

ITEM NO. 5 AMENDMENTS TO CHAPTER 20, DEVELOPMENT CODE (JCR)

TA-04-03-08: Consider amendments to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities.

STAFF PRESENTATION

Mr. Joe Rexwinkle presented the item.

PUBLIC HEARING

Mr. Price Banks, attorney for the Lawrence Community Shelter, said the amendment was something they could live with. He said there was no provision for distance buffering and he encouraged Planning Commission to retain that. He said that neighborhoods tend to want screening from certain types of uses. He felt that landscaping and fencing work fine and there have been provisions before to eliminate that and encourage landscape barriers. He referenced the design standards that say the landscaping shall not obstruct the view, which he felt should be clarified. He felt it was time to move forward with the text amendment.

Ms. Valerie Miller-Coleman, Director of Family Promise, said that in the course of the year there will be as many as 300 homeless children. She went on to say that most homeless families are homeless for the first time due to circumstances and that they are a different population than the chronically homeless. They are not a disruptive population, they are just working poor folks. The families that come in to the night shelters will stay there for the night and not be coming and going. The lights will go out at 10:00pm and there are regulations. She felt that Special Use Permits for each institution would be time consuming and costly.

Commissioner Rasmussen asked if Family Promise was okay with doing a management plan for the Type A Homeless Shelters and provide notice.

Ms. Miller-Coleman replied, yes.

Commissioner Harris asked Ms. Miller-Coleman what about the Special Use Permit process she did not think would work.

Ms. Miller-Coleman said the institutions have volunteered space and time and then asking them to spend thousands of dollars to draft Site Plan drawings to get a Special Use Permit will deter them from participating.

Ms. Amy Keaton, on behalf of Family Promise, said the most important thing to know is that Family Promise is not a typical homeless shelter or program. She said she used to work in Spokane, Washington where they had the same type of program. Family Promise focuses specifically on sheltering families with children. The Family Promise mission is to house the homeless, provide counseling and guidance, etc. She said that Family Promise can give children hope that good things can happen to good people in a bad situation.

Commissioner Singleton asked if Special Use Permits were used in Spokane, Washington.

Ms. Keaton did not know the specifics but would try to find out.

Commissioner Harris asked if Ms. Keaton felt it was important for residents to stay in the building.

Ms. Keaton said not necessarily.

Mr. Scott Robinson, member of Morningstar Church, spoke in support of the Family Promise program. He

said that he and his wife have had the opportunity to speak with a large number of the other churches and there is a lot of support to open up the churches to homeless families. He felt that Family Promise was an opportunity to address problems within the community.

Ms. Jean Redeker, 1535 New Hampshire Street, was in support of the Type A Homeless Shelters. She said it was important to note that the text amendment opens the opportunity up to anyone, not just Family Promise and that the Code does not limit this to Family Promise. She was concerned with the management plan because it does not allow the neighbors to have a voice. She felt that a Special Use Permit should be required for Type A Homeless Shelters. She said that the engineering site plan drawings should not be required. She also said there are quite a few churches in her neighborhood and she showed a map of the churches in the area on the overhead projector.

Mr. Ken Hite, serves on the board of Family Promise and a member of First Baptist Church that will host the homeless shelters, said a Special Use Permit without the engineering site plan drawings would nice as a way to minimize the cost. He did not feel that a Special Use Permit should be required for churches to have type A overnight shelters because he felt that it is a constitutional right for a religious institution. Inquired about social service agencies and felt that the day center would be a social service agency. His primary concern with the Special Use Permit was the delay process.

Ms. Mary Wharff, thanked staff to responding to neighborhood concerns. She was conflicted about night shelters being allowed without a Special Use Permit. She thought that churches by right should be allowed to help people. She was concerned about night Type B Homeless Shelters being set up in industrial areas right next to neighboring yards.

Ms. Deborah McMullen, 1608 Rhode Island, said that this is an issue about zoning and that wanting to enjoy your home does not make you selfish. She felt that 15 people with 2 attendants was too many people. She asked that the Planning Commission please consider setbacks as mandatory with a possible 55' for Type A Homeless Shelters and 75' in Type B Homeless Shelters.

Ms. Jana Montgomery, 1500 New Hampshire, said the focus has been about Family Promise and the issue is not about Family Promise, it is about what will be allowed in the neighborhoods. He said that if they are not allowed to have a buffer he would at least like to discuss having the shelter adjacent to residential properties instead of right next door. He liked the idea of having a Special Use Permit that did not require all the site plan drawings, but felt a type A day center would need to have a full Special Use Permit because the neighborhoods need to be covered.

Ms. Virginia Musser, 1508 New Hampshire, said that this is not about Family Promise, it is about ensuring the neighborhood. She felt that the Type A Homeless Day Centers should not be in residential neighborhoods and that they should be required to have a Special Use Permit. She said that rules were in place for a reason and following due process is important. She felt it was worth going slow and doing this right.

Ms. Orlena Carr, 1512 New Hampshire, summarized her email that she sent and that was included in the Planning Commission online packet. She felt that Special Use Permits should be required for both Type A Homeless Shelters and Type B Homeless Shelters as well and Type B Homeless Shelters and Type B Homeless Day Centers for the health and wellbeing of all neighborhoods in Lawrence.

Ms. Gwen Klingenberg, Lawrence Association of Neighborhoods, said a Special Use Permit is used for many things such things as group homes and that they need to be consist with the Code. She stated that this issue is not about Family Promise, but rather what the text amendment will do for the community. She felt that pushing this through was a disservice to Lawrence. She said the City neighborhoods are puzzle pieced together and that the Oread neighborhood is mostly RM32 and several RMO's. She would like the amendment to require a buffer that these uses be non-adjacent or directly across the street from single family homes. She felt that they needed to protect their children and they

do not know who else besides Family Promise will come forward. She also referenced the Religious Land Use and Institutionalized Persons Act (RLUIPA).

Commissioner Harris asked Ms. Klingenberg to elaborate on RLUIPA.

Ms. Klingenberg said there are cases in court regarding RLUIPA. She thinks that an interpretation of RLUIPA would permit a City to require a Special Use Permit for these types of uses even for those uses that are accessory to religious institutions.

Commissioner Finkeldei asked Ms. Klingenberg if she was referring to all shelters when she said 'non-adjacent and directly across the street from single family homes.'

Ms. Klingenberg said she was speaking about Type B Homeless Shelters specifically.

Commissioner Finkeldei said that Ms. Klingenberg mentioned that this was going through too fast; he asked if she was requesting a deferral.

Ms. Klingenberg felt that the details still needed to be worked out.

Mr. Joe Reitz, Family Promise, said there are a lot of homeless children in Lawrence. He said that Family Promise has everything it needs to get started but the only thing that stands between them getting started is the zoning approval. He said that they have 18 congregations waiting to help and they are all good neighbors. He did not have a problem with the 4 unrelated people language being stricken.

Mr. Scott Montgomery, 1500 New Hampshire, felt that a Special Use Permit should be required but he was not opposed to the site plan engineering drawings being waived for churches. He said the issue was about zoning, not the Family Promise organization. He felt that they should take more time and not rush this through the process. He said that Family Promise wants the neighborhood to be involved but does not want a Special Use Permit, but the Special Use Permit would allow the neighbors a voice. He agreed with the buffering and felt that it was needed.

Mr. Rich Minder, 1218 Delaware, said he was interested in preventing a Type B Homeless Shelter, the Lawrence Community Shelter from moving into the industrially-zoned area near his home and said he would want it to have a Special Use Permit so that he could express his opinions. He felt that an alternative to setbacks should not just be screening. He suggested that a site selection criteria would not place these facilities in a residential area.

Mr. Loring Henderson, Director of Lawrence Community Shelter, asked that the Planning Commission approve the language as recommended by staff which does not require buffering of these uses from single-family residential areas. He was concerned about the language that would prohibit locations that area adjacent to single-family areas because it might still be a lengthy distance. Buffers increasingly limit potential locations for shelters and maybe excludes a shelter from the community. He said there would be a Special Use Permit for the Type B Homeless Shelter. He thanked staff for their work.

Commissioner Harris asked if the process of getting a Special User Permit for Type B Homeless Shelter was the same process he already goes through.

Mr. Henderson replied yes.

Mr. McCullough, said that the requirement for a management plan for Type A Homeless Shelter is a new requirement from previous drafts of the language.

Mr. Henderson said that the Lawrence Community Shelter has a good neighbor agreement, and they supply the City with annual reports.

Commissioner Rasmussen asked if there was one type of management plan for Type A Homeless Shelters and another for Type B Homeless Shelters.

Mr. Rexwinkle said that was correct. He said that the management plan criteria as set forth in the draft code language for Type A Homeless Shelters is more specific than the management plan criteria for Type B Homeless Shelters, which are more like broad parameters because they need to be more specific since Type A Homeless Shelter management plans are administratively approved. Type B Homeless Shelter management plans would be approved by the City Commission through a public hearing process.

Mr. Michael Fairchild, lives in the Barker neighborhood, he summarized the letter he submitted and was included in the Planning Commission online packet. He thanked the Commissioners, Staff, and Family Promise for their work. He showed a map on the overhead projector of the churches in his neighborhood.

Ms. Hilda Enoch, expressed her support of Family Promise. She thinks that as a community we are finally making progress and would like to move forward with this amendment. She stated that we are more at risk as a community if we do nothing.

Ms. Christine Winters, member of First Christian Church, said she has been working with Family Promise. She said that the homeless children will attend school and that these children are already in the public school system and other peoples children are probably already playing with them at school. She said the churches are already in compliance as far as fire code, etc. She said she did not know much about Special Use Permits but wanted the process to be simple. She said that they could discuss this for six months and that the same thing would be hashed over and over.

Mr. Jonathan Groene, board member of Family Promise, said he would like for the communication to stay open with the neighborhoods. He stated that the use of Sunday congregation at churches is more than 15 people so the neighborhoods are already dealing with this.

Mr. Jerry Wells, attorney for Family Promise, pointed out that none of the faith organizations that will be part of Family Promise are east of Massachusetts Street. He reminded them that the type of people who will be in the Family Promise program are families, not convicts. He said that Planning Commission has the opportunity to solve a real problem. He felt that the issue was about Family Promise because they are the organization that has come forward to take care of the problem for the city, at no cost to the City.

Mr. Andy Bloomer, thanked Family Promise for involving the Barker Neighborhood. He said that just because they have never had a Type A Homeless Shelter use before does not mean that someone will not use the type again after Family Promise.

Ms. Keaton said that she called a contact in Spokane, Washington and they do not have Special Use Permits for their uses. She said the woman she talked to has never heard of any complaints against any of the residents of the day or night centers.

Mr. Larry Powers, said he was raised by a mother who did not have anyone to help her. He was here to help kids with Family Promise since he was not given the same help as a child.

COMMISSION DISCUSSION

Commissioner Carter said a management plan will be required . He inquired about unrelated persons.

Mr. Rexwinkle said that the Type A Homeless Shelter can have up to four unrelated people.

Commissioner Finkeldei inquired about review of the management plan.

Mr. Rexwinkle explained the distinction between the administrative review and permit process proposed for Type A Homeless Shelters and the Special Use Permit process proposed for the other uses. He said that a Type A Homeless Shelter is proposed to be approved administratively and that the management plan would be reviewed by the Planning Director and approval or denial of the plan would be an administrative decision. The applicant would be required to provide certification that they have mailed notification to neighbors within 200' and to the neighborhood association. He said that Code Enforcement Officers would enforce anything not being followed. He stated that a Special Use Permit would require a pre-application meeting and would also require a Site Plan for review and enforcement. There is a set schedule for Planning Commission items and then it would move forward to City Commission. He said in terms of time it would take 3-4 months to move through the Special Use Permit process. He also said that there is a protest petition time frame between Planning Commission action and City Commission consideration of the Special Use Permit.

Commissioner Harris asked if it was possible to amend the Special Use Permit process to take out the Site Plan requirement.

Mr. McCullough said it was possible but the Code does not discriminate. It is an enforcement tool that provides information and the information is relevant for code requirements.

Commissioner Harris inquired about the site plan process for churches.

Mr. McCullough said that some of the churches will already have site plans on file so they may or may not be required to have site plan drawings drafted by an architect or engineer.

Commissioner Harris inquired about screening for Special Use Permits and what in the management plan would address neighborhood concerns.

Mr. McCullough said there are rules of conduct and a response plan for emergencies at the site.

Commissioner Harris said that the rules of conduct are not defined.

Mr. McCullough said that the intent is to be flexible enough, but make them address rules of conduct for their guests.

Commissioner Harris said that those could be rules for the facility rather than addressing the concerns of the neighbors.

Mr. McCullough said the limited nature of Type A Homeless Shelters and the emphasis on serving families isn't so far outside of the scope of what some religious institutions already do on a daily basis. The text amendment allows a maximum of 15 people, anything over that is more intense and considered a Type B Homeless Shelter.

Commissioner Dominguez inquired about training for employees/volunteers being in the management plan.

Mr. Rexwinkle said that Type A Homeless Shelters require two staff persons but does not specify the level of training.

Commissioner Dominguez asked which churches would not have site plans.

Mr. Rexwinkle said that churches built prior to the 1960's or those churches that existed prior to the 1960's which have not constructed building additions since then would not have site plans on file. The City started requiring site plan review during the 1960's.

Mr. McCullough said that most churches west of Iowa Street would have a site plan on file.

Commissioner Dominguez inquired about the definition of family.

Mr. Rexwinkle displayed on the overhead the existing definition of family from the Development Code.

Commissioner Finkeldei asked if a family could be a single person.

Mr. Rexwinkle said that was correct.

Commissioner Dominguez asked about the definition of religious institutions.

Mr. Rexwinkle showed on the overhead projector the definition of religious institutions from the Development Code.

Commissioner Rasmussen pointed out a typo at the top of page 139 of packet, a section of the draft language that talks about the standard for revocation.

Mr. Rexwinkle explained that the error was a word-processing error that should cite Section 20-1605(e) of the Development Code which can be easily corrected. This section of the Development Code outlines revocation procedures.

Commissioner Rasmussen said the last draft he saw had no management plan requirement for Type A Homeless Shelters and now a management plan is required with four criteria.

Mr. Rexwinkle said the management plan criteria for Type A Homeless Shelters exclude the requirement that an interior floor plan be provided, a maintenance plan be provided, and that staffing levels be specified.

Commissioner Dominguez asked who would be in charge of screening.

Mr. Rexwinkle said that the proposed language would not require screening of guests.

Commissioner Dominguez asked if having a Special Use Permit would require neighborhood notification.

Mr. Rexwinkle replied yes, the Special Use Permit process requires notification and provides the neighbors a public hearing process.

Commissioner Harris asked if they could revise the draft language to state that Type A Homeless Shelters may only be accessory to Community or Campus Religious Institutions, instead of the smaller, neighborhood religious institutions and still allow Family Promise to do what they want to do.

Mr. Rexwinkle said he was not fully aware of all the churches that Family Promise was working with. Prior to the adoption of the Development Code there was no distinction between larger or smaller churches and there have not been any new churches built in the City since adoption of the Development Code.

Commissioner Rasmussen, had comments regarding Type A Homeless Shelters. He said that if his house burned down or had tornado damage nobody would be concerned about a church providing shelter for him for a few nights. He went on to say that if he lost his job and house he could see his church giving him a place to stay for a few nights. He said that if the community starts thinking about ex convicts or drug addicts then it gets more scary. This has gone through an evolution process and he likes what is being developed with the idea that a church is going to try and help a family. He would be in favor of

Type A Homeless Shelters being permitted as an accessory use to a religious institution if it was more restrictive. He felt it should be restricted to two or more persons related by blood, marriage, or legal adoption, instead of using the full definition of family.

Commissioner Carter said he would not necessarily agree that four unrelated people should be allowed in a Type A Homeless Shelter since Family Promise is targeting families. He agreed with Commissioner Rasmussen.

Commissioner Finkeldei asked if the management plan could be appealed to City Commission.

Mr. Rexwinkle replied yes.

Commissioner Hird asked if in terms of the definition of family, would it exclude domestic registry. He said there are a lot of non-traditional families that are not on the domestic registry.

Commissioner Carter asked how Family Promise defines family.

Mr. Reitz said that if a family or a person does not have a child or children they do not get accepted into the program but that they do not do DNA testing.

Commissioner Dominguez asked if that would include two gay parents.

Mr. Reitz said sure.

Commissioner Dominguez said that when you buy into a neighborhood you buy into the values. He did not think it was fair to the neighbors to push a program that is run by someone outside of the neighborhood. He felt that the Special Use Permit should be part of the process to get the neighborhood involved.

Commissioner Carter asked if there has been feedback from the neighbors near churches that want to participate in the Family Promise program.

Mr. Rexwinkle said that Staff does not know all the churches involved with Family Promise and which public correspondence goes with what churches.

Commissioner Harris said the purpose of zoning is to create opportunities in the community for uses needed and eliminate uses in areas where they are not needed. She said the worst case scenario would be a Type A Homeless Shelter, 15 people at night, 365 days a year. She said there are problems with the drop-in center now and they have a management type plan. She wondered how they could allow this without consequences. She did not feel the Code was tight enough.

Commissioner Finkeldei said that there is nothing in the Code today that would stop a church from having an Alcohol Anonymous meeting or meeting of ex convicts. Any church in the city could have ex convicts every day to meet with them and there is not a single rule that would deny them that. He wondered what limits they should put on a church that was present when the neighbors moved in.

Commissioner Singleton felt that Family Promise was a great organization but did not think this was good policy. She felt that Special Use Permits were a good start.

Commissioner Rasmussen asked how the text amendment originally started.

Mr. Rexwinkle said that City Commission initiated it at the request of Lawrence Community Shelter for an amendment to allow Type B Homeless Shelters in industrial areas with a Special Use Permit.

Mr. McCullough said that City Commission was very clear that they wanted standards. They asked Staff and Planning Commission to develop standards, which sent Mr. Rexwinkle through a very intensive and comprehensive analysis of other city's codes. Staff was already on the road of distinguishing between various homeless uses when Family Promise approached Staff. Staff probably should have been doing this a year ago when the Community Commission on Homelessness was finishing their vision.

Commissioner Rasmussen did not see why a time restriction could not be placed on Type A Homeless Shelters.

Commissioner Carter felt that the management plan codes of conduct should be standardized so that neighbors can point to it as reference.

Commissioner Finkeldei said usually it is called a good neighbor agreement.

Commissioner Harris said she did not know what to say about the buffering. She understood the neighbors concerns and their quality of life, but did not know how to approach that. She did not think a fence and vegetation would cover it. She felt that buffers could help.

Commissioner Dominguez agreed with Commissioner Harris.

Commissioner Rasmussen said he would like to find a way to make the Family Promise model work.

Commissioner Hird said that they are actually raising the standards based on the Family Promise organization and addressing more of the concerns of other organizations coming in.

Commissioner Dominguez felt that the text amendment was premature to move forward with.

Commissioner Hird said the original premise of this is talking about homeless families. He did not find that to be scary and did not want to approach the issue out of fear. He was concerned that they were getting into something so complicated that they are missing the point. He felt that they needed to get past the fear and move forward. He felt that changing the definition of family could eliminate a lot of the fears.

Commissioner Singleton felt that they needed to take a look at the two distinct issues of homelessness.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to approve Text Amendment TA-04-03-08 to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities, as set forth by staff with the following revisions:

- 1) Permit Type A Homeless Shelters to operate a maximum of 15 nights per quarter.
- 2) Require that management plans governing the operation of Type A Homeless Shelters be appealable directly to the City Commission.
- 3) Modify the definition of family as it relates to Type A Homeless Shelters and Type A Homeless Day Centers to state that these uses ***"are those that shall serve a maximum of 4 family units defined as 2 or more persons related by blood, marriage, or legal adoption with one such person being less than 18 years of age in the family unit or non-related persons otherwise living together as a family unit with at least one child less than 18 years of age"***.

Commissioner Harris said she would be voting in opposition and if the motion fails she will be motioning to add Special Use Permits.

Commissioner Hird said he was not in favor of Special Use Permits.

Commissioner Blaser did not feel that Special Use Permits should be part of it.

Motion carried 6-3, with Commissioners Dominguez, Harris, and Singleton voting in opposition.