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OAKLAND CITY COUNCIL

RESOLUTION No. 78240 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

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, ~~DEC 16 2003~~, 2003

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND
PRESIDENT DE LA FUENTE - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0


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

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)]