

**DATE:** May 17, 2011  
**TO:** Honorable Mayor & City Council  
**FROM:** Chris Caso, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of May 16, 2011

**AGENDA NO. 8 - PUBLIC HEARING  
ZONING CASE 2011-13  
APPLICANT: CITY OF PLANO**

Request to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) and related sections of the Zoning Ordinance pertaining to religious facility operated or sponsored onsite homeless shelters.

**APPROVED:** 4-3 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

The Commissioners voting in opposition believed that homeless shelters should continue to be regulated under the existing household care facility and household care institution regulations.

**STIPULATIONS:**

Recommended for approval as follows:

Amend Section 1.600 (Definitions) of Article 1 (General Regulations) to include the following:

Temporary accessory housing shelter - A not-for-profit housing shelter operated as an accessory use to a religious facility only, providing temporary free lodging for indigent individuals or families with no regular home or residential address. A temporary accessory housing shelter shall house a maximum of 14 individuals at one time, and shall operate for a maximum of 30 days per calendar year. This definition shall not include household care facility and household care institutions.

Amend Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) to allow temporary accessory housing shelter by right in all zoning districts and adding End Note 45 as follows:

End Note 45: Permitted as an accessory use to a religious facility; see Section 1.600 (Definitions).

**FOR CITY COUNCIL MEETING OF:** June 13, 2011 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

EH/dw

**Recommendation of the Planning & Zoning Commission**  
**May 16, 2011 Meeting**  
**Second Vice-Chair's Report**

**Zoning Case 2011-13** – Request to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses), and related sections of the Zoning Ordinance pertaining to religious facility operated or sponsored onsite homeless shelters.

**Applicant:** City of Plano

**Staff Recommendation:** If the Commission decides to regulate individually religious facilities operating onsite homeless shelters, amend the Zoning Ordinance by: (1) establishing a definition for “temporary accessory housing shelter” as a “not-for-profit temporary housing shelter operated as an accessory use to a religious facility only, providing free lodging for indigent individuals or families with no regular home or residential address. A temporary housing shelter shall house a maximum of 20 individuals at one time. This definition shall not include household care facility and household care institutions;” and (2) allowing religious facilities to operate or sponsor onsite homeless shelters as an accessory use.

**Commission Action:** Request to amend existing regulations was approved 4-3. First Vice Chair Downs, Commissioners Balda, Hazelbaker, and Norton supported the request with the following additions:

- Reduce the maximum number of individuals allowed in the facility from 20 to 14.
- Limit the stay of individuals in the facility to a maximum of 30 days in a calendar year.
- Move the word “temporary” in the definition of “temporary accessory housing shelter” to read as a “not-for-profit ~~temporary~~ housing shelter operated as an accessory use to a religious facility only, providing temporary free lodging...” for clarity so it applies to people, not the structure.

Other comments supporting approval of the amendments included:

- Under existing regulations, only religious facilities within residential zoning districts are allowed by right to operate onsite homeless shelters under uses defined as either household care facilities or institutions. Amending the existing Zoning Ordinance to regulate religious facilities individually would allow them to provide onsite homeless shelters as an accessory use in any zoning district within the city.

Chairman Caso and Commissioners Dry and Smith did not support the request. Comments included:

- The existing regulations governing the use of temporary homeless shelters in religious facilities as either household care facilities or household care institutions are appropriate.

- If under existing regulations, a religious facility wants to increase the maximum of eight individuals allowed by right in an onsite homeless shelter, the religious facility could apply for a variance from the Board of Adjustment.
- Accommodating increased numbers of homeless individuals could also be accomplished by expanding the number of religious facilities operating onsite homeless shelters under the existing household care definitions, rather than increasing the maximum number of individuals allowed by right.
- The current regulations governing onsite homeless shelters as household care facilities are enforceable by the city. Changes to the existing zoning regulations, such as limiting the maximum number of days an individual could stay in an onsite homeless shelter, would be difficult to enforce.

Respectively submitted,

A handwritten signature in black ink, appearing to read "Michael Coleman", with a long horizontal flourish extending to the right.

Michael Coleman  
Second Vice Chair  
Planning & Zoning Commission

CITY OF PLANO  
PLANNING & ZONING COMMISSION

May 16, 2011

**Agenda No. 8**

**Public Hearing:** Zoning Case 2011-13

**Applicant:** City of Plano

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**DESCRIPTION:**

Request to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses), and related sections of the Zoning Ordinance pertaining to religious facility operated or sponsored onsite homeless shelters.

**BACKGROUND:**

In 2010, the city updated the Zoning Ordinance regulations relating to religious facilities. During discussions with the Planning & Zoning Commission and City Council, the issue of temporary homeless shelters sponsored or operated by religious facilities onsite was raised. The Commission and Council considered an ordinance amendment specifically to regulate this use, but ultimately decided not to modify the regulations regarding temporary homeless shelters. The Council believed that existing zoning regulations regulating homeless shelters (i.e. household care facility and household care institutions) were appropriate. Additionally, the Council believed that for religious facilities wanting to exceed the maximum number of persons allowed within a household care facility, the religious facility could pursue a variance from the Board of Adjustment (BOA). City Council has requested that the Commission consider this issue again.

**REMARKS:**

Religious facilities are allowed by right in all zoning districts, and many religious organizations support and encourage the feeding, housing, and care of homeless individuals, as these activities are congruent with their religious beliefs. Currently, these uses are defined as either household care facility or household care institution depending on the number of individuals housed. Household care facilities are allowed by right in all residential zoning districts and allow housing for up to eight persons plus two caregivers. Household care institutions are only allowed by specific use permit in multifamily residential zoning districts and several nonresidential zoning districts, and allow for the care of more than eight persons.

If homeless shelters associated with religious facilities are a use that the city believes it needs to address individually, staff recommends that the shelters be allowed in all zoning districts by right as an accessory use to religious uses only and not be allowed for fraternal, social, and institutional uses since these types of organizations (as well as religious facilities) can operate shelters in accordance with the city's current household care facility and household care institution uses. Additionally, staff recommends allowing homeless shelters as accessory uses to all religious facilities, regardless of size.

In previous discussions, staff suggested the following term and definition for a "temporary accessory housing shelter."

"A not-for-profit temporary housing shelter operated as an accessory use to a religious facility only, providing free lodging for indigent individuals or families with no regular home or residential address. A temporary accessory housing shelter shall house a maximum of 20 individuals at one time, and shall operate for a maximum of 30 days per calendar year. This definition shall not include household care facility and household care institutions."

This definition is the result of previous discussions with the Commission during 2010 when the Commission suggested the possibility of creating limits on the number of individuals allowed; restricting the time an individual is allowed to remain in a shelter; imposing a lot size or building square footage requirement; and creating a provision for bathroom facilities. There are several issues to consider related to this proposed use and definition:

- Any new regulations should be written such that they are not specific to one particular organization, but are inclusive of all religious facilities and shelter programs.
- Creating such limits on a temporary accessory housing shelter would prove difficult to monitor and enforce and could exclude certain organizations from providing services to homeless individuals.
- The use should be allowed for all religious facilities regardless of size.

Imposing a minimum square footage requirement for a religious facility to operate a shelter may exclude certain religious facilities from participating. Instead of including a provision to limit homeless shelters to religious facilities of a certain size, staff recommends that the city continue regulating homeless shelters based upon the city's existing building codes. The city uses the International Property Maintenance Code to determine minimum areas for livable areas. For bedrooms, the code requires a minimum of 70 square feet for rooms occupied by one person, and a minimum of 50 square feet per person for a bedroom occupied by more than one person. This square footage requirement would be applied to the area a religious facility would use to house homeless individuals. Upon request for a Certificate of Occupancy to operate a shelter, the Building Inspections Department would verify that the facility has the necessary square footage to accommodate homeless individuals, as well as that the facility is meeting all other applicable building codes.

In lieu of creating a new use, another option is that housing for the homeless remain classified as either household care facility or household care institution because these classifications already exist within the Zoning Ordinance and have limits placed upon them based upon the number of persons housed. If a religious facility believes that they cannot abide by the limits on the number of persons set forth in the household care definitions, particularly household care facilities since they are limited to eight persons plus two caregivers, the religious facility currently has the opportunity to apply for a variance with the BOA.

Staff revisited this issue with the Commission, at the request of the City Council, at the May 2, 2011, Planning & Zoning Commission meeting. During that discussion, the Commission reiterated that it does not wish to modify the regulations. However, if upon further discussion the Commission believes that religious facilities operating or sponsoring onsite homeless shelters should be regulated individually, staff recommends the Zoning Ordinance be amended to include the term "temporary accessory housing shelter" with the definition provided previously within this report, with the exception that the length of stay time limitation be removed due to the difficulty of enforcing the length of stay for individuals.

Additionally, staff recommends that temporary accessory housing shelter be allowed by right in all zoning districts. This would allow religious facilities in single-family districts to have shelters housing a maximum of 20 people by right in lieu of having to obtain variances due to household care facility limitations. Furthermore, this would allow religious facilities located in multifamily residential and nonresidential zoning districts to have shelters with a maximum of 20 people by right in lieu of having to obtain a specific use permit for household care institution.

### **RECOMMENDATION:**

If the Planning & Zoning Commission believes that religious facilities operating onsite homeless shelters should be regulated individually, then staff recommends the Zoning Ordinance be amended as follows:

Amend Section 1.600 (Definitions) of Article 1 (General Regulations) to include the following:

Temporary accessory housing shelter - A not-for-profit temporary housing shelter operated as an accessory use to a religious facility only, providing free lodging for indigent individuals or families with no regular home or residential address. A temporary accessory housing shelter shall house a maximum of 20 individuals at one time. This definition shall not include household care facility and household care institutions.

Amend Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) to allow temporary accessory housing shelter by right in all zoning districts and adding End Note 45 as follows:

End Note 45: Permitted as an accessory use to a religious facility; see Section 1.600 (Definitions)

## Zoning Case 2011-13

**An Ordinance of the City of Plano, Texas, amending Section 1.600 (Definitions) of Article 1 (General Regulations) and Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses), and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, pertaining to a religious facility operated or sponsored onsite homeless shelter; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.**

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 13th day of June, 2011, for the purpose of considering a change in the Zoning Ordinance; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 13th day of June, 2011; and

**WHEREAS**, the City Council is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** Section 1.600 (Definitions) of Article 1 (General Regulations) of the Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended, pertaining to religious facility operated or sponsored onsite homeless shelters, such portion of section to read as follows:

## Section 1.600 Definitions

Temporary accessory housing shelter - a not-for-profit housing shelter operated as an accessory use to a religious facility only, providing temporary free lodging for indigent individuals or families with no regular home or residential address. A temporary accessory housing shelter shall house a maximum of 14 individuals at one time and shall operate a maximum of 30 days per calendar year. This definition shall not include household care facility and household care institutions.

**Section II.** Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) of the Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended to allow temporary accessory housing shelter by right in all zoning districts and adding End Note 45, such portion of subsection to read as follows:

### Section 2.500 Permitted Uses

#### Subsection 2.502 Zoning Districts and Uses

End Note 45: Permitted as an accessory use to a religious facility; see Section 1.600 (Definitions).

**Section III.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section IV.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section V.** Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VI.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 13TH DAY OF JUNE, 2011.**

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Phil Dyer, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY