

**MEMORANDUM**  
**COMMUNITY DEVELOPMENT/RESOURCE AGENCY**  
**PLANNING SERVICES DIVISION**  
County of Placer

TO: Board of Supervisors DATE: March 8, 2016

FROM: Michael J. Johnson, AICP  
Agency Director

BY: Gerry Haas, Senior Planner

SUBJECT: Extension of Time of Temporary Conditional Use Permit for Placer County Government  
Center Temporary Emergency Shelter

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**ACTION REQUESTED**

- 1) Conduct a Public Hearing to consider an Extension of Time for a Temporary Conditional Use Permit to allow for the continued operation of a temporary Emergency Shelter in the Placer County Government Center for a period not to exceed one year; and
- 2) Determine the Extension of Time for the Temporary Conditional Use Permit categorically exempt from environmental review pursuant to provisions of Section 15301 of the California Environmental Quality Act Guidelines and Section 18.36.030 of the Placer County Environmental Review Ordinance (Class 1, Operation, leasing, licensing or alteration of existing public or private facilities); and
- 3) Provide direction to staff regarding commencement of a Zoning Text Amendment to allow emergency shelters to be a conditionally-permitted use within the C3 (Heavy Commercial), IN (Industrial) and INP (Industrial Park) Zoning Districts.

**BACKGROUND**

On February 3, 2015, the Board of Supervisors approved a Temporary Conditional Use Permit to allow for the establishment of a temporary emergency shelter within an existing structure in the Placer County Government Center (PCGC). Because an emergency shelter is not an allowed land use within the C3 (Heavy Commercial) Zone District, the Temporary Conditional Use Permit request was submitted pursuant to Article 17.56.300 of the Zoning Code (Temporary Uses and Events). As set forth in this Section, temporary uses involving the establishment of a land use not normally allowed in the applicable zone district may be permitted, subject to the granting of a Temporary Conditional Use Permit. As stated in the Zoning Code, such temporary uses may be permitted by the granting authority subject to certain provisions. One of the primary provisions is a one-year authorization of the use within residential, commercial and industrial zoning districts, with the potential approval of a single one-year extension following the initial expiration date.

At the February 3, 2015 Board hearing, the Board considered staff's recommendation, which included a discussion of issues that were mentioned in comment letters submitted by area residents. In addition, the Board also considered public testimony provided at the hearing and, after some deliberation, adopted a motion to approve a Temporary Conditional Use Permit to allow for the installation and operation of the temporary emergency shelter within the Placer County Government Center. In reaching this decision, the Board found that the Project is consistent with the goals and policies in the Placer County General Plan and the provisions of the Placer County Zoning Ordinance, that the project is compatible with the existing and surrounding development of the project site, and the Categorical Exemption cited for project clearance is in full compliance with the California Environmental Quality Act (CEQA).

The temporary emergency shelter opened for public use on June 1, 2015. By the second week of operation, the shelter was filled to its approved capacity of 49 individuals nightly. The shelter continues to operate, providing area homeless with pre-packaged meals, showers and referrals to local social services. As set forth in the Conditions of Approval, the TCUP remains valid until March 31, 2016.

On August 18, 2015, the Board considered a proposal by Volunteers of America for Right Hand Auburn (shelter operators) to modify the Temporary Conditional Use Permit. Specifically, the proposal consisted of the following:

- Extension of the Site Access Agreement to the end of the original Temporary Conditional Use Permit approval period (March 31, 2016).
- Increase the hours of operation of the temporary emergency shelter to allow for 24 hours a day/seven days a week operation.
- Increase the capacity of the temporary emergency shelter to 100 persons (including staff).
- Allow for food storage and warming capabilities within the emergency shelter.
- Allow for on-site counseling and medical assistance.
- Allow for personal belonging storage on-site.

As these modifications were considered critical to the potential success of the program, and because RHA agreed to provide an update on the status of the shelter operations prior to the expiration of the TCUP, the Board approved the modifications as proposed.

On February 9, 2016, the Placer County Department of Health and Human Services provided an update to the Board, entitled the "Homeless Services Workgroup Update". In this report, the Auburn Shelter and Service Center workgroup discussed particular details about its research into properties in the area that are of sufficient size and location to support a permanent facility.

To date, the workgroup has reviewed more than 20 potential sites, including a few that may provide a location for homeless services that are further away in proximity from schools and residential neighborhoods than the existing temporary emergency shelter is within the Placer County Government Center. The workgroup report concluded that the appropriate course of action for the Board is to allow services to continue at the current location (i.e., approve an Extension of Time request) while a regional plan for longer-term solutions can be developed.

## **PROPOSAL**

Staff is requesting a one-year Extension of Time as provided for in Section 17.56.300 (Temporary Uses and Events) of the Placer County Code to allow for the continued use of a temporary emergency shelter within the Placer County Government Center.

## **ANALYSIS**

The public hearing for an Extension of Time request is not intended to be an opportunity to reconsider the original approval, but instead provides an opportunity to consider whether new circumstances have arisen that should be grounds for possible denial of the Extension of Time. Previously discussed issues and circumstances are not sufficient, in and of themselves, to deny the request. Rather, only new information, such as a significant change in the physical setting, or new or updated governing laws and practices should be considered when evaluating the request. Specifically, the Placer County Zoning Ordinance Section 17.58.160(C)(4)(Extension of Time) mandates that, in order to approve an Extension of Time request, the hearing body must make the following three findings:

1. No change of conditions or circumstances has occurred that would have been grounds for denying the original application;
2. The applicant has been diligent in pursuing implementation of the permit; and
3. Modified conditions have been imposed which update the permit to reflect current adopted standards and ordinance requirements.

### *Change of Conditions*

The emergency shelter proposal arose in response to the need to provide temporary housing for the homeless in the area. At the time the TCUP was first proposed there was an increasing homeless presence in the PCGC. In the Government Center alone, for more than a year, from 2014 to 2015, a homeless encampment had been established on the lawn at the corner of 1st Avenue and A Street, in front of the Community Development/Resource Center. This encampment grew in size as surrounding

development, existing and new, resulted in a shift of more homeless individuals off private land. Since that time, a County Ordinance prohibiting camping on public property was enacted and the encampment removed.

There were also known pockets of homeless encampments on private property and increasing homeless interactions with residents at local shopping centers. Open areas surrounding the Rock Creek Reservoir and vacant land adjacent to the Sutter Faith Hospital and ARD's Regional Park had been occupied by similar quasi-permanent homeless encampments. This activity was occurring prior to the emergency shelter becoming operational.

Staff recognizes the concern of the residents that the shelter may be associated with a concentration of homeless in the area. However, based on the Marbut Study and staff review of the surrounding developments, the homeless population is likely becoming concentrated in the PCGC for a number of reasons unrelated to the temporary emergency shelter, including the following:

1. In 2009, the Quartz Drive Mini-Storage facility was constructed, resulting in the removal of more than a dozen homeless encampments.
2. In 2014, the Timberline property owner initiated a Sheriff response to remove dozens of homeless encampments from the 100-acre property immediately north of Bell Road from the PCGC in advance of pending development of the site.
3. Continued development of smaller commercial properties in the North Auburn area have eliminated other potential camping locations (i.e., removal of former Citibank and Crossroads auto sales buildings, installation of Sutter Faith Hospital's solar arrays)

Homeless individuals, now unable to reside on private land, have tended to remain near existing commercial, social and medical services, all of which exist in the vicinity of the PCGC.

In reviewing the initial request for the TCUP, staff reviewed the land use compatibility of the proposed emergency shelter with the surrounding area. That compatibility analysis included an assessment of sufficient buffers from other land uses, traffic circulation, aesthetics and environmental health issues. The physical conditions surrounding the project site have not changed significantly since the shelter's opening nine months ago. Some commercial development has occurred along State Route 49, but the built environment within the Placer County Government Center remains essentially the same as it was when the temporary emergency shelter first opened.

As a result, staff has determined that based on review of the studies and evidence that the conditions or circumstances have not changed so significantly that they would have been grounds for denying approval of the original application for a Temporary Conditional Use Permit.

#### *Diligence in Pursuing Permit*

Regarding the applicant's diligence in pursuing implementation of the permit, staff notes that a Temporary Conditional Use Permit has been exercised by virtue of approval of the Building Permit to convert the structure into a temporary emergency shelter and opening the shelter for public use consistent with Condition 2 of the TCUP. The shelter has remained open for public access and benefit for the duration of the first permit term, demonstrating diligence in use. Furthermore, as Health and Human Services presented in the February 9, 2016 Board of Supervisors report, the workgroups have been actively searching for other viable locations for a permanent shelter. Therefore, staff has determined that the applicant has exercised diligence in pursuing implementation of the permit.

#### *Modified Conditions of Approval*

The third and final finding requires modified conditions to reflect current standards and ordinance requirements. The Development Review Committee (DRC) has reviewed the application materials and the original Conditions of Approval for the Emergency Shelter. Aside from modifying a single condition to reflect the new expiration date, the DRC was unable to identify other specific conditions that required modification. As a result, no modified conditions beyond the expiration date are necessary and the intent of this finding can be met.

In conclusion, with respect to the proposed extension, staff finds that there would be no basis to deny the original request, and that all three findings can be made in the affirmative.

### **ZONING TEXT AMENDMENT**

The Board has directed staff to develop a permanent solution to the area homeless concerns and investigate the feasibility of potential off-site locations, where appropriate zoning and adjacent land uses exist.

In the meantime, the use of the temporary emergency shelter in its current location is conditionally-permitted on a temporary basis only. As mentioned above, the Zoning Ordinance allows temporary uses to occur within the C3 zone district for a maximum of one year, with approval of a Temporary Conditional Use Permit. The Ordinance also allows for the possibility of a single, maximum one-year Extension of Time of a TCUP. Thereafter, the use must cease, unless a Rezone is adopted by the Board and in effect prior to the expiration date of the TCUP. To permit the indefinite operation of a permanent shelter on this site would require a Rezone in the form of a Zoning Text Amendment (ZTA). Such an Amendment would consist of a change to the land use matrix in the Zoning Ordinance (17.06.050) to list emergency shelters among the allowable land uses within additional zone districts beyond the primary commercial and residential multi-family zone districts that presently allow for emergency shelters. A permanent use permit would also be required in this scenario.

Processing a ZTA to allow for emergency shelters to be located within additional zone districts could resolve two pressing concerns if it were approved:

1. It could provide for an expanded list of potential off-site locations for a permanent shelter because some suitable parcels that are not presently zoned to allow for emergency shelters could become so with approval of the ZTA, thereby increasing the number of sites available for consideration, and
2. It could allow the current location to become a viable permanent site in the event a preferable off-site location cannot be identified and in the event the Board wishes to consider this site as a permanent location.

In considering a potential Emergency Shelter ZTA, staff first reviewed the zone districts that currently allow for emergency shelters. Currently, emergency shelters are allowed in the following zone districts:

- RM (Residential Multi-Family)
- C1 (Neighborhood Commercial)
- C2 (General Commercial)
- CPD (Commercial Planned Development)
- HS (Highway Services)
- RES (Resort)

Numerous citizens have come before the Board asserting their support for a shelter to provide protection and services to the area homeless, while expressing concern that the PCGC site is too close to neighborhoods, schools and churches. Mindful of this message, staff considers the addition of C3 (Heavy Commercial), IN (Industrial) and INP (Industrial Park) zone districts to the list of districts that can allow for emergency shelters to be a reasonable approach to locating a shelter in a suitable area where land use conflicts may be minimized. Such zone districts are generally separated from residential neighborhoods by low-intensity land uses such as light commercial, storage, retail or office space. The existing emergency shelter is located within the C3 zone district.

If directed by the Board, staff would begin a process of public outreach, including visits to all County Municipal Advisory Councils and two or more Planning Commission workshops to fully vet the proposal before returning to the Board for action.

In order to secure the existing location as a permanent facility upon approval of a Rezone, these actions would need to occur fully within the proposed one-year Extension of Time for the TCUP. Additionally, a Use Permit and accompanying CEQA clearance document for a permanent shelter would also need to be approved prior to the expiration of the Extension of Time for the TCUP. If the ZTA and a permanent Use

Permit cannot be approved prior to expiration of this TCUP, then the shelter must be closed when the TCUP permit term expires.

State law mandates that the County provide for such uses, which it currently does in certain zone districts. Whether or not to seek an expansion of the list of available zone districts that could allow for emergency shelters is a matter at the discretion of the Board.

### **CEQA COMPLIANCE**

This project is Categorical Exempt from environmental review pursuant to provisions of Section 15301 of the California Environmental Quality Act Guidelines and Section 18.36.030 of the Placer County Environmental Review Ordinance (Class 1, Operation, leasing, licensing or alteration of existing public or private facilities).

### **FISCAL IMPACT**

The Extension of Time request for the TCUP would not result in fiscal impacts to the County as the request is limited to the continuation of an existing entitlement only and proposes no requests for operational budget or site improvements. Should the Board take action to direct staff to prepare a ZTA to allow homeless shelters to be located within additional zone districts across the County, and also to process a use permit request for a shelter (whether within the PCGC or not) there would be staffing and consultant costs associated with the preparation and processing of the ZTA that would be absorbed in the current FY 2015-16 budget and included in the FY2016-17 Proposed Budget.

### **RECOMMENDATION**

Staff recommends the Board approve the Extension of Time for the Temporary Conditional Use Permit to allow the continued operation of Buildings 303A and 303B as a temporary emergency homeless shelter by taking the following actions.

- 1) Determine the Extension of Time for the Temporary Conditional Use Permit categorically exempt from environmental review pursuant to provisions of Section 15301 of the California Environmental Quality Act Guidelines and Section 18.36.030 of the Placer County Environmental Review Ordinance (Class 1, Operation, leasing, licensing or alteration of existing public or private facilities).
- 2) Approve and Extension of Time for a Temporary Conditional Use Permit to allow for the continued operation of a temporary Emergency Shelter in the Placer County Government Center for a period not to exceed one year, subject to the modified Conditions of Approval attached to the staff report as Attachment B and based on the following findings:
  - A. The proposed uses are consistent with all applicable provisions of Placer County Code, Chapter 17, and any applicable provisions of other chapters in this code. The proposed project is consistent with the provisions of the Temporary Uses and Events Section (Section 17.56.300[A]) of the Zoning Ordinance.
  - B. The proposed uses are consistent with applicable policies and requirements of the Placer County General Plan.
  - C. The establishment, maintenance or operation of the proposed uses will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of people residing or working in the neighborhood of the proposed use, nor will it be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the County. The proposed use is temporary in nature and will be conducted in a manner that will ensure the greatest level of safety for the homeless in the North Auburn area and the businesses and residences in the vicinity of the project area.
  - D. The proposed uses will be consistent with the character of the immediate neighborhood and will not be contrary to its orderly development. Surrounding land uses are largely professional office, industrial and storage related. The outskirts of the Placer County Government Center is

surrounded by commercial, medical and residential uses. These uses already have direct contact with the local homeless population as they have been in the area for many years. The project would not exacerbate or intensify the existing homeless presence in the area, but would instead offer assistance to the homeless and provide a safe location for their rest and recovery.

- E. The proposed use will not generate a volume of traffic beyond the design capacity of all roads providing access to the parcel. Due to the temporary nature this project, and on account of the fact that few, if any of the homeless residents have access to vehicles, no impacts to traffic volume are anticipated.

Staff also recommends the Board provide direction regarding the potential for a Zoning Text Amendment to allow emergency shelters to be a conditionally-permitted use within the C3 (Heavy Commercial), IN (Industrial) and INP (Industrial Park) Zoning Districts.

**ATTACHMENTS**

Attachment A: Revised Conditions of Approval

# ATTACHMENT A



## **FINAL CONDITIONS OF APPROVAL –EXTENSION OF TIME FOR TEMPORARY CONDITIONAL USE PERMIT "PLACER COUNTY GOVERNMENT CENTER TEMPORARY EMERGENCY SHELTER" (PLN15-00036)**

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***THE FOLLOWING CONDITIONS SHALL BE SATISFIED BY THE APPLICANT, OR AN AUTHORIZED AGENT. THE SATISFACTORY COMPLETION OF THESE REQUIREMENTS SHALL BE DETERMINED BY THE PLANNING DIVISION.***

1. This Temporary Conditional Use Permit (PLN15-00036) authorizes a temporary emergency shelter to be located and operated within Buildings 303A and 303B (11442 E Avenue West, and 11441 F Avenue, Auburn, CA 95603) in the Placer County Government Center.
2. The term of the Temporary Conditional Use Permit (TCUP) became effective on April 1, 2015 and shall terminate on March 31, 2016 ("Effective Date"). On March 8, 2016, the Board of Supervisors approved an Extension of Time for this TCUP, extending the termination date to March 31, 2017.
3. The use of Buildings 303A and 303B for an emergency shelter is limited in scope and nature by the terms of this permit and the terms and obligations of the Site Access Agreement.
4. The emergency shelter may operate seven (7) days a week with the hours of operation as specified in the Site Access Agreement.
5. As of the Effective Date of this permit, the maximum occupancy was established at forty-nine (49) individuals including staff. An increase in the maximum occupancy to one hundred (100) individuals, including staff, is permitted only after all structural, electrical and plumbing modifications, the scope of which shall be determined by the Chief Building Official pursuant to the CA Building Code, have been completed subject to issuance of a building, plumbing and/or mechanical permit and final inspections by Building Services Division.
6. Non-invasive limited on-site medical services, such as medical screening and simple abrasion treatment, are permitted after all necessary state licensing requirements are satisfied. Such services may only commence after the Chief Building Official has determined that all building code requirements have been met.
7. On-site counseling and/or substance abuse treatment services are allowed within the facility, after all necessary state licensing requirements are satisfied. Such services may only commence after the Chief Building Official has determined that all building code requirements have been met.
8. Illegal drugs, alcohol, and weapons are prohibited within the facility.
9. Pursuant to County Code, smoking is prohibited in Buildings 303A and 303B. This prohibition extends to a defined distance from the main entrances, exits and operable windows of said buildings. Outside areas where smoking may be permitted shall be as defined in the Site Access Agreement
10. Loitering around the facility is prohibited.

FEBRUARY 3, 2015 – BOS  
AUGUST 18, 2015 – BOS MODIFIED  
MARCH 8, 2016 – BOS MODIFIED

11. All food service and handling operations shall comply with the requirements of California Health and Safety Code, Retail Food Code. Installation and use of commercial grade microwaves, commercial grade freezers and sinks shall be subject to prior review and approval of a Building Services and Environmental Health Services. The installation of said equipment shall comply with the CA Building Code and all permits must be obtained and final inspections signed off prior to commencement of use. Any proposed on-site preparation of food shall be subject to prior approval of and issuance of permits by Environmental Health Services.
12. In the event a court of law enjoins the exercise of this Temporary Use Permit either temporarily or permanently, or if a court of law issues a preemptory writ vacating the grant of this Temporary Use Permit, the operator of a shelter in place at the time of entry of order by the court of such action expressly waives any claim against the County, either monetary or equitable. Said waiver is included in the terms of the Site Access Agreement.
13. As holder of this Temporary Conditional Use Permit, the County has the right to withdraw or rescind at any time.
14. This Temporary Conditional Use Permit shall be valid for a maximum one (1) year to be calculated from the Effective Date (See Condition 2) ("Permit Term"). A single extension of the Permit Term not to exceed one (1) year may be permitted subject to request of the same prior to expiration of the Permit Term and after a noticed public hearing to consider the same. On March 8, 2016, the Board of Supervisors approved a one-year Extension of Time request, thereby extending the expiration date for this TCUP to March 31, 2017.