



ADMINISTRATIVE ORDER #301138 - A

DECISION ON APPLICATION FOR TEMPORARY USE PERMIT

PROJECT DESCRIPTION

The proposal is for the Shoreline Free Methodist Church, 510 NE 175th Street, Shoreline, to host a Tent City temporary homeless camp on the church property. The proposed area of the camp is approximately 6775 square feet, to be located on grass adjacent to the parking lot. Up to 100 people are proposed to be housed in up to 47 tents, the tents ranging in size from 40 – 800 square feet.

In November of 2002, the Church applied for a Temporary Use Permit for Tent City for a five-week duration. The City of Shoreline issued a decision that the proposal could not meet all of the criteria for permit because of its appearance (see discussion below under Temporary Use Permit Criteria and Appearance), and approved a permit to house the residents inside the church building on a temporary basis. The Church chose not to pursue that option; instead they have applied again for Tent City, including in the current proposal the installation of temporary screening fence to reduce the visual impact of the encampment. The current proposal is to host the Tent City from April 20, 2003 to July 20, 2003.

FINDINGS

- **Site and Surrounding Land Use**

Existing Use: The site contains a church building, large parking lot and landscaped and grass area. There is no residential use of the site.

Lot size: 2.76 acres.

Zoning: R-6, Residential, 6 units per acre maximum density.

Comprehensive Plan Designation: Low Density Residential.

Surrounding Zoning and Land Use: **South:** R-6, low density residential. **West:** R-6 and R-12, lot to medium density residential. **North:** R-8 zoned properties across N. 175th St. , library, church and low to medium density residential. **East:** R-6 and R-8, low to medium density residential.

- **Applicable Regulations**

A. Shoreline Comprehensive Plan

Housing Goal H III: *“Maintain and enhance single family and multi-family residential neighborhoods, so that they provide attractive living environments, with housing that is compatible in quality, design and scale within neighborhoods and that provides effective transitions between different uses and scales”.*

Housing Policy #H28: *“Encourage, assist and support social and health service organizations that offer housing programs for people with special needs.”*

Housing Policy #H29: *“Support the development of emergency, transitional, and permanent supportive housing with appropriate services for persons with special needs throughout the City and region.”*

Housing Policy #H34: *“Cooperate with private and not-for-profit developers and social and health service agencies to address regional housing needs.”*

B. Shoreline Development Code

Temporary sheltering of the homeless is not listed as a permitted use in the R6 zoning district, and is not included within the Shoreline Municipal Code definition of church use. Residences for staff is included as an accessory use to church use but it must be located in approved buildings and does not include housing for the general public.

A Temporary Use Permit is a mechanism by which the City may permit a use not otherwise allowed on an interim basis. The proposal would have to meet the criteria for Temporary Use listed below. It is a “Type A” permit as described in Development Code Section 20.30.040; it is a ministerial decision made by the Director; no public notice is required. The Director’s decision must be based upon findings that the application conforms (or does not conform) to all applicable regulations and standards.

Section 20.20.014 C, Church, Synagogue or Temple

A place where religious services are conducted, and including accessory uses in the primary or accessory buildings such as religious education, reading rooms, assembly rooms, and residences for nuns and clergy. This definition does not include facilities for training of religious orders.

Section 20.40.540 Temporary Use Permit (TUP) Criteria

a. The Director may approve or modify and approve an application for a temporary use permit if:

1. The temporary use will not be materially detrimental to public health, safety, or welfare, nor injurious to property and improvements in the immediate vicinity of the subject temporary use; and
2. The temporary use is not incompatible in intensity and appearance with existing land uses in the immediate vicinity of the temporary use; and

3. Adequate parking is provided for the temporary use, and if applicable the temporary use does not create a parking shortage for the existing uses on the site; and
 4. Hours of operation of the temporary use are specified; and
 5. The temporary use will not create noise, light, or glare which would adversely impact surrounding uses and properties.
- b. A temporary use permit is valid for up to 60 calendar days from the effective date of the permit, except that the Director may establish a shorter time frame or extend a temporary use permit for up to one year.

Section 20.50.020 Density and Dimensions: The R6 zoning would allow 17 units on the property if it were to be developed to its maximum capacity. Allowing for a maximum of 8 persons per household (see definition of *Family*, Code Section 20.20.020), this parcel of land could support a density of up to 136 people.

C. Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA)

42 U.S.C. 2000cc §2(a)(1):

No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless that government demonstrates that imposition of the burden on the person, assembly, or institution-

- (A) is furtherance of a compelling governmental interest; and
- (B) is the least restrictive means of furthering that compelling government interest.

- **Tent City Rules and Regulations**

The operators of Tent City have a list of rules and regulations for its participants, which include 24-hour security, no drugs or alcohol or intoxicated persons allowed, quiet time between 8:00 a.m. and 8:00 p.m., laundry done once per week, and personal hygiene standards. Sani-cans and wash stations are provided and serviced three times per week. Food is brought in.

- **Appearance**

City staff visited the current Tent City located at the Highline United Methodist Church in Burien on December 3rd and December 4th, 2002. The visits confirmed that, although clean and orderly, the appearance of the encampment is visually incompatible with a low or medium density residential neighborhood. The many tents are made up of various materials and colors, and there is also a row of about 5 Sani-cans. In the words of former Tent City

host Reverend Rich Lang, (of Trinity United Methodist Church in Ballard): *“It looks like a refugee camp. It is not a pleasant thing to look at.”*¹

- **Other Jurisdictions**

City of Seattle: The City of Seattle was found by a judge to have denied a Temporary Use Permit for Tent City in error, because the criteria used for the denial were not criteria specifically related to the granting of the Temporary Use Permit. The judge further ruled that: *“There is no evidence to support the conclusion that Tent City is materially detrimental to the public welfare...”* and *“...Tent City is not injurious to property in the vicinity.”* Seattle churches have hosted Tent City at various locations approximately 12 times. Police records do not indicate any increase in crime or police calls in the areas where Tent City has been located.

City of Tukwila: The City of Tukwila has allowed Tent City to be hosted by churches three times. It did not require a permit. John McFarland, City Administrator reports that in that time, there were approximately 3 – 4 police call to Tent City, for “hooliganism” (no serious crime or injury to person or property). He also reported that in general, crime went down in the areas where Tent City was located, and that Tent City left the areas cleaner than they were before. City staff makes routine inspections once per week.

City of Burien: The City of Burien issued a Temporary Use Permit for Tent City on November 1, 2002, with conditions mostly related to fire issues. The Building Official (Lee Bailey) reported that Tent City has complied with all of the conditions associated with the permit, and that there has been no reported trouble associated with Tent City. There were no police calls and no apparent increase in “panhandling.” City officials make a routine inspection once per day.

- **Length of Stay**

Staff reviewed the length of time Tent City has stayed at their various host sites over the past two years. The length of stay has generally been between four weeks to three months, most stays are between six weeks and two months. The maximum length of stay set by the City of Seattle is three months.

CONCLUSIONS AND DECISION

- **TUP Criteria:** Since the applicant does not have a nonconforming public shelter use, a permitted accessory use to provide shelter housing must meet the criteria of the Temporary Use Permit. The Director has analyzed the proposal and supporting information in relation to the Temporary Use Permit Criteria and has made the following conclusions:

¹ March 24, 2002 King 5 “UpFront” News Broadcast

1. *The temporary use will not be materially detrimental to public health, safety, or welfare, nor injurious to property and improvements in the immediate vicinity of the subject temporary use;*

Based on evidence provided by the applicant, proposed security to be provided, judge's rulings in past cases, and research into other jurisdiction's experiences with the proposed use, the Director finds that the proposal meets this criterion provided the use is subject to initial inspection and follow-up inspections by the City of Shoreline, Health and Fire District's for compliance with conditions of the temporary use permit.

2. *The temporary use is not incompatible in intensity and appearance with existing land uses in the immediate vicinity of the temporary use;*

Intensity: The shelter proposes to house up to 100 people. If this site were built out to full residential density allowed by the code, it could theoretically support up to 136 people (see discussion under Densities and Dimensions, above). The Director finds that the proposal meets this criterion.

Appearance: Tent City is proposed to consist of up to 47 tents ranging in size from 40 square feet to 800 square feet. The tents are of various colors and materials. There is no land use in the vicinity comparable in appearance to Tent City. It would be visible from the back yards of several single-family homes, and to a lesser extent from NE. 175th St. and 5th Ave NE and the houses on these streets. The applicant has proposed to install fencing consisting of six-foot high panels and windscreen, placed on concrete blocks. The proposed fencing would begin at the bottom of the back driveway to decrease visibility from 5th Ave NE, and run up the entire 165 feet of driveway adjacent to the grass area where Tent City would be located. The fencing would also run 150 feet South to North along the grass adjacent to the parking lot, decreasing the visibility from NE 175th St. and the backyard neighbors. An additional eighty-five feet of the fencing will be installed between the upper and lower grass areas to further limit the visibility for the backyard neighbors. With the proposed fencing to mitigate the visual impact of Tent City, the proposal meets this criterion.

3. *Adequate parking is provided for the temporary use, and if applicable the temporary use does not create a parking shortage for the existing uses on the site;*

The proposed use will not generate a significant demand for parking; further, no required parking for the church will be compromised by the proposal. The proposal meets this criterion.

4. *Hours of operation of the temporary use are specified;*

Quiet hours are specified in the Tent City rules. The proposal meets this criterion.

5. *The temporary use will not create noise, light, or glare which would adversely impact surrounding uses and properties.*

The proposed use has specified hours for quiet. There is only one electric light in the security checkpoint tent. The occupants use battery operated lights and radios in their individual tents. The existing parking lot is already well lit with two parking lot lights. The proposal meets this criterion.

- **Length of Permit:** Typical length of stay for Tent City is approximately six weeks to two months. The City of Shoreline Development Code calls out a 60 day duration for a Temporary Use Permit, unless modified at the discretion of the Director. The Director finds that this 60 day time limit is reasonable for this application. Since Tent City typically moves on Sundays due to less traffic, a two-day extension may be granted so that the last day will be on a Sunday.

DECISION: The use of the church site for temporary housing will conform to all of the criteria provided that the use is in compliance with the following conditions:

1. Temporary emergency sheltering of the homeless for up to 100 people is allowed, in compliance with the site plan and project description submitted with the application materials, and the installation of screening for mitigation of visual appearance to the street and neighboring properties. The screening shall be installed as described in the application, including the driveway fencing, the parking lot fencing, and the 85-foot of fencing between the upper and lower grass areas. The color of the windscreen shall not be black.
2. The rules and regulations for Tent City will be followed.
3. A fire permit is required for all tents over 200 square feet.
4. All tents must be made of fire resistant materials and labeled as such.
5. The shelter shall permit inspections by City, Health and Fire Department inspectors at reasonable times without prior notice for compliance with the conditions of this permit.
6. Only a single point of entrance is allowed. Security personnel shall monitor this entrance point at all times. A working telephone shall be available to security personnel at all times.
7. This permit is valid from April 20, 2003 until June 22, 2003.

Director's Signature

Date