



COUNTY OF HUMBOLDT

For the meeting of: 3/12/2024

File #: 24-78

To: Board of Supervisors
From: Planning and Building Department
Agenda Section: Departmental

Vote Requirement: Majority

SUBJECT:

Petition to Authorize Processing an Amendment to the Zoning Ordinance to Create a Private Land Intentional Community Shelter Program

RECOMMENDATION(S):

That the Board of Supervisors:

1. Consider the proposed amendments as part of the departmental agenda; and
2. Adopt the attached resolution (Attachment 1) to find this petition is not in the public interest and reject the petition; and
3. Direct the Clerk of the Board to give notice of the decision to any interested parties.

SOURCE OF FUNDING:

The salary funding for preparing this staff report is included in the General Fund contribution to the Long-Range Planning unit (1100-282).

DISCUSSION:

The Private Land Intentional Community Shelter Program would allow shelter sites on private land in vehicles, tents, tiny homes, or other structures for people seeking entry into the community on private property subject to the discretion of the property owner.

The Board of Supervisors is being asked to authorize processing an amendment to the Zoning Ordinance to allow provisions for a Private Land Intentional Community Shelter Program (PICS). As written, the proposed ordinance indicates this program is to address homelessness, but it would allow the private property owner to collect rent and make the county responsible for providing liability insurance and pay for water and sewer. The ordinance would essentially waive any permit requirements and allow these to occur as principally permitted activities in all zoning districts. This ordinance would allow charging rent to homeless people in exchange for substandard housing. Currently where these types of situations arise, they result in code enforcement actions. Staff is recommending that the Board of Supervisors reject this petition.

In December of 2023, Planning and Building received a petition request to amend the Zoning Code to allow private property owners to rent out space to transient community members seeking temporary living arrangements. The petition takes language from both the Emergency Shelter Ordinance and Safe Parking Pilot program and amends it in a way that would ultimately allow a private property owner to have a homeless encampment void of regulatory review, charging tenants for the space(s) they would occupy.

There is a need to provide housing for the homeless. The concept here would allow the creation of encampments of people living in vehicles, tents, and other structures anywhere a residential structure is allowed and in commercial and industrial zones. The discretion of how the facility is operated is completely with the property owner. The County Code Enforcement unit is currently attempting to clean up three sites, that would qualify under these provisions and have generated complaints from the neighborhood.

A fundamental question here is whether this helps the homeless crisis or is more for the benefit of the property owner. Adopting legislation that removes public health and safety safeguards, so people can camp, and assigning the liability to the County, while allowing the property owner to charge rent, could be interpreted as giving the biggest benefit to the property owner.

The reason the Safe Parking Program requires a permit to be held by a non-profit is because non-profits are motivated to offer this form of assistance, and a non-profit typically has a mission to transition people from homelessness to having permanent housing, or at least to care for the unhoused. The Safe Parking ordinance also requires the operator to prepare an operations plan detailing how the site will be operated. There may be well-intended property owners who want to do this but are not trained or equipped to meet the needs of the homeless. The net result would be many encampments consisting of substandard housing, where people have no path to move towards more standard housing.

The petition as crafted dismisses current regulations intended to preserve public health, safety, and welfare, while also providing protection to the environment. The petition would place all liability on the County of Humboldt to:

1. provide wastewater infrastructure, storage facilities, and police services at the cost of taxpayers to any private property owner who wishes to operate a PICS
2. remove permitting requirements for the proposed use
3. remove health and safety requirements relative to habitable structures, water quality and disease control, waste management, fire safe regulations, and codified emergency shelters provisions, and
4. place all financial responsibility and liability on the County, requiring that the County also provide liability insurance on behalf of the property owner and operation/use.

Additionally, without a regulatory role of some form, occupants may be able to acquire occupancy rights like a tenant under Civil Code 1954.09. Further, due to the burdens placed on the County, the petition would also create a high likelihood of related lawsuits against the County.

Required Findings for Petition

This proposal conflicts with the required findings of Section 312-50.3 of Humboldt County Code. The amendment, as proposed, is not in the public interest, is not consistent with the General Plan, and does not conform with the policies of the Coastal Act. It is not in the interest of the public for the County to assume all cost and liability and allow the property owner to charge rent.

There is a need to creatively spur ways to meet the needs of the unhoused population, but this approach has too many drawbacks. Below is a summary of other concerns by county departments who implement regulations that would be affected by this.

1. Building Code Conflicts (Attachment 3)

Emergency housing standards are subject to the California Building Code. Enforcing agencies must determine that standards are met for occupancy to ensure public safety is maintained for all individuals, even if a state of emergency is declared. It is a weekly occurrence for the Planning and Building Department to be called to inspect a residence to determine if it is adequate to occupy. This ordinance could make it difficult for the Building Official to declare some housing substandard, when there is an ordinance allowing substandard housing.

2. Division of Environmental Health Conflicts (Attachment 4)

Exempting activities from regulations in place that protect both the health of occupants, the community, and the environment creates undue risk for Humboldt County. DEH protections are in place to prevent disease proliferation, protect water quality for both consumers and the surrounding environments, administer effective solid waste management practices, and to ensure that adequate water supply and waste disposal systems are in place for use.

3. CEU Code Conflicts (Attachment 5)

Code enforcement protects the health, safety, and welfare of our community by enforcing State and Local Codes governing nuisances, and environmental violations. By removing the regulatory provisions in place to protect the community and occupants alike, this could create a scenario where the health, safety, and desires of the rest of the community are sidelined. Additionally, the petition allows for the proposed use across all zoning districts where residences exist and would create undue burden on community members by degrading neighborhood integrity and impacting consistency across zoning districts.

It should also be noted that there may be impacts related to the Americans with Disabilities Act (ADA), though ADA staff have not reviewed the proposed amendment.

FINANCIAL IMPACT:

There would be several financial implications for Humboldt County if this were pursued:

- 1) Cost of liability insurance for property owners and operations (untenable).
- 2) Cumulative cost of all water and wastewater infrastructure needed per project.
- 3) Cumulative cost of anticipated police services required for these activities.

- 4) Cumulative cost of providing a free storage service for all participants, including long-term staffing and monitoring of inventory.
- 5) Cost of Environmental Impact Report supporting the petition. There will be significant unavoidable impacts associated with the project concept as proposed. Overriding considerations would likely need to be adopted for this proposal.
- 6) Staff costs and other expenses related to research of the existing regulations, stakeholder and public engagement, preparation and review of supportive documents, and preparation of ordinance.
- 7) Cost of related litigation.

If supported, conceptually, this would cost hundreds of thousands of dollars or more, at the expense of the taxpayers of Humboldt County. This could be construed as an unlawful gift of public funds. Even if the work identified above is completed, this does not guarantee approval or support from the state or other regulatory agencies in implementation.

STAFFING IMPACT:

Staff time related to research and modifying the existing regulation will not be accomplished with current staff resources. Additional resources would be required to pursue this petition, including consultants to assist in preparation of an EIR, and other subcontractors who may be required to execute associated studies needed to prepare supporting documentation.

STRATEGIC FRAMEWORK:

This action supports the Board's Strategic Framework by supporting laws and regulations in place to protect residents, protect vulnerable populations, and minimize liability.

Although housing for all is a priority in the Strategic Plan, the petition does not enforce laws and regulations in place to protect residents. It also does not align with the priority of protecting vulnerable populations because it is proposing substandard living conditions which could further disadvantage or harm county residents. The petition does not support the Board's Strategic Framework because the ordinance would place great liability on the County for the benefit of private property owners without helping the population without housing in a meaningful way.

OTHER AGENCY INVOLVEMENT:

Environmental Health
Building
Code Enforcement
County Counsel

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Board discretion. The Board could choose to direct Planning and Building to alternatively pursue regulatory pathways for the allowances presented.

ATTACHMENTS:

Attachment 1: Resolution

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Attachment 2: Draft Private Shelter Program Zoning Amendment Petition

Attachment 3: Chief Building Official Comments

Attachment 4: Department of Environmental Health Comments

Attachment 5: Code Enforcement Unit Comments

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: March 12, 2024.

File No.: LRP-2024-18872