



S.E. D Street, Madras, OR 97741 - 541-475-3388

## MEMORANDUM

Date: 11/25/2009

Meeting Date: December 2, 2009 (Work Session)

To: Madras Planning Commission

Cc: Mike Morgan, City Administrator  
Bob Lovelien, City Attorney  
Gus Burrell, Public Works Director  
Travis Wells, Assistant City Engineer  
Tammy McHaney, Community Development Assistant

From: Nicholas Snead, Community Development Director

Re: Draft text amendments to Zoning Ordinance (No. 723)

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### OVERVIEW:

This memorandum discusses the proposed amendments to the Zoning Ordinance (No. 723.) that the Community Development Director will discuss at the December 2, 2009 Planning Commission work session. The specific amendments are discussed below, by section.

### SPECIFIC TEXT AMENDMENTS BY SECTION:

#### Lot Area

Staff proposes to amend the definition for Lot Area in Section 8-12.1.3 so that the area of a lot encumbered by an easement, where a public trail will be located and constructed, is not included in the lot area. The proposed language amending the definition of Lot Area is below (*italics*):

LOT. A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required; such lot shall have frontage on a public street, or easement approved by the Planning Commission or City Council. A lot may be a single lot of record, or a combination of complete lots of record, or complete lots of record and portions of lots of record, or a parcel of land described by metes and bounds; provided that in case of division there shall have been approval given to said division by the Planning Commission under the conditions set forth in the Subdivision Ordinance.

~· Area. The total horizontal area within the lot lines of a lot, exclusive of streets and easements of access to other property. *The area of a residential lot or parcel*

*that is encumbered by an easement, where a public trail will be constructed, shall not be included in the lot area calculation.*

### Dark Sky

A business owner in Madras has requested that the Lighting standards in the Zoning Ordinance be amended in a manner that is consistent with objectives of the International Dark Sky Association (IDSA). Staff has evaluated the Zoning Ordinance and determined that the existing Lighting standards for each zoning district are coincide with the preferred lighting regulations of the IDSA although the current regulations do not have a purpose statement. As such, staff proposes to add the following purpose statement (*italics*) to the Lighting standards for each zoning district:

*The purpose of the regulation is to allow reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the ambiance of the night; curtail and reverse any degradation of the nighttime visual environment and the night sky; minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary; conserve energy and resources to the greatest extent possible; help protect the natural environment from the damaging effects of night lighting.*

### Vehicular Access on Arterial & Collector streets

Staff proposes to amend Section 8-12.4.2—Access to require vehicular access to comply with the access management standards contained in the City of Madras TSP. Specifically, staff proposes to add the following standard (*italics*) below to Section 8-12.4.2:

### Vision Clearance

Staff proposes to add the diagrams contained in Attachment A to Section 8-12.4.11. See Attachment A for the proposed Vision Clearance Diagrams.

### Site Plan Review Procedures

Staff proposes to amend Section 8-12.9.3 by adding “*Site Plan*” to the list of land use permits that are not processed administratively.

### Moving Buildings

Staff proposes to amend Section 8-12.4.9 by requiring that all buildings moved onto a lot or parcel be connected to an approved sewer and domestic water services within six (6) months. Section 4.9 is stated below (*italics*) with the proposed text amendments.

- A. **REQUIREMENTS.** Within six (6) months after a building has been moved onto a lot within the City of Madras, the building shall have been placed upon its foundation in accordance with the building code ***and connected to an approved sewer and domestic water service.*** The building must have been so remodeled and redesigned as to meet requirements of State building codes. All scrap lumber, trash, debris, and other materials including timbers and equipment for the moving of said building shall have been removed from the premises; and all holes, underground structures, and excavations shall be filled to the rough grade level as indicated in the building permit. No such building shall be occupied until all the above requirements have been met.

### Commercial Zoning District

In 2006 when the City adopted amendments to the Zoning Ordinance that established the Community Commercial Zone (C-3) in Section 8-12.3.5.1 the remnant portions of this section were not removed. Staff proposes to amend Section 8-12.3.5 by removing the remnant portions

of Section 8-12.3.5.1. Attachment B contains Section 8-12.3.5.1 with the sections that are proposed to be removed noted with strikethrough font (e.g. ~~delete~~).

## Emergency Shelters

### **Overview**

Currently the City of Madras Zoning Ordinance does not allow homeless shelters as a permitted or conditional use in any of the zoning districts. It is held that there are Madras residents that do not have a home and therefore, are homeless. The number of homeless in Madras is not fully known due to the city's varied participation in the annual homeless counts. There is a need in the community to provide shelter for the homeless. To meet this need, zoning regulations are proposed to be changed.

Generally, there are two categories of homeless (*see below*)<sup>1</sup>: The different types of homeless and associated characteristics indicate which regulations and processes should be changed to address the homelessness issues in Madras.

***Transitionally homeless:*** those who generally move quickly through the homeless assistance system, once they are able to access it. Their principal need is for housing. Income supports, including employment that pays a living wage, is critical to keeping these families housed.

***Chronically homeless:*** those who often experience long-term homelessness, frequently rotating through community shelter facilities to the streets. They typically have health or substance abuse problems in addition to extreme poverty. This population is best served by permanent supportive housing that combines housing with intensive rehabilitation, treatment, and other social services.

About two-thirds of households (50 percent of the people – including children) who experience homelessness over the course of a year [nationally] are single adults<sup>1</sup>. Most of these people are homeless for a very short time, and leave the homeless assistance system quickly<sup>1</sup>. As such, most of those who are homeless are transitionally homeless and require short-term shelter. Others are perpetually homeless, cycling in and out of a variety of shelters, detention facilities, and the health care system<sup>1</sup>. Moreover, the Chronically homeless require a wide range of support from social services institutions not just short-term shelter. For these reason staff has proposed to change the zoning regulations to allow short-term shelter as it will provide shelter for a larger portion of the homeless population.

### **Guiding Principals for Emergency Shelter Regulations**

Staff has developed draft regulations for Emergency Shelters with the following guiding principals:

1. It is in the public interest to provide short-term shelter to people who would otherwise not receive it;
2. Emergency Shelters are not intended to be long-term solution to homelessness;
3. Ensure public safety, health and welfare are maintained;
4. Develop regulations that reduce conflicts between Emergency Shelters and other uses;

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<sup>1</sup> American Planning Association, Policy Guide on Homelessness, 2003

## **Draft Emergency Shelter Regulations**

### Definitions:

Staff has called short-term shelters Emergency Shelters (*see definition below*). This type of shelter will be provided on a short-term basis for individuals and/or families when a sudden unforeseen crisis occurs where immediate shelter is needed. The draft definition for Emergency Shelters is below (*italics*).

### *Emergency Shelter:*

*A permanent facility providing short-term shelter (no more than 15 consecutive days) for the homeless when a sudden unforeseen crisis occurs and immediate shelter is needed. Services may be provided including, but not limited to, accommodations, meals, toilet/bathing facilities, clothing/laundry, case management services and information on or referral to other community resources.*

### Zoning District & Type of Use:

It is proposed that Emergency Shelters be conditionally allowed in the R-1, R-2, C-1, and C-3 zoning districts within Churches. Currently churches are conditionally allowed in those zoning districts. As proposed, if a church wanted to operate an Emergency Shelter, it would need to obtain conditional use permit approval. It is important to note that this proposal does not require churches operate an Emergency Shelter rather, they would have the ability by obtaining Conditional Use approval if they chose.

It is anticipated that residents of the city will be concerned about the activities of Emergency Shelter patrons and how they will impact neighborhoods. It is also anticipated that business owners will have similar concerns but related to how patrons may affect business operations. To reduce impacts, staff considered making Emergency Shelters conditional uses in both the Commercial & Residential zones to provide equity amongst zoning districts although, the potential impacts of the Shelters to residents and business owners were thought to be significant enough that an alternative solution was needed. While the exact impacts cannot be fully known due to locational and operational differences between potential Shelters, staff has determined that there needs to be a public process and set of objective regulations that allow impacts of an Emergency Shelter to be disclosed and mitigated.

Currently the Zoning Ordinance has a predefined process and approval criteria for Conditional Uses that requires a public hearing(s) to be held, the opportunity for citizens to comment and/or testify at a hearing, and approval criteria that provides the Planning Commission discretion to impose conditions of approval to mitigate impacts or issues. As such, staff has proposed Emergency Shelters to be a Conditional Use within churches.

Staff has proposed Emergency Shelter to be located within churches because the use is consistent with the typical services churches (faith-based organizations) provide. Churches were also identified as a potential location for Emergency Shelters to improve predictability of the location of Shelters. There are approximately ten (10) churches in Madras. By limiting shelters to these locations or property owned and operated by churches, it limits the number of Emergency Shelters that potentially could open in the city.

Currently, there is one church that provides shelter for the homeless and another church that has been approved to operate a temporary shelter. Considering the services churches provide to the community and that a few churches are interested in providing short-term shelter for the homeless, churches may be an appropriate location for Emergency Shelters to operate.

### Land Use Approval Review Procedures:

Emergency Shelters are proposed to be reviewed as currently required for Conditional Use Permits in Section 8-12.6.2 of the Zoning Ordinance. This public process includes, providing adjacent property owners notice of the proposed Emergency Shelter, the ability for property owners and citizens to provide testimony to the Planning Commission, a quasi-judicial hearing held by the Planning Commission.

Conditional Use Approval Criteria:

The approval criteria for Emergency Shelters is contained in Section 8-12.6.1(B). It is noted that these criteria exist in the current Zoning Ordinance and are not proposed to be changed. The approval criteria for Conditional Uses are as follows as stated in Section 8-12.6.1(B):

*B. Standards for granting Conditional Uses are:*

- 1. The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies of the city.*
- 2. Taking into account location, size, design, and operation characteristics, the proposal will have a minimal adverse impact on the (a) livability, (b) value, and (c) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.*
- 3. The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.*
- 4. The proposal will preserve assets of particular interest to the community.*
- 5. The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal and is not motivated solely by such purposes as the alteration of property values for speculative purposes.*
- 6. The proposal will not place an excessive burden on sewage, water supply, parks, schools, or other public facilities including traffic flows in the area.*

Time Limit for Approved Emergency Shelters:

Staff has proposed to limit the Conditional Use approval for an Emergency Shelter for one (1) year. This is different from most land use approvals where as long as the use is maintained, the land use approval becomes an entitlement (i.e. a right to use the property) that continues in perpetuity with the property.

It is possible that unforeseen impacts will occur post Planning Commission approval while the Emergency Shelter is in operation. To ensure that these impacts to businesses and residents are adequately addressed it is proposed that a Conditional Use approval for an Emergency Shelters be valid for one-year. After one-year, the applicant may apply for reauthorization. Such request would be processed administratively by the Community Development Director as currently allowed in Section 8-12.9.3 of the Zoning Ordinance. If any property owner or member of the Site Plan Committee given notice of the request for reauthorization objects to the Emergency Shelter's compliance with the Zoning Ordinance, the request would be referred to the Planning Commission where a quasi-judicial public hearing would be held to determine compliance with the Conditional Use approval criteria.

Emergency Shelter Reauthorization Process & Standards:

Below (*italics*) are the draft procedural requirements and standards for reauthorizing an approved Emergency Shelter.

A. *The Community Development Director may reauthorize an approved Emergency Shelter administratively in the manner provided in Section 8-12.9.3 of this ordinance if the following requirements are satisfied:*

1. *No objections are filed by adjacent property owners given notice of the request for reauthorization with the Community Development Department within the specified time period to submit comments.*
2. *No objections are filed by any member of the Site Plan Committee given notice of the request for reauthorization with the Community Development Department within the specified time period to submit comments.*

B. *If there are objections filed:*

1. *The Community Development Director shall refer the request for reauthorization to the Planning Commission. The Planning Commission shall hold a public hearing in a manner that is consistent with the requirements contained in Sections 8-12.9.5 through 8-12.9.17 of this ordinance.*
2. *The Planning Commission shall approve, approve with conditions, or deny a request for Emergency Shelter reauthorization in accordance with the standards for granting Conditional Uses contained in Section 8-12.6.1(B).*