



May 18, 2016

City of Morgan Hill
City Council
17575 Peak Avenue
Morgan Hill, CA 95037

Re: City Council Agenda Item 23 (16-318) – ZA-16-03 – Congregate Care Definition Amendment

Dear Honorable Mayor and Morgan Hill City Councilmembers:

The purpose of this letter is to express our concern with the proposed ZA-16-03 change to the Congregate Care definition. The proposed change to the definition essentially eliminates the Congregate Care exemption from the RDCS program which was applicable to our project when it was entitled through a General Plan Amendment and Zoning Amendment, both of which restricted our property to being exclusively Congregate Care. We are in the process of working with a development partner to develop the final phase of this project as market rate Congregate Care, as was proposed to City Council in October of 2014 when it granted unanimous approval to move forward with the project. We have been working on the project for well over 2 years and have invested an immense amount of time, money, and other resources into executing the approved project concept. At this point our entitlements are complete as of October 2014 except for a final Planning Commission hearing to approve the Conditional Use Permit. The application package for the CUP was submitted on April 25th.

We are requesting that our project be allowed to proceed under the definition of Congregate Care that was in place both at the time our General Plan Amendment and Zoning Amendment were approved (October 2014) and at the time we submitted our CUP application package (April 2016). For the City to change the definition out from under us when we have been diligently working on executing the plan approved unanimously through Planning Commission and City Council is not right. We accordingly request that the following language be included in the ordinance adopting the new definitions:

Section XX. Grandfathered Projects.

This ordinance shall not apply to projects that meet the following requirements:

1. An application for a project-level approval, such as a Conditional Use Permit, was submitted before the first reading of this ordinance, and the applicant diligently pursues that application until it is deemed complete;
2. The project is part of a larger project, such as a rezoning, that previously was evaluated in a CEQA document and approved as a congregare care project.



3. The project conforms to the definition of congregate care and was exempt from the Residential Development Control System (RDSCS) as that definition and system were in effect on the date the project application was submitted;

This provision would have the effect of ensuring that the existing definition of congregate care, and the exemption of congregate care from the RDSCS, remains applicable to the final phase of our project. The existing definition states:

Morgan Hill Municipal Code 18.04.112 Congregate care for the elderly/assisted living facility.

"Congregate Care for the elderly/assisted living facility" is a facility for long-term residence exclusively by persons fifty-five years of age or older or persons under fifty-five with compatible needs, and which shall include within the same single structure, without limitation, individual sleeping quarters with no more than half kitchens, common dining facility which provides a sit down dining service at two distinct times per day, recreational features such as a lounge or recreation room, special safety and convenience features designed for the needs of the elderly, such as emergency call systems which are linked to on-site staff which are available twenty-four hours per day, grab bars and handrails, special door hardware, cabinets, appliances and doorways designed to accommodate wheel chairs, and social services for residents which must also include at least three of the following: transportation services provided by the facility, housekeeping, facility provided linen/laundry, and organized social and recreational activities. Such facilities may have up to two manager's units which contain full kitchen facilities.

COMMUNITY DEVELOPMENT PARTNERS

For your reference, following is an abbreviated timeline of our entitlement and planning activities:

- -April 2013 - Began working with Planning Staff (Rebecca Tolentino), finally were able to move the process forward in Jan 2014 (Planning was directed to sync project GPAs up together to be processed collectively ahead of the GP update)
- -March 2014 - unanimous approval from Planning Commission to direct staff to move forward with processing our GPA/ZA ahead of the general plan update, followed by unanimous approval of City Council
- -March 2014-September 2014 - environmental studies commissioned by City were completed, including the Initial Study and the Mitigated Negative Declaration which were circulated for public review without opposition



- -September 9, 2014 - PC unanimously approved recommending to City Council that they adopt the MND, adopt the resolution approving the GPA (GPA-14-06), and adopt the ordinance approving the Zoning Amendment (ZA-14-01)
- -The Initial Study addressed development of Butterfield Retirement Phases 1 and 2 of our proposed congregate care facility (111 units and 70 units, respectively, all limited to congregate care), as well as the existing Lodge congregate care facility on Site B
- -The proposed General Plan Amendment and Zoning Amendment were analyzed for consistency with the City's General Plan goals and policies and found to be consistent with them
- -The General Plan Advisory Committee (GPAC) also reviewed and recommended approval of the GPA/ZA
- -October 1, 2014 - City Council unanimously approved adopting the MND, adopting the resolution amending the General Plan land use designation, and adopting the Zoning Amendment ordinance
- -October 15, 2014 - PC unanimously approved the CUP Application UP-14-03 for Phase 1 of Butterfield Retirement, as a congregate care facility exempt from the RCDS.
- -October, 2015 – Phase 1 construction commences
- -April 25, 2016 – Phase 2 CUP submittal made to Staff – includes a proposed final phase that is in substantial conformance with the project that was presented during previous public hearings at which City Council voted in unanimous favor of the General Plan and Zoning Amendments to accommodate phases 1 and 2 – a total of 181 units that had to be exclusively congregate care

We've spent an immense amount of time and resources in executing the plan that was brought to City Council and approved a year and a half ago. Our plan for both phases has always been and still is to build Congregate Care as per the definition under which we were approved for the General Plan Amendment and Zoning Amendment – with full support of the City Council. I thank you for the consideration in granting our final phase project to move forward under the definition of Congregate Care that was in place when we processed the project General Plan and Zoning entitlements and submitted our CUP application package. We have enjoyed working with the City of Morgan Hill and we look forward to continuing the relationship and delivering outstanding communities.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric Paine', with a long, sweeping horizontal stroke at the end.

Eric Paine
CEO

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