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Planning Commission Considers Assisted Living Facility Zoning Regulations

By Victor Ryerson

At its June 23 meeting, the Orinda Planning Commission grappled with how to treat a property included in a "PS" district, which applies to public and semi-public uses. The property raising the issue falls between the cracks of Orinda's zoning regulations in two ways.

The item came before the commission as the result of a prospective application for approval of an assisted living facility on a parcel adjacent to eastbound Wilder Road and close to Highway 24. That application has not yet been filed, and the merits were not before the commission, but the owner's discussions with planning department staff raised ambiguities in the current zoning regulations, prompting the staff to seek resolution of the problems by bringing them to the City Council. Obtaining a recommendation from the commission to the council is the first step in the process of clarifying the zoning law.

The commission was first called upon to decide whether an "assisted living facility" conforms to the definition of "congregate care" in the Orinda Municipal Code. In the code, "congregate care residential" means a facility that provides 24-hour nonmedical care of persons needing personal services, supervision or assistance. The question arose because of the anticipated nature of the care to be provided, and because some - but not all - of the residential units are expected to have small kitchen facilities, although residents will be fed in a common dining room. Alternatively, a "convalescent facility," which is not a permitted use in a PS district, is one that provides medical care, and a "dwelling, multifamily" is a building that basically must have a separate kitchen in each unit.

From four alternatives proposed by the staff, the commission unanimously recommended that the council amend the definition of "congregate care" to clarify that kitchens are not required in each unit in a congregate care facility.

The second and more difficult question before the commission was whether the development standards for any PS district in Orinda should be those that apply to a residential district or a downtown district. Orinda's Zoning Code mandates that the applicable standard must be that required by the closest adjoining residential or downtown district zoning regulations. The problem is that the PS district under review does not adjoin either of those types of districts because of its location near the entrance to the Wilder development. Only two other such PS properties exist within Orinda, and both of those are utility-owned parcels bounded by other utility lands.

Following a brief discussion, the commission essentially decided to kick the can down the road. From four possible alternatives suggested by the staff, the commission concluded that the code section does not clearly provide which development standards apply here, because no property in the residential or downtown district adjoins the site under review, and recommended that the council amend the code to specify clearly which development standards apply.

The council will consider the two recommendations at a July meeting.

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