



Planning Department

TO: Chairperson and Members of the Planning Commission
FROM: Holly Smyth, Planning Director, AICP
MEETING DATE: October 16, 2017
SUBJECT: Semik Oungoulia's Conditional Use Permit Application #CUP 17-03 modifying Condition #6 of Conditional Use Permit #CUP 04-10 to change the minimum age for occupancy from 65 to 55 at the existing 97-unit Sycamore Hills By the Bay Senior Apartments located on the southside of Sycamore Avenue at 1550 Sycamore Avenue (APN # 407-020-034-2)

1. RECOMMENDATION

That the Planning Commission open the public hearing, hear the staff report on the project, invite the applicant to speak, ask other members of the public if they would like to speak, close the public hearing, discuss the request and consider whether to adopt Resolution 17-08 which modifies Special Condition #6 minimum age to 55, modifies Special Condition #5 by reflecting the existing unit count of 97, adds Special Condition #25 regarding the illegal banner signage, and reiterates all remaining original conditions of approval for Conditional Use Permit 04-01 / Variance No. 04-01, and Design Review Permit No. 04-02 2017

2. BACKGROUND

On July 26, 2004, the Planning Commission approved Variance No. 04-01, Conditional Use Permit No. 04-10, and Design Review Permit No. 04-02 applied for by Semik Oungoulia to permit the construction of 91 senior housing units on a 1.28 acre site located south of Sycamore Avenue, East of Interstate 80 (which included a condition requiring the minimum age for senior residents to be 65 years old).

On or about August 8, 2004, Mr. Oungoulia notified the City of his intent to appeal to the City Council certain conditions of approval imposed by the Planning Commission, including Special Condition #6, that requires a minimum age of 65 years old for occupancy. The letter noted that, "*Condition 6 creates a minimum age of 65 years old for occupancy. We have always proposed this project for a minimum age of 55 years for at least one member of the couple.*"

On September 14, 2004, a staff report to the City Council discussing the appeal and included two draft resolutions; one provided for approving the appeal, the other provided for denying the appeal. The justification for the 65 year age limit appears to have been based on parking concerns at the site. "Staff drafted the age-restriction condition defining the minimum age for a senior resident of this apartment complex based on the parking code regulation of one-half parking space per senior apartment unit. Staff's concern focused on the ability of senior renters to continue to drive, and felt at age 55 years that there are could be 91 apartment residents occupying the 91 units, each renter still continuing to drive automobiles; the development has only 75 parking spaces. In addition, of the total 91 senior apartment units, 75 are one-bedroom units, 10 are two-bedroom units, and 16 are studio units have been designed to only one bedroom; there could be more than one senior occupying the two-bedroom units resulting in a greater demand for parking spaces. Finally, although the proposed development of 91 senior apartment units meets the ½ space per senior apartment unit (only 46 parking spaces required for 91 senior units), the development does not make provisions for visitor parking. If every senior apartment unit is occupied with a "55-year old senior" who drives a car, the results will be insufficient parking for all 91 seniors on the project site, and they will be forced to park on the Rite Aid pharmacy parking lot." September 14, 2004 staff report, page 3.

Before the matter could be heard by Council, according to the minutes of that meeting, it was decided by the Council to carry the matter over to the meeting of October 12, 2004. On or about September 30, 2004, the City received a letter from Mr. Oungouljian addressed to the Director of Community Development, Steve Lawton, that he was withdrawing his appeal. The matter therefor never came up for discussion and consideration before the Council on October 12, 2004.

Therefore, the Planning Commission's original decision with the condition to impose a 65 year minimum age as a condition of approval on the project became final with the withdrawal of the appeal.

In reviewing the record, since October 2004, as a condition of settling a lawsuit, six additional apartments were allowed to be put on the property to a total of 97 units (10 two-bedroom, 70 one-bedroom, and 17 studios). Staff recommends that the revised unit count be reflected in the new adopting resolution and conditions of approval.

3. DISCUSSION

AGE REQUIREMENT: Mr. Oungouljian has now submitted a new application to modify his condition of approval requiring the 65 year age minimum, known as Special Condition #6 from Exhibit D that was attached to Planning Commission Resolution No. 04-32 for Conditional Use Permit No. 04-10.

In reviewing the City's Zoning Ordinance, a "Senior Citizen Housing Development: means a housing development with at least thirty-five dwelling units as defined in Civil Code Section 51.3, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code, as may be amended.

Attachment 1 is a full copy of California Civil Code 51.3, which basically states any development for senior citizens with at least 35 dwelling units is considered a “Senior citizen housing development”. It defines a “qualifying resident” or “senior citizen” as a person 62 years of age or older, or 55 years of age or older in a senior citizen housing development. Additional provisions define instances where another person below 55 years of age could be allowed based on specific provisions in the law. Therefore, the request by the applicant to change the minimum age to 55 is within the requirements of Civil Code 51.3. However, the City’s age requirement does not relieve the applicant of complying with any binding deed restrictions, CC&Rs (Covenants, Codes & Restrictions), bylaws, or any other applicable rules and regulations that may apply and where differences in standards occur, the more restrictive shall apply.

The City Zoning Ordinance requires .5 parking spaces for each unit of senior housing plus 1 space per employee with no requirement for guest parking. There are 97 residential units and no more than 4 employees onsite at a time which includes one onsite manager and one property maintenance worker (as the property does not provide regular meals or assisted services to the residents). Therefore, this would require a total of 53 parking spaces under the City’s code. There are 49 covered and 34 uncovered parking spaces available onsite behind secured gates. Additionally, Recorded Document 98-0261059-000 recorded with the Contra Costa County Recorder’s Office on October 21, 1998, grants an easement for the use of up to 25 additional parking spaces to be used by the senior housing residents on the Rite Aid property. Based on the City standards the project site has more than adequate parking with the 108 onsite and offsite parking stalls.

SIGNAGE: For a number of years the applicant has had banner-type signage above the roofline of the building, along the building wall facing Interstate 80, and multiple ground banners. In the last several months, the property owner has removed all the ground level banner signage, however the large roof mounted banner signage and wall mounted banners and still remain.

According to the Hercules Zoning Code, Section 34.700-E states “Any roof-mounted sign that projects above the roof or parapet of a building is **prohibited**. The Planning Commission shall be authorized to grant approval where the sign is designed as part of the building’s architecture, such as a blade sign on a theater façade or a sign integrated into a raised building’s parapet.”

Additionally, Section 34.500(B) – Signs Not Requiring A Permit states that “An on-site real estate sign is a temporary sign advertising the lease or sale of land, space or structure. This type of sign is generally mounted to post structure embedded in the ground with signage attached. Onsite residential signage may not exceed 6 square feet for the primary sign and up to an additional 4 square feet for add-on placards. For all other types of land uses and vacant land, the sign may not exceed 24 square feet. These types of real estate signs shall not be located on City of Hercules rights-of-way, landscaped medians or parkways. On-site Real Estate Signs must be removed within ten days of the sale or lease of the property.”

Additionally, Section 34.500(A) -Specific Regulations for Temporary and Miscellaneous Signs states that Banners are “1. Temporary (for a period of not more than 30 days per calendar year) promotional banners including “grand opening”, “under new management” and seasonal or other special event advertisements, may be placed on any business, excluding fast food restaurants and automobile and open lot vehicle dealers, a total of 30 days per calendar year. The maximum size of all banners on-site shall not exceed 36 square feet combined. No more than two banners may be used for any promotion. A banner shall only be affixed to a building, and shall not be placed on or above a roof.”

The large roof mounted banner sign is not in compliance with Section 34.700E, which prohibits roof mounted signage and does not meet the requirements for temporary signage pursuant to Section 34.500(A) and (B). The wall mounted banners are not in compliance with the requirements for temporary and miscellaneous signs pursuant to Section 34.500 (A) and (B). Therefore, Special Conditions #24 has been added requiring the removal of the illegal signs in 30 days.

Staff has prepared Draft Resolution 17-08 updating the number of units on the site, changing the age limit to 55, and requiring the removal of the roof sign for Planning Commission’s consideration.

4. ATTACHMENTS

Attachment 1 – Draft Planning Commission Resolution No. 17-08 with modified conditions and Exhibit A, B, C, & D