

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: 12/6/16 **Approx Start Time:** 3:30 p.m **Approx Length:** 1/2 hour

Presentation Title: Land Use Options to Accommodate Transitional Housing

Department: Dept. of Transportation and Development, Planning and Zoning Division

Presenters: Mike McCallister, Planning Director; Jennifer Hughes, Principal Planner

Other Invitees: Barb Cartmill, Dan Johnson, Rich Swift, Vahid Brown, Scott Caufield

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

No action is requested of the Board. This study session is to update the Board on existing options and potential amendments to the Clackamas County Zoning and Development Ordinance to accommodate transitional shelter / housing projects.

EXECUTIVE SUMMARY:

The Board has expressed interest in assessing transitional housing opportunities to address homelessness, including veterans in Clackamas County. The Clackamas County Zoning and Development Ordinance (ZDO) does not specifically address transitional housing land uses. At this time, the siting of these types of projects could only be authorized if they fit within the existing regulatory framework of the ZDO. The existing options are limited.

Discussions around the topic of homelessness with the Board and other County Divisions has included a broad range of options on the "Housing Continuum." See Attachment 1. The information in this study session focuses on the Shelter Solutions on the "Intervention" side of the housing continuum.

Potential ZDO Amendments to Accommodate Transitional Housing Projects.

1. Transitional Shelters / Housing Defined: The ZDO does not include a definition of "transitional housing." Any amendment to allow these types of land uses would likely require adopting a definition of "transitional housing" or "homeless shelter." For example, the City of Eugene defines a homeless shelter as: A non-profit or public agency providing food, temporary housing, clothing and other support services primarily for adult, transitory individuals."

Transitional housing is defined as a variety of housing options that meet the intent of intervening in homelessness and supporting populations as they move towards more stable and permanent housing situations.

2. Car Camping / Overnight Parking Program: This option would provide immediate needs for shelters. Shelter options could include cars, tents, campers and other non-permanent shelters. Benefits include a streamlined process to allow small scale camping, allow local land owners (religious institutions, non-profits, service centers, etc.) to be part of

the solution by acting as responsible stewards of the camps and spread the perceived impacts of transitional housing geographically throughout the County.

3. Rest Stops. The City of Eugene has provided for “Rest Stops” to address some transitional housing needs, particularly for more transient oriented populations. Rest stops provide a location primarily for tents and include an on-site manager. Rest Stops are only authorized in a particular location for 6 months in order be responsive to neighborhood impacts and address public health concerns. The City of Eugene has identified multiple locations throughout the City so that Rest Stops can be moved to other locations after 6 months on a rotating basis.

The ZDO currently has provisions for a “Temporary Use Otherwise Prohibited.” This is a type of land use permit which allows the County to consider allowing a use which is not permitted in the underlying zoning district. The permit does not allow construction of a substantial structure or other improvements which represent a permanent commitment of the land. If approved the permit is valid for a period not to exceed one year. A Rest Stop could be considered under this type of permit. If a particular site was used on a rotating basis, it would require submittal and approval of a new permit each time the site was used.

4. Transitional Shelters. Transitional shelters / housing could include a range of housing types including small stick built structures, quonset huts and tiny homes. Options to provide for this housing type include:
 - a. Use the existing “Temporary Use Otherwise Prohibited” provisions in the ZDO. This temporary permit may not be a reasonable option for a more substantial shelter facility because the permit can only be approved for one year. Alternatively, the ZDO could be amended to provide a temporary permit specifically to accommodate transitional shelter / housing projects with a longer approval period (2 or more years) and options to renew the permit. This option would provide an opportunity for a pilot project of sorts in order for the County to evaluate the impacts and success of the project without committing to the siting strategies for more permanent projects.
 - b. Amend the ZDO to allow for transitional housing / shelters permanently as on outright permitted use subject to approval standards.
 - c. Amend the ZDO to allow for transitional housing / shelters permanently through a conditional use permit (public hearing review).
5. Locations and Standards: Other policy issues to consider for camping, rest stops, transitional shelters and housing projects include:
 - a. Where to allow these types of projects (specific zoning districts or geographic locations, in conjunction with religious institutions, non-profits or service centers).
 - b. Limits on the number of campers, shelters, housing units or occupants.
 - c. Development standards such as setbacks, screening, sanitary facilities, waste disposal, other utilities and on-site managers.
 - d. The need for operating agreements.
 - e. Building, fire and public health codes.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES X NO

What is the cost? The cost of any ZDO amendments is in staff time, mailing of public notice, extent of the public outreach program, level of community interest in the proposal and at the Planning Commission and BCC public hearings. The exact amount will depend on the scope of the amendments the Board wishes to consider and the amount of public interest that results.

What is the funding source? General Fund

STRATEGIC PLAN ALIGNMENT:

- **How does this item align with your Department’s Strategic Business Plan goals?**
This item aligns with the Long Range Planning Program’s purpose statement to provide plan development (updates to the Comprehensive Plan, Transportation System Plan and Zoning & Development Ordinance), analysis, coordination and public engagement services to residents; businesses; local, regional and state partners, and County decision-makers so they can plan and invest based on a coordinated set of goals and policies that guide future development.
- **How does this item align with the County’s Performance Clackamas goals?** This item aligns with the county’s Performance Clackamas goal to *“Ensure Safe, Healthy and Secure Communities”* because it will further a performance measure to reduce by 50 percent the number of unsheltered veterans in Clackamas County by 2019.

LEGAL/POLICY REQUIREMENTS: Amendment to the ZDO must comply with Statewide Planning Goals, Metro Functional Plan (inside Portland UGB) and other land use requirements depending on the scope of the amendment. Amendments to the ZDO require public hearings before the Planning Commission and Board. Generally, ZDO amendments will require a minimum of 4-6 months from initiation to adoption of a final Board Order.

Other policy issues to consider prior to initiating a ZDO amendment include:

1. The scope of public outreach program.
2. Impacts to the current work program. A ZDO amendment to address transitional housing is not on the current 2016 -2017 Planning and Zoning Division work program.
3. Other on-going County efforts related to transitional housing, including the housing study being considered by H3S and the Grant Proposal for Veterans Housing (Letter of Intent Proposals).

PUBLIC/GOVERNMENTAL PARTICIPATION: Amendments to land use regulations require various types of public notice (e.g., newspaper, Oregon Department of Land Conservation and Development, community planning organizations, cities in the county). Individual mailed property owner notice is required if the proposal includes the restriction or prohibition of a use of land. The degree to which property owner notice is required will depend upon the scope of the amendments the Board wishes to consider.

OPTIONS:

None at this time. This is an informational update only.

RECOMMENDATION:

None at this time. This is an informational update only.

ATTACHMENTS:

1. Housing Continuum Graph

SUBMITTED BY:

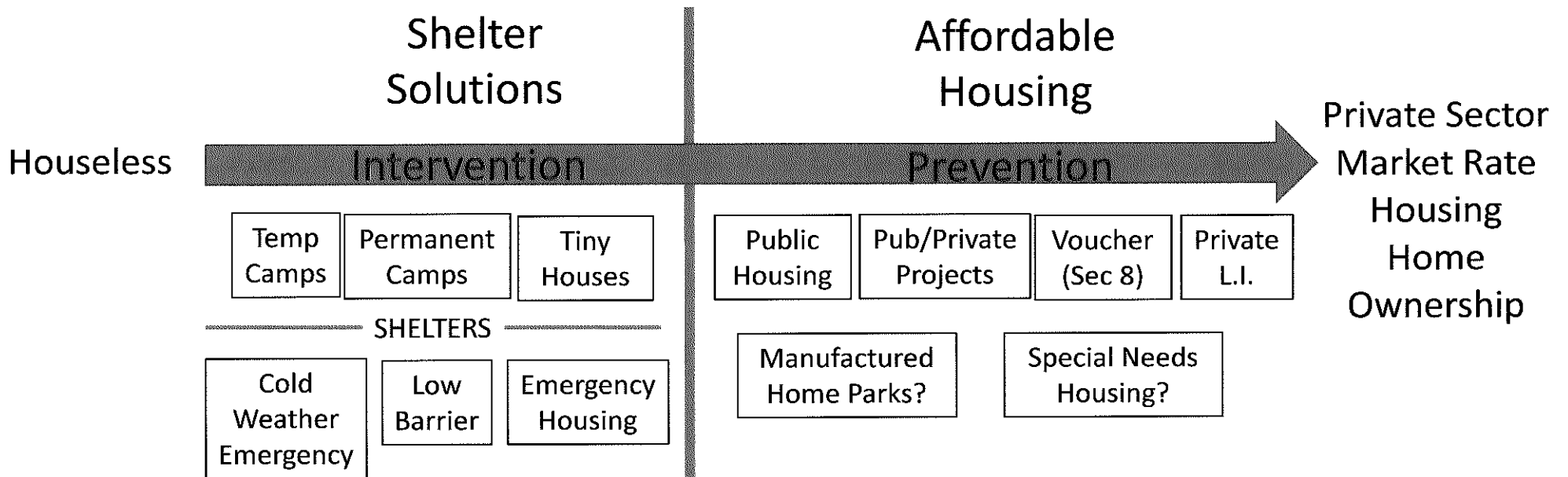
Division Director/Head Approval _____

Department Director/Head Approval _____

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Mike McCallister @ 503-742-4522

Housing Continuum



MEMORANDUM

October 5, 2016

From: Andrew Yaden, Planner 1

Scott Caufield, Building Codes Administrator

To: Don Krupp, County Administrator

Re: Transitional housing options for homeless populations – land use and building codes analysis

Following a recent tour of homeless shelters in Eugene, the Clackamas County Board of Commissioners (the Board) has expressed interest in assessing transitional housing opportunities to address homelessness in the Clackamas County. “Transitional housing” in this context is defined as the variety of housing options that meet the intent of intervening in homelessness and supporting populations as they move towards more stable and permanent housing situations.

This memo reviews the variety of approaches Eugene is taking to meet the needs of their homeless population and offers preliminary assessment of the County’s land use policies in regard to transitional housing and what steps would be required to allow transitional housing through land use regulations and processes. Additionally, this assessment identifies issues and offers information and potential options related to Oregon’s building codes.

Camping

Land Use

The City of Eugene recently issued an allowed camping city ordinance to address some immediate needs for shelter. Adoption of a city ordinance provided a threefold benefit to the city. It streamlined the process of allowing small scale camping which quickly provided some immediate relief to those living on the street. Secondly, it allowed local land owners (largely religious organizations) to be a part of the solution by acting as responsible stewards of the camps. Thirdly, it spread perceived impacts of transitional housing uniformly across the city, thereby reducing pushback from individual neighborhoods. The standards adopted by Eugene allow for up to 6 “cars” on a parking lot for any length of time in any industrial or commercial zone and at the discretion of the business, organization or institution that owns and operates the site. The Eugene code defines “cars” to include tents, campers, trailers, or Conestoga huts. Conditions for camping on parking lots require the presence of an occupied structure on site, the provision of sanitary facilities, solid waste disposal and storage areas for personal items shielded from street views. Camping is also allowed on vacant lots at the discretion of the land owner. Within residential zones, one family may camp, either in the backyard or in a trailer or camper.

The Clackamas County Zoning and Development Ordinance (ZDO) does not currently address camping as a residential use, either in a temporary or permanent fashion. At the direction of the Board, staff could explore both temporary and permanent camping as a permitted land use with particular attention given to industrial zones. This would include a review of best practices as well as an exploration of methods to ensure compatibility with surrounding land uses. Staff review and recommendations will look at both ad hoc camp sites as well as approaches to more established and regulated sites that rely on community partnerships and operating agreements, such as good neighbor policies.

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Building Codes

Camping is not regulated under the building codes per se. The use of tents, pop-up campers and recreational trailers (those not classified as true recreational vehicles) and similar fall outside the scope of the Building Code.

If permanent structures are incorporated into a campsite (for sanitation, site management, gathering, meal consumption etc.) they would be fully regulated under ORS 455 and ORS 446, the building codes, and permits would be required. To the extent building systems are installed, they must meet the requirements of the plumbing, mechanical, and electrical codes. Such buildings must also meet the requirements of the Americans with Disabilities Act to ensure accessibility.

If temporary systems are employed (such as portable toilets), the Building Code gives the Building Official the authority to determine the quantity required and the frequency of service to maintain sanitary conditions.

Tiny Houses and Temporary Housing

Land Use

Some homeless shelters, including Opportunity Village in Eugene, are utilizing the growing tiny home movement to increase the availability of affordable transitional housing that is more structured and stable than traditional tent cities. For the purposes of land use review, Eugene staff plans to treat tiny home villages within the existing zoning code, either as a multi-family residential project or as a conditional use homeless shelter, depending on the zone in which the project is sited.

The County currently does not have an official policy allowing tiny homes. The current approach – from the land-use perspective – is to view tiny homes as either Recreational Vehicles, manufactured homes (MH) or site built dwellings. Each respective definition guides how to apply the zoning code. At the Board's direction, staff will explore the use of these models in providing transitional housing. In order to utilize tiny houses as a feasible option for transitional housing, most likely in the form of cottage clusters, a significant review of the above options within the context of the ZDO and Comprehensive Plan would be required.

Building Codes

The building codes do not address nor do they prohibit tiny houses or temporary/transitional housing. Instead, the codes regulate permanent buildings based on their use and occupancy and require the building official to place proposed structures into the code-defined occupancy group in which they most closely resemble. At that point, the code defines the specific requirements that are applicable to that particular occupancy group.

For example, if a building is to be used as a single family dwelling and therefore be considered habitable in the eyes of the code, it must meet all of the criteria outlined in the Oregon Residential Code for structural strength, sanitation, energy efficiency, electrical safety etc. If it does not meet all of the criteria, it would not be considered habitable and could neither be categorized nor used as a single family dwelling.

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This poses a challenge for the tiny house and transitional housing industries in that there is often a desire to omit some of the typical characteristics and building systems that make a building "habitable" in the traditional sense in order to lower construction cost, ensure portability, and to enable a more rapid construction process. In a sense, they are a hybrid of both permanent and mobile construction and Oregon's construction codes have not yet caught up with this trending design concept.

In an effort to explore code options related to the unique needs of transitional housing, the Clackamas County Building Codes Division recently contacted the State of Oregon and asked for guidance related to the topic of transitional housing given that the current codes do not address this subject. The response indicated that it might be possible to utilize the provisions of ORS 455.020(4) to adopt a local housing code to ensure minimum health, sanitation, and safety standards are met for transitional housing and to utilize the provisions of ORS 455.040 to obtain a local amendment which would enable the County to create a local code to regulate transitional housing. With BCC direction, the Building Codes Division can more fully explore those possibilities.

Manufactured Dwellings

Land Use

A third potential approach to increasing the availability of transitional housing options is through the development and siting of manufactured homes (MH) and manufactured home parks. Currently MH are allowed as a permitted use within all rural residential zones (RA-1, RA-2, RR, RRFF-5, FF-10, and FU-10) and the urban low density zones (R-5 to R-30 and VR4/5 and VR5/7). Manufactured home parks are allowed as a conditional use in the R-2.5 to R-30 zones as well as in the PMD (Planned medium density residential) zone. MH parks are an allowed use in the MR-1 (medium density residential) zone. MH located in the urban low density residential zones, as well as those located in manufactured home parks - are currently required to have 1000 square feet of living space. This code requirement is at odds with the siting of tiny houses (typically less than 200 square feet) in MH parks and would need revision if that approach is deemed appropriate by the Board. Within the urban areas, there is also the possibility of a scarcity of large developable lots, limiting the possibility of new MH parks. Further analysis of available lands, as well as research into consolidation and redevelopment opportunities would be required to move forward with this approach.

Building Codes

Manufactured dwellings are generally regulated under ORS 446 and can certainly be considered for use as transitional housing. The installation of manufactured dwellings is regulated by the Oregon Manufactured Dwelling Installation Specialty Code (OMDISC). The construction and management of manufactured dwelling and RV parks is regulated by the Oregon Manufactured Dwelling and Parks Specialty Code (MD&P). These standards ensure that MH are setup and installed safely and that manufactured dwelling and RV parks meet basic rules for siting and placement of MH, clearances to property lines and other buildings, sanitation and other livability aspects.

ORS 446.055 allows 4-6 MH to be "sited on a lot or parcel or aggregation of lots or parcels without meeting the requirements of ORS 446.003 to 446.140" which means that such installations do not need

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to meet many of the requirements for a MH park. They are required to meet all comprehensive plan and local land use rules, however.

ORS 446.265 may additionally have some value in the consideration of transitional housing. Specifically, this statute addresses transitional housing and authorizes a municipality to approve the establishment of a campground inside the urban growth boundary to provide transitional housing accommodations. Under this section, the use of **yurts** is specifically authorized for this purpose. No more than two such parcels within a municipality are allowed for this purpose.

Another consideration for transitional housing is the use of Park Model Recreational Vehicles (PMRV). PMRV are similar in nature and appearance to manufactured dwellings but are smaller, can be less expensive, and are typically more mobile than standard MH. PMRV up to 8.5 feet in width do not require a MH setup permit. Those units greater than 8.5 feet in width are permitted, installed, and inspected in the same way as a MH. Given that most PMRV are generally limited to 400 square feet in area, the ZDO currently prevents their placement on most parcels as mentioned in the previous section.

Industrial Zones

Land Use

The City of Eugene chose to allow the siting of homeless shelters only in industrial zones for two primary reasons. First, there are significant amounts of underutilized and available land. Second, it minimized pushback from residents. Eugene also has the advantage of having industrial zones that are well served by transit and are in relative proximity to social services. In Eugene, all applications for a homeless shelter go through a conditional use process to ensure that development standards are met and that surrounding land uses are not interfered with or limited by the presence of the shelter. To date, only one homeless shelter has gone through the conditional use process. This is largely due to the fact that Eugene allows camping on public or private land without the requirement of a land use permit.

Clackamas County does not currently allow any residential land uses within industrial zones except for the rural industrial, which only allows for single-family detached dwellings as an accessory use to the primary industrial use. Allowing use of industrial zones located closer to social services and transit options for transitional housing options would require drafting code to allow for homeless shelters, most likely as a conditional use that could mitigate any impacts on surrounding uses.

Building Codes

The application of a particular building code is not dependent upon the zoning of a parcel, so the placement of transitional housing in the industrial zone is not an issue. Building code applicability is a function of the occupancy and regulation under the code is the same regardless of how the parcel on which it is built is zoned.

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SYSTEM DEVELOPMENT CHARGES¹

For each possible development mentioned above, system development charges ("SDCs") may or may not apply depending on the particular project. Rather than offering an analysis of each, which would be highly site dependent, we offer the following narrative analysis of options for SDCs generally with respect to developments of this type.

ORS 223.300 et seq governs SDCs. The statute is fairly specific about the manner in which SDCs can be levied and when a credit can be offered. It does not allow for a waiver of the system development charge once established. The methodology for SDCs is in some ways a simple calculation: cost of capital projects needed to handle growth divided by the number of growth units (new businesses, development, sewer connections, employees, etc) to derive a particular charge, which is then levied equally on all new development in their designated shares.

We can issue credits for work done above and beyond what normal improvements would be required for the development process, but not for a particular class of people. There does not seem to be any statutory support for waiver of SDCs for anybody, let alone a particular class. So even if we amended our implementing SDC ordinances, I don't believe you could waive SDC charges. The only reductions that are available in the SDC charge realm is to: (i) make a reduction that applies equally to all, (ii) identify an improvement to the system being done by the particular project above and beyond what is normally required and issue a credit for that, or (iii) a different revenue source pay the SDC on behalf of a development that is deemed worthy by the BCC.

¹ This portion of the memorandum drafted by Chris Storey, Assistant County Counsel