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CITY OF HAYWARD
OFFICE OF THE CITY MANAGER

September 30, 1999

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Appeal of Planning Commission's Action Approving Use Permit Application No. 99-160-07 - Mr. & Mrs. Ivo Ascani (Applicants/Owners), Mr. & Mrs. D.L. Kolm (Appellants)

At the October 5 City Council meeting, you will be asked to consider continuance of the subject matter at the request of the appellants, Mr. & Mrs. D.L. Kolm, they have requested that this item be continued to the City Council meeting of October 12, 1999 because they will be out of town.


Jesus Armas

Attachment



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 10/05/99
AGENDA ITEM _____
WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Appeal of Planning Commission's Action Approving Use Permit Application No. 99-160-07 - Mr. & Mrs. Ivo Ascani (Applicants/Owners), Mr. & Mrs. D. L. Kolm (Appellants) - Request for a Use Permit for a Large Group Home for 20 Residents - The Property is Located at 22240 Montgomery Street in an RM (Medium-Density Residential) District.

RECOMMENDATION:

It is recommended that the City Council deny the appeal and uphold the Planning Commission action approving the re-establishment of the large group home.

BACKGROUND:

In 1991, the Board of Adjustments approved a five-year use permit for the conversion of a dental office building to a 20-bed residential care facility for elderly clients. Even though the use permit for the group home expired, it continued to operate regardless. Subsequently, it came to staff's attention, via a complaint, that the facility was still operating and that the clients were no longer elderly but mentally disabled. A meeting was held between the group home operator, the property owner, a staff member from the State Community Care Licensing Division, concerned neighbors, and City staff to discuss the situation. The group home operator and the property owner were notified that the use permit for the group home had expired and that approval of a new use permit would be necessary to allow the group home to continue its operation. A new use permit application was taken to the Planning Commission on May 20, 1999, and was approved unanimously.

The Planning Commission's action was based on the findings for a use permit, as set forth in the Hayward Municipal Code, and their action was also based on changes in Federal, State and local legislative acts since the Board of Adjustments' action in 1991. Most notably, the Americans with Disabilities Act ("ADA") became effective on July 26, 1992, which included a national mandate for the elimination of discrimination against individuals with disabilities. Also, the federal Fair Housing Act prohibits "discrimination" in the sale or rental of housing, and makes it unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with such dwelling because of a person's handicap. Any state or local regulations that would constitute discrimination under the act are prohibited. The City Council will recall the

discussion regarding group homes during their deliberations of the recent Zoning Ordinance amendments. At the public hearing wherein the Zoning Ordinance amendments were considered, the City Council determined that the City would be making a reasonable accommodation of large group homes if they are at least 500 feet from another group home and are subject to approval of a use permit. Without an explicit requirement for the subject group home operator to notify the City were a change in clientele to occur, and because federal and State law preempts local laws and now prohibits distinguishing between elderly clients and other groups with disabilities, the group home operator was not obliged to report the change in clientele to the City nor to anyone.

The Planning Commission's decision was appealed by a neighboring property owner. While their appeal letter did not state specifically the reason for the appeal, the Planning Commission minutes set forth the issues that were brought up at the May 1999 public hearing, as follows:

- The facility is not adequate (large enough) to accommodate 20 persons. The building would be feasible as a residential home, but with this number of residents it becomes an institutional use.
- The facility is out of character with the neighborhood.
- The neighborhood has suffered unruly and problematic behavior from the residents. This includes police calls to the facility and battery between the residents.

DISCUSSION:

Density and Intensity of the Facility

The four block area surrounding this site (bounded by Mission Boulevard, Grace Street, Peralta Street and Sunset Boulevard) is a mixed area of single-family and multiple-family residences (2 to 5+ units), both owner-occupied and rental, as well as church facilities, a nursing home, a senior residence, a counseling center and various commercial uses along Mission Boulevard. Large group homes are allowed within Medium Density Residential (RM) districts, where this property is located, with approval of a use permit. This group home accommodates 20 residents within 13 bedrooms. According to the Uniform Building Code and Fire Department's occupancy ratings for a group home of this size (4,463 square feet), 20 persons may be housed at the premises. This figure would also apply were one large extended family to reside on the premises.

For comparison purposes, with a zoning designation of RM and a lot size of 13,527 square feet ($\frac{1}{3}$ acre), the site could be redeveloped with 3 dwelling units, where 9 individuals could be expected to reside.

Neighborhood Compatibility

Since the group home started operation in 1992, no major physical changes have been proposed for the building or the property. The building was originally designed in 1954 for dentists' offices. The RM zoning no longer permits dental or medical offices, although hospitals, sanitariums, convalescent, rest or nursing homes are allowed, subject to approval of a use permit. The building would require extensive remodeling for conversion to apartments or condominiums, including firewalls between units, multiple kitchens and multiple lavatory facilities.

The building itself does not overpower the residential character of the neighborhood because it is a low, one-level structure that does not have a wide frontage along Montgomery Street, and because the lot is not any wider than the surrounding residential lots. The front of the building is also set back from the front property line the same distance as the other homes on the street and the front yard setback is well landscaped. The rear portion of the lot that faces Pearce Street includes the parking lot for this group home and it has been well landscaped and well maintained over the years.

The North Hayward Neighborhood Plan adopted in 1994 includes a policy that states, "Provide more oversight and equitable distribution of transitional housing, half-way housing and drop-in socialization and recovery centers." Supporting documentation in the Neighborhood Plan states that the North Hayward neighborhood "...is getting more than its share of residential facilities." Within the North Hayward neighborhood, in addition to subject group home, there is a small group home on Smalley near Montgomery, one at the north end of Main Street, a large group home for the elderly at Montgomery and A (Bethesda), and one on Westfield off Grove Way. (See map of North Hayward Neighborhood, labeled Exhibit A.) Subject group home was operating at the time the Neighborhood Plan was adopted and no new facilities have opened. In addition, the property that houses the Second Chance drop-in center at Mission Boulevard and Grace Street is now being offered for sale and will most likely become a commercial use. The perception that the North Hayward neighborhood has more than its share of residential facilities may be attributed to the fact that there are more group homes in most neighborhoods than ever before, which is a nationwide trend. Records provided by the State show that some other Hayward neighborhoods have as many or more group homes than the North Hayward neighborhood.

At some point a group care facility might be so large as to become an institutional use or the services provided will make it a health care facility. One Planning Commissioner brought up the fact that there are no criteria to distinguish between a large group home and an institution. The fair housing laws, which focus on allowing the handicapped to live in normal residential settings rather than institutions, do not apply to institutional uses or health care facilities. However, courts have required cities to allow facilities as large as 40 residents (excluding staff) in multi-family and commercial zones and as many as 19 residents (excluding staff) in a

single-family zone. It is possible that a group home for 20 individuals could be considered institutional given its size in an area where there are single-family residences on either side of the structure. However, some institutional uses may also be compatible among single-family residential uses depending on design and compatibility. For example, there are convalescent hospitals, schools and churches that coexist with homes in single-family neighborhoods.

Problematic Behavior at the Site

The Community Care Licensing Division of the California Department of Social Services is responsible for ensuring that group home staffs are adequately trained to treat their residents. State law preempts cities from regulating staffing and screening of residents. As with any other residential use, aberrant behavior that is contrary to law or which constitutes a public nuisance (such as domestic disputes) may be referred to the Police Department. One might expect, however, that the clients of the group home might occasionally express themselves in unconventional ways given the nature of their condition. Regardless, concerns about the characteristics of the residents can be regarded as discriminatory because those concerns focus on the status of the residents as "mentally disabled."

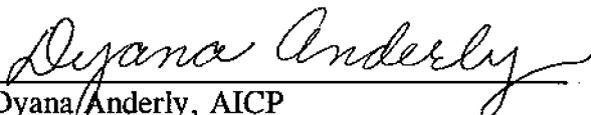
Since May of 1998, Police Department staff has responded to calls for service to the group home approximately 19 times. These contacts between the group home and the Police Department dealt with: animal control calls (a stray dog on the property, for example), calls from a resident's friend or relative to ask the Police to either check up on them or deliver a message to them, missing clients, 911 hang up calls, and general disturbance reports. There was one contact by the Police Department involving an emergency psychiatric situation. There were no calls related to battery between clients. Group home operators are obliged to file missing person reports when clients indicate they will return at a certain time but fail to do so. The Police Department indicates that making calls to the Police Department regarding missing clients is required by the State and is a responsible action on the part of a group home operator. In the past some of the clients from subject group home have made unnecessary 911 calls. To deal with this situation, the Police Department and the group home operator have set up a system whereby the 911 calls received from the site are verified before the Police Department responds. The Police Department has indicated it will continue to work with the operator and owner of the facility to put into place necessary guidelines to possibly curb future contacts or incidents.

Conclusion:

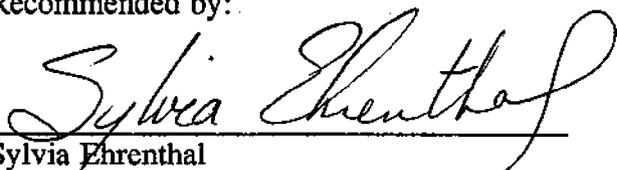
The goal of the fair housing laws is to allow the handicapped to live in normal residential settings. Accordingly, cities are charged with the responsibility of making reasonable accommodations for the handicapped, and Hayward's new Zoning Ordinance amendments require a minimum 500-foot separation between large group homes and other group homes. This distance requirement is meant to limit the concentration of large group homes in a neighborhood so that the neighborhood can retain its residential character. There are no other group homes within 500 feet of subject group home. Staff and the Planning Commission

recognize that the appellants are distressed about the group home operation and the impact of that facility upon the neighborhood. However, preemptive State and federal laws are intended to protect the disabled and severely limit local options with respect to group homes. These laws make it extremely difficult for the City to deny a use permit for a group homes based on the appellants' concern about the adequacy of the facility to accommodate the clients, their conviction that the facility is out of character with the neighborhood, and their allegation that the residents exhibit unruly behavior which impacts the neighbors.

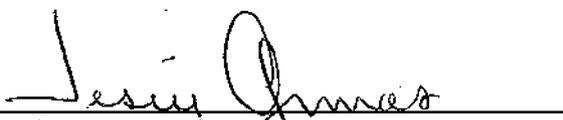
Prepared by:


Dyana Anderly, AICP
Planning Manager

Recommended by:

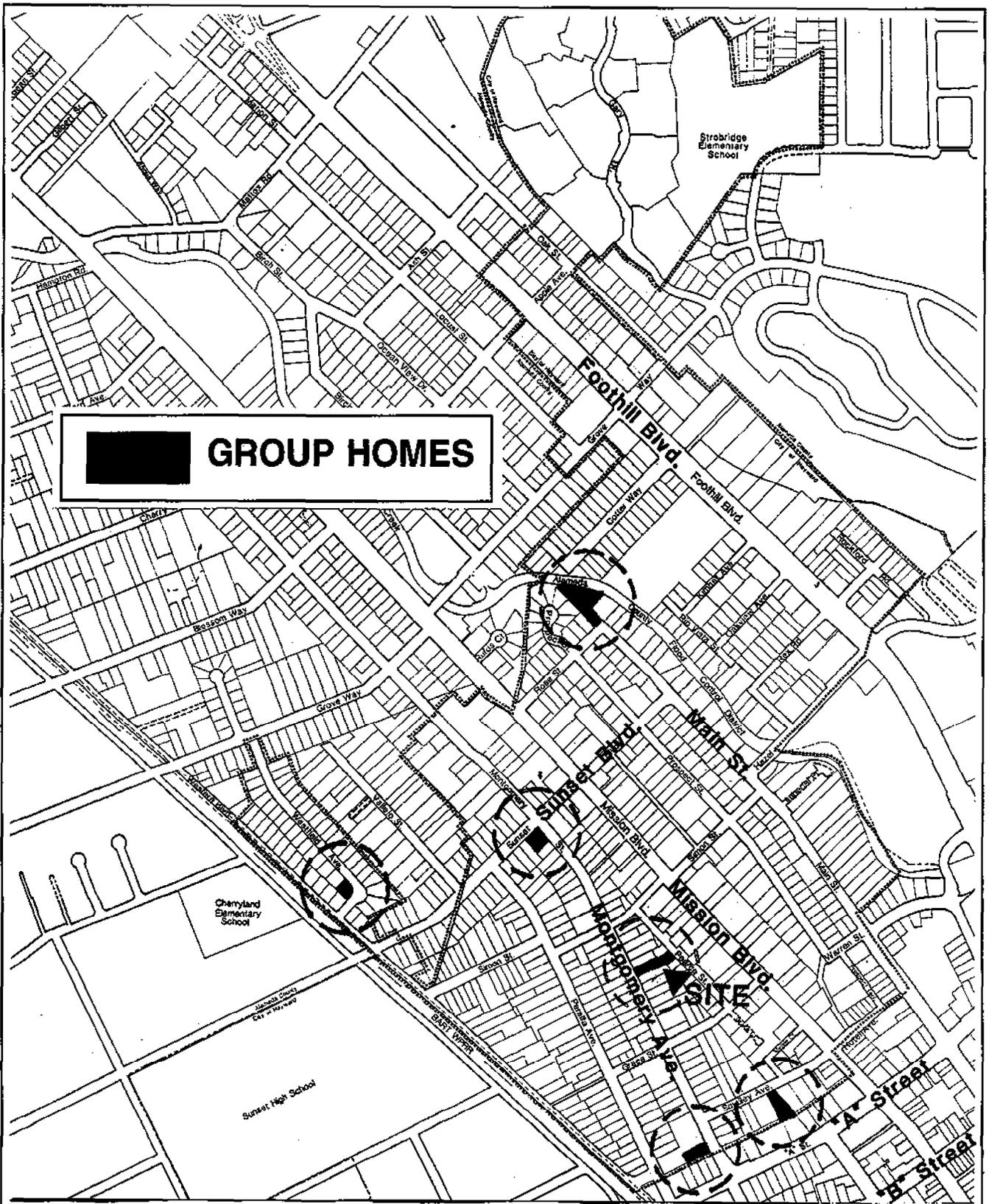

Sylvia Ehrental
Director of Community & Economic Development

Approved by:


Jesús Armas, City Manager

Attachments: Exhibit A - North Hayward Neighborhood Area Map
Exhibit B - Letter of Appeal, dated May 25, 1999
Exhibit C - Planning Commission Minutes & Staff Report, dated 5/20/99
Exhibit D - Photos of Subject Site
Draft Resolution

9.30.99



NORTH HAYWARD NEIGHBORHOOD

Ivo Ascani (Applicant)
Mr. and Mrs. Ivo Ascani (Owner)
22240 Montgomery Street

May 25, 1999

Dear Ms Anderly,

We would like to appeal the decision of the Planning Commission concerning the permit application 99-160-07 for a large group home at 22240 Montgomery St.

It is our understanding this matter will be brought up at City Council and a public hearing will be scheduled.

We appreciate your attention to this request, and please advise us to when and where a public hearing will be scheduled.

During the month of June we will be out of town from June 11th to the 16th, and we would not be able to attend a City Council meeting. Since we have invested a great deal of time and energy to this matter, it is our hope the meeting can be scheduled at a convenient time.

Sincerely,

Mrs. Mrs. D.L. Holm
22236 Montgomery St.
Hayward, CA 94541

RECEIVED

MAY 28 1999

DEVELOPMENTAL SERVICES



Senior Planner McClellan stated that the City would not take over a street like this, since it is designed to be maintained as a private street.

Commissioner Halliday expressed concern about impacts on the nearest house to the north on Grand Street. She asked whether there was adequate separation for privacy since they seemed so close.

Senior Planner McClellan explained that both were over the minimum five-foot setback required by the City.

Commissioner Halliday also wondered whether the numbers of homes associations approved by the City recently with only 5 homes have proved adequate to the responsibilities they have been assigned.

Senior Planner McClellan answered that they seem to be working. Each month a set aside is charged to the homeowners for fees to pay for maintenance and other requirements.

Commissioner Zermeño asked why a masonry wall was not being required around the whole perimeter of the property.

He was told that City policy calls for masonry walls between driveway parking areas and adjoining parcels, but that masonry is not required along other property lines where noise is not an issue.

The Public Hearing Opened at 7:52 p.m.

Paul Wong, 184 Thirteenth Street, Suite 3, Oakland, applicant explained that this proposal is better in all aspects than the original proposal. The quality of the stucco siding product will outlast many other new projects in the City.

Jerry Gonzales, 26229 Eden Landing Road, civil engineer for the project, asked that the condition of approval for another fire hydrant be amended to include "on the advice of the Fire Marshall." He said he had measured the length from the hydrants presently situated on the Street and they should be adequate to the needs of the complex. They are already required to provide a fire hydrant on the private street. The units will all be sprinkled except for Unit #1 which is accessible to the Fire Department from Grand Street.

In response to a question from Commissioner Bogue, Bill Poon, 1250 Addison Street, Suite 210, Berkeley, the project architect, described the latticework on the wall for plants.

Public Hearing Closed at 7:59 p.m.

Commissioner Fish moved, seconded by Commissioner Zermeño, to approve the project as recommended by staff with an amendment to include a change on Condition 7, to preclude installing a new fire hydrant until the Fire Marshall determines necessity. The motion passed unanimously.

2. Use Permit Application 99-160-07 - Mr. & Mrs. Ivo Ascani (Applicant/Owner) - Request for use permit to continue operation of a large group home for 20 residents. *The property is located at 22240 Montgomery Street in an RM (Medium-Density Residential) District.*

Development Review Services Administrator Anderly outlined the history of the building and the neighborhood and reminded commissioners that the Americans With Disabilities Act includes a mandate for the elimination of discrimination against individuals with disabilities. The fact that it

was originally approved as a home for the elderly does not mean there has to be any further notice in the neighborhood as to the change in the type of clientele who are also classified as disabled. She outlined the parameters for approval of the use permit. During deliberation, the Commission was cautioned not to consider any factors that are inconsistent with the ADA.

Public Hearing Opened at 8:06 p.m.

Dave & Marian Kolm, 22236 Montgomery Street, neighbors of the property, said the property is clean but 20 residents are too many people for the amount of space available. She said it is feasible as a residential home but with that number of people, it becomes an institution. She said the neighborhood had been disturbed by police calls to the home that involved batteries between residents.

When asked for further information on both the police calls and the batteries, Mrs. Kolm admitted that she knew nothing more. She added that she and her husband had collected a total of 20 signatures with-in a 2-hour period from neighbors, who do not agree with the request for a permit application for a large group home for twenty clients.

Pearl Arhontes, 21603 Independent School Road, Castro Valley, said her family has property on Pearce directly behind the home. She said there have been problems in the neighborhood from the number of resident already living in the home. She opposed increasing the number from 16 to 20. She said the previous Building Inspector had said the property could not accommodate more than 16 residents.

Development Review Services Administrator Anderly said that, at an earlier time, the home had been approved for 20 residents but the owner changed it to 16.

Nader & Fara Qureshi Kury, 3060 Todd Court, Castro Valley, both are licensed therapists and took over the property in 1997. The Fire Department has approved the house for 20 residents. She said she is trying to address issues as they come up. She answered a number of questions from Commissioners to explain the staffing at the facility as well as their qualifications.

The Public Hearing Closed at 8:40 p.m.

Commissioners asked for further clarification on the requirements for establishing a group home in the City.

Commissioner Fish moved, seconded by Commissioner Bennett to approve the staff recommendations for the use permit application. The motion passed 7:0.

Commissioner Caveglia commented that it is a difficult decision since it is a business and it does affect the neighborhood. He asked how many belong in one neighborhood.

Chairperson Williams added that the Commission is confined in what they do. He said he empathized with the community.

ADDITIONAL MATTERS



CITY OF HAYWARD
AGENDA REPORT

Planning Commission
Meeting Date 5/20/99
Agenda Item 2

TO: Planning Commission

FROM: Dyana Anderly, AICP, Development Review Services Administrator

SUBJECT: Use Permit Application No. 99-160-07 - Ivo Ascani (Applicant/Owner): Request to re-establish a large group home for twenty clients. The property is located at 22240 Montgomery Street, east side, in the Medium Density Residential (RM) zoning district and extends through to Pearce Street in the Central City - Commercial (CC-C - SD3) subdistrict and special design district.

RECOMMENDATION

It is recommended that the Planning Commission approve the use permit application subject to the attached findings and conditions of approval.

DISCUSSION

Background

In 1991, the applicant, Mr. Ascani, obtained approval from the Board of Adjustments to operate a residential care facility for twenty elderly clients. The Board granted approval for two years, with up to three annual renewals by staff (five years total) if no complaints were received. During that five-year period, staff did not receive complaints. However, in late 1998, it came to staff's attention, via an inquiry from a neighboring property owner, that the facility was still operating and that the clients were no longer elderly but mentally disabled. Subsequently, the group home operator and the property owner were notified that the use permit for the group home had expired and that approval of a new use permit would be necessary to allow the group home to continue to operate.

There have been several notable changes since the Board's action in 1991.

- The Americans With Disabilities Act ("ADA") became effective on July 26, 1992, which includes a national mandate for the elimination of discrimination against individuals with disabilities. All local government entities, including cities, counties, housing authorities, redevelopment agencies, and other similar agencies, as well as private enterprises, are subject to its provisions. Interpretations of disabilities at the federal level have been determined through court cases. A disability includes addiction to legal substances, whether alcohol or another drug, and certain mental or psychological conditions, such as retardation or schizophrenia. Because federal (and State) law prohibits distinguishing between elderly clients and other groups with disabilities, the group home operator was not obliged to report the change in clientele to the City nor to anyone.

- In 1994 the North Hayward Neighborhood Plan was adopted, which raised issues pertaining to social services in that neighborhood. The Plan includes a policy statement that states, "Provide more oversight and equitable distribution of transitional housing, half-way housing and drop-in socialization and recovery centers." Supporting documentation in the Plan states that the North Hayward neighborhood "is getting more than its share of residential facilities."
- The zoning of the property changed from Commercial Office in front and General Commercial in the rear to RM in the front and CC-C along Pearce Street. As with the previous zoning designation of the property, large group homes are allowed in these zoning districts, subject to approval of a conditional use permit.

Property Description

In 1991, the facility was converted from a dental office to a 20-bed residential care facility. No further changes are proposed to the building or the property. As designed, the building is not conducive to conversion to a single-family or an apartment or condominium, which would require multiple kitchens. Its appearance is somewhat commercial given its original purpose as a dental office, however the current RM zoning no longer permits an office use.

The property is a "through parcel," with the building and a driveway oriented toward Montgomery Street. A parking lot, with more than an adequate number of parking stalls for a group home, is oriented toward Pearce Street. The only change that staff recommends is for the applicant to paint the brown trash/storage structure situated at the edge of the parking to match the color of the gray fence. Well maintained mature landscaping softens the visual impact of the parking lot on Pearce Street. Montgomery Street in the vicinity of the group home is predominantly a mixture of single- and multi-family developments. Properties fronting on Pearce Street are primarily small cottages on the west side of the street and businesses on the east side.

Major Issues

The appropriateness of the large group home on Montgomery Street, like boarding homes, convalescent homes, or other institutional uses, must be assessed in terms of its ability to satisfy the findings necessary to approve a use permit, which are:

1. Would the group home be desirable for the public convenience or welfare?

According to Ombudsman, Inc., (Citizens Serving Long Term Care Residents, Alameda County) and the staff of the California Community Care Licensing Department, there is an increase in the demand for group homes in Alameda County. This is true both locally and nationwide. In 1977 there were 11,008 group homes nationwide, and in 1994 there were 64,564 group homes nationwide. Many individuals with disabilities live at home with elderly parents or are forced to choose between limited opportunities for congregate settings and homelessness. Still others remain in inappropriate institutional settings because there are no group homes or affordable housing available in the community. As

the number of persons served in large institutions has decreased, the population in group homes has increased.

2. Would the group home impair the character and integrity of the neighborhood?

The physical structure is already in place, so use of the building for a large group home will not have a visual impact on the neighborhood. Further, there are other large residential structures in the area housing multiple households. The parking requirement is exceeded, so vehicles associated with the use will not impact the neighborhood.

At some point a group care facility might be so large as to appear to be an institutional use rather than a home. Would a group home for twenty individuals be contrary to the principle of providing housing for adults with mental disabilities within a neighborhood setting? From a land use standpoint, an institution is not necessarily a negative connotation since convalescent homes, rest homes, hospitals and similar institutions are also permitted in the Medium Density Residential District when a use permit has been approved for them. The fair housing laws focus on allowing persons with disabilities to live in normal residential settings rather than institutions; however, courts have required cities to allow facilities as large as forty residents (excluding staff) in multi-family and commercial zones (apartments and condominiums).

Some individuals have expressed concern that group homes in neighborhoods contribute to the loss of property value. According to James Fennel, General Manager of the California Real Estate Appraisers Board (San Jose), the presence of small numbers of physically well maintained group homes in neighborhoods would not necessarily result in a lower appraisal of a single-family home. However, if a group home is not well maintained and has a history of problems associated with it, then the appraisal value of adjacent homes is negatively impacted. He likens the loss of value as comparable to homes situated next to multi-family developments. The group home at issue is as well maintained as any in the neighborhood. The operator of the home indicates that she is willing to meet with interested neighbors to describe her operation and encourages neighbors to call her if they have issues, just as they might any other neighbor.

3. Would the group home be detrimental to the public health, safety, or general welfare?

Some Hayward residents have said they feel unsafe with group home residents in their neighborhoods. It is possible that this feeling can be attributed, at least in part, to the occasional appearance of emergency vehicles at group homes. Generally in such instances officers are responding to calls regarding "missing adults" or "missing juveniles" or for assistance with mentally disturbed residents. For the group home at issue, there were several calls for police services from a client who was mentally disturbed and who called 911 for imagined afflictions. The group home operator has been sensitive to this matter and has arranged with the Police Department to call her before responding to 911 calls from the group home. There is no evidence that the presence of the home in the neighborhood constitutes a threat to the public.

4. Is the group home in harmony with applicable City policies and the intent and purpose of the RM and CC-C zoning districts? This includes consistency with adopted City policies, including the Housing Element and the North Hayward Neighborhood Plan.

Housing Element. The Housing Element includes a policy that states, "promote equal access to housing by enforcing fair housing laws." The Fair Housing Amendments Act, the California Fair Employment and Housing Act, and the ADA prohibit discriminating in any fashion against housing opportunities for persons with disabilities, which they define to include the mentally disabled, recovering substance abusers, abused children, and persons with AIDS and HIV. Under the Fair Housing Amendments Act and the California Fair Housing Act, local agencies have a duty to make "reasonable accommodations" for housing for persons with disabilities. To do otherwise constitutes discrimination.

The North Hayward Neighborhood Plan adopted in 1994 includes a policy that states, "Provide more oversight and equitable distribution of transitional housing, half-way housing and drop-in socialization and recovery centers." Supporting documentation in the Neighborhood Plan states that the North Hayward neighborhood "is getting more than its share of residential facilities." This home was operating at the time the Plan was adopted. Since that time, the Second Chance drop-in center at Mission and Sunset has closed.

Including the subject group home, the North Hayward Neighborhood has seven group homes. In the vicinity of subject group home, there are two large facilities for the elderly: the Bethesda group homes at A Street and Montgomery, and Montgomery Manor at Montgomery and Sunset. These homes have operated for many years. There is one small group home for up to six adults on Smalley Avenue about 700 feet from the subject group home. The Zoning Ordinance currently contains no separation requirement between group homes, but a proposed amendment to the Ordinance suggests a 500-foot separation between large group homes. This is about the distance of a city block. There are no large group homes within 500 feet of subject group home. State laws require a 300-foot separation between licensed group homes absent certain circumstances. There are no other such homes in within 300 feet.

The purpose of the RM District is to "*promote and encourage a suitable environment for family life in areas where a compatible mingling of single-family and multiple-family dwellings is possible.*" Locating a group home in a residential setting is consistent with the intent of the State law to locate group homes in a neighborhood setting in order that the clients may be assimilated into the neighborhood. The parking lot for the group home is situated in the CC-C District. Parking lots are necessary for businesses in and near the downtown.

Conclusion

Staff believes that findings can be made to support continuing the proposed large group home at its current location. When reviewing this application, the Planning Commission should keep in mind that any decision to limit group homes for persons with disabilities must comply with State and federal fair housing laws, and may not be based on discriminatory factors. Denial or approval of the application must be based on land use impacts of the application and

supported by appropriate findings. For example, while the Planning Commission might deny a use permit for a large group home because the integrity of the surrounding area would be impaired (finding B), this finding must NOT be based on allegations that the clients themselves, due to their disabilities, would impair the area or that the inexperience of the staff of the group home would result in impairing the integrity of the surrounding area.

Environmental Review

The project is exempt from further environmental review as a negative declaration for a similar project was approved in 1991.

Public Hearing Notice

During the initial referral process when the application was first received, staff received several comments from area residents. One verbal comment was that the area already suffers from prostitution and drugs and that the group home would exacerbate the situation. Another commented that mentally ill people have been seen in the vicinity and that there is inadequate supervision of them. Another objected via e-mail (copy attached). On May 7, 1999, a Notice of Public Hearing was mailed to every property owner and resident within 300 feet of the property as noted on the latest assessor's records, and to former members of the North Hayward Task Force.

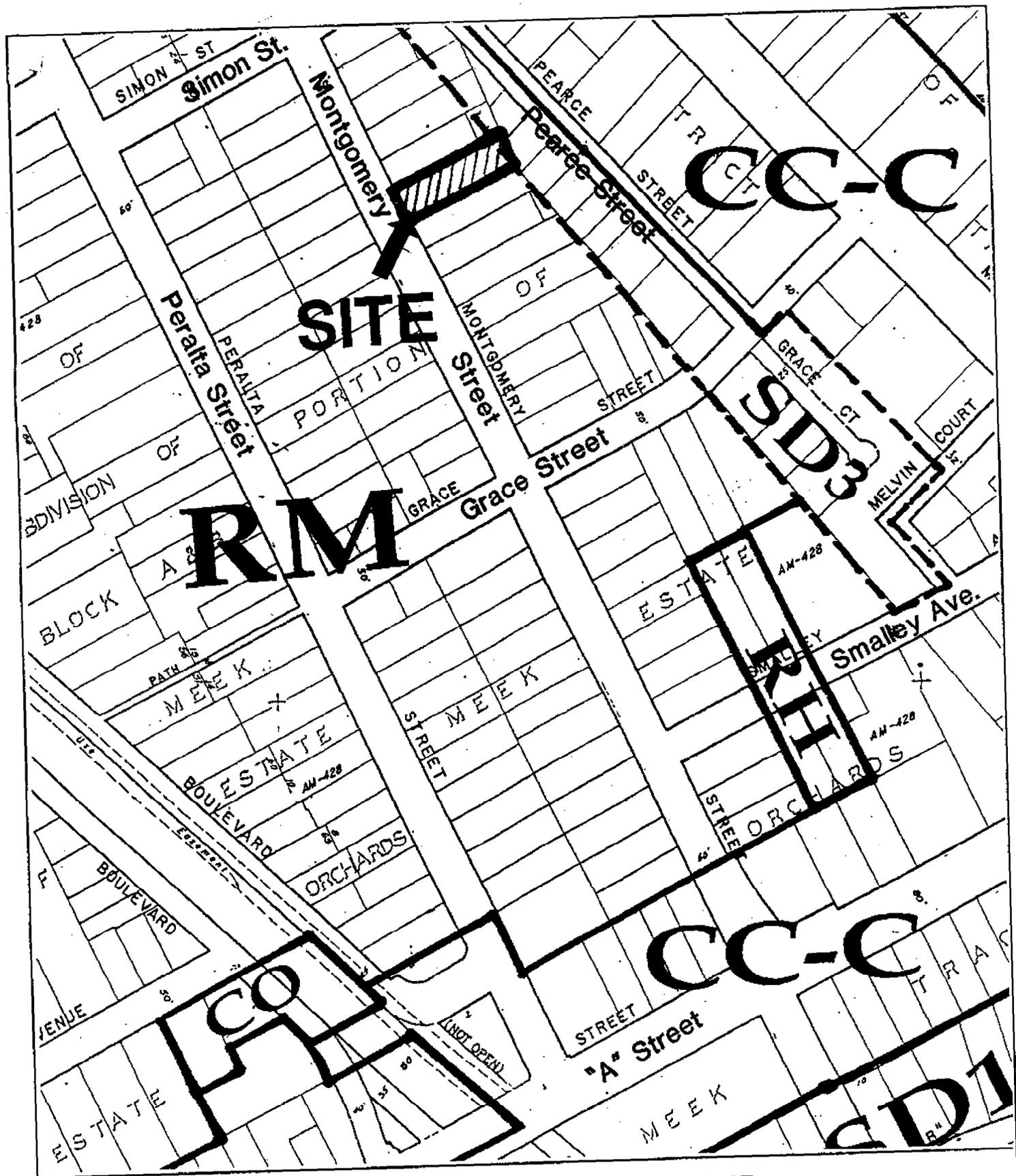
Prepared by:



Dyana Anderly, AICP, Development/Review Services Administrator

Exhibits:

- A. Area/Zoning Map
- B. Findings for Approval of Use Permit 99-160-07
- C. Conditions of Approval of Use Permit 99-160-07
- D. Neighbor's e-mail dated March 5, 1999
- E. Site Plan



ZONING/AREA MAP ■ UP 99-160-07
 Ivo Ascani (Appl.)
 Mr. and Mrs. Ivo Ascani (Owner)
 22240 Montgomery Street

FINDINGS FOR APPROVAL
Use Permit Application 99-160-07
Large Group Home
22240 Montgomery Street

- A. The large group home for up to twenty clients would be desirable for the public convenience or welfare in that there is a need for additional group homes in Alameda County.
- B. The large group home would not impair the character and integrity of the neighborhood in that the physical structure is already in place, so use of the building for a large group home will not have a visual impact on the neighborhood. Further, there are other large residential structures in the area housing multiple households. The parking requirement is exceeded, so vehicles associated with the use will not impact the neighborhood.
- C. The large group home would not be detrimental to the public health, safety, or general welfare in that the facility is licensed by the State of California as being acceptable for operating a large group home, and the Fire Marshal and Building Official find that the structure is adequate to accommodate a large group home.
- D. The large group home is in harmony with applicable City policies and the intent and purpose of the RM and CC-C zoning districts in that, per the Housing Element, it promotes equal access to housing by the disabled, and per the State of California Community Care Licensing Department, the large group home does not result in over-concentration based on the distance between the proposed group home and other group homes in the area, the closest being about 700 feet.

CONDITIONS OF APPROVAL
Use Permit Application 99-160-07
Large Group Home
22240 Montgomery Street

1. Use Permit Application No. 90-160-07 for a State-licensed group home with a maximum of twenty residents is approved subject to the specific conditions listed below.
2. By July 1, 1999, the shed located at the edge of the parking area shall be painted to match the fence it abuts.
3. The owners of the property shall maintain in good repair all building exteriors, fences, landscaping, sheds, driveways, parking areas, irrigation, paving, lighting and drainage improvements. Landscaping shall be maintained in a weed- condition at all times with replacement plants provided where necessary. Required street and parking lot trees that are severely topped or pruned shall be immediately replaced, as determined by the City Landscape Architect.
4. As a good neighbor gesture, the group home operator shall provide a telephone number to neighbors who request it in order to maintain a means of communication.
5. Lighting shall reflect away from adjacent properties.
6. All applicable requirements of the City's Security Ordinance shall be met.
7. Employees shall be encouraged to park in the parking lot off Pearce Street.
8. Violation of conditions is cause for revocation of this permit application at a public hearing before the duly authorized review body.

EXHIBIT D

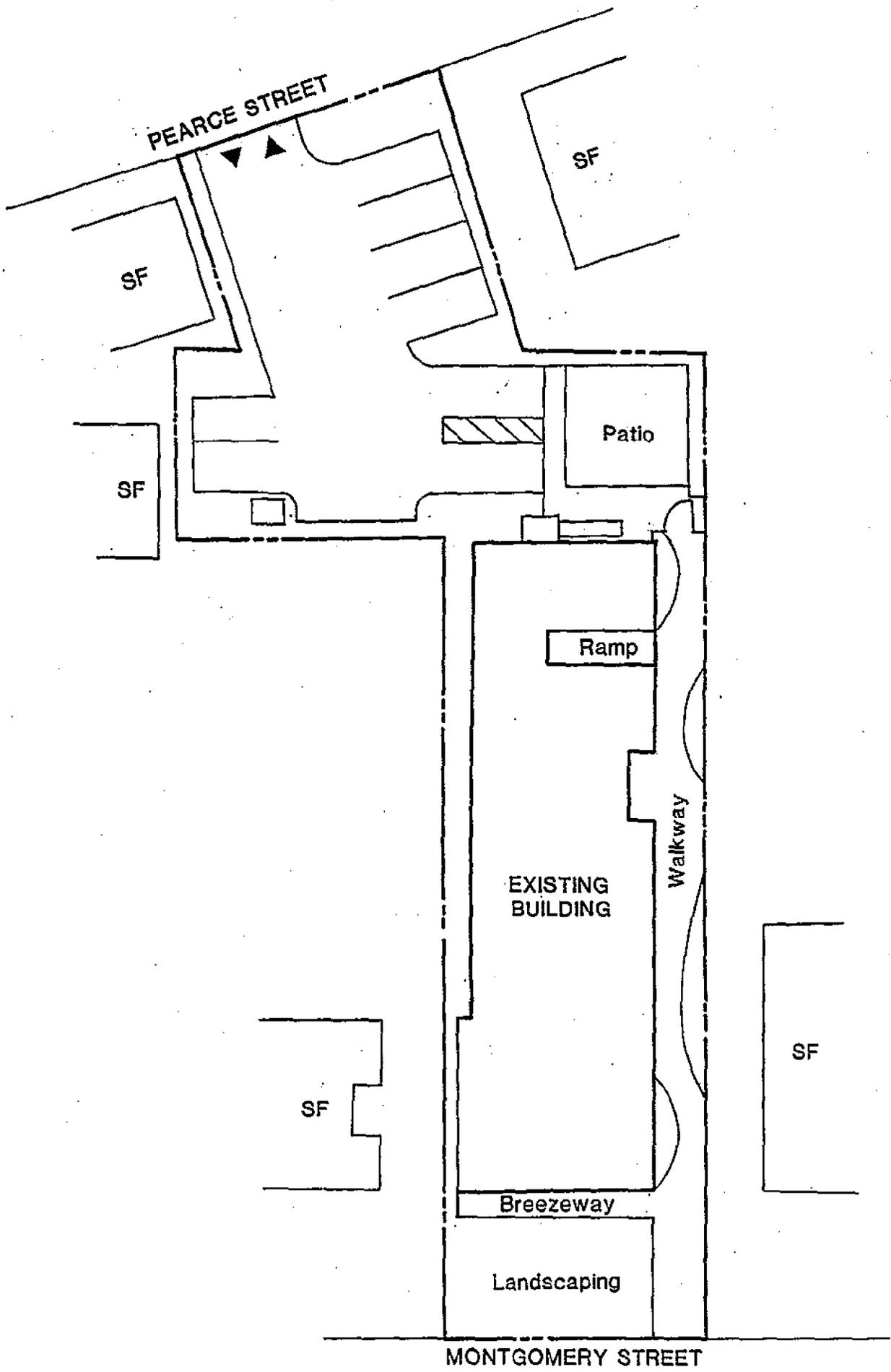
From: "Sherry Fischer" <mzsherry@earthlink.net>
To: COHD.CED(DyanaA)
Date: Fri, Mar 5, 1999 3:57 PM
Subject: group home use permit

I recieved in the mail today your notice of the request for a use permit for a 16 bed group home to be located at 22240 Montgomery St. Hayward

What type "group home" will this be? I feel that our saturation point has been reached in this area and really do not feel that any increase in the density in this area is appropriate. We already have numerous residential care facilities in the area and many multiple home lots as well as apartments. As a 25 yr resident of this area I would like to see it remain basically a single family residential area. I dont feel that we have the needed street parking to accomadate either the persons residing or visiting a sixteen bed facility. I would appreciate any information your could provide me with about this proposed facility.

Thank you,

Sherry & Doug Fischer



Photos of the Subject Site



On Montgomery Street, facing southeast, looking at the subject site (with the white trellis elements in front) and neighboring properties



On Montgomery Street, facing east, looking at the relationship between the subject site and neighboring property

DRAFT

JB 9/30/99

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION UPHOLDING THE PLANNING
COMMISSION'S DECISION TO APPROVE USE PERMIT
APPLICATION NO. 99-160-07

WHEREAS, Use Permit Application No. 99-160-07, which concerned a request to continue operation of a 20-resident group home located at 22550 Montgomery Street in an RM (Medium-Density Residential) District, was approved by the City of Hayward Planning Commission on May 20, 1999; and

WHEREAS, in approving the Use Permit, the Planning Commission found that the project would be desirable for and not detrimental to the public convenience and welfare, that it would not impair the integrity and character of the existing neighborhood, and that it was in harmony with applicable City policies and plans; and

WHEREAS, the decision of the Planning Commission was appealed by neighboring residents on Montgomery Street on the grounds that the size of the group home is too large for the neighborhood; and

WHEREAS, the City Council of the City of Hayward has reviewed and considered all material and testimony presented and hereby finds and determines as follows:

1. Operation of the group home is desirable for the public convenience and welfare because it provides necessary residential services for up to twenty people with mental disabilities.
2. Continued operation of the group home will not impair the character or integrity of the neighborhood in that the physical structure is already in place and has been so for a long time, the building has been operated as a group home for approximately the past eight years, and there are other large residential structures in the area with large resident populations, such as convalescent hospitals. The parking requirement for the use is exceeded, so vehicle use associated with the home will not impact the neighborhood.
3. Operation of the group home will not be detrimental to the public health, safety or general welfare in that the facility is licensed and overseen by the State of California as a large group home, and the Fire Marshall and

Building Official find that the structure is adequate to accommodate a large group home.

4. Operation of the group home is in harmony with applicable City policies and plans and the intent and purpose of the RM and CC-C zoning districts, and supports the housing element by promoting equal access by persons with disabilities to housing.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the decision of the Planning Commission approving Use Permit Application No. 99-160-07 is hereby affirmed.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 1999

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward