

From: [Andy Newkirk](#)
To: [Andy Newkirk \(anewkirk@cityofgoleta.org\)](mailto:anewkirk@cityofgoleta.org)
Subject: FW: Hersel Mikaelian re Senior Care Facility
Date: Saturday, September 07, 2019 8:04:00 AM
Attachments: [658873.pdf](#)

From: Diana Burkhardt <DBurkhardt@aklaw.net>
Sent: Thursday, September 05, 2019 2:55 PM
To: Peter Imhof <pimhof@cityofgoleta.org>
Subject: Hersel Mikaelian re Senior Care Facility

Dear Mr. Imhof – attached please find a letter from Charles D. Kimbell regarding the subject matter.

Diana Burkhardt
dburkhardt@aklaw.net

Paralegal to Charles D. Kimbell, Esq. and Bradley E. Lundgren, Esq.

ALLEN & KIMBELL, LLP

317 East Carrillo Street

Santa Barbara, CA 93101

805-963-8611

Fax:805-962-1940

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PAUL A. GRAZIANO*†
JOHN H. PARKE
BRADLEY E. LUNDGREN
JAMES M. SWEENEY

DAVID E. GRAFF*
JOSEPH R. BILLINGS
IAN L. ELSENHEIMER

CHARLES D. KIMBELL
CHRISTOPHER E. HAHN
TIMOTHY R. DEAKYNE
OF COUNSEL

GEORGE H. ALLEN
(1921-2010)

*Certified Specialist: Estate Planning,
Trust and Probate Law
†Certified Specialist: Taxation Law
The State Bar of California
Board of Legal Specialization

kkimbell@aklaw.net

September 5, 2019

VIA EMAIL and U.S. MAIL

City of Goleta Planning Commission
c/o Peter T. Imhof, Planning Director
130 Cremona Drive, Ste. D
Goleta, CA 93117

Re: *Hersel Mikaelian; Senior Care Facility*

Ladies and Gentlemen:

I expect that at your hearing on Monday, September 9, 2019, regarding the revised zoning ordinance, that you will consider the issue of whether assisted care facilities for the elderly should be permitted in single family residential zones, and, if so, under what conditions. The rationale and logic for inclusion of a workable structure for such inclusion has been well stated in Hersel Mikaelian's letter delivered to you earlier this week. The purpose of this letter is to suggest a means by which a policy to enable elderly housing in residential zones may be accomplished should the objective of providing such housing be philosophically affirmed by the Commission.

Specifically what my client seeks to achieve is to enable elderly care facilities to be built on each of his twelve (12) residential lots. The issue is what are the conditions under which this can be accomplished under the various means open to us?

A possible mechanism exists in existing City ordinances and in the proposed draft ordinance, and that is under the concept of "Supportive Housing". That is a permitted use in the R-1 zone, but there is ambiguity with respect to the persons qualified to live in Supportive Housing. Your current draft ordinance parrots the State statutes providing for Supportive Housing. The definitions provide that Supportive Housing is for the "Target Population" as further defined in the ordinance. The problem lies in the definition of "Target Population". It is ambiguous as to whether elderly persons clearly included within that definition must be of low

income or not. The uncertainty with respect to the application of that definition will preclude any efforts to utilize this mechanism as a way to provide for elderly care. The simple way to fix this is to clarify that supportive housing may be used for the elderly without any income limitations. To that end we suggest the following modification to the definition of Target Population in the pending ordinance:

“17.72.010 Residential Uses Residential Housing Types:

1 – Change the definition of Supportive Housing to read as follows (revisions are underlined):

Supportive Housing. Housing with no limit on length of stay, that is occupied by the target population as defined in California Government Code, Section 65582, and that is linked to an on-site or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. A minor conditional use permit (Planning Director approval) may be required for the on-site or offsite building that provides the support services (kitchen, lounge, recreation room, etc.). In addition to the Target Population, Supportive housing and services may also be occupied by all elderly persons regardless of income (i.e. no income restrictions).”

In addition there is a serious issue with the existing limitation of six (6) seniors in a household. Six (6) seniors in a single family home is not an economically feasible prospect, and as a result, to our knowledge this has not been utilized at all in the City. In order to enable senior housing in the R-1 zone, the limitation of six (6) seniors per house must be revised to raise it to a maximum of fourteen (14) seniors, as it was in your previous Ordinance No. 292.A.4 or to replace it with a limit per house depending upon the number of square feet in the house for each senior. We suggest 300 square feet should you prefer that approach.

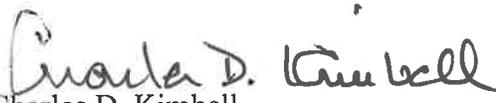
I understand there is some concern about modifying the definition of Target Population to be more expansive than that provided in the State statute. It is clear in land use practice that when the State preempts an issue, it states a floor below which local governments may not go. It certainly does not prevent a more expansive provision that would provide more housing than the State minimum provision. Therefore clearing up the ambiguity in the State definition of Target Population by in effect expanding its reach is clearly permissible, and I suspect would be received warmly by the State housing officials as an effort to accommodate more people in the single family zone.

City of Goleta Planning Commission
c/o Peter T. Imhof, Planning Director
September 5, 2019
Page 3

I hope this is helpful in your deliberations in how to enable more and better elderly housing in Goleta.

Very truly yours,

ALLEN & KIMBELL, LLP

By 
Charles D. Kimbell

CDK/dob
658801