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Planning Commission approves Countryhouse Memory Care over bitter Wilder objections



Revised west elevation

Image provided

By Sora O'Doherty

Despite threats of costly litigation, the Orinda Planning Commission unanimously approved an application to build a memory care facility at 1 Wilder Rd. Wilder residents voiced almost unanimous objections to the facility, but planning commission chair Brandyn Iverson took them to task for what she termed a “gotcha” attack on the facility over the issue of kitchens. Objectors have 10

days from the approval to file appeals. Any appeal would be adjudicated by the Orinda City Council.

The approved project consists of 38 assisted living units in a one- to two-story, 32,084-square-foot congregate care facility. The project has been in the works for years, and as changes have been made by the developer to try to garner approval, the plans have changed. Originally, the facility would have provided both memory care and long-term care units, but as the plan developed it has been limited to memory care units only. The facility is what is known as a congregate care facility.

For a memory care facility, the plans hit a snag over the Orinda Municipal Code definition of a congregate care residential facility, which requires that each small unit must contain “a small kitchen allowing for independent living but also provides common dining, housekeeping, recreational and social facilities.” It is not safe, however, for memory care residents to have access to cooking facilities. The developer therefore amended the plans to add a small kitchen to each unit, but also to provide that the kitchen would only be accessible to staff or guests, but not to the residents themselves. Shona Armstrong, attorney for the Wilder Owners Association, both submitted extensive written comments and also spoke at the July 14 meeting, alleging that the approval of the facility is not legally possible because the plan controverts the city’s zoning code, as well as California codes. Armstrong states that California regulations governing memory care facilities actually prohibit kitchens in units, specifically the accessibility of heating devices to residents with dementia.

Armstrong also voiced the WOA’s other objections to the follow-up actions on the Dec. 10, 2019 planning commission meeting, including the update as to the emergency medical services report and revised traffic studies, the 3D modeling of the project, and the update on visual night sky studies. In addition Armstrong highlighted perceived difficulties with the significant special taxes paid by Wilder owners to refund bonds issued to create the Community Facilities District and the special assessment district levy to fund the Geological Hazards District. Armstrong’s correspondence, as well as other written comments on the memory care facility, are accessible on the city’s website.

Another attorney at the meeting stated that she was “very concerned about the city of Orinda’s viable defense.” She suggested that the city is “legally vulnerable,” and that the city’s budget will get hit by multiple lawsuits. Other objections raised issues that had already been aired at previous meetings on the facility, including the impact of the facility on Wilder’s potential evacuation during an emergency and general traffic objections. Objections were presented to the commission by many Wilder owners, including Ben Zarin, Brian Parks, Kyle Arteaga, Kathy Finch, S.K. Gupta, Scott Honeychurch, Chris Shen, Roxanne Christophe, and Mark Bresnik. A number of the objectors also attended the later Wilder Subcommittee meeting on July 16 to restate their objections to both the memory care facility and a preschool the planning commission approved for the Art & Garden Center (see story Page A7).

Although the majority of comments at the meeting

were in opposition to the project, there were also several commenters who strongly support the project, including former mayor and current president of the Orinda Community Foundation, Sue Severson, who praised the record of developer, Agemark, owned by Richard Weston, who along with his son Forest are Orinda residents. Weston attended the meeting, but left the defense of the project to Emmanuel Ursu, former Orinda planning director, who is a member of the applicant’s team. Fran Layton, an attorney for Orinda, also defended the project, saying that the proposal regarding kitchens “is absolutely consistent with Orinda’s Code.”

The applicant’s presentation to the planning commission included a three-dimensional video that showed the facility as it would appear from all approaches from Wilder Road and from Highway 24. Many of the objectors were vehemently opposed to the fact that the facility will be visible from Highway 24, citing the importance of the city’s “scenic highway.” The video can be viewed as part of the recording of the July 14 meeting available on the city’s website.

Other responses to the planning commission’s earlier comments by the developer included specifics of night sky compliant lighting, which the planning commission reduced substantially, and additional details on the rear of the facility that faces Highway 24. The developer also paid for additional traffic and safety studies, which concluded that the facility would increase traffic on Wilder Road by only 1% and would not present a hazard in the event of an emergency evacuation of the Wilder development.

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City Council
 Tuesday, July 28, 7:15 p.m.
 Regular Meeting
 By Teleconference Only
Planning Commission
 Tuesday, July 28, 7 p.m.
 By Teleconference Only
Finance Advisory Committee
Regular Meeting
 Thursday, Aug. 26, 6:30 p.m.
 By Teleconference Only