



Planning Commission

Agenda

Study Session

November 13, 2017

Noon

Lausmann Annex, Room 151
200 South Ivy Street, Medford, Oregon

10. Introductions
20. Discussion items
 - 20.1 **GF-17-149** Citizen Initiated Request – Residential Care Facilities
30. Adjournment



MEMORANDUM

Subject Citizen initiated request for a code amendment related to Residential Facilities

File no. GF-17-149

To Planning Commission

From Carla Angeli Paladino CFM, Principal Planner

Date November 8, 2017 *for November 13, 2017 study session*

BACKGROUND

On September 27, 2017, a letter was received from John Chmelir, representing Cameo Care Management, requesting a Development Code amendment to allow residential facilities of any size within the Multi-Family Residential zoning district. Mr. Chmelir provides management services to Heirloom Living Centers, LLC (HLC) and Ashland Care Associates, LLC (ACA). Both companies operate Residential Care Facilities/Memory Care Communities in Grants Pass and Ashland respectfully. *See attached letter*

Residential Facilities are currently permitted in the Single-Family Residential (SFR) and Multi-Family Residential (MFR) zoning districts but are limited to a minimum of 6 and a maximum of 15 residents. Facilities accommodating more than 15 residents are permitted in all of the Commercial zoning districts except Neighborhood Commercial (C-N).

EXISTING CODE

The Development Code was amended in 2012 related to this topic. The amendments included revised definitions, the allowance of residential homes as permitted uses in all the residential zoning districts, and made residential facilities permitted uses with special regulations rather than conditional uses with special regulations in the SFR zoning districts.

The current code provisions are included below:

Residential care, training, and treatment. The following definitions are derived from ORS 443.400 and apply to “residential facilities” and “residential homes,” which are defined below.

(1) Residential care. Services such as supervision; protection; assistance while bathing, dressing, grooming or eating; management of money; transportation; recreation; and the providing of room and board.

(2) Residential training. The systematic, planned maintenance, development or enhancement of self-care skills, social skills or independent living skills, or the planned sequence of systematic interactions, activities or structured learning situations designed to meet each resident’s specified needs in the areas of physical, social, emotional and intellectual growth.

(3) Residential treatment. A planned, individualized program of medical, psychological or rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emotional, physical or other symptoms or social, educational or vocational disabilities resulting from or related to the mental or emotional disturbance, physical disability or alcohol or drug problem.

Residential facility.

(1) A licensed residential care, training, or treatment facility that provides, in one or more buildings on contiguous properties, residential care alone, or in conjunction with treatment or training, or a combination thereof, for **six to fifteen individuals** who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents.

(2) A residential facility does not include residential schools, state or local correctional facilities (other than local facilities for persons enrolled in work release programs), juvenile training schools, youth care centers operated by a county juvenile department, juvenile detention facilities, nursing homes, hospitals, any place primarily engaged in recreational activities, foster homes, any place providing care and treatment on less than a 24-hour basis, or child-caring agencies.

Residential home. A licensed residential training or treatment home, or adult foster home licensed under ORS 443.705–825, that provides residential care alone, or in conjunction with treatment or training, or a combination thereof, for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents.

| PERMITTED USES IN RESIDENTIAL ZONING DISTRICTS | SFR 00 | SFR 2 | SFR 4 | SFR 6 | SFR 10 | MFR 15 | MFR 20 | MFR 30 | Special Use or Other Code Section(s) | |
|---|--------|-------|--------------|------------|------------|------------|------------|------------|---|------------|
| 5. GROUP QUARTERS | | | | | | | | | | |
| (d) Residential Facility (6 to 15 Residents) | Ps | Ps | Ps | Ps | Ps | P | P | P | 10.836 | |
| | | | C-S/P | C-N | C-C | C-R | C-H | I-L | I-G | I-H |
| 836 Residential Care (All kinds, including those with over 15 residents) | | | P | X | P | P | P | X | X | X |

10.836 Residential Facility.

A residential facility licensed by the State is allowed within residential districts provided, as per ORS 197.667(4), the applicant supplies the City with a copy of the entire application and supporting documentation for state licensing of the facility, except for information which is exempt from public disclosure under ORS 192.410 to 192.505. [Amd. Sec. 4, Ord. No. 7167, July 16, 1992; Amd. Sec. 3, Ord. No. 2012-58, May 3, 2012.]

EVALUATION OF REQUEST

The definition of Residential Care Facility per the Oregon Administrative Rule (OAR) and Oregon Revised Statute (ORS) specifies the use is for *six or more* individuals. The City definition deviates from that definition by identifying a maximum number of individuals at *fifteen*. Staff has been unable to identify if or when State law referred to the number of individuals as a minimum and maximum range as the City’s definition does. If the City’s regulations regarding residential facilities are not aligned with the State’s regulations then a closer look at the issue is warranted.

The Multi-Family zoning districts are intended to accommodate more units than the Single-Family zoning districts so increasing the number of residents to more than fifteen does not appear unreasonable in the MFR zoning districts. However, the number limitation in the Single-Family zoning districts may be appropriate to remain at its current maximum.

STAFF RECOMMENDATION

Staff is currently working with the Housing Advisory Committee (HAC) to identify regulatory reform that will aid in the construction of more housing in Medford. Mr. Chmelir is a member of the committee and has identified this type of housing as being needed in the valley. Staff would prefer to have the HAC include this code amendment in their list of changes but is not opposed to having the Planning Commission initiate the amendment ahead of the recommendations from the HAC.

The amendment work would not begin until 2018.

NEXT STEPS

The Planning Commission will be asked to decide if the request to initiate a code amendment should be granted at the December 14, 2017 hearing.

ATTACHMENTS

- Letter from John Chmelir P.E. dated September 27, 2017

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1840 East Barnett Rd. Suite G
Medford, OR 97504

September 27, 2017

Mayor Gary Wheeler
Mr. Brian Sjothun
Medford City Manager
411 West 8th St
Medford, OR 97501

Medford City Planning Staff
Lausman Annex
200 South Ivy
Medford, OR 97501

RE: Proposed Code Amendment

PROPOSAL

Applicant proposes a Development Code amendment to allow any “Residential Facility” as defined *Oregon Administrative Rules 411-054-0005 Definitions, (63) Residential Care Facility*, to be a permitted use in Multi-Family Zones within the City of Medford.

CONTEXT

Oregon Administrative Rules: OAR 411-054-0005 Definitions, (63)

(63) "Residential Care Facility (RCF)" means a building, complex, or distinct part thereof, consisting of shared or individual living units in a homelike surrounding, where six or more seniors and adult individuals with disabilities may reside. The residential care facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the activities of daily living, health, and social needs of the residents as described in these rules. A program approach is used to promote resident self-direction and participation in decisions that emphasize choice, dignity, individuality, and independence.

Applicant provides Management Services to both Heirloom Living Centers LLC (HLC) and Ashland Care Associates LLC (ACA). HLC operates Kinsington Place and Kinsington at Redwood Park, both in Grants Pass, and ACA operates Village at Valley View in Ashland. Each facility is a Residential Care Facility / Memory Care Community, specially licensed and recognized by Oregon Department of Human Services, Seniors and People with Disabilities (DHS) to care for residents with various forms of Dementia, primarily Alzheimer's.

The definition and supporting construction and operational standards emphasize the creation of a “Residential” environment. So a Residential Care Facility is simply a large home with common dining and living rooms, and lots of bedrooms, not apartments.

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The Medford Development Code allows Residential Care Facilities up to a population of 15 residents in Multi-Family zones, but restricts those with residents of 16 or more to Commercial Sites. Assisted Living Facilities and Nursing Facilities are allowed in Multi-Family Zones. We propose that Residential Care Facilities to be a Permitted Use in Multi-Family Zones.

BACKGROUND

Federal Law restricts jurisdictions from prohibiting Residential Care Facilities up to 15 beds in any zoning district allowing residential use. That 15-bed number is often reflected in zoning codes of various jurisdictions around the state as a break point above which facilities providing identical services, but for 16 or more residents, are defined and treated more as if they were businesses of much higher intensity than care facilities. However, no such logic change is found in the Oregon Administrative Rules (OAR). DHS standards and licensing requirements apply unchanged for all facilities over six residents. The only difference is that in facilities housing 17 or more residents, a commercial dishwasher appliance, a three compartment sink, food prep sink, and separate hand-wash lavatory are all required in the kitchen. We do not know the logic of the 15 bed upper limit in the Development Code but assume that the 15 bed Federal rule was simply a convenient number over which thinking changed.

As a demographic 32% of persons 85 and older have some stage of Alzheimer's Disease. Not all are cared for in such facilities, but eventually most are. Applicant accomplished a Needs Assessment that was reviewed by DHS in accordance with its rules. **The study area covered all of Jackson County north of the southern boundary of Medford.** Assuming that only 35% of those afflicted actually need care in such a facility, the assessment showed a **current shortage of 407 beds in Jackson County** for accommodation of Alzheimer's afflicted citizens 85 years and older. (Extracted Table Attached). If no new beds are provided then by 2020 the projected shortage is 531. Including the smaller, yet significant fraction of the population needing such care after the age of 65, the unmet need skyrockets to 1,308 beds.

Recent reports in the media indicate that **the number of persons with Alzheimer's will double by 2050.** Jackson County has a huge retired population and resulting very large unmet need for RCF beds, so perhaps a more deliberate evaluation is in order to accommodate the coming tsunami of need.

DISCUSSION

One would assume that the decision to zone facilities into or out of certain zones is most likely related to consideration of the impacts on said zone, and also the societal need for such facilities. Certainly the zoning code does not attempt to analyze every type of facility to understand the nuance of such impacts. It is useful, within the context of this request, to understand the reality of a Residential Care Facility, and then to compare it to other uses allowed in the zone whose impacts have presumably been thoroughly vetted. It is easy to see that several of those allowed uses are much more impactful on the neighborhoods than Residential Care Facilities.

NOISE AND TRAFFIC IMPACTS

Residential Care Facilities have little effect on noise and traffic because of their nature. Alzheimer's disease is degenerative and wasting, and residents generally experience declining vigor and increasing

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withdrawal. It is a rarity that a loud noise is heard, and then seldom no more than a slammed door. So such facilities are not a noise nuisance. Virtually every resident is elderly, and the sad reality is that visitors are not as often as one might hope. Even then those visitors are generally older and well behaved. An Alzheimer's facility is almost silent inside and out, and generates little traffic.

It might not be apparent, but the traffic impact of a single 48 bed facility would be much less than three 15 bed facilities adjacent to each other. Oregon Department of Human Services (DHS) requires that each facility be licensed and operated independently. Staffing for the safety of the residents result in several personnel duplications, such as Building Administrator, Health Care Coordinator, and Care Givers. This duplication, not only increases operations costs, but also adds parking and traffic accommodation impacts for the staff.

A Residential Care Facility / Memory Care Community does not present much in the way of traffic impacts. Certainly the residents don't have vehicles or seldom even leave the facility. Those forty-eight residents would be cared for around the clock by a total staff of 40 - 45 people, of which the most on any shift would be fourteen staff, with a total of twenty-five per day. While there are visitors every day, there are seldom more than five or six visitors at the facility at any one time. Twenty-five staff generally would create 50 trips, a trip there and back, for each. It would be astonishing to have fifteen visitors per day but if that happened that would result in another 30 trips, **so the total would be 80 trips per day for a 48-bed Residential Care Facility.** Even at that, the visitors are generally older and not prone to loud music and fast driving. And since the staff is in charge there is very low potential for loud noise disturbing the neighbors. It just doesn't happen.

An assisted living facility of 48 residents would have a comparable staff, plus it is conceivable that a number of the residents would have automobiles. A Nursing Facility would likely have a larger staff, and more coming and going, since medical personnel engage in short-duration visits. A 48-bed RCF is likely sized about the same as a 15-unit apartment building. That 15 unit building would average 150 trips per day. That a Residential Care Facility is not as impactful as a fast food outlet, or a retail store, or even a medical building is evident without discussion.

OTHER USES ALLOWED IN OR SURROUNDED BY RESIDENTIAL ZONES GENERATE MORE IMPACTS THAN RCFs.

Other uses, even if not allowed in the Multi-Family zone, are regularly allowed adjacent to or surrounded by not only Multi-family, but also single family zones. Those uses, including Schools, Religious Assembly, and Public Parks, are likely more impactful than an RCF. Applicant does not know how to quantify the transportation impacts of a school, but asks the reader to think of their own observations of a school at the start of the day or the end. **Traffic at every school is not just noticeable, it is a problem at least twice per day, for vehicles either accessing the school or just driving by, for pedestrians, and certainly for local residents.** It is likely that Religious Assembly, and Public Parks, are similarly very impactful. But those uses are allowed because the social good arising from schools outweigh the inconvenience.

We believe that the current Development Code does not adequately address Residential Care Facilities. Folks are living much longer than ever before, and the forecast of Alzheimer's population doubling by 2050 begs a reconsideration of how to meet the need for more places to put those facilities. We regularly consider the benefits of facilities for children, or families, when considering their placement within residential zones. But in many ways a person with Alzheimer's is more vulnerable than a child. Neither

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can care for themselves, but the expectations of a child's behavior is that of a child, and society has learned to give appropriate consideration. The expectation of an adult with Alzheimer's is not so kind or forgiving, because one has expectations of adults. The need for facilities to care for such vulnerable people is significant and growing rapidly, and so should the land available their placement be increasing.

Likewise, since an RCF is by definition and function, residential, it should be considered part of the housing inventory of a municipality. Folks move out of their homes into assisted living. Some then wind up in Residential Care Facilities; it is the progression of life for perhaps the majority of our population. Why require those residential facilities to be constructed upon commercial ground more suited to a McDonalds?

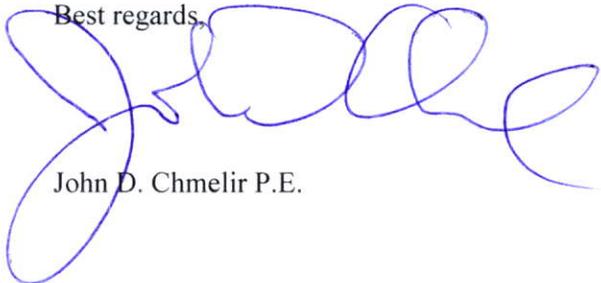
CONCLUSION

The size of a single 48-bed facility is less than three 15 – bed facilities, houses more folks per acre than most Multi-Family uses housing the same number of residents, and the traffic and noise generated is less than those allowed uses as well. Many uses permitted in Multi-Family zones or adjacent to single family zones have more adverse impacts upon neighbors in those zones than are likely from a Residential Care Facility.

There is a large unmet need for such facilities in Medford and Jackson County, and that need will grow dramatically over time. The Development Code currently does not adequately address the growing need for such facilities, and in fact, increases the costs of meeting that need. Such Residential Care Facilities provide care needed but not widely available in the community while providing meaningful and rewarding jobs for many City residents.

Thank you for your consideration.

Best regards,



John D. Chmelir P.E.

Assumptions and Calculations 85 and Older

**Data from survey by Stacey Yarrish Consulting, annual DHS Occupancy Reports, Alzheimer's Association's Facts and Figures 2013 & 2015, Oregon Office of Economic Analysis and US Census Bureau. See Addendum.

| Heirloom Living Centers, LLC | | | | | 6/30/16 |
|--|----------------------------------|------------|----------------------|--|---------|
| Analysis of Central Point & Jackson County's Alzheimer's care needs | | | | | |
| Assumptions Without Foster Homes | % with Alzheimer's over 85 years | | | 32% | |
| | Percentage likely needing a RCF | | | 35% | |
| | Growth in need by 2035 | | | 203% | |
| Population 85+ | Year | Population | 32% With Alzheimer's | 35% requiring Residentia Care Facility | |
| | 2015 | 5908 | 1891 | 662 | |
| | Current 2016 | 5960 | 1907 | 668 | |
| | Proj. 2020 Year | 6178 | 1977 | 692 | |
| | Extended Projection 2035 | 7067 | 2261 | 792 | |
| How well are projected residents served now? | | | | | |
| residents | 2016 | 5960 | 1907 | 668 | |
| Total Beds | | | | 261 | |
| Need | | | | 407 | |
| If nothing other than 1 existing proposal is provided, what will the need be in 2017? | | | | | |
| residents | 2017 | 6014 | 1924 | 674 | |
| 2017 Total Beds | | | | 352 | |
| Need | | | | 322 | |
| If nothing new is provided, what will the need be in 2020? | | | | | |
| residents | 2020 | 6178 | 1977 | 692 | |
| 2016 Total Beds | | | | 261 | |
| Need | | | | 431 | |
| If nothing new is provided, what will the need be in 2035? | | | | | |
| residents | 2035 | 7067 | 2261 | 792 | |
| 2016 Total Beds | | | | 261 | |
| Need | | | | 531 | |

Population is Jackson County, minus Rogue River, Ashland and Talent.

Assumes 0.9% population growth rate

Assumptions and Calculations 65 and Older

**Data from survey by Stacey Yarrish Consulting, annual DHS Occupancy Reports, Alzheimer's Association's Facts and Figures 2013 & 2015, Oregon Office of Economic Analysis and US Census Bureau. See Addendum.

| Heirloom Living Centers, LLC | | | | | 6/30/16 |
|--|----------------------------------|------------|----------------------|--|---------|
| Analysis of Central Point & Jackson County's Alzheimer's care needs | | | | | |
| Assumptions Without Foster Homes | % with Alzheimer's over 65 years | | | 11% | |
| | Percentage likely needing a RCF | | | 35% | |
| | Growth in need by 2035 | | | 613% | |
| | Population Aged 65+ | | | | |
| | Year | Population | 11% With Alzheimer's | 35% requiring Residentia Care Facility | |
| Current | 2015 | 40399 | 4444 | 1555 | |
| Proj. 2020 Year | 2016 | 40762 | 4484 | 1569 | |
| Extended Projection | 2020 | 42249 | 4647 | 1627 | |
| | 2035 | 48327 | 5316 | 1861 | |
| How well are projected residents served now? | | | | | |
| residents | 2016 | 40762 | 4484 | 1569 | |
| Total Beds | | | | 261 | |
| Need | | | | 1308 | |
| If nothing other than 1 existing proposal is provided, what will the need be in 2017? | | | | | |
| residents | 2017 | 41129 | 4524 | 1583 | |
| 2017 Total Beds | | | | 352 | |
| Need | | | | 1231 | |
| If nothing new is provided, what will the need be in 2020? | | | | | |
| residents | 2020 | 42249 | 4647 | 1627 | |
| 2016 Total Beds | | | | 261 | |
| Need | | | | 1366 | |
| If nothing new is provided, what will the need be in 2035? | | | | | |
| residents | 2035 | 48327 | 5316 | 1861 | |
| 2016 Total Beds | | | | 261 | |
| Need | | | | 1600 | |

Population is Jackson County, minus Rogue River, Ashland and Talent.

Assumes 0.9% population growth rate