### Supplemental Planning Commission Packet - #2
**July 7, 2020**
7pm – Council Chambers

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As president of the Oceanside Homeowners' Association I object to CUP-2-20. I object for the following reasons:

1. West Cliff Dr. is too narrow to handle the increased traffic generated by the proposed facility and parking would be a problem.

2. The existing drainage which is proposed for use is inadequate, the pipes are too small. Heavy rains may lead to flooding of several houses in Oceanside Estates. Such flooding would lead to lawsuits against the city.

3. It appears that the facility will take up more than 50% of the lot.

4. The peace and tranquility of the surrounding properties would be diminished.

5. Lighting the facility would be an issue with nearby residents.

6. Property values would decrease.

Please enter this letter of opposition into the public record for the meeting tonight.

Thank you,

Alan Neerenberg, President of Oceanside Estates Homeowners' Association

Ms Iziemer:
As a resident, living approximately 200 yards from a proposed residential care facility, I am going to request one thing: come join me at 96406 Oceanside E dr, (my property) and look towards the proposed built site. You will note tall stately trees, inhabited by so many birds. So beautiful, but will be removed to accommodate this facility. Oceanside e has a natural pathway that passes thru that direction. Just imagine the constant stream of walkers passing my property Building a care facility is important, most likely needed, but not in a residential area. I am asking you and members of the Planning Commission to say No.
Please make this a public record.
Thank You,
Stephanie K. Overbeck. 7/5/20
July 7, 2020

City of Brookings
Public Works and Development Services Department
898 Elk Drive
Brookings, OR 97415

Regarding: File Number CUP-2-20 request for Conditional Use Permit/Residential Care Facility in R-1 District

Brookings Planning Commission

This is in response to the staff report written by planning commission staff regarding the above conditional use permit:

I’d like to call the commissioners’ attention to the 148 signatures we’ve gathered of Brookings residents in opposition to this proposed commercial facility. We are in opposition to CUP-2-20 primarily because the applicant wants to build on a rear flag lot with a narrow ingress; this seems inappropriate and a violation of current Brookings Municipal Codes and it is potentially hazardous to the proposed facility residents and to many of the current residents in the Dawson tract.

Beginning with **Criterion 1**- Adequate Size and Shape—Criterion 1 is NOT MET. The 15 foot wide ingress, of which Mr. Kemp proposes to pave 12 feet in width, is not safe for fire, ambulance and other emergency vehicles. It is not wide enough to safely access from S. Passley Rd. on the north. There will be fencing that separates it from West Cliff Dr. so there will be no access to that private lane and the turn from S. Passley Rd. will be too narrow and sharp to negotiate from the north. Vehicles will have to safe access from the south only. There is only one way into Dawson Rd from 101 and valuable time will be lost in an emergency call if vehicles have to circle Dawson then backtrack to S. Passley Rd. to access the ingress. BMC 17.172.061 B.2a. calls for a 20 foot minimum width access. To approve this ingress is a violation of this code. In regards to BMC 17.172.061 rear lot partitions and the 1992 planning commission staff finding at that time allowing the 15 foot ingress, it is highly doubtful that the planning commission staff at that time expected that there would be a CUP application for a 14 unit facility on this rear flag lot. This ingress does not meet the needs for this proposed commercial facility and to approve this could be potentially hazardous to all the area residents.

Additionally, the proposed off street parking area does not appear wide enough to drop off residents and turn vehicles around. This implies that the proposed plan anticipates having to back in/out of the ingress. BMC 17.92.100 A states “parking areas must be served by a driveway so there will be no backing movements”—this will be a violation of this code. If in fact the proposed structure is greater than 10000 square feet rather than the estimated 9588 sq ft then this permit is also in violation of 17.92.020 regarding off-loading. The current plan and property size is not adequate.
Criterion 2—Relation of Streets—NOT MET
Although S. Passley Rd. may have a 50’ right-of-way, the current useable paved street area from Dawson Rd. to West Cliff Dr. varies in size from 18’ to 26’ wide only. There are many places where two lanes of traffic cannot pass each other. Except for the portion in front of Mr. Baron’s home, sidewalks exist only on one side of S. Passley Rd., never both sides. This makes a hazardous walking area for current and future residents. There is no current appropriate ADA or wheelchair access to sidewalks without having to frequently cross the street. The Kemp plan also does not address pedestrian access from S. Passley Rd. down the 140 ft plus ingress to the facility. There are no proposed sidewalks. As the facility is planned “for adults who do not drive” this needs to be addressed. The ingress will be potentially unsafe for pedestrian residents.

The planning commission staff speculates that “there will be no significant impact” regarding traffic from staff, visitors and residents at this new facility but there is no evidence this is factual. There will most likely be times when parking needs to occur on the main street. There is no sidewalk on the front lot. Visibility may be obscured by parking on the street. **WE NEED A TRAFFIC STUDY TO EXAMINE THIS.** The staff report does not address potential main street parking problems. There are potential violations of 17.92.100 (A and E especially) and vision obstruction violations as cited in 17.128.040. A TRAFFIC STUDY WOULD EXAMINE THESE POTENTIAL VIOLATIONS.

Criterion 3—Neighborhood Impact—NOT MET
The staff report states that “residential care facilities are generally quiet in nature” and “day to day operations will have no adverse impact on the surrounding neighborhood.” These are speculative not factual statements. There will be an adverse impact on property values. Realtor.com citing the American Community Survey says that a hospital in the immediate community decreases home values by 3%, a homeless shelter decreases by 13% and a concentration of rentals decreases home values by 14%.

The application by Mr. Kemp does not state what kind of adult residential care facility he is proposing. The application is too vague. The CUP is requested under 17.124.100 “churches, hospitals, other religious and charitable institutions”, but then Mr. Kemp highlights the institution section in BMC 17.92.040 (referring to off-street parking) not for hospitals but for correctional institutions, nursing and rest homes and residential care facilities. Letters from his supporters refer to senior living facilities but this doesn’t actually appear stated in his application. What kind of commercial facility is he planning to build?

The state of Oregon Dept of Human Services requires new construction residential care facilities to be licensed through them. As of last week, Mr. Kemp had not applied to DHS for a license. Is he planning an unlicensed, riskier facility? When he moves on what will this unlicensed 14 unit residence be used for? **WE STRONGLY URGE THE BROOKINGS PLANNING COMMISSION TO REJECT THIS CUP UNTIL OREGON DHS HAS APPROVED AN RCF LICENSE FOR KEMP CONSTRUCTION.**
Additionally **WE WANT AN IMPACT STUDY** to provide evidence that “the RCF will have no adverse impact on the surrounding neighborhood” as speculated in your staff report. The staff report also speaks to “incremental noise” from the facility—what will be the impact on the neighborhood of HVAC units running 24 hours a day, food and service delivery vehicles on the property, kitchen noises for feeding 14-18 residents plus staff and visitors, noise from emergency service vehicles at any hour of the day—all of this needs to be examined by an IMPACT STUDY.

**Criterion 5—Comprehensive Plan—NOT MET**

The properties in the Dawson Rd. tract are zoned R-1 single family residences. This CUP will allow a commercial enterprise to be built among single family homes. While there are some board and care residences in our neighborhood, they all appear as single family homes. This building will look like an institutional facility.

BMC 17.20.010 states the purpose for the municipal codes is to “promote and encourage a suitable environment for family living and protect and stabilize the residential characteristics of the community.” This commercial endeavor along with the possible acupuncture business implied by the “spa” room, changes and destabilizes our residential area. This small parcel of land contains one of the last old-growth areas of evergreen in the Dawson tract. It provides an environment for wild turkey, quail, owls, fox and deer. During the day neighbors come here from throughout the Dawson tract area to recreate and walk dogs. Building anything on this site will change the neighborhood; building a 14 unit commercial facility will destabilize our neighborhood and violate 17.20.010.

Finally the support letters for Mr. Kemp’s facility are quite warm and fuzzy, in speaking to his character but offer no factual evidence as to why this facility would be a safe and useful addition to our R-1 district. If in fact this type of facility is needed in Brookings it should be located closer to the downtown area for ease of transportation and access to shopping, healthcare and other services needed by the potential “non-driving” residents.

**In closing, I urge the Brookings Planning Commission to reject this CUP until Mr. Kemp and his construction company have an approved license for an RCF by Oregon DHS. If this occurs, then I request both traffic and impact studies before this CUP is granted by the Brookings Planning Commission.**

Sincerely,

Denise Ortega
96511 West Cliff Dr.
Brookings, OR 97415
541-254-9089
I would like to express my complete disagreement with the prospects of allowing a fourteen (14) unit commercial, residential care facility in an R-1 Zone.

The planning Commission has a mandate to preserve the beauty of neighborhoods by encouraging homogeneous design techniques. This nearly 10000 square foot structure is anything but, being of a similar style. It's a very large imposing building not visually compatible with any of the 100s of homes in our community of Dawson.

By allowing a mega-structure which will cover approximately one-third of the lot's net area remaining, after allowing for a minimum twenty (20) foot all-weather access road complete with proper emergency vehicle turn-arounds at the parking lot. But this lot only has six parking spaces and only one of those is ADA accessible? This is a facility for elderly people and only one ADA space? Not good planning. What happens on a Sunday when only half of the residents may get a visitor. Seven more cars, plus a minimum of two staff for the residents and 3 other maintenance, cooks, housekeeping. This site is totally inadequate with only a FIFTEEN FOOT WIDTH DRIVEWAY, and inadequate health and safety standards for a building of this nature and for this purpose. If a fire truck entered, no other security vehicle or ambulance would be able to go directly to a potentially life threatening situation.

The residents of this facility, and the adjoining neighbors are being placed in a less than optimum situation.

Having such a large roof structure and parking lot surfaces will contribute to increased run-off and increased potential for infrastructure over-burdening. Shall this project be asked to contribute to storm drain and street improvements?

Also, the crime statistics are from 1983, 1984, and 1985??? 35 years, 36 years and 37 years old, REALLY? And they're from Chicago too. This is hardly relevant and should be discarded.

Also, there are letters in support of this project stating what a good guy the land developer is and so they believe that CUP-2-20 should be approved. Only problem is they live 35 miles away in Gold Beach. Nobody in this entire neighborhood and close community of Dawson believes this is the highest and best use of this land.

This project belongs in the commercial, apartment, industrial zone, NOT in an established residential community.

Please consider these and all my neighbors' concerns. You are in your position and charged with living up to our City Council mandate and preserve the integrity of our community and you are strongly encouraged to vote NO. It's the right thing to do.

Sincerely,

Harvey Wolchuck
96343 Dawson Road
Brookings, Or. 97415
(541)661-0251
Dear Valued Neighbors,

Recently, we have applied for a Conditional Use Permit for the property located at 17212 S, Passley Rd. You may have been recently made aware of this through the community letter sent out. It has been our goal as the purveyors of this property to be completely transparent with the community about this project and we welcome this opportunity to share with you the details as well as our intention and vision.

As longtime residents of Curry County who are invested in the health and success of our city, we understand that there are some concerns and questions that we are more than happy to address. We know that these concerns come from a mutual desire for the safety and livability of our community, concerns that we also share. We share your values, and this is why we chose this neighborhood and want the same thing for the disabled seniors of our community. What I would like to do in this letter is share with you an accurate representation of what this housing model looks like, how it can integrate into your communities, share who we are, and dispel some of the myths, assumptions and misconceptions that come before people get to experience what this project really is.

BK Quality construction has been building quality homes for over 10 years in our county and is known for his integrity and craftsmanship. Aga Kemp has been a holistic physician specializing in acupuncture and nutrition at her office, Vibrant Health center, for 7 years and has been involved in numerous
community projects. While this work has been rewarding, in 2019, we decided to embark on a different kind of build, more commonly known as a ‘Residential Assisted Living’ (RAL) home. There are many misconceptions and misunderstandings of what a RAL actually is. Below, we would like to share with you the details of this project, and how we believe it will be a support to our amazing community.

Perhaps more now than ever, we believe that seniors are an important part of any healthy community. Yet, the trends show that seniors with disabilities or who need assistance as they age struggle to find housing beyond traditional care facilities. As of late, these care facilities have come under scrutiny and have become unhealthy, unaffordable and in many cases, a danger to seniors. We believe seniors with disabilities or who need assistance are just as valuable and important part of the relationships, connections and cohesiveness of any community and deserve to stay in the neighborhoods they have lived in all their lives not be segregated to institution like settings on the outskirts of towns.

As a community we need to evaluate how we treat and address potentials for ageism and prejudices against the elderly and people with disabilities. Unfortunately seniors are aging very differently in the last 30+ years and over 69%, 2/3rds of seniors over 65, will need assistance with their activities of daily living and long term care.¹ In the future this includes many of us and our loved ones. According to an independent market study on assisted living done in 2019 for DHS, it was reported that Curry county has a shortage of beds. With our current trends we will be grossly under prepared to take care of our seniors over the next 10 years. For those seniors who cannot afford private in-house assistance, have families that do not have the time, or whose needs of the senior exceeds their resources, the options are extremely limited. Seniors with disabilities are plucked out of the neighborhoods and communities that they loved and created bonds with and moved to the outskirts of town’s into large institutions that in no way reflects the type and quality of life that they have always known. This has many detrimental effects that I will discuss later. But with these statistics we are on track to have communities that no longer contain 2/3rds of our seniors in them. They deserve better and we can do better!
From our children learning the value of service by mowing the lawn of their senior neighbor, to adults being inspired by 60+ year marriages and resilience through war and economic downturn. It is imperative, in order to have healthy communities, that we continue to engage invite and accommodate all seniors in our residential communities and provide them the housing they deserve.

It is important that we take a minute to step out of our fears and prejudices to consider what it is we want as a whole for the health of our society. In 1968 the fair housing act was enacted taking into consideration these very concerns. At a time when our nation was shifting, we observed that we had been fracturing and segregating huge parts of our society, out of unsubstantiated fears and prejudice, to those things that were not “familiar” to us. Around this time our seniors also started aging very differently than they have in the past and had began to have increased needs and disabilities. Many of them were not able to stay in their homes and many homes had become two party income earners because of financial need. We were losing family members to care for our seniors and we had nowhere to put them. This led to the unfortunate and devastating act of moving seniors with disabilities to mental health institutions. We had nowhere else to accommodate them.

Overtime this model has been somewhat adjusted with a few more upgrades but let’s not fool our selves that segregating seniors into the outskirts of town is an honorable model for our nation. If we close our eyes and think about how we would want to take care of our parents, how we would want to take care of ourselves, our children, don’t we all want the right to be able to stay an active an integrated senior in our neighborhoods? It is human nature is to fear new and unknown things but if you’re willing to be open for a few
moments let me share the vision of how it could be as well as what it will not be.

This model is called Residential Assisted living homes or RAL’s. These are residential not commercial buildings. Our project will be a beautiful large residential home with well-maintained landscape to enhance the surrounding neighborhoods. The home, designed by BK quality construction, also integrates features from the greenhouse project that is a non-profit organization excelling in research and education for assisted living facilities that provide for best safety and satisfaction outcomes.

What will this really look like? These homes will be designed to be aesthetically pleasing to compliment the neighborhood, they will have beautifully maintained landscape, and they do NOT have dumpsters, commercial lighting, or noisy HVAC units.

There will NOT be frequent deliveries from commercial trucks, as we will feed our family the same way you do yours healthy, whole-food, home cooked meals, not processed foods from CISCO trucks. We will grocery shop at Fred Meyer’s, the farmers market and Costco just like everybody else and direct our purchases of supplies and food back to our very own community. One of the biggest contributions to illness and disability in the US is the low quality of our food and nutrition. Part of our model is to use food as medicine and deeply nourish our residents to contribute to their quality of life.
Because of their disabilities, seniors in this home will be provided services to assist them with their activities of daily living and needs. This will look like anywhere from 2 to 3 caregivers during the day and two at night on staggered shifts. There will be no large buses making regular visits for outings and by the very nature of the disabilities there is no need for access to public transportation. Any departures or travels, do to the nature of the disabilities, will be infrequent, and will be handled just like yours would, occasional trips to doctor or visits to friends and family. This is not a nursing home or hospice care and will not have frequent ambulance or fire truck visits. Arrangements can also be made with local authorities to turn sirens off in the case of a rare visit.

This house will incur no more traffic than a large family household. This is an assisted living home for seniors with disabilities; therefore, our residents do not have cars and do not drive. Elderly residents are low impact residents. The average resident in assisted living is an 86 year widow and is quiet, and most likely go to bed long before the rest of the neighborhood. They are not playing loud music, throwing, bouncing balls in the driveway and they are not adding traffic to the community.

Secondly, as unfortunate as it is, many of the seniors do not have frequent visitors as their family’s time and resource restrictions are the preceding factors as to why the seniors are in a RAL’s in the first place. However, if there is any additional traffic, i.e. Mother’s Day or Fourth of July it would be no different than if one of our valued neighbors had extended family come to visit or throw a barbecue with numerous friends for a day. Our home will have 6 dedicated parking spaces that will accommodate the 2-3 employees that will be present at any given time as well as 3 guests’ spots. Brookings city ordinances requires that RAL’s have 1 parking space per 5 beds in order to accommodate traffic needs. These city ordinances are created and based from
thorough research and experience in city planning and development and can be trusted. We have doubled the required number of parking spaces required by the city to accommodate any occasional increase in visitors.

In addition to being low impact on communities, studies have shown that group homes for the disabled do not reduce property values or stability of the surrounding neighborhood. See attached Lauber, D, “Impacts on the Surrounding Neighborhood of Group Homes for Persons with Developmental Disabilities” (1986).

RAL homes have a proven track record that has far better outcomes across-the-board in safety, health and quality-of-life than the institutional models. In comparison to large facilities, Residential Assisted living homes have better health and safety outcomes than large institutional settings. Residents will be in a "Home" setting without long corridors, they will participate in family style dining, and more personalized interaction. In a RAL model statistics show better cognitive function, more engagement in socialization, higher emotional wellbeing, less agitation, anxiety, and significant reduction in Fall risk as well as better resident to caregiver ratios. A notable finding from the CDC is that resident in small facilities are much less likely to fall that residents in large facilities. This is very important because falls are the leading cause of fatal and non-fatal injuries for older Americans. If you truly want what is safest for our seniors with disabilities this is it. This is what WE want for our families and for the seniors of Brookings
Bringing seniors back into our communities involves us taking a look at our current practices and beliefs systems around “Elderhood”. We have partnered ourselves with a phenomenal nonprofit, The Eden Alternative, whose sole purpose is to develop trainings and education to integrate seniors back into our communities and solve the epidemic of loneliness, isolation and boredom within our senior populations. It IS an epidemic, hidden away on the outskirts of town, and it is our responsibility as a community and culture. This model of residential assisted living can beautifully bridge the gap and offer solutions for many of these challenges in a way that benefits all that are involved.

Lastly, what we really want to convey to you is that this is not a business for us, this is a calling. Two years ago when we were suddenly faced with two dear family members in trouble, a senior aunt with accelerating mobility issues and a grandfather with a stroke, we were dismayed and startled by what may lay ahead for them with the assistance they would need that was outside of our abilities. I believe this model was brought to answer our prayers and would allow us, Brett and Aga, to merge both of our talents (Health practitioner and General contractor) into a powerful vision of service that would not only help us take care of our loved ones but our communities as well.

You our dear neighbors will look across the street and see a beautiful quiet home that is offering a very needed and honorable service to our community. We hope that this detailed information has helped to alleviate any fears and misconceptions you may have had and instead of asking yourself “why my neighborhood?” I invite you to consider the question “why not this neighborhood?” And consider all the good and fulfillment that could come with that.

Thank You,

Aga Kemp and Brett Kemp
References


iii Variation in Residential Care Community Resident Characteristics, by Size of Community: United States, 2016.


v See Fair Housing Amendments Act (“FHAA”), 42 U.S.C. § 3604(f)(1), which make it unlawful:

To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of —

(A) that buyer or renter
(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
(C) any person associated with that buyer or renter.

vi 42 U.S.C. § 3604(f)(3)(B). See also, e.g., McGary v. City of Portland, 386 F.3d 1259, 1264 (9th Cir. 2004); City of Edmonds v. Washington State Bldg. Code Council, 18 F.3d 802, 806 (9th Cir.1994), aff’d, ___ U.S. ___, 115 S.Ct. 1776, 131 L.Ed.2d 801 (1995) (“Congress intended the FHAA to protect the right of handicapped persons to live in the residence of their choice in the community.”)
The following guidance summarizes the Fair Housing Act (FHAA) and Americans with Disabilities Act (ADA)

- What is the Fair Housing Act Amendment? How it protects developers of projects?
- How does the ADA apply to senior housing situations?
- What are the protected classes of individuals under the FHA?
- Senior Group Homes under the FHA.
- State and Local Governments Role in Supporting the FHA.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION

Washington, D.C.
November 10, 2015

INTRODUCTION

The Department of Justice (“DOJ”) and the Department of Housing and Urban Development (“HUD”) are jointly responsible for enforcing the Federal Fair Housing Act (“the Act”), which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status (children under 18 living with a parent or guardian), or national origin. The Act prohibits housing-related policies and practices that exclude or otherwise discriminate against individuals because of protected characteristics.
• **FHAA Overview**
  - The FHA and the ADA are the two main anti-discrimination statutes that affect senior living providers/Developers. The Fair Housing Act (FHA) was originally passed as Title VIII of the Civil Rights Act of 1968 and prohibits discrimination in the sale or rental of housing. It was amended in 1974 and 1988 and, as amended, the FHA makes it illegal to discriminate in the terms, conditions, or privileges of the sale or rental of a dwelling or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, national origin, or handicap/Disability. 42 USC Section 3604. As established by the Supremacy Clause of the U.S. Constitution, federal laws such as the Fair Housing Act take precedence over conflicting state and local laws. The Fair Housing Act thus prohibits state and local land use and zoning laws, policies, and practices that discriminate based on a characteristic protected under the Act. Prohibited practices as defined in the Act include making unavailable or denying housing because of a protected characteristic. Housing includes not only buildings intended for occupancy as residences, but also vacant land that may be developed into residences.

• **The Americans with Disabilities Act**
  - The ADA was enacted in 1990 and specifically prohibits discrimination on the basis of disability in employment, state and local government activity, public accommodations, commercial facilities, and telecommunications. The ADA definition of disability is the same as under the FHA. The ADA applies in places of “public accommodations operated by private entities.” The ADA defines a place of public accommodation as a facility whose operations affect interstate commerce and includes an inn, hotel, motel, or other place of lodging, which denotes a shorter duration of occupancy than does “residence.” A senior citizen center or other social service center, and other service establishments, such as professional offices of a health care provider or hospital, are also considered places of public accommodations. In addition, long-term care organizations and nursing homes are expressly covered by ADA regulatory guidelines. Properties that are purely residential (like senior apartments with no services) will fall under the Fair Housing Act’s disability discrimination provisions rather than the ADA.
  - Where a retirement community has elements that include both residential dwellings and service facilities or other areas that may be considered public accommodations, such as life plan communities, a hybrid analysis under both the FHA and ADA should be applied.

• **Who qualifies as a person with a disability under the Fair Housing Act?**
  - The FHA identifies seven protected classes. Handicap (or more commonly called disability) applies most often in the senior housing context. The Fair Housing Act defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such
an impairment; and (3) individuals with a record of such an impairment

- The term “major life activity” include activities such as seeing, hearing, walking, breathing, performing manual task, caring for ones self, Learning, speaking and working. This is not an exhaustive list.

- **Supreme Court’s ruling in *Olmstead* apply to the Fair Housing Act**
  - In *Olmstead v. L.C.*, the Supreme Court ruled that the Americans with Disabilities Act (ADA) prohibits the unjustified segregation of persons with disabilities in institutional settings where necessary services could reasonably be provided in integrated, community-based settings. An integrated setting is one that enables individuals with disabilities to live and interact with individuals without disabilities to the fullest extent possible. The Fair Housing Act ensures that persons with disabilities have an equal opportunity to choose the housing where they wish to live. The ADA and *Olmstead* ensure that persons with disabilities also have the option to live and receive services in the most integrated setting appropriate to their needs.

- **What is a group home within the meaning of the Fair Housing Act?**
  - The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. State and local governments may not discriminate against persons with disabilities who live in group homes. Persons with disabilities who live in or seek to live in group homes are sometimes subjected to unlawful discrimination in a number of ways.
  - The term “group home” does not have a specific legal meaning; land use and zoning officials and the courts, however, have referred to some residences for persons with disabilities as group homes. The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. A household where two or more persons with disabilities choose to live together, as a matter of association, may not be subjected to requirements or conditions that are not imposed on households consisting of persons without disabilities.
  - In this Statement, the term “group home” refers to a dwelling that is or will be occupied by unrelated persons with disabilities. Sometimes group homes serve individuals with a particular type of disability, and sometimes they serve individuals with a variety of disabilities. Some group homes provide residents with in-home support services of varying types, while others do not. The provision of support services is not required for a group home to be protected under the Fair Housing Act. Group homes, as discussed in this Statement, may be opened by individuals or by organizations, both for-profit and not-for-profit.

- **State or local government violate the Fair Housing Act if it considers the fears or prejudices of community members when enacting or applying its**
zoning or land use laws respecting housing? Can a local government consider the fears or prejudices of neighbors in deciding whether a group home can be located in a particular neighborhood?

- Congress understood that one of the central problems for the establishment of group homes is baseless hostility on the part of neighbors and even local governments themselves. It manifestly intended, therefore, to preempt state and local laws that effectuated or perpetuated housing discrimination. The House Judiciary Committee said that: The FHAA, like Section 504 of the Rehabilitation Act of 1973, as amended, is a clear pronouncement of a national commitment to end the unnecessary exclusion of persons with handicaps from the American mainstream. It repudiates the use of stereotypes and ignorance, and mandates that persons with handicaps be considered as individuals. Generalized perceptions about disabilities and unfounded speculations about threats to safety are specifically rejected as grounds to justify exclusion.

- In the same way a local government violates the law if it blocks a group home or denies a reasonable accommodation request because of neighbors’ stereotypical fears or prejudices about persons with disabilities. This is so even if the individual government decision makers themselves do not have biases against persons with disabilities.

- When enacting or applying zoning or land use laws, state and local governments may not act because of the fears, prejudices, stereotypes, or unsubstantiated assumptions that community members may have about current or prospective residents because of the residents’ protected characteristics. Doing so violates the Act, even if the officials themselves do not personally share such bias. For example, a city may not deny zoning approval for a low-income housing development that meets all zoning and land use requirements because the development may house residents of a particular protected class or classes whose presence, the community fears, will increase crime and lower property values in the surrounding neighborhood. Similarly, a local government may not block a group home or deny a requested reasonable accommodation in response to neighbors’ stereotypical fears or prejudices about persons with disabilities or a particular type of disability. Of course, a city council or zoning board is not bound by everything that is said by every person who speaks at a public hearing. It is the record as a whole that will be determinative.

REFERENCES

June 30, 2020

City of Brookings
Public Works and Development Services Department
898 Elk Drive
Brookings, OR 97415

Regarding: File Number CUP-2-20 request for Conditional Use Permit/Residential Care Facility in R-1 District

Dear Brookings Planning Commission,

I am writing in support of the request for a conditional use permit, CUP-2-20, filed by Brett Kemp and BK Quality Constructions to build a 14-bed residential assisted living home on Tax Lot 02200.

I have had the pleasure of knowing Brett and Aga both professionally and personally for the last ten years. I have had the opportunity to work with each of them in different capacities, I have witnessed the professionalism, integrity and success of each of their different businesses, their positive impact on the communities and will definitely support this new endeavour.

Brett has grown up in Curry County and has family ties dating back 100 years. He is embedded and invested in this community. His company BK Construction builds beautiful custom homes and will be an asset to the community he builds into.

As a health practitioner Aga is also invested in the health and well being of our community and has supported many community projects. She brings immense knowledge of health and nutrition and will incorporate these into the lives of our residents. She has an insatiable thirst for knowledge and goes above and beyond to make sure she understands all the facets of the business and will make sure the home is ran properly and with the utmost care and competency,

Being a health care worker in private homes and in a local facility I have many thoughts on how our elders can be better served. I have seen how the current model is failing our seniors and witnessed first hand many situations I believe will be addressed in this new model. including staffing to resident ratio, nutrition, socialization and health and well being. I also believe seniors are better served integrated in our neighborhoods and communities

I hope to be a part of this amazing vision and to see it come to fruition for the betterment of our community and our loved ones as someday we may be faced with this choice and I sure know what model I would choose.

Sincerely,
Heather Martinez
Gold Beach Oregon
Recommending the change of use:

Instead of the require 20-26 per the authority having jurisdiction (AHA) by requiring the building to be sprinkled. If this is met then the Fire Department would accept the facility and with the 15' road width, that the road can be narrowed to 15'.

After looking over the area map for the proposed 14 bed facility at 1722 South Passley Road, that with the type of proposed occupancy, a 14 bed residential

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