary overnight shelter to no more than 30 persons (increased from a maximum of 15 persons) per location in one 24 hour period.

DESCRIPTION

- An incidental shelter use is a shelter use that is incidental to the primary assembly use on the site, if it occupies less than 50 percent of the usable square footage of the building(s) that are primarily used for assembly use on the parcel. The maximum occupancy shall be 50 persons or as set forth by the Fire Code, whichever is more restrictive.
- A primary assembly use includes, but is not limited to all religious assemblies, and other places such as gymnasiums, libraries, movie theaters, nightclubs, schools and community centers.
- An incidental shelter use must be registered with the Housing Department. The Housing Department will provide a checklist, or template, to assist incidental shelter operators to assess the facility's conformance to applicable Municipal Code regulations, and the Housing Department's registration process.



Assembly Use Incidental Shelter Program in San José

INTENT

- To address the homeless crisis, create a streamlined process that would allow an incidental shelter as a permitted incidental use in the Zoning Code, year around, without the requirement of an approved Development Permit, provided the use could meet specific performance standards and other requirements.
- Establish a requirement that the assembly use be a currently operating, and legally established assembly use under the Zoning Code (as amended).
- Include performance standards and other measures, and which would replace the provisions of the urgency ordinance.

CONTACT INFORMATION

Please contact Lorena Negrete with the City of San José's Housing Department with any questions about the Assembly Use Incidental Shelter Program in San José. Lorena can be reached at 408-975-4456 or lorena.negrete@sanjoseca.gov .



Assembly Use Incidental Shelter Program in San José

PROGRAM INFORMATION PACKET

If you are interested in participating in the Assembly Use Incidental Shelter Program, please submit the following completed packet to the City of San José (Attention: Lorena Negrete, 200 E. Santa Clara St., 12th Floor San Jose, CA, 95113 or lorena.negrete@sanjoseca.gov). You are invited to set an appointment with staff to complete a final review of all submitted documents and schedule a site inspection if questions cannot be resolved via email.

PROGRAM PACKET CHECKLIST

The following includes documents that should be included in the Assembly Use Incidental Shelter Program Packet. The City has included examples and/or attachments within for your convenience.

- Contact Sheet
- Service Management Plan
- Emergency Disaster Plan
- (Sample) Evacuation Plan
- Fire Watch Log

SITE VISIT

Returning all of the above mentioned items in the packet will allow for the City to provide you with technical assistance and/or guidance to ensure safety for those being served. Once the packet is received by the City, a site visit will be scheduled with the facility's identified point of contact. The site visit will include a safety inspection conducted by inspectors from both the Housing Department and the Fire Department. The inspectors will look for, but may not be limited to, the following and make necessary recommendations to ensure safe operations:

- Maximum occupancy standard for designated sleeping area(s)
- Proximity of gas appliances to sleeping area
- Presence of smoke and carbon monoxide detectors
- Location and number of fire extinguishers
- Lighting necessary for emergency exits
- Posted emergency exit plan(s)
- Americans with Disabilities Act (ADA) compliance and accessibility



Assembly Use Incidental Shelter Program in San José

EVALUATION

Facilities participating in the Program will be asked to submit a report summarizing the experience providing temporary shelter to homeless persons. The City will want feedback on, but not limited to, the following:

- What were the dates your facility operated the program?
- What was the target population?
- What was the total number of people who were served?
- What was the total number of volunteers who engaged?
- What were some significant successes to running this program?
- Were there any major issues or concerns while operating the program?
- What were some unmet needs that could benefit the program going forward?
- What are the rough cost estimates of what it took your facility to provide the services, if available?
- What would you do differently next time, if applicable?
- Other thoughts and comments?



Assembly Use Incidental Shelter Program in San José

CONTACT SHEET

Facility Name: _____

Address: _____

Property owner's name _____

Primary contact name: _____

Primary contact phone: _____

Primary contact email: _____

Alternate contact name: _____

Alternate contact phone: _____

Alternate contact email: _____



Assembly Use Incidental Shelter Program in San José

FIRE WATCH LOG

Name of Facility: _____

Phone: _____ Date: _____

HOUR	Exterior	Community Center	Hallway(s)	Restroom(s)	Remarks
8:00pm					
9:00pm					
10:00pm					
11:00pm					
12:00pm					
1:00am					
2:00am					
3:00am					
4:00am					
5:00am					
6:00am					
7:00am					



Assembly Use Incidental Shelter Program in San José

SERVICE MANAGEMENT PLAN

I. Introduction

This service management plan sets forth the strategy whereby the participating organization will meet the needs of a vulnerable population of unhoused individuals with the objective of providing safe shelter, food, and restroom facilities through the Assembly Use Incidental Shelter Program in San José.

II. Primary Intent

The primary intent of the participating organization is to provide a safe shelter for up to 50 persons or as set forth by the Fire Code, whichever is more restrictive.

III. General Operations

Name of Facility: _____

Start Date: _____ End Date: _____

Hours: _____ P.M. - _____ A.M.

Onsite Supervision (explain staff/volunteer hours, numbers and shifts): _____

Good Neighbor Plan (explain any outreach to neighborhood, safety plans or regulations, etc.): _____



Assembly Use Incidental Shelter Program in San José

IV. Emergency Shelter (check all that apply at participating organization)

Eligibility

- By referral only (by _____)
- Walk ins welcome
- Intake (for example, general personal information, program rules, behavioral expectations, etc.)
- Background check required
- Pets allowed
- Sobriety required
- Other (specify) _____

Target Population

- Homeless men
- Homeless women
- Families with minor children
- Other (specify) _____

V. Supportive Services (check all that apply at participating organization)

Basic Needs Provided

- Bed or cot
- Bedding
- Toiletries
- Restrooms
- Showers
- Clothing
- Transportation (explain) _____



Assembly Use Incidental Shelter Program in San José

Storage for participant's belongings provided

Other (specify) _____

Food Services

Breakfast

Dinner

Hot Meals

Donated by community volunteers and/or parishioners

Donated by local food pantries/kitchen/non-profits

Purchased by participating organization

Require donors to screen for tuberculosis

Other (specify) _____

VI. Program Services (check all that apply at participating organization)

VI-SPDAT/HMIS

Case management/resources/referrals/support by volunteers

Case management/resources/referrals/support by paid trained professionals

Healthcare

Other (specify) _____

VII. Property Management (check all that apply at participating organization)

Paid janitorial/maintenance services

Volunteer janitorial/maintenance services

Paid hygiene items (toilet paper, etc.)

Donated hygiene items (toilet paper, etc.)



Assembly Use Incidental Shelter Program in San José

- Paid security
- Volunteer security
- Security cameras in place
- Regular site patrols
- Storage for program supplies
- Fire watch log implemented
- Emergency exit and evacuation plan in place
- All smoke alarms and fire extinguishers updated and in working order
- Emergency exit plan reviewed nightly with participants
- Shelter location is on ground floor
- Shelter location is upstairs
- Shelter location is in basement area
- Designated smoking area identified
- ADA accessible
- Other (specify) _____

VIII. Other: _____

EMERGENCY DISASTER PLAN

INSTRUCTIONS:

Post a copy in a prominent location in facility, near telephone.

NAME OF SITE	OWNER / ADMINISTRATOR OF SITE		
SITE ADDRESS (NUMBER, STREET, CITY, STATE, ZIP CODE)	TELEPHONE NUMBER ()		

I. ASSIGNMENTS DURING AN EMERGENCY (USE REVERSE SIDE IF ADDITIONAL SPACE IS REQUIRED)

NAME(S)	TITLE	ASSIGNMENT
1.		DIRECT EVACUATION AND PERSON COUNT
2.		HANDLE FIRST AID
3.		TELEPHONE EMERGENCY NUMBERS

II. EMERGENCY NAMES AND TELEPHONE NUMBERS (IN ADDITION TO 9-1-1)

POLICE OR SHERIFF	OFFICE OF EMERGENCY SERVICES
RED CROSS	POISON CONTROL
HOSPITAL(S)	OTHER AGENCY/PERSON

III. FACILITY EXIT LOCATIONS (USING A COPY OF THE FACILITY SKETCH INDICATE EXITS BY NUMBER)

1.	2.
3.	4.

IV. UTILITY SHUT—OFF LOCATIONS (INDICATE LOCATION(S) ON THE FACILITY SKETCH [LIC 999])

ELECTRICITY
WATER
GAS

V. FIRST AID KIT (LOCATION)

VI. EQUIPMENT

SMOKE DETECTOR LOCATION
FIRE EXTINGUISHER LOCATION
TYPE OF FIRE ALARM SOUNDING DEVICE IF PRESENT

LOCATION OF DEVICE

VII. AFFIRMATION STATEMENT

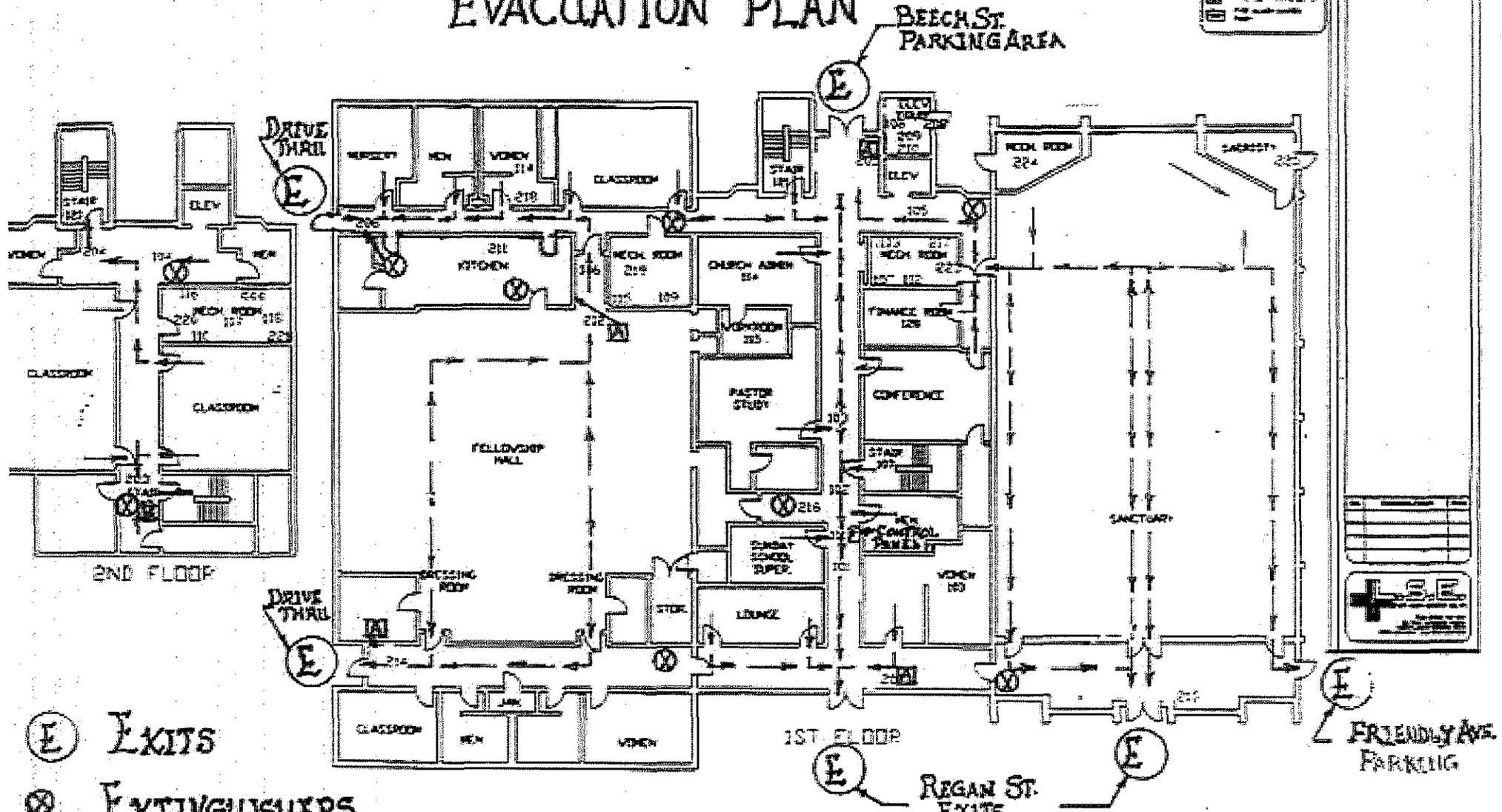
AS OWNER / ADMINISTRATOR OF THIS FACILITY, I ASSUME RESPONSIBILITY FOR THIS PLAN FOR PROVIDING EMERGENCY SERVICES AS INDICATED BELOW. I SHALL INSTRUCT ALL CLIENTS, ANY STAFF AND/OR VOLUNTEERS AS NEEDED IN THEIR DUTIES AND RESPONSIBILITIES UNDER THIS PLAN.

SIGNATURE

DATE

EVACUATION PLAN

⊕	EXIT
⊗	EXTINGUISHER
⊠	ALARM
⊞	CONTROL PANEL



BETHEL A.M.E. CHURCH

- ⊕ EXITS
- ⊗ EXTINGUISHERS
- ⊠ ALARMS
- ⊞ CONTROL PANEL

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE
ADOPTING THE NEGATIVE DECLARATION PREPARED FOR THE
MUNICIPAL CODE AMENDMENTS, FOR WHICH AN INITIAL STUDY
WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT AS AMENDED**

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of San José prepared an Initial Study and approved for circulation a Negative Declaration for the San José Municipal Code amendments under Planning File No. PP17-015, all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively “CEQA”); and

WHEREAS, the Incidental Homeless Shelter Municipal Code Amendments Project (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of Director-initiated Amendment to Title 20 of the Municipal Code to create standards that could allow incidental shelter of homeless individuals and families in a safe place, by allowing the incidental shelter as an incidental permitted use, to an existing assembly use, where the shelter is provided inside existing building(s) that are constructed and operating in compliance with the San José Municipal Code within the City of San José, California; and

WHEREAS, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in certain significant effects on the environment and identified mitigation measures that would reduce each of those significant effects to a less-than-significant level; and

WHEREAS, the City of San José is the lead agency on the amendments described herein, and the City Council is the decision-making body for the proposed approval to undertake the amendments; and

WHEREAS, the City Council has reviewed and considered the Initial Study/Negative Declaration, and intends to take actions on the amendments in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the Initial Study/Negative Declaration is on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, 3rd Floor Tower, San José California, 95113, are available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSÉ AS FOLLOWS:

THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the Initial Study/Negative Declaration as well as other information in the record and has considered the information contained therein, prior to acting upon or approving the amendments, has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and represents the independent judgment and analysis of the City of San José, as lead agency for the amendments. The City Council designates the Director of Planning at the Director's Office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the amendments will have a significant effect on the environment and does hereby adopt the Initial Study/Negative Declaration for the amendments (Planning File No. PP17-015). The Initial Study/Negative Declaration is: (1) on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and (2) available for inspection by any interested person.

ADOPTED this day of , 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAN LICCARDO
Mayor

ATTEST:

Toni J. Taber, CMC
City Clerk

May 18th Questions

nitroxa@gmail.com on behalf of Dave Truslow

Tue 5/9/2017 9:35 AM

Inbox

To: Ankola, Aparna <aparna.ankola@sanjoseca.gov>;

Here are some questions I'd appreciate addressing at the May 18th meeting re the suggested change for homeless housing at religious facilities.

1. Why? More specifically, what data shows that current homeless shelters are insufficient?
2. How will success be measured?
3. What are the details? Examples: accommodate anyone that shows up? Referrals after intake screening that includes mental health assessment, enrollment in training and insurance programs, outstanding arrest warrants, and tracking through Homeless Management Information System? Maximum length of stay? Blacklisting (i.e., will homeless be allowed if they been violent or disruptive elsewhere)? Drug and alcohol policy and testing? Weapons policy? Animal policy? Reporting to Child Protective Services when accompanied by minors?
4. Is the proposal permanent or temporary to determine impact?
5. What has been the experience elsewhere?
6. What is the mechanism for neighbors to correct quality of life and property value impacts caused by change?
7. CEQA?
8. Training and qualification for caseworkers overseeing the program?
9. Health and safety code compliance?

Thank you in advance,

-dave truslow

M: 408-828-1520

Thursday, May 18, 2017 Agenda Question

Jonathan Fleming <smnasj@gmail.com>

Thu 5/11/2017 11:54 AM

Inbox

To: Ankola, Aparna <aparna.ankola@sanjoseca.gov>;

Re: <http://www.sanjoseca.gov/DocumentCenter/View/68542>

Aparna,

Would any of the items on this agenda allow for the homeless population to make camp and/or live in parks, creeks, or other areas like the Tully Ballfields?

Thank you,
Jonathan

--

Jonathan Fleming

President & Founder

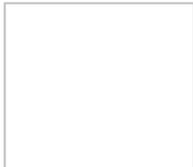
Senter Monterey Neighborhood Association

San Jose District 7 Leadership Group

www.smnasj.org

smnasj@gmail.com

408.645.5655



From: Jonathan Fleming <smnasj@gmail.com>
Sent: Wednesday, June 14, 2017 2:17 PM
To: Ankola, Aparna; City Clerk; Hughey, Rosalynn; Planning Commission 1
Subject: 6/14/2017 Planning Commission Agenda Item 6C PP17-015

Hello,

I cannot make the meeting tonight because of my other duties on the Neighborhoods Commission.

Please include the attached letter from myself as President of the Senter Monterey Neighborhood Association in tonight's meeting since I am unable to speak in person.

Thank you,
Jonathan

--

Jonathan Fleming
President & Founder
Senter Monterey Neighborhood Association
San Jose District 7 Leadership Group
www.smnasj.org
smnasj@gmail.com
408.645.5655





Jonathan Fleming

Senter Monterey Neighborhood Association
President and Founder
SMNASJ@gmail.com

June 14, 2017

To:

San Jose Planning Commission,
Interim Director Rosalynn Hughey,
city.clerk@sanjoseca.gov
Rosalynn.hughey@sanjoseca.gov
aparna.ankola@sanjoseca.gov

Re: June 14, 2017 Planning Commission Meeting – Agenda Item 6C PP17-015, Amendments to Title 20 of the San José Municipal Code (the Zoning Code) for Incidental Shelter of Homeless People

Planning Commission and Interim Director Hughey,

My name is Jonathan Fleming and I represent the Senter Monterey Neighborhood Association. Our Association is largely in favor of the above agenda item, however we request one modification.

We ask you to modify the proposal to include a process for the neighboring residents and Community members to be able to resolve conflicts or issues should they arise. We request that an official procedure is established for this purpose. We do not anticipate many problems, however, as currently written we do not see any avenues to address potential concerns, which is a major oversight in an otherwise fantastic and long overdue proposal.

Personally, I believe the mission of many faith based organizations and/or religions is to help the needy, poor, and the sick. We have a major crisis here in San Jose, as well as the County and State, so I am glad that the City is no longer limiting these willing and able organizations abilities to help in the solution to the homeless epidemic.

The costs associated with this effort are low and the City is following the recommendations of M.I.T. graduate George Galster Ph.D. by keeping the total number of persons housed under 53 – thank you. This will help ensure a neutral to positive impact on crime rates and property values in surrounding areas.

I applaud the efforts of all who have worked on this proposal, especially the Winter Faith Collaborative, San Jose State University, and City staff.

Please ensure the neighbors will have a means to make their voice and concerns heard and approve this proposal.

Yours Sincerely,
Jonathan Fleming