

Memorandum

City of Lawrence

Planning & Development Services

TO: Community Commission on Homelessness for September 9th CCH Public Meeting (8:30 a.m. City Commission Meeting Room, City Hall)

FROM: Joseph Rexwinkle, Planner

CC: Scott McCullough, Planning & Development Services Director
Margene Swartz, Assistant Director of Development Services
Sheila Stogsdill, Assistant Director of Planning

Date: September 3, 2008

RE: Homeless Services Text Amendment

On August 12, 2008 the Lawrence City Commission remanded the above-referenced amendments to the Community Commission on Homelessness (CCH) and the Planning Commission to allow additional public input on this text amendment. This memo provides the following:

- Summary of overarching issues and concerns presented by the public regarding homelessness.
- For each type of proposed homeless facility the following:
 - Definitions of each use as proposed in current draft language.
 - The zoning districts in which each use is to be permitted as proposed in current draft language.
 - Summary of specific public comments (issues, concerns, and support) pertaining to each use.
 - Possible options for responding to such issues.
 - Staff recommendation for the Community Commission on Homelessness, Planning Commission and ultimately the City Commission to consider.

Following consideration by and direction from the CCH, staff will draft revised language to present to the Planning Commission at its September 22 meeting.

Overarching Issues

The following is a summary of some issues and concerns that have been expressed during the public comment period that pertain to all proposed homeless facility uses or to homelessness in general.

1. Safety and welfare of guests/clients served.
2. Safety and welfare of neighborhood residents, particularly children.
3. Concerns about loitering of guests and visitors.

4. Structural code compliance.
5. Residential property values.
6. Permit all homeless uses in commercial and industrial districts only – DO NOT permit, under any circumstances, in or near residential districts.
7. Buffer these uses from residential uses, particularly single-family residential uses.
8. Buffer these uses from one another to prevent concentration.
9. Concern that these uses are not proposed to be permitted in planned development districts.
10. Crime, drugs and alcohol.
11. Mental illness.
12. Sexual predators.
13. Accommodations for children: schools, study space and support, etc.
14. Concern that these amendments abrogate an existing agreement between the City and The Salvation Army.
15. The naming convention of the various uses may be creating some confusion.

HOMELESS SHELTER, TYPE A

Existing Proposed Definition. A building or structure occupied as an accessory use to a permitted use listed as a public and civic in Section 20-402 and 20-403 of this Development Code and which is operated and staffed by a public, nonprofit, charitable or religious institution which provides overnight shelter to persons who are otherwise homeless. Type A Homeless Shelters are those that primarily serve families with children and shall be occupied by a maximum of 4 Families as defined in Section 20-1701 not exceeding a 15 persons total, or by a maximum of 4 persons not related by blood or marriage.

Existing Proposed Zoning. Permitted by right (without a public hearing) as an accessory use in all residential zoning districts and all nonresidential zoning districts except OS (Open Space) District. Though the use is permitted by right as an accessory use, use-specific standards are proposed to apply. For more information on the existing proposed use-specific standards see Article 5 of the draft language.

Public Comment Specific to Type A Homeless Shelters

1. Opposition to permitting this use by right in any zoning district. Some comments compare this use to group living uses such as group homes and assisted living facilities, both of which require a special use permit (SUP) in RS (Residential-Single Dwelling) zoning districts.
2. Opposition to permitting this use in areas of single-family residential uses or within a certain distance of areas of single-family uses (1000' has been suggested).
3. Confusion as to which uses a Type A Homeless Shelter may be accessory. What are public & civic uses as listed in Section 20-402 and 20-403 of the Development Code?
4. Confusion as to what an accessory use is.
5. Concern that, if this use is accessory to a religious institution, the congregation of that institution may be too small to adequately provide volunteer staff or living quarters.
6. Concern that the proposed language provides little regulatory oversight or control to prevent abuse and/or neglect of guests or for the protection of neighborhoods. Why isn't a management plan required for Type A Homeless Shelters?
7. Confusion regarding why this use is permitted by right while other homeless uses are not.
8. Strong support for this use type by congregations participating in the Family Promise program.

Possible Options to Address Public Comment

1. Permit this use as an accessory use to religious institutions only in zoning districts that permit religious institutions *OR* permit this use by SUP only.
2. If permitted as an accessory use, require that the use be registered with the City in a manner similar to other accessory uses (Accessory Dwelling Units and Home Occupations require registration, for instance).
3. Permit as a registered accessory use only for a defined period of time annually (30 days, 60 days) and require an SUP for permanent use.
4. Require minimum floor area of religious institution and/or minimum number of congregation.
5. Require a minimum distance between each shelter to prevent concentration of shelters in one area.
6. Require a management plan with specific and explicit standards (standards would need to be drafted for PC consideration).

Staff Recommendation

Planning staff recommends the following:

1. Permit Type A Homeless Shelters as an accessory use to religious institutions ***only***, including within residential districts as currently drafted, with use-specific standards.
2. Require registration of the use, renewed annually, with notification sent to all neighbors within 200' of the subject property and to any registered neighborhood association, if applicable.
3. Require the applicant/operator to execute an agreement/affidavit with the City in which the applicant/operator acknowledges the use-specific standards and agrees to comply with the standards.
4. Require a minimum floor area and/or congregation size to ensure that there is adequate space for clients and an adequate number of members of the congregation to volunteer to support the shelter.
5. Note that the registration may be revoked for failure to comply with the standards or conditions of the agreement/affidavit.

Staff does not recommend that a management plan be required. The concerns expressed in public comment may be addressed in the agreement/affidavit as opposed to a management plan.

If the staff recommendations are implemented, staff does not believe it is appropriate to require a SUP for all Type A Homeless Shelters.

HOMELESS DAY CENTER, TYPE A

Existing Proposed Definition. A building or structure operated and staffed by a public, nonprofit, charitable or religious institution that provides basic services during only daylight hours to homeless persons or to persons at risk of being homeless. Typical services may include food services, social services and Social Service Agency branch offices, counseling, medical services, personal hygiene, life skills training, employment training and assistance, educational assistance, mail or delivery services, telephone or computer services and storage of personal belongings. Type A Homeless Day Centers are those that shall serve a maximum of 4 Families as defined in Section 20-1701 not exceeding a 15 persons total, or by a maximum of 4 persons not related by blood or marriage.

Existing Proposed Zoning. Permitted by SUP (with a public hearing) in all residential zoning districts and all nonresidential zoning districts except OS (Open Space) District. Use-specific

standards, design standards and management plan criteria are proposed to apply. For more information on the existing proposed use-specific standards, design standards and management plan criteria, see Article 5 of the draft language.

Public Comment Specific to Type A Homeless Day Centers

1. Opposition to permitting this use (even by SUP) in areas of single-family residential uses.
2. Confusion as to the distinction between this use and Social Service Agencies since this use is defined as offering social services.
3. Concern that the proposed language provides little regulatory oversight or control to prevent abuse and/or neglect of guests or for the protection of neighborhoods.
4. Strong support for this use type by congregations participating in the Family Promise program.

Possible Options to Address Public Comment

1. Retain the existing proposed language which allows these facilities to locate in residential districts, but requires these facilities to gain SUP approval.
2. Permit only in nonresidential zoning districts either by right or with an SUP.
3. Clarify the definition of social service agency so that there is a clear distinction.

Staff Recommendation

Planning Staff recommends the following:

1. Permit this use by SUP only in nonresidential zoning districts and the RMO & RSO zoning districts.
2. Retain the existing proposed use standards, design standards and management plan criteria.

Staff believes the existing use-specific standards, design standards and management plan criteria provide an adequate level of oversight and control to prevent abuse and/or neglect of guests as well as the protection of neighborhoods. Many of the specific concerns expressed regarding criminal behavior, drug use, living amenities (study areas, clean sheets, etc.) cannot be fully addressed with land use regulations. The design standards criteria are based upon research on crime prevention through environmental design concepts. The design standards are required in an explicit attempt to reduce the likelihood of crime.

HOMELESS SHELTER, TYPE B

Existing Proposed Definition. A building or structure operated and staffed by a public, nonprofit, charitable or religious institution which provides overnight shelter to persons who are otherwise homeless. Type B Homeless Shelters are any homeless shelter not meeting the definition of a Type A Homeless Shelter.

Existing Proposed Zoning. Permitted by SUP (with a public hearing) in the RMO and RSO zoning districts and all nonresidential zoning districts except OS (Open Space) District. Use-specific standards, design standards and management plan criteria are proposed to apply. For more information on the existing proposed use-specific standards, design standards and management plan criteria, see Article 5 of the draft language.

Public Comment Specific to Type B Homeless Shelters

1. Opposition to permitting this use (even by SUP) in areas of single-family residential uses or within a certain distance of such uses.
2. Concern that the proposed language provides little regulatory oversight or control to prevent abuse and/or neglect of guests or for the protection of neighborhoods.

Possible Options to Address Public Comment

1. Require minimum distance between each Type B Homeless Shelter and areas of single-family residential land uses.

Staff Recommendation

Planning Staff recommends the following:

1. Retain the existing proposed use standards, design standards and management plan criteria.
2. Add a standard specifying a minimum distance between each Type B Homeless Shelter and areas of single-family residential uses.

Staff believes the existing use-specific standards, design standards and management plan criteria provide an adequate level of oversight and control to prevent abuse and/or neglect of guests as well as the protection of neighborhoods. Many of the specific concerns expressed regarding criminal behavior, drug use, living amenities (study areas, clean sheets, etc.) cannot be fully addressed with land use regulations. The design standards criteria are based upon research on crime prevention through environmental design concepts. The design standards are required in an explicit attempt to reduce the likelihood of crime.

Minimum distance standards would help to buffer Type B Shelters from residential uses. For discussion purposes, staff has included maps showing how certain buffers would affect the feasibility of locating a shelter given specific distance requirements.

HOMELESS DAY CENTER, TYPE B

Existing Proposed Definition. A building or structure operated and staffed by a public, nonprofit, charitable or religious institution that provides basic services during only daylight hours to homeless persons or to persons at risk of being homeless. Typical services may include food services, social services and Social Service Agency branch offices, counseling, medical services, personal hygiene, life skills training, employment training and assistance, educational assistance, mail or delivery services, telephone or computer services and storage of personal belongings. Type B Homeless Day Centers are any homeless day center not meeting the definition of a Type A Homeless Day Center.

Existing Proposed Zoning. Permitted by SUP (with a public hearing) in the RMO and RSO zoning districts and all nonresidential zoning districts except OS (Open Space) District. Use-specific standards, design standards and management plan criteria are proposed to apply. For more information on the existing proposed use-specific standards, design standards and management plan criteria, see Article 5 of the draft language.

Public Comment Specific to Type B Homeless Day Centers

1. Confusion as to the distinction between this use and Social Service Agencies since this use is defined as offering social services.
2. Concern that the proposed language provides little regulatory oversight or control to prevent abuse and/or neglect of guests or for the protection of neighborhoods.

Possible Options to Address Public Comment

1. Require minimum distance between each Type B Homeless Day Center and areas of single-family residential uses.

2. Clarify the definition of Social Service Agency so that there is a clear distinction.

Staff Recommendation

Planning Staff recommends the following:

1. Retain the existing proposed use standards, design standards and management plan criteria.
2. Add a standard specifying a minimum distance between each Type B Homeless Day Centers and areas of single-family residential uses.
3. Clarify definition of Social Service Agency.

Staff believes the existing use-specific standards, design standards and management plan criteria provide an adequate level of oversight and control to prevent abuse and/or neglect of guests as well as the protection of neighborhoods. Many of the specific concerns expressed regarding criminal behavior, drug use, living amenities (study areas, clean sheets, etc.) cannot be fully addressed with land use regulations. The design standards criteria are based upon research on crime prevention through environmental design concepts. The design standards are required in an explicit attempt to reduce the likelihood of crime.

Minimum distance standards would help to buffer Type B Day Centers from residential uses. For discussion purposes, staff has included maps showing how certain buffers would affect the feasibility of locating a shelter given specific distance requirements.

HOMELESS WORKPLACE

Existing Proposed Definition. A building or structure operated by a public, nonprofit, charitable or religious institution which provides a place of work to homeless persons and is accessory to a Type B Homeless Shelter or Homeless Day Center. A Homeless Workplace may consist of any use permitted by the zoning district in which it is located. Any place of work for homeless persons which is not accessory to a Homeless Day Center or Type B Homeless Shelter shall not be considered a Homeless Workplace and shall be subject to the regulations of the district in which it is located.

Existing Proposed Zoning. Permitted by right (without a public hearing) as an accessory use to a Type B Homeless Shelter or a Homeless Day Center in the RMO and RSO zoning districts and all nonresidential zoning districts except OS (Open Space) District. Though the use is permitted by right as an accessory use to a Type B Homeless Shelter or Homeless Day Center, it must consist of a use permitted by the zoning district in which it is located (for instance, manufacturing is not permitted in RMO and RSO, and therefore a Homeless Workplace consisting of manufacturing would not be permitted in these zoning districts). For more information on the existing proposed use-specific standards see Article 5 of the draft language.

Public Comment Specific to Homeless Workplace

1. Concern that this use codifies potential practice of indentured servitude, thereby making such practice permitted.
2. Concern that this use, when paired with a shelter and/or day center, codifies the potential practice of housing and employing illegal immigrants.
3. Concern regarding welfare and treatment of workers.
4. Concern regarding wages earned.

Possible Options to Address Public Comment

1. Require additional information regarding the nature of the Homeless Workplace at time of SUP request for Type B Homeless Shelter or Homeless Day Center.
2. Revise language to clarify that the Homeless Workplace use is accessory to Type A or Type B Homeless Day Centers and not to Type B Homeless Shelters. (The are not permitted in any event with Type A Homeless Shelters)

Staff Recommendation

Planning staff recommends the following:

1. Require additional information regarding the nature of the Homeless Workplace at time of SUP request for Type B Homeless Shelter or Homeless Day Center.
2. Revise language to clarify that the Homeless Workplace use is accessory to Type A or Type B Homeless Day Centers and not to Type B Homeless Shelters. (The are not permitted in any event with Type A Homeless Shelters)

Many of the specific issues and concerns expressed regarding indentured servitude, illegal immigration and welfare and treatment of workers are not necessarily issues that can be addressed with local land use regulations. The proposed amendments seek to address a recognized need to bolster the land use regulations related to homeless facilities.

SOCIAL SERVICE AGENCY

Existing Proposed Definition. A service operated by a government, public, civic, nonprofit or charitable organization providing services undertaken to advance the welfare of citizens in need which typically includes supporting office uses. Typical uses include employment counseling, life skills training, counseling, food banks, and blood banks. Social Service Agencies shall not include homeless shelters, group homes or commercial uses such as medical, professional, financial or real estate offices.

Existing Proposed Zoning. Permitted by right (without a public hearing) in the RMO and RSO zoning districts and all nonresidential zoning districts except OS (Open Space) District.

Public Comment Specific to Social Service Agencies

1. Confusion as to the distinction between this use and Homeless Day Centers since this day centers are defined as offering social services.
2. Concern that this use is permitted by right and that an operator of a Homeless Day Center would classify their operation as a Social Service Agency to avoid a public hearing process (SUP). This concern is likely based upon the perception that there is no distinction between Homeless Day Centers and Social Service Agencies.
3. Concern about existing social service agencies. Does this definition make existing agencies illegal?

Possible Options to Address Public Comments

1. Clarify the definition of Social Service Agency and/or Homeless Day Center so that its clear that while the Day Center use may provide social services, it is intended to provide services to homeless individuals or individuals who are otherwise homeless, whereas social service agencies provide services to the general public.
2. It may be possible to dissolve the Homeless Day Center use and replace it with Social Service Agency, but then the Social Service Agency use would have to require an SUP which may not be appropriate for all social service agencies, such as counseling, employment assistance, etc.

Staff Recommendation

Planning Staff recommends the following:

1. Revise the definition of Social Service Agency to clearly state that the services offered by such uses are intended for the general public to distinguish it from services offered at Homeless Day Centers, which are intended to serve the homeless population.

Staff considers this use to be a general office use, which our current Development Code only minimally addresses. It is only peripheral to the homeless issue and is not intended to be a use addressing the problem of homelessness in Lawrence.

Conclusion

Staff offers these recommendations based on the need to comprehensively address homelessness in the community and based on the public comments received during the identified public comment period. While staff offers recommendations in the memo, the options are provided as a way for the CCH, PC and ultimately the governing body to address the issues as they see fit.