

**Marked Agendas  
Approved Minutes  
Approved Reports**

**The May 2, 2018  
Board of Adjustment  
Meeting Agenda and  
Minutes can be found at**

<http://www.scottsdaleaz.gov/boards/board-of-adjustment>

# BOARD OF ADJUSTMENT REPORT



Meeting Date: 5/2/2018  
Item No.: 3

## ACTION

CL Holdings Care Home Zoning Administrator Decision Appeal  
1-BA-2018

Request to consider the following:

1. Request for an appeal of the Zoning Administrator's written decision, dated January 11, 2018 regarding a request for a reasonable accommodation seeking relief from the 750-foot separation requirement between adult care homes for a property located at 12012 N. 68th Place

## OWNER

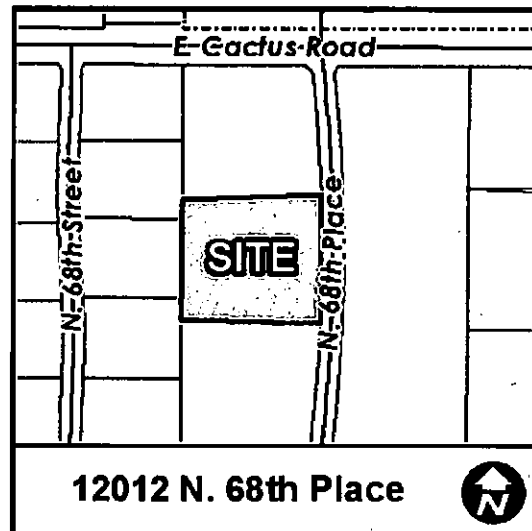
CL Holdings 68Th Pl, LLC  
480-414-2596

## APPLICANT CONTACT

Larry S. Lazarus  
Lazarus, Silvyn & Bangs, P.C.  
602-340-0900

## LOCATION

12012 N 68th Place



## BACKGROUND

### Context

The site is Lot 13 of the Desert Estates Unit One subdivision, zoned Single-family Residential district (R1-35) and is located south of E. Cactus Road. on the west side of N. 68<sup>th</sup> Place.

### Adjacent Uses and Zoning

- North Desert Estates Unit One subdivision, zoned Single-family Residential (R1-35); existing single-family residence. Farther north is E. Cactus Road, the jurisdictional boarder between the City of Scottsdale and the City of Phoenix, and a single-family residence used as a care home.
- South Desert Estates Unit One subdivision, zoned Single-family Residential (R1-35); existing single-family residence.
- East Rancho Paraiso, zoned Single-family Residential (R1-35) with a Conditional Use Permit (4-UP-2013) for a Ranch and a variance (12-BA-1995) for maximum wall height in the front yard.
- West Desert Estates Unit Two subdivision, zoned Single-family Residential (R1-35); existing single-family residences.

### **History**

- September 27, 2017 Fire sprinkler plans for a care home at 12012 N. 68<sup>th</sup> Place were rejected because the care home use proposed is not adequately separated from an existing care home approximately 410 feet north of the property.
- November 27, 2017 CL Holdings submitted a request for the zoning Administrator's decision regarding a reasonable accommodation seeking relief from the 750-foot separation requirement between adult care homes per Section 5.102.A.2.c of the Zoning Ordinance.
- December 4, 2017 City Council approved the text amendment, Care Homes/Group Homes Text Amendment (2-TA-2017), that went into effect January 5, 2018.
- January 11, 2018 Letter from the Zoning Administrator was delivered to CL Holdings, upholding previous administrative implementation of Section 5.102.A.2.c of the Zoning Ordinance.
- On February 12, 2018 the applicant filed for an appeal of the Zoning Administrator's decision per the provisions of Section 1.805. of the Zoning Ordinance.

### **Code Enforcement Activity**

There has been no recent code enforcement activity at the site.

### **Community Input**

The site has been posted and notification was sent to properties within 750 feet of the site. Staff has received two emails and two phone messages in opposition siting the support of the Zoning Administrator decision and an approval of the request would negatively alter the character of the neighborhood.

## **Zoning Ordinance Requirements**

### Jurisdiction:

The "jurisdiction" or authority of the Board of Adjustment is addressed in section 9-462.06 of the Arizona Revised Statutes:

- C. A board of adjustment shall hear and decide appeals from the decisions of the Zoning Administrator...
- G. A board of adjustment shall:
  - 1. Hear and decide appeals in which it is alleged there is an error in an order, requirement or decision made by the zoning administrator in the enforcement of a zoning ordinance adopted pursuant to this article...
  - 3. Reverse or affirm, wholly or partly, or modify the order, requirement or decision of the zoning administrator appealed from, and make such order, requirement, decision or determination as necessary...

The "jurisdiction" of the Board of Adjustment is also addressed in Section 1.805 of the Zoning Ordinance:

The Board shall hear appeals of interpretations of the zoning ordinance text made by the Zoning Administrator. The Board of Adjustment shall determine those matters over which it has jurisdiction.

The jurisdiction of the Board of Adjustment is granted by state statute and municipal ordinance. If the Board acts in a matter over which it has no jurisdiction, the action taken has no effect.

The Zoning Code of the City of Scottsdale and the Rules of Procedure for the Board of Adjustment give the Board the authority to make the determination whether the Board has jurisdiction.

Under state law, the Zoning Ordinance, and the Board's by-laws, the Board's jurisdiction is limited to variances from the terms of the Zoning Ordinance, appeals of the Zoning Administrator's decisions including interpretations of the zoning ordinance, and requests for reasonable accommodation.

### Standing:

In order to have standing, the Applicant must be an aggrieved party. Section 1.202(B) of the Scottsdale Zoning Ordinance states the following about aggrieved parties:

"The appeal of ordinance interpretations or other decisions by the Zoning Administrator may be initiated by any aggrieved person or by any officer, department, board or commission of the City affected by the interpretation or decision of the Zoning Administrator. For purposes of this subsection, an aggrieved person is one who receives

a particular and direct adverse impact from the interpretation or decision which is distinguishable from the effects or impacts upon the general public.”

**Action:**

Upon finding that the application for appeal has both Jurisdiction and Standing, the Board of Adjustment can then discuss the merits of the case to determine whether or not the Zoning Administrator’s Decision was arbitrary, capricious or an abuse of discretion as specified in Section 1.805.D.(1) of the Zoning Ordinance.

**Findings: Jurisdiction and Standing**

**Jurisdiction:**

*Staff finds no question as to the Board’s jurisdiction in this appeal.*

**Standing:**

*Staff finds no question as to the Applicant’s standing in this appeal.*

**Zoning Administrator’s Decision:**

The Zoning Administrator determined, in response to the Request for Determination received on November 27, 2017, that although the applicant may continue as a “family” with no care provided, a care home is not allowed at this location because the property is within approximately 410 feet of another care home. Per Section 5.102.A.2.c. Location: An adult care home shall not be located within seven hundred fifty (750) feet of another adult care home on the same street frontage.

The Zoning Administrator identified the following:

- There is no reason for waiving this standard because there are alternative locations nearby. Within the City of Scottsdale there are currently 113 adult care homes. If the disabled residents at 12012 N. 68th Place need additional care that can only be achieved in a care home within a residential environment, those disabled residents have other dwellings within Scottsdale to choose from. Alternatively, Centered Living could choose to apply for an adult care home at a different property that is properly separated from other adult care homes, per City of Scottsdale requirements. There are many locations that could meet the criteria for a new care home. (See Attachment 5, Care home availability map)
- Allowing a care home to operate at this location would fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale. The purpose of this ordinance is to promote and protect the public health, safety, and welfare of the citizens of the City of Scottsdale and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources, as reflected in the General Plan.

The buffers between Adult Care Homes are in place to protect the character of neighborhoods for the benefit to all residents, including the disabled, and to insure, as in this case, that the low density of the zoning district is maintained and to protect citizens welfare. Because there is only one real property between the existing Adult Care Home on the north side of E Cactus Rd. and this subject property, the impact for the neighboring property would be considerable. In addition, the two care homes might be drawn to relate closer with each other, rather than to normalize with the surrounding neighbors, in so creating a cluster. It was determined that the Zoning Ordinance established separation requirement should be upheld.

The Zoning Administrator's decision did not affect the property rights at 12012 N 68th Place. The owner still has the right continue living as a "family" under the ordinance existing at the time the ordinance was changed so long as no care is provided. As such, the family is "grandfathered" under the City's amended Ordinance with the following conditions:

1. The facility conformed to the code provisions in effect at the time the code changed,
2. No increase in the number of disabled residents and,
3. No care is being provided at the residence.

### **Findings**

In a typical request to the Board of Adjustment, the Board must review and determine if the required four (4) findings have been justified to allow a Zoning Variance. In the case of an appeal of a Zoning Administrator decision, such as this one, these findings are not required and the Board of Adjustment will need to:

- Determine whether or not it has jurisdiction over this matter;
- Determine whether the Applicant has standing; and, if the Board first finds that it has jurisdiction over the matter and that the applicant has standing, then the Board shall;
- Discuss the merits of the case to determine whether or not the Zoning Administrator's Decision was arbitrary, capricious or an abuse of discretion.

**APPROVED BY**

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Ben Moriarity, Report Author  
480-312-2836, bmoriarity@scottsdaleaz.gov

4/12/18  
Date

  
Brad Carr, Board of Adjustment Liaison  
480-312-7713, bcarr@scottsdaleaz.gov

4.12.2018  
Date

  
Tim Curtis, AICP, Current Planning Director  
480-312-4210, tcurtis@scottsdaleaz.gov

4/13/2018  
Date

  
Randy Grant, Planning and Development Director  
480-312-2664, rgrant@scottsdaleaz.gov

4/17/18  
Date

**ATTACHMENTS**

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1. Context Aerial
2. Aerial Close-Up
3. Zoning Map
4. Care Home Availability Map
5. Care Home Availability Map Close-Up
6. Zoning Administrator's Decision



CL Holdings Care Home ZA Appeal

1-BA-2018



CL Holdings Care Home ZA Appeal

1-BA-2018

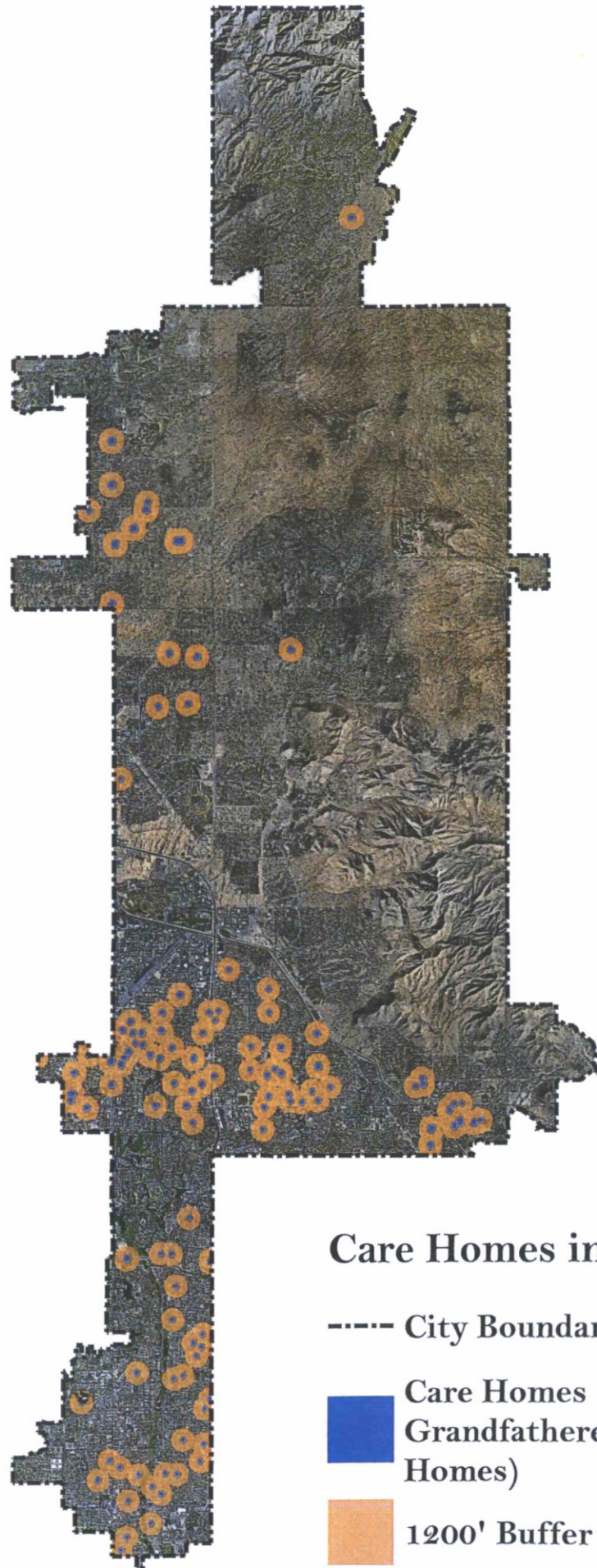


Q.S.  
30-44

2016 GIS Orthophoto


CL Holdings Care Home ZA Appeal

1-BA-2018











## Care Homes in Scottsdale

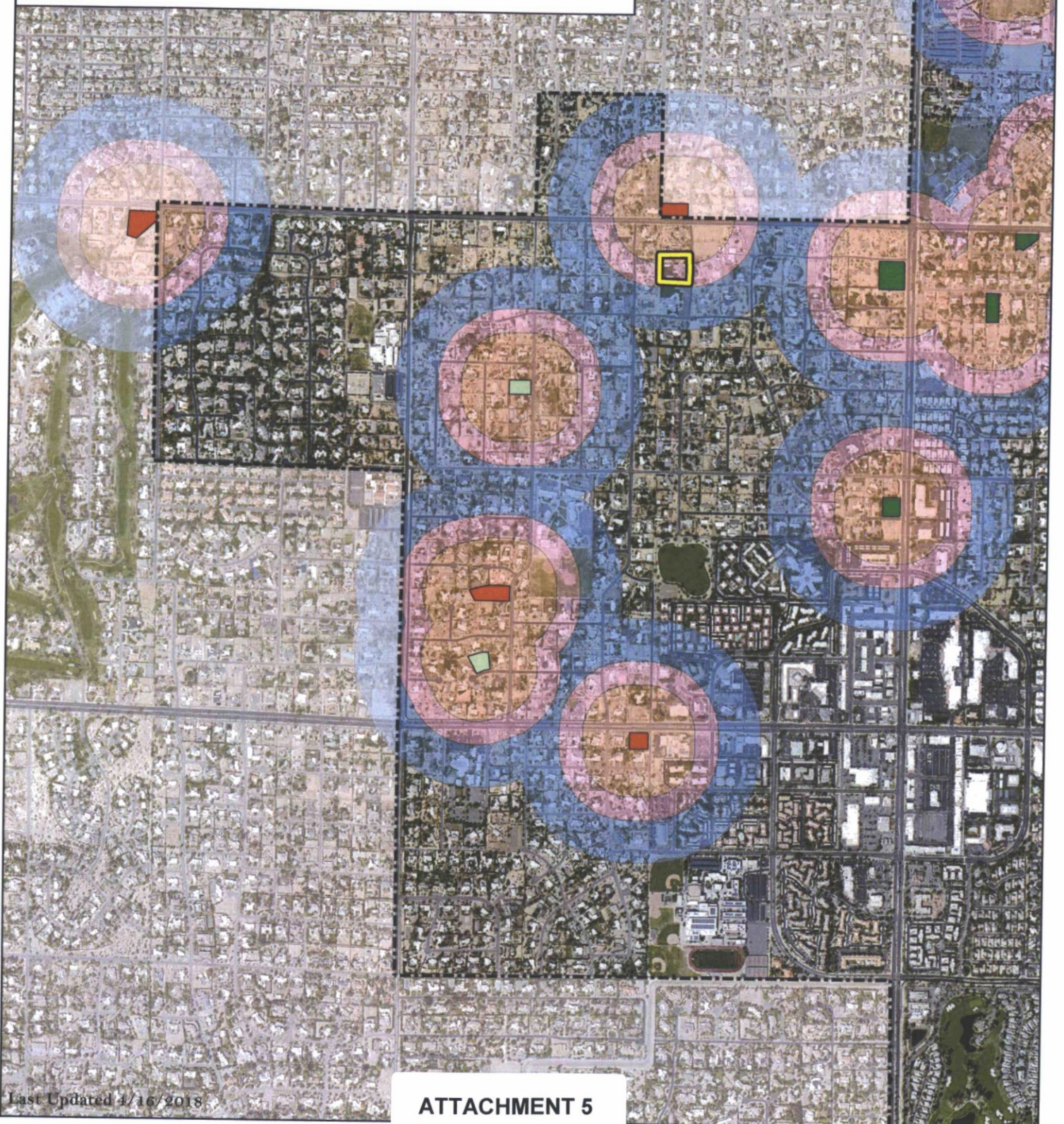
----- City Boundary

 Care Homes (Currently All Grandfathered Approved Homes)

 1200' Buffer

# Care Homes in Scottsdale

-  Project Site
-  Care Homes with State License Only
-  Legacy Approved Care Homes
-  Legacy Pending License Care Homes
-  500' Buffer
-  750' Buffer
-  1200' Buffer
-  City Boundary





Planning & Development Services

7447 E. Indian School Rd.  
Scottsdale, AZ 85251

PHONE 480-312-7000  
WEB [www.ScottsdaleAZ.gov](http://www.ScottsdaleAZ.gov)

December 7, 2017

Michelle Siwek  
Centered Living, CL Holdings 68<sup>th</sup> Pl, LLC  
12012 N. 68<sup>th</sup> Place  
Scottsdale, Arizona 85254

Re: Adult Care Home Separation Requirement

Ms. Siwek,

On November 27, 2017 you requested a disability accommodation from the Adult Care Home separation requirement of 750 feet per Section 5.102.2.c of the Zoning Ordinance. Included in your request is to change from a family to a care home. I have determined that an accommodation is not warranted in this case. I also determine that the living situation you describe is a "family" under the ordinance existing at the time you began operating so long as no care is provided. As such, your family is "grandfathered" under the City's amended Ordinance under the following conditions:

1. No increase in the number of disabled residents and
2. No care is being provided at the residence

Centered Living at 12012 N. 68<sup>th</sup> Place is approximately 410 feet from a licensed adult care home to the north, 12202 N. 68<sup>th</sup> Place. The properties are separated by one single family home property and E. Cactus Road. Because the property is on the same N. 68<sup>th</sup> Place street frontage as the adult care home to the north, under the ordinance existing at the time you began the standard calls for adult care homes to be separated by 750 feet. Because it is not currently authorized as an adult care home, we assume there are fewer than 6 residents.

City Council approved the text amendment, Care Homes/Group Homes Text Amendment (2-TA-2017), on December 4, 2017 and it went into effect January 5, 2018. Because this request was received prior to the adoption of the new text, the authority to analyze this request belongs to the Zoning Administrator, per Section 1.202 of the Zoning Ordinance.

Although you can continue as a family with no care provided, a care home is not allowed at this location because:

1. The property is within 750' of another care home.
2. There is no justification for waiving this standard because there are alternative locations nearby. Within the City of Scottsdale there are currently 113 adult care homes. If the disabled residents at 12012 N. 68<sup>th</sup> Place need additional care that can only be achieved in a care home within a residential environment, those disabled residents have other dwellings within Scottsdale to choose from. Alternatively, Centered Living could choose to apply for an adult care home at a different property that is properly separated from

other adult care homes, per City of Scottsdale requirements. There are many locations that could meet the criteria for a new care home. (See Attachment 1, Care home availability map)

3. I find that allowing a care home to operate at this location would fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale. The purpose of this ordinance is to promote and protect the public health, safety, and welfare of the citizens of the City of Scottsdale and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources, as reflected in the General Plan. In addition the purpose of the Single-family residential (R1-35) zoning district is to promote and preserve residential development. The minimum lot size, although less than one (1) acre, still results in a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto, together with required recreational, religious and educational facilities. (Zoning Ordinance, Section 5.201)

The buffers between Adult Care Homes are in place to protect the character of neighborhoods, and to insure, as in this case, that the low density of the zoning district is maintained and to protect neighboring citizens welfare.

Because there is only one real property between the existing Adult Care Home on the north side of E Cactus Rd. and this subject property, the impact for the neighboring property would be considerable and the Zoning Ordinance established separation requirement should be upheld.

At this time I do not see good cause to grant a disability accommodation. The home can continue to be used as it has been, with no increase in the number of residents or level of activity.

Sincerely,



**Randy Grant**  
Director, Planning and Development Services

**ATTACHMENTS:**

1. Care home availability location map
2. Requested letter of determination

You can appeal the Zoning Administrator's decision to the Board of Adjustment pursuant to Zoning Ordinance Section 1.202.B and any timely appeal shall be processed pursuant to Section 1.805



## Care Homes in Scottsdale

----- City Boundary

■ Care Homes (Currently All Grandfathered Approved Homes)

■ 1200' Buffer

RECEIVED  
11/21/17 Bu

November 27, 2017

To: Randy Grant, Zoning Administrator  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

Subject: Letter of Determination  
Request Disability Accommodation Request of 750' Setback for Group Home for the Disabled

Dear Sir,

The purpose of this letter is to respectfully request the Zoning Administrator make a determination to allow CL Holdings 68<sup>th</sup> Place, LLC (Centered Living) located at 12012 N. 68<sup>th</sup> Place, permission to operate an adult care home within 750' of another adult care home for the disabled as outlined in the Draft Care Home Ordinance (Draft Ordinance) dated September 5, 2017.

Per the Draft Ordinance, the City has outlined a disability/reasonable accommodation pathway for those protected classes with a disability. For purposes of this letter, the disabled class are those individuals in recovery from drug and alcohol abuse pursuant to the Federal Fair Housing Act (FFHA), 42 U.S.C. §3604(f)(3)(B). In addition, Disability shall be defined and construed as the term by the Americans with Disabilities Act (ADA) of 1990 ([P.L. 101-336](#)) and the ADA amendments act of 2008 ([P.L. 110-325](#); 122 Stat. 3553).

As part of the Draft Ordinance, the City outlines the process for a disability/reasonable accommodation pathway set for vote on December 5, 2017; a critical step in allowing those in recovery from drug and alcohol abuse certain accommodations as outlined by the FFHA. This further includes the application of municipalities land use ordinances understanding that one of the purposes of a disability accommodation provision is to address individual needs and respond to individual conditions. In this regard, courts have held that municipalities are encouraged to change, waive, or make exception to their zoning rules to afford people with disabilities the same access to housing as those who are without disabilities.

I appreciate, at the direction from staff at the initial planning and zoning meeting, the opportunity to write this request for a reasonable accommodation determination. For your reference the following conditions are extracted for the Draft Ordinance (in grey) outlining the conditions for a disability/reasonable accommodation.

**SECTION 1.806 – Disability Accommodation:**

**A. A disability accommodation from a development standard or separation requirement shall not be authorized unless the Board shall find upon sufficient evidence all of the following:**

1. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.);
2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;
3. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale;

4. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale;
  5. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law;
- B. The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.
  - C. The requested accommodation must comply with all applicable building and fire codes.
  - D. The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others;

The above conditions are set forth below outlining sufficient evidence to authorize a disability accommodation for Centered Living.

**1. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.);** Centered Living is requesting a disability accommodation to the separation requirement of 750' of another adult care home pursuant to the Federal Fair Housing Act (FFHA), 42 U.S.C. §3604(f)(3)(B) on behalf of the residents and owner of Centered Living located at 12012 N. 68th Place, Scottsdale, Arizona 85254.

The residents of Centered Living are considered "handicapped" under the 1988 amendments to the FFHA, unlike other groups of unrelated, non-disabled persons. See 42 U.S.C. 3600 et seq. Recovering addicts and alcoholics are specifically included within the definition of "handicapped individual." See, 42 U.S.C. 3602(h) and 24 C.F.R. 100.201(a)(2). "Handicap" means, with respect to a person, (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). This request for a disability accommodation are for those disabled individuals who are indeed recovering addicts and alcoholics.

Pursuant to A.R.S. § 41-1491 et seq.), the residents of Centered Living are considered "disabled". A "Disability" means a mental or physical impairment that substantially limits at least one major life activity, a record of such an impairment or being regarded as having such an impairment. Disability shall be defined and construed as the term is defined and construed by the Americans with disabilities act of 1990 ([P.L. 101-336](#)) and the ADA amendments act of 2008 ([P.L. 110-325](#); 122 Stat. 3553).

**2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;**

Centered Living can demonstrate that the proposed disability accommodation is reasonable, for the FFHA requires a showing that the accommodation "may be necessary to afford [handicapped] person[s] equal opportunity to use and enjoy a dwelling." 42 U.S.C. 3604(f)(3)(B).

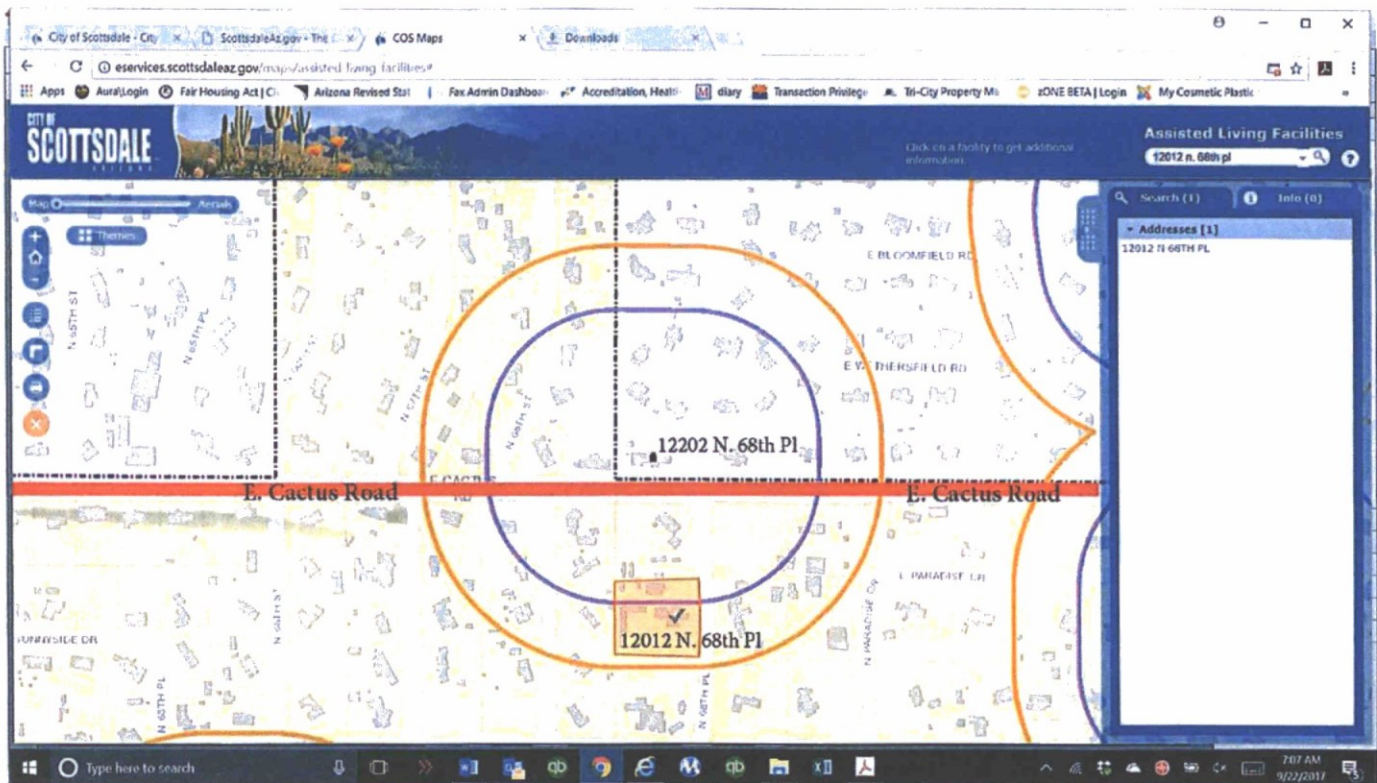
In addition, for purposes of this request, 42 U.S.C. 3604(f)(3)(B) defines discrimination to include a "refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such [handicapped] person equal opportunity to use and enjoy a dwelling." Centered Living asserts that the request is necessary for disabled individuals recovering from substance abuse and to use 12012 N. 68<sup>th</sup> Place for this equal opportunity.

**3. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale;**

The 750' setback unduly restricts this disabled class from finding adequate housing. On June 5, 2017, Governor Ducey declared a statewide health emergency in the opioid epidemic. As part of this public health emergency, the Arizona Department of Health Services has been commissioned to identify ways to expand access to treatment. Denying this reasonable accommodation will restrict a disabled class from finding adequate housing in a therapeutic environment necessary for recovery from substance abuse disorders. The national state of emergency was declared in August of 2017 again demanding more access to treatment for this disabled class. There are not currently enough available resources for those seeking treatment for substance abuse as denoted in the declaration signed by Governor Ducey and is attached for your reference.

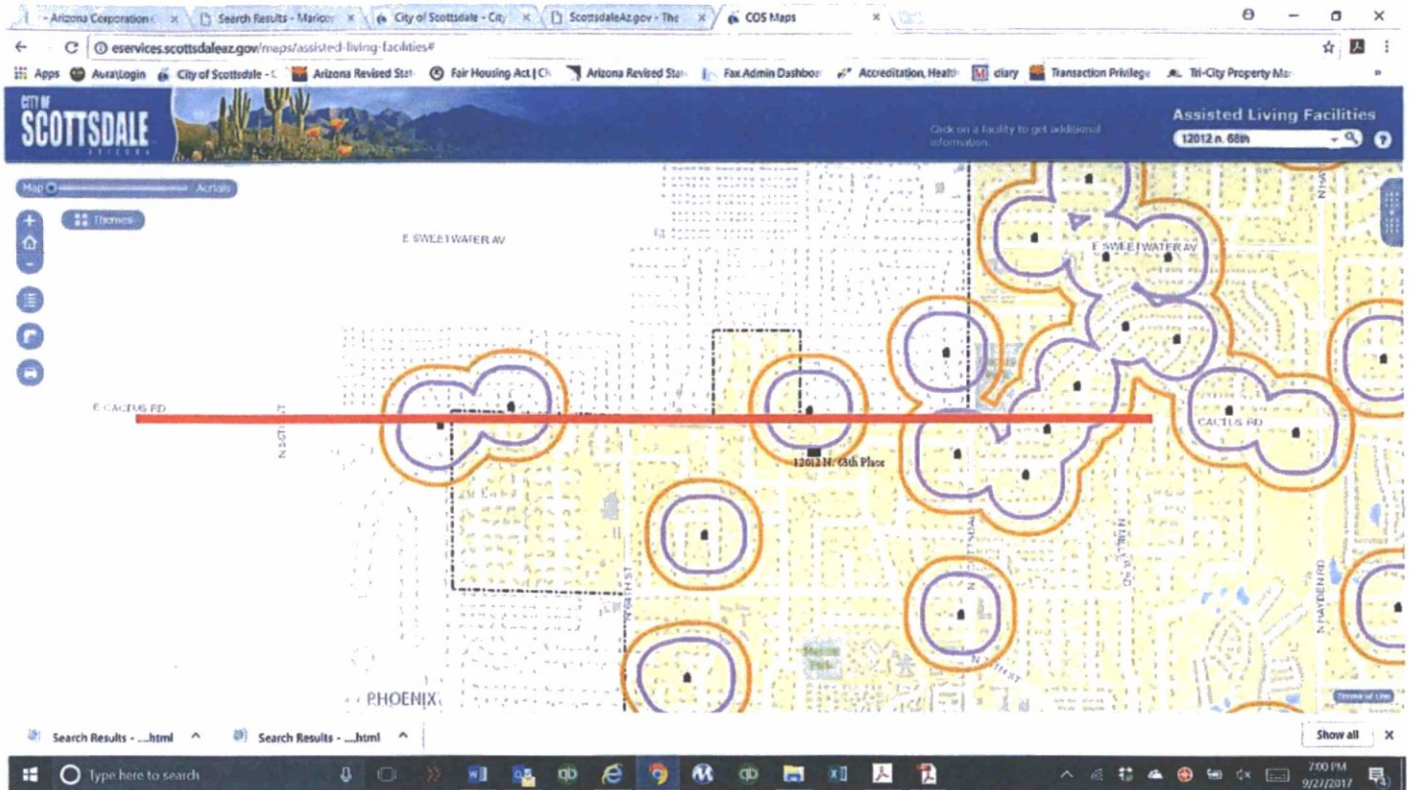
**4. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale;**

The map below depicts the two properties in question. <http://www.scottsdaleaz.gov/maps>



- a) This request does not fundamentally alter the nature and purpose of the zoning ordinance. The assisted living home located at 12202 N. 68<sup>th</sup> Pl in Scottsdale (Royal Palm) is located on the north side of Cactus Road, an arterial road or arterial thoroughfare defined as a high-capacity urban road. Cactus road is a man-made barrier providing the necessary separation and this main arterial road clearly provides the necessary separation between the two properties allowing the character of the two distinct neighborhoods to remain unchanged.
- b) Secondly, the two properties are in two different developments, Sunrise Shadows located in a *Phoenix* neighborhood vs. Desert Estates located in a Scottsdale neighborhood.
- c) In addition, permitting Centered Living to exist would not significantly compromise the policies reflected in any of its land use ordinances that the City would apply or enforce nor is there any significant evidence that such an accommodation would significantly compromise the City's legitimate interests in protecting the residential character of the surrounding neighborhood. In addition, there are no other care homes within 750' or 1200' (Draft Ordinance increased the separation to 1200') for recovering addicts and alcoholics in the area, therefore, Centered Living is integrated into the community and does not change the character of the neighborhood.

Access to housing for this disabled class is imperative. The map below shows a snapshot view of care homes for the disabled but the homes in the immediate area are for the elderly, very few, if any are for those recovering from substance abuse.



d) It is important to note; Centered Living has been operating as a sober living residence since 2011 and is integrated in the community and the neighborhood (Royal Palm began operation in 2015). Centered Living has not had any complaints and has operated for the benefit of those recovering from substance abuse. Per the City's zoning code permits "any number of persons living as a single housekeeping unit" are to be considered a family and operate as single housekeeping unit. The Centered Living household functions as the equivalent of a family and allows recovering persons to provide one another with continual mutual support as well as mutual monitoring to prevent relapse. The potential recovery of people who are handicapped or disabled by reason of alcoholism or drug abuse and are in recovery are greatly enhanced by the mutual support and mutual monitoring provided by living with other recovering persons. The quality and nature of the relationship among the residents are akin to that of a family. The need of groups of unrelated recovering alcoholics and substance abusers to live in a structured, safe and therapeutic environment is necessary to the recovery process. Therefore, this request for disability accommodation is an extension of what Centered Living provides to the disabled and will be under the licensing of ADHS.

**5. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law;**

In addition to the criteria outlined in the Draft Ordinance, per the federal guidelines, a reasonable accommodation must meet two tests: (1) Does the request proposed create a fundamental alteration in the zoning scheme and (2) Does the request impose an undue burden or expense to the local government? Allowing Centered Living to operate does not alter the zoning scheme nor does not pose an undue burden or expense on the City.

Here, accommodating Centered Living would not cause the City any undue financial or administrative burdens nor would it undermine the purpose which the requirement seeks to achieve. Centered Living is not requesting that the City build housing, rather, it is requesting that the City remove an obstacle to housing for the disabled. The FFHA places an affirmative duty on the municipality to accommodate the needs of persons with disabilities. The FHA stresses that municipalities such as the City to make exceptions to the way its zoning ordinances are applied to afford the disabled the same opportunity to housing as those who are not disabled.

***B. The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.***

The owner of Centered Living acknowledges and understands that the profitability or financial hardship is not considered when determining a disability accommodation. None is cited here.

***C. The requested accommodation must comply with all applicable building and fire codes.***

Centered Living will comply with all applicable building and fire codes including fire suppression requirements, permits, drawings and fees mandated by ADHS for licensure. Centered Living is aware of such requirements and asserts compliance.

***D. The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others;***

The requested disability accommodation does not result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others. Failure to approve a reasonable accommodation can result in a threat to health and safety of disabled individuals; recovering addicts and alcoholics seeking treatment for substance abuse and undermines the state emergency directive. The state emergency seeks to expand access to treatment not hinder it. The state emergency seeks to expand access to treatment not hinder it. Currently, statistics from the Governor's Office of Youth, Faith and Family denote 99% of AHCCCS centers for substance abuse are 99% occupied with all available beds operating at the max and approximately 400 individuals on average are on the waitlist for treatment as of 2017.


**Additional Request.**

If a public hearing is part of the zoning process, Centered Living kindly requests an accommodation be made to allow this process to occur administratively and/or not open to a public hearing. The current climate in Scottsdale, as evidenced in the town hall meetings, have aggressive neighbors not only targeting those individuals in recovery from substance abuse but the homes in which they live. Therefore, we request for the safety of those individuals and the homes in which they reside that this hearing is not open to the public.

In summary, we feel that the information outlined above is sufficient evidence to grant a reasonable accommodation for Centered Living to operate an adult care home within 750' of another care home for the disabled.

If you need further information, please do not hesitate to call me at 480.414.2596.

Sincerely,



Michelle Siwek on behalf of Centered Living  
12012 N. 68<sup>th</sup> Place  
Scottsdale, AZ 85254

**DECLARATION OF EMERGENCY  
and NOTIFICATION OF ENHANCED SURVEILLANCE ADVISORY  
*\*Opioid Overdose Epidemic\****

**WHEREAS**, the Arizona Department of Health Services has confirmed 790 deaths due to opioids in Arizona in 2016, which equates to an average of more than two Arizonans per day; and

**WHEREAS**, the Arizona Department of Health Services has confirmed that the number of opioid deaths has increased 74% from 2012-2016, with 2016 showing Arizona's highest number of deaths; and

**WHEREAS**, opioids are powerful pain killers that are highly addictive; and

**WHEREAS**, of the 1,497 drug overdose deaths in 2016, 52.7% noted opioids as a primary cause of death; and

**WHEREAS**, these deaths as a result of overdose are preventable; and

**WHEREAS**, the opioid overdose epidemic affects all Arizonans; and

**WHEREAS**, in Arizona, law enforcement and first responders have the authority to carry and administer the life saving drug Naloxone; and

**WHEREAS**, the Arizona Department of Health Services requires more robust and more accurate data to successfully combat the opioid overdose epidemic; and

**WHEREAS**, the Governor and the Director of the Arizona Department of Health Services have reasonable cause to believe that disease, illness, and health conditions, including death, are being caused by the opioid overdose epidemic; and

**WHEREAS**, it is necessary and appropriate to take action to ensure that the residents of Arizona remain safe and healthy; and

**WHEREAS**, the Governor is authorized to declare an emergency pursuant to A.R.S. § 26-303(D).

**NOW, THEREFORE I**, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and Laws of the State, do hereby determine that the opioid overdose epidemic present in Arizona justifies a declaration of a State of Emergency and issuance of an Enhanced Surveillance Advisory, pursuant to A.R.S. §§ 26-303(D), 36-782, and 36-787, and I do hereby:

- a. Declare that a State of Emergency exists in Arizona due to the Opioid Overdose Epidemic, effective June 5, 2017; and
- b. Direct that the State of Arizona Emergency Response and Recovery Plan be used to direct and control State and other assets, and authorize the Director of the Arizona Department of Emergency and Military Affairs to coordinate State assets; and
- c. Authorize the Director of the Arizona Department of Health Services to coordinate all matters pertaining to the public health emergency response of the State in accordance with A.R.S. § 36-787(A)(2); and

d. Require the Director of the Arizona Department of Health Services to:


- 1) within seven days of this order, provide consultation to the Governor on identifying and recommending the necessary elements for an Enhanced Surveillance Advisory pursuant to A.R.S. § 36-782(B); and
- 2) initiate emergency rule making with the Arizona Attorney General's Office in order to develop rules for opioid prescribing and treatment within health care institutions pursuant to A.R.S. § 36-405; and
- 3) develop guidelines to educate healthcare providers on responsible prescribing practices; and
- 4) develop and provide training to local law enforcement agencies on proper protocols for carrying, handling, and administering Naloxone in overdose situations; and
- 5) provide a report on findings and recommendations, including additional needs and response activities, and preliminary recommendations that require legislative action to the Governor by September 5, 2017.

This Emergency Declaration will be eligible for termination upon my receipt and acceptance of the Arizona Department of Health Services' Opioid Overdose Epidemic Response Report.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

  
GOVERNOR

DONE at the Capitol in Phoenix on this 5<sup>th</sup> day of June in the Year Two Thousand Seventeen and of the Independence of the United States of America the Two Hundred and Forty-first.

ATTEST: 

Secretary of State

