

ITEM NO. 2 SPECIAL USE PERMIT FOR LAWRENCE COMMUNITY SHELTER; 214 W 10TH ST (SLD)

SUP-12-10-10: Consider the renewal of a Special Use Permit and a request to increase the maximum occupancy year round from 57 persons to 82 persons for Lawrence Community Shelter, located at 944 Kentucky Street/214 W. 10th Street. Submitted by Lawrence Community Shelter, tenant, for James Dunn, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

Commissioner Finkeldei asked what City staff would be involved.

Ms. Day said Parks and Recreation, Sanitation, and Development Services have indicated that the property was in compliance. She said she did not hear back from the Police Department about any behavioral changes.

Commissioner Finkeldei asked if there were any comments from the Fire Department.

Ms. Day said there were building modifications made in 2009 to accommodate the increased occupancy.

Mr. McCullough said the Fire Department inspected the property and worked with the Lawrence Community Shelter to meet Fire Code in terms of where patrons slept and making sure there were clear paths. He said there may have been some noted Fire Code infractions that had been, as far as he knew, corrected.

Commissioner Dominguez inquired how the previous conditions of approval would work with this new Special Use Permit. He wondered about the non-compliant fence and carport.

Ms. Day said the carport would be allowed to stay for the Special Use Permit extended period of time. She said staff's recommendation was that if for some reason there was a request 9-10 months from now to again renew they would have a full discussion with Historic Resources about whether or not that structure needed to come down or efforts needed to be made to make it compliant.

Commissioner Dominguez asked if the Lawrence Community Shelter has been in compliance with required reporting.

Ms. Day said yes.

Commissioner Rasmussen asked what the rational was for limiting the increased 77 occupancy when this was approved by City Commission.

Ms. Day said she did not recall the full details. She said she thought City Commission was expressing a concern about the intensity of the site.

Commissioner Rasmussen asked why Planning staff was comfortable going to 82 occupants year round.

Ms. Day said the limitation was placed by City Commission, not staff.

Commissioner Rasmussen asked again why Planning staff was now comfortable with 82 occupants year round.

Mr. McCullough said the 82 occupancy number included staff members and that was the number set by City Commission for the winter months for the total occupancy of sleeping guests and staff at night. He said that number was the building capacity. He said the request at the time was for the winter months and the request

now was for year round. He stated there was no waiver of any Building or Fire Code with this request or what was established by City Commission so any occupancy of the building had to meet all City Codes.

Commissioner Rasmussen asked what changed between this year and last year in the eyes of the Planning Staff to now be comfortable with a year long period

Ms. Day said one of the key changes was the adoption and implementation of the management plan which had resulted in positive changes/results.

Mr. McCullough said the process was a little different the last time. He stated the condition increasing the occupancy to 82 did not go through the annual review of the permit to extend it. It did not go to Planning Commission because it was a violation of the Special Use Permit so it went directly to City Commission as a revocation hearing, and through that process the request was made to increase the occupancy rate to the established number. He said with this annual extension request the Lawrence Community Shelter said there was a need for the 82 occupancy level year round. He stated there had been a years worth of that occupancy being at that level, arguably without city impact, in terms of additional service to the property. He said he did not recall that staff weighed in and gave a recommendation previously.

Commissioner Rasmussen said City Commission considered raising the residency up from 57 persons to a maximum of 82 during winter months. He asked what would have changed between that decision and now to get staff to recommend approval.

Mr. McCullough said it was his recollection that the change was the request itself. He said the request was originally just for the winter months and what drove that number in the first place was the Salvation Army closing

Commissioner Dominguez asked how it was determined that half the year was considered the coldest months of the year instead of just three months.

Mr. McCullough said the time period of October through April was established by City Commission at the time of the revocation hearing.

Commissioner Finkeldei asked if the staff recommendation tonight was to permit the occupancy for the entire year.

Mr. McCullough said yes.

APPLICANT PRESENTATION

Mr. Loring Henderson, Director of Lawrence Community Shelter, said there were two parts to the renewal. The first part was the renewal for one year. He said they were keeping their options open and hoped to be in another building within a year. He said they were working as rapidly as possible to make the relocation happen and that they were working hard to assure the donors that the money would be used for relocating to a new site. He said occupancy level was the second part he wanted to discuss. He said in the last year they had been living with a two-tiered occupancy level of 82 people for the cold weather months and 57 people for the warm weather months. He said it had been difficult and even harsh on the staff and neighborhood. He said in cold weather months it worked because the shelter had a relationship with the churches giving a place for people to sleep. During warm weather months when there are 53 people sleeping with 4 staff members it forces the lottery system to be implemented so some people have to be turned away and pushed out into the neighborhood. He said it then puts an extra load on staff because rather than having them inside the shelter where they sleep and can be watched, they are outside of the shelter. He stated a lot of the guests do not want to leave the environs of the shelter because they feel safe so staff then has to keep an eye on them.

Commissioner Burger asked how many beds were planned for the new facility.

Mr. Henderson said 125 beds and that number was arrived at because the Lawrence Community Shelter and the Salvation Army (before it closed) were sleeping 120 people combined during the winter months. He said recently they have had as many as 7 families staying at the shelter and Family Promise has 4-5 families as well.

Commissioner Burger inquired about the percentage of residents that were perpetual or seasonally recurring.

Mr. Henderson said that was a hard number. He stated one of the shelter studies show that 1/3 of the guests stay 10 days or less, a 1/3 stay 10-20 days, and a 1/3 stay 20+ days. He said there was a limit of 90 days which was in the management plan approved by the City. He said guests can stay longer if in a program, depending on barriers, and working toward getting out of homelessness or working toward a goal.

Commissioner Rasmussen asked if Mr. Henderson thought during the warmer weather months that the typical guest occupancy would be 82. He wondered if the occupancy was increased to 82 if the need for the lottery system would still be needed.

Mr. Henderson said there was currently a lottery system almost every night during the warm weather. He said they often have 15-20 people on the lottery list, above the 53 occupancy rate. He said that the need for a lottery system would most likely not be needed during the warmer months if the occupancy rate was increased to 82 people, but that it would depend on the number of families.

Commissioner Dominguez asked when the current Special Use Permit would expire.

Mr. Henderson said April 17, 2011.

Commissioner Dominguez was concerned about the occupancy being increased to 82 people this year and attracting more guests to drive the need to up next year.

Mr. Henderson said the current building would not take anymore occupancy. He said the numbers have been fairly consistent the past few years. He said the numbers as a community were higher than they have been able to get a good hard count of but have not grown in a big way because there has been a certain number of in-take every year.

Commissioner Culver inquired about budget and resource limitations (financial or staffing) of having the permanent increase of 82.

Mr. Henderson said it would not have an effect because they were already handling that number of guests. He said they had a big hit on the budget and staffing when the Salvation Army closed its night shelter because the Lawrence Community Shelter had to absorb people that had been previously staying at the Salvation Army.

Commissioner Finkeldei asked Mr. Henderson to discuss how the changes to the management plan had worked this past year and if there were any more changes under consideration.

Mr. Henderson said there were currently no changes under consideration. He said the management plan worked this past year and the changes that were made to the management plan last year were not significant. He stated the management plan for the new site would have a neighborhood committee review it in the future.

Commissioner Liese said guests must check in by 6:30pm and lights out at 10:00pm and then lights back on at 7:00am. He said based on that information he felt it provided a humane service and provided some protection to the community for people who struggle. He wondered if there was any data on the amount of problems when there wasn't a shelter available. He wondered if guests got in trouble in the community when they didn't have a place to sleep.

Mr. Henderson said the night shelter was opened in December 2003 and he didn't know any data prior to that date. He said the Salvation Army had a night shelter but he was unsure how many years it went back. He said the Lawrence Community Shelter recently hired a part-time development director who would help with some data collection.

Commissioner Liese said he found it comforting that this many more people would have a place to stay at night.

PUBLIC HEARING

Mr. Mark DeBarr said guests who can't stay at the shelter can get an illegal camping ticket and that those can cost \$250. He said it was frightening not to have a place to stay at night. He was in favor of the increase in occupancy.

Ms. Audrey Klopper said a measure of a community's humanity was determined with how they take care of one another. She felt the Lawrence Community Shelter was important for the community. She requested the Special Use Permit be extended and the occupancy be raised. She said the shelter staff was dedicated and provided more than basic needs by trying to lift the spirit of the people. She asked for patience in allowing them to find a new location. She said that denying the extension would do much to impede the process.

Commissioner Liese said he would sleep better at night knowing that those that need this service would have it. He said some believe the shelter might be a magnet for trouble and he asked Ms. Kloppe to speak to that.

Ms. Kloppe said a magnet perhaps but the alternative was troubled people sleeping by the river or freezing to death.

Commissioner Dominguez asked if she had ever stayed at the Lawrence Community Shelter.

Ms. Kloppe said no, but she used to work there teaching art. She said the guests were diverse, such as middle class people who have lost everything, highly educated people, mentally ill, chemically dependent, abused women, veterans, etc.

Ms. Jean Grant, 1308 Jana Dr, said most people fall under middle class, and it was hard to imagine being homeless when you're middle class. She said the only thing she could personally compare it to was when she visited England and all the rooms were booked for a soccer game and she had to spend the night in a bus station. She said it would be a huge embarrassment to not have a community shelter for people to turn to. She said Lawrence has a superior jail and felt they should also have a superior homeless shelter.

Mr. Phil Hemphill, 937 Kentucky Street, said he has lived near the shelter since they started the overnight shelter at 21 occupancy, then the occupancy was increased to 33, then to 57, and now to 82. He said he guaranteed there would be 100 people over there as soon as the 82 occupancy was approved. He said "if you build it they will come." He said he did not know how the building could hold that number of people. He said the shelter was supposed to have had a permanent shelter by now and it seemed every time they find a location that they run into a road block. He said he had no idea an overnight shelter was coming into his neighborhood and was blindsided by it. He said regarding the issue of the permanency of some of the guests, the Topeka Rescue Mission allows guests 5 days to get into a program or they have to leave. He said there were a number of people in the Lawrence Community Shelter that if pressed to get into a program they would leave so then the 82 occupancy would not be needed. He said the business model was ruining their chances of finding a new location. He said the guests of Lawrence Community Shelter cut through his property often and the good neighbor agreement is a farce because the homeless don't even know what it is.

Commissioner Dominguez inquired about how many police visits there were to the neighborhood.

Mr. Hemphill said if he wants to get someone to stop trespassing through his property on a daily basis the police have to be there and see it and it has to happen twice. He said the police don't want to have to put someone up at the jail for \$125 a night. He said the same goes for littering, peeing, crapping, and harassing his tenants. He said the Lawrence Community Shelter takes no responsibility for the guests once they leave the property.

Commissioner Liese asked why he was more comfortable with more people being outside at night instead of in a bed to sleep overnight.

Mr. Hemphill felt that if the occupancy was increased to 82 it would attract more people. He felt the business model needed to be changed and be more responsible for the people outside if they were ever going to find a new neighborhood. He said it was a catch-22, if the number was increased there would be more people who would need a bed, the occupancy rate would never cover it.

Commissioner Liese said he would prefer the homeless to be in bed instead of loitering around his business at night.

Mr. Brad Cook, Lawrence Social Worker placed at Lawrence Community Shelter, believed that the shelter was a vital part of the community and served many people. He favored the increase of occupancy.

Ms. Laura Ruth said she was disturbed by the word 'them' to describe homeless as separate and less human. She said was also uncomfortable with the lifestyle accusation. She said poverty, domestic violence, addiction, mental illness, and divorce were not lifestyle choices. She asked Planning Commission to use discretion to benefit the most vulnerable people of the community.

Mr. David Hartman supported the shelter and said he would love nothing more than someone who was against the shelter to envision their relative or child being homeless. He said if there was no facility or structure then they would be on the street. He said everyone at the shelter was not perfect and their problems are probably what got them there. It is a necessary facility. He said he was currently homeless and stays at the shelter.

Commissioner Dominguez asked Mr. Hartman if he usually received a bed at the shelter.

Mr. Hartman said he volunteers around the shelter and when guests do work around the shelter they receive a bed to sleep in.

Commissioner Dominguez asked how long he has lived in Lawrence.

Mr. Hartman said he has lived in Lawrence about a year and spent about a month at the shelter. He said he was at the shelter once before.

Commissioner Dominguez asked what percentage of guests were Lawrence residents.

Mr. Hartman said he thought the majority of guests, about 90%, were from the area.

Commissioner Liese asked Mr. Hartman if he was offended by the homeless being referred to as 'they' and 'them.'

Mr. Hartman said yes.

Commissioner Liese asked Mr. Hartman's opinion about what residents of the shelter should do to respect Mr. Hemphill's property.

Mr. Hartman said he and other guests of the Lawrence Community Shelter recently started a group with the purpose of reflecting positive behavior and influence those around them at the shelter. He said they

occasionally have to influence people around them to stop cursing or being negative. He said he would try to influence and remind others not to go across Mr. Hemphill's property.

APPLICANT CLOSING COMMENTS

Mr. Loring said for the record that the shelter records show that about 70% of guests were from Douglas County.

COMMISSION DISCUSSION

Commissioner Rasmussen asked if this item would move to City Commission if approved.

Mr. McCullough said yes

Commissioner Rasmussen said the homeless shelter was needed in the community and there was frustration and concern about the large number people in a really small location. He said if this was a house full of college kids it would be way over maxed. He felt that it had been addressed by putting a one year limitation on it to encourage the shelter to find a new location. He said he was disappointed the location by the jail did not work out. He said he would support the extension request for the Special Use Permit. He said he was concerned about the increased year round occupancy but that Mr. Henderson gave four solid reasons for the increase being justified; 1. the lottery of sleeping space and people being pushed out to the streets to sleep 2. provides more opportunities for case management, 3. allows flexibility to accommodate families, 4. generally the shelter does not anticipate the need for the lottery system during warmer months.

Commissioner Finkeldei said he would also support the renewal of the Special Use Permit. He said not only would a different location be better for various reasons, it would have a whole different setup and different ability to serve. He said no matter where it was located a larger building would accomplish the task better. He said he has been involved at the Methodist church as an overflow facility and he joined the board of directors for Family Promise about a year ago and has worked with many of the families that have come through that program. He has seen people coming through the program and felt this was a worthwhile extension. He said he would support the renewal.

Commissioner Liese said he would support the renewal. He said he would like to see the shelter residents and shelter staff work with people who stay there and make sure they understand the importance of respecting neighboring property.

Commissioner Burger agreed with the positive comments this evening. She felt this was an opportunity to help those in need. She referred to page 35 of the packet that addresses offsite behavior 'further admission to the shelter may be denied for any individual who causes valid concerns for neighbors.' She encouraged Planning Commission to consider amending the Special Use Permit to give it a 4 month approval in the hopes that the shelter and neighbors would be in a better place.

Mr. McCullough said that was within their authority to make that recommendation. He said the annual process for staff, the community, and the Commission takes resources to go through a Special Use Permit process. He said the good neighbor agreement was a living document and that all that effort may not have the most positive results for the behavior of guests of the shelter. He thought the effort that was referred to had been and continues to be put forth. He felt the bulk of that was probably accomplished at this point. He said it was within Planning Commission authority to make that recommendation to City Commission.

Commissioner Dominguez said he would be in favor of a 6 month extension. He said 30% of the guests were not Douglas County residents. He said the shelter has been detrimental to downtown businesses. He felt this organization did not have the budgetary skill sets to run the organization properly with the money given to them by the community. He felt there were better organizations in town already set up to handle this type of situation with the homeless. He said he could not support an extension. He said he would support a 6 month extension.

Commissioner Finkeldei said they have been down this route before in the past few years. He asked when this current application was turned in.

Ms. Day said December.

Commissioner Finkeldei said the applicant applied in December to allow staff to review it in order to get it to Planning Commission and then on to City Commission. He stated that if they give a 6 month extension the applicant would be applying for a new permit about a month after they would get their approval because that's how the process works. He said he would never support any type of 6 month Special Use Permit due to the extensive process. He said there were practical reasons not to vote for a 6 month extension.

Commissioner Dominguez felt more pressure needed to be put on Lawrence Community Shelter to motivate them to find a new location. He said they could not keep coddling them and giving them what they want each time.

Commissioner Blaser said this used to be a 2 year Special Use Permit and it was reduced to 1 year. He agreed if it were changed to 4-6 months all it would accomplish was more paperwork. He inquired about the reports.

Mr. McCullough said there are annual reports for the current location and quarterly reports for the new location fund raising.

Commissioner Blaser said he would support the 1 year Special Use Permit and keep it moving. He did not agree with Commissioner Dominguez's comment about the shelter not trying to find a new location. He felt they were trying to find a new location and more pressure wasn't going to help. He did think the shelter could possibly work on being more neighborly. He said he would support the Special Use Permit extension with the 82 occupancy.

Commissioner Dominguez said he did not say the shelter wasn't trying to find a new location.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Finkeldei, to approve the renewal of the Lawrence Community Shelter Special Use Permit for one year and forwarding the request to the City Commission with a recommendation of approval and the ordinance for adoption on first reading, subject to the following conditions:

1. SUP approval granted for period of one year to expire April 30, 2012.
2. Submittal of quarterly reports to the City Commission regarding the status of fundraising and construction progress for a permanent facility.
3. Submittal of an annual report to the Planning Office within the first calendar quarter of the year.
 - a. The report shall include: a listing of law enforcement & emergency response calls, a log of guests who obtain jobs and housing, numbers of guests who utilize the day and nighttime services, and an update on the on-going commitment to communicate with the surrounding neighborhood and to address concerns of neighbors.
4. Revision of the site plan to update notes to state:
 - a. Identification of expiration dates, HRC, PC and CC action dates, as necessary to reflect SUP-12-10-10 approvals.
 - b. Amend existing notes "D and E" to states; "The noncompliant fence and carport will be removed when the SUP expires or when the Shelter moves to a new location. (Condition of DR-10-118-09)"
 - c. Modify plan to indicate improvements shown were completed following the 2009 approval. (Show site conditions as they are now.)
 - d. Modify table summary to provide building summary for total building.
5. Execution of a new Site Plan Performance Agreement.
6. Publication of an ordinance per Section 20-1306(j).

Commissioner Rasmussen said it was important in working aggressively to find a new location.

Commissioner Burger said in light of the fact that the process takes so long she would support the motion. She said she was a little alarmed at how long the process takes but she knows there are reasons for that. She said the Fire Department has been through the shelter and have deemed 82 people to be safe. She said she would like to see the shelter work with the offsite behavior issues. She said she would vote in favor because if the facility was safe for 82 people then it should be used by 82 people.

Commissioner Culver felt the 12 months seemed to be a balance in allowing enough time with city processes and the Lawrence Community Shelter finding a more permanent location. He said he was generally in favor of the extension.

Motioned carried 6-1, with Commissioner Dominguez voting in opposition.