

City of Glendale
Development Services Department
Planning Division

Failed
 Conditionally Approved
 Approved

VAR24-12 Narrative

Sydney Tirella _____ 1/21/2025
 BY DATE

REQUEST FOR ACCOMODATION

Date	July 25, 2024
Petitioners	Gabriela Kaneva Owner Magnolia Place Assisted Living LLC, Owner Valeri Dimov, Father-In Law and Older Adult Ligia Ilea, Lobbyist -INTouch Care Management
Address	19535 N 55 th Drive Glendale, Arizona 85308
Description of accommodation requested:	A request to approve said property after its expired zoning as a Group Care Facility 1-5 beds to accommodate seniors with disabilities.

A. Disability Accommodation (Reasonable Accommodation) – Request for Group Care Facility (1-5 residents)

1. The requesting party or occupants of the housing for which the request is made are protected under the Fair Housing Act and/or the Americans with Disabilities Act. Explain if the Residents of the proposed housing are individuals with disabilities, as defined per Glendale ordinances Chapter 34 Sec 34- Definitions

This Facility will be licensed by AZDHS as an Assisted Living Home to care for 1-5 seniors with disabilities. A Manager’s license approved by the NCIA Board will be posted conspicuously. See current Floor Plan below. This request includes a request for accommodation on behalf of Valeri Dimov, a 69-year Male who is wanting to move into Assisted Living to help with daily ADL’s, household chores, and medication management. Mr. Dimov is the Father of Radostin Kanev the Husband of the main petitioner Gabriela Kaneva. Mr. Dimov will only move into an Assisted Living Home because his son and daughter in law are within walking distance and promise to visit often. Mr. Dimov will lose his opportunity to move into an Assisted living Home and be close to his children due to the Certificate of occupancy being denied by Zoning.

2. Explain how the proposed disability accommodation being sought are reasonable and necessary to afford the subject individual(s) with disabilities an equal opportunity to use and enjoy the housing that is subject of this request

The FHA requires that government entities make reasonable accommodations in land use and zoning policies/procedures if the accommodation is necessary to give people with disabilities an equal opportunity to use and enjoy their housing. Therefore, even though a zoning ordinance imposes the same restrictions on group homes as it imposes on other groups of unrelated people, the government entity may be required to grant a reasonable accommodation to a group home for people with disabilities.

Residential & Group Care Facilities have become the main provider to seniors with disabilities for treatment and recovery. 4 years ago, Arizona had over 1800+ Assisted Living Homes, despite facilities popping up all over Arizona the numbers have decreased significantly to 1668 Assisted living homes, while Assisted living Centers and Behavioral Homes and Nurse supported Group Homes have all increased insignificantly over the years. As treatment models have evolved, residential facilities have gained an advantage through the opioid epidemic and the Covid-19 pandemic as a preferred place for seniors to live with disabilities and individuals looking for higher staffing ratios and one on one care. While the

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perception of some is that the seniors are considered "outsiders" coming into their community to spread crime, cluster or annoyances, the reality is that the addiction is a disability that affects every community and class of society. These are the brothers, sisters, and parents, and friends who already live in our communities. What protections are afforded to those who are simply seeking a safe place to recover and overcome in a familiar community, close to their support network?

Glendale is the 6th most populated city in Arizona with a population of 255,490 and a 2.63% increase since 2020. The poverty rate is 17.2% (way above the national average of 11.5%) There are 185,362 adults in Glendale out of which 31,782 are seniors with an old age dependency ratio of 20.7% which means there are currently **6,578** seniors needing care or assistance with their care. There are 12 Assisted Living Centers and 123 Assisted Living Homes in Glendale with a total capacity of **896** beds available. There are 6 Long Term Care Facilities (Skilled Nursing) with a capacity of **970** beds. Fair Housing Laws are put in place to protect aging adults from being institutionalized, as an aging specialist I can attest to the growing need for care. Larger communities are evicting many seniors due to a catheter, or wounds, or mental changes, and due to the caregiver crisis. Residential Care Homes have taken most of the aging adults with complexities and high levels of care who don't qualify for Skilled Nursing. Therefore, our aging seniors need places close to their loved ones, so they don't have to move to a facility in another city and risk them not having any family or visitors. There are 12,058 Veterans out of which 5,174 are over 65, not counting those who disabled and under 65 years of age. Glendale has committed to a "Dementia Friendly Glendale", and we believe that Residential Care Homes plays a big part in offering housing to the members in our city.

-This request does not impose an undue burden or expense on the local government.

Granting an exception or waiver to the Croup Care facility in this circumstance does not invalidate the ordinance. The Department of Justice and HUD take the position, and most courts that have addressed the issue agree, that density restrictions are generally inconsistent with the Fair Housing Act.

Nearby facilities **94.3% Full Capacity** (Report completed on 7/23/24 by Intouch Care Management)

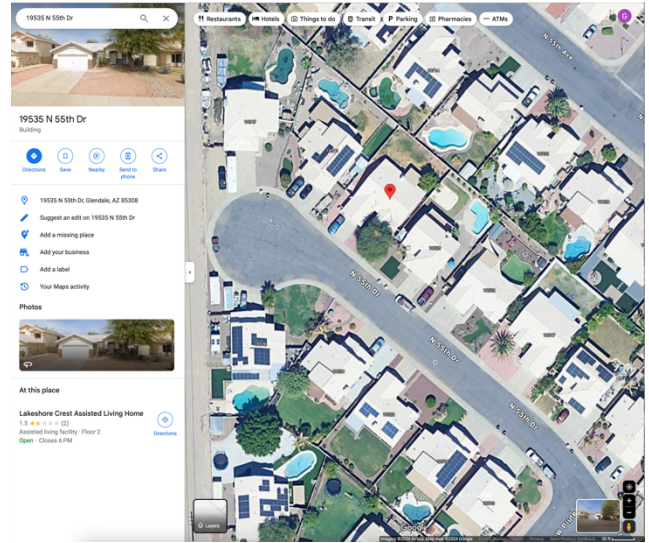
- 5330 West Tonto Road Glendale, AZ 85308 (1 room available) distance 0.4 miles 10 beds (90% full)
- 5452 West Topeka Drive Glendale, Arizona 85308 (1 room available) distance 0.5 miles 5 beds (80% full)
- 6076 W Piute Ave Glendale, Arizona 85308 (0 rooms available) distance 1.3 miles 5 beds (capacity 100%)
- 4749 West Piute Ave Glendale, Arizona 85308 (0 rooms available) distance 1.4 miles 5 beds (capacity 100%)
- 5226 West Topeka Drive Glendale, Arizona 85308 (0 rooms available) distance 4 miles 10 beds (100% capacity)

3. Explain how the requested number of residents in the proposed home will not interfere with the normalization and community integration of the occupants of any exhibiting community residence home, and how the home will maintain a residential character.

Due to the historical background of this property, it has been licensed as a Group Care Facility since 2004 and has not interfered with the normalization of the community. This request is asking the City of Glendale that the zoning history not be overlooked because of the new zoning laws effective 2024 but be grandfathered in.

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The Property has 4 parking spots without using street access. Below you can see aerial images from google that the proposed location does not create clustering and is also located in a cul-de-sac. No exterior change which would alter its residential character shall be made to the exterior of the building(s) and the grounds.

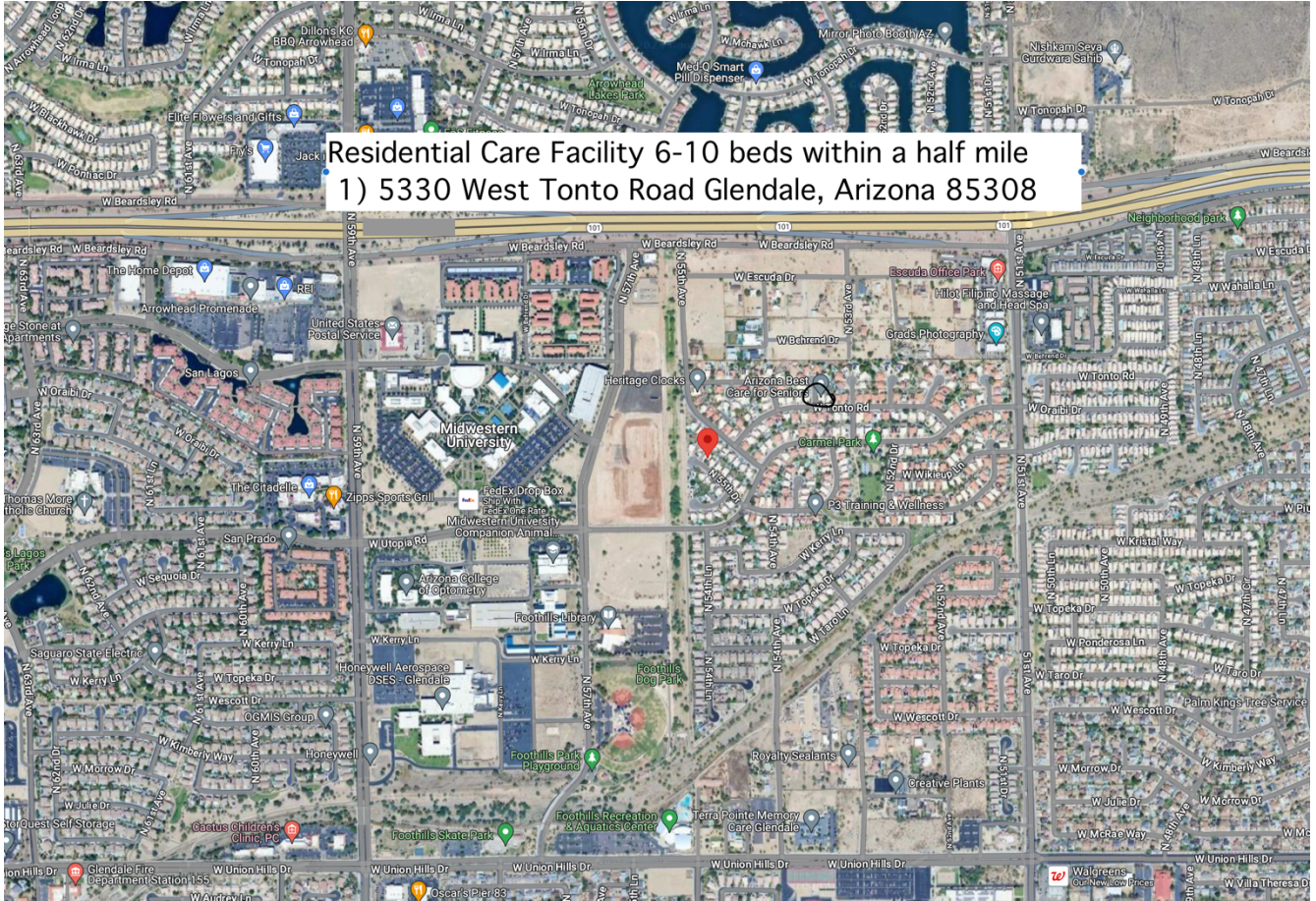


4. How many Group Care Facilities are within 1/2 mile from the proposed Group Care Facility and what are the addresses?



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5. How many Residential Care Homes (6-10) are within ½ mile from the proposed Group Care Facility and what are the address?



6. Are there any natural or man-made barriers within a half mile from the expired Group Care Facility, and if so, what are the features?

Man made Streets

7. How many Group Care Facilities are within a half mile from the proposed Group Care Facility, excluding those separated by either a natural or man-made barriers and what are the addresses?

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Previous Approved Assisted Living Home “Request for accommodations”.

- Property located at 4350 E Saint John Road Phoenix AZ 85032 (was a R3 1-5 bed and approved as a 10 bed while another 10 bed was a few doors down with no separations (4302 E Saint John Road Phoenix, Arizona 85032) the distance between these facilities is 0.1 mile 0.000694444 sq ft (a request for accommodation was approved) (see attached)
- Property located at 2412 West Fetlock Trail Phoenix, Arizona 85085 had 5 Assisted Living Homes within 1/2 a mile. A request for accommodation was approved as a new R# 1-5 bed Assisted Living Home.
- Property located at 1465 North Robin Lane Mesa, Arizona 85213 is a R3 1-5 bed and has recently been approved as an R4 6-10 Assisted Living Home.

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Fair Housing & Zoning

Since the federal Fair Housing Act ("the Act") was amended by Congress in 1988 to add protections for persons with disabilities and families with children, there has been a great deal of litigation concerning the Act's effect on the ability of local governments to exercise control over group living arrangements, particularly for persons with disabilities. The Department of Justice has taken an active part in much of this litigation, often following referral of a matter by the Department of Housing and Urban Development ("HUD"). This joint statement provides an overview of the Fair Housing Act's requirements in this area. Specific topics are addressed in more depth in the attached Questions and Answers. The Fair Housing Act prohibits a broad range of practices that discriminate against individuals on the basis of race, color, religion, sex, national origin, familial status, and disability.⁽¹⁾ The Act does not pre-empt local zoning laws. However, the Act applies to municipalities and other local government entities and prohibits them from making zoning or land use decisions or implementing land use policies that exclude or otherwise discriminate against protected persons, including individuals with disabilities.

The Fair Housing Act makes it unlawful --

- To take action against, or deny a permit, for a home because of the disability of individuals who live or would live there. An example would be denying a building permit for a home because it was intended to provide housing for persons with mental retardation.
- To refuse to make reasonable accommodations in land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.
- What constitutes a reasonable accommodation is a case-by-case determination.

Q. Does the Fair Housing Act pre-empt local zoning laws?

No. "Pre-emption" is a legal term meaning that one level of government has taken over a field and left no room for government at any other level to pass laws or exercise authority in that area. The Fair Housing Act is not a land use or zoning statute; it does not pre-empt local land use and zoning laws. This is an area where state law typically gives local governments primary power. However, if that power is exercised in a specific instance in a way that is inconsistent with a federal law such as the Fair Housing Act, the federal law will control. Long before the 1988 amendments, the courts had held that the Fair Housing Act prohibited local governments from exercising their land use and zoning powers in a discriminatory way.

DocuSigned by:

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