

OAKLAND CITY COUNCIL

2004 MAR 25 PM 12: 37

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

Mark P. Walsh

A RESOLUTION UPHOLDING THE APPEAL, REVERSING THE DECISION OF THE CITY PLANNING COMMISSION APPROVING THE APPLICATION, AND DENYING THE APPLICATION FOR A MAJOR CONDITIONAL USE PERMIT TO CONVERT AN EXISTING REST HOME FACILITY INTO A TWENTY-SEVEN UNIT RESIDENTIAL PROJECT LOCATED AT 4690 TOMPKINS AVENUE, OAKLAND

WHEREAS, the property owner, Walter and Alice Loo, filed an application on July 25, 2000 to convert an existing rest home facility into twenty-seven apartment units at the property located at 4690 Tompkins Avenue; and

WHEREAS, The City Planning Commission took testimony and considered the matter at its meeting held May 21, 2003. Action on the matter was referred to the Design Review Committee. The Design Review Committee took testimony and considered the matter at its meeting held on June 25, 2003. Action on the matter was referred back to the City Planning Commission for a decision. The City Planning Commission took testimony and considered the matter at its meeting held August 6, 2003. At the conclusion of the public hearing held for the matter, the commission deliberated the matter, and voted. The project was approved, 6-0-1; and

WHEREAS on August 11, 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 September 30, 2003; and

WHEREAS, the public hearing on the Appeal was continued by the City Council on September 30, 2003 to November 18, 2003 to give the applicant and appellants additional time to discuss their differences; and

WHEREAS, on November 18, 2003 the City Council referred the matter to the City Planning Commission for further consideration and advice, pursuant to Oakland Planning Code Section 17.134.070A on 1) why were the larger 4-bedroom units not required to be broken down into smaller 2 bedroom units and 2) whether the Planning Commission believed that additional parking could be placed on the site; and

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WHEREAS, the City Planning Commission considered the questions of the City Council at their meeting of February 4, 2004. To the first question the Planning Commission responded that they believed that breaking down the units further would be difficult as the building was existing and that it would be difficult to ensure adequate exiting of each unit. To the second question the Planning Commission noted that they had required more parking than the zoning regulations required and that adding even more parking would likely result in the removal of significant landscaping, structures, retaining walls, and require more site grading; 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 continued public hearing on March 16, 2004; 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

WHEREAS, the Applicant attempted to introduce, and then apparently withdrew, a revised plan at the public hearing of March 16, 2004 that was not previously presented to the City nor reviewed by the City and the community, nor was it properly noticed, nor was it the subject of the appeal. Therefore, the revised plan could not properly be considered by the City Council; and

WHEREAS, the public hearing on the Appeal was closed by the City Council on March 16, 2004; and

WHEREAS, the City Council directed city staff and the city attorney's office to prepare a resolution and findings denying the original project and upholding the appeal.

Now, Therefore, Be It

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 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 and/or that the Commission's decision was not supported by substantial evidence in the record.

FURTHER RESOLVED: The City Council finds and determines that the proposed project would have significant negative impacts on the surrounding neighborhood (primarily traffic, noise, parking and neighborhood character) and thus does not meet the General Use Permit Findings of Oakland Planning Code section 17.134.050. Each of the reasons for denial listed above and below provide a separate and independent basis to uphold the appeal and deny the application, and when taken collectively provide an overall basis to deny the application.

The criteria for Oakland Planning Code section 17.134.050 is listed below in regular type and the findings, explaining how the proposed project fails to meet said criteria, are stated in **bold** type.

1. 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 project would convert a mostly vacant rest home complex into a 27 unit residential facility. The project would likely result in negative and harmful impacts to the community as proposed. The project would create several large, 4-bedroom apartment units which each bedroom having it's own full bathroom. This configuration is more typical of a rooming house facility than a standard apartment unit designed for one family. Given this, the occupant load on the project site is likely to be much higher than what would typically be expected for a facility of this size and the number of vehicles will likely be much greater. This will place an undue burden on the surrounding neighborhood as the streets in this area are narrow and steep with many of the streets not being well connected to the overall street grid. Any residents living in this location will be forced to drive personal vehicles as the area is not served by convenient public transportation and there are no existing or proposed shopping areas or job centers that are within easy walking distance. The configuration of these streets limits the options for on street parking and given the unit size issues mentioned above, it is likely that the proposed number of spaces on the property will not be sufficient to contain the parking demand this site will generate. This will place an additional burden on the surrounding neighborhood, much of which is single family in character.

2. 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.

Multi-unit residential proposals in this location need to be considered carefully for the level of impact they are likely to have on the adjacent neighborhood they're located in. In this particular case, this development will have unavoidable and harmful effects on the surrounding properties due to the issues of unit configuration referenced above. The building will contain many 4-bedroom apartments, with each bedroom having its own full bathroom. This configuration is not typical of many of the apartments that are constructed in Oakland and is more common in a rooming house situation, where groups of unassociated adults will share a unit in common. Given this configuration, it is expected that the actual density of the project will be much greater than what would normally expect of a 27-unit apartment building and that this would hinder the surrounding neighborhood (traffic, parking, noise) in ways that more typical type apartment units would not. Thus, the proposed development will not be as attractive as the nature of its use warrants.

3. 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.

While the project does provide additional dwelling units to the neighborhood and region, the neighborhood itself is not appropriate for the intensity of development that the plans submitted imply. The area is mainly composed of small single family dwellings with some small duplexes and civic uses. The neighborhood will be severely impacted by the additional traffic that this project is expected to generate and the proposed off-street parking is not adequate to handle the number of cars this site will generate. Due to the non-standard number of large apartment units (each containing a full bath), it is difficult for the City of Oakland to view this proposal in the same manner of other multi-family developments. The unit configuration as proposed is similar to that of a rooming house, which generally has a much greater parking demand than standard apartments. The surrounding road network is not well tied into the rest of the City of Oakland and many of the streets are both steep and narrow, making on street parking and vehicular navigation difficult. The area is not conveniently served by transit and it is not near existing or proposed shopping or job centers. Creating these large units that have all the characteristics of rooming houses (as described in this and in Finding #2) in an area of predominantly single family residences will impede the successful operation of the surrounding area.

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

This finding is not applicable as the applicant does not propose exterior modifications.

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

The project has been designed to attempt to conform to the Detached Unit Residential General Plan designation and it does fall below the maximum threshold for density. However, General Plan policy N7.1 seeks to establish development in the Detached Unit Residential area that is compatible and harmonious with the existing or desired character of the surrounding development. Policy N7.2 defines compatibility as relating to things such as infrastructure availability, street width and function, distance from public transit, and desired neighborhood character, among other things. This project does not generally conform in all significant respects to the General Plan, or advance the General Plan, as the unique nature of the unit configuration (see Findings describing such units in #2 & #3 above) would likely be quite disharmonious with the existing development pattern. While 27 residential units would not necessarily be considered out of scale for a property of this size, many of these proposed apartments are structured along the lines of rooming house units, which can reasonably be expected to generate much more traffic and place much more stress on street parking and congestion than more typical residential dwellings would.

Such units do not allow this proposal to be compatible with the surrounding neighborhood and thus not meet, nor advance, the intentions of the General Plan.

FURTHER RESOLVED: That, the City Council finds and determines that this Resolution complies with CEQA pursuant to state CEQA Guidelines Section 15270, which states that CEQA does not apply to projects which are disapproved.

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.

FURTHER RESOLVED: The applicant may submit a new application for this site with payment of all the appropriate fees, and City staff shall process the application and it shall be considered without prejudice.

In Council, Oakland, California, _____, 2004

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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