

- **TO:** Mayor and Councilmembers
- **FROM:** Dan Singer, City Manager
- **CONTACT:** Steve Chase, Director, Planning and Environmental Services Patricia S. Miller, Manager, Current Planning Division Cindy Moore, Senior Planner
- **SUBJECT:** Case No. 07-217-GPA: Mariposa at Ellwood Shores General Plan Amendment Initiation; 7760 Hollister Avenue (APN 079-210-057)

# **RECOMMENDATION:**

- A. Open the public hearing.
- B. Allow staff presentation, applicant presentation, and public testimony.
- C. Close the public hearing.
- D. Deliberate and move to initiate processing of the Mariposa at Ellwood Shores General Plan Amendment.

Refer back to staff if the City Council decides to take action other than the recommended action.

# BACKGROUND:

The subject property is located at 7760 Hollister Avenue (see Attachment 1). The parcel is 2.94 acres and contains Dixon's Goleta Storage, an RV, boat, and container storage yard. The project was filed on October 29, 2007, by Harwood White on behalf of Mariposa, LLC, property owner.

# DISCUSSION:

The applicant requests initiation of an amendment to the General Plan to remove the inclusionary affordable housing requirement for locally approved licensed care facilities. Policy HE 11.1 as adopted is listed below with the applicant's proposed deletion shown as strike-through:

**HE 11.1 Inclusionary Housing Approach. [GP]** To increase construction of housing affordable to persons employed locally, the City shall require residential developments involving one or more units to provide a percentage of units or pay an in-lieu or impact fee for very low-, low-, and moderate-income housing. The units provided through this policy shall be deed restricted for the longest term permitted by law. The inclusionary requirement shall apply to all housing, including, but not limited to, single-family housing; multifamily housing; condominiums; townhouses; locally approved, licensed care facilities; stock cooperatives; and land subdivisions.

It should be noted that at this time, the request before the City Council is only to initiate the change to Policy HE 11.1. The applicant has also submitted an application for a Rezone, a Final Development Plan, a Minor Conditional Use Permit, and a Recorded Map Modification (07-217-RZ; -DP, -CUP, -RMM). The Rezone would change the existing Industrial Research Park (M-RP) zoning to General Commercial (C-3), consistent with the adopted General Plan Land Use designation of General Commercial. The Final Development Plan would allow construction of the proposed 70,510 square foot assisted living facility for a maximum of 99 elderly residents and associated infrastructure. The Minor Conditional Use Permit would allow for a special care home in the commercial zone district and the Recorded Map Modification would eliminate a private road easement along the eastern portion of the site. If the General Plan Amendment (GPA) is initiated as requested, processing would continue on all permits and these requests would be heard at future Planning Commission and City Council hearings.

# Issues:

Staff supports the initiation of the amendment to Policy HE 11.1. The GPA initiation would allow staff and the decision-makers an opportunity to determine whether or not the proposal is appropriate for the long-term vision of Goleta.

An inclusionary requirement for locally approved licensed care facilities could jeopardize financing and/or render projects with such beds economically infeasible. The State Department of Community Licensing regulates the care and services administered in assisted living communities under Title 22 of the California Code. Under Title 22, if a facility accepts a low-income senior, that senior would, by State licensing rules, have right to all the basic services a facility offered including meals, activities, personalized care and medical supplies. The costs beyond rent for the low-income seniors may be passed on to the residents paying market rate. Federally insured financing requires that all residents receiving the same basic package must be charged the same basic fee. The intent is that preferential treatment cannot be extended to one potential resident and not another.

No other jurisdiction in the region is known to have an inclusionary requirement for assisted living communities. Fiscal considerations may be a contributing factor. The State of California does not currently fund assisted living facilities through Medi-Cal or other programs. Current State law requires that long-term care for indigent seniors or those with limited resources be provided exclusively in a licensed skilled nursing facility.

The applicant's intent is to provide more affordable assisted care in an environment where public subsidies for that care do not exist. The application currently incorporates efficiencies of design which would translate into lower costs to all residents. These measures include private units as well as more affordable shared accommodations. Residents in shared accommodations would maintain the privacy of their living space, except for a shared entry vestibule and shower. While the units would be smaller, the service and amenities would be the same as for any other resident.

A brief analysis of the proposed GPA is provided in the GPA Worksheet in Attachment 2. The applicant's request and supporting documentation regarding financing and service criteria is provided in Attachment 3 and an employee incentive plan is provided in Attachment 4.

# SUMMARY:

The proposed change to the Policy HE 11.1 Inclusionary Housing Approach, has merit and should be initiated and explored.

# GOLETA STRATEGIC PLAN:

Not applicable to an initiation hearing.

# ALTERNATIVES:

- 1. The City Council may elect not to initiate the proposed General Plan Amendment.
- 2. The City Council may elect to initiate the proposed General Plan Amendment with modifications.

# LEGAL REVIEW:

The staff report was reviewed by the City Attorney.

# FISCAL IMPACTS:

The processing costs associated with the initiation of the proposed General Plan Amendment are paid by the applicant.

Submitted By:

Reviewed by:

Approved By:

Steve Chase, Director Michelle Greene, Director Planning and Environmental Administrative Services Services Daniel Singer City Manager

#### **ATTACHMENTS:**

- 1. Vicinity Map
- 2. General Plan Amendment Worksheet
- 3. Applicant Request
- 4. Applicant Proposed Employee Incentive Plan
- 5. Site Plan (11 x 17 reduction)

# VICINITY MAP



# GENERAL PLAN AMENDMENT WORKSHEET

GENERAL PLAN AMENDMENT DATA SHEET (Section 1 of 3)				
Analysts:	Cindy Moore	Policy ID #:	HE 11.1	
Contributors:		Policy Title:	Inclusionary Housing Approach	
Date:	3/3/09			
		GP Page #:	10-32 to 10-33	
<b>Policy Objective:</b> Strengthen residential inclusionary requirements and incentives to require affordable housing as part of market-rate residential projects.				
<b>Policy Text:</b> HE 11.1 Inclusionary Housing Approach. [GP] To increase construction of housing affordable to persons employed locally, the City shall require residential developments involving one or more units to provide a percentage of units or pay an in-lieu or impact fee for very low-, low-, and moderate-income housing. The units provided through this policy shall be deed restricted for the longest term permitted by law. The inclusionary requirement shall apply to all housing, including, but not limited to, single-family housing; multifamily housing; condominiums; townhouses; locally approved, licensed care facilities; stock cooperatives; and land subdivisions.				
Proposed Amendment: Amend Policy HE 11.1 to remove the inclusionary requirement for locally approved licensed care facilities.				

#### GENERAL PLAN AMENDMENT DATA SHEET (Section 2 of 3)

Policy ID #: HE 11.1

Policy Title Inclusionary Housing Approach

Author/Letter #: Harwood White

#### Author Rationale:

The applicant is requesting the City Council initiate a GPA that would facilitate the development of an assisted living community by removing the inclusionary requirement for locally approved licensed care facilities. (The applicant's intent is described more fully in Attachment 3).

Beta/Lessons Learned: N/A

Further Considerations: N/A

**CEQA:** The associated development proposal is a project subject to environmental review.

GENERAL PLAN AMENDMENT DATA SHEET (Section 3 of 3)					
Policy Amendmen	t Sum	mary:		Policy ID #:	HE 11.1
Continue:				Policy Title	Inclusionary Housing Approach
Edit:	Х				
Delete:					
Staff Recommend	ation:				
	Staff supports the initiation of the General Plan Amendment to explore a change to the inclusionary housing requirement applied to licensed care facilities.				
requirement applied					
Staff Rationale:					
The General Plan Amendment initiation would allow staff and the decision-makers an opportunity to explore if					
term vision of the C			licensed care	facilities in the Gene	eral Plan is appropriate for the long-
The GPA would be evaluated by staff during processing and would address the following items (and other					
items not yet identif		ated by stan	during proces	sang and would add	
<ul> <li>Inclusionary requirements for assisted living communities in other jurisdictions</li> </ul>					
Fiscal considerations					
<ul><li>In-lieu fees</li><li>Affordability</li></ul>	by des	sian			

# **APPLICANT REQUEST**

# HARWOOD A. WHITE, JR.

Land Use Planning • Project Management

Attn: Ms. Cindy Moore, Senior Planner Current and Long Range Planning Department City of Goleta 130 Cremona Drive, Suite B Goleta, CA 93117 October 24, 2008 RECEIVED

OCT 2 4 2008

City of Goleta Planning & Environmental Svcs.

Subject: Mariposa at Ellwood Shores Proposed Assisted Living Community

Dear Ms. Moore:

Per our several recent consultations with Goleta City Staff, this letter is to revise the project description of Mariposa at Ellwood Shores, to include an additional General Plan Amendment.

Accordingly, please add the following to the project description of Mariposa at Ellwood Shores:

We request the City of Goleta remove the inclusionary requirements for locally approved licensed care facilities from the General Plan. To do so, the last sentence of Policy HE11.1 would be revised to read, "The inclusionary requirement shall apply to all housing, including, but not limited to single-family housing, multifamily housing; condominiums; townhouses; stock cooperatives; and land subdivisions."

The argument for removing this inclusionary requirement is compelling. The City of Goleta is unlikely to see any private applications for assisted-living facilities unless this requirement is eliminated. Assisted living communities are particularly vulnerable to an inclusionary requirement, since they receive no Medicare or comparable government assistance. New licensed care facilities would only be proposed if they were subsidized with grants and property tax exemptions.

The one area where assisted-living communities do benefit from government participation is Federally insured financing. The loan program carries a long list of project requirements, including a fairness test. All residents must be offered an equivalent fee structure. If a low-cost package s offered to one resident, it must be offered to everyone. In addition, the loan program requires that the facility demonstrate a certain level of profitability, in order to assure payment of the loan. Federally insured financing, therefore, likely would become unavailable to the project. Any inclusionary requirement would jeopardize financing, would raise cost to remaining residents, and would reduce the project's competitiveness with other assisted-living communities.

Finally, no other jurisdiction in the region has an inclusionary requirement on licensedcare facilities, much less assisted-living projects. This is with good reason. It is difficult enough to compile the essential components of a project, including land, entitlements,

#### DIXON GPA Request/Page 2

financing, construction, and management of a modern facility. Forcing a project to serve residents who cannot pay their proportionate share of expenses places an untenable burden on the project.

Excerpts of the California Community Licensing and FHA underwriting guidelines, annotated by Julie McGeever, Vice President of the locally-owned Heritage House Assisted Living Community, provides more detailed information on the financing and service criteria accompanies this letter as Attachment A.

In previous correspondence we have described how Mariposa at Ellwood Shores has incorporated unique efficiencies of design which will translate into lower costs to the resident, without sacrificing residents' quality of life. This affordability by design would constitute a significant contribution to the City's senior housing stock.

Finally, as a "for profit" business, Mariposa at Ellwood Shores would pay its fair share of property taxes. This is in contrast to local facilities such as Valle Verde and Vista del Monte, whose non-profit status exempts them from paying property taxes.

The applicant has committed substantial resources to launch this project. Mariposa at Ellwood Shores would supplant another successful business, Dixon's Goleta Storage. A requirement to dedicate a portion of Mariposa to low-income residents would render the project infeasible. The Dixon family would continue to run the storage business on the site. This same scenario is likely to repeat itself when applied to other licensed care facilities.

We therefore request the City of Goleta to remove the inclusionary requirement for licensed care facilities from the General Plan.

Sincerely yours,

Harwood A. White, Jr. Agent for Mariposa at Ellwood Shores.

Cc: Oliver Dixon Julie McGeever

# Attachment A

# Excerpts from Community Care Licensing and FHA underwriting guidelines that speak to the legality of accepting and providing basic services for a resident.

Annotated by Julie McGeever, Vice President, Heritage House Assisted Living Community

# Under Section 87464 - Community Care Licensing / Title 22

(d) "A facility need not accept a particular resident for care. However, if a facility chooses to accept a particular resident for care, the facility shall be responsible for meeting the resident's needs as identified in the pre-admission appraisal specified in Section 87457, Pre-admission Appraisal and providing the other basic services specified below, either directly or through outside resources."

and (e) "If the resident is an SSI/SSP recipient, the basic services shall be provided and/or made available at the basic rate at no additional charge to the resident."

Basic services would include apartment, three meals daily, personal assistance and care as detailed in pre-admission appraisal, observation of resident, arrangements to meet health needs and a planned activities program.

If accepted, a low-income senior would by State licensing rules, have right to all the basic services a facility offered, including meals, activities, personalized care and medical supplies (therefore passing those costs on to other market-rate residents). We could not simply offer rent as a licensed RCFE (as Patty Miller suggested), since the facility is licensed as an RCFE and must follow Title 22 statute.

This same principle is addressed under different code sections for other special care homes including adult care residential care facilities and homes for developmentally disabled children and

# Attachment A/Page 2

adults. The difference between other special care homes and assisted living is that homes for developmentally disabled, child-care and physically disabled are subsidized by a layering of funding resources (SSI, State, Federal) and administered through Tri-County Regional Services (based on the needs and level of disability of that resident. Assisted living, regrettably, remains ones of the care models currently unsubsidized in the State of California.

# HUD 232 Underwriting Requirements.

FHA Underwriting guidelines for the 232 Program (as well as other fee-based market-rate mortgages they guarantee) require that all residents receiving the same basic package must be charged the same basic fee. The intent is that preferential treatment cannot be extended to a potential resident, and not another. It also insures that the rents used for underwriting are adhered to and that the debt service ration will be sustained through the life of the project.

In following the standards set by Community Care Licensing (by which all goods and services provided to SSI/SSP resident were provided at a set basic rate), and in underwriting 25% of a project to include all services for a base fee, a new minimum fee is set. I believe this would be challenged by HUD's mortgage credit dept. as a the new minimum fee, immediately rendering the underwriting and feasibility of a project with a deep breadth of services, and no outside subsidy unfeasible. Given the projects of this complexity operate on a 18-20% profit margin, even if 25% of a project were underwritten at a base rental fee, the project pro-forma would not be able to cover a sufficient debt service margin or generate a capitalization rate sufficient to complete preliminary underwriting.

# Julie Guajardo McGeever

Hochhauser Blatter Architecture and Planning 122 East Arrellaga Street Santa Barbara, CA. 93101 805.962.2746 ext 105

# APPLICANT PROPOSED EMPLOYEE INCENTIVE PLAN



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City of Goleta Planning & Environmental Svcs.

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Mariposa at Ellwood Shores

Proposed Employee Incentive Plan – 9.22.2008

In a review of the existing General Plan as it applies to the entitlement of commercial uses, Staff has determined that the Mariposa at Ellwood Shores Proposed Assisted Living Project should contribute to the housing needs of its full-time employees (some of which would qualify for some sort of housing subsidy - based on area median income.) In the absence of a City-administered fund for employee housing, a suggestion was made that the Applicant develop an array of facility specific programs as part of its ongoing operations, and offer these programs as guaranteed incentives to full-time employees. These programs would allow employees to enhance their future earning potential, offset some regular expenses (such as food, transportation, health-care and child-care), and most importantly, channel more of their salary toward housing needs. By developing a flexible response, The Mariposa could respond directly to the needs of its employees in a way that was most personalized and impactful to those employees, instead of contributing to an overarching general "affordable housing" fund.

Upon reaching an agreement on the scope and auditing requirements for said individualized incentive program, a binding agreement would be developed as part of the final project approvals.

Below is a list of employee incentives proposed for The Mariposa at Ellwood Shores. They have been grouped under four sub-headings:

1) Regular benefits provided to all full time employees.

2) Additional (facility specific) incentive programs offered to all full-time employees.

3) Regularly scheduled social activities including employees.

4) Examples of specific, non-recurrent aid provided to employees on an as-needed basis.

1. Regular benefits offered to all full-time employees

A. MEDICAL BENEFITS: Enrollment in a medical benefits plan after an initial three month probation period for all full-time employees. Plans are evaluated each year based on programs offered, and local providers available within that program. Typically medical benefits include an HMO plan for preventative and emergency care, and a dental program. Heritage House, which has served as a model for Mariposa's operations, has been able to offer 100% coverage for both plans to all participating employees since commencement of operations.

- B. PAID HOLIDAYS/SICK TIME: Seven paid holidays and five paid sick days. Unused sick time is paid out at end of year.
- C. VACATION: One week vacation after first full year of employment. Two weeks of vacation after three years. (Additional weeks may be granted based on merit thereafter, or as part of a non-recurrent bonus program.)
- D. 401k MATCHING CONTRIBUTION: After its 4th year in operation, The Mariposa would be able to offer up to 3% in matching contributions to a 401k retirement program for employees choosing to participate in that program.

#### 2. Additional Incentive Programs offered to all full-time employees

- A. MEALS: One free meal and one break-time snack each eight hour shift.
- B. ALTERNATIVE TRANSPORTATION SUBSIDY: Employer subsidy for any employees taking advantage of mass transit/car-pooling opportunities (usually a subsidy of monthly riders pass or a monthly gas stipend for car-pooling.)
- C. CERTIFIED NURSING ASSISTANT TRAINING: CNA training for caregiving staff after two years of continual full-time employment. Includes cost of classes and full pay during class-room attendance. Facility will sponsor attendance by up to 3 employees per class term.
- D. RCFE TRAINING: On-site training and certification for: First Aid, Dementia Care, Medications Management, Activities, Universal Precautions, Risk Management etc.
- E. OTHER CONTINUING EDUCATION OPPORTUNITIES: Off-site continuing education opportunities offered through the Alzheimer's Association, Community Education, LLC, Emergency Preparedness vendors, and other classes offered through Adult Education, County of Santa Barbara and State of California. All classes and certification are pertinent to ongoing operations of the facility, but do offer individual job-training and certification to participating employees
- F. AFTER-SCHOOL ACTIVITIES FOR CHILDREN: After initial six month probationary period, full-time employees may bring up to two children to the facility for after-school activities three times a week (up to three hours each day.) Snack for children provided.
- G. SAFETY BONUS: \$100 to each employee, every six months when facility does not have a work-related worker's compensation claim.
- H. REVOLVING EMERGENCY LOAN PROGRAM: Revolving emergency loan fund for employees. Up to \$500 for each employee. Loaned at no interest

for medical, vehicular, legal, family emergencies. Can be increased at management discretion. Loan repayment scheduled individually, based on employee's ability to pay.

- I. ANNUAL BONUS: Annual merit bonus for service (usually \$500-\$1,000 per employee, based on net returns to facility, after first year of sustained operations.) Distributed in December as a holiday bonus.
- J. DISTRIBUTION FROM EMPLOYEES FUND: Annual distribution from Employee Fund set up to collect gratuitous contributions made by resident families throughout the year (Employee Christmas funded each year by resident families ranges from \$7,000 - \$12,000 in any given year.)

#### 3. Regularly Scheduled Social Activities

- A. EMPLOYEE EVENTS: Bi-annual employee party at off-site location of employees' choice.
- B. FAMILY EVENTS: Employees and employee families are invited to facility special events scheduled throughout the year. Includes both resident and employee families. Easter Egg Hunt & Lunch, 4<sup>th</sup> of July party, Summer Carnival, Monthly Barbecues, Halloween Trick or Treating, in-house educational seminars, etc.)

#### 4. Non-Recurrent Aid: Additional Individualized Benefits

If we are to use Heritage House as an example, there are a number of additional nonreimbursed subsidies that are offered to individual employees on an as-needed basis. The Dixon family is also committed to applying similar principles at the Mariposa at Ellwood Shores. A sampling of these subsidies at Heritage House have included a set of new tires for a car, vehicle repairs, a retainer for a family attorney, subsidies for family trips and vacations, extraordinary medical or dental bills, funeral expenses, rental assistance, or paid time off to address personal or family health-care issues (above and beyond that offered in basic sick time or disability benefits). As a general rule, a budget for these types of benefits range from \$12,000 - \$17,000 a year and are feasible once a facility has reached sustained occupancy and positive cash flow (industry average is end of year three.)

It's not possible to standardize these individualized benefits such that they are appropriate for all employees. They are developed on as-needed basis and are that much more valuable to the employee because they are a flexible subsidy, filling that very specific need. These benefits and incentive however, are a very important part of a good employee retention program. In assisted living environments where mentally or physically frail seniors are dependent upon the quality, continuity and sensitivity of the care provided to them, employee retention can make or break a program. Taking care of the people who take care of your residents is a straightforward way to ensure a good quality of life for everyone either living or working at your facility. Assisted living straddles the conventional line between a business and a home, so a well-run business must train and ensure compliance, but it must also treat its employees as part of an extended and very necessary part of the family. In cases of emergency or disaster, it is expected that employees respond to the needs of a community's frail residents, and a good disaster plan is part of every project's protocol. Its stands to reason that a good facility must also be responsive to the needs of its employees, especially in times of individual stress or emergencies.

# Mariposa at Ellwood Shores Proposed Staffing 8.22.2008

# Employees	Managerial Staff	Salary range *
1	Administrator	\$85,000 - \$110,000
1	Nurse	\$80,000 - \$85,000
1	Office Manager	\$55,000 - \$60,000
1	Activities Director	\$50,000
1	Activities Director - Memory Impairment	\$44,000
1	Facilities Manager	\$50,000 - \$60,000
1	Dining Services Manager	\$55,000 - \$65,000
7	Total Full Time Managerial Staff	

# Employees	Line Staff	Hourly Wage *
1	Receptionist / Marketing	\$12.00 - \$15.00
1	Bus Driver	\$14.00
1	Lead Caregiver	\$10.00
7	Caregivers - Day Shift	\$9.25
1	Lead Caregiver Night Shift	\$10.00
7	Caregivers - Night Shift	\$9.25
3	Caregivers - NOC Shift	\$9.75
1	Lead Cook - Days	\$18.00
1	Lead Cook - Eves	\$18.00
2	Housekeepers	\$8.50
25	Total Full Time Line Staff	

# Employees	Part-time Staff	Hourly Wage *
1	Licensed Vocational Nurses (weekends)	\$22.00
1	Activities Associate - Weekends	\$16.00
4	Care-givers (part-time weekend)	\$9.75
2	Waiter / Waitress	\$8.00
2	Porter / Pot-washer	\$8.00
1	Lead Cook Weekends	\$18.00
1	Sous Cook	\$15.00
12	Total Part-Time Staff	

#### 44 TOTAL EMPLOYEES

All FTE are offered incentive programs. 25 FT Non-managerials positions circled in red

\* Salary and Hourly Wage does exclusive of medical benefits and 401K program offered to all employees

SITE PLAN (8 1/2 x 11 REDUCTION)



#### PRELIMINARY PLANT LIST

The following is a preliminary list of plant materials offered for potential use on this project. This list is not intended to be all inclusive, but is a representative potentia of material from which find plant selections will be made. DOTANG NAME (COMMON NAME)

Balance, Some, Labertan, Hones, J. Balanch, Golann, Rupata, Abullina spp. (Pioreving Walch) Abullina spp. (Pioreving Walch) Abullina spp. (Pioreving Balanch) Aviantaphysisa spp. (Piorevini) Daslags tensite (Marcian Orango) Ohina spp. (Pioreving Band) Daslags tensite (Marcian Orango) Ohina spp. (Pioreving Band) Consta spp. (Piore Malance) Larenthals spp. (Larenthal spp. (Larenthal spp. (Larenthal Decemper), Piore Malance) Peorlemone, spp. (Band Tompar) Base spp. (Piore

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> Legend Sected

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(i) Wall Fountain Bench, Typ.

Reised Grow Boxes

Preliminary Landscape Plan

DAVID R.

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ASSOCIATES

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Mariposa At Ellwood Shores In Assisted Living & Memory Care Commun 7760 Hollister Ave Santa Barbara, California

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