Atascadero City Council

Staff Report - Community Development Department

PLN 2007-1190 / APL 2011-0016 / Amendment to CUP 2007-0203

Appeal of Planning Commission Approval to Increase Existing Residential Care Facility to a Maximum of 15 Clients

(9525 Gallina Court / Vrajich)

RECOMMENDATION:

Council adopt Draft Resolution “A” denying the appeal and upholding Planning Commission’s approval of an amendment to Conditional Use Permit 2007-0203, increasing a residential care facility at 9525 Gallina Court from 10 to 15 clients based on findings and subject to conditions of approval.

REPORT-IN-BRIEF:

On December 6, 2011 the Planning Commission voted 5-2 to approve an amendment to CUP 2007-0203, allowing an expansion of an existing residential care facility at 9525 Gallina Court from 10 residents to 15 residents. The Planning Commission found the proposed amendment to be consistent with the General Plan and zoning designations and made the appropriate findings for approval of a CUP amendment.

Following the December 6th hearing, the City of Atascadero received an appeal of the Planning Commission’s decision. The appeal was submitted by Pat Stone, a neighboring property owner at 9520 Gallina Court in coordination with other Gallina Court homeowners. The appellant is requesting the Planning Commission’s decision be overturned by the Council based on the premise that expansion of the existing care facility from 10 to 15 patients is incompatible with the existing neighborhood.
DISCUSSION:

Situation and Facts:

1. Appellant: Pat Stone, 9025 Gallina Court, Atascadero, CA 93422
2. Project Owner/Applicant: Milian and Ruth Vrajich, 9525 Gallina Court, Atascadero, CA 93422
3. Project Address: 9525 Gallina Court, Atascadero, CA
4. General Plan Designation: Residential Estate (RE)
5. Zoning District: Residential Suburban (RS)
6. Site Area: 2.6 acres
7. Existing Use: Existing Single Family Residence with a 10-client residential care facility
8. Environmental Status: Class 1, Categorical Exemption Section 15301: Existing Facility

Project Description Subject to Appeal. The appealed project consists of an amendment to an approved Conditional Use Permit (CUP 2007-0203) to increase the number of residential care clients from 10 to 15 at an existing residential care facility located at 9525 Gallina Ct. Consistent with the Atascadero Municipal Code (AMC) 9-3.423, a CUP is required by the City of Atascadero for residential care facilities to care for over six (6) residents. The proposed additional clients will not result in an increase of the existing building footprint. The project applicants propose to convert an existing common area into three private and semi-private bedrooms to accommodate the additional residents. No additions or exterior renovations are proposed as a part of this application.

Background. Paradise Valley Care Home (subject property) was established in 1999 and specializes in residents with Alzheimer’s Disease and dementia. Originally, it served six residents until the approval of the Conditional Use Permit (CUP 2007-0203) in 2007. This CUP allowed for eight (8) residents to reside and be cared for at the property. A second amendment to increase the number of residents was approved in 2008 from eight (8) to ten (10) residents. Due to increasing demand, the applicant is seeking approval of a second amendment to increase the care facility’s maximum number of residents to 15.

At the December 6, 2011 public hearing, the Planning Commission discussion focused on whether the proposed increase in the number of clients at the
residential care facility was compatible with the neighborhood. Public speakers mentioned that the project may be in violation of the neighborhood’s Home Owners Association Declaration of Protective Covenants which limits neighborhood uses to “single-family residential.”

The Commission was advised by staff that the City does not enforce neighborhood covenants, conditions, and restrictions (CC&Rs) nor does the City have the legal authority to directly enforce CC&Rs that are deeded with properties. It is the property owner’s obligation to enforce the covenants. The City of Atascadero enforces the City’s Zoning Code, which applies to every property within the City. The zoning ordinance regulates development standards and property uses which are adopted by the City. The City does have the authority to act if it has been determined that a violation has been made to City Codes.

The neighborhood compatibility issue discussed at the Planning Commission meeting centered on whether the increase in the number of clients would impact the large lot single family residential homes. With the additional clients, neighbors were concerned with an increase in the number of trips that would be created with the additional residents and employees.

Analysis: Residential Care Facilities, where the number of residents under care is greater than six (6), are a conditionally allowed use in the Residential Suburban (RS) zone. The Conditional Use Permit process allows the Planning Commission and interested members of the community a chance to review a project for neighborhood compatibility and mitigate any potential impacts through conditions of approval. Conditionally allowed uses, in general, are uses that may be appropriate within the listed zoning district but which require additional review due to the nature of the use and may need additional operating standards (conditions of approval) to reduce and limit any negative impacts.

The Planning Commission made the following findings when approving the amendment to the Conditional Use Permit to allow for an increase in clients at the existing residential care facility. These five findings are required by the City’s Zoning Ordinance for approval of any conditional use:

1. The proposed project or use is consistent with the General Plan and the City’s Appearance Review Manual.
2. The proposed project or use satisfies all applicable provisions of the Title (Zoning Ordinance).
3. The establishment, and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety, or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use.
4. That the proposed project or use will not be inconsistent with the character or the immediate neighborhood or contrary to its orderly development.
5. That the proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved in conjunction with the project, or beyond the normal traffic volume of the Land Use Element.

Appellant Justification. The appellant is requesting the Planning Commission’s decision be overturned by the Council based on the premise that expansion of the existing care facility from 10 to 15 patients is incompatible with the existing neighborhood (finding #4).

Staff Comment: The Atascadero Municipal Code includes residential care facilities where the number of residents under care is greater than six (6) as conditionally allowed uses in the City’s Residential Suburban (RS) Zoning District. The Atascadero Municipal Code anticipates that these facilities are appropriate for this zoning district in many areas, subject to additional review. The intent of these care facilities is to provide care in a residential type setting, thus through conditions and Planning Commission and public review of the proposed use, the residence will remain consistent with the neighborhood character.

As proposed, the amendment to the Conditional Use Permit is consistent with all of the City’s regulations, including Residential Care Facilities development standards (§AMC 9-6.135), setback, fencing, parking and other general site development standards in Chapter 4 of Title 9, Planning and Zoning. The applicants are not proposing to add any additional building square footage, any exterior remodeling of the residence, or any signage indicating that this is a residential care facility.

Staff has addressed parking by limiting who may have a vehicle on-site, and limiting the location of where visitors may park their vehicle (condition #7). If the applicant wishes to expand with additional residents, the applicant would need to amend the CUP once again and will need to upgrade their existing residential home to meet any additional requirements from both the California Building Code (CBC) and additional regulations set forth by the California Department of Social Services. The CBC allows care facilities to be located in residential buildings when there are 15 clients or less. An increase would require CDB upgrades to an “I” (Institutional) occupancy.

Conclusion. Residential Care facilities are listed as a conditionally allowed use within the RS zoning district. Conditionally allowed uses are generally acceptable in the listed locations but require additional review based on the nature of the use. The additional review considers factors such as appearance of the residence and whether it meets the minimum standards established by the City’s Zoning Ordinance for residential care facilities to support findings. The proposed amendment to the existing CUP would allow for up to five (5) additional residents at an existing residential care facility. The existing residence is very well kept, and the additional residents would be accommodated within the existing footprint of the home through a space conversion of a "common room" that was once a garage. This conversion would require a building permit and would need to meet the regulations set forth in the California Building Code. The appellant believes that the project, as proposed,
fails to meet the required findings, most considerably the finding that the project is consistent with the neighborhood character.

Staff has analyzed this addendum from both a planning and building code perspective. At a Planning Commission hearing, the Commission made the findings for a CUP, and found that the project, as proposed, is consistent with the neighborhood character with the incorporation of the conditions of approval to limit the amount of vehicles on-site in order to maintain the residential character, and the applicant is proposing not to expand the existing footprint of the house, nor change the residential character of the home.

FISCAL IMPACT:

No fiscal impact. Business license fees would remain the same for a 10-client versus 15-client facility. There is no sales tax generated by this project for the City.

ALTERNATIVES:

1. The Council can add and/or modify conditions of approval for the project.

2. The Council could grant the appeal and deny the proposed Conditional Use Permit Amendment by adopting Draft Resolution B. The care facility may continue to operate with up to 10 clients residing at the home. The Council must make one or more of the following findings to deny the project:

   • The proposed project or use is inconsistent with the General Plan; or,
   • The proposed project or use does not satisfy all applicable provisions of the Title (Zoning Ordinance); or,
   • The establishment, and subsequent operation or conduct of the use will, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety, or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use; or,
   • That the proposed project or use will be inconsistent with the character or the immediate neighborhood or contrary to its orderly development; or,
   • That the proposed use or project will generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved in conjunction with the project, or beyond the normal traffic volume of the surrounding neighborhood that would result from full development in accordance with the Land Use Element.
3. The Council may determine that more information is needed on some aspect of the project and may refer the item back to the applicant and staff to develop the additional information. The Council should clearly state the type of information that is required and move to continue the item to a future date.

ATTACHMENTS:

Attachment 1: Location Map, Zoning and General Plan
Attachment 2: Aerial Map
Attachment 3: Draft Minutes – December 6, 2011 Planning Commission Meeting Minutes
Attachment 4: Staff Report – December 6, 2011 Planning Commission
Attachment 5: Correspondence: Pat Stone – November 29, 2011 email
Attachment 6: Correspondence: John Ellis – December 6, 2011 email
Attachment 7: Letter with Attachment: Pat Stone, December 6, 2011
Attachment 8: Correspondence: Milian Vrajich – December 28, 2011 email
Attachment 9: Draft Resolution A upholding Planning Commission’s approval of amendment to CUP 2007-0203 / PLN 2007-1190
Attachment 10: Draft Resolution B granting the appeal and denying amendment to CUP 2007-0203 / PLN 2007-1190
Zoning: RS (Residential Suburban)
General Plan Designation: RE (Rural Estate)
Attachment 2: Aerial Map

Zoning: RS (Residential Suburban)
General Plan Designation: RE (Rural Estate)
CITY OF ATASCADERO
PLANNING COMMISSION

DRAFT ACTION MINUTES
Regular Meeting – Tuesday, December 6, 2011 – 7:00 P.M.
City Hall Council Chambers
6907 El Camino Real, Atascadero, California

CALL TO ORDER - 7:00 p.m.
Chairperson Bentz called the meeting to order at 7:00 p.m. and Commissioner Schmidt led the Pledge of Allegiance.

ROLL CALL
Present: Commissioners Colamarino, Cooper, Dariz, Schmidt, Wingett, Vice Chairperson Ward, and Chairperson Bentz
Absent: None
Others Present: Recording Secretary Annette Manier
Staff Present: Community Development Director Warren Frace, Deputy Director of Public Works-Engineering David Athey, Associate Planner Callie Taylor, and Assistant Planner Alfredo Castillo

APPROVAL OF AGENDA

MOTION: By Commissioner Schmidt and seconded by Vice Chairperson Ward to approve the agenda.

    Motion passed 7:00 by a roll-call vote.

PUBLIC COMMENT
None
PLANNING COMMISSION BUSINESS

None

CONSENT CALENDAR

1. APPROVAL OF ACTION MINUTES OF THE PLANNING COMMISSION MEETING ON NOVEMBER 15, 2011.

2. APPROVAL OF 2012 PLANNING COMMISSION MEETING SCHEDULE.

MOTION: By Commissioner Schmidt and seconded by Commissioner Dariz to approve the Consent Calendar.

Motion passed 7:0 by a roll-call vote.

COMMUNITY DEVELOPMENT STAFF REPORTS

3. PLN 2011-1399 / TREE REMOVAL PERMIT FOR 6907 EL CAMINO REAL

| Property Owner/Applicant: | City of Atascadero, 6907 El Camino Real, Atascadero, CA 93422 |
| Certified Arborist:        | A & T Arborists, PO Box 1311, Templeton, CA 93465 |
| Project Title:             | PLN 2011-1399 / TRP 2011-0151 |
|                           | Atascadero Creek Pedestrian Bridge, Tree Removal & CEQA Certification |
| Project Location:          | Atascadero Creek Reservation #3-8, APN 029-361-003 (Behind City Hall) |
| Project Description:       | A downtown pedestrian bridge is planned over Atascadero Creek to connect the Sunken Gardens to Colony Square. Construction of the bridge includes removal and/or significant trimming of up to six native trees. Removals and/or significant trimmings consist of two (2) sycamores (removal of stump sprouts and south truck only), two (2) black walnuts, one (1) 4-inch live oak, and one (1) dead tree which is identified as either a cottonwood or a sycamore (identification difficult due to condition of dead tree). Only branches or trunks which directly interfere with the bridge installation shall be removed. |
| General Plan Designation:  | Open Space |
| Zoning District:           | Open Space |

Proposed Environmental Determination: Based on the Initial Study prepared for the project, a Mitigated Negative Declaration is proposed for Planning Commission certification. The Mitigated Negative Declaration is available for public review from 11/7/11 through 12/8/11 at 6907 El Camino Real, Community Development Department from 8:30 a.m. to 5:00 p.m. Monday through Thursday.
Associate Planner Taylor gave the staff report and answered questions from the Commission. This project went before the Design Review Committee (DRC) on November 10, 2011.

PUBLIC COMMENT
None

Chairperson Bentz closed the Public Comment period.

MOTION: By Commissioner Schmidt and seconded by Commissioner Cooper to approve PC Resolution 2011-0022, certifying Mitigated Negative Declaration 2011-0003 and approving PLN 2011-1399 / TRP 2011-0151 / PPN 2011-0249 to allow the removal and/or significant trimming of up to six (6) native trees, including two (2) sycamores, two (2) black walnuts, one (1) 4-inch live oak, and one (1) dead cottonwood/sycamore (species unclear due to condition of tree) for the downtown pedestrian bridge at APN 029-361-003.

Motion passed 7:0 by a roll-call vote.

PUBLIC HEARINGS

4. PLN 2099-0818, AMENDMENT TO CUP 2005-0175 AND TPM 2005-0080 FOR 13000 ATASCADERO AVE., (PREVIOUSLY EAGLE CREEK GOLF COURSE)

<table>
<thead>
<tr>
<th>Property Owner/Applicant:</th>
<th>Kevin McGurty, 14002 San Antonio Road, Atascadero, CA 93422</th>
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<tbody>
<tr>
<td>Project Title:</td>
<td>PLN 2099-0818, Amendment to Amendment to CUP 2005-0175 and TPM 2005-0080</td>
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<tr>
<td></td>
<td>Eagle Creek Golf Course, Conversion to Residential Structures</td>
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<tr>
<td>Project Location:</td>
<td>13000 Atascadero Ave., Atascadero, CA 93422</td>
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<td></td>
<td>APN 345-391-020 and 025 (San Luis Obispo County)</td>
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<tr>
<td>Project Description:</td>
<td>An amendment to the 2007 Conditional Use Permit and Tentative Parcel Map is currently being proposed. The current property owner is proposing not to complete the site grading, access road, or new landscape in the open space area which was proposed by the previous owner and conditioned with the project in 2007. The existing structures near Atascadero Road (previously the golf course restaurant, club house, and storage buildings) would be converted into 2 single-family residences, consistent with the current General Plan Land Use Designation, Zoning, and Planned Development overlay.</td>
</tr>
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<td>Zoning: Residential Single Family-Y (R3F-Y) with P-8 overlay</td>
</tr>
<tr>
<td></td>
<td>General Plan Designation: Single Family Residential-Y (SFR-Y)</td>
</tr>
<tr>
<td>Proposed Environmental Determination:</td>
<td>Based on the Initial Study prepared for the project, a Mitigated Negative Declaration (MND) is proposed for Planning Commission certification. The MND is available for public review from 11/17/11 through 12/6/11 at 6907 El Camino Real, Community Development Department from 8:30 a.m. to 5:00 p.m. Monday through Thursday.</td>
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DISCLOSURE OF EX PARTE COMMUNICATIONS:

- Commissioner Wingett drove by the project but did not speak with anyone.
- All other commissioners—None.

Associate Planner Taylor gave the staff report. Associate Planner Taylor and Deputy Director Atthey answered questions from the Commission. This project went before the Design Review Committee (DRC) on October 13, 2011.

PUBLIC COMMENT

The following people spoke during public comment: Kevin McGurty and Nick Medrano.

Staff answered questions from the public.

Chairperson Bentz closed the Public Comment period.

MOTION: By Commissioner Schmidt and seconded by Vice Chairperson Ward to 1. Adopt Resolution 2011-0023, certifying proposed Mitigated Negative Declaration 2011-0004, and 2. Adopt PC Resolution 2011-0024 approving an Amendment to CUP 2005-0175 (Master Plan of Development) based on findings and subject to Conditions of Approval and Mitigation Monitoring; and 3. Adopt PC Resolution 2011-0025 approving an Amendment to TPM 2005-0080 based on findings and subject to Conditions of Approval and Mitigation Monitoring, with removal of the reference to the public sewer easement along Santa Barbara Road in CUP condition 20 & TPM condition 11 and exhibits.

Motion passed 7-0 by a roll-call vote.

5. PLN 2007-1190 AMENDMENT TO CUP 2007-0203 FOR 9525 GALLINA COURT

<table>
<thead>
<tr>
<th>Property Owners/Applicants</th>
<th>Milan and Ruth Vrajich, 9525 Gallina Court, Atascadero, CA 93422</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Title:</td>
<td>PLN 2007-1190 Amendment to Conditional Use Permit 2007-0203</td>
</tr>
<tr>
<td>Project Location:</td>
<td>9525 Gallina Court, Atascadero, CA 93422 APN 054-272-025 (San Luis Obispo County)</td>
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</tbody>
</table>
The proposed project consists of an application for an Amendment to a Conditional Use Permit of a previously approved Conditional Use Permit (PLN 2007-1190) to increase the number of residential care patients from 10 patients to 15 patients at an existing residential care facility located at 9525 Galina Court.

Zoning: Residential Suburban (RS)
General Plan Designation: Residential Estate (RE)

Class 1 CEQA Exemption: Existing Facilities.

DISCLOSURE OF EX PARTE COMMUNICATIONS:
- Commissioner Schmidt drove down the street and looked at the project location.
- Commissioner Winget drove by the property; buy did not speak with anyone.
- All other Commissioners – None.

Assistant Planner Castillo gave the staff report. Assistant Planner Castillo and Deputy Director Atthey answered questions from the Commission. The Commission received an email and attachment from Pat Stone (Exhibit A) and an email from John Ellis (Exhibit B).

Commissioner Dariz asked about the exhibits and asked staff if the CC&R’s should weigh in on their decision, or if they should base their decision on City regulations. Assistant Planner Castillo stated that staff based their findings on what is permissible in State law and our Municipal Code. This application meets that criteria. If the Commission were to find a recommendation for denial, it would need to be based on the neighborhood-compatibility issue. If the HOA chooses to act regarding the CC&R’s, they could act on their own in a civil matter. The Planning Commission can only make decisions based on the consistancy findings. The State limits the size of this facility.

PUBLIC COMMENT

The following people spoke during public comment: Milan Vrajich, Corinn Klise, Pat Stone, John Ellis, and Gregg Cobarr. Neighbors asked the Commission for a postponement of the decision by the Commission.

Mr. Vrajich answered questions from the Commission and addressed concerns and questions raised by his neighbors.

The Commission had additional discussion about the project and the CC&R’s. Commissioner Colamarino stated he believes this 50% increase will create a neighborhood compatibility issue, and for this reason, he will be voting no on the staff recommendation.
Chairperson Bentz re-opened Public Comment period.

The following people spoke during public comment: Pat Stone.

Chairperson Bentz closed the Public Comment period.

Chairperson Bentz confirmed that the Planning Commission can only uphold the law that is in the Municipal Code. The CC&R’s must be enforced by individuals who own property.

Vice Chairperson Ward said he was in agreement with Commissioner Colamarino and it would be reasonable to delay this and have the Homeowners Association try to work something out, and bring it back to the Planning Commission.

MOTION: By Commissioner Schmidt and seconded by Commissioner Cooper to adopt PC Resolution 2011-0020, a Resolution of the Planning Commission approving an Amendment to PLN 2007-1190 / CUP 2007-0203 to establish a 16-client residential care facility located at 9525 Gallina Court.

Motion passed 5:2 by a roll-call vote. (Colamarino, Ward Opposed)

6. PLN 2009-0284, RECONSIDERATION OF CUP 2005-0161 FOR 8990, 8910 EL CAMINO REAL

| Property Owners/Applicants: | James Duty, 8787 Plata Lane #3, Atascadero, CA 93422 |
| Project Title: | PLN 2009-0284 Reconsideration of Conditional Use Permit 2005-0161 |
| Project Location: | 8990, 8910 El Camino Real, Atascadero, CA 93422 |
| APN | 356-051-033 (San Luis Obispo County) |
| Project Description: | The proposed project consists of an application for a Reconsideration of a Conditional Use Permit to permit construction of Phase II storage building. The new building would include 1,000 sf expansion of an existing automotive repair shop and 2,920 sf of additional indoor storage for a total of 3,920 sf building, consistent with the previous project approval of a 4,000 sf future storage building. Zoning: Commercial Service (CS) General Plan Designation: Service Commercial (SC) |
| Proposed Environmental Determination: | Project Consistent with Adopted Mitigated Negative Declaration 2005-0031 |

DISCLOSURE OF EX PARTE COMMUNICATIONS:
- None
Assistant Planner Castillo gave the staff report and answered questions from the Commission. The project went before the DRC on November 10, 2011.

PUBLIC COMMENT

The following people spoke during public comment: Robert Davis.

Chairperson Bentz closed the Public Comment period.

MOTION: By Commissioner Colamarino and seconded by Commissioner Dariz to adopt PC Resolution 2011-0021, a Resolution of the Planning Commission approving an Amendment to CUP 2006-0161 to allow construction of a 3,820 sf transmission shop and accessory storage building at APN 056-051-033.

Motion passed 7:0 by a roll-call vote.

COMMISSIONER COMMENTS AND REPORTS

None

DIRECTORS REPORT

- Director Frace stated that the next meeting is scheduled for December 20, 2011, but currently there are no items for the agenda, so it may be cancelled. The first meeting in the new year will be held on Jan 17, 2012.
- Director Frace gave an update on the Walmart/Annex project; we are looking at making some changes to the EIR Consultant Contract.
- Director Frace gave an update on the Eagle Ranch project. There may be a meeting on January 24, 2012 to review the project in further detail.

ADJOURNMENT - 8:45 p.m.

The next regular meeting of the Planning Commission is scheduled for December 20, 2011, at City Hall, Council Chambers, 6907 El Camino Real, Atascadero.

MINUTES PREPARED BY:

Annette Manier, Recording Secretary

The following exhibits are available in the Community Development Department:

Exhibit A – Correspondence from Pal Stone (ATTACHMENTS TO THE MINUTES ARE ALREADY INCL. IN THE STAFF REPORT)
Exhibit B – Correspondence from John Ellis
Planning Commission Staff Report

Staff Report - Community Development Department
Alfredo Castillo, AICP, Assistant Planner, 470-3436, acastillo@atascadero.org
Sara Schack, Planning Intern, planninginterns@atascadero.org

PLN 2007-1190
Conditional Use Permit Amendment to Conditional Use Permit
Residential Care Facility Use
9525 Gallina Ct (Vrajich)

RECOMMENDATIONS:

Staff recommends the Planning Commission adopt Resolution PC 2011-0020, approving an amendment to PLN 2007-1190 (Conditional Use Permit) to allow for a residential care facility in a Residential Suburban (RS) of up to 15 non-ambulatory residents based on findings and subject to Conditions of Approval.

DISCUSSION:

Situation and Facts

1. Property Owner / Applicant: Ruth and Milan Vrajich, 9525 Gallina Ct., Atascadero, CA 93422
2. Project Address: 9525 Gallina Ct., Atascadero, CA 93422 APN 054-272-025
3. General Plan Designation: Rural Estates (RE)
4. Zoning District: Residential Suburban (RS)
5. Site Area: 2.6 acres
6. Existing Use: Residential Care Facility
7. Environmental Status: Class 1, Categorical Exemption Section 15301: Existing Facilities
Background:

The proposed project consists of an amendment of a previously approved Conditional Use Permit (PLN 2007-1190 / PLN 2007-0203) to increase the number of residential care patients from 10 patients to 15 patients at an existing residential care facility located at 9525 Galina Ct. Paradise Valley Care home was established in 1999 and specializes in patients with Alzheimer’s and dementia. At that time, it served 6 residents until the approval of the Conditional Use Permit (CUP) in 2007. The CUP allowed for eight (8) residents to be cared for at the property. Consistent with the Atascadero Municipal Code (AMC) 9-3.423, a CUP is required by the City of Atascadero for residential care facilities to care for over six (6) patients. A second amendment to increase the number of patients was approved in 2008.

The applicant, with the approval of a third amendment, the care facility’s maximum number of residents will be fifteen (15). It is currently and will remain licensed for care of “non-ambulatory” patients.

California Health and Safety Code, Section 13131, defines “non-ambulatory” persons as:

“Non-ambulatory Persons” means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs.”
Analysis:

The project site is within the Rural Estates General Plan Land Use Designation and is zoned Residential Suburban, which allows for residential care facilities to serve more than 6 residents with the approval of a Conditional Use Permit. The site consists of a single-family home used as a residential facility, a shed, a mobile home, parking area for multiple cars, a back patio with seating areas, a gated pool area with poolside seating, and a large grass field in the back. The front, side, and back yards are all landscaped with grass, flowers, and mature trees.
The property will remain under an R-2.1 occupancy under the California Building Code for a 24-Hour Care Facility. This will allow for continued residential use rather than a typical hospital-type setting.

California Residential Code, Section 1.1, defines R-2.1 occupancy as:
R-2.1 This occupancy shall include building, structure or parts thereof housing clients, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services.

This occupancy may contain more than six non ambulatory and/ or bedridden clients. (See Section 425 Special Provisions for Licensed 24-Hour Care Facilities in a Group R-2.1, R-3.1 or R-4 Occupancy). Such as Residential care facilities.

The site consists of two (2) employees and two (2) owners during operating hours for the ten (10) residents. With the increase in number of residents, the resident to employee ratio will be 3:1. This ratio meets the state requirements for care facilities as required by the California Department of Health Services. There will be a maximum of three (3) employees per shift, a maximum of eighteen (18) people at the care facility.

The property currently has a septic system. Homes that utilize septic systems are sized according to the number of bedrooms, not the number of bathrooms. The house is proposed to have a total of eight bedrooms, and increase from the current five bedrooms. The septic system will be to be properly sized as a condition of approval (Condition 8). This will need to be completed at the time of building permit submittal.

Parking / Traffic / Circulation / Fire Access

The increase from 10 residents to 15 residents will not create a significant increase in traffic. The site includes an existing parking area that accommodates residents, visitors, and employees. Adequate access is provided from Gallina Court. Off-street parking is provided at the front and side of the property. The front and side paved areas can accommodate up to 7 vehicles (5 in the front setback, 2 in the rear). Additional parking for employees is located along Gallina Court. This parking area can accommodate 3 parking spaces, for a total of 10 off-street parking spaces. The applicant directs staff and visitors to utilize the designated parking area on the front and side.

At this time, residents do not have cars on-site due to the nature of care provide for Alzheimer’s and dementia patients. A neighborhood compatibility concern will be the amount of on-site parking. Staff is concerned that parking may become an issue in the future and is recommending that parking be limited to visitors and employees only (Condition 7).

The Fire Department has reviewed the site and has determined that there is adequate emergency access. The area for turnaround is plentiful and acceptable for emergency vehicles.
General Plan Consistency

The proposed project is consistent with the following General Plan Housing Element Policy:

*Goal HOS 1:* Promote diverse and high quality housing opportunities to meet the needs of all segments of the community.

*Goal HOS 4:* Ensure equal access to sound, affordable housing for all persons regardless of race, religion, age, sex, marital status, ancestry, national origin, color, familial status, or disability.
Findings

The Planning Commission must make the following five findings to approve the requested use:

1. The proposed project or use is consistent with the General Plan and the City’s Appearance Review Manual.
   
   **Staff Comment:** The use is consistent with the housing elements goals outlined in the General Plan.

2. The proposed project or use satisfies all applicable provisions of the Title (Zoning Ordinance.)
   
   **Staff Comment:** The proposed use is consistent with all zoning ordinance requirements.

3. The establishment, and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety, or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use.
   
   **Staff Comment:** The proposed use will not be detrimental to the general public or working person’s health, safety, or welfare.

4. That the proposed project or use will not be inconsistent with the character or the immediate neighborhood or contrary to its orderly development.
   
   **Staff Comment:** The proposed increase in residential care clients will not negatively impact the surrounding neighborhood.

5. That the proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved in conjunction with the project, or beyond the normal traffic volume of the surrounding neighborhood that would result from full development in accordance with the Land Use Element.
   
   **Staff Comment:** The proposed project and use, is consistent with the traffic projections and road improvements anticipated within the General Plan based on limiting the amount of cars on-site to employees and visitors only (Condition 7). Additional traffic from visitors will be generated with the 5 additional patients.

Based on staff's analysis in the preceding sections all the required findings for approval of a Conditional Use Permit Amendment can be made.
Proposed Environmental Determination

The project qualifies for a Class 1 categorical exemption. This categorical exemption applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use beyond that existing at the time of the Lead Agency's determination. The exemption includes interior or exterior alterations. Guidelines Sec. 15301.

Conclusion

The proposed project is a request to expand an existing 10 resident care facility to allow for fifteen (15) residents. The proposed increase will not create substantial impacts to the surrounding neighborhood and/or environment. The use is compatible with the Residential Suburban Zoning Designation and will provide increase opportunities to elderly persons requiring an additional level of care.

ALTERNATIVES

1. The Commission may recommend modifications to the project and/or conditions of approval for the project.

2. The Commission may determine that more information is needed on some aspect of the project and may refer the item back to the applicant and staff to develop the additional information. The Commission should clearly state the type of information that is required and move to continue the item to a future date.

3. The Commission may deny the project. The parcel would retain its designation of Residential Suburban and would be allowed to continue to operate with a maximum of 10 clients. The Commission should specify the reasons for denial of the project and make an associated finding with such action.

ATTACHMENTS:

- Attachment 1: Location Map, General Plan and Zoning
- Attachment 2: Aerial Map
- Attachment 3: Site Photos
- Attachment 4: Site Plan
- Attachment 5: Proposed Floor Plan
- Attachment 6: CEQA Exemption
- Attachment 7: Draft Resolution PC 2011-0020
ATTACHMENT 1: Location Map, General Plan and Zoning

Zoning: RS (Residential Suburban)
General Plan Designation: RE (Rural Estate)
ATTACHMENT 3: Site Photos

Parking area and proposed conversion area:

Outdoor patio area with seating, shade and landscaping:
Outdoor parking area:

Gated poolside landscaping, seating, and recreation area:
ATTACHMENT 6: CEQA Exemption

CITY OF ATASCADERO
NOTICE OF EXEMPTION
6907 El Camino Real
Atascadero, CA 93422
805.461.5000

TO: File

FROM: Sara Schack
Planning Intern
City of Atascadero
6907 El Camino Real
Atascadero, CA 93422

SUBJECT: Filing of Notice of Determination in Compliance with Section 21152 of the Public Resources Code.

Project Title: PLN 2007-1190 / Conditional Use Permit PLN 2007-0203

Project Location: 9525 Gallina Ct., Atascadero, CA 93422, San Luis Obispo County

Project Description: This is an application for a Second Amendment to a Conditional Use Permit to allow expansion of a Residential Care Facility from ten (10) residents to fifteen (15) residents.

Name of Public Agency Approving Project: City of Atascadero

Name of Person or Agency Carrying Out Project: Ruth and Milan Vrajich (applicant)

Exempt Status:
- [ ] Ministrerical (Sec. 15073)
- [ ] Categorically Exempt (Sec. 15301)
- [ ] Emergency Project (Sec. 15077 (h) and (c))
- [X] General Rule Exemption (Sec. 15061 (c))

Reasons why project is exempt: Class 1 of the California Environmental Quality Act (CEQA) (Section 15301), applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use beyond that existing at the time of the Lead Agency’s determination. The exemption includes interior or exterior alterations.

Contact Person: Sara Schack, planninginterns@atascadero.org

Date: December 6, 2011

Sara Schack
Planning Intern
DRAFT RESOLUTION PC 2011-0020

RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF ATASCADERO APPROVING PLN 2007-1190
AMENDMENT TO CONDITIONAL USE PERMIT PLN 2007-0203 TO
ESTABLISH A 15-CLIENT RESIDENTIAL CARE FACILITY LOCATED
AT 9525 GALLINA COURT
APN 054-272-025
(Vrajich)

WHEREAS, an application has been received from Ruth and Milan Vrajich, 9525 Gallina Ct, Atascadero, CA 93422, (Owner and Applicant) to consider an Amendment to PLN 2007-1190/Conditional Use Permit 2007-0203 to allow up to 15 clients at an existing residential care facility at the site of an existing 10-client facility at 9525 Gallina Ct. (APN 054-272-025); and,

WHEREAS, the site’s current General Plan Designation is Rural Estate (RE); and,

WHEREAS, the site’s current zoning district is Residential Suburban (RS); and,

WHEREAS, Residential Care Facilities serving 6 or more clients is a Conditional Use in the RS Zone; and,

WHEREAS, the facility is currently approved for a maximum of 10 clients; and,

WHEREAS, the project is Class 1 Categorically Exempt for Infill Projects in accordance with the California Environmental Quality Act (CEQA); and,

WHEREAS, the laws and regulations relating to the preparation and public notice of environmental documents, as set forth in the State and local guidelines for implementation of the California Environmental Quality Act (CEQA) have been adhered to; and,

WHEREAS, a timely and properly noticed Public Hearing upon the subject Conditional Use Permit application was held by the Planning Commission of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said application; and,

WHEREAS, the Planning Commission of the City of Atascadero, at a duly noticed Public Hearing held on December 6, 2011, studied and considered an amendment to PLN 2007-1190; and,

NOW, THEREFORE, the Planning Commission of the City of Atascadero takes the following actions:
SECTION 1. **Findings for approval of Conditional Use.** The Planning Commission finds as follows:

1. The proposed project or use is consistent with the General Plan and the City’s Appearance Review Manual; and,

2. The proposed project or use satisfies all applicable provisions of the Title (Zoning Ordinance); and,

3. The establishment, and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety, or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use; and,

4. That the proposed project or use will not be inconsistent with the character or the immediate neighborhood or contrary to its orderly development; and,

5. That the proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved in conjunction with the project, or beyond the normal traffic volume of the surrounding neighborhood that would result from full development in accordance with the Land Use Element.
SECTION 2. Approval. The Planning Commission of the City of Atascadero, in a regular session assembled on December 6, 2011 resolved to approve an Amendment to PLN 2007-1190 subject to the following:

- EXHIBIT A: Conditions of Approval
- EXHIBIT B: Site Plan
- EXHIBIT C: Floor Plan
- EXHIBIT D: Parking Areas

On motion by Commissioner _____________, and seconded by Commissioner _____________, the foregoing resolution is hereby adopted in its entirety by the following roll call vote:

AYES: ( )

NOES: ( )

ABSTAIN: ( )

ABSENT: ( )

ADOPTED:

CITY OF ATASCADERO, CA

__________________________
David Bentz
Planning Commission Chairperson

Attest:

__________________________
Warren M. Frace
Planning Commission Secretary
## Conditions of Approval

**PLN 2007-1190 Amendment**  
**CUP 2007-203**

### 9525 Gallina Ct

#### Planning Department Standard Conditions:

1. This Conditional Use Permit shall be for a 15-client residential care facility located at 9525 Gallina Ct (APN:054-272-025) regardless of owner.
   - **Timing:** FO
   - **Responsibility/monitoring:** PS

2. The approval of this Use Permit shall become final and effective for the purposes of issuing building permits fourteen (14) days following the Planning Commission approval unless prior to the time, an appeal to the decision is filed as set forth in Section 8-1-111(b) of the Zoning Ordinance.
   - **Timing:** BP
   - **Responsibility/monitoring:** PS

3. The Community Development Department shall have the authority to approve the following minor changes to the project that (1) modify the site plan project by less than 10%, (2) result in a superior site design or appearance, and/or (3) address a construction design issue that is not substantive to the Master Plan of Development. The Planning Commission shall have the final authority to approve any other changes to the Master Plan of Development and any associated Tentative Maps unless appealed to the City Council.
   - **Timing:** BP
   - **Responsibility/monitoring:** PS, CE

4. Discontinuance and re-establishment of this use shall be governed by the Atascadero Municipal Code non-conforming use provisions section 8-7.107
   - **Timing:** BP
   - **Responsibility/monitoring:** PS

5. The applicant shall defend, indemnify, and hold harmless the City of Atascadero or its agents, officers, and employees against any claim or action brought to challenge an approval by the City, or any of its entities, concerning the subdivision.
   - **Timing:** Ongoing

#### Planning Department Specific Conditions:

6. The facility shall meet or exceed all standards as required by the California Building Code (CBC) and any superseding local ordinances related to building safety and/or fire codes and regulations.
   - **Timing:** Ongoing
   - **Responsibility/monitoring:** BS/FD

7. The applicant shall limit parking to employees and visitors only. Residents of the care facility will not be allowed to store or park vehicles on the premise. Applicant shall properly maintain off-street parking areas as shown in Exhibit D.
   - **Timing:** Ongoing
   - **Responsibility/monitoring:** BS/FD
<table>
<thead>
<tr>
<th>Public Works Project Conditions</th>
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<tr>
<td>8. Provide verification from a licensed Civil Engineer stating that the septic system is designed and capable to handle the eight bedrooms proposed. If the current system is not large enough, a new system must be engineered and permitted prior to an increase in clients.</td>
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<td>BP</td>
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<tr>
<td>9. Show the 100% reserve leach field area on the plans with a note stating that structures cannot be built over or within eight feet of the reserve area. The size of the area is based on the size needed for up to 8 bedrooms.</td>
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<td>BP</td>
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</tbody>
</table>
Proposed new bedrooms (conversion of "common area")
Annette Manier

From: patjanet stone <patjan20@hotmail.com>
Sent: Tuesday, November 29, 2011 4:38 PM
To: Annette Manier
Subject: Our discussion this AM

Regarding our phone discussion this morning, I ask that at best this plan meeting should be put off until after the holidays. At least one of the street residents is out of town, and there is too much impact of this planned expansion without input from all affected residents, or at least an opportunity to speak.

As we discussed, I believe this would add too much density to this kind of housing development and development in the general area.

I would like to write more but am pressed for time.

Thank you for considering this.

Sincerely, Pat L. Stone

owner of the home across the street, 9520 Gallina Court.
From: John Ellis [mailto:johnellis1313@gmail.com]  
Sent: Tuesday, December 06, 2011 9:08 AM  
To: Warren Frace; Callie Taylor  
Cc: patjan20@hotmail.com  
Subject: PLN 2007-1190 - Hearing on Dec. 6th for 9525 Gallina Court Medical Facility Expansion in Residential Suburban Zoning  

I would be against this proposal for the following reasons.

This proposal is in breach of the attached "Declaration of Protective Covenants" at Article I, Section 1.01 Residential Use. This proposal is also in breach of the Atascadero City zoning as it is zoned RS (residential suburban).

Revenue from medical facility:  
Patients pay $6,000 per month  
Current Revenue is $60,000 per month or $720,000 per year (10 patients)  
Proposed Revenue is $90,000 per month or $1,080,000 per year (15 patients)  

This is bigger than a home business and causes significant traffic. This expansion appears to be driven by greed rather than consideration for the covenants or neighbors. This reduces "quality of lifestyle" for residents on Gallina Court and is inconsistent with the "Declaration of Protective Covenants" that binds the resident on Gallina Court from a legal perspective. This breach of covenant would be "actionable" in the Court of Law with the City as a possible co-defendant.

If this is allowed to proceed then there should be a proposed revenue sharing with the other Gallina Owners at say X% of the gross revenue to offset the nuisance factor and reduced quality of life. That way there are "mutual benefits" to compensate for reduction in quality of lifestyle and nuisance factors.

Thank you for your time and consideration.

Best Regards,

John Ellis  
423-2953
My name is Pat Stone. I own the home on 2.7 acres directly across the court from Ruth and Milan.

I am opposed to the application to increase the business at 9525 Gallina Court by 50% to 15 patients.

There are many reasons for this opposition. Added congestion to an area that was designed, approved by the city of Atascadero, and marketed as an elite, quiet area ideal for family living, this is one reason. Quality of life for family living in a family neighborhood is what this area was created for. And a Property Owners Association was created to insure that these values would be maintained. Everyone who purchased lots on this court must have valued this idea because this Association was accepted by each and every person who purchased their lot.

When Ruth and Milan created their business on Gallina Court they knowingly violated the terms and the very intent of our Association and our reasons for choosing to live in this area. But even worse than that, I feel that the present and future property owners were violated, trampled upon, by the city of Atascadero. The people running the city’s business are there to serve the needs and desires of all the people, not just the business applicants. Also, the Council and the city should respect the Covenants, Conditions, and Restrictions and the Associations which have been put in place for the reasons that those CC & R’s were legally placed there. I don’t believe that it is the right of the City to override the Association when it clearly states the method that must be followed in order to amend or alter any condition of the Association. This is a legally binding document. What right does any one property owner or the city have to ignore the legal steps that must be in force?

Ok, one may say that this argument has no place here tonight, what’s done is past history. I’m not so sure. This is an issue that will have to be taken up, now that the affected property owners see that the intent of this business is to expand and expand to who knows what extent. It is an issue that is going to have to be addressed possibly in court if the homeowners wish to maintain the intended quality of life. But at the very least this expansion must be stopped now before it gets any bigger than it is now.

I am here to ask, no--demand that the city make the legally and morally right decision and deny this request for an expansion of 50% or even 1% of this business.

Pat L. Stone and Janet I. Stone, owners of the property known as 9520 Gallina Court

December 6, 2011
Recording Requested By:
TICOR TITLE INSURANCE COMPANY
When Recorded Mail To:
Mr. John Drake
Mrs. Alberta Drake
683 Evana Road
San Luis Obispo, CA 93401

159983-RB

DEPARTMENT OF PROTECTIVE COVENANTS

FOR

RANCHO DE NUEVOS

Section 1.01 Residential Use
Section 6.03 Amendment or Revocation of the Association
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<td>III. Property Owners Association</td>
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<td>VI. General Provisions</td>
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</table>
DECLARATION OF PROTECTIVE COVENANTS
FOR
RANCHO DE HUEVOS

The undersigned are collectively referred to in
this declaration as "Declarant," and are the owners of real
property in the County of San Luis Obispo, State of
California, which is particularly described on Exhibit A
attached to this declaration, and referred to in this
declaration as "Rancho de Huevos" and as the "property." This
declaration is made in furtherance of a plan for the
subdivision, improvement and sale of the property.

Declarant declares that Rancho de Huevos, and every
parcel of land within it, shall be held, conveyed,
hypothecated, encumbered, leased, rented, used and occupied
subject to the following limitations, reservations, covenants,
conditions, servitudes, liens and charges, all of which are
declared to be for the purpose of maintaining and protecting
the value and attractiveness of Rancho de Huevos. This
declaration is for the benefit of all present and future
owners of Rancho de Huevos, shall constitute covenants to run
with the land, and shall be binding upon and shall inure to
the benefit of all persons having or acquiring any right or
title to, or interest in Rancho de Huevos or any portion of
it, and are equitable servitudes upon the land.

ARTICLE I
USE RESTRICTIONS

In addition to restrictions established by law and
by regulations which may be adopted from time to time by the
Board of Directors of the Property Owners Association, the following restrictions are imposed upon the use of each lot within Rancho de Nuevos and shall be binding upon all owners and occupants:

Section 1.01. Residential Use. Each lot within the property shall be a residential lot. No building shall be constructed or maintained on any lot other than a residence for a single family (including guests and household employees) not exceeding two stories in height, a private garage for not less than two cars, and suitable outbuildings customarily associated with residential use.

Section 1.02. Size of Residence. No single-family residence shall be constructed or maintained on any lot unless the residence has an interior floor area of more than one thousand six hundred (1600) square feet. In measuring the interior floor area, porches, patios, basements, and attached or unattached garages and carports shall not be included.

Section 1.03. Set-backs. No building or other structure, except fences, shall be located on any lot within fifty (50) feet of the front lot line, or within twenty-five (25) feet of the side and rear lot lines. An awning, roof overhang, or steps extending beyond the walls of any structure shall not constitute a violation of the set-back requirements of this declaration if the awning, roof overhang, or steps do not extend more than three (3) feet beyond the wall of the structure.

Section 1.04. Temporary Structures. No attached or unattached garage, structure of a temporary character, basement, trailer, tent, shack or other outbuildings shall be used on any lot as a residence, either temporarily or permanently, except that during construction of a residence, a mobile home or other temporary residence may be located on the lot for a period of not more than one (1) year.

Section 1.05. Trash and Debris. No part of any lot shall be used as a dumping ground for rubbish, trash, junk, garbage or manure. Trash, garbage, and other waste at all times shall be kept within closed containers. All incinerators or other equipment used for the storage or disposal of such material shall be kept in a clean and sanitary condition, and shall be maintained and operated in accordance with applicable State and local laws.

Section 1.06. Diligence in Construction. All construction work on a lot shall be done in a continuous and
diligently. It will be presumed that a residence has not been diligently constructed if it is not completed within twelve (12) months after the date of the issuance of the building permit.

Section 1.07. Utilities. All utility services shall be placed underground.

Section 1.08. Lawful Use. No activity shall be conducted on any lot which is unlawful, or which constitutes a nuisance to the neighborhood, or which interferes with the quiet enjoyment of the owners of other lots within Rancho de Nuevos.

Section 1.09. Vehicles. No vehicles shall be operated within Rancho de Nuevos which do not have mufflers in good operating condition. Inoperative vehicles must be stored within garages or other shelters.

ARTICLE II
ARCHITECTURAL CONTROL

Section 2.01. Architectural Committee. There shall be an Architectural Committee (the "Committee") which shall consist of three (3) persons.

Section 2.02. Membership. Declarant may appoint all of the members of the Committee and all replacements until the third anniversary of the recording of this declaration. Thereafter, all members of the Committee shall be appointed by the Board of Directors of the Property Owners Association.

Section 2.03. Plan Approval. No application shall be made to the City of Atascadero for the issuance of a building permit, nor shall any building, shed or other structure be constructed within Rancho de Nuevos, nor shall any exterior addition or alteration be made in an existing building or structure, until the site plan and construction plans and specifications showing the nature, height, color scheme, design, shape, dimensions, material and location of the building or structure have been approved in writing by the Committee. The Committee will not approve of plywood siding, or large, unbroken exterior surfaces, except when unusual circumstances exist. The Committee shall be concerned only with the exterior of a structure, and not with its interior design, color or material. To obtain Committee approval, all improvements must comply with ordinances of...
the City of Atascadero. The decision of the Committee shall take into account the harmony of the proposed plan with buildings in the neighboring community, surrounding improvements and topography. If the Committee fails to approve or disapprove such plans and specifications (or any corrected or amended plans and specifications) within thirty (30) days after submission to it, approval of the submitted plans and specifications will not be required, and this Section 2.03 will be deemed to have been complied with, if construction of the improvements shown on the plan is started within six (6) months after submission of the plan to the Committee. The Committee may, in its own name or on behalf of the Property Owners Association, exercise all available legal and equitable remedies to prevent or remove any unauthorized and unapproved improvements within Rancho de Nuevos.

Section 2.04. Meetings. The Committee shall meet from time to time as necessary to perform its duties. The vote or written consent of a majority of the members at a meeting or otherwise, shall constitute the act of the Committee. The Committee shall maintain a written record of all actions taken by it at such meetings or by written consent without a meeting. Members of the Committee shall not receive any compensation for services rendered.

Section 2.05. Architectural Rules. The Committee may adopt, amend and repeal, by majority vote or written consent, rules and regulations to be known as "Architectural Rules." The Architectural Rules shall interpret and implement this declaration by setting forth the standards and procedures for Committee review and the guidelines for design and placement of improvements.

Section 2.06. Roof Materials. Tile and treated wood shakes shall be acceptable roof material, but composition or asphalt roofing shall not be permitted.

Section 2.07. Communication Towers, Satellite Dishes and Other Antenna. Communication towers, satellite dishes and other antenna must be approved by the Committee with respect to size, location and visibility. The Committee may adopt rules exempting certain types of antennas from the requirement of Committee approval.

Section 2.08. Waiver. The approval by the Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Committee shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.
Section 2.09. Liability. No member of the Committee, if he or she has acted in good faith, shall be liable to any owner or other person for any damage, loss or prejudice suffered or claimed because of (a) the approval or disapproval of any plans, drawings or specifications, or (b) the construction of performance of any work, whether or not pursuant to approved plans, drawings and specifications.

ARTICLE III

PROPERTY OWNERS ASSOCIATION

Section 3.01. Membership. Every owner of a lot within Rancho de Nuevos shall be a member of the Property Owners Association ("Association"), which shall be an unincorporated association. There shall be no qualifications for membership other than ownership of real property within Rancho de Nuevos.

Section 3.02. Termination of Membership. A member’s membership in the Association shall cease upon the termination of such member’s status as an owner of real property within Rancho de Nuevos, whether by the sale, assignment or conveyance of his ownership interest or otherwise. An owner shall have no liability for assessments levied after the date on which his status as an owner of real property within Rancho de Nuevos is terminated.

Section 3.03. Avoiding Membership. An owner may not avoid the obligations of membership in the Association. Nonuse of roads, renunciation or abandonment of a parcel of real property, or any other act of abandonment or renunciation, shall not relieve an owner from the obligations of membership.

Section 3.04. Board of Directors. The Association shall be managed by a Board of Directors ("Board") which shall consist of six (6) Directors. The initial Directors of the Board shall be appointed by Declarant, and shall serve until the Declarant has sold all of the lots within Rancho de Nuevos. Thereafter, Directors shall be elected solely by the votes of owners of lots within Rancho de Nuevos.

Section 3.05. Voting. There shall be one vote for each separate lot within Rancho de Nuevos. Fractional votes shall not be allowed. If more than one person is the owner of a lot and such persons are unable to agree among themselves as to how their vote or votes shall be cast, they
shall lose their right to vote on the matter in question. If less than all of the persons jointly owning a lot cast a vote representing that lot, it will thereafter conclusively be presumed for all purposes that the vote was cast with the authority and consent of all the owners of that lot. If more than one vote is cast for a particular lot, such votes shall be void and shall not be counted.

Section 3.06. Elections. At such time as Declarant has sold all of the lots within Rancho de Nuevos, a meeting shall be held by members of the Association, and annually thereafter, for the election of members of the Board of Directors of the Association. All Directors shall be owners or agents of owners of lots within Rancho de Nuevos. Each owner entitled to vote at any election of the Board of Directors may cumulate his vote and give one candidate a number of votes equal to the number of Directors to be elected, or may distribute his vote on the same principle among as many candidates as he desires. An owner shall have separate voting rights for each lot owned.

Section 3.07. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a Director by a vote of the Association shall be filled by a majority vote of the remaining Directors, even though they may constitute less than a quorum.

Section 3.08. Officers. The Board of Directors shall elect from among them a President, vice-president, secretary, and treasurer of the Association. The treasurer may be, but need not be, a member of the Board.

Section 3.09. General Authority of the Board. The Board shall have authority to conduct all business affairs of the Property Owners Association. Powers of the Board shall include, but shall not be limited to, authority to collect maintenance assessments; to contract for and pay for repairs to roads and for legal and accounting services; to purchase and pay for insurance for the protection of the Board and of members of the Association; and to establish reasonable reserves for future expenditures.

ARTICLE IV
MAINTENANCE ASSESSMENTS

Section 4.01. Covenant to Pay Assessments. Declarant covenants for each lot owned by Declarant, and each owner other than Declarant by acceptance of a deed to a
The Association at its election may require the owner to pay a "late charge" in a reasonable sum to be determined by the Association, but not to exceed ten percent (10%) of the delinquent assessment or Thirty-Five Dollars ($35), whichever is greater. In any action to enforce payment of a delinquent assessment, the delinquent owner shall pay reasonable attorney's fees and costs incurred by the Association.

Interest shall accrue on all sums imposed in accordance with this Article V including the delinquent assessment, reasonable costs of collection, and late charges, at an annual percentage rate equal to the lesser of (a) twelve percent (12%) per annum, (b) the maximum permissible legal rate, or (c) a rate set by the Board. Interest shall begin to accrue thirty (30) days after an assessment becomes due.

Section 5.02. Notice Of Delinquent Assessment. The Association may record in the office of the County Recorder of San Luis Obispo County, California, a notice of delinquent assessment, with respect to any assessment that is not paid within fifteen (15) days after its due date. The notice of delinquent assessment shall constitute notice only, and shall not be or become a lien as described in Section 1367 of the California Civil Code. The notice shall state the amount of the assessment and other sums imposed in accordance with this Article V, the name(s) of the owner(s) of the property with respect to which the assessment was made, and a description of his record interest in the property. The notice of delinquent assessment shall be signed by the person designated by the Association for that purpose, or if no one is designated, by either the president or the secretary of the Association. Upon payment of the sum specified in the notice of delinquent assessment, the Association at the expense of the owner shall cause to be prepared and recorded a further notice stating that the delinquent assessment has been paid.

Section 5.03. Legal Action. The Association may file a lawsuit against a delinquent owner to enforce his assessment obligation. Any judgment rendered in such an action may include a sum for reasonable attorney's fees.

ARTICLE VI

GENERAL PROVISIONS

Section 6.01. Violation of Law. Any violation of any state, municipal or local law, ordinance or regulation,
pertaining to the ownership, occupation or use of land within Rancho de Nuevos, is hereby declared to be a violation of this declaration and subject to the enforcement procedures set forth herein.

Section 6.02. Attorney's Fees. In any action or proceeding to enforce or interpret any provision of this declaration, the prevailing party shall be entitled to recover reasonable attorney's fees.

Section 6.03. Amendment and Revocation. This declaration may be amended or revoked by an affirmative vote of two-thirds (2/3rds) or more of the voting power of the Association. An amendment shall be effective when (a) the required two-thirds percentage of members have approved of the amendment or revocation, either by written consent or by votes cast in person or by proxy at a meeting of the Association, and (b) the approval of the amendment or revocation has been certified in writing, signed and acknowledged by the officer designated by the Association for that purpose or, if none has been designated, by the president of the Association; and (c) the writing together with the wording of the amendment or revocation has been recorded in San Luis Obispo County.

Section 6.04. Notice of Transfer. Upon the lease, sale or other transfer of a lot, the owner who transfers the lot and the transferee shall promptly notify the Association in writing of the name and address of the transferee, the nature of the transfer and the lot involved, as well as such other information relative to the transfer and the transferee as the Association may reasonably request. The provisions of this section shall not apply to declarant.

Section 6.05. Cumulative Remedies. Each remedy provided by this declaration is cumulative and not exclusive.

Section 6.06. Partial Invalidity. The invalidity or partial invalidity of any provision of this declaration shall not affect the validity or enforceability of any other provision.

DECLARANT

Dated: ________, 1988

JOHN W. DRAKE

Dated: ________, 1988

ALBERTA B. DRAKE

Vol. 3160, pg 535
STATE OF CALIFORNIA
COUNTY OF San Luis Obispo

On JUNE 17, 1988 before me, the undersigned, a Notary Public in and for said County, personally appeared John W. Drake and Alberta B. Drake,

personally known to me or proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged that the same is their free and voluntary act.

WITNESS my hand and official seal.

Signed:

(Notary Public)

Official Seal:

(Official seal used for official record only)
EXHIBIT "A"

DESCRIPTION

LOTS 1 THROUGH 6 OF TRACT NO. 1477, IN THE CITY OF ATASCADERO, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, AS PER MAPRecorded June 20, 1988 IN BOOK 14, PAGE 64 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

(END OF DESCRIPTION)
To Whom It May Concern

As you are aware we are the owners of Paradise Valley Care and we have applied to the City of Atascadero for a Conditional Use Permit in order to increase our facility size to fifteen (15) residents from ten (10). On December 6th of this year we went before the planning commission and stated our reason and addressed concerns regarding the increase in size of the facility. After all issues were presented a vote was cast and our Conditional Use Permit was approved by a 5 to 2 vote. It has been brought to our attention that there has been an appeal to that vote and we hope that you will uphold the Conditional Use Permit that has already been granted to us through the vote cast on December 6th. The following is an explanation outlaying the reasons why.

My wife and I are the owners of 9525 Gallina Ct which currently also is the location of Paradise Valley Care, an elderly care facility that we opened over 12 years ago. Our elderly care facility is licensed by the State of California as is required by law. In 1999, when we first opened our home to Elderly individuals who no longer could care for themselves, we were first originally licensed for six (6) residents. During the first 7 years, the facility was operated mostly by ourselves with some help from employees during day shifts. Approximately around 2005 we decided to expand our services to accommodate more individuals who were seeking to place their loved ones in such a nice location as ours.

At that time we took the appropriate measures to get approval through the City of Atascadero and we applied for the Conditional Use permit. It was approved unanimously. The following year we realized that we should have applied for a conditional use permit to increase to ten (10) residents instead of eight (8). Again we took the appropriate measures to get approval through the City of Atascadero and we applied for the Conditional Use permit to increase the facility capacity to ten (10) residents. Again this was approved unanimously. Both of these times each neighbor was given the opportunity to voice their concern yet no one did. In many conversations with our neighbors, they were aware of the facility and expressed support and positive attitudes towards the services that we were providing.

During the planning commission meeting on December 6th a few property owners brought up concerns that our desires to obtain a Conditional Use Permit was in violation of the Home Owner Association for our street. Although there may be documents that have come with the property stating that there is a Home Owners Association for the street, the reality is that there was never an association formed. We are 1 of 2 original owners on the street and the longest owning owners of the two. The four additional properties on the street have been resold at least once and up to four times, as is the case with Mr. Stone’s property which is directly across the street from our property. The homeowner association was only a nice sales pitch as was evident through conversations with the developers whom we knew and whom use to be our neighbor. This was also evident since even originally 21 years ago there was never any home owner’s association board brought up, voted upon or formed. And since that time no home owners association actions have ever been brought up or discussed.

During the same meeting the concern regarding additional traffic on the road was also brought up. This was also defended and addressed. Traffic will not increase on the street because the facility increase will only bring 1 additional employee (and vehicle) to the road per shift. When employees are present at the facility, they are present for their entire shift and do not leave and come back frequently throughout the day. You can seldom see more than three cars parked in front of our house at any given time. Of course there are exceptions from time to time. During the day things are quiet with occasional short nurse visits. Our doctor comes once a month to check on all residents at one time, which
is nice because we don’t have to transport our residents to and from doctors’ office thus maintaining traffic low. The fact remains that there are other neighbors who are responsible for an equal amount of traffic if not more which again is not much. As stated by one of the Planning Commission members when he took a drive down our street he said that he could “not even tell which property on that street was an assisted living facility.”

In our discussions with Mr. Stone following the planning commission meeting it became apparent to us that his main concern has to do with the resale value and sell ability of his home. Let it be known that Mr. Stone does not nor has he ever lived in the home. He currently owns and lives in his home in San Luis Obispo. The property currently is being leased with an option to purchase. Mr. Stone has expressed a concern that the addition to the facility would cause it to look like a commercial property and thus would diminish the value of his property. The fact is that our property is the best and most maintained property on the street. We take pride in providing a lovely environment where our residents can enjoy beautiful scenery as they live out the end of their lives. During the December 6th meeting one of the council men who actually drove the street stated that our property “was the most up kept of all the properties on the block” As stated by staff in the planning commission meeting there are small changes to the interior of the home that will not alter the home like look.

In the time that Mr. Stone has owned the property he has allowed the property to deteriorate dramatically even though I have personally helped him with weed abatement while the home has sat vacant, free of charge. In a conversation with our son, earlier this year, who was interested in purchasing the property, Mr. Stone expressed that he would like to sell the home for no less than $10,000.00 more than what he bought it for. When Mr. Stone was asked by our son whether or not he felt that his home had actually appreciated $10,000.00 in the previous two years in this economy, Mr. Stone stated “yes”. It was apparent that Mr. Stone was not being reasonable nor fully grasping the reality of the economy and real estate decline that has affected all across the nation. It is with this understanding that Mr. Stone does not truly understand the issue of property value. If Mr. Stone is concerned with the value of his property dropping or inability to sell it, he may want to focus on the up keeping of his property. In fact, after the meeting Mr. Stone expressed to us that the individuals who lives/lease the home from him are not bothered nor will it prevent them from desiring to go through with their plans of purchasing the home from Mr. Stone as per the agreement that was made by them. Thus his concerns of selling the home are null as the knowledge of a facility across the street did not prevent him from purchasing this same property.

In conclusion, I know we are making a difference in caring for those who no longer can do it for themselves. We are not only making their lives better, but the lives of their families. Feedback we receive from the families tells it all. My sincere hope is that we will get your support through upholding the Conditional Use Permit already granted to us and allow us to provide peace of mind through accommodating those who are waiting. We look forward to meeting with you on January 10, 2012.

Thank you,

Milan Vraajich

In Summary, my main points are:
1. The supposed CC&Rs never existed – no association was ever formed by the original owners.
2. Mr. Stone’s property will not decrease value as a result of the increase in residents because:
   a. Traffic will not be an issue with the increase.
   b. The outside of property will not change in appearance.
   c. We will never go over 15 residents and look like a commercial property.
DRAFT RESOLUTION A

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATASCADERO
9525 GALLIANA COURT (VRAJICH)

WHEREAS, an application has been received from Ruth and Milan Vrajich, 9525 Gallina Court, Atascadero, CA 93422, (Owner and Applicant) to consider an Amendment to PLN 2007-1190/Conditional Use Permit 2007-0203 to allow up to 15 clients at an existing residential care facility at the site of an existing 10-client facility at 9525 Gallina Court (APN 054-272-025); and,

WHEREAS, the site’s current General Plan Designation is Rural Estate (RE); and,

WHEREAS, the site’s current zoning district is Residential Suburban (RS); and,

WHEREAS, Residential Care Facilities serving 6 or more clients is a Conditional Use in the RS Zone; and,

WHEREAS, the facility is currently approved for a maximum of 10 clients; and,

WHEREAS, the project is Class 1 Categorically Exempt for Infill Projects in accordance with the California Environmental Quality Act (CEQA); and,

WHEREAS, a timely and properly noticed Public Hearing upon the subject Conditional Use Permit application was held by the Planning Commission of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said application; and,

WHEREAS, the Planning Commission of the City of Atascadero, at a duly noticed Public Hearing held on December 6, 2011, approved the Conditional Use Permit 2007-0203, after first studying and considering the testimony and the environmental determination prepared for the project, and,

WHEREAS, an appeal of the project was received within the 14 day project appeal period by Pat Stone, property owner at 9520 Gallina Court, and,
WHEREAS, the City Council of the City of Atascadero, at a duly noticed Public Hearing held on January 10, 2012, studied and considered the Conditional Use Permit 2007-0203, after first studying and considering the materials prepared for the project, and,

NOW, THEREFORE, the City Council of the City of Atascadero takes the following actions:

SECTION 1. Findings upholding Planning Commission’s approval of an amendment to Conditional Use Permit 2007-0203. The City Council finds as follows:

1. The proposed project or use is consistent with the General Plan and the City’s Appearance Review Manual; and,
2. The proposed project or use satisfies all applicable provisions of the Title (Zoning Ordinance); and,
3. The establishment, and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety, or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use; and,
4. That the proposed project or use will not be inconsistent with the character or the immediate neighborhood or contrary to its orderly development; and,
5. That the proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved in conjunction with the project, or beyond the normal traffic volume of the surrounding neighborhood that would result from full development in accordance with the Land Use Element.

SECTION 2. Approval. The City Council of the City of Atascadero, in a regular session assembled on January 10, 2012, resolved to uphold the Planning Commission’s approval of an amendment to Conditional Use Permit 2007-0203 subject to the following:

EXHIBIT A: Conditions of Approval
EXHIBIT B: Site Plan
EXHIBIT C: Floor Plan
EXHIBIT D: Parking Areas
On motion by Council Member ________________ and seconded by Council Member ________________, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

AYES:

NOES:

ABSENT:

ADOPTED:

CITY OF ATASCADERO

By: ________________________________

Bob Kelley, Mayor

ATTEST:

Marcia McClure Torgerson, C.M.C., City Clerk

APPROVED AS TO FORM:

_______________________________________

Brian A. Pierik, City Attorney
## EXHIBIT A: Conditions of Approval

<table>
<thead>
<tr>
<th>Conditions of Approval</th>
<th>Planning Department Standard Conditions</th>
<th>Planning Department Specific Conditions</th>
</tr>
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<tbody>
<tr>
<td>PLN 2007-1190 Amendment</td>
<td>Planning Department Standard Conditions</td>
<td>Planning Department Specific Conditions</td>
</tr>
<tr>
<td>CUP 2007-0203</td>
<td>Planning Department Standard Conditions</td>
<td>Planning Department Specific Conditions</td>
</tr>
<tr>
<td>9525 Gallina Ct</td>
<td>Planning Department Standard Conditions</td>
<td>Planning Department Specific Conditions</td>
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</table>

### Planning Department Standard Conditions

1. **This Conditional Use Permit shall be for a 10 client residential care facility located at 9525 Gallina Ct (APN 054-272-025) regardless of owner.**

2. **The approval of this Use Permit shall become final and effective for the purposes of issuing building permits fourteen (14) days following the Planning Commission approval unless prior to the time, an appeal to the decision is filed as set forth in Section 9-1.111(b) of the Zoning Ordinance.**

3. **The Community Development Department shall have the authority to approve the following minor changes to the project that (1) modify the site plan project by less than 10%, (2) result in a superior site design or appearance, and/or (3) address a construction design issue that is not substantive to the Master Plan of Development. The Planning Commission shall have the final authority to approve any other changes to the Master Plan of Development and any associated Tentative Maps unless appealed to the City Council.**

4. **Discontinuance and re-establishment of this use shall be governed by the Atascadero Municipal Code non-conforming use provisions section 9-7.107.**

5. **The applicant shall defend, indemnify, and hold harmless the City of Atascadero or its agents, officers, and employees against any claim or action brought to challenge an approval by the City, or any of its entities, concerning the subdivision.**

### Planning Department Specific Conditions

6. **The facility shall meet or exceed all standards as required by the UBC California Building Code (CBC) and any superseding local ordinances related to building safety and/or fire codes and regulations.**

7. **The applicant shall limit parking to employees and visitors only. Residents of the care facility will not be allowed to store or park vehicles on the premise. Applicant shall properly maintain off-street parking areas as shown in Exhibit D.**

<table>
<thead>
<tr>
<th>Timing</th>
<th>Responsibility /Monitoring</th>
<th>Mitigation Measure</th>
</tr>
</thead>
<tbody>
<tr>
<td>BL: Business License</td>
<td>BP: Building Permit</td>
<td>PS: Planning Services</td>
</tr>
<tr>
<td>GP: Grading Permit</td>
<td>FI: Final Inspection</td>
<td>BS: Building Services</td>
</tr>
<tr>
<td>TO: Temporary Occupancy</td>
<td>FO: Final Occupancy FM: Final Map</td>
<td>PD: Police Department</td>
</tr>
<tr>
<td>CE: City Engineer</td>
<td>WW: Wastewater</td>
<td>CA: City Attorney</td>
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<tr>
<td>PS</td>
<td>CE</td>
<td>BS/FD</td>
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</table>
### Public Works Project Conditions

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<tr>
<td><strong>8.</strong></td>
<td><strong>Provide verification from a licensed Civil Engineer stating that the septic system is designed and capable to handle the eight bedrooms proposed. If the current system is not large enough, a new system must be engineered and permitted prior to an increase in clients.</strong></td>
<td><strong>BP</strong></td>
</tr>
<tr>
<td><strong>9.</strong></td>
<td><strong>Show the 100% reserve leach field area on the plans with a note stating that structures cannot be built over or within eight feet of the reserve area. The size of the area is based on the size needed for up to 8 bedrooms.</strong></td>
<td><strong>BP</strong></td>
</tr>
</tbody>
</table>
EXHIBIT B: Site Plan
EXHIBIT C: Floor Plan

Proposed new bedrooms
(conversion of “common area”)
EXHIBIT D: Parking Area

- 5 Parking Spaces
- 2 Parking Spaces
- 3 Parking Spaces
DRAFT RESOLUTION B

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF ATASCADERO
GRANTING THE APPEAL OF PLN 2007-1190 / CONDITIONAL USE
PERMIT 2007-0203 AT APN 054-272-025 AND DENYING THE
REQUEST TO INCREASE THE NUMBER OF RESIDENTIAL CARE
CLIENTS FROM TEN TO FIFTEEN PERSONS
9525 GALLINA COURT
(VRAJICH)

WHEREAS, an application has been received from Ruth and Milan Vrajich, 9525 Gallina Ct, Atascadero, CA 93422, (Owner and Applicant) to consider an Amendment to PLN 2007-1190 / Conditional Use Permit 2007-0203 to allow up to 15 clients at an existing residential care facility at the site of an existing 10-client facility at 9525 Gallina Ct. (APN 054-272-025); and,

WHEREAS, the site’s current General Plan Designation is Rural Estate (RE); and,

WHEREAS, the site’s current zoning district is Residential Suburban (RS); and,

WHEREAS, Residential Care Facilities serving 6 or more clients is a Conditional Use in the RS Zone; and,

WHEREAS, the facility is currently approved for a maximum of 10 clients; and,

WHEREAS, the project is Class 1 Categorically Exempt for Infill Projects in accordance with the California Environmental Quality Act (CEQA); and,

WHEREAS, a timely and properly noticed Public Hearing upon the subject Conditional Use Permit application was held by the Planning Commission of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said application; and,

WHEREAS, the Planning Commission of the City of Atascadero, at a duly noticed Public Hearing held on December 6, 2011, approved the Conditional Use Permit 2007-0203, after first studying and considering the testimony and the environmental determination prepared for the project, and,
WHEREAS, an appeal of the project was received within the 14 day project appeal period by Pat Stone, property owner at 9520 Gallina Court, and,

WHEREAS, the City Council of the City of Atascadero, at a duly noticed Public Hearing held on January 10, 2012, studied and considered the Conditional Use Permit 2007-0203, after first studying and considering the materials prepared for the project, and,

NOW, THEREFORE, the City Council of the City of Atascadero takes the following actions:

SECTION 1. Findings for denial of amendment to PLN 2007-1190 / CUP 2007-0203. The City Council finds as follows:

1. The proposed project or use is inconsistent with the General Plan and the City’s Appearance Review Manual; or,

2. The proposed project or use does not satisfy all applicable provisions of the Title (Zoning Ordinance); or,

3. The establishment, and subsequent operation or conduct of the use will, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety, or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use; or,

4. That the proposed project or use will be inconsistent with the character or the immediate neighborhood or contrary to its orderly development; or,

5. That the proposed use or project will generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved in conjunction with the project, or beyond the normal traffic volume of the surrounding neighborhood that would result from full development in accordance with the Land Use Element.

SECTION 3. Denial. The City Council of the City of Atascadero, in a regular session assembled on January 10, 2012, resolved to grant the appeal and deny an amendment to Conditional Use Permit 2007-0203.

On motion by Council Member ________________ and seconded by Council Member ________________, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:
AYES:

NOES:

ABSENT:

ADOPTED:

CITY OF ATASCADERO

By:______________________________

Bob Kelley, Mayor

ATTEST:

_______________________________________
Marcia McClure Torgerson, C.M.C., City Clerk

APPROVED AS TO FORM:

_______________________________________
Brian A. Pierik, City Attorney