

ZONING AMENDMENT, ZA-16-03: RESIDENTIAL CARE FACILITIES AND OTHER VARIOUS AMENDMENTS

Planning Commission April 26 2016

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BACKGROUND:

The Planning Commission reviewed the proposed Zoning Amendment at the April 12, 2016 meeting and requested a continuance to the April 26, 2016 Planning Commission meeting to allow additional time to review the materials. The Commission also requested that additional information be provided regarding how the proposed changes could impact the Residential Development Control System (RDCS) and the land use of a specific site located north of Barrett Avenue and south of Butterfield Boulevard. The parcels at this site have a Planned Development overlay restricting their use to Congregate Care Facilities through a Conditional Use Permit process. This overlay was adopted as part of the entitlement for an affordable senior housing project that has already been developed ("The Lodge of Morgan Hill"). One remaining phase has already been approved for the site.

ANALYSIS:

The following information is provided in response to the Planning Commission's request:

1. Residential Development Control System (RDCS)

The proposed Zoning Amendment to change the City definition of "Residential Care Facilities" would require facilities only providing supportive services (without a license) to participate in the RDCS process. These housing developments would be considered to be apartments that provide some services to their residents, but not at the level of service required to obtain a license from the State. These developments would also not be restricted to senior citizens. They could include developments that provide housing for transitional youth, the developmentally disabled or disabled.

The Commission has questioned how the RDCS would be impacted by facilities that do not meet the threshold for licensing. Under the proposed ordinance, RDCS allotments would be required for a housing facility to be developed and occupied by a "targeted population" and linked to onsite or offsite services, but not licensed by the State. Within current RDCS system, these allotments could be obtained from the multi-family residential set-aside or the affordable housing set-aside, for qualified projects. Both senior citizen and affordable housing projects have competed through the RDCS and have been fully allotted through the system. Projects that receive entitlement to operate as a licensed facility will not require RDCS allotments, and will be precluded from converting into a non-licensed facility at any point in the future.

The City currently requires affordable housing projects to participate in the RDCS process and once developed, there is continued oversight by the City. Senior citizen housing, which is designed for persons who are fifty-five years of age or older, and which may or may not have services for the residents, also requires processing through the RDCS.

The proposed amendment has not been developed to discourage the development of "Residential Care Facilities", but rather to promote the development of facilities which have significant regulatory oversight to maintain an appropriate level of services for the intended population, while also discouraging projects that would seek to circumvent the RDCS and

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which could result in a the development of a facility with inadequate services to support its residents.

2. The Lodge of Morgan Hill

The Planning Commission requested information specifically regarding "The Lodge of Morgan Hill" and whether the proposed Zoning Amendment would impact the properties under the ownership of this project's developer. To better understand the adopted zoning for these properties, staff is providing the following history:

- a. October 1, 2008: Zoning Amendment adopted for a 5.3 acre site located at the northwest corner of Barrett Avenue and Butterfield Boulevard to R3-PD, with an adopted Precise Development Plan for a Congregate Care Retirement Residence. A Conditional Use Permit was required for the establishment of the Congregate Care Retirement Residence.
- b. January 13, 2009: Conditional Use Permit UP-08-11 was approved for a 138-unit Congregate Care Retirement Residence. The project was approved with studio, one bedroom and two bedroom units. Units were to be developed without kitchens. Services to be provided included: three prepared meals daily, housekeeping, laundering, private bus transportation and various activities. The monthly rent payment was to cover the private room, all services and utilities. Private van transportation was to be provided for resident use. Staffing was to be provided 24 hours a day.
- c. February 8, 2011: Conditional Use Permit UP-08-11 was amended. The amendment allowed for half-kitchens to be added to the units and for services to be offered on an "a la carte" basis rather than included in the rental fee.
- d. October 14, 2014: Conditional Use Permit UP-14-03 was approved for a 114-unit Congregate Care Facility contingent on approval of a Zoning Amendment. The Conditions of Approval required:

"The congregate care facility shall operate in compliance with the definition found in Section 18.04.112 of the Morgan Hill Municipal Code except as specified in Sections "E" and "F" below. In addition, "age 55 years or older" shall mean to comply with those definitions of "qualifying resident", "qualified permanent resident", or "qualified permanent resident" as defined in California Civil Code 51.3 or as amended.

E. The facility must install and maintain an operational commercial kitchen and shall have the capacity to serve meals to all residents including dining room capacity. As part of the operation of the facility, the facility shall provide a food service for all residents that at a minimum includes the following:

1. *The food service must include 3 full meals per day including breakfast, lunch, and dinner served in the common dining hall.*

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2. *All residents, as a requirement of residency, must be enrolled in a meal service provided by the facility having a minimum of one meal provided per day/seven days per week.*
 3. *All meals must be served and include the minimum number of components and amounts of food as part of breakfast, lunch, and dinner to comply with the United States Department of Agriculture (USDA) Child and Adult Care Food Program (CACFP). Additionally, the food service shall follow the USDA's Dietary Guidelines for Americans with particular emphasis on those components focusing on Older Adults. (or their replacement programs)*
 4. *All food service meals shall include at a minimum one cooked or hot serving.*
- F. *Services provided by the facility must be in compliance with Section 18.04.112 on an on-going basis and must be available to all residents without limitation and may be offered on an a la carte basis. At a minimum, the following services must be made offered and made available: private bus/car transportation; laundering; and housekeeping."*
- e. October 15, 2014: Zoning Amendment adopted for 11.97 acres (four contiguous parcels) located at the southwest corner of Barrett Avenue and Butterfield Boulevard to CS Neighborhood Commercial Planned Development. The PD overlay restricted the land use of the subject properties to only allow Congregate Care Facilities through a Conditional Use Permit process. No other uses are permitted.

This project was initially identified as a Congregate Care Facility, providing all inclusive services to the residents. The subsequent entitlements created some ambiguity regarding the City's expectations for the operation of the facility so that the facility is currently being operated with a limited amount of services for its residents. The project is now a senior apartment development providing services to the residents, upon their request. This project is also not aligned with the State definition of Congregate Living Health Facility, which is defined as:

"A residential home with a capacity, of no more than 12 beds, except as provided in Sections 1250(i)(4)(A) & (B) of the Health and Safety Code. Congregate Living Health Facilities provide inpatient care, including the following basic services: medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social, and recreational. Also, Congregate Living Health Facilities shall provide at least one type of service specified in Sections 1250(i) (2) (A), (B), &(C) of the Health and Safety Code. The primary need of the congregate living health facility residents shall be for availability of skilled nursing care on a recurring, intermittent, extended, or continuous basis. This care is generally less intense than that provided in general acute care hospitals but more intense than that provided in skilled nursing facilities."

The proposed amendment would not affect existing operating facilities. They would continue to be bound by their existing Conditional Use Permits. Future projects or amendments would be required to comply with the new definition for Residential Care Facility. If the developer of the Morgan Hill Lodge undertakes the development of their adjacent, vacant property, under the proposed ordinance, that new development would either need to operate as a licensed facility

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or participate in the RDSCS to obtain allotments as an affordable/senior housing project, consistent with the process for other affordable housing development. The proposed amendment would not prevent the site from being developed with a Residential Care Facility; it would only require the licensing of the facility in order for it to be exempt from the RDSCS.

Community Engagement

A 10 day public hearing notice was published in the Friday, April 1, 2016 edition of the Morgan Hill Times pursuant to Government Code Sections 65090-65096. A notice of continuance was posted on April 13, 2016.

Conclusion

The proposed amendments to Title 18 would be consistent with the City's General Plan and would provide clarity regarding application processes, consistency with State definitions and licensing requirements.

Staff recommends the Planning Commission recommend City Council approval of the Ordinance by adoption of the attached resolution.

CEQA (California Environmental Quality Act):

This Ordinance is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b) (3) of the State CEQA Guidelines. Text amendments to the Morgan Hill Municipal Code are covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Adoption of these amendments will not create changes in the physical environment and are therefore exempt.

LINKS/ATTACHMENTS:

April 12, 2016- PC Staff Report