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OFFICE OF THE CITY CLERK
REVISOR (REDLINED)
2003 DEC -4 PM 6:15

OAKLAND CITY COUNCIL

REVISED
11-18-03

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION DENYING, IN PART, THE APPEAL AND AFFIRMING, IN PART, THE PLANNING COMMISSION APPROVAL OF A MAJOR CONDITIONAL USE PERMIT AND A MINOR VARIANCE (CMV03-207) FOR A CLEAN AND SOBER FACILITY AT 1144 12TH STREET, OAKLAND, SUCH THAT THERE IS A MAXIMUM OF SIX (6) RESIDENTS.

WHEREAS, the applicant, Jacqueline Wooley (Christian Women Supporting Women), filed an application on May 14, 2003 to convert an existing duplex into a clean and sober facility (a service enriched housing facility) at the property located at 1144 12th Street; and

WHEREAS, The City Planning Commission took testimony and considered the matter at its meeting held August 6, 2003. Action on the matter was deferred to the September 3, 2003 City Planning Commission Meeting to allow staff to obtain further clarification. The City Planning Commission took testimony and considered the matter at its meeting held on September 3, 2003. At the conclusion of the public hearing held for the matter, the commission deliberated the matter, and voted. The project was approved, 5-2; and

WHEREAS, prior to acting on the matter, the Planning Commission added a condition of approval as Condition Number 14 to read as follows: The Planning staff shall provide a Compliance and Operational Status Report of the facility to the Planning Commission at a scheduled public hearing six months and twelve months after the approval date.

WHEREAS, on September 15, 2003, an appeal of the Planning Commission's approval and a statement setting forth the basis of the appeal was received; and

WHEREAS, after giving due notice to the Appellant, the Applicant, all interested parties and the public, the Appeal came before the City Council for a public hearing on November 18, 2003; and

WHEREAS, the Appellant, the Applicant, supporters of the application, those opposed to the application and interested neutral parties were given ample opportunity to participate in the public hearing by submittal of oral and/or written comments; and

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DEC 16 2003

WHEREAS, the public hearing on the Appeal was closed by the City Council on November 18, 2003;

WHEREAS, the City Council was concerned with the overcrowded conditions that would result from ten (10) residents and the need for periodic monitoring by City staff and therefore directed the City Attorney to prepare the necessary legislation to reduce the number of residents to six (6) and require review by the City at least two (2) times per year;

Now, Therefore, Be It

RESOLVED: The requirements of the California Environmental Quality Act (CEQA) of 1970, as prescribed by the Secretary of Resources, and the City of Oakland's environmental review requirements, have been satisfied, and, in accordance the adoption of this resolution is exempt from CEQA under Section 15301 "Modifications to Existing Structures" of the State CEQA Guidelines.

FURTHER RESOLVED: That, the City Council, having heard, considered and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Application, the City Planning Commission's decision, and the Appeal, finds that the Appellant has **not** fully shown, by reliance on evidence already contained in the record before the City Planning Commission that the City Planning Commission's decision was made in error, that there was an abuse of discretion by the Commission or that the Commission's decision was not supported by substantial evidence in the record based on the November 18, 2003, City Council Agenda Report (attached as Exhibit "A"), September 3, 2003 Staff Report to the City Planning Commission (as set forth in Attachment C of Exhibit "A"), and August 6, 2003 Staff Report to the City Planning Commission (as set forth in Attachment B of Exhibit "A"),") and hereby incorporated by reference as if fully set forth herein. Accordingly, the Appeal is denied, in part, the Planning Commission's CEQA findings and decision are upheld, in part, and the Project is approved with a reduced number of residents (the Major Conditional Use Permit and Minor Variance), subject to the findings and conditions of approval contained in the September 3, 2003 Attachment E to Exhibit "A" in the Staff Report to the City Planning Commission for this item prepared for the City Council meeting of November 18, 2003, except as modified herein.

FURTHER RESOLVED: That, in support of the City Council's decision to approve the Project with the reduced number of residents, the City Council affirms and adopts the September 3, 2003 Staff Report to the City Planning Commission (~~including without limitation the discussion, findings, conclusions and conditions of approval~~) (as set forth in Attachment C of Exhibit "A") as well as the November 18, 2003, City Council Agenda Report, attached hereto as Exhibit "A," (including without limitation the discussion, findings, and conclusions) except where otherwise expressly stated in this Resolution.

FURTHER RESOLVED: That, the Conditions of Approval Number ~~11~~ outlined stated in September 3, 2003 Staff Report to the City Planning Commission (as set forth in Attachment C of Exhibit "A") shall be revised to read as ~~the following~~ is:

A. Condition Number 10:

The permit allows no more than six (6) residents and one (1) staff member to permanently reside at the facility. Any increase to the number of residents and staff members to permanently reside at the facility shall require an amendment to the permit.

B. Condition Number 11:

Per Section 17.116.180, the owner or owners of 1144 12th Street and owner of owners of 1136 14th Street shall prepare and execute to the satisfaction of the City Attorney and file with the Alameda County Recorder, an agreement guaranteeing that two parking spaces at 1136 14th Street will be designated for Clean and Sober Facility located at 1144 12th Street for the duration of operation of the facility.

C. Condition Number 14 (imposed by City Planning Commission after staff report prepared but before final action and revised by City Council):

The Planning staff shall inspect the facility and provide a Compliance and Operational Status Report to the Planning Commission at a scheduled public hearing six months and twelve months after the approval date. Twice per year thereafter, staff shall inspect the facility and, if necessary, provide a Compliance and Operational Status Report to the Planning Commission.

FURTHER RESOLVED: That, the City Council finds and determines that this Resolution complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Exemption with the appropriate agencies.

FURTHER RESOLVED: That, the record before this Council relating to this application and appeal includes, without limitation, the following:

1. the application, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his representatives;
3. the notice of appeal and all accompanying statements and materials;
4. all final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation and all related/supporting final materials, and all final notices relating to the application and attendant hearings;

5. all oral and written evidence received by the City Planning Commission and City Council during the public hearings on the application and appeal; and all written evidence received by relevant City Staff before and during the public hearings on the application and appeal;

6. all matters of common knowledge and all official enactments and acts of the City, including, without limitation (a) the General Plan; (b) Oakland Municipal Code (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations.

FURTHER RESOLVED: That, the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA.

FURTHER RESOLVED: That, the recitals contained in this Resolution are true and correct and are an integral part of the City Council's decision.

In Council, Oakland, California, _____, 2003

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
CEDA FLOYD
City Clerk and Clerk of the
Council of the City of
Oakland, California

FILED
OFFICE OF THE CITY CLERK
OAKLAND
REVISED
2003 DEC -4 PM 6:15

OAKLAND CITY COUNCIL

REVISED
11.18.03

RESOLUTION No. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

Mark P. Wall

RESOLUTION DENYING, IN PART, THE APPEAL AND AFFIRMING, IN PART, THE PLANNING COMMISSION APPROVAL OF A MAJOR CONDITIONAL USE PERMIT AND A MINOR VARIANCE (CMV03-207) FOR A CLEAN AND SOBER FACILITY AT 1144 12TH STREET, OAKLAND, SUCH THAT THERE IS A MAXIMUM OF SIX (6) RESIDENTS.

WHEREAS, the applicant, Jacqueline Wooley (Christian Women Supporting Women), filed an application on May 14, 2003 to convert an existing duplex into a clean and sober facility (a service enriched housing facility) at the property located at 1144 12th Street; and

WHEREAS, The City Planning Commission took testimony and considered the matter at its meeting held August 6, 2003. Action on the matter was deferred to the September 3, 2003 City Planning Commission Meeting to allow staff to obtain further clarification. The City Planning Commission took testimony and considered the matter at its meeting held on September 3, 2003. At the conclusion of the public hearing held for the matter, the commission deliberated the matter, and voted. The project was approved, 5-2; and

WHEREAS, prior to acting on the matter, the Planning Commission added a condition of approval as Condition Number 14 to read as follows: The Planning staff shall provide a Compliance and Operational Status Report of the facility to the Planning Commission at a scheduled public hearing six months and twelve months after the approval date.

WHEREAS, on September 15, 2003, an appeal of the Planning Commission's approval and a statement setting forth the basis of the appeal was received; and

WHEREAS, after giving due notice to the Appellant, the Applicant, all interested parties and the public, the Appeal came before the City Council for a public hearing on November 18, 2003; and

WHEREAS, the Appellant, the Applicant, supporters of the application, those opposed to the application and interested neutral parties were given ample opportunity to participate in the public hearing by submittal of oral and/or written comments; and

10.11CC
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WHEREAS, the public hearing on the Appeal was closed by the City Council on November 18, 2003;

WHEREAS, the City Council was concerned with the overcrowded conditions that would result from ten (10) residents and the need for periodic monitoring by City staff and therefore directed the City Attorney to prepare the necessary legislation to reduce the number of residents to six (6) and require review by the City at least two (2) times per year;

Now, Therefore, Be It

RESOLVED: The requirements of the California Environmental Quality Act (CEQA) of 1970, as prescribed by the Secretary of Resources, and the City of Oakland's environmental review requirements, have been satisfied, and, in accordance the adoption of this resolution is exempt from CEQA under Section 15301 "Modifications to Existing Structures" of the State CEQA Guidelines.

FURTHER RESOLVED: That, the City Council, having heard, considered and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Application, the City Planning Commission's decision, and the Appeal, finds that the Appellant has **not** fully shown, by reliance on evidence already contained in the record before the City Planning Commission that the City Planning Commission's decision was made in error, that there was an abuse of discretion by the Commission or that the Commission's decision was not supported by substantial evidence in the record based on the November 18, 2003, City Council Agenda Report (attached as Exhibit "A"), September 3, 2003 Staff Report to the City Planning Commission (as set forth in Attachment C of Exhibit "A"), and August 6, 2003 Staff Report to the City Planning Commission (as set forth in Attachment B of Exhibit "A"),") and hereby incorporated by reference as if fully set forth herein. Accordingly, the Appeal is denied, in part, the Planning Commission's CEQA findings and decision are upheld, in part, and the Project is approved with a reduced number of residents (the Major Conditional Use Permit and Minor Variance), subject to the findings and conditions of approval contained in the September 3, 2003 Staff Report to the City Planning Commission , except as modified herein.

FURTHER RESOLVED: That, in support of the City Council's decision to approve the Project with the reduced number of residents, the City Council affirms and adopts the September 3, 2003 Staff Report to the City Planning Commission (as set forth in Attachment C of Exhibit "A") as well as the November 18, 2003, City Council Agenda Report, attached hereto as Exhibit "A," (including without limitation the discussion, findings, and conclusions) except where otherwise expressly stated in this Resolution.

FURTHER RESOLVED: That, the Conditions of Approval stated in September 3, 2003 Staff Report to the City Planning Commission (as set forth in Attachment C of Exhibit

“A”) shall be revised to read as follows:

A. Condition Number 10:

The permit allows no more than six (6) residents and one (1) staff member to permanently reside at the facility. Any increase to the number of residents and staff members to permanently reside at the facility shall require an amendment to the permit.

B. Condition Number 11:

Per Section 17.116.180, the owner or owners of 1144 12th Street and owner of owners of 1136 14th Street shall prepare and execute to the satisfaction of the City Attorney and file with the Alameda County Recorder, an agreement guaranteeing that two parking spaces at 1136 14th Street will be designated for Clean and Sober Facility located at 1144 12th Street for the duration of operation of the facility.

C. Condition Number 14 (imposed by City Planning Commission after staff report prepared but before final action and revised by City Council):

The Planning staff shall inspect the facility and provide a Compliance and Operational Status Report to the Planning Commission at a scheduled public hearing six months and twelve months after the approval date. Twice per year thereafter, staff shall inspect the facility and, if necessary, provide a Compliance and Operational Status Report to the Planning Commission.

FURTHER RESOLVED: That, the City Council finds and determines that this Resolution complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Exemption with the appropriate agencies.

FURTHER RESOLVED: That, the record before this Council relating to this application and appeal includes, without limitation, the following:

1. the application, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his representatives;
3. the notice of appeal and all accompanying statements and materials;
4. all final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation and all related/supporting final materials, and all final notices relating to the application and attendant hearings;
5. all oral and written evidence received by the City Planning Commission and City Council during the public hearings on the application and appeal; and all written evidence

received by relevant City Staff before and during the public hearings on the application and appeal;

6. all matters of common knowledge and all official enactments and acts of the City, including, without limitation (a) the General Plan; (b) Oakland Municipal Code (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations.

FURTHER RESOLVED: That, the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA.

FURTHER RESOLVED: That, the recitals contained in this Resolution are true and correct and are an integral part of the City Council's decision.

In Council, Oakland, California, _____, 2003

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
CEDA FLOYD
City Clerk and Clerk of the
Council of the City of
Oakland, California

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ORA/COUNCIL

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Exhibit A

[November 18th City Council Agenda Report with August 6, 2003 Staff Report to City Planning Commission (Attachment B) and September 3, 2003 Staff Report to City Planning Commission (Attachment C)]

**CITY OF OAKLAND
COUNCIL AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2003 NOV -6 PM 2:49

TO: Office of the City Manager
ATTN: Deborah Edgerly
FROM: Community & Economic Development Agency
DATE: November 18, 2003
RE: A PUBLIC HEARING AND ADOPTION OF RESOLUTION DENYING THE APPEAL AND AFFIRMING THE PLANNING COMMISSION APPROVAL OF A MAJOR CONDITIONAL USE PERMIT AND A MINOR VARIANCE (CMV03-207) FOR A CLEAN AND SOBER FACILITY AT 1144 12TH STREET.

SUMMARY

This project, a conversion of an existing duplex to a clean and sober facility for 10 residents, was originally approved by the City Planning Commission on September 3, 2003. On September 15, 2003, Ellen Wyrick-Parkinson filed an appeal of the Planning Commission's approval (Attachment A). The appellant raises three points in the appeal; namely that 1) the Planning Commission granted a Variance for parking requirements on the basis of availability of two permanent parking spaces at 1324 Adeline Street but there is no proof of availability of parking at that address; 2) That there is 325 feet between the proposed project and another group home allegedly located at 1125 Magnolia Street while the staff report stated it to be more than 500 feet; 3) That the area near Lowell Park is a problem area in terms of crime. Please see Key Issues and Impacts section, below, for an analysis of the points of the appeal.

The 3,610 square foot project parcel is located on 11th Street in West Oakland. The nearest cross street is Adeline Avenue. The site is zoned R-70 High-Density Residential zone and is developed with a 2,402 square foot Victorian duplex that appears to be in good condition. The surrounding area is developed with one and two story residential dwelling units with three churches within one block of the project site. Staff recommends that the City Council adopt the attached Resolution denying the appeal and affirming the Planning Commission's approval of a Major Conditional Use Permit and Variance (CMV03-207) for a clean and sober facility at 1144 12th Street.

FISCAL IMPACT

The project involves a private development, does not request or require public funds and has no fiscal impact on the City of Oakland. The appellant submitted the required appeal fees.

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City Council
November 18, 2003

BACKGROUND

This is a request by the applicant Christian Women Supporting Women (CWSW) to convert an existing 2,402 square foot, two-story Victorian duplex to a "clean and sober facility" (a service-enriched housing facility) for 10 residents. CWSW is a nonprofit organization designed to assist chemically dependent women who have experienced chronic relapses. CWSW requests to establish a Sunday to Saturday facility with 24-hour staff supervision. To be eligible for the program, the women must have successfully demonstrated a commitment to recovery or have been referred by another agency having evidenced an acceptable period of sobriety. The facility endeavors to provide a non-profit, post-transitional housing program that provides a clean and sober living environment for women maintaining recovery from drug and/or alcohol abuse.

There will be two permanent employees, with one employee on site at all times. The residents will be all women. Total number of residents will be ten who will reside in a total of four bedrooms that range in size from 128 sq. ft. to 208 sq. ft. One staff member will reside on the second floor in a room that will double as Staff Room (126.5 sq. ft.) during day-time hours and bedroom during night hours. Common areas (710 sq. ft.) on the first floor include a living room, dining and kitchen area, a quiet room and a rear deck. Common areas (677 sq. ft.) on the second floor include a living area, dining and kitchen area, a quiet room, and a rear deck. CWSW will provide all furniture for the facility and charge residents rent in exchange for board and lodging.

All residents are expected either to work or attend school. The resident stay will be no more than one year. It is anticipated that children of residents may visit during the weekends (Friday evening to Sunday evening). These visits will be scheduled to prevent overcrowding. Counseling and case management services will be provided on-site for the residents and educational classes may be provided from time to time.

The project was reviewed initially by the Planning Commission on August 6, 2003. (Please refer to the Planning Commission Staff Report dated August 6, 2003 Attachment "B"). At the public hearing, the Commission considered the project, took public testimony and directed staff to further investigate whether similar facilities are located within 300 feet of the project site. One of the findings required by the Zoning regulations for approval of the project is that there are no Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activities located within 300 feet of each other.

At the September 3, 2003 Planning Commission Hearing, staff provided the requested information and recommended approval of the project as all appropriate findings, including the 300 feet restriction on over concentration, could be made (Please refer to the Planning Commission Staff Report dated September 3, 2003 Attachment "C"). The Planning Commission approved the project adding a condition that a Compliance and Operational Status Report for the facility be submitted to and reviewed by the Planning Commission six and twelve months after the date of approval.

KEY ISSUES AND IMPACTS

Staff finds that appeal does not raise any substantial issues that would prevent the Council to make the applicable findings necessary for approval of this project. As conditioned, staff believes that the proposed use is appropriate and recommends that the City Council uphold the project and deny the appeal.

The following analysis provides basis for which the project approval was appealed. The appellant's letter is attached (see Attachment "A"). The basis of the appeal as contained in the appeal letter is shown in bold text. A staff response follows each point.

- 1. That the Planning Commission granted Variance for parking on the basis of availability of two permanent parking spaces at 1324 Adeline Street but there is no proof that the owner has the authority to assign these spaces. Further, Oak Center Neighborhood Association did not receive any information on the parking agreement.**

Staff Response: Staff report prepared for the August 6, 2003 Planning Commission public hearing included as Attachment I, a letter from Robert Clark, Board Secretary, The Oak Center Cultural Center, Inc, that indicated an agreement by the Board to designate two parking spaces for the use by Christian Women Supporting Women (the applicant). The Oak Center Cultural Center, Inc is the owner of record for the property where parking is located. Oak Center Neighborhood Association is not a party to the agreement and is not required to be advised.

- 2. That there is 325 feet between proposed project and another group home allegedly located at 1125 Magnolia Street while the staff report stated it to be more than 500 feet.**

Staff Response: Section 17.102.212 (B) requires that "no Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than 300 feet away from any other such Activity or Facility." At the August 6th Planning Commission hearing, it was alleged that a group home existed at 1125/1129 Magnolia (corner lot on Magnolia Street and 12th Street). At the September 3rd hearing, staff reported to the Planning Commission that property was located more 500 feet away from the project parcel. Staff used the City's Geographic Information Systems (GIS) Database to calculate the distance between the two properties. If the distance is calculated as one would walk, the measurement comes to 552 feet and if it is calculated as "the crow flies" then the measurement comes to 462 feet.

The appellant states that using Alameda County Assessor's maps "it is their belief that it is more like 325 feet between the two group homes". The appellant's calculation excludes the width of Adeline Street (80 feet), Magnolia Street (60 feet) and 12th Street (80 feet) and therefore arrives at a number smaller than 500 feet. Even by appellant's calculation (that does not include the street widths necessary to arrive at an accurate estimate), the distance between the project site

and the location of the alleged group home is 325 feet. This distance is adequate to make the finding required by Section 17.102.212 (B) of the Zoning regulation.

Further, it may be noted that there is no record of the issuance of a Conditional Use Permit necessary for operation of a Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity at 1125/1129 Magnolia Street. The Code Compliance staff is currently investigating this corner property. As of writing of this report, no evidence to support that such an operation taking place at this site has been found. If any evidence of violation is noted, then the property owner would be cited and required to remedy the violation.

3. The appellant states that the area near Lowell Park is a problem area in terms of crime and provides crime statistics for the area.

Staff Response: The appellant provides no explanation or evidence to support the cause-effect relationship between the proposed use and the existing crime in the area. Staff has no reason to believe that operation of a clean and sober facility would negatively impact crime in the neighborhood. Conversely, staff also has no reason to believe that the existing crime in the area would negatively impact the operation of the proposed facility.

NEW DEVELOPMENT SINCE THE PLANNING COMMISSION APPROVAL

The applicant has informed staff that Oak Center Cultural Center can no longer honor their parking agreement. Subsequently, the applicant has procured two parking spaces across the Cultural Center at 1136 14th Street (also identified as 1400 Adeline Street). This modification in project proposal increases the distance between the project site and provision of off-site parking from 390 feet to 430 feet. Staff believes that the variance to allow designation of two parking spaces located more than 300 feet away with no common ownership of property on which parking is provided can be approved, as the increase in distance is marginal and residents of the facility are prohibited by the conditions of approval from having cars. See Attachment B for justification for variance outlined in the August 6th staff report.

See Attachment D for the permission of property owner 1136 14th Street to designate two parking spaces as well as the plans for the existing 13-car parking lot. This property is zoned C-10/S-20 (Local Retail Commercial Zone/Historic Preservation District Combining Zone) and is developed with a two story structure with approximately 2000 sq. ft convenience store on the first floor and two apartments on the second floor. Per Sections 17.116.060 and 17.116.080 of Planning Code, the residential uses trigger a requirement for one parking space while the commercial use less than 3000 sq. ft. does not generate parking requirement. Therefore, the existing uses will have adequate parking spaces even after designation of two parking spaces for the clean and sober facility.

In order to reflect the new development regarding provision of parking spaces, Condition of Approval Number 11 regarding recordation of the parking agreement between owner(s)

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November 18, 2003

providing parking spaces and the owner of project site is recommended to be revised (See Attachment C for September 3rd Planning Commission Report). The change in the condition is included in the Resolution and as well as in revised recommended conditions of approval in Attachment E.

SUSTAINABLE OPPORTUNITIES

- Economic: The project will expand the available housing inventory in the City of Oakland and returns an existing underutilized facility to a viable use.
- Environmental: The project has been found to be exempt under Section 15301 "Modifications to Existing Structures" of the State of California Environmental Quality Act (CEQA).
- Social Equity: The project benefits the community by offering support services to at risk women in the community to continue and solidify their recovery and become productive members of society. The conditions and requirements set forth in the Use Permit will address neighbors' concerns about appropriate operation of the facility and provide for a formal review by the Planning Commission.

DISABILITY AND SENIOR CITIZEN ACCESS

The Building Division of the Community and Economic Development Agency will require the project to conform to the Americans With Disability Act in all provisions to ensure equal access to this facility.

STAFF RECOMMENDATION AND RATIONALE

Staff recommends that the City Council uphold the Planning Commission approval and deny the appeal. 1) The Planning Commission's decision was based on its thorough review of all pertinent aspects of the project. 2) The change in provision of off-site parking spaces is a non-material change to the project approved by the Planning Commission.

ALTERNATIVE CITY COUNCIL ACTIONS

The City Council also has several other options in addition to the one provided in the recommendation above.

1. The City Council could uphold the appeal and reverse the Planning Commission decision, denying the project.
2. The appeal could be denied, but with additional conditions imposed.
3. The item could be continued pending new information or further clarification of conditions.

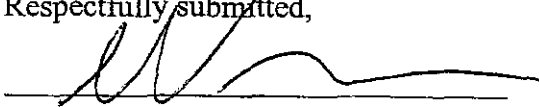
Item: ~~City Council~~
November 18, 2003

ACTION REQUESTED OF THE CITY COUNCIL

1. Affirm staff's environmental determination.
2. Adopt Resolution denying the appeal and affirming the Planning Commission's approval of a Major Conditional Use Permit and Variance (CMV03-207) for a clean and sober facility at 1144 12th Street.

Respectfully submitted,

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CLAUDIA CAPPIO
Development Director
Community & Economic Development Agency

Prepared by:
Miroo Desai Brewer, Planner III
Planning & Zoning

Approved and Forwarded to the City Council:



DEBORAH EDGERLY
Office of the City Manager

ATTACHMENTS:

- A. Appellant's letter of September 15, 2003
- B. Planning Commission Staff Report of August 6, 2003
- C. Planning Commission Staff Report of September 3, 2003
- D. Parking Agreement and Parking Lot Plans
- E. Recommended Findings and Conditions of Approval

Item: 14.3
City Council
November 18, 2003

Case File Number CMV03-207

August 6, 2003

Location:	1144 12 th Street (See map on reverse)
Assessors Parcel Number:	004-00350-038-00
Proposal:	To convert an existing two unit residential structure to a clean and sober facility (a Service-Enriched Residential facility)
Applicant:	Christian Women Supporting Women/Jacqueline Wooley
Owner:	K. M. Lewis
Planning Permits Required:	Major Conditional Use Permit and Minor Variance to allow designation of two parking spaces located more than 390 feet away where 300 feet is required.
General Plan:	Mixed Housing Type
Zoning:	R-70: High Density Residential Zone
Environmental Determination:	Exempt 15301; State CEQA Guidelines, Existing Facilities
Historic Status:	Potentially Designated Historic Property. Survey Rating: C2+
Service Delivery District:	I - West Oakland
City Council District:	3
Date Filed:	May 14, 2003
Staff Recommendation:	Take public testimony and continue the item with direction to staff to prepare appropriate findings.
Finality of Decision:	<i>Appealable to City Council</i>
For Further Information:	Contact case planner Miroo Desai Brewer at 510-238-6935

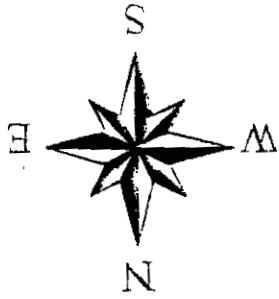
SUMMARY

The applicant, Christian Women Supporting Women (CWSW), proposes to convert an existing Victorian duplex to a clean and sober facility for 10 residents. CWSW requests to establish a Sunday to Saturday facility with 24-hour staff supervision. There will be two permanent employees with one employee on site at all times. The residents will be ten women who will reside in four bedrooms. All residents are expected either to work or attend school. The resident stay will be no more than one year. Counseling and case management services will be provided on-site for the residents and educational classes may be provided from time to time.

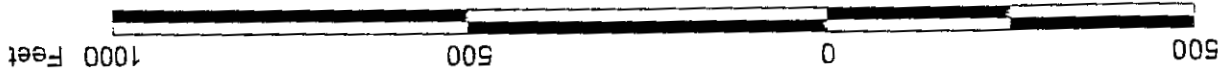
Clean and sober facilities fall under the use category of service-enriched residential facilities that are permitted in a residential zone with issuance of a major conditional use permit. One parking space is provided on-site and two parking spaces are provided at 1324 Adeline Street located approximately 390 feet (one block) away. The applicant also requests a variance to the parking requirements to allow designation of two parking spaces located more than 300 feet away with no common ownership of property on which parking is provided.

The project has support from some residents in the neighborhood but not from Oak Center Neighborhood Association (OCNA), a local community organization. Staff has also received letter from Nancy Nadel's office (City Council District 3) expressing concerns for the proposal. Staff recommends that the Planning Commission take public testimony and continue the item with direction to staff to prepare appropriate findings.

ATTACHMENT B



Case File: CMV03-207
Applicant: Christian Women Supporting Women
Address: 1144 12th Street
Zone: R-70



PROJECT DESCRIPTION

The applicant, Christian Women Supporting Women (CWSW), proposes to convert an existing 2,402 square foot Victorian duplex to a "clean and sober facility" for 10 residents. CWSW is a nonprofit organization designed for chemically dependent women who have experienced chronic relapses. CWSW requests to establish a Sunday to Saturday facility with 24-hour staff supervision. To be eligible for the program, the women must have successfully demonstrated a commitment to recovery or have come from another referral agency having evidenced an acceptable period of sobriety. The facility endeavors to provide a non-profit, post-transitional housing program that provides a clean and sober living environment for women maintaining recovery from drug and/or alcohol abuse.

There will be two permanent employees with one employee on site at all times. The residents will be all women. Total number of residents will be ten who will reside in four bedrooms. Two bedrooms will hold 2 residents each and two bedrooms will hold 3 women each. On the first floor, the bedroom sizes expected to accommodate 2 residents and 3 residents are 147 square feet and 184 square feet respectively. On the second floor, the bedroom sizes expected to accommodate 2 residents and 3 residents are 128 square feet and 208 square feet respectively. One staff member will reside on the second floor in a room that will double as Staff Room (126.5 square feet) during day-time hours and bedroom during night hours. Common areas on the first floor include a 225 square foot living room; 201 square foot dining and kitchen area; 103 square foot quiet room; and a 181 square foot rear deck. Common areas on the second floor include a 223 square foot living area; 117 square foot dining and kitchen area; a 103 square foot quiet room; and a 234 square foot rear deck. CWSW will provide all furniture for the facility and charge residents rent in exchange for food and board.

All residents are expected either to work or attend school. The resident stay will be no more than one year. It is anticipated that children of residents may visit during the weekends (Friday evening to Sunday evening). These visits will be scheduled to prevent overcrowding. Counseling and case management services will be provided on-site for the residents and educational classes may be provided from time to time.

No physical internal or external changes are proposed.

PROPERTY DESCRIPTION

The 3,610 square foot project parcel is located on 11th Street in West Oakland. The nearest cross street is Adeline Avenue. The site is zoned R-70 High-Density Residential zone and is developed with a 2,402 square foot Victorian duplex that appears to be in good condition. The surrounding area is developed with one and two story residential dwelling units with three churches within one block of the project site.

GENERAL PLAN ANALYSIS

The subject property is located in the "Mixed Housing Type" General Plan designation. This classification is intended to create, maintain and enhance residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, and neighborhood businesses. The desired character of the classification is primarily residential in character with small commercial enterprises and small-scale compatible civic and institutional uses.

The document "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" (the Guidelines) passed by the Planning Commission on May 6, 1998 is silent regarding service-enriched residential facilities. The proposed use is primarily support services that can be considered institutional services. Fur

use under the Zoning Ordinance and is characterized as a "Residential Activity". Staff believes that the project conforms to the Mixed Housing Type and Urban Residential General Plan designation in that the proposal is primarily a residential activity that provides housing opportunity at a reasonable cost and conforms with the General Plan Policy N6.1 regarding encouraging a mix of housing types.

ZONING ANALYSIS

The proposed use falls under Service Enriched Permanent Housing Residential classification per Section 17.10.114 which includes "permanent housing in which residents are tenants who live independently and have access to various voluntary support services, such as, health, mental health, education and employment/training services."

The site is located within the R-70, High Density Residential Zone that is intended to "create, preserve, and enhance areas for apartment living at high densities in desirable settings." Service-enhanced permanent housing is a conditionally permitted use under Section 17.28.060 (*Conditionally permitted activities*) of the Zoning Ordinance.

Section 17.134.020 of the Zoning Ordinance (*Definition of major and minor conditional use permits*) states that any all service enriched housing residential uses are considered major and requires a hearing in front of the Planning Commission. To permit this project, the Planning Commission must make the regular Conditional Use Permit findings (Section 17.134.050), special use permit findings (Section 17.102.212) and Minor Variance Findings (Section 17.148.050a). New special use permit findings (Section 17.102.212) were adopted in 1999 to provide guidance in evaluating applications for Service Enriched Residential activities as well as other related special housing activities. Key issues to be addressed are parking and over-concentration of activities.

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines lists projects that qualify as categorical exemptions from environmental review. The project falls under the category exemption listed in Section 15301, which relate to modifications to existing structures.

KEY ISSUES AND IMPACTS

The proposed development is to convert an existing Victorian duplex to a clean and sober facility for 10 residents. The applicant requests to establish a Sunday to Saturday facility with 24-hour staff supervision. There will be two permanent employees and one employee will be on site at all times. The residents will be all women and the ten women will reside in four bedrooms. All residents are expected either to work or attend school. The resident stay will be no more than one year. It is anticipated that children of residents may visit during the weekends (Friday evening to Sunday evening). These visits will be scheduled to prevent overcrowding. Counseling and case management services will be provided on-site for the residents and educational classes may be provided from time to time. No external or internal improvements are proposed.

Parking and Traffic

Per Section 17.116.060 (B) of the Zoning Code Service-Enriched Permanent Housing requires two spaces for each three dwelling units and one space for each three rooming units plus one space for each three employees on site during the shift that has maximum staffing, plus one space for each facility vehicle. The proposal involves two dwelling units, 4 rooming units, and two employees. There will be no facility vehicle. This triggers a parking requirement of three spaces. One par

site and two parking spaces are provided at 1324 Adeline Street located approximately 390 feet (one block) away. Section 17.116.170 allows provision of parking spaces on another lot located within 300 feet and having at least one owner in common with the lot where the activity is taking place. The applicant requests a variance to allow designation of two parking spaces located more than 300 feet away with no common ownership of property on which parking is provided.

Staff believes that the variance can be granted. The general intent of distance requirement of 300 feet (roughly one city block) is considered a reasonable distance for a person to walk to his/her destination. The off-site parking spaces are located roughly one block away and are only 90 feet further than what is required. The marginal increased distance will not deter utilization of parking spaces at 1324 Adeline Street by users. As regards to ownership requirements, the intent of this requirement is to ensure that designation of parking spaces on a lot other than where the activity is taking place are kept during the life of the operation of that particular use. Staff believes that this intent can be met via an agreement executed by the property owners of 1324 Adeline Street and 1144 12th Street and recorded at the County Recorder's Office will be sufficient to address the intent of the common ownership requirement. (See Condition Number 11.)

Although the proposed use generates a parking requirement of 3 spaces, staff believes that it would not be unreasonable to expect some of the 10 residents to use a car as means of transportation. For this reason, the staff has included a condition that restricts residents of this facility from using private vehicles (See Condition Number 12). The operator has agreed to enforce this condition.

Over concentration of facilities

Section 17.102.212 (B) requires that "no Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than 300 feet away from any other such Activity or Facility." The City's database record of alcohol and drug rehabilitation facilities show that no such facility is located within 1000 feet of project site. (See Attachment B for Map Showing Location of Drug and Alcohol Facilities in Oakland and Map Showing Absence of such facilities within 300 feet and 1000 feet radius of project site).

Staff used California Community Care Licensing Division's (CCLD) database to conduct search for a variety of facilities for the 94607 and 94612 Zip Codes (Zip Codes for West Oakland). The facility category included the following: Adult Residential Facilities; Adult Support Center; Group Homes; Transitional Care Facilities for Children, Small Facility Homes, Social Rehabilitation Facilities, Residential Care for Elderly and Temporary Shelters. No such facilities fell within 300 feet of the project site. (See Attachment C for CCLD Database Search Results).

The applicant conducted a search using different method that also did not yield a presence of similar facilities within 300 feet of the project site. (See Attachment D for Applicant's Search Results).

From the data available, staff believes that there are no Residential Care, Service-Enriched Permanent Housing, Transitional Housing or Emergency Shelter Residential Activity are located within 300 feet of the project site thereby complying with the requirement in Section 17.102.212 (B).

Community Input

Oak Center Neighborhood Association (OCNA) reviewed the project proposal and reached the conclusion that it could not support the project for a clean and sober facility at 1144 12th Street. (See Attachment E for OCNA's letters). From the correspondence, it appears that OCNA's main issues were a

shifting project description by the applicant, overcrowding, qualified staffing and issues of adequate parking and over concentration of similar facilities in the neighborhood.

The applicant has submitted 108 signatures of support for the proposed facility from residents living in the surrounding neighborhood. Ten letters of support have also been submitted. (See Attachment F for Signatures and Letters of Support).

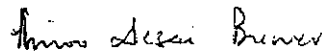
Staff has also received letter from Nancy Nadel's office (City Council District 3) expressing concerns for the proposal regarding overcrowding, parking, over concentration of similar facilities and in general, ability of the applicant to successfully run the proposed facility. (See Attachment J). Please see applicant's response to this letter as Attachment K.

CONCLUSION

Although the proposed activity will provide an essential service to the community by offering support services to at risk women in the community to continue and solidify their recovery, a concern has been raised regarding the ability of the applicant to successfully operate the proposed facility.

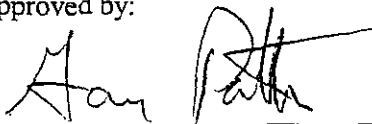
- RECOMMENDATIONS:**
1. Take public testimony and continue the item with direction to staff to prepare appropriate findings.

Prepared by:



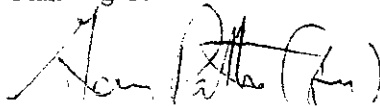
Miroo Desai Brewer
Planner III

Approved by:



GARY PATTON
Deputy Director of Planning and Zoning

Approved for forwarding to the
City Planning Commission:



LESLIE GOULD
Director of Planning and Zoning

ATTACHMENTS:

- A. Plans and Elevations
- B. Map Showing Location of Drug and Alcohol Facilities in Oakland & Map Showing Absence of such facilities within 300 feet and 1000 feet radius of project site.
- C. CCLD Database Search Results (Conducted by Staff)
- D. Applicant's Search Results
- E. Oak Center Neighborhood Association Correspondence
- F. Signatures and Letters of Support
- G. Client Rules and Regulations Service Agreement
- H. Christian Women Supporting Women (CWSW) Objectives and By-Laws
- I. Letter from Oak Center Cultural Center Designation of Parking Spaces at 1324 Adeline Street
- J. Letter from Nancy Nadel, City Council District 3
- K. Applicant's Response to Letter from Nancy Nadel

Location:	1144 12 th Street (See map on reverse)
Assessors Parcel Number:	004-00350-038-00
Proposal:	To convert an existing two unit residential structure to a clean and sober facility (a Service-Enriched Residential facility)
Applicant:	Christian Women Supporting Women/Jacqueline Wooley
Contact Person/Phone Number	Jacqueline Wooley/510-436-4569
Owner:	K. M. Lewis
Planning Permits Required:	Major Conditional Use Permit and Minor Variance to allow designation of two parking spaces located more than 390 feet away where 300 feet is required.
General Plan:	Mixed Housing Type
Zoning:	R-70: High Density Residential Zone
Environmental Determination:	Exempt 15301; State CEQA Guidelines, Existing Facilities
Historic Status:	Potentially Designated Historic Property. Survey Rating: C2+
Service Delivery District:	I - West Oakland
City Council District:	3
Date Filed:	May 14, 2003
Staff Recommendation:	Approve subject to the attached conditions
Finality of Decision:	<i>Appealable to City Council</i>
For Further Information:	Contact case planner Miroo Desai Brewer at 510-238-6935

FILE COPY

SUMMARY

At the August 6th, 2003 public hearing, the Planning Commission considered the project, took public testimony and directed staff to further investigate whether similar facilities are located within 300 feet of the project site.

Staff requested that the Oak Center Neighborhood Association (OCNA) provide addresses of similar facilities in the vicinity of the project site. One address, 1125 Magnolia Street was provided. This property is located more 500 feet away from the project parcel. There is no record of the issuance of a Conditional Use Permit necessary for operation of a Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity at this site. Staff has requested that Code Enforcement personnel investigate this site and take appropriate follow-up action if necessary.

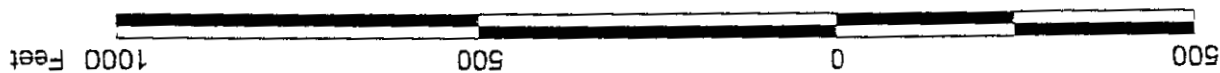
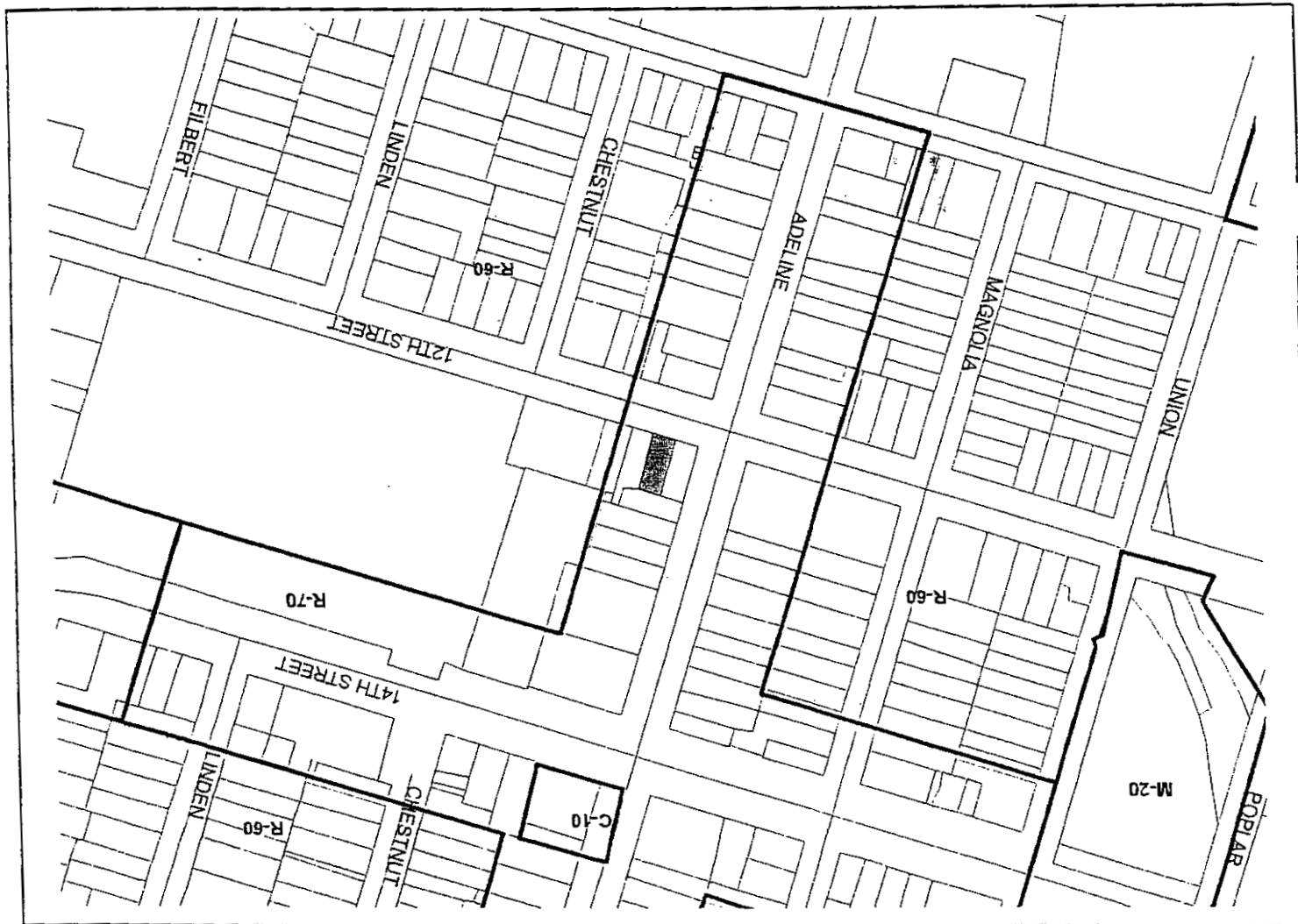
At the August 6th meeting, during the public testimony period, mention was made of operation of S.I.S.T.E.R. - a service-enriched permanent housing facility at 1324 Adeline Street. This location lies within 300 feet of the project site. Staff investigated and found that this facility relocated to 1724 Mandela Parkway in February 2003 and conducts no activities at their former location.

There is no evidence of similar uses being located within 300 feet of the subject site.

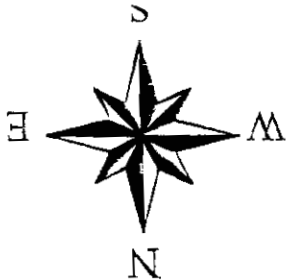
Staff believes that the required findings for the Conditional Use Permit and Variance for this project can be made and recommends approval subject to attached conditions.

ATTACHMENT C

CITY OF OAKLAND PLANNING COMMISSION



Case File: CMV03-207
Applicant: Christian Women Supporting Women
Address: 1144 12th Street
Zone: R-70



ATTACHMENT C

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines lists projects that qualify as categorical exemptions from environmental review. The project falls under the category exemption listed in Section 15301, which relate to modifications to existing structures.

CONCLUSION

The proposed activity will provide an essential service to the community by offering support services to at risk women in the community to continue and solidify their recovery and become productive members of society. Staff believes that required findings for approval of the Conditional Use Permit and Variance can be made subject to attached conditions.

RECOMMENDATIONS:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit and Variance subject to the attached findings and conditions.

Prepared by:

Miroo Desai Brewer

Miroo Desai Brewer
Planner III

Approved by:

Gary Patton

GARY PATTON
Deputy Director of Planning and Zoning

Approved for forwarding to the
City Planning Commission:

Claudia Cappio

Claudia Cappio
Director of Planning and Zoning

ATTACHMENT C

FINDINGS FOR APPROVAL:

This proposal meets the required findings under Sections 17.134.050 (General Use Permit Criteria), Section 17.102.212 (Special Regulations Applying to Residential Care, Service Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities) and Section 17.148.050a (Minor Variance Criteria) as set forth below. Required findings are shown in **bold type**; explanations as to why these findings can be made are in normal type.

Section 17.134.050 (General Use Permit Criteria):

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

The proposed development involves establishing a clean and sober facility for 10 women in an existing Victorian duplex. The operating characteristics of the facility as described in Project Description section of August 6th staff report and in Client Rules and Regulations Service Agreement (Attachment G of August 6th staff report) will not adversely affect livability of surrounding neighborhood. The residents will either be working or in school and will have to follow strict rules and regulations geared to monitor resident activity and behavior.

- B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

Introduction of a clean and sober facility will meet essentially residential and basic support needs of at risk women in an existing duplex thereby providing a functional living environment.

- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

The proposed development will provide an essential service to the community by providing a safe and supportive environment to women who are struggling to stay clean and sober.

- D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.070.**

No internal or external physical change is proposed to the existing structure.

- E. That the proposal conforms in all significant respects with the Oakland Comprehensive Plan and with any other applicable plan or development control map which has been adopted by the City Council.**

The subject property is located in the "Mixed Housing Type" General Plan designation. The document "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" (the Guidelines) is silent regarding service-enriched resident

ATTACHMENT C

use is primarily residential in character and provides support services that can be considered institutional services. Further, the use is conditionally permitted use under the Zoning Ordinance and is characterized as a "Residential Activity". Staff believes that the project conforms to the Mixed Housing Type and Urban Residential General Plan designation in that the proposal is primarily a residential activity that provides housing opportunity at a reasonable cost and conforms with the General Plan Policy N6.1 regarding encouraging a mix of housing types.

17.102.212 (Special Regulations Applying to Residential Care, Service-Enriched Permanent Housing, and Emergency Shelter Residential Activities):

F. That staffing of the facility is in compliance with any State Licensing Agency Requirements.

There are no State Licensing Agency requirements for operation of a clean and sober facility.

G. That if located in a residential zone, the operation of buses and vans to transport residents to and from off-site activities does not generate vehicular traffic substantially greater than that normally generated by Residential Activities in the surrounding area.

The project is located in a residential zone. However, there will be no operation of buses or vans to transport residents to and from off-site activities. The 10 residents are expected to work or attend school and are anticipated to use public transportation to reach their destinations. Generation of traffic by ten women to go to work or attend school will not be substantially greater than that normally generated by residential activities.

H. That if located in a residential zone, the on-street parking demand generated by the facility due to visitors is not substantially greater than that normally generated by the surrounding Residential activities.

Given the small number of residents (ten), visitors are not expected to be substantially greater than what can be expected in the surrounding residential activities. Visitors will include friends, spouses and children of the residents primarily during the weekend and some counselors for residents to provide counseling and case management services.

I. That if located in a residential zone, arrangements for delivery of goods are made within the hours that are compatible with and will not adversely affect the livability of the surrounding properties.

The facility is not expected to generate the need of goods in large supplies given the small number of residents. Nonetheless, Staff has included a condition addressing hours for delivery of goods.

J. That the facility's program does not generate noise at levels that will adversely affect the livability of the surrounding properties.

The proposed clean and sober facility will provide housing to ten adult women who would be working or attending school. The only activities that are expected to occur onsite are meetings for purposes of case management and counseling and occasional educational classes. These activities will not adversely affect the livability of the surrounding properties. Furthermore, the facility's rules and regulations are geared to ensure that the residents do not engage in behavior that could create

ATTACHMENT C

general nuisance to surrounding neighbors. (See Attachment G for CWSW's Client Rules and Regulations/Service Agreement).

SECTION 17.148.050(a) - MINOR VARIANCE FINDINGS:

K. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.

The applicant requests a variance to the parking requirements to allow designation of two parking spaces located more than 300 feet away with no common ownership of property on which parking is provided.

The general intent of distance requirement of 300 feet (roughly one city block) is considered a reasonable distance for a person to walk to his/her destination. The off-site parking spaces are located roughly one block away and are only 90 feet further than what is required. The marginal increased distance will not deter utilization of parking spaces at 1324 Adeline Street by users. As regards to ownership requirements, the intent of this requirement is to ensure that designation of parking spaces on a lot other than where the activity is taking place are kept during the life of the operation of that particular use. Staff believes that this intent can be met via an agreement executed by the property owners of 1324 Adeline Street and 1144 12th Street and recorded at the County Recorder's Office will be sufficient to address the intent of the common ownership requirement. For these reasons, Staff believes that strict compliance with the regulation would result in unnecessary hardship inconsistent with the purposes of the zoning regulations.

L. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.

City of Oakland has approved variances to parking requirement for similar facilities in similarly zoned property in different parts of the city. Therefore, denial of this variance would deprive the applicant of privileges enjoyed by owners of similarly zoned property.

M. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy.

Designation of two parking spaces for users 390 feet with no common ownership will result in marginal increase in pedestrian traffic over one city block. This will not have an adverse impact on the character, livability or development of abutting properties or the surrounding area.

N. That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.

City of Oakland has approved variances to parking requirement for similar facilities in similarly zoned property in different parts of the city. Therefore, approval of this project will not constitute a grant of

special privilege nor will it be inconsistent with the purposes of the zoning regulations as explained in Finding K.

- O. For proposals involving one or two dwelling units on a lot: That the elements of the proposal requiring the variance (e.g. elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the design review criteria set forth in the design review procedure at Section 17.136.070.

Requested variance from parking requirements will not involve construction of structure nor will it involve modifications to an existing structure.

ATTACHMENT C

CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. Approved Use.

a. Ongoing.

The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the plans submitted on May 14, 2003 and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and approved plans, will require a separate application and approval.

2. Effective Date, Expiration, and Extensions

a. Ongoing.

This permit shall become effective upon satisfactory compliance with these conditions. This permit shall expire on September 3, 2004 unless actual construction or alteration, or actual commencement of the authorized activities in the case of a permit not involving construction or alteration, has begun under necessary permits by this date. Upon written request and payment of appropriate fees submitted no later than the expiration date, the Zoning Administrator may grant a one-year extension of this date, with additional extensions subject to approval by the City Planning Commission.

3. Scope of This Approval; Major and Minor Changes

a. Ongoing.

The project is approved pursuant to the Planning Code only and shall comply with all other applicable codes, requirements, regulations, and guidelines imposed by other affected departments, including but not limited to the Building Services Division and the Fire Marshal. Minor changes to approved plans may be approved administratively by the Zoning Administrator; major changes shall be subject to review and approval by the City Planning Commission.

4. Modification of Conditions or Revocation

a. Ongoing.

The City Planning Commission reserves the right, after notice and public hearing, to alter Conditions of Approval or revoke this conditional use permit if it is found that the approved use or facility is violating any of the Conditions of Approval, any applicable codes, requirements, regulation, guideline or causing a public nuisance.

5. Recording of Conditions of Approval

a. Prior to issuance of building permit or commencement of activity.

The applicant shall execute and record with the Alameda County Recorder's Office a copy of these conditions of approval on a form approved by the Zoning Administrator. Proof of recordation shall be provided to the Zoning Administrator.

6. Reproduction of Conditions on Building Plans

a. Prior to issuance of building permit.

These conditions of approval shall be reproduced on page one of any plans submitted for a building permit for this project.

7. Indemnification**a. Ongoing.**

The applicant shall defend, indemnify, and hold harmless the City of Oakland, its agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Office of Planning and Zoning Division, Planning Commission, or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

STANDARD CONDITIONS FOR CLEAN AND SOBER FACILITY:**8. Waste Reduction and Recycling****a. Prior to commencement of activity**

The applicant may be required to complete and submit a "Waste Reduction and Recycling Plan," and a plan to divert 50 percent of the solid waste generated by the operation of the project, to the Public Works Agency for review and approval, pursuant to City of Oakland Ordinance No. 12253. Contact the City of Oakland Environmental Services Division of Public Works at (510) 238-7073 for information.

9. Recycling Space Allocation Requirements**a. Prior to commencement of activity**

The design, location and maintenance of recycling collection and storage areas must substantially comply with the provision of the Oakland City Planning Commission "Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas", Policy 100-28. A minimum of two cubic feet of storage and collection area shall be provided for each dwelling unit and for each 1,000 square feet of commercial space.

STANDARD CONDITIONS FOR CLEAN AND SOBER FACILITY:**10. Number of Residents****a. Ongoing**

This permit allows no more than 10 residents and one staff member to permanently reside at the Clean and Sober facility. Any change to the number of residents will require an amendment to the permit.

11. Parking Agreement**a. Prior to commencement of activity**

Per Section 17.116.180, the owner or owners of 1144 12th Street and owner of owners of 1324 Adeline Street shall prepare and execute to the satisfaction of the City Attorney and file with the Alameda County Recorder, an agreement guaranteeing that two parking spaces at 1324 Adeline Street will be designated for Clean and Sober Facility located at 1144 12th Street for the duration of operation of the facility.

12. Restriction on Residents**a. Ongoing**

The applicant shall make a condition of service agreement for all its clients that restricts them from using a private vehicle as a means of transportation to and from the project site. The

applicant shall provide the City of Oakland Zoning Division with copies of the service agreement prior to initial occupancy.

13. Hours of Delivery

a. Ongoing

All deliveries to the facility by commercial operators shall be made during reasonable hours and no deliveries shall be made during the hours of 10:00 p.m. and 5:00 a.m.

APPROVED BY: City Planning Commission: _____ (date) _____ (vote)
City Council: _____ (date) _____ (vote)

ATTACHMENT C

CONDIT

10.11 CC
OAKLAND CITY COUNCIL
DEC 16 2003