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## STAFF REPORT

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<b>To:</b>	Planning and Zoning Commission
<b>Through:</b>	Martin Scribner, Director Development Services Department
<b>From:</b>	Kazi Haque, Zoning Administrator
<b>Meeting Date:</b>	August 13, 2018

## REQUEST SUMMARY

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**PUBLIC HEARING TXT18-01:** A joint request by Dream Group Homes, Inc. - Ms. Margaret Jordan and Haven House AZ - Ms. Debbie Everett for a proposed text amendment to the Zoning Code, specifically, Article 410 Sec. 410.24 Residential and Group Care Homes, amending portions of the section to increase the occupancy, align with state laws, and to improve the clarity of regulations and process (**Discussion and Action**).

## APPLICANT/OWNER

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Applicant:  
Dream Group Homes, Inc.  
Margaret Jordan, President/ Owner  
44400 W. Honeycutt Road, Suite 102  
Maricopa, Arizona 85138  
Phone: 480-363-4723

Applicant:  
C & D – Assisted Living Home- dba Haven House AZ  
Debbie Everett, Owner  
17652 N. Avelino Drive  
Maricopa, Arizona 85138  
Phone: 602-999-0428

## COUNCIL PRIORITIES CONSIDERED

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- Quality of Life
- Managing the Future
- Public Safety

## REQUESTED AMENDMENT

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**Text Amendment (TXT) 18-01:** A text amendment to the Zoning Code, specifically, Article 410 Sec. 410.24 Residential and Group Care Homes, amending portions of the section to increase occupancy, to align with state statutes, and to improve the clarity of regulations, and process.

In addition, Article 601 Use Classifications, the term Group Home and Section 602.02 List of Definitions, the term Family will also require modifications to be consistent with the proposed text amendment and simplification.

As mentioned above, the city has received two applications for a text amendment to Article 410.24 Residential and Group Care Home from two business owners in Maricopa: Dream Group Homes, Inc., provides services for foster children and Haven House AZ provides assisted living services in Maricopa. Because of the restrictions in the current Zoning Code, the owners are facing a considerable challenges operating in Maricopa. For instance, Dream Group Homes having license issued by Arizona Department of Child Safety, is taking care of six siblings, but due to the Zoning Code restriction and limit of five residents (max) in a home, one of the siblings have to be separated and housed in a

different place away from the other siblings – breaking up a family. Similarly, Haven House AZ which provides assisted living services, and despite having a full fire suppression system already installed (sprinkler) in the house cannot increase the number of residents to more than five because of the code, and have to turn down family members wanting to live under the same roof and care.

The proposed amendment will change portions of the article to increase the occupancy of the current five (5) to six (6) residents in a group home without needing a zoning clearance (1-6) from the City in conformance with state regulations. In addition, it will allow additional residents (7 -10) but will require zoning permit and reviews by the city departments. This is consistent with several municipalities in Arizona.

The current City of Maricopa Zoning Code has been effective since December 2014. Per the Zoning Code *Article 410.24 Residential and Group Care Homes, (B) (2) Occupancy, the number of residents, excluding staff shall not exceed five (5).*

However, staff research and the information provided by the applicants' show that municipalities in Arizona where the occupancy (number of residents) and types of service provided vary. The narratives provided by the applicants is attached (Exhibit B).

This and further research by staff and the city's legal team recognized that group home regulations in Arizona varies from municipality to municipality, and not one size fits all. It is rather a complex issue with various types of uses and definitions– i.e., assisted living, residential care, sober living, group home, community residence, etc., which is further exacerbated by the vagueness of state regulations that address some issue but not all. For example, *Arizona Revised Statutes 36-582 Residential facilities; zoning; notice; appeal*, regulates zoning provisions but does not address the fire and building codes regulations, and puts city departments at odd with inconsistent code and application.

For example, the existing zoning code allows up to five (5) residents in a group home without triggering the fire sprinkler requirements outlined in the building and fire codes. However, A.R.S. 36-582, which applies to residential facilities serving persons with developmental disabilities, would allow six (6) or fewer residents without any requirements that differ in any way from a single-family residence. City's Fire and Building Codes (2012 IBC 310.5) requires a residential home to install sprinkler system if the occupancy changes from R-3 (Residential Group) to a higher occupancy. Fire and building safety is also concerned with "self-preservation," can a person living in a group home walk away on his/her own in case of an emergency (fire, flooding etc.)? The aforementioned state statutes does not address it directly. Staff will provide in the packet the complete A.R.S. 36-582 article if the Planning and Zoning Commission is interested in reviewing the provisions in its entirety.

The following excerpts are taken directly from A.R.S. 36-582:

*A. Unrelated persons living together notwithstanding, a residential facility which serves six or fewer persons shall be considered a residential use of property for the purposes of all local zoning ordinances if such facility provides care on a twenty-four hour per day basis. The residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property. The limitation of six or fewer persons does not include the operator of a residential facility, members of the operator's family or persons employed as staff, except that the total number of all persons living at the residential facility shall not exceed eight.*

*B. For the purpose of all local ordinances, a residential facility which serves six or fewer persons shall not be included within the definition of any term which implies that the residential facility differs in any way from a single-family residence.*

*C. The provisions of this section shall not be construed to forbid any city, county or other local public entity from placing restrictions on building heights, setback, lot dimensions and placements of signs*

*of a residential facility which serves six or fewer persons as long as such restrictions are identical to those applied to other single family residences.*

*D. The provisions of this section shall not be construed to forbid the application to a residential facility of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity provided that such ordinance does not distinguish residential facilities which serve six or fewer persons from other single family dwellings and provided further that such ordinance does not distinguish residents of such residential facilities from persons who reside in other single-family dwellings.*

Furthermore, the Federal Fair Housing Act (FHA), Title VIII of the Civil Rights Act of 1968, prohibits discriminatory practices in housing based on race, color, sex, religion, national origin or familial status. The FHA was amended by Congress in 1988 to extend protections to persons with disabilities. This is the legal basis for why cities are required to ensure that individuals with disabilities are not discriminated against. The Joint Statement of the Department of Justice and the Department of Housing and Urban Development states that "...state and local land use and zoning laws or practices that may violate the Act include...imposing restrictions or additional conditions on group housing for persons with disabilities that are not imposed on families or other groups of unrelated individuals."

As mentioned earlier, each city and towns in Arizona have rules governing group home, but the provisions differ on the intensity of services based on the population and the size of the city. For example, the City of Phoenix has a lot more group home type services than other smaller cities, and therefore, their rules and regulations vary.

Over the months, staff produced several iterations of the text amendment and finally settled on the most reasonable provisions that address issues of occupancy in the single-family residential settings. Given the complexities, staff worked most diligently with the city's legal team for the proposed text amendment final copy, which is attached for review (Exhibit A).

Your packet includes both the original text with markups in red font letters in CAPS, is the proposed addition to the zoning text, and the deletions are marked by strikethrough. However, after several revisions, the final clean copy in all black fonts with no markups is the final text amendment being proposed by staff for consideration.

## **ADHERENCE TO THE GENERAL PLAN**

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The text amendments to the Zoning Code is in conformance with the following goals and objectives outlined in the General Plan (Planning Maricopa).

### **B. Land Use Element**

Objective B1.4.5: Update and consistently enforce the community's development codes, including zoning, subdivision, and related regulations.

### **F. Economic Development Element**

Objective F1.2.9: Streamline and simplify governmental permitting processes to assist businesses in locating or expanding within the community.

## **PUBLIC OUTREACH**

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As required per the City's Zoning Code Sec. 509.03, notification via a public hearing process is required. However, additional outreach methods were conducted to solicit input and acceptance of the proposed amendment.

April 18: staff reviews research findings and the proposed amendments.

- May 7: staff presents proposed amendments to the department head.
- May 7: staff added initiation of text amendments to the Zoning Code for May 14 PZ agenda.
- May 14: PZ initiates text amendments
- May 15: public meeting notifications (newspapers), and webpage information
- May 15: email notifications to stakeholders
- June 5: Council work session
- June 11: Open house 4 pm - 5 pm
- July 23: Council and Planning Commission joint meeting
- July 26: public hearings notifications – Casa Grande Dispatch and Maricopa Monitor
- Aug: 13: Planning and Zoning Commission (PZ) public hearing
- Sept 4: City Council public hearing and adoption

At the time of writing this report, staff did not receive any comments for or against the proposed text amendment.

On September 4, the City Council will review the text amendment recommendation from the Planning & Zoning Commission for approval and possible adoption.

### **PLANNING AND ZONING COMMISSION FINDINGS**

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Per the Zoning Code, Sec. 509.04, the Commission shall make the following findings in their recommendation to the City Council:

1. The amendment is consistent with the General Plan;
2. *OMITTED* (applicable for zoning map amendments);
3. The amendment will promote the growth of the City in an orderly manner and protect the public health, safety, peace, comfort and general welfare.

### **CONCLUSION**

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Staff recommends approval of the proposed **Text Amendment case #TXT18-01**, and as amended by the Planning and Zoning Commission.

#### **Proposed Text Amendment:**

1. Amend Sec. 410.24 Residential and Group Care Home; change Title to Group Home;
2. Amend Sec 410.24 (A) Registration; (B) Standards are modified to align with state rules and to improve the clarity of regulations, and best practices;
3. Amend Sec Article 601 Use Classifications: Group Home;
4. Amend Article 602.02 List of Definitions: Family.

Exhibit A – Proposed text amendment (TXT18-01): draft and final copy.

Exhibit B – Applicants’ narratives of the proposed text amendment (TXT18-01)

-- End of staff report --