

ORDINANCE 20-335

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION VIEJO APPROVING ZONE CHANGE ZC2019-22, BEING A PETITION SUBMITTED BY CONFLUENT DEVELOPMENT, TO PLACE A SENIOR HOUSING OVERLAY ZONE ON 2.92 ACRES OF PROPERTY LOCATED AT 28570 MARGUERITE PARKWAY, IN THE CH (COMMERCIAL HIGHWAY) ZONE, FURTHER DESCRIBED AS ASSESSOR PARCEL NUMBER 740-012-21.

A. INTENT OF CITY COUNCIL

1. Zone Change ZC2019-22 was initiated by Confluent Development in accordance with the provisions of the City of Mission Viejo Municipal Code;
2. Conditional Use Permit CUP2019-408, Planned Development Permit PDP2019-309, and Variance VAR2019-53 (hereafter “Related Applications”) were submitted in conjunction with Zone Change ZC2019-22 by Confluent Development;
3. ZC2019-22 proposes a Senior Housing Overlay of the 2.92-acre subject site, currently zoned CH (Commercial Highway);
4. Aggregately, ZC2019-22 and the Related Applications constitute the “Proposed Project,” which consists of a 3-story, 166,000-square-foot facility comprising 132 living units with 166 beds, including 102 assisted living units with 136 beds, and 30 memory/congregate care units with 30 beds. Below-grade parking is proposed with 121 parking spaces, plus four surface spaces for a total of 125 parking spaces;
5. ZC2019-22 was processed in the time and manner prescribed by state and local law;
6. Notice of a Planning and Transportation Commission public hearing regarding the Proposed Project was published in the *Saddleback Valley News* on November 14, 2019, sent to all property owners and tenants within a 500-foot radius, and posted as required by state and local law;
7. The Planning and Transportation Commission conducted a duly noticed public hearing on December 9, 2019, at which time interested parties had an opportunity to testify either in support of, or in opposition to, the Proposed Project;
8. The Planning and Transportation Commission adopted Resolution 2019-1419 recommending approval of ZC2019-22;
9. Notice of a City Council public hearing regarding the Proposed Project was published in the *Saddleback Valley News* on January 2, 2020, sent to all property owners and tenants within a 500-foot radius, and posted as required by state and local law;
10. The City Council conducted a duly noticed public hearing on January 14, 2020, at which time interested parties had an opportunity to testify either in support of, or in opposition to, the Proposed Project; and

11. All legal preconditions to the adoption of the Ordinance have occurred as required by law.

B. ORDINANCE

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MISSION VIEJO DOES ORDAIN AS FOLLOWS:

SECTION 1

In all respects as set forth in Part A, Intent of the City Council, which is hereby incorporated by reference.

SECTION 2

That the City of Mission Viejo City Council hereby finds as follows:

1. That ZC2019-22 is consistent with the City of Mission Viejo General Plan as to all element and land use objectives.
2. That ZC2019-22 would not be detrimental to the public interest, health, safety, convenience, or welfare of the City because it furthers the goal of the General Plan to provide housing to all economic levels of residents and it makes the highest and best use of the underused property. Potential environmental impacts, such as traffic generation, are less than would be generated with the continued operation of a commercial shopping center at the subject property.
3. That ZC2019-22 would maintain the appropriate balance of zoning districts/land uses within the City, providing senior/assisted living housing options for residents, addressing both local and regional housing demand.
4. That the subject parcel is physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the CH (Commercial Highway) zoning designation and anticipated senior/assisted living development as described in the materials arising from the Planning and Transportation Commission hearing, the staff report for this Ordinance, and all oral and written public testimony, including all conditions applicable to the development pursuant to the Proposed Project .

SECTION 3

Environmental issues related to the Proposed Project are discussed in the environmental review document entitled: "Initial Study/Mitigated Negative Declaration, Morningstar of Mission Viejo Senior/Assisted Living Project" dated November 14, 2019 (hereafter the "IS/MND"). The City of Mission Viejo City Council hereby finds and determines that:

1. The Proposed Project produces no greater impacts than those described in the IS/MND. The City Council further finds and determines that the mitigation measures set forth in the IS/MND are sufficient to mitigate all potentially significant impacts to less than significant levels. Therefore, the requirements of the California Environmental Quality Act (CEQA) have been met.
2. After examining the IS/MND and taking public comment on the Proposed Project and IS/MND, the City Council, in its independent judgment, finds that potential significant adverse impacts are

mitigated to a level of insignificance with the mitigation measures identified in the IS/MND and the conditions imposed on the Proposed Project individual applications.

3. In light of all the evidence and testimony before this City Council, this City Council adopts the project IS/MND in conjunction with the project. The mitigation measures are found in the IS/MND and in the conditions set forth in the resolution for the Related Applications constituting the Proposed Project. The mitigation is structured to include appropriate monitoring as set forth in the Mitigation Monitoring and Reporting Program, referenced as Exhibit “B” herein.

SECTION 4

That the City Council of the City of Mission Viejo hereby approves Zone Change ZC2019-22, being a petition submitted by Confluent Development, to a Senior Housing Overlay of the 2.92-acre subject site, currently zoned CH (Commercial Highway) at the subject site situated at the northeast corner of the intersection of Avery and Marguerite Parkways, at 28570 Marguerite Parkway, further described as assessor parcel number 740-012-21, subject to the condition set forth in Section 4 below. The Proposed Senior Housing Overlay Zone Map is attached to this ordinance and identified as Exhibit “A”. As part of this action, the City of Mission Viejo Zoning Districts Map will be amended to reflect the proposed change in land use designations and the City Clerk shall maintain the revised map in the permanent records of the City.

SECTION 5

That all the terms and conditions set forth in Chapter 9.51, as amended, of the Mission Viejo Municipal Code (Zoning Map Amendments) are hereby incorporated into this Ordinance by reference and are the sole responsibility of Confluent Development to fund and construct to approved completion.

SECTION 6

That the City of Mission Viejo City Council hereby declares that the provisions of this Ordinance are severable and if for any reason a court of competent jurisdiction holds any sentence, paragraph, or section of this Ordinance to be invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 7

That this Ordinance shall be in full force and effect thirty days after its passage. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be published and/or posted as required by law.

PASSED, APPROVED AND ADOPTED this 28th day of January , 2020.

Brian Goodell, Mayor

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF MISSION VIEJO)

I, Kimberly Schmitt, City Clerk of the City of Mission Viejo, do hereby certify that the foregoing Ordinance 20-335 was duly introduced and placed upon its first reading at a regular meeting of the City Council on the 14th day of January, 2020, and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 28th day of January, 2020 by the following vote, to wit:

AYES: Bucknum, Goodell, Kelley, Rath, and Sachs
NOES: None
ABSENT: None

Kimberly Schmitt
City Clerk

APPROVED AS TO FORM:

William P. Curley
City Attorney