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MEMO:

To: Sedro-Woolley Planning Commission

From: John Coleman, AICP
Planning Director

Date: September 19, 2017

Subject: Retirement facilities / skilled care homes / assisted living facilities - Continued

ISSUE

At its June 20, 2017 meeting, the Planning Commission continued working on possible revisions to the Sedro-Woolley Municipal Code (SWMC) regarding retirement facilities, skilled care homes, assisted living facilities and other similar facilities. The Planning Commission has been working on proposed amendments to Title 17 (Zoning) of the Municipal Code to create a definition and regulations for assisted living facilities. The proposed amendments will affect SWMC 17.04.030 (Definitions), SWMC 17.06.010 (Residential 1 Use Restrictions), SWMC 17.08.010 (Residential 5 Use Restrictions), SWMC 17.12.010 (Residential 7 Use Restrictions), SWMC 17.16.010 (Residential 15 Use Restrictions) and SWMC 17.20.010 (Mixed Commercial Use Restrictions). The proposal is to create a definition for assisted living facilities, then amend the conditional uses sections of Residential 5, Residential 7 and Residential 15 zones to include assisted living facilities as conditional uses in those zones (see Attachment 2). Also proposed is to make assisted living facilities an allowed use in the Mixed Commercial zone. Without this change, there may be no ability to construct an assisted living facility in any of these zones.

At the June 20 PC meeting, Dr. Larry Campbell spoke about how such facilities operate and what needs the residents will have. Dr. Campbell's perspective is very useful because he has developed a project that included assisted living, independent living units (such as bungalows, duplexes and fourplexes) and skilled care. The PC did not have time at its June meeting to discuss what Dr. Campbell presented and how it can inform to the proposed amendments to the Municipal Code. The attached recommendations and Analysis (below) are the identical to the information presented in the May 16 PC Memo with minor changes to the Assisted Living Facilities regulations in Chapter 17.20 SWMC - Mixed Commercial. Also, the documents proved by Commissioner Fattizzi are not included in the attachments; instead the links to those online documents are here:

National Caregivers Library info from <http://www.caregiverslibrary.org/caregivers-resources/grp-care-facilities/types-of-care-facilities-article.aspx>.

Choosing Care in an Adult Family Home or Assisted Living Facility published by the Washington State DSHS <https://www.dshs.wa.gov/sites/default/files/AL TSA/hcs/documents/22-707.pdf>.

A public hearing will be scheduled for a later PC meeting.

Please review the attached documents and be prepared to make any specific text amendments to the proposed amendments. Some topics that have been raised in past discussions (that have not yet been incorporated into the proposed amendments) include:

- Modifying language to include non-elderly people who qualify to use assisted living facilities. (recommendation was received via email. See Attachment 3)
- Amending assisted living definition to specify difference between assisted living facilities, skilled care facilities, independent living facilities, senior housing that is not associated with a care provider (such as standard housing for persons over 55) and any other useful terms.

ANALYSIS

Definitions

To assist any future developers of assisted living facilities for senior citizens, staff recommends that the use be defined in the definitions section of the zoning code (SWMC 17.04.030). The Sedro-Woolley zoning code does not define or address where retirement facilities, nursing homes, convalescent homes, assisted living facilities or similar uses can be located. Nor does the code address how many units may be allowed in such a facility. There are several different names associated with a similar use – a facility for assisted senior living – that are specific to the level of assistance offered. For example, “nursing home” typically refers to a facility where 24 hour care is provided to residents who cannot manage their daily lives without a high level of assistance. While “retirement facility” typically refers to a facility where there is little critical assistance offered, but is more of a communal living situation for persons over 55 years old. Many facilities will have a range of services that serve residents that need no assistance – such as independent living, detached cottages – to residents that need critical, around the clock care. Staff recommends one new definition that captures all of these uses:

“Assisted living facility” means a room or group of rooms used by one or more individuals living separately from others, in a structure designed for the needs of elderly people. These establishments shall provide services such as the supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of an elderly person. These facilities shall include the provision of personal care, supervision of self-administered medication, limited health facilities, communal dining facilities and services such as housekeeping, organized social and recreational activities and transportation services. These facilities can include programs where the elderly are provided social programs during the day without overnight stays. These units are commonly referred to as: Alzheimer care centers, assisted living facilities, congregate residences, continuing care retirement facilities, extended care facilities, long-term care facilities, residential health care facilities, skilled nursing homes, and hospice facilities. These facilities are not multifamily residences for the elderly.

The above definition excludes multifamily housing for the elderly. There have been problems in other communities with developers who attempt to achieve higher density multifamily housing by calling the proposal an assisted living facility, but not constructing anything more than apartments that quickly cease to be restricted to seniors. This is an issue that we must avoid. “Multifamily residences” are already defined in SWMC 17.04.030:

“Multifamily residence” means a building containing more than one dwelling unit, also including apartments in the sense of dwelling units contained within a building

primarily used for nonresidential purposes, though there may only be one dwelling unit in such building.

Multifamily residences for seniors implies a development of individual dwelling units that contain all of the amenities of a dwelling unit (kitchen, bathroom, sleeping area) and not any communal living facilities such as shared kitchen. Therefore any multifamily housing for seniors would be reviewed as traditional multifamily housing.

SWMC 17.04.030 contains a definition for “group homes” that may or may not include retirement homes. This definition is clear about what is NOT a group home, but does not clearly state what a group home is. Staff proposes to add assisted living facilities to the definition as well as clarify the group home definition. The existing text includes the definition for three other terms that are defined elsewhere in SWMC 17.04.030, which makes the definition awkward and confusing. Staff proposes a clarified version that does not change the meaning of group homes, it only makes the definition clearer.

Old “Group Home” definition

“Group home” means a building providing lodging to four or more persons unrelated to the principal residing family, excluding multifamily residences, “hotels” (defined as commercial buildings providing lodging for ten or more persons on a transient basis), “hospitals” (defined as medical care facilities whose patients are partly or entirely nonresidents thereof), and institutions of involuntary detention. This definition includes, among other things, boardinghouses and bed and breakfast establishments. “Adult or family day care” and “child day care” facilities are not included under the group home definition. “Adult or family day care facilities” means a daytime facility for an adult who needs some level of care but does not need the level of care provided by an RN or rehabilitative therapist. Facilities may provide services such as personal care, social services and activities, education, routine health monitoring, general therapeutic activities, meals, coordination of transportation, first aid and emergency care. “Child day care centers” provide temporary care of children as defined by the State Department of Social and Health Services, preschool or nursery school.

Clarified “Group Home” Definition

“Group home” means a building providing lodging to four or more persons unrelated to the principal residing family including, among other things, boardinghouses and bed and breakfast establishments. The definition for group home excludes “multifamily residences,” “hotels,” “hospitals,” “adult or family day care facilities,” “child day care centers,” “assisted living facility” (new) and institutions of involuntary detention.

Zoning Locations for Assisted Living Facilities

Currently, assisted living facilities (or similar) are not addressed as either an allowed use or conditional use in any zone. Thus it is unclear where they are allowed, conditionally allowed or prohibited. Therefore, “assisted living facilities” need be added to either the allowed, conditional or prohibited uses section in each of the appropriate zones. Again, this will assist in the permit approval process in the future should a property owner wish to build such a facility.

Staff recommends that assisted living facilities be listed as conditional uses in the residential zones, however recommends that the facilities be allowed uses in the Mixed Commercial Zone. Other health related facilities are outright allowed uses in the MC zone and there are two facilities that meet the assisted living facilities definition located in the MC zone currently.

Other jurisdictions do not allow them in their central business areas; the Planning Commission should consider whether the use should be allowed in the Central Business District.

Density for Assisted Living Facilities

The underlying zoning of the proposed facility would control the number of units unless density is addressed in each zoning designation. Therefore the appropriate zoning densities need to be specified in each zone in which assisted living facilities are allowed (or allowed conditionally). The Planning Commission should consider what densities are appropriate in each zone.

To provide some background about what density of an assisted living facility looks like, the local facilities are described here. The largest assisted living facility in Sedro-Woolley is Life Care Center, which is on 5.1 acres and has 97 rooms (up to 97 residents) – density of 19.02 units per acre. The next largest is Country Meadows which has 87 units on roughly 4.4 acres – density of 19.77 units per acre. Birchview Alzheimer’s Community can accommodate 54 residents on 2.47 acres – density of 21.86 units per acre. Creekside Continuing Care Community in Burlington has 198 total units/rooms; 25 memory care, 71 assisted living and 102 independent living (22 cottages and 80 apartments). There are 7.85 acres at the facility – density of 25.2 units per acre.

Residential projects in the Mixed Commercial zone and development in the R-15 must include landscaping on 20% of the lot (SWMC 17.50.040). Developments in the R-1, R-5 and R-7 have no stated landscaping requirement in Chapter 17.50 SWMC. Staff recommends 20% landscaping in these zones to match the landscaping requirements in the R-15 and MC zone.

Staff also recommends that any facility have at least 10% of the gross land (including roads, driveways, stormwater facilities, etc.) be set aside as usable open space for the residents of the facility. The Burlington facility has a lack of open space.

In Mount Vernon, assisted living facilities are capped at 100 units in the single family residential zone and the parent lot must be at least 10 acres in size. Staff recommends that lots be at least 10 acres in the R-1, R-5 and R-7. Units for the entire project are recommended to be capped at 100 in these zones

Staff recommends a max density of 15 units per acre for assisted living facilities in the R-15 zone. This is the same density as already allowed in this zone. A maximum of 125 units per building or wing of any building is recommended in the R-15, as well as in the Mixed Commercial. Overall density in the Mixed Commercial is recommended at 25 units per acre.

ATTACHMENTS

Attachment 1 – recommended amendments to the Definitions in SWMC17.04.030. The proposed amendments are underlined deleted language is ~~stricken through~~.

Attachment 2 – recommended amendments to the R-1, R-5, R-7 and R-15 zones to include “assisted living facilities” as a conditional use, include “assisted living facilities as an allowed use in the Mixed Commercial zone and define the requirements for assisted living facilities in each zone.

Attachment 3 – Comments from Ellen Bynum

RECOMMENDATIONS

- Review the proposed modifications to Title 17 SWMC to create a definition and regulations for assisted living facilities for senior citizens.

Chapter 17.04
ADMINISTRATIVE PROVISIONS

17.04.030 Definitions.

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“Assisted living facility” means a room or group of rooms used by one or more individuals living separately from others, in a structure designed for the needs of elderly people. These establishments shall provide services such as the supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of an elderly person. These facilities shall include the provision of personal care, supervision of self-administered medication, limited health facilities, communal dining facilities and services such as housekeeping, organized social and recreational activities and transportation services. These facilities can include programs where the elderly are provided social programs during the day without overnight stays. These units are commonly referred to as: Alzheimer care centers, assisted living facilities, congregate residences, continuing care retirement facilities, extended care facilities, long-term care facilities, residential health care facilities, skilled nursing homes, and hospice facilities. These facilities are not multifamily housing for the elderly.

...

~~“Group home” means a building providing lodging to four or more persons unrelated to the principal residing family including, among other things, boardinghouses and bed and breakfast establishments. The definition for group home excludes, excluding “multifamily residences,” “hotels” (defined as commercial buildings providing lodging for ten or more persons on a transient basis), “hospitals” (defined as medical care facilities whose patients are partly or entirely nonresidents thereof), “adult or family day care facilities,” “child day care centers,” “assisted living facility” and institutions of involuntary detention. This definition includes, among other things, boardinghouses and bed and breakfast establishments. “Adult family day care” and “child day care” facilities are not included under the group home definition. “Adult or family day care facilities” means a daytime facility for an adult who needs some level of care but does not need the level of care provided by an RN or rehabilitative therapist. Facilities may provide services such as personal care, social services and activities, education, routine health monitoring, general therapeutic activities, meals, coordination of transportation, first aid and emergency care. “Child day care centers” provide temporary care of children as defined by the State Department of Social and Health Services, preschool or nursery school.~~

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Chapter 17.06
RESIDENTIAL 1 (R-1) ZONE

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17.06.010 Use restrictions.

Use restrictions in the residential R-1 zone shall be as follows:

A. Permitted Uses.

1. One single-family residence per lot;
2. Low-intensity agriculture;
3. Home occupations in compliance with Chapter [17.68](#);
4. Child day care centers meeting state requirements;
5. Adult or family day care facilities meeting state requirements.

B. Conditional Uses.

1. Planned residential developments;
2. Group homes;
3. Dependent relative cottages;
4. Personal services;
5. Outdoor recreation facilities;
6. Public utilities, excluding wireless communication facilities;
7. Quasi-public uses;
8. Public uses.

9. Assisted living facilities in accordance with the following criteria:

- a. The use must be on a lot at least 10 acres in size.
- b. The total number of rooms and/or units in the project shall not exceed 100.
- c. Up to 30 percent of the total project may consist of single family detached units, duplexes and townhouses (up to four units per building) for residents over 55 years of age. Such units must remain under ownership of the assisted living facility. One parking space per such unit is required plus one visitor parking space per four units.

C. Prohibited Uses. All uses not listed above, including adult entertainment and wireless communication facilities.

**Chapter 17.08
RESIDENTIAL 5 (R-5) ZONE**

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17.08.010 Use restrictions.

Use restrictions in the residential R-5 zone shall be as follows:

A. Permitted Uses.

1. One single-family residence per lot;
2. Low-intensity agriculture;
3. Home occupations in compliance with Chapter 17.68;
4. Child day care centers meeting state requirements;
5. Adult or family day care facilities meeting state requirements.

B. Conditional Uses.

1. Planned residential developments;
2. Group homes;
3. Dependent relative cottages;
4. Mobile and manufactured home parks in compliance with Chapter 17.48;
5. Personal services;
6. Professional offices with no outside storage;
7. Outdoor recreation facilities;
8. Public utilities, excluding wireless communication facilities;
9. Quasi-public uses;
10. Public uses;

11. Assisted living facilities in accordance with the following criteria:

- a. The use must be on a lot at least 10 acres in size.
- b. The total number of rooms and/or units in the project shall not exceed 100.
- c. Up to 30 percent of the total project may consist of single family detached units, duplexes and townhouses (up to four units per building) for residents over 55 years of age. Such units must remain under ownership of the assisted living facility. One parking space per such unit is required plus one visitor parking space per four units.
- d. At least 10 percent of the gross land area shall be open space usable by the residents of the facility. Up to 50 percent of the required open space may consist of smaller areas at least 30 in width between buildings that are designed for pedestrian walkways and seating.

C. Prohibited Uses. All uses not listed above, including adult entertainment and wireless communication facilities. (Ord. 1484-04 § 4 (part), 2004; Ord. 1312-98 § 1 (part), 1998; Ord. 1013 § 2.01.01, 1985).

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Chapter 17.12
RESIDENTIAL 7 (R-7) ZONE

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17.12.010 Use restrictions.

Use restrictions in the residential R-7 zone shall be as follows:

A. Permitted Uses.

1. One single-family residence per lot;
2. Low-intensity agriculture;
3. Home occupations in compliance with Chapter 17.68;
4. One duplex per lot with nine thousand square foot minimum lot size, in compliance with the requirements set forth in this Chapter 17.12, which meet the following requirements, in addition to any other requirements imposed by ordinance:
 - i. Be situated on a lot of not less than nine thousand square foot minimum size, with a minimum width of eighty feet at the building line, a minimum depth of one hundred feet, and a minimum lot frontage on a public street of twenty feet;
 - ii. Provide off-street parking for four vehicles;
 - iii. Be designed to resemble a single-family residence so as to blend in with the design and appearance of the surrounding residences in the neighborhood;
 - iv. No more than one duplex shall be allowed per any three successive lots adjoined by side property lines as defined in Section 17.04.030.

Exception: Lots which have twenty feet or less frontage on the public street shall not be required to be counted on a successive lot. This exception is intended to allow successive duplexes if located behind single-family lots.

5. Child day care centers meeting state requirements;
6. Adult or family day care facilities meeting state requirements.

B. Conditional Uses.

1. Planned residential developments;
2. Group homes;
3. Dependent relative cottages;
4. Mobile and manufactured home parks in compliance with Chapter 17.48;
5. Personal services;
6. Professional offices with no outside storage;
7. Outdoor recreation facilities;
8. Public utilities, excluding wireless communication facilities;
9. Quasi-public uses;
10. Public uses-;

11. Assisted living facilities in accordance with the following criteria:

- a. The use must be on a lot at least 10 acres in size.
- b. The total number of rooms and/or units in the project shall not exceed 100.
- c. Up to 30 percent of the total project may consist of single family detached units, duplexes and townhouses (up to four units per building) for residents over 55 years of age. Such units must remain under ownership of the assisted living facility or be associated with an assisted care facility. No multi-family market-rate 55 year or older residences that do not meet the standard R-7 zone standards may be permitted in the R-7 zone when not adjacent to an assisted care facility. One parking space per such unit is required plus one visitor parking space per four units.

d. At least 10 percent of the gross land area shall be open space usable by the residents of the facility. Up to 50 percent of the required open space may consist of smaller areas at least 30 in width between buildings that are designed for pedestrian walkways and seating.

C. Prohibited Uses. All uses not listed above, including adult entertainment and wireless communication facilities. (Ord. 1695-11 § 1, 2011; Ord. 1484-04 § 5 (part), 2004; Ord. 1312-98 § 1 (part), 1998; Ord. 1222-95 § 2, 1995; Ord. 1013 § 2.02.01, 1985)

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Chapter 17.16
RESIDENTIAL 15 (R-15) ZONE

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17.16.010 Use restrictions.

Use restrictions in the R-15 zone shall be as follows:

A. Permitted Uses.

1. Multifamily residential uses up to eight units per building;
2. One single-family residence per lot;
3. Low-intensity agriculture;
4. Home occupations in compliance with Chapter 17.68;
5. Group homes;
6. Dependent relative cottages;
7. Professional offices;
8. Child day care centers meeting state requirements;
9. Planned residential developments;
10. Adult or family day care facilities meeting state requirements.

B. Conditional Uses.

1. Mobile and manufactured home parks in compliance with Chapter 17.48;
2. Offices other than professionals;
3. Outdoor recreation facilities;
4. Public utilities, excluding wireless communication facilities;
5. Quasi-public uses;
6. Public uses;
7. Commerce;
8. Personal services;

9. Assisted living facilities in accordance with the following criteria:

- a. Density shall be limited to 15 units per acre.
- b. Up to 30 percent of the total project may consist of single family detached units, duplexes and townhouses (up to four units per building) for residents over 55 years of age. Such units must remain under ownership of the assisted living facility. One parking space per such unit is required plus one visitor parking space per four units.
- c. Buildings or wings of buildings shall be limited to 125 units.
- d. At least 10 percent of the gross land area shall be open space usable by the residents of the facility. Up to 50 percent of the required open space may consist of smaller areas at least 30 in width between buildings that are designed for pedestrian walkways and seating.

C. Prohibited Uses. All uses not listed above, including adult entertainment and wireless communication facilities. (Ord. 1484-04 § 6 (part), 2004: Ord. 1312-98 § 1 (part), 1998: Ord. 1013 § 2.03.01, 1985)

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Chapter 17.20
Mixed Commercial (MC) ZONE

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17.20.010 Use restrictions.

Use restrictions in the MC zone shall be as follows

A. Permitted Uses.

1. Retail, general services, recreational and cultural uses, light manufacturing, low-intensity agriculture;
2. Residential units contained above the first story of a commercial building (live/work units are specifically included), limited to eight such units per building;
3. *Repealed by Ord. 1709-11*;
4. Public utilities, other than wireless communications facilities;
5. Health facilities and services.

6. Assisted living facilities in accordance with the following criteria:

- a. Overall density of the project shall be limited to 25 units (and/or rooms) per acre.
- b. Up to 40 percent of the total project may consist of single family detached units, duplexes and townhouses (up to four units per building) for residents over 55 years of age. Such units shall be part of a condominium association and not individual lots. Such units must be adjacent to and part of the same binding site plan as an assisted care facility. One parking space per such unit is required plus one visitor parking space per six units. A community gathering building shall be constructed on site for use by the condominium association members. Project timing – in the case where a 55 and over condominium project is constructed prior to the construction of the assisted living facility portion of a project, reasonable assurance must be provided that the assisted living facility will be constructed in a timely manner. If such assurances cannot be agreed to, the 55 and older condominium project may not be approved and permitted.
- c. Buildings or wings of buildings shall be limited to 125 units.
- d. At least 10 percent of the gross land area shall be open space usable by the residents of the facility. Up to 50 percent of the required open space may consist of smaller areas at least 30 feet in width between buildings that are designed for pedestrian walkways and seating. If a 55 and older condominium project is included in a proposal, only tracts dedicated to the condominium association (such as landscape tracts and community center tracts) shall be counted towards the 10 percent required open space. Driveway, sidewalk, parking and stormwater tracts shall not count towards the 10 percent required open space.

B. Conditional Uses.

1. Quasi-public uses.
2. Wireless communications facilities.
3. Public uses;
4. All other uses not otherwise prohibited.

C. Prohibited Uses. All uses not allowed as permitted or conditional uses are prohibited. Adult entertainment is a prohibited use in this zone.

Attachment 3

June 20, 2017 email from Ellen Bynum

John Coleman

From: Ellen Bynum <skye@cnw.com>
Sent: Tuesday, June 20, 2017 2:38 PM
To: John Coleman; Keith Wagoner
Cc: FOSC Office
Subject: Comment on your assisted living code language

Hi there -

I took a quick look at John's memo he prepared for the Planning Commission meeting tonite on the assisted living language and realized that you may want to consider modifying the language to include non-elderly persons who may qualify for and use assisted living.

While the State may want to identify clients in these facilities as elderly, it is not the case that all residents are over 65 years of age. I know this because I hold power of attorney for a person who is under 65, has MS, uses a wheelchair, cannot speak well and purchases services from an adult family home in Shoreline.

Here's the paragraph that I thought needed additional language. Maybe adding the word "primarily for the needs of elderly people" would cover this concern.

"Assisted living facility" means a room or group of rooms used by one or more individuals living separately from others, in a structure designed for the needs of elderly people."

Thanks very much for your continued public service.

Ellen

Ellen Bynum, Executive Director
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