

PLANNING COMMISSION STAFF REPORT

TO: Planning Commission
FROM: Ursula Luna-Reynosa, Director of Community Development
BY: Hayden Beckman, Senior Planner

SUBJECT:

ADMINISTRATIVE PERMIT NO. 22-015 (LEGACY LIVING LLC SOBER LIVING REASONABLE ACCOMMODATION)

REQUEST:

To provide Reasonable Accommodation to the operator of a sober living home requesting to operate on a property that is located within 1000 linear feet of another group home or State-licensed residential care facility.

LOCATION:

9452 Castlegate Drive, 92646 (Southside of Castlegate Drive, west of Bushard Street)

APPLICANT:

Michael Garrett, PO Box 3911, Huntington Beach CA 92605

PROPERTY OWNER:

Dylan Walker, P.O. Box 2320, Costa Mesa CA 92628

RECOMMENDATION:

That the Planning Commission take the following actions:

A) Deny Administrative Permit No. 22-015 with suggested findings for denial.

ALTERNATIVE ACTION(S):

A) Continue Administrative Permit No. 22-015 and direct staff to return with findings for approval.

B) Continue Administrative Permit No. 22-015 and direct staff accordingly.

PROJECT PROPOSAL:

The applicant is seeking a reasonable accommodation request to obtain approval to operate a sober living home on a property that is located approximately 60 feet from an existing elderly Group Home, which does not comply with the required 1,000 ft. buffer requirement between group homes, including sober living homes, or licensed Residential Care Facilities.

Background:

In October 2020, the City Council adopted five Ordinances which amended multiple sections of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) and Huntington Beach Municipal Code (HBMC) to collectively establish regulations for the operation of group homes, a land use classification which includes sober living homes, in the City's residential districts. Regulations set forth in Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Section 230.28 Group Homes require the ministerial approval of a Special Use Permit (SUP) for any group home or sober living home serving no more than 6 persons to operate in the City's residential areas, subject to operation requirements and a minimum 1,000 linear foot buffer from other sober living homes or state licensed alcoholism or drug abuse recovery or treatment facilities (Residential Care Facilities).

Special Use Permit

In November 2022, and in accordance with the procedures established in HBZSO Section 230.28 Group Homes, the applicant filed a request for Special Use Permit (SUP) No. 22-012 to permit the operation of an existing sober living home on the subject property that would serve 6 persons, not including an on-site house manager. Upon review, it was determined that the subject property was less than 1,000 linear feet from an existing elderly group home (Attachment No. 3) and thus not eligible to receive ministerial approval. Thus, the application was deemed void and withdrawn. As a ministerial (non-discretionary) action, no further administrative relief is applicable and no further action has been taken.

Reasonable Accommodation

Current code also provides an administrative process to request 'Reasonable Accommodation' for applicants with disabilities seeking relief from the strict application of the established regulations of HBZSO Section 230.28. Such applicants may request reasonable accommodation by setting forth specific reasons as to why accommodation over and above current regulations is necessary under State and Federal laws in accordance with Huntington Beach Municipal Code (HBMC) Section 17.77 Reasonable Accommodation Procedures. These requests are processed as Administrative Permits, to be reviewed and acted upon by the Director of Community Development. Chapter 17.77 of the HBMC currently provides procedures and necessary findings for approval of requests for reasonable accommodation.

The HBMC identifies that any person may request reasonable accommodation to modify a zoning or building standard, regulation, policy, or procedure as may be necessary to afford the disabled individual equal opportunity to the use and enjoyment of their dwelling. A request for reasonable accommodation itself does not require submittal of a variance request, because these requests are made on behalf of persons who are legally considered disabled. In this case, the population served by the operation of a sober living

home are considered disabled under State and Federal law, and thus a request for reasonable accommodation would be applicable to operators that do not comply with the current applicable buffer distance requirement.

HBZSO Section 202.10 enables the Director of Community Development to refer matters involving development issues to the Planning Commission, and as such, the Director is referring the subject request for review and action by the Planning Commission.

Required Findings

There are five required findings when considering action on a request for reasonable accommodation. Pursuant to HBMC Section 17.77.050, a request for reasonable accommodation may be approved or conditionally approved if, on the basis of the application, plans, materials, and testimony submitted, the reviewing authority finds that each finding is met. Below are each of the required findings, with discussion by staff. Note that the last of which is not applicable as the subject property is not located within the Coastal Zone:

- A. The housing, which is the subject of the request for reasonable accommodation, will be used by an individual protected under the Acts.

The City recognizes that the housing that is the subject of the request for reasonable accommodation will be used by individuals protected under the Federal Fair Housing Amendments Act of 1988 and California Fair Employment and Housing Act.

- B. The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the Acts.

The City finds that the request is not necessary to make such housing available to disabled individuals, as defined by state or federal law. To date, the City has approved six Special Use Permits for sober living facilities that comply with the regulations of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO), and upon full implementation of the requirements of the HBZSO, many more will also be available on properties that received City approval to operate. Furthermore, an online search and contact of advertising facilities identifies that multiple sober living beds are currently available for disabled persons within the City. Therefore, the request for reasonable accommodation is not necessary to make such housing available to a disabled individual, as defined by state or federal law.

- C. The requested reasonable accommodation will not impose an undue financial or administrative burden on the City.

The City recognizes that the requested reasonable accommodation will not impose an undue financial or administrative burden on the City.

- D. The requested reasonable accommodation will not require a fundamental alteration to the nature of a City program, or to the City's zoning or building laws, policies, or procedures.

The Planning Commission finds the reasonable accommodation would require a fundamental alteration to the nature of a City program or to the City's zoning or building laws, policies, or procedures because the operation of the subject sober living home is within the minimum one thousand (1000) foot buffer from an operating Group Home, Sober Living Home, or Residential Care Facility, as classified by the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The City seeks to ensure that disabled persons recovering from addiction can reside in a comfortable residential environment versus in an institutional setting. The subject sober living home is in such close proximity (60 linear feet) that it does not provide the disabled resident with the opportunity to live in normal residential surroundings and instead places such individuals into living environments more in common with the types of institutional living that state and federal laws were designed to provide them relief from. As such, the request would result in an overconcentration, and accommodation would require a fundamental alteration to the nature of the City's zoning laws and modification of the policy intent behind regulation.

Two of the four (Findings B and D) applicable findings for reasonable accommodation cannot be met, as identified above. |

ISSUES AND ANALYSIS:

Subject Property And Surrounding General Plan Designations, Zoning And Land Uses:

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property:	Residential Low Density (RL)	RL	Single Family Residence
North and East of Subject Property:	RL	RL	Single Family Residential
South and West of Subject Property:	RL	RL	Single Family Residential

General Plan Conformance:

The proposed request for reasonable accommodation is not consistent with the goals and policies of the General Plan including:

Land Use Element

Policy LU-2(D): Maintain and protect residential neighborhoods by avoiding the encroachment of incompatible land uses.

Goal LU-4: A range of housing types is available to meet the diverse economic, physical, and social needs of future and existing residents, while neighborhood character and residences are well maintained and protected.

Policy LU-4(A): Encourage a mix of residential types to accommodate people with diverse housing needs.

Housing Element

Goal H-1: Maintain and enhance the quality of affordability of existing housing in Huntington Beach.

Policy H-1.1: Preserve the character, scale, and quality of established residential neighborhoods.

Policy H-5.1: Continue to enforce fair housing laws prohibiting arbitrary discrimination in the building, financing, sales, or rental of housing on the basis of race, religion, family status, national origin, physical (sic) disability or other factors.

Policy H-5.3: Support the provision of permanent, affordable, and accessible housing that allows persons with disabilities to live independent lives. Provide assistance to residents making accessibility improvements to their homes.

Reasonable accommodation procedures were established in the Municipal Code to ensure that persons with disabilities are provided reasonable accommodation in rules, policies, practices, and procedures that may be necessary to ensure equal access to housing. However, in this instance, the City's application of land use and zoning standards does not deprive disabled persons of equal access to housing. The subject request to permit a deviation from the mandatory 1,000 linear foot buffer between sober living homes and/or state licensed alcoholism or drug abuse recovery or treatment facilities is not necessary to provide housing for disabled persons because it is possible to obtain approval to operate a sober living home on a property that complies with the locational requirements. Should the City permit the subject request, the intent of the Ordinance to "preserve the residential character of single family neighborhoods" and, among other things, "provide accommodation for the disabled that is reasonable and actually bears some resemblance to the opportunities afforded to non-disabled individuals to use and enjoy a dwelling unit in a single-family neighborhood" would be degraded. The Ordinance was adopted to preserve and enhance the quality of existing housing in the City and the subject request, which would result in non-conformance, is thus not consistent with the goals and policies of the General Plan. |

Zoning Compliance:

The City has adopted regulations to allow group homes, including sober living homes, to be located in residential neighborhoods. The intent of these regulations is to ensure that facilities maintain compatibility with the residential neighborhoods in which they are situated, ensure standards of operation, and to establish distance requirements that would prevent overconcentration of facilities in the neighborhood. The facility requesting

reasonable accommodation is approximately 60 linear feet east from an existing elderly Group Home, under the minimum 1,000 linear foot distance buffer requirement.

As discussed in the suggested findings, the approval of the subject request would lead to a fundamental alteration of the City's zoning program. In adopting the regulations of group homes, including sober living homes, the City Council made the finding that without some regulation there is no way of ensuring that the sober living home is operated professionally to minimize impacts to the surrounding neighborhood, and that the secondary impacts from over-concentration of sober living homes are reduced. Granting the accommodation to consider the subject facility as exempt from the requirements from HBZSO Section 230.28 would prevent the City from applying any zoning regulations applicable to a sober living home operation.

Urban Design Guidelines Conformance:

Not Applicable.

Environmental Status:

Action on Administrative Permit No. 22-015 is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15031 Existing Facilities of the CEQA Guidelines, in that the project involves no expansion of an existing use.

Coastal Status:

Not Applicable.

Design Review Board:

Not Applicable.

Public Notification:

Reasonable Accommodation requests that do not affect a required setback are exempt from public notification requirements.

Application Processing Dates:

DATE OF COMPLETE APPLICATION:
January 15, 2023

PROPOSED DATE OF ACTION:
June 27, 2023

SUMMARY:

Staff recommends that the Planning Commission deny the subject request based upon the following:

- Request fails to meet all the mandatory findings of the Municipal Code
- Request is not consistent with the goals and policies of the General Plan

ATTACHMENTS:

1. Suggested Findings for Denial
2. Request for Reasonable Accommodation dated November 16, 2022

3. Subject Property to Existing Elderly Group Home
4. Planning Commission Staff Report dated June 9, 2020
5. HBZSO Section 230.28 Group Homes
6. HBMC Section 17.77 Reasonable Accommodation |