MINUTES OF THE
AUBURN CITY PLANNING COMMISSION MEETING
September 17, 2013

The regular session of the Auburn City Planning Commission was called to order on September 17, 2013, at 6:00 p.m. by Chair Spokely in the Council Chambers, 1225 Lincoln Way, Auburn, California.

COMMISSIONERS PRESENT: Luebkeman, Spokely, Vitas, Willick, Worthington

COMMISSIONERS ABSENT:

STAFF PRESENT: Will Wong, Community Development Director
Reg Murray, Senior Planner

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF MINUTES

None

IV. PUBLIC COMMENT

None

V. PUBLIC HEARING

A. ORDINANCE AMENDMENT – REGIONAL COMMERCIAL-EMERGENCY SHELTER ZONE DISTRICT; TRANSITIONAL HOUSING; AND SUPPORTIVE HOUSING (File 301.3(bb)). The City of Auburn proposes to amend the Auburn Municipal Code to create the Regional Commercial - Emergency Shelter (C-3-ES) zone district and establish standards for permanent and temporary emergency shelters. The C-3-ES zone district will include all permitted and conditionally permitted uses allowed in the C-3 zone while adding emergency shelters as a use permitted by right, subject to development standards.

Planner Murray presented the staff report, reviewing the history associated with the City's consideration of adopting code amendments for emergency shelters in conformance with Senate Bill 2. He reviewed the City Council's direction to create the Regional Commercial – Emergency Shelter (C-3-ES) zone district and establish development standards for both permanent and temporary emergency shelters. Planner Murray summarized several revisions to the standards as recommended by the City Council, including occupancy standards for permanent and temporary shelters, parking requirements, and staffing. Planner Murray also noted that the

Ordinance would also permit Supportive and Transitional Housing in the Medium Density Multiple-family Residential Zone District (R-3).

Chairman Spokely asked staff to clarify what the Planning Commission's prior action was relative to the previous code amendment for an overlay ordinance as well as the two overlay sites.

Planner Murray noted that the Commission supported the code amendment for the overlay ordinance, but did not support the rezone overlay for the Nevada Street site or the Wall Street site. City Council upheld the Commission's recommendation and denied the rezone proposals for the two overlay sites.

Chairman Spokely asked what became of the code amendment to establish the overlay zone district.

Planner Murray stated that City Council decided to set aside the idea of the overlay zone at its August 12th hearing and instead wanted to establish the C3-ES zone district from several properties in the C3 zone (i.e. a zone within a zone).

Chair Spokely asked if there was any real difference between the overlay process and the zone within a zone process.

Planner Murray commented that they are basically the same, except that the overlay process could be applied almost anywhere within the City, while the C3-ES zone would typically only be associated with the Regional Commercial (C3) zone.

Commissioner Luebkeman asked staff to describe what would happen if the City fails to designate an area for homeless shelters.

Planner Murray stated that the requirement to designate a zone district comes from a policy in the Auburn Housing Element, which was adopted in response to the requirements of Senate Bill 2 passed in 2007. If the City doesn't comply with SB 2, then the California Department of Housing and Community Development (HCD) will find the City's Housing Element to be out of compliance. This could have serious implications to the City such as: the validity of the City's General Plan could be called into question; the City could be subject to legal challenges; the City might face a moratorium on building permits; and the City would not qualify for funding programs such as CDBG loans or HOME programs for first time home buyers or housing rehabilitation.

Commissioner Luebkeman referred to a letter submitted by Otto Fox and questioned why the Auburn airport had not been considered for the shelters and case law about sex offenders and proximity to schools.

Planner Murray stated that the City Council asked staff to analyze the use of the Auburn airport during their April 2013 hearing. Staff reported back to Council at the

May 2013 hearing that the airport was not an option since locating a shelter at the airport requires additional permitting, which is not allowed per the requirements of Senate Bill 2.

Chair Spokely asked if the zoning at the airport could be redefined.

Director Wong commented that shelters are considered a residential use, which is highly incompatible with the airport.

Planner Murray also noted that there are other standards such as noise that also restricted shelters from the airport.

Planner Murray responded to the question regarding sex offenders in proximity to schools and noted that the City Attorney advised staff that the California Supreme Court is current case law and until they render a decision the issue is up in the air; but in general, any residency restriction is unconstitutional if it effectively prevents a registered sex offender from finding housing anywhere in the City.

Commissioner Luebkeman asked if sex offenders would be restricted from using a shelter in the proposed project area.

Planner Murray commented that shelters typically self-screen their facilities.

Commissioner Luebkeman stated that he believed there were two types of facilities, one for individuals and one for families, and asked if the City could limit the shelter to use by families only.

Planner Murray commented that the State would likely restrict the City from setting this type of restriction.

Commissioner Luebkeman asked if a 500' buffer from single-family property was still in effect with the current proposal as it was with the earlier proposal for the Industrial zone.

Planner Murray noted that the buffer was only associated with the proposal for the Industrial zone and was not included with the current request since Council had targeted specific lots and not an entire zone district.

Commissioner Vitas asked if the State could create an imminent domain situation and force a property owner to sell their property to someone proposing a homeless shelter.

Planner Murray stated that properties that would be zoned to allow emergency shelters would not be subject to imminent domain that would force them to sell their property.

Commissioner Vitas asked if there is precedence for this type of thing anywhere else in the State.

Planner Murray noted that SB 2 applies State-wide and that many jurisdictions already comply with the requirements of the bill.

Commissioner Vitas asked if jurisdictions are building shelters.

Planner Murray commented that some jurisdictions do have facilities, but there are no permanent facilities in Placer County.

Commissioner Vitas asked what happens if there are any nuisance issues associated with the operation of a shelter.

Planner Murray noted that a shelter must develop an operations plan which is then reviewed and approved by the Police and Community Development Departments. The City will then monitor the operation of a facility to insure compliance with the operations plan.

Commissioner Worthington asked about the distance from E.V. Cain school to the project area and why the school's proximity wasn't analyzed in the initial study prepared for the rezone.

Planner Murray noted that the City is not allowed to treat shelters any differently than other use types according to the standards of SB 2.

Commissioner Worthington asked for clarification about changes to the proposed ordinance text.

Planner Murray addressed the text changes.

Commissioner Worthington noted a new requirement to maintain a list of residents and asked if the Police Chief had reviewed the wording of the requirement.

Planner Murray noted that the City Council set the requirement.

Chairman Spokely asked staff to review the ramifications to the City if it cannot satisfy the requirements of SB 2 relating to emergency shelters.

Planner Murray summarized the requirements of SB 2 and the potential effects on the City as referenced by staff earlier in the meeting.

Chairman Spokely noted that the proposals are a mandatory step in completing the City's Housing Element and that there are penalties if the City does not.

Chairman Spokely asked if anyone was behind the penalties.

Planner Murray noted that no one person is pursing these penalties, they are inherent consequences for not having a certified Housing Element.

Director Wong summarized the types of loans and grants the City would not be eligible for.

Commissioner Worthington asked whether regional collaboration was a possibility for the City and whether that would satisfy the City's requirements.

Planner Murray noted that the City did explore regional collaboration with the County back in May, but that the County was not interested since they were already in compliance with the requirements of SB 2.

Commissioner Willick clarified that the regional approach requires that the jurisdiction(s) must physically provide a shelter, not just allow zoning for a shelter.

Chairman Spokely asked if the City is required to provide a facility given the zoning approach the City is currently taking.

Planner Murray confirmed that the City is not required to provide, building, or finance a facility, just that it must establish zoning where a shelter would be allowed as a permitted use.

Director Wong added that most jurisdictions complied with SB 2 by amending their zoning code instead of providing a facility.

Chairman Spokely asked about the occupancy numbers for permanent shelters in the proposed code.

Planner Murray summarized the prior considerations given to the occupancy numbers for a permanent shelter and that City Council had identified an occupancy limit of 25 persons to be appropriate.

Chairman Spokely asked about the operations plan and the limitations placed on smoking, drinking, and drugs.

Planner Murray stated that the language reflected Council's direction.

Chairman Spokely asked about the comments in the Fox letter about the noticing provided for the Planning Commission hearing.

Planner Murray summarized the noticing requirements for public hearings and that proper noticing was provided for both items appearing on the evening's agenda.

Commissioner Vitas asked about buffers from tattoo businesses.

Director Wong reviewed what the State law allows jurisdictions to regulate.

Chairman Spokely commented about possible buffers around single-family residential areas when the City considered the Industrial zone district previously.

Chairman Spokely opened the public hearing.

Jerry Mifsud, Auburn Villa Apartments, stated his opposition to the Auburn Ravine Road area. He expressed his concern for seniors in the Auburn Villa apartment project, an increase in crime, and loss of revenue to businesses in the area. He suggested that the shelter should be located in the County near the services provided at the County offices.

Commissioner Luebkeman asked if Mr. Mifsud was in favor of the proposed code amendment for the creation of the C-3-ES zone, but not in support of the Auburn Ravine Road location.

Mr. Mifsud stated that he understood the requirement and that a location in the County would be best.

Otto Fox addressed the Commission. He noted that other a number of other jurisdictions use the industrial zone for emergency shelters and asked if the airport was zoned for industrial uses.

Chair Spokely noted that the airport has safety restrictions that disallow residential land uses in the arrival and departure zones.

Mr. Otto Fox asked why the Commission was not considering the Auburn airport.

Commissioner Worthington noted that a shelter is a residential use and is not compatible with the airport.

Mr. Otto Fox asked why other jurisdictions allowed shelters in their industrial zones.

Commissioner Worthington and Commissioner Willick noted that it is because of the restrictions associated with the airport.

Mr. Otto Fox stated that the penalties mentioned by staff were vague and wanted to know which specific laws would affect the City. He also wanted to know why the City didn't pursue collaboration with anyone besides Placer County. Mr. Fox then read his letter that was submitted on September 12th into the public record. The letter reviewed the requirements and standards of the law requiring zoning for emergency shelters as well as concerns for shelters, including property values, prior consideration at the Auburn airport, improper noticing, potential use of shelters by

sex offenders and the proximity of the Auburn Ravine Road project area to E.V. Cain school.

Commissioner Worthington commented on the statues referenced in Mr. Fox's letter and the City's ability to restrict sex offenders from residing in a shelter.

Commissioner Willick noted that it is the sex offender's responsibility to know where they are allowed to reside and the Police have the authority to arrest an offender in violation of their parole.

Mr. Otto Fox noted that the Police would only know of the offender if they asked for the occupancy list and if the offender was being truthful. He stated that the City would be exposing itself to a potential lawsuit.

Commissioner Luebkeman asked if Mr. Fox would consider selling their property so a shelter could be built.

Mr. Otto Fox noted that the shelter could be located on someone else's property.

Mrs. Georgia Fox stated that she and her husband have had the property on Auburn Ravine Road for over 50 years and that she is adamantly opposed to the proposed rezoning of her property.

Commissioner Worthington asked if Mrs. Fox supports the proposed code amendment creating the new zone.

Mrs. Fox stated that she was against the new zone designation.

Mr. Joseph Tucciarone stated that he owns several lots on Sacramento Street that are zoned Regional Commercial (C3) and that he supports the new Regional Commercial – Emergency Shelter zoning.

Mr. Otto Fox addressed the Commission on behalf of his brother, John Fox, a structural engineer. He questioned the timing in the preparation of the proposed ordinance and the environmental document for the rezone and requested that the City Attorney and staff outline the process and procedures used in the creation of ordinances. Mr. Fox questioned how an initial study could be prepared if the ordinance didn't already exist. He requested that a third party conduct a fundamental and economics impact review and also requested that the City prepare an environmental impact report (EIR).

Bernadette Ambers, the McCaulou's store manager, asked what was considered before the C-3-ES zone, where the McCaulou's store is in relation to the project area, and whether there were any other C-3 zones in the City.

Chairman Spokely reviewed the State requirements from SB 2, the City's previous considerations for the zoning to allow emergency shelters, and provisions of the C-3 zone.

Commissioner Worthington commented on the number of Planning Commission hearings that have been held, the State's requirements to pick a zone, and prior zone considerations reviewed by the City.

Ms. Ambers asked if the restrictions being considered with the C-3-ES zone are less than what was previously considered with the Industrial zone.

Chairman Spokely summarized the City's review process of the different zoning options to date and the current proposal being considered.

Ms. Ambers asked if another location would need to be found if the current proposal is not approved.

Chairman Spokely noted that the City has a State mandate to zone for emergency shelters.

Ms. Ambers asked about the timing requirements for the mandate and questioned the City's timing for the proposal.

Curtis Fox stated that he is against the C-3-ES zone district because the designation will impact the future of whichever location is selected.

Chairman Spokely closed the public hearing at 7:40 p.m. for a five minute recess.

Chairman Spokely reopened the public hearing at 7:45 p.m.

Walter Winfrey, DDS, asked about what specific monies the city is currently getting that it would lose by not adopting the proposal.

Chairman Spokely closed the public hearing.

Chairman Spokely summarized the history behind the City's process establish zoning for emergency shelters.

Director Wong reviewed the potential effects if the City does not designate a zone for emergency shelters, but noted that the ramifications are a side issue; the important thing is that the mandate is a State law that the City can't ignore, that the code amendment must get done.

Chairman Spokely commented on the extensive size of the C-3 zone as the likely reason for Council's selection of these lots.

Director Wong noted that Council did not select the C-3 zone, but instead selected the lots in the project area. The C-3-ES zone was selected for the code amendment since all of the lots are located within the C-3 zone. Council doesn't have the intention of targeting more C-3 zone lots; in the future, property owners would need to request a rezone of their property to allow shelters.

Commissioner Worthington noted that Council settled on the C-3 zone.

Director Wong summarized the scope of the City Council's review during its deliberations to find locations.

Commissioner Vitas asked what could happen if the Commission supported the zone district but not the specific lots.

Chairman Spokely pointed out that a similar situation happened with the Commission's actions on the previous code amendment for the overlay zone and overlay sites - the Commission supported the overlay zone but did not support the two overlay sites on Nevada Street or Wall Street.

Commissioner Luebkeman asked how many C-3 zones the City has.

Director Wong summarized the locations of the C-3 zones.

Planner Murray characterized the types of uses allowed in the C-3 zone.

Chairman Spokely noted some of the changes to the code amendment, such as the maximum occupancy permitted in shelters, and asked the Commission if they had any questions about the proposed code amendments.

Commissioner Luebkeman noted that some of the standards set by the Council are more restrictive that the Planning Commission's recommendations, but deferred to the Council's decision, though it makes it more difficult to manage a homeless shelter.

Commissioner Worthington confirmed that the maximum term for residency would be 6 months. She also noted the Commission's discussion from July 2nd regarding temporary shelters.

Commissioner Luebkeman asked if it would be possible for the Commission to expand the request to more zones such as the C-1 zone so as to have more options available to the City Council.

Planner Murray commented that the proposal was only for the C-3-ES zone, though the Commission could provide additional recommendations for alternatives if it wished to.

Commissioner Luebkeman stated that he felt the focusing only on this C-3 zone narrows the focus for consideration too much, particularly if new ideas should happen to come up in the next few weeks when this item goes to Council.

Chairman Spokely commented that he liked the idea of making the ES designation more "portable" to apply to other areas.

Director Wong recommended that the Commission take action on the proposal that is before it. He also noted that the Commission could make additional recommendations if it wanted to apply an ES designation to the other commercial zones, but cautioned that the C-1 and C-2 zones are typically located closer to residential zones.

Commissioner Worthington agreed that limiting the ES designation to just the C-3 zone was too restrictive, that more opportunities are available with the C-1 and C-2 zones, and that the Commission should consider broadening the application of the ES zone to more of the commercial areas. She noted that the standards in the code amendment have been strengthened and has no objections to any of the changes.

Commissioner Willick asked what zones other jurisdictions were typically using to satisfy the requirements for emergency shelters.

Planner Murray noted that the zoning varied from jurisdiction to jurisdiction, that staff saw shelters in many different zone districts including industrial, commercial, and multi-family residential, those most jurisdictions seemed to prefer the industrial zones.

Commissioner Willick stated that the M-2 zone is the most fitting zone for shelters.

Commissioner Luebkeman agreed. He asked what different industrial zone districts the City has.

Planner Murray reviewed the City's industrial zone districts.

Commissioner Worthington asked what type of industrial zone district applied to the Borland Avenue area.

Planner Murray noted that the Industrial (M-2) zone applied to Borland Avenue.

Commissioner Luebkeman suggested considering approval of the M-1 and M-2 zones with an ES as well as the C-3-ES.

Director Wong reviewed the prior M-2 consideration and noted that the M-1-ES or M-2-ES wouldn't work unless Council chooses specific properties. Since Council already rejected the M-2 zone, they may not support an M-1-ES or M-2-ES.

Chairman Spokely commented that the Commission needs to react to the proposal before it.

Commissioner Luebkeman suggested that the Commission provide Council with options given that the Commission previously expressed preference for the M-2 zone.

Chairman Spokely summarized the Commission's prior review on previous options.

Commissioner Luebkeman stated that he was not in favor of the C-3 area because it is not a good match to have shelters next to commercial, retail, and business offices. Homeless shelters should be in light industrial areas like other jurisdictions have done. He recognized that no one is going to be happy with whichever zone is selected, but the best option for shelters is the M-1 and M-2 zones.

Commissioners Worthington and Willick noted that the Commission's consideration of the homeless shelter issue came full-circle and that their recommendation is for industrial.

The Commission discussed whether they should recommend the M-2 zone that was originally considered by the City or whether they should recommend an ES designation for the M-1 and M-2 zones.

Commissioner Luebkeman asked what it would mean to go with an ES designation for the M-1 or M-2 zone.

Planner Murray summarized the original M-2 zone proposal, and then noted that with the ES designation, you would need to identify specific lots instead of a zone district.

Commissioner Luebkeman stated he wanted the M-1 and M-2 zones.

Director Wong noted that the original proposal was just for the M-2 zone.

Commissioner Luebkeman asked for clarification between the M-1 and M-2 zones.

Director Wong summarized some differences and noted locations.

Commissioner Willick **MOVED** to recommend denial of the Ordinance Amendment to establish the Regional Commercial - Emergency Shelter (C-3-ES) zone district.

Commissioner Vitas **SECONDED** the motion.

AYES:	Luebkeman, Spokely, Vitas, Willick, Worthington
NOES:	None
ABSTAIN:	None
ABSENT:	None

The motion was **APPROVED**.

The Planning Commission unanimously stated that the Regional Commercial (C-3) zone is not an appropriate zone for emergency shelters, that the Industrial (M-2) zone district is the most appropriate zone district for emergency shelters, and that the Council should reconsider the M-2 zone.

Chairman Spokely explained to the public the actions taken by the Commission.

B. REZONE – REGIONAL COMMERCIAL-EMERGENCY SHELTER (AUBURN RAVINE ROAD PROJECT AREA) – FILE# RE 13-3. The City of Auburn is proposing to rezone nine (9) lots, generally located west of Auburn Ravine Road and north of Elm Avenue, from Regional Commercial (C-3) to Regional Commercial – Emergency Shelter (C-3-ES). The new C-3-ES zone will include all permitted and conditionally permitted uses currently allowed in the C-3 zone while adding emergency shelters for the homeless as a use permitted by right, subject to development standards.

Planner Murray presented the staff report for the Regional Commercial – Emergency Shelter (C-3-ES) rezone proposal associated with the Auburn Ravine Road project area. He reviewed the rezone proposal and the project area, as well as the existing zoning and land uses of the project area and the surrounding properties. He noted that the project area could be considered an appropriate location give compatibility with uses in the zone, size and availability of parcels, proximity to services and transit, and applicability of the C-3-ES development standards.

Commissioner Worthington commented that only one of the lots is vacant and questioned why the area was selected.

Planner Murray noted that the State has no requirements as to whether the parcels in the selected zone district are developed or undeveloped.

Commissioner Worthington commented on different ways to review and evaluate properties.

Chairman Spokely asked if someone could apply to the City for a use permit to operate an emergency shelter currently.

Planner Murray stated that the City's zoning ordinance does not currently address emergency shelters; and that, barring an opinion to the contrary from the City Attorney, if a use is not included in the ordinance that use is not permitted in the City.

Director Wong reaffirmed that a use is not permitted if it is not included in the City's zoning ordinance. The City has not received a request for a shelter since the

adoption of SB 2; though if it had, it would have been compelled to complete the code amendment process at that time.

Chairman Spokely opened the public hearing.

Jerry Mifsud, Auburn Villa Apartments, asked about using a County juvenile facility on Epperle Lane.

Planner Murray noted that the building on Epperle Lane is a school district administrative office, not a County juvenile facility.

Ralph Smith, property owner of 430 Grass Valley Hwy, supports the Commission's recommendation to deny the C-3-ES zone. He also opined that it isn't a good long-term decision to locate a homeless shelter in the proposed area given the high volume of traffic on Highway 49; and, he envisioned the proposed area looking like The Fountains development in Roseville one day.

Otto Fox expressed his concern for the proximity of the proposed area to E.V. Cain School.

Mike Granata, 436 Grass Valley Highway, agreed with the Planning Commission recommendation opposing the C-3 zone.

Walter Winfrey, 391 Auburn Ravine Road, asked why a shelter in the area would have to tear down what is already present.

Curtis Fox, Colfax, stated that putting a homeless shelter in the proposed area will negatively affect properties within 500 feet and would constantly require police supervision.

Bernadette Ambers, McCaulou's store manager, stated there are existing safety issues for her employees, i.e. employees being accosted, due to the current homeless population and she is concerned about adding more homeless individuals to the area if a shelter were to be built.

Bhakti Banning, resident in Auburn Villa; asked if the Fox family would be forced to sell their property for a shelter.

Commission Willick indicated that they would not be forced to sell.

Commissioner Worthington stated that the City's responsibility is to identify a zone district (for shelters), but not to build one.

Ms. Banning expressed her concern for the safety of the many seniors in the area. She also pointed out a homeless encampment next to her apartment complex and recounted several acts by the homeless against individuals and property in the area.

Ellen Caraska questioned if property owners could still use their property as they are currently allowed to; whether an owner could be compelled to sell their property; and whether there might be any future State laws requiring property owners with emergency shelter zoning to sell their property. Ms. Caraska also expressed concerned that a shelter will negatively affect local businesses.

Terry Henline, manager of the Auburn Villa Apartment, commented about the existing problems with homeless individuals in the area and expressed his concern for the safety of children and the area's numerous seniors if a shelter were to go in the proposed area.

Walt Winfrey recommended putting shelters in the industrial zone.

Ken Fox stated that the homeless and a shelter would have a negative effect on the commercial area and tourism.

Jean Flickinger expressed her concern the negative effect that a shelter has on surrounding properties and property values.

Frank Caraska stated his support for the industrial zone and his opposition to zoning for the C-3 zone.

Chairman Spokely closed the public hearing.

Commissioner Worthington **MOVED** to recommend denial of the Rezone of the Auburn Ravine Road project area from Regional Commercial (C3) to Regional Commercial - Emergency Shelter (C3-ES).

Commissioner Luebkeman **SECONDED** the motion.

AYES:	Luebkeman, Spokely, Vitas, Willick, Worthington
NOES:	None
ABSTAIN:	None
ABSENT:	None

The motion was **APPROVED**.

VI. COMMUNITY DEVELOPMENT DEPARTMENT FOLLOW-UP REPORTS

A. City Council Meetings

None

B. Future Planning Commission Meetings

None

C. Reports

None

VII. PLANNING COMMISSION REPORTS

The purpose of these reports is to provide a forum for Planning Commissioners to bring forth their own ideas to the Commission. No decisions are to be made on these issues. If a Commissioner would like formal action on any of these discussed items, it will be placed on a future Commission agenda.

VIII. FUTURE PLANNING COMMISSION AGENDA ITEMS

Planning Commissioners will discuss and agree on items and/or projects to be placed on future Commission agendas for the purpose of updating the Commission on the progress of items and/or projects.

IX. ADJOURNMENT

The meeting adjourned at 9:00 p.m.

Respectfully submitted,

Reg Murray