

MLA 03-36
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JEFFERSON COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT

621 Sheridan Street • Port Townsend • Washington 98368
360/379-4450 • 360/379-4451 Fax
<http://www.co.jefferson.wa.us/commdevelopment/>

Unified Development Code Interpretation

This interpretation is made according to Section 8.6 of the Unified Development Code (UDC). An interpretation of the provisions of the UDC is intended to clarify conflicting or ambiguous wording, interpret proper classification of a use, or interpret scope or intent. The "Factors for Consideration" listed in UDC 8.6.2.c were considered in making this UDC interpretation, including applicable policies of the Jefferson County *Comprehensive Plan*.

Date: February 26, 2003
Case: MLA03-00036
Applicant: Olympic community Action Program
Representatives: T. Dan Wollam & Vanessa Brower

SUBJECT: Continuum of Care Facility for Special Needs Persons

UDC Section: Table 3-1: Allowable and Prohibited Uses

Multifamily Housing "Residential Care Facilities w/6 to 20 persons": Listed as a C (conditional use) within the designated RR 1:5, RR 1:10, and RR 1:20 zones.

UDC Section: Table 3-1: Allowable and Prohibited Uses

Essential Public Facilities "Un-named Institutional Uses": Listed as a D (discretionary use) within the designated RR 1:5, RR 1:10, and RR 1:20 zones.

UDC Section: 2.3 Definitions: Residential Care Facility

A facility that provides room, board and care with 24 hour supervision for persons who, by reason of circumstance or condition, require care. This may include care for the aged or functionally disabled persons but shall not include correctional facilities, inpatient substance abuse or inpatient mental health facilities that are otherwise identified as essential public facilities by the Comprehensive Plan and regulated under Section 3.3.5.

UDC Section: 3.2.2 Unnamed Uses.

This Code recognizes that not every conceivable use can be identified and that new uses may evolve over time. Furthermore, it establishes the Administrator's authority to review proposed "unnamed" uses for similarity

with other uses listed in this Code and to ensure consistency of the proposed use with the applicable district. When a use is not specifically listed in Table 3-1, it shall be reviewed as a discretionary "D" use by the Administrator, using a Type II process specified in Section 8. The Administrator shall use the criteria contained in Section 3.2.1.b, to determine and establish whether the proposed unnamed use shall be classified as an allowed use, a conditional use, or prohibited within the applicable district.

UDC Section: 3.2.1.b Discretionary Uses.

Discretionary uses are certain named and all unnamed uses which may be allowed subject to the applicable development and performance standards (Section's 4 and 6) and an administrative review of potential impacts are designated by a "D" (for "discretionary"). On the basis of the administrative review the Administrator may classify the proposed "D" use as either an allowed use, a prohibited use, or a conditional use in the particular land use district affected.

The Administrator may classify the discretionary use as an allowed "YES" use in the particular district affected, only if the proposed development:

- (1) Complies with the applicable development standards of Section 6;
- (2) Complies with the performance and use-specific standards unique to the proposed use specified in Section 4;
- (3) Is appropriate in design, character, and appearance with the goals and policies for the land use designation and district in which the proposed use is located;
- (4) Is consistent with the goals and policies of the Comprehensive Plan and applicable regulations of the Shoreline Master program if the application involves property located within the jurisdiction of the State Shoreline Management Act, but does not require a shoreline permit;
- (5) Will be served by adequate facilities including access, fire protection, water and sewer facilities (municipal community, or on-site systems);
- (6) Does not include any use or activity that would result in the siting of an incompatible use adjacent to an airport or airfield (RCW 36.70);
- (7) Shall not adversely impact the public health, safety and general welfare of the residents of the County;
- (8) Shares characteristics common with but not of significantly greater intensity, density or that generates more environmental impact than those uses allowed in the district in which it is to be located; and

- (9) Will not result in impacts on the human environments determined by the Administrator to require review and a conditional use.

UDC Section: 3.2.1.c Conditional Uses

All conditional uses may be allowed subject to meeting the applicable development standards (Section 6), performance standards unique to the proposed use (Section 4), and the criteria for a Conditional Use Permit (Section 8.8). All conditional uses shall be reviewed in accordance with a Type III quasi-judicial permit review process (requiring public notice, written comment and a public hearing).

UDC Section: 4.31 Residential Care Facilities and Nursing Homes

1. The following apply to all residential care facilities:
 - a. Residential care facilities housing five (5) or fewer residents, other than staff, are permitted outright in all residential districts. Residential care facilities housing more than five (5) residents in rural residential districts are conditional uses subject to the applicable requirements of this Code;
 - b. Conditional use approval is contingent upon containing and maintaining state licensing for operation of the facility. Conditional use approval terminates when the state license is no longer in effect. Furthermore, any increase in the number or change in the class of residents authorized by the state license terminates approval unless a new conditional use authorization is obtained for the new class or number of residents.
 - c. The maximum number of residents permitted in a facility is twenty (20, exclusive of staff.
 - d. Minimum lot size shall be five (5) acres.
 - e. Minimum Off-Street Parking. One (1) space shall be required for each vehicle permanently located at the facility or operated on a daily basis in connection with the facility and one (1) for each employee. All parking spaces shall meet the standards of Section 6.
2. The following standards apply to all nursing/convalescent homes and assisted living facilities for the elderly:
 - a. The provider shall demonstrate compliance with state licensing requirements.
 - b. The maximum number of residents permitted in such a facility in a rural residential district shall be twenty (20), exclusive of staff. Within the Rural Village Center, Neighborhood Visitor Crossroad, and General Crossroad commercial designations, where such facilities are allowed, the maximum number of residents allowed shall be forty (40) exclusive of staff.

Purpose: The purpose of the Housing Element is to assess future needs for housing in Jefferson County by examining existing residential patterns, demographic trends and projected population growth. Based upon these identified needs, policies are recommended to encourage safe affordable and decent housing options for all County residents, consistent with the requirements of the Growth Management Act.

Comprehensive Plan: Housing Element

Affordability: Housing affordability is based upon two components, housing costs and household income. Jefferson County should create functional linkages between housing and economic development strategies. This housing strategy calls for compact rural development within Port Hadlock, Quilcene and Brinnon. However, increasing development in established communities also is likely to result in loss of existing low-cost housing, either through demolition or through upgrades of buildings and neighborhoods. This existing low-cost housing often serves the lowest income people, so it is a community resource that should be preserved for affordable shelter.

Low income households comprise over 31% of the County's population. However, less than 24% of the County's housing units are affordable to low income households. Jefferson County will pursue all viable options to address its affordable housing needs, including revising portions of its development code and working with federal and state agencies to obtain funding or participate in housing assistance programs.

Comprehensive Plan: Housing Element

Special Needs Housing: Some residents of Jefferson County require modified housing units or special services in order to live independently. In order to serve special housing needs, a study was conducted to determine the needs for mentally ill, the developmentally disabled, people living with HIV/AIDS, and the homeless. In 1994 an estimated need to serve 234 people with developmental disabilities. However, only 35% are being served. One of the fastest growing age groups in the County over the next twenty years is expected to be the elderly. Many seniors live on a fixed income that limits their ability to afford market rate rental housing. Elderly homeowners often cannot afford increasing property tax, insurance premiums, or maintenance costs. The elderly are considered a special needs population because of the high correlation between age and disability. Many elderly households are likely to require special supportive residential services as well as affordable housing.

Comprehensive Plan: Housing Element

Assisted Housing: The Housing Authority of Jefferson County has a Section 8 Rental Certificate program which is publicly funded by the U.S. Department of Housing and Urban Development. This is a publicly funded housing support program. The average wait for this housing certification is approximately two years.

Comprehensive Plan: Housing Element

Special Needs Housing Strategy: Jefferson County's strategy for special needs housing combines cooperative efforts with human services agencies and land use regulatory changes which together will facilitate the development of special needs housing to serve County residents.

Summary of code interpretation request:

1. The specific use for **affordable low-income housing and a continuum of care facility** is not specifically defined in Table 3-1, Definitions, and Performance and Use Standards of the UDC, despite the obvious intent and objectives of the Comprehensive Plan, current relevant land use planning developments, commonly accepted planning standards, and federal and state legislative policy.

Language subject to interpretation:

1. "residential care facility up to 20 persons"

Interpretation:

It is the intent of this code interpretation is to properly classify the specific proposal on the South 7 affordable housing application for seniors and developmentally disabled citizens.

The Jefferson County UDC identifies in Table 3-1, 146 uses throughout the different zoning districts. Section 4 of the UDC identifies 41 specific Performance and Use Standards.

UDC Section 3.2.2 recognizes that not every conceivable use can be identified and that new uses may evolve over time. Furthermore, it establishes the Administrator's authority to review proposed "unnamed" uses for **similarity** with other uses listed in this Code and to ensure consistency of the proposed use with the applicable district.

A planner must strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons, and must urge the alteration of policies, institutions and decisions which oppose such needs.

Affordable housing has long been recognized as a legitimate public purpose. The Washington State legislature has declared (RCW 43.185B.005), for example, that (a) Housing is a vital state-wide importance to the health, safety, and welfare of the residents of the state; (b) safe, affordable housing is an essential factor in stabilizing communities; (c) Residents must have a choice of housing opportunities within the community where they choose to live; (d) Housing markets are linked to a healthy economy and can contribute to the state's economy; (e) Land supply is a major contributor to the cost of housing; (f) Housing must be an integral component of any comprehensive community and economic development strategy..."

State law (RCW 43.185B.005(s) continues to explain the purpose of Washington's affordable housing legislation as to, "(a) provide policy direction to the public and private sectors in their attempt to meet the shelter needs of Washington residents;...(c) Improve the delivery of state services and Assistance to very low-income and low-income households and special needs populations; (d) Strengthen partnerships among all levels of government, and the public and private sectors, including for-profit and nonprofit organizations, in the production and operation of housing to

targeted populations including low-income and moderate-income households; (e) Increase the supply of housing for persons with special needs; (f) Encourage collaborative planning with social service providers;...(h) Coordinate housing into comprehensive community and economic development strategies at the state and local level.”

The planning goals of Washington counties are established at RCW 36.70A.020. In the words of the act, these goals are “...to guide the development and adoption of comprehensive plans and development regulations...” More specifically, Washington counties are directed to, “...Encourage the availability of affordable housing to all economic segments...” and to “Encourage economic development...that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged person...”

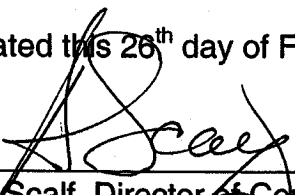
Similar to the above-referenced State legislation, the federal government has enacted extensive legislation which recognizes affordable housing as essential public facilities.

Given the analysis above and consistent with the intent of the Jefferson County Comprehensive Plan and UDC, the South 7 affordable housing project is most closely related to the “Residential Care Facility for up to 20 persons”.

For the South 7 low-income affordable housing project, Department of Community Development would require a conditional use permit, utilize the Performance and Use-Specific Standards of Section 4.31 to allow up to 20 residents excluding staff in terms of density and utilize Section 6, Development Standards.

Appeal: As outlined in UDC 8.6.5, the applicant requesting a code interpretation may appeal the decision to the Hearing Examiner within fourteen (14) calendar days of the decision using the process for appeals of Type II permit decisions as set forth in UDC 8.5.1. Appeals must be received at the Department of Community Development with the applicable fee by 4:00 PM on the last business day of the appeal period or no later than March 12, 2003.

Dated this 26th day of February 2003.

 2/26/03
Al Scalf, Director of Community Development