



## **BUSINESS**

### **OWNER:**

Autumn Care Development Partners LLC, 11600 Montana Avenue, #109, Los Angeles, CA 90049

### **LOCATION:**

9960 Garfield Avenue, 92646 (near the southwest corner at Brookhurst Street)

### **STATEMENT OF ISSUE:**

- General Plan Amendment No. 13-001 request:
  - Amend the maximum floor area ratio for the site from 0.35 to 1.0.
  
- Conditional Use Permit No. 13-010 request:
  - Permit an approximately 28,000 sq. ft. assisted living facility on a vacant lot with more than a three ft. grade differential.
  - Maximum combined retaining wall and fencing height along the property lines of 9.5 to 14 feet.
  
- Variance No. 13-005 request:
  - Building height of 33.5 ft. to 38.5 ft. in lieu of a maximum of 18 ft. within 45 ft. of a residential district.
  - Exterior stairs at a 1 ft. side setback in lieu of 8 ft.
  - Deck at a 5 ft.-2 in. side setback in lieu of 10 ft.
  - Basement laundry/vestibule at an 8 ft.-5 in. side setback in lieu of 10 ft.
  - 8 ft.-8 in. parking structure perimeter planter width in lieu of 10 ft.
  
- Mitigated Negative Declaration No. 13-005 request:
  - Analyze the potential environmental impacts associated with the proposed project.
  
- Staff's Recommendation:
  - Deny General Plan Amendment No. 13-001 based upon the following:
    - Results in a development that is too intense for the site and surrounding area that requires numerous variances.
  
  - Deny Conditional Use Permit No. 13-010 based upon the following:
    - Assisted living facility out of scale with the adjoining one story mobile home park due to its height, number of stories, and bulk.
    - Increased building height and reduced setbacks will affect the privacy and quality of life of the mobile home park residents.
    - Roofline does not terrace with the grade creating the appearance of a three-story building that is incompatible with the adjacent one story mobile home park.
    - Combined retaining wall/fence up to 14 ft. high along the property lines towers over and is incompatible with the adjoining properties.
  
  - Deny Variance No. 13-005 based upon the following:
    - No special circumstances applicable to the property particularly when considering the proposed increase in the General Plan floor area ratio.

- Constitutes a grant of special privilege.
- Results in a development that is incompatible with the adjacent mobile home park in terms of scale, character, landscape screening, and impacts to privacy.
- Inconsistent with General Plan goals and policies.

No action is proposed for Mitigated Negative Declaration No. 13-005 under this recommended action because projects that are denied are not subject to the California Environmental Quality Act (CEQA).

**RECOMMENDATION:**

A) Motion to: “Deny General Plan Amendment No. 13-001, Conditional Use Permit No. 13-010, and Variance No. 13-005 with findings for denial (Attachment No. 1).”

**ALTERNATIVE ACTION(S):**

The Planning Commission may take an alternative action such as: “Continue General Plan Amendment No. 13-001, Conditional Use Permit No. 13-010, Variance No. 13-005, and Mitigated Negative Declaration No. 13-005 and direct staff to prepare a City Council resolution, findings, and conditions of approval.”

**PROJECT PROPOSAL:**

General Plan Amendment (GPA) No. 13-001 represents a request to amend the maximum floor area ratio for the site from 0.35 to 1.0 pursuant to the California Planning and Zoning Laws.

Conditional Use Permit (CUP) No. 13-010 represents a request for the following:

- A. To permit an approximately 28,000 sq. ft. assisted living facility on a vacant lot pursuant to Section 211.04, Residential Care General and (Q), of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO);
- B. To develop on a lot with more than a three ft. grade differential between the high point and low point pursuant to Section 230.70(C); and
- C. To construct maximum combined retaining wall and fencing height along the property lines of 9.5 to 14 feet pursuant to Section 230.88.

Variance (VAR) No. 13-005 represents a request pursuant to Chapter 241 and Sections 211.06(F), 230.68, and 231.18(G)(3) of the HBZSO for the following:

- A. Building height of 33.5 ft. to 38.5 ft. in lieu of a maximum of 18 ft. within 45 ft. of a residential district;
- A. Exterior stairs at a 1 ft. side setback in lieu of 8 ft.;
- A. Deck at a 5 ft.-2 in. side setback in lieu of 10 ft.;
- A. Basement laundry/vestibule at an 8 ft.-5 in. side setback in lieu of 10 ft.; and

- A. An 8 ft.-8 in. parking structure perimeter planter width in lieu of 10 ft.

Mitigated Negative Declaration (MND) No. 13-005 represents a request to analyze the potential environmental impacts associated with the proposed project pursuant to Chapter 240 of the HBZSO and the California Environmental Quality Act (CEQA).

The facility includes two stories above an underground parking structure. It will have 77 beds within 44 rooms and include communal kitchen, dining, living, activity, and outdoor space, among others. The site slopes down generally from east to west with about a 10 ft. grade differential from the high to the low points. As a result, the building has a two-story appearance along the north and east sides and a three-story appearance along the west and south sides where the parking structure is partly exposed. The majority of the building is proposed at a maximum height of 33.5 ft. with the elevator penthouse and roof stairs at up to 38.5 ft. high. The applicant is proposing up to about a 10 ft. cut along the east side of the property to accommodate the parking structure and up to a nine ft. fill along the west side to create a walkway serving the first floor. A net export of approximately 2,132 cubic yards of material is projected. The north half of the west property line shared with a mobile home park will have up to a 9.5 ft. tall retaining wall topped with a 4 ft. tall wrought iron fence. The remainder of the west property line will have a 6 ft. wall. The south property line will have up to an 8 ft. tall retaining wall topped with a 6 ft. tall wrought iron fence. The east property line will have up to a 3.5 ft. tall retaining wall topped with a 6 ft. tall wrought iron fence.

The site will be accessed from Garfield Avenue through an easement across the Walgreens property to the north. This access leads to a turnaround and loading area in front of the building and the underground parking towards the rear. A total of 38 parking spaces are proposed. The applicant has indicated that the request is necessary to provide the elderly population with alternative housing (Attachment No. 4).

**Study Session:**

The Planning Commission held a study session on the project on May 22, 2018 and requested the following additional information:

1. Shadow Analysis - The applicant has prepared a shadow analysis, which is attached to this staff report.
2. Better explanation of the variance findings - The required variance findings are explained in more detail below:
  - a. *The granting of the variance will not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and under an identical zone classification.*

A variance is not a grant of special privilege if the approval is due to a special hardship. For example, a setback variance approved based on an odd shaped or narrow lot is not a grant of special privilege.

- b. *Because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.*

A subject property may have a special circumstance that sets it apart from other properties and prevents the owner from achieving equality with neighboring properties. For example, an odd shaped or narrow lot could prevent the construction of a typical house found on a standard lot and could serve as the basis for a setback variance.

- c. *The granting of a variance is necessary to preserve the enjoyment of one or more substantial property rights.*

A variance may be needed to level the playing field. For example, a setback variance could be granted to allow the construction of a typical house on an odd shaped or narrow lot.

- d. *The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification.*

A variance should not cause harm. For example, a setback variance should not be granted to an odd shaped or narrow lot if it could potentially violate a building or fire code and create a hazardous situation.

- e. *The granting of the variance will not adversely affect the General Plan. It is consistent with the Land Use Element designation on the subject property.*

A variance should not conflict with the General Plan and its goals and policies.

3. Closest mobile home setback to the project site - The closest mobile homes are 3 to 4 ft. from the project site.
4. Structural measures taken to ensure the stability of the retaining walls and the building - Prior to issuance of building permits, the applicant will be required to provide structural calculations prepared by a licensed structural engineer for both the building and the retaining walls to demonstrate to the city's plan check engineers and building inspection staff that both will be structurally sound.
5. General information on the access easement across the Walgreens property - The access easement along Walgreens' rear 26 ft. wide drive aisle, which provides access to the project site from Garfield Avenue, became effective upon recordation in 2005. It runs in perpetuity with the land unless amended or terminated by the written consent of the property owners.
6. Analysis of the on- and off-site traffic circulation impacts of the project - Traffic staff has examined the existing traffic conditions and accident history of the Garfield Avenue westbound left turn into and the northbound left turn out of the Walgreens parking lot driveway on Garfield Avenue. Within the last 10 years, one (1) incident was reported related to these turning movements. Since the occurrence of incidents is nominal, the project has low trip generation with most of the project's trips estimated to turn right into and out of the project driveway, and Garfield Avenue having sufficient gaps in traffic to accommodate a full access driveway with the additional project trips, this suggests no additional traffic safety measures are required with implementation of the project. In addition, due to the low traffic volumes from the assisted living facility during the peak hour periods and non-peak hour times, the project related

vehicular traffic is anticipated to have limited impact on the circulation at the Walgreens property.

**ISSUES:**

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

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property:	CN (Commercial Neighborhood)	CG (Commercial General)	Vacant
North, South, and East of Subject Property:	CN	CG	Retail, Restaurant, Plant Nursery
West of Subject Property:	RL (Residential Low Density)	RMP-SR (Manufactured Home Park - Senior)	Manufactured Home Park

***General Plan Conformance:***

The General Plan Land Use Map designation on the subject property is Commercial Neighborhood. Although the property’s General Plan and zoning designations allow the proposed assisted living facility subject to approval of a CUP, the proposed development project and request to increase the allowable floor area ratio are not consistent with the following General Plan goals and policies:

A. Land Use Element

Policy LU-1(D): Ensure that new development projects are of compatible proportion, scale, and character to complement adjoining uses.

Policy LU-2(B): Ensure that new and renovated structures and building architecture and site design are context sensitive, creative, complementary of the city’s beach culture, and compatible with surrounding development and public spaces.

B. Housing Element

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

The proposed development and request to increase the allowable floor area ratio are incompatible with the adjacent mobile home park in terms of proportion, scale, and character. The assisted living facility with two stories above a partially exposed parking structure at a building height of 33.5 to 38.5 ft. is out of scale with the adjoining one story mobile home park. The assisted living facility has a roofline that does not terrace with the grade creating the appearance of a three-story building that is incompatible next to the one story mobile home park. The combined retaining wall/fence along the property lines of up to 14 feet high towers over and is incompatible with the adjoining properties.

**Zoning Compliance:**

This project is located in the CG zone and complies with the requirements of that zone except for the five variances proposed. In addition, a list of City Code Requirements, Policies, and Standard Plans of the Huntington Beach Zoning & Subdivision Ordinance and Municipal Code has been provided to the applicant for informational purposes only.

**Urban Design Guidelines Conformance:**

The project does not conform to the following Urban Design Guidelines for multi-family residential use:

- Contribute to the sense of community by respecting the scale, proportion and character of the surrounding area.
- In some cases, it may be desirable to “step back” the upper stories of new multi-family buildings to “scale down” facades that face the street, common space, and adjacent residential structures.

**Environmental Status:**

Staff has reviewed the environmental assessment and determined that no significant impacts are anticipated with implementation of mitigation measures in the areas of cultural and tribal cultural resources. Subsequently, MND No. 13-005 (Attachment No. 5) was prepared with mitigation measures pursuant to Section 240.04 of the HBZSO and the provisions of the California Environment Quality Act (CEQA) with the following supplemental reports:

- 1) Air Quality and Greenhouse Gas Study;
- 2) Geotech Report;
- 3) Traffic Impact Assessment;
- 4) Phase I Environmental Site Assessment; and
- 5) Preliminary Water Quality Management Plan

The Community Development Department advertised draft MND No. 13-005 for 20 days commencing on May 3 and ending on May 22, 2018. Comments were received concerning traffic, the variances, excessive proposed square footage and height, and impacts to the stability of surrounding properties. A response has been included with the attached MND (Attachment No. 5).

**Environmental Board Comments:**

The Environmental Board was notified of the MND. As of June 5, 2018, no response has been received.

**Coastal Status:**

Not applicable.

**Design Review Board:**

The Design Review Board reviewed the project on December 14, 2017 and forwarded it to the Planning Commission without a recommendation pending a final decision on the project, which could affect its design.

**Subdivision Committee:**

Not applicable.

**Other Departments Concerns and Requirements:**

The Departments of Public Works and Fire as well as the Building Division have reviewed the project and identified applicable code requirements. The Police Department recommends conditions to control access to the site and provide opportunities for passive surveillance if the project were to be approved (Attachment No. 7).



The project is surrounded by commercial uses on three sides while a mobile home park is located to the west. Assisted living facilities typically do not present land use compatibility concerns such as heavy traffic, noise, or odors. The proposed assisted living facility is a land use that is compatible with the area and provides a good land use transition between the commercial uses to the east and the mobile home park to the west.

However, the proposal to triple the General Plan FAR, the project's design, and the variances result in an overbuilt development that is out of scale with and detrimental to the adjoining one-story mobile home park due to its height, number of stories, bulk, and reduced setbacks. The HBZSO limits building height in the CG zone to a maximum of 18 ft. within 45 ft. of a residential district and requires a minimum 10 ft. setback in order to ensure a compatible building height, maintain light and air, and provide a buffer. In contrast, the proposed assisted living facility with two stories above a partially exposed parking structure at a building height of 33.5 to 38.5 ft. with only a 10 ft. setback instead of 45 ft. would be an abrupt transition from the adjoining one story mobile home park.

The HBZSO requires a CUP in order to develop on a site with a grade differential of three feet or greater based upon a building and grading plan, which terraces the building with the grade and is compatible with the adjacent development. While the proposed grading plan does reflect some terracing with the site's existing topography, the assisted living facility has a roofline that does not terrace with the grade creating the appearance of a three-story building that is incompatible next to the one story mobile home park. Furthermore, the combined retaining wall/fence along the property lines of up to 14 feet high towers over and is incompatible with the adjoining properties. The design of the project with its increased height and reduction in setbacks would affect the privacy and quality of life of the mobile home park residents.

### **Variances:**

Staff is also unable to support the requested variances to building height, setbacks, and perimeter planter width because there are no special circumstances applicable to the property particularly when considering the proposed increase in the maximum general plan FAR for the site. Without any special hardship and combined with the substantial increase in floor area, approval of the variances will constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and under an identical zone classification. The variances will result in a development that is incompatible with and detrimental to the adjacent mobile home park in terms of scale, character, landscape screening, and impacts to privacy. The granting of the variance will also adversely affect the General Plan because it is not consistent with several General Plan goals and policies that encourage compatibility with established residential neighborhoods and surrounding development. Accordingly, staff recommends denial of the project.

### **ATTACHMENTS:**

1. Suggested Findings for Denial - CUP No. 13-010 and VAR No. 13-005
2. Vicinity Map
3. Site Plan, Floor Plans, Elevations and Project Plans received and dated January 30, 2018
4. Project Narrative received and dated September 25, 2017
5. Draft Mitigated Negative Declaration No. 13-005 (Includes Environmental Checklist, Mitigation Measures, Response to Comments, and Comment Letters)
6. Code Requirements Letter dated April 12, 2018 for informational purposes only.
7. Police Comments dated April 25, 2017

8. Shadow Analysis received and dated May 30, 2018

JJ:JV:RR:kdc