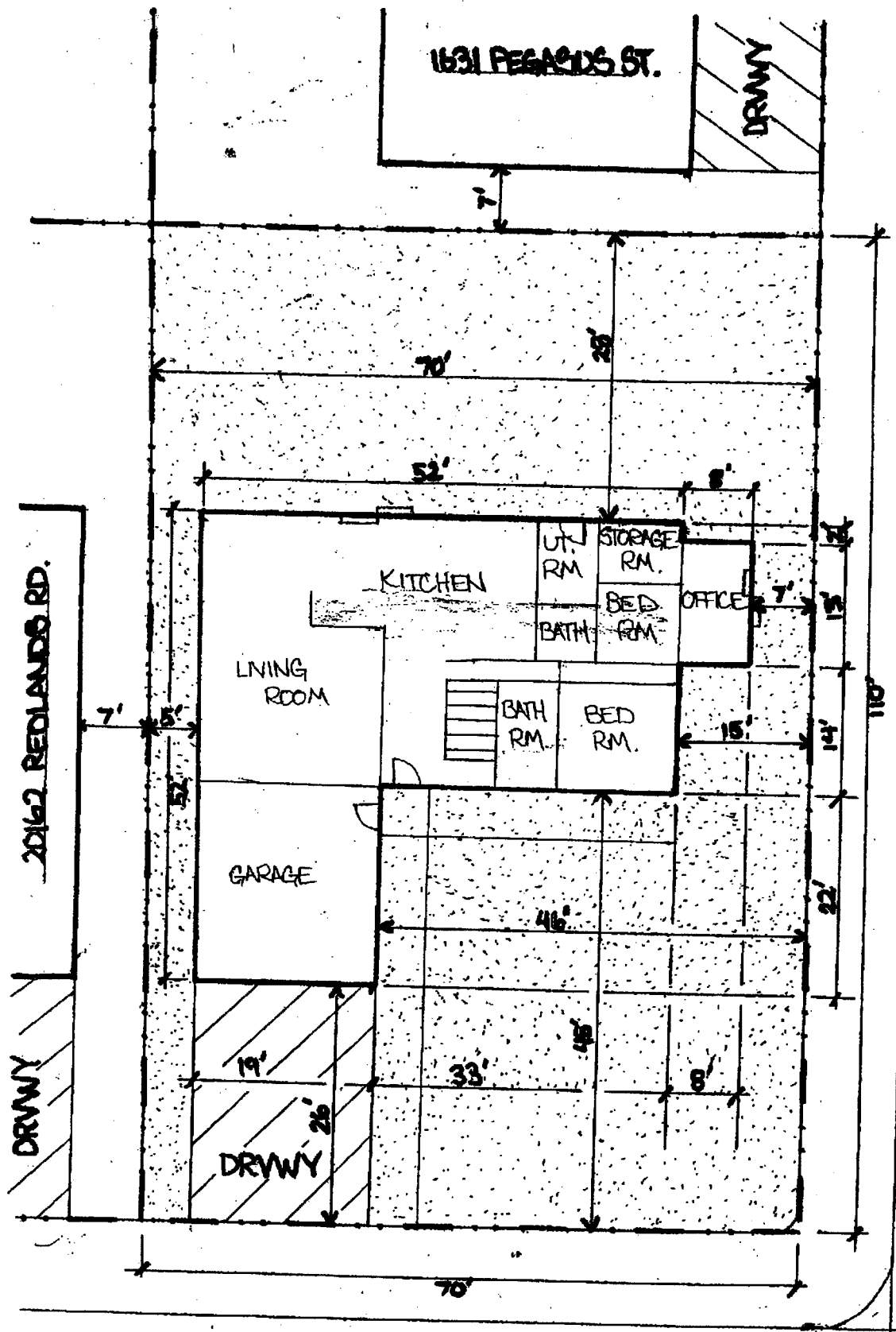


NEWPORT HOUSE.
REDLANDS ROAD

NOTE: 3 STORY
RESIDENCE @
1622 PEGASUS ST

SITE PLAN

YS 01051

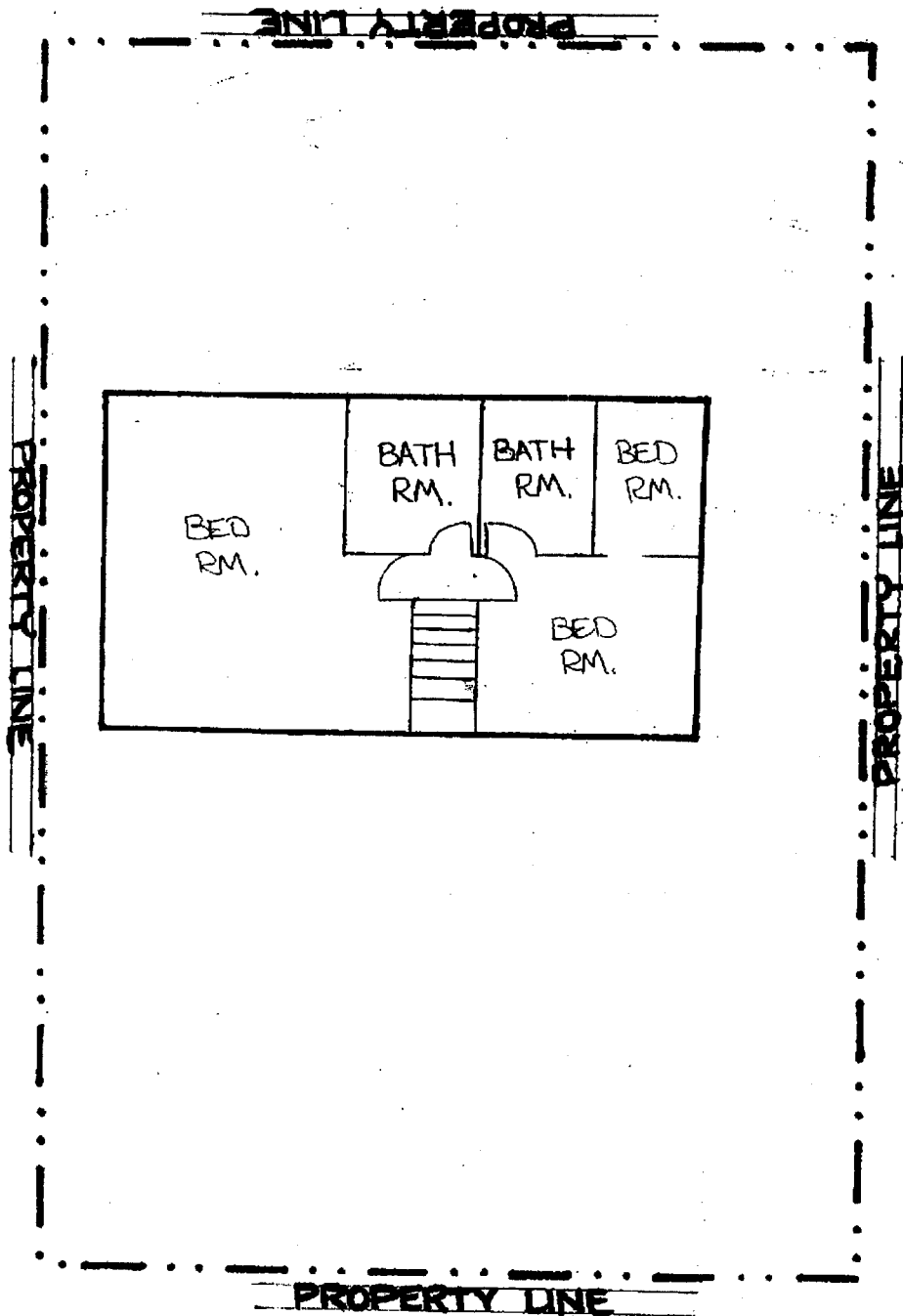


LEGEND	
	SETBACKS
	DRIVEWAYS
	USABLE OUTDOOR

NEWPORT HOUSE
REDLANDS ROAD

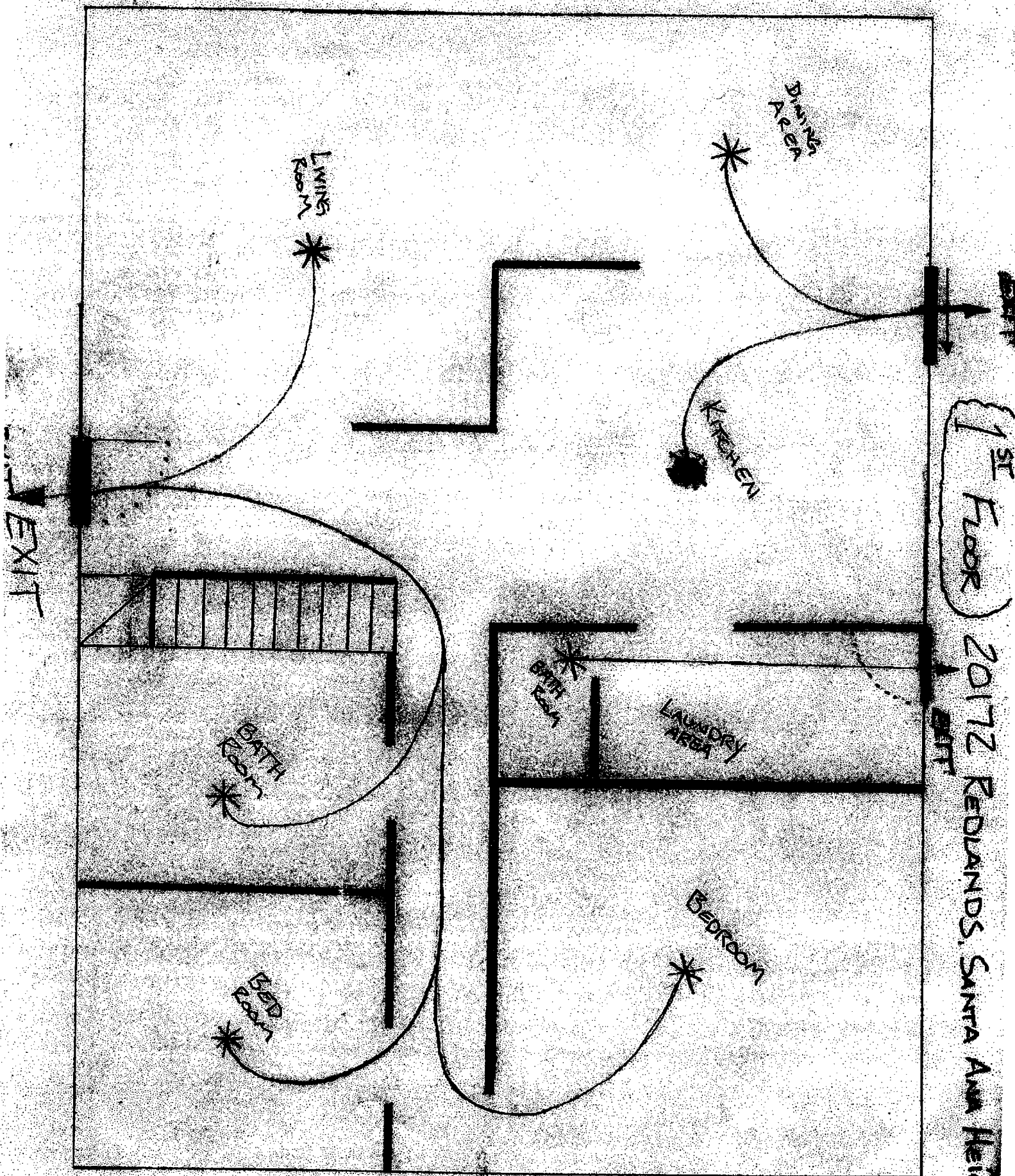
SCALE:

1 ST. FLOOR PLAN



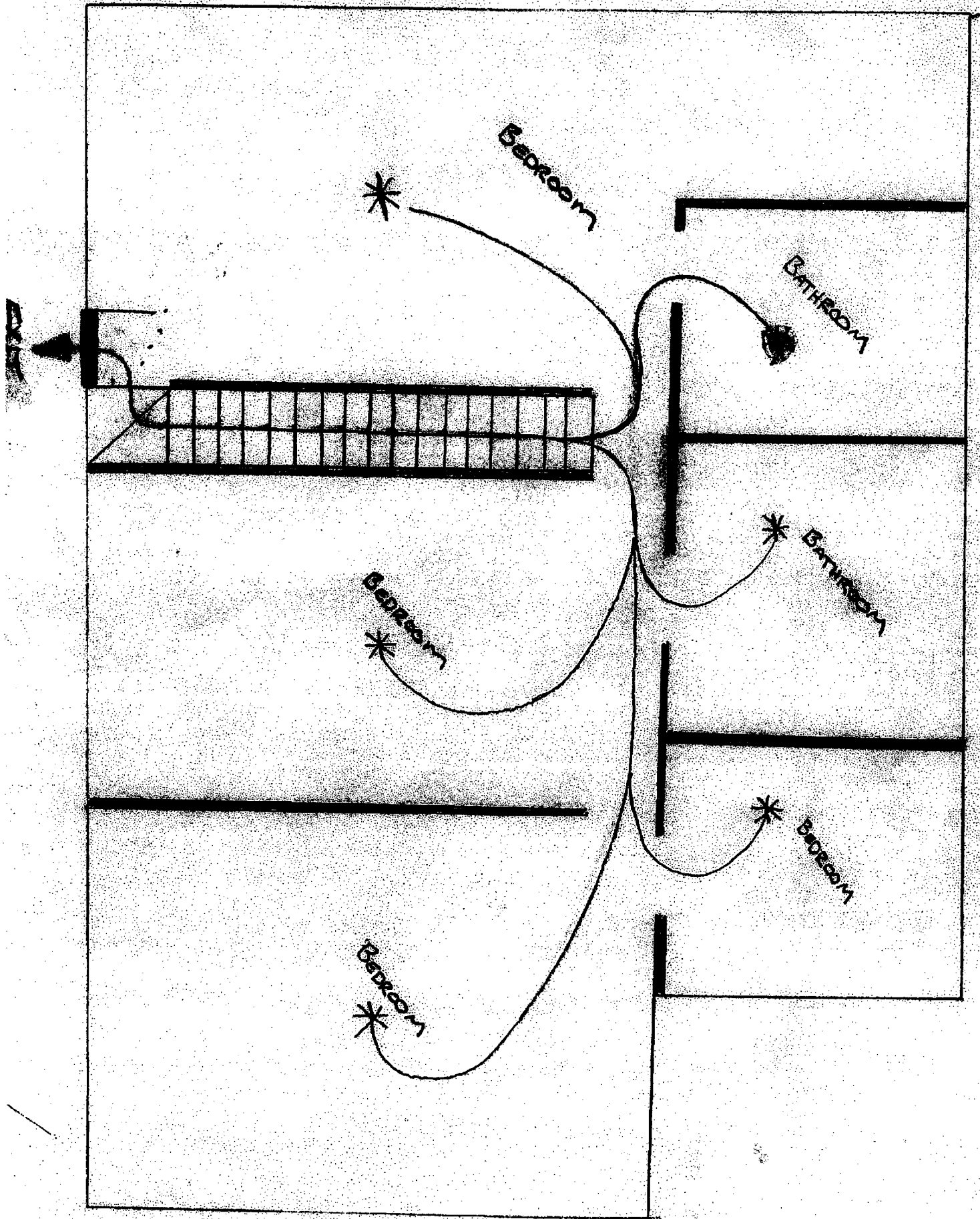
NEWPORT HOUSE

2ND FLOOR PLAN



{ 2ND FLOOR }

20172 REDLANDS, SANTA ANA HEIGHTS



☐ Orange County Adult Alcohol and Drug Sober Living Facilities Certification (required)

☐ Orange County Sober Living Network (recommended)

☐ Other (please describe) _____

L. SECONDHAND SMOKE LIMITATIONS

NBMC §20.91A.050.A directs that "no staff, clients, guests, or any other uses of the facility may smoke in an area from which the secondhand smoke may be detected on any parcel other than the parcel upon which the facility is located. Check and sign here to acknowledge this requirement and your use's adherence to it:

☒ I acknowledge that I will control secondhand smoke on my facility such that no secondhand smoke may be detected on any parcel other than the parcel upon which my facility is located.

Signature: _____

Date: _____

9. APPLICANT OBLIGATIONS

- A. The "owner of record" of the property or an authorized agent must sign this Application. Signing the application under Section 10 means that the applicant certifies, under penalty of perjury, that the information provided within the Application and its attachments is true and correct. Per NBMC §20.90.030.C, false statements are grounds for denial or revocation.
- B. The Applicant acknowledges that he or she must comply with all other Federal, State, and local laws and regulations relating to this use. The Applicant understands that a violation of Federal, State, and local laws and regulations is grounds for revocation of the Permit. The Applicant understands and acknowledges that it is against California law to provide treatment (as defined) in an unlicensed facility.
- C. If the City issues a Use Permit based on the information provided in this Application, the Applicant's signature below certifies his or her agreement to comply with the terms of the Use Permit. The Applicant understands and acknowledges that non-compliance with the terms of the Use Permit is grounds for revocation of the Permit.

Revocation of the Use Permit. NBMC §20.96.040.E provides that the City can revoke a Use Permit if:

- The permit was issued under erroneous information or misrepresentation; or
- The applicant made a false or misleading statement of material fact, or omitted a material fact; or
- The conditions of use or other regulations or laws have been violated; or
- There has been a discontinuance of use for 180 days or more.

10. AUTHORIZED SIGNATURE(S) OF APPLICANT

THE UNDERSIGNED ASSURES THAT THE INFORMATION PROVIDED ON THIS APPLICATION IS TRUE AND CORRECT AND THAT THE APPLICANT HAS READ AND UNDERSTOOD HIS OR HER OBLIGATIONS UNDER ANY USE PERMIT ISSUED BASED ON THIS APPLICATION.

- A. If the applicant is a sole proprietor, the application shall be signed by the proprietor.
- B. If the applicant is a partnership, the application shall be signed by each partner.
- C. If the applicant is a firm, association, corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or the individual legally responsible for representing the agency.

YELLOWSTONE BOARD RESOLUTION:

THE SIGNATURES BELOW REPRESENT AGREEENT AND ENDORSEMENT OF THE BOARD OF TRUSTEES OF YELLOWSTONE FOR THE FOLLOWING:

DR. A.M. THAMES IS THE CEO OF THE BOARD AND AGREES TO REPRESENT YELLOWSTONE IN ALL NEGOTIATIONS WITH THE CITY OF NEWPORT BEACH. SHE WILL SIGN ANY AND ALL FINAL AGREEMENTS.

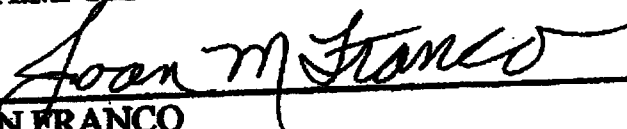
ATTORNEY ISAAC ZFATY, WILL PROVIDE LEGAL REPRESENTATION IN ALL MATTERS IN THE AGREEMENTS WITH THE CITY OF NEWPORT BEACH

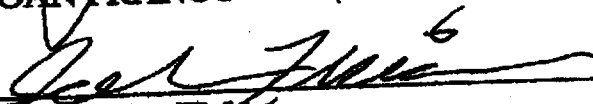
LEISHA MELLO, AS ADMINISTRATOR FOR YELLOWSTONE WILL ALSO BE AVAILABLE FOR DISCUSSIONS RELATED TO THE AGREEMENTS WITH THE CITY OF NEWPORT BEACH.

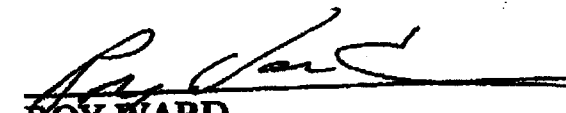
THESE AGREEMENTS AND ENDORSEMENTS ARE APPROVED BY THE BOARD OF TRUSTEES AS OF JULY 1, 2008.

BOARD MEMBERS SIGNING:


DR. A.M. THAMES


JOAN FRANCO


JOHN ZEIDEMA


ROY WARD


LISA TUMAN

850 on file with Fire Authority

FIRE AND LIFE SAFETY INSPECTION NOTICE

SUPPLEMENTAL SHEET

ORANGE COUNTY FIRE AUTHORITY

180 S. Water St., Orange, CA 92666

Page 1 of 1

Inspection No. _____

ADDRESS: 20172 REDLANDS

(714) 744-0400

Date: 5-25-08

20

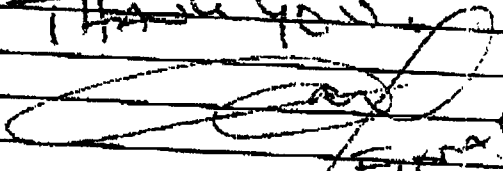
OCC/MGR: Leisha Mello

DEA: WHITE HOUSE RE-HAB

PHONE: 749 646-4494

RECEIVED BY: Leisha Mello

MEASURES SHALL BE TAKEN IMMEDIATELY TO CORRECT ALL VIOLATIONS LISTED HEREIN. FAILURE TO COMPLY WITHIN THE SPECIFIED TIME WILL RESULT IN LEGAL ACTION.

CLEAR DATE	VIO. CODE	CODE REFERENCE
	(1)	PLEASE PROVIDE APPROVED DOCUMENTATION FOR ALL CONSTRUCTION, REMODELING AND ELECTRICAL WORK.
	X	PLEASE CHECK FOR KITCHEN GAS LINE, EXTRA BED ROOMS AND GARAGE CONDITIONS, AND LINE-APPROVED ELECTRICAL THROUGHOUT THE HOME AND GARAGE.
	(2)	PLEASE PROVIDE AN APPROVED PULL STATION AND BELL.
	(3)	PLEASE REMOVE SECONDARY LOCKS FROM THE EXITS AND PROVIDE A "SINGLE ACTION" DOOR KNOB.
	(4)	PLEASE PROVIDE A HANDRAIL ON THE NORTH SIDE OF STAIRWELL.
		Thank you.
		
		X Final occupant count will be determined on final.

REINSPECTION DATE: Prior to Final IF YOU ARE UNABLE TO CORRECT VIOLATIONS INDICATED ABOVE BY THE
 REINSPECTION DATE, CONTACT (INSP NAME) Tony Verdine
 AT (PHONE) 949 347-2240 IMMEDIATELY TO AVOID ANY ADDITIONAL FEES, FINES OR LEGAL ACTION.



**County of Orange
Planning Development Services Department
Permit Inspection Request**

Inspection Date - Friday, Sep 23 2008

Permit Number EL050728

Contact Yellowstone Women, 949 678-0761

Comments

Inspection Item

915, TEMPORARY ELECTRICAL FOR TESTING

Your inspection request was accepted.

Your confirmation number is 162446
Please print this page for your reference.

You will need this number to update or cancel your inspection request.

[Return to Inspection Request Home](#)

ZONING APPROVAL

Planning Department - ORANGE COUNTY - PDSD
Local Planning Department Name

300 N FLOWER, SANTA ANA, CA 92702
Address

714 - 834 - 5057
Telephone Number

RESIDENTIAL ALCOHOL AND DRUG TREATMENT PROGRAM
(Name of program)

☒ this document indicates local approval for building use (SIO50059)
☐ is not required to obtain a use permit

to operate ☒ a residential or ☐ an outpatient alcohol and/or other drug treatment program at:

20172 REDLANDS DR, NEWPORT BEACH
(Address of program)

DANIEL J DEMARA, SENIOR PLANNER - DPC
(Name, title, and telephone number of individual confirming compliance [typed or printed])


(Signature of local planning department representative)

17 November 2005
(Date signed)



(714) 834-5057
FAX (714) 834-4772

Official seal here

DANIEL J. DEMARA
PLANNER
CURRENT PLANNING SERVICES/DEVELOPMENT PROCESSING CENTER
PLANNING & DEVELOPMENT SERVICES DEPARTMENT

LOCATION:
300 N FLOWER ST, 1ST FLOOR
SANTA ANA, CA 92703

MAILING ADDRESS:
P.O. BOX 4048
SANTA ANA, CA 92702-4048



CITY OF NEWPORT BEACH

**Supplemental Information
for
Reasonable Accommodation**

Planning Department
3300 Newport Boulevard
Newport Beach, California 92658-8915
(949) 644-3200

Application Number _____

To aid staff in determining that the necessary findings can be made in this particular case as set forth in Chapter 20.98 of the Municipal Code, please answer the following questions with regard to your request (Please attach on separate sheets, if necessary):

Please see attached sheet _____

Name of Applicant _____

If provider of housing, name of facility, including legal name of corporation _____

(Mailing Address of Applicant)

(City/State)

(Zip)

(Telephone)

(Fax number)

(E-Mail address)

(Subject Property Address)

Assessor's Parcel Number (APN)

1. Is this application being submitted by a person with a disability, that person's representative, or a developer or provider of housing for individuals with a disability?

2. Does the applicant, or individual(s) on whose behalf the application is being made, have physical or mental impairments that substantially limit one or more of such person's major life activities? If so, please state the impairment(s) and provide documentation of such impairment(s).

3. From which specific Zoning Code provisions, policies or practices are you seeking an exception or modification?

4. Please explain why the specific exception or modification requested is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy the residence. Please provide documentation, if any, to support your explanation.

5. Please explain why the requested accommodation will affirmatively enhance the quality of life of the individual with a disability. Please provide documentation, if any, to support your explanation.

6. Please explain how the individual with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation? Please provide documentation, if any, to support your explanation.

7. If the applicant is a developer or provider of housing for individuals with a disability, please explain why the requested accommodation is necessary to make your facility economically viable in light of the relevant market and market participants. Please provide documentation, if any, to support your explanation.

8. If the applicant is a developer or provider of housing for individuals with a disability, please explain why the requested accommodation is necessary for your facility to provide individuals with a disability an equal opportunity to live in a residential setting taking into consideration the existing supply of facilities of a similar nature and operation in the community. Please provide documentation, if any, to support your explanation.

Application Number _____

9. Please add any other information that may be helpful to the applicant to enable the City to determine whether the findings set forth in Chapter 20.98 can be made (Use additional pages if necessary.) _____

20172 Redlands Attachment

Name of applicant: Yellowstone, Woman's First Step House, Inc., 20172 Redlands, Santa Ana Heights, CA 92701; Phone: 888.941.9048; Fax: 949.646.5296; APN: 119-362-07.

1. This application is provided by a provider of housing for individuals with a disability.
2. The individuals are alcoholics.
3. Single family residence to multi-family residence.
4. The applicant provides the residents of the Property with housing where same is otherwise unavailable to them. Most residents are long-term residents who are able to live with their disability, and in a sober environment, as a result of the provision of the facility by the applicant. The success of sober living homes in assisting these disabled individuals throughout the United States is well documented. Similar success has been realized at the Property addressed herein. A sample of the literature on sober living homes was attached to the original application. Without the home addressed in this application, the individuals who live at this home would not have access to sober living homes, and would not be able to afford to live in such a home in Orange County. Yellowstone provides this home to satisfy the otherwise unaddressed need by these disabled individuals for an equal opportunity to use and enjoy a dwelling. There is no question that, with their current use, this property affirmatively enhances the lives of many individuals with disabilities. Importantly, the rent charged to these individuals simply covers Yellowstone's costs; no profit is realized. In fact, without charitable contributions, Yellowstone would operate at a loss. By no means is Yellowstone, or any individual involved with Yellowstone, a profiteer. Yellowstone simply makes available a sober living environment in an effort to help these disabled individuals, and with a view toward enhancing the community. To the extent that Yellowstone is forced to remove its operations from this property, it will suffer extreme economic hardship. Moreover, with any prospective closure of the property as a sober living home, the individuals with disabilities who live in the home will be without accommodation. Yellowstone is compliant with all of the requirements in the City of Newport Beach's Good Neighbor Principles, and is tenacious in ensuring that all residents at the Property strictly observe these requirements. Approval of this application would not alter the nature of the municipal code or impose any financial or administrative burden on the City. This property has been operating under these same general guidelines for years without imposing any burden upon the County or City. The residential character of the neighborhoods in which this property is located will not be altered in any way with the approval of this application. In fact, there is no non-residential use at the property. Moreover, there is no campus established through the grant of this application. Residents this property are not allowed at any of other property operated by Yellowston, and there are no functions that include all residents. Yellowstone has never been cited by any municipality at this property for any of the complaints set forth specifically in Ordinance 2008-5,

Page 4, Paragraph 13. No health, safety or physical damage issues are presented with granting of these applications.

5. See response to No. 4.
6. See response to No. 4.
7. See response to No. 4. The applicant is not a developer. The applicant has operated at the Property for years and currently can afford this property. Due to the economic decline, and specifically as it pertains to residential housing, the forced sale of this property would cause an extreme economic hardship.
8. See responses to No. 4 and 7.
9. The applicant is a long-standing tenant in the community, and has had a presence in Santa Ana Heights for years. The applicant prides itself in acting as a good neighbor. As noted above, the applicant has an extremely high success rate in assisting disabled individuals live and integrate into Orange County. The applicant affirmatively enhances the lives of its residents. Any abatement of this facility would be harmful to the community.

Exhibit No. 8
Applicant's Supportive
Documentation


DAVIS • ZFATY
A PROFESSIONAL LAW CORPORATION

PLANNING DEPARTMENT

FEB 02 2009

CITY OF NEWPORT BEACH

January 29, 2009

Z175.1

VIA FIRST CLASS MAIL

Ms. Janet Brown
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Re: Request for Reasonable Accommodation: 20172 Redlands

Dear Ms. Brown:

As you know, this firm is general counsel for Yellowstone Women's First Step House, Inc. ("Yellowstone"). I recently spoke with Cathy Walcott of the City Attorney's office. She informed me of a few ambiguities in our Request for Reasonable Accommodation Worksheet for the 20172 Redlands property (the "Property"). The purpose of this letter is to clarify these ambiguities.

(Question 5) Impairments Substantially Limiting Major Life Activities: Do the clients have physical or mental impairments that substantially limit one or more of such person's major life activities? What are those impairments?

The residents of the Property are recovering from alcohol addiction. They manifest physical and mental symptoms which have prevented them from engaging in at least one of their major life activities.

Although the residents work, they are recovering from a physical dependence on alcohol. Mentally, the residents are recovering from the inability to make healthy choices like the average person in the general population regarding their consumption of alcohol. Their impairments affect their ability to think, concentrate, and interact with others as compared to the ability of the average person in the general population to do the same. Thus, their disability is substantially limiting.

Enclosed with this letter is a Declaration under penalty of perjury from the applicant, Honey Thames, manager of the Property, that every resident in the Property has physical or mental impairments that substantially limit one or more of the residents' major life activities. Cathy Walcott mentioned that this would be acceptable given that the privacy concerns of the residents limit our ability to provide medical records or signatures of the residents.

Ms. Janet Brown
January 29, 2009

(Question 10) Parking: Describe the on-site parking resources and the staff and visitor parking plans.

Parking on the Property is reserved for the manager and assistant manager, thus the maximum number of cars on the Property at any one time will be two. Residents are not permitted to park on the Property. Visitors are not permitted on the Property therefore there are no visitor parking issues.

(Question 11) Operation of Vehicles: Describe client's availability to drive and operate a vehicle while residing at facility.

The residents do not use cars. Instead, they rely on public transportation to and from the Property.

(Question 12) Transportation: Does the facility provide transportation services? If yes, please describe the frequency, duration, and schedule of services and where the vehicles are stored

Though the home generally does not provide transportation services, the home does provide some basic transportation to the nearby treatment facility and to St. John church. Both locations are within ten minutes of the home. There is a morning pickup at 8 a.m. and an evening drop off at 4 p.m. This is the only transportation provided. The vans that transport the residents are not parked on site. When not in use, the vans are kept in another city.

(Question 16) Interaction Within the Property: How do the clients interact with each other within the unit? Is there joint use of common areas? Do clients share household activities and responsibilities? Will delivery trucks be provided at the facility?

The Property provides the residents with a network of support to encourage recovery from the symptoms of alcoholism. The residents reside separately at the Property. There is a common area however each resident is responsible for their own meals, expenses, and chores. There is no individual treatment, group treatment, or group therapy sessions that occur on the Property. The sole purpose of each resident living on the Property is to live in a house with other sober individuals with similar disabilities. Also, there are no delivery vehicles going to and from the Property. Finally, although Yellowstone owns four such homes in the Newport Beach area, there is no interaction between the homes. In other words, residents of the Property do not meet with the residents of other Yellowstone properties for dinners or other gatherings. Each home has its own residents and the residents of one home never interact with residents of a different home.

Ms. Janet Brown
January 29, 2009

(Question 19) Necessity of the Requested Accommodation: Please explain why the requested accommodation is necessary.

Yellowstone hereby requests that a Reasonable Accommodation be made to Ordinance 2008-5 such that Yellowstone is treated as a Single Housekeeping Unit as the term is defined in Section 20.03.030 of the Newport Beach Municipal Code.

The Reasonable Accommodation is necessary because the Property is not transient or institutional in nature such that it fits the definition of a non-licensed residential care facility. Instead, the Property more accurately fits the definition of a Single Housekeeping Unit as the term is defined in Section 20.03.030. Residents are the functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit. Like a Single Housekeeping Unit, there is a common area and each resident is responsible for their own meals, expenses, and chores. There is no individual treatment, group treatment, or group therapy sessions that occur on the Property. The sole purpose of each resident living on the Property is to live in a house with other sober individuals with similar disabilities. Also, the makeup of the Property is determined by the residents of the unit rather than the property manager. In conformity with our request for a Reasonable Accommodation, we would like to request that we get an exemption from Section 20.91A. 050 of the Newport Beach Municipal Code which states that there shall be no more than two residents per bedroom plus one additional resident.

I hope that this clarifies any ambiguity with respect to our previous request for a Reasonable Accommodation. Please let me know if our responses need to be supplemented further and as always, feel free to contact me if you have any questions.

Very truly yours,

DAVIS ZFATY
a professional corporation



NICOLE COHRS

cc: Yellowstone (attn: Dr. Anna Marie Thames)

DECLARATION OF ANNA MARIE THAMES

I, Dr. Anna Marie Thames, hereby declare as follows:

1. The matters stated herein are known to me personally and if called upon to testify, I could and would competently testify thereto as follows.
2. All individuals residing in the property located at 20172 Redlands in Newport Beach are recovering from alcohol addiction.
3. Although the residents are recovering, they manifest physical and mental symptoms of their addiction which substantially limit one or more of the residents major life activities

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 28th day of January 2009, at Newport Beach, California.


ANNA MARIE THAMES

Redlands


DAVIS • ZFATY
A PROFESSIONAL LAW CORPORATION

FEB 02 2009

January 29, 2009

VIA FIRST CLASS MAIL

Ms. Janet Brown
CITY OF NEWPORT BEACH
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Re: *Affidavits for Fee Waiver Reasonable Accommodation*

Dear Janet:

Enclosed are the signed Affidavits of Disability Related Financial Hardship. There is a separate Affidavit for each of the four Yellowstone properties. As we discussed, our responses to the questions relating to the income of the residents pre and post-disability are based on the average resident for each of the homes.

Please feel free to contact me if you have any questions.

Very truly yours,

DAVIS ZFATY



NICOLE COHRS

Enclosure

AFFIDAVIT OF DISABILITY-RELATED FINANCIAL HARDSHIP
20172 Redlands, Newport Beach

I, Anna Marie Thames, declare:

1. I am an authorized representative of disabled individuals;
2. I am submitting information specific to the financial status of a group of disabled individuals who reside in a household;
3. I am submitting the financial information herein voluntarily because I have requested a reasonable accommodation from the City of Newport Beach, which I believe is necessary because of financial hardship to the disabled individuals I represent;
4. Severe financial constraints which arose as a direct result of the disabled individuals I represent prevent them from complying with one or more provision or provisions of the City of Newport Beach's Municipal Code, Council Policies or usual and customary procedures generally applicable to the type of dwelling in which disabled persons I represent reside or wish to reside;
5. Such provisions of the City of Newport Beach's Municipal Code, Council Policies or usual and customary procedures, if applied to the dwelling in which the disabled individuals I represent reside, will deprive disabled individuals of the opportunity to reside in the dwelling of his or her choice;
6. In order to afford the disabled individuals the opportunity to reside in the dwelling of his or her choice, the permanent or temporary waiver of a fee, tax, nuisance abatement, code enforcement action, repair, zoning, building construction or other requirement of the Newport Beach Municipal Code, Council Policy or customary procedure is necessary;
7. The requested waiving of such fee, tax, nuisance abatement, code enforcement action, repair, zoning, building construction or other requirement is necessary because of financial limitations which are the direct result of the disability of the individuals that I represent;

8. If the disabled individual on whose behalf a financial reasonable accommodation is requested was able to work prior to becoming disabled, please provide information on such individual's pre- and post disability income:
- A. On the following dates, the disability of the persons I represent, rendered such persons severely limited in their ability to work or entirely unable to work:
- The individuals residing in the home were all affected by their disability at different times. During addiction, residents are unable to work. In sober living, however, all residents must find a job.
- B. Prior to the dates on which such disability rendered the disabled individuals I represent unable or severely limited in their ability to work, their annual household income from all sources was approximately \$50,000 (on average).
- C. After the dates on which such disability rendered the disabled individuals I represent unable or severely limited in their ability to work, their annual income from all sources was approximately \$20,000 (on average). Typically, household income is cut approximately in half because of alcoholism. As a result of alcoholism, the residents of the home have been rendered financially disabled. In sober living, the residents must find a job, however, the jobs the residents seeks are near minimum wage (\$8.00 per hour).
9. If the disabled individuals on whose behalf a financial reasonable accommodation is requested were not employed prior to becoming disabled, please state why any financial limitations which render the disabled individuals unable to meet the financial requirements of complying with the Newport Beach Municipal Code are a direct result of such their disability.
- All residents were employed in some manner prior to their addiction.
10. Please provide any additional information you feel would enable City staff and/or hearing officers to determine whether disability-related financial hardship requires an exception form the application of the City's Municipal Code, Council Policies, or usual and customary procedures in order to afford the disabled individuals an opportunity to reside in a dwelling.

The residents cannot afford their own places to live. Their income is based on near minimum wage hourly rates. Thus, if forced to live elsewhere they could not afford to pay rent, a security deposit for an apartment, food, or utilities. Yellowstone provides a fresh start for recovering alcoholics to begin their life with a clean slate. Our fees are low and donors in the community provide individual scholarships for residents who qualify.

Yellowstone is a non-profit organization. Yellowstone has no investors and no loans. The organization uses the income from residents to cover its costs and Yellowstone makes no profit from the residents. The organization is run by a group of volunteers who are committed to returning the residents back to the community often and other in the paying effort who can help other alcoholics. As a result, Yellowstone's small budget cannot accommodate the \$2,200 application fee. Yellowstone respectfully requests that the City make a reasonable accommodation in accordance.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 29th day of January, 2009, in Newport Beach, California.


ANNA MARIE THAMES

COST ANALYSIS OF OUR HOMES IN SANTA ANA HEIGHTS

IN GENERAL, OUR WEEKLY FEES ARE BASED ON A SLIDING SCALE FROM \$50.00 TO \$160 PER WEEK

OUR MORTGAGES AVERAGE \$4500 PER MONTH

A MINIMUM OF 15 RESIDENTS IS NEEDED TO PAY ALL THE EXPENSES FOR EACH HOUSE, INCLUDING LIGHTS, GAS, WATER AND TRASH.

RENTS: SLIDING SCALE: \$50.00 TO \$160.00 PER WEEK

AVERAGE: RESIDENTS: 16

AVERAGE RENT \$100

MONTHLY AVERAGE: \$6400 INCOME

EXPENSES: FOR EACH HOUSE

AVERAGE UTILITIES \$ 800 LIGHTS, GAS, WATER, PHONE

FOOD: \$ 900

MORTGAGES: AVERAGE \$4500

MONTHLY AVERAGE \$6200 EXPENSES

RECEIVED BY
PLANNING DEPARTMENT

FEB 05 2009

CITY OF NEWPORT BEACH

YS 01075

Yellowstone

SOUTHERN CALIFORNIA DRUG AND ALCOHOL TREATMENT CENTER

Call Today (888) 941-9048 - After Hours (949) 678-9000

Thursday, February 12, 2009

A HIGHLY SUCCESSFUL AND LOW COST DRUG AND ALCOHOL RECOVERY PROGRAM FOR WOMEN AND MEN

Home

InPatient Programs

OutPatient Programs

Detox Services

Programs Available

Our Homes

Our Staff

Mission Statement

Schedule

Contact Us

LEGAL PROBLEMS?



WE CAN HELP!

LICENSED AND CERTIFIED BY THE STATE OF CALIFORNIA

Yellowstone Recovery Financial Requirements

- 90 Days: \$7,500 Residential Treatment
- Sober Living: \$160 - \$180 per week
- Outpatient: Sliding Scale \$40 - \$80

Some scholarships available after 30 days



Admission Requirements

Call for an appointment or telephone interview

1-888-941-9048

Or Email us at honeythames@yahoo.com

Yellowstone offers a free assessment program.

Services Include:

Court Liaison • 12 Step Recovery • Counseling
Art Therapy Life Skills Training • Job Placement Program
Sponsors Family Meetings • Sober Fellowship
Sober Softball • Sober Camping

© Yellowstone Recovery 2008

Yellowstone

Exhibit No. 9
Applicant's E-mail dated
January 28, 2009

Brown, Janet

From: Nicole Cohrs [nc@dzattorneys.com]
Sent: Wednesday, January 28, 2009 12:11 PM
To: Brown, Janet
Subject: RE: Yellowstone -- all hearings in one day

Thank goodness! I was worried about it since the deadline was yesterday. And yes, it is amazing when these things suddenly pop into my head at night.

Here are the answers to your questions:

1. The number of beds in each home is as follows:

1561 Indus = 12
1621 Indus = 18
Redlands = 17
Pegasus = 18

I apologize for the discrepancy.

2. The number of beds in each home exceeds the number permitted by the Code:

1561 Indus (Code = 11 max) Actual = 12
1621 Indus (Code = 13 max) Actual = 18
Redlands (Code = 13 max) Actual = 17
Pegasus (Code = 13 max) Actual = 18

As you can see, we plan to exceed the number specified by the Code in all four homes. The Code states that a Hearing Officer may set different occupancy limits based on **structure characteristics, traffic and parking impacts, and the health, safety, and welfare of the persons residing in the facility and neighborhood**. All four of the homes have fire clearance. Obtaining fire clearance takes into account the above-listed factors which are to be considered by the Hearing Officer in increasing the number of beds. According to the City Fire Dept., the homes all meet the standards for fire clearance. We think that this is more than sufficient. Let me know if you need more detail.

3. I spoke to Honey Thames and the architect this morning. I am waiting for a response from her as to when the revised plans will be sent to you. I know that she already contacted the architect about this last week.

I will let you know as soon as I hear from her.

Thanks.

Nicole Cohrs, Esq.
DAVIS ZFATY APC
Attorneys at Law
580 Broadway, Suite 301
Laguna Beach, CA 92651
(949) 376-2828
Email: nc@dzattorneys.com
Web: www.dzattorneys.com

This communication, including any attachments, is confidential and is protected by privilege. If you are not the intended recipient any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone or e-mail, and permanently delete all copies, electronic or other, that you may have. The foregoing applies even if this notice is embedded in a message that is forwarded or attached.***

DAVIS ZFATY a professional corporation
580 Broadway Avenue, Suite 301
Laguna Beach, CA 92651
949.376.2828, Fax 949.376.3875

From: Brown, Janet [mailto:JBrown@city.newport-beach.ca.us]
Sent: Wednesday, January 28, 2009 9:06 AM
To: Nicole Cohrs
Subject: RE: Yellowstone -- all hearings in one day
Importance: High

It arrived in yesterday's mail. Thank you. (Amazing what we think of at night, hm.)

I am meeting with the contract planners who are working on the staff reports this morning at 10:00 a.m., and I do have a few other questions for you.

1. In the January 21st letter, we requested clarification as to number of resident beds in each dwelling, as there was a discrepancy on the floor plans vs. the written summary on the plans. When may we expect this information?
2. If the number of beds exceeds the number allowed by Code, as outlined in the 1/21 letter, a justification statement must be submitted. Has that been prepared?
3. When might we expect revised site plans providing the additional information requested in the 1/21 letter?

The information requested in the January 21st letter is necessary for us to fully analyze the applications, and prepare the staff report. Given that we are running up against the deadline for obtaining a use permit, we need this information as soon as possible.

Thank you.

Janet Johnson Brown
Associate Planner
City of Newport Beach
(949) 644-3236
jbrown@city.newport-beach.ca.us

From: Nicole Cohrs [mailto:nc@dzattorneys.com]
Sent: Wednesday, January 28, 2009 8:46 AM
To: Brown, Janet
Subject: Yellowstone -- all hearings in one day

Hi Janet,

I was thinking about this last night...

I just wanted to make sure that you got my letter expressing that we want all 3 issues to be heard on February 12.

Did you get that letter? I sent it last week.

Nicole Cohrs, Esq.
DAVIS ZFATY APC
Attorneys at Law
580 Broadway, Suite 301
Laguna Beach, CA 92651
(949) 376-2828
Email: nc@dzattorneys.com
Web: www.dzattorneys.com

This communication, including any attachments, is confidential and is protected by privilege. If you are not the intended recipient any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone or e-mail, and permanently delete all copies, electronic or other, that you may have. The foregoing applies even if this notice is embedded in a message that is forwarded or attached.***

DAVIS ZFATY a professional corporation
580 Broadway Avenue, Suite 301
Laguna Beach, CA 92651
949.376.2828, Fax 949.376.3875

Exhibit No. 10
Applicant's Additional
Correspondence dated
February 13, 2009

Wolcott, Cathy

From: Nicole Cohrs [nc@dzattorneys.com]
Sent: Thursday, February 12, 2009 1:55 PM
To: Wolcott, Cathy
Cc: Brown, Janet
Subject: RE: Reasonable accommodation #2 - necessity clarification

Yes Cathy, all of that is correct. Thank you.

I am concerned by my conversation with you this afternoon. If you know of any other inconsistencies please let me know. I don't want to present an unclear report. I want to make sure that Yellowstone's answers are clear. Please feel free to contact me if you have any questions at all. I assure you that I will get the appropriate responses for you ASAP. I am in the office until 3 today, at which point I will be heading to the hearing scheduled at 4pm. If you need to talk to me at any other time my cell is [REDACTED]

Thanks again.

Nicole Cohrs, Esq.
DAVIS ZFATY APC
Attorneys at Law
580 Broadway, Suite 301
Laguna Beach, CA 92651
(949) 376-2828
Email: nc@dzattorneys.com
Web: www.dzattorneys.com

This communication, including any attachments, is confidential and is protected by privilege. If you are not the intended recipient any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone or e-mail, and permanently delete all copies, electronic or other, that you may have. The foregoing applies even if this notice is embedded in a message that is forwarded or attached.***

DAVIS ZFATY a professional corporation
580 Broadway Avenue, Suite 301
Laguna Beach, CA 92651
949.376.2828, Fax 949.376.3875

From: Wolcott, Cathy [mailto:CWolcott@city.newport-beach.ca.us]
Sent: Thursday, February 12, 2009 1:20 PM
To: Nicole Cohrs
Cc: Brown, Janet
Subject: Reasonable accommodation #2 - necessity clarification

Hi Nicole,

As we discussed on the phone this afternoon, I am writing to obtain further clarification of Yellowstone Recovery's request for reasonable accommodation. Specifically, Yellowstone has requested an exemption from the standards of Newport Beach Municipal Code (NBMC) Section 20.91A.050, which states that there shall be no more than two residents per bedroom plus one additional resident in residential care facilities granted a use permit under NBMC Section 20.91A.040. However, there has been no formal explanation of the necessity of this exemption. In order to complete staff's analysis, by phone I requested that Yellowstone furnish the City with their explanation of why this accommodation is necessary to afford a disabled individual or individuals the opportunity to use and enjoy the dwelling of their choice.

You supplied explanations for the necessity of this accommodation for current residents, and prospective residents.

1) Current residents at Yellowstone facilities in excess of numbers allowed under NBMC 20.91A.050 – You stated that current residents in excess of numbers specified in the NBMC's operating standards would be displaced if a use permit were granted for a lesser amount of residents. Because of financial constraints related to the disability of the residents, you stated they would be unable to afford rent in another dwelling and would have nowhere to live, and therefore an exemption from the occupancy limits of NBMC Section 20.91A.050 is necessary.

2) Prospective residents at Yellowstone facilities in excess of numbers allowed under NBMC 20.91A.050 – You stated that prospective residents of Yellowstone facilities have financial constraints related to their disability, and would be unable to afford a dwelling if the Yellowstone facility is unavailable to them because of the occupancy restrictions of NBMC Section 20.91A.050. Therefore, an exemption from the occupancy restrictions of NBMC Section 20.91A.050 is necessary to provide housing to these prospective residents as well.

In addition, you clarified two inconsistencies among the various Yellowstone submissions. You stated that in May, 2008, when the original Yellowstone use permit and reasonable accommodation applications were submitted, four cars were permitted at 1561 Indus. There has been a change of policy at Yellowstone since that date, and at this time no resident is permitted use personal vehicles, to have personal vehicles onsite, or park personal vehicles in the neighborhood (with the exception of the two resident managers per site, who are allowed vehicles which are parked onsite.)

You also stated, consistent with the applicant's previous submissions, that there are no meetings held onsite at any of the Yellowstone facilities in Newport Beach. All meetings are held at Yellowstone's Costa Mesa facility, and letters from Yellowstone alumnae that reference visiting Yellowstone are referring to the meetings at the Costa Mesa facility.

Please confirm the above, and feel free to provide further clarification if needed.

Thank you,

Catherine Wolcott

Deputy City Attorney

City of Newport Beach

3300 Newport Boulevard

Newport Beach, CA 92658-8915

cwolcott@city.newport-beach.ca.us

Phone (949)644-3131

Facsimile (949)644-3139

Brown, Janet

From: Nicole Cohrs [nc@dzattorneys.com]
Sent: Friday, February 13, 2009 9:40 AM
To: Brown, Janet; Wolcott, Cathy
Subject: Clarification Correspondence
Attachments: DOC001.PDF

Hello Cathy and Janet,

I was recently informed that the City is concerned about a few inconsistencies between Yellowstone's early submittals to the City (back in May 2008) and our more recently submittals.

The attached letter will hopefully clarify some of the City's concerns. A hard copy is being sent in the mail today, however I wanted you to have a PDF version so that you could include this information in your reports.

Regards,

Nicole Cohrs, Esq.
DAVIS ZFATY APC
Attorneys at Law
580 Broadway, Suite 301
Laguna Beach, CA 92651
(949) 376-2828
Email: nc@dzattorneys.com
Web: www.dzattorneys.com

This communication, including any attachments, is confidential and is protected by privilege. If you are not the intended recipient any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone or e-mail, and permanently delete all copies, electronic or other, that you may have. The foregoing applies even if this notice is embedded in a message that is forwarded or attached.***

DAVIS ZFATY a professional corporation
580 Broadway Avenue, Suite 301
Laguna Beach, CA 92651
949.376.2828, Fax 949.376.3875

-----Original Message-----

From: xerox@dzattorneys.com [mailto:xerox@dzattorneys.com]
Sent: Friday, February 13, 2009 9:31 AM
To: Nicole Cohrs
Subject: Scan from a Xerox WorkCentre


DAVIS • Z F A T Y
A PROFESSIONAL LAW CORPORATION

February 13, 2009

RECEIVED BY
PLANNING DEPARTMENT

FEB 17 2009

CITY OF NEWPORT BEACH

VIA EMAIL AND FIRST CLASS MAIL

Ms. Cathy Wolcott
Ms. Janet Brown
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92658-8915

Re: *Yellowstone Use Permit Applications and Reasonable Accommodation Requests*

Dear Ms. Wolcott and Ms. Brown:

It has recently come to my attention there may be discrepancies between materials Yellowstone submitted with respect to its use permit applications and requests for reasonable accommodation for each of the four Yellowstone properties. Although this firm and the representatives of Yellowstone have made our best efforts to be clear and consistent, the materials submitted to the City in May 2008 reflect some inaccurate information. The purpose of this correspondence is to clarify these inconsistencies.

Group Meetings

Neither group treatment meetings nor individual treatment meetings occur on any of the four Yellowstone properties. All treatment is performed off site in Costa Mesa. The only meetings that occur at each of the four homes are weekly house meetings with the residents to discuss potential new residents and other administrative matters.

Visitors

Visitation with family and friends occurs on Sundays at Yellowstone's Costa Mesa facility located at 154 East Bay Street.

Ms. Cathy Wolcott
Ms. Janet Brown
February 13, 2009
Page 2 of 2

Contractual Arrangements with Residents and Resident Selection

In May 2008, Yellowstone submitted a request for reasonable accommodation that each of the four homes be treated as a Single Housekeeping Unit. It was recently brought to my attention that Yellowstone's response to Question 16, regarding resident interaction, needs clarification.

Yellowstone does not have a contractual relationship with the residents of its properties. With respect to the residents of the four Yellowstone homes in Santa Ana Heights, Yellowstone's position is correctly stated in a letter to the City dated January 29, 2009: "the makeup of the Property is determined by the residents of the unit rather than the property manager." More specifically, Yellowstone's Board of Directors does not determine who resides in each of the four homes. New residents are introduced and approved by the current residents during house meetings or they are not accepted. Many of Yellowstone's residents transition to sober living directly from treatment. Other residents learn about Yellowstone from other recovery centers or by community referral.

Parking

In May 2008, when the original Yellowstone use permit and reasonable accommodation applications were submitted to the City, Yellowstone requested that four cars be permitted to park at the 1561 Indus property. There is adequate room for four cars to park at 1561 Indus, however only the two resident managers for the home park on site. With respect to the three other Yellowstone properties, it has consistently been Yellowstone's position that only the two resident managers of the homes are allowed to park vehicles on site.

I hope that this clarifies the ambiguities in our previous submissions to the City. As always, if you have any questions regarding this correspondence, please feel free to contact me.

Very truly yours,

DAVIS ZFATY
a professional corporation



NICOLE COHRS, ESQ.

Exhibit No. 11
Additional Letters of Opposition
Received After February 13, 2009

Brown, Janet

From: Jeff Dangi [Jeff.Dangi@advisys.com]
Sent: Thursday, February 19, 2009 10:23 AM
To: DKiff@city-newport-beach.ca.us; JBrown@city-newport-beach.ca.us
Subject: Yellowstone Homes (No more!)

Greetings Janet Brown and Dave Kiff,

I am a resident of the Santa Ana Heights area west of Irvine Ave, which was recently annexed into the city of Newport Beach. My wife and I (and 3 children) have lived in the area since 1995. We are active in the community and enjoy the bond and unity we have with other families who also live in this area. Aside from the noise we get from planes taking off out of John Wayne airport, I feel we have a great and safe environment for our family to live, grow and take part in. Becoming a part of Newport Beach has also affected us positively as we have received "here's what's up" newsletters from the city, additional police patrols, code enforcement, etc.

My concern right now deals with the number of permits that have been issued for the use of halfway houses (and alcohol/ drug rehabilitation homes) by Yellowstone Homes. While I do not necessarily have anything against these residents and believe that they should be afforded the same rights to a comfortable life I enjoy, I feel that these residents do not necessarily have the same level concern for the welfare and wellbeing of the neighborhood as do families who are permanent residents. Over the past several years, as homes have been sold, it seems like more and more are being purchased by Yellowstone Homes rather than to families because Yellowstone Homes is able to offer more money than families knowing that they will receive funding and assistance from the state. I believe that the number of these halfway houses has now adversely affected our neighborhood as we have seen a decrease in house upkeep and an increase in parked cars along our streets.

I am not sure how many Yellowstone Homes are in my neighborhood, but it seems like the ration of their homes to homes owned by families is out of skew. Please do not approve any more permits to Yellowstone Homes.

Thanks for your attention to this matter,

/ Jeff Dangi
20081 Kline Drive, Newport Beach

Advisys, Inc. (formerly known as Kettley) is a leading financial services technology company providing solutions to 65,000 professional advisors nationwide.

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination, or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

Advisys, Inc. (formerly known as Kettley) is a leading financial services technology company providing solutions to 65,000 professional advisors nationwide.

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination, or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

Brown, Janet

From: George Robertson [g_robertson@roadrunner.com]
Sent: Thursday, February 19, 2009 8:12 AM
To: Brown, Janet
Cc: patrbtson@aol.com
Subject: Public comments re: Yellowstone First Step House, Inc.

Dear Ms. Brown,

Please enter these comments to the public record regarding the application of Yellowstone First Step House, Inc. to operate four unlicensed adult residential care facilities within the West Santa Ana Heights neighborhood. My primary concern are the inaccuracies contained in the city staff reports that I reviewed. However, please note that due to the lateness of the city's posting of these reports (Tuesday, February 17, 2009 after 4:30 pm) and the fact that two of the links to the reports did not work until sometime late Wednesday, February 18, 2009, I was only able to review two reports completely and one cursorily.

Besides the inconsistencies contained in reports, that city staff has pointed out, I have a few comments regarding the accuracy of the reports. However, the scope of the comments below are not complete as my review of the staff reports was hurried and incomplete due to the reasons cited above.

Initial comments are:

(1) Parks

- a. The staff report on 1561 Indus Street (and by extension all other reports) states that there are no public parks located within the neighborhood. This is in fact a wrong statement. There is a neighborhood park located at the terminus of Orchard Drive, that was in place well before Yellowstone began operations in this neighborhood. This park is located within about 750 feet of the proposed facility at 20172 Redlands Drive. I would ask that the city review its decisions on all of the applications using this information.

(2) House size and Number of bed rooms

- a. The staff reports states square footage of each house as one of the reasons to allow an exemption in the maximum number of residents allowed. However, the stated square footage, which I have to I assume was provided by the applicant, were considerably over exaggerated. I have the original builder's materials on the "Sherwood Estates" development and, as built, house sizes were either 2,650 sq. ft. or 2,585 sq. ft. The implications is that for the houses at 1621 Indus Street and 1571 Pegasus Street, the application is off by almost 25%; I have to assume that this percentage also applies to the proposed house at 1621 Indus. . For the house located at 20172 Redlands Drive the excess square footage is almost 15%.
- b. None of these houses, as built were larger than five bedrooms, yet two of the applications state that they have six bedrooms. I know that the house located at 20172 Redlands had some internal modifications done, at the time without a county building permit, but this house as built only had four bedrooms.
- c. The staff reports contain a stipulation on having the city's Fire Marshall review, which I support. In addition I would ask that the city also send a building inspector to verify (a) square footage; (b) number of bedrooms; and (c) whether any structural modifications, such as the addition of new bedrooms, are legal additions.

(3) "Characteristics of Use/Treatment

- a. The report states that the applicant does not allow residents on any other Yellowstone property. However, this statement is negated by personal observations of residents from at least three of the four residences co-mingling at each other's residences. I have seen women from the Pegasus house walk up to Redlands, and on one occasion observed several women leave the Redlands house early in the morning before 7 a.m., ; implication is that they spent the night. I often see residences from the

Redlands house walk up to the house at 1621 Indus. Additionally on at least two occasions I have seen large groups walk up to the house on 1621 Indus mid-week, mid-morning. The assumption being made is that there are large group functions (treatments?) being held onsite.

(4) Transportation and Parking

- a. Despite all of the inconsistencies contained in the staff report table, my biggest concern are the assertions that (a) transportation is not provided; and (b) that residents to not allowed to have cars. My personnel observations are: (a) that Yellowstone operates two large capacity vans on a routine basis. Over the years I have seen these vans pick up and drop off residents at both the men's and women's residences, in particular 1561 Indus Street and 20172 Redlands Drive. These vans (one of which has "VANPOOL" stenciled on the windows) have lately been parked each night in the neighborhood, typically alongside 20172 Redlands Drive near the intersection of Redlands Drive and Pegasus Street. Additionally I have observed private vehicles pick-up and drop off multiple residents at 20172 Redlands. These facts on the ground seem to contradict statements made by the applicant
- b. Manager parking. I have never seen any cars parked inside the garage of any of the four residences. Two cars I commonly see parked in the driveway are at 1561. One of these leaves each day before 7 am. So I am not sure that this is a managers vehicle or a residents vehicle who is leaving for work.

(5) Smoking

- a. The staff report states that no complaints have been made regarding second hand smoke and that smoking is limited to the backyard patios. Again I have personally observed individuals (residents or guests I can't say) smoke in the front yards. Additionally, a walk along these houses will show cigarette butts in the gutters and driveways of these houses; I recently observed this at 1621 Indus on Wednesday, February 18, 2009 and at 20172 Redlands on Thursday, February 19, 2009.
- b. I was completely unaware until I read the staff report that there was a restriction on second hand smoke until I read the staff report. I would suggest that the lack of complaints cited in the staff report is an artifact of the neighbors not knowing that this was a legitimate issue that could be raised to the city's attention. I have personally detected second hand smoke outside the property, so I believe that the findings made regarding Section 20.91A.060A is wrong.

(6) Approval selection process

- a. After reading the three staff reports, I was not able to determine why one facility was selected for approval over another. A comparison table would have been informative. In fact, the house at 20172 Redlands, which city staff has recommended be approved, is probably one of the more problematic houses with the most issues, vanpools, private car use, smoking, noise, litter, excessive trash. How did this house get selected over another? Availability of street parking?

In closing I request that the city deny all of these application due to the inconsistencies and contradictions contained in the applications, as reflected in the staff report. I lieu of that decision, I request that, prior to any approvals being granted by the city, that staff verify the issues contained in #2 above, be more transparent on the decision process (#6), provide sufficient time for the public to review all relevant documents, and get more public input before any final decisions are made. Additionally, I suggest to city staff that if the applicant is unaware of the facts-on-the-ground (e.g., vanpools, residents co-mingling, use of private cars) that contradict statements made by the applicant as reflected in the staff report, that there is a disconnect between the on-site residence managers and the applicant; another issue for the city to clarify and rectify prior to any approvals. Finally, for any approvals granted, I ask that the city add a condition that the applicant provide all of the neighbors with a common set of "house" rules that is updated as changes are made. Finally I ask that the city provide the neighbors a method of reporting violations of these rules and a description of the city's actions would be under such instances.

Thank you for your consideration of these comments.

Regards,

George and Patricia Robertson

Brown, Janet

From: barry walker [bwarch.biz@gmail.com]
Sent: Tuesday, February 17, 2009 1:51 PM
To: Brown, Janet
Subject: Yellowstone Sue Permits
Attachments: Yellowstone Use Permits.rtf

Janet -

Attached letter responding to the Use Permit Hearing notice

They did not have a meeting at the Redlands house last week and have not for about 3 weeks, but when they do, the meetings seem to start about 6:00 and breakup in about 90 mins. Not real sure because we did not specifically watch for them, but they have held meetings there that seemed to draw about a dozen cars.

Thanks
Barry

City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA.

RECEIVED BY
PLANNING DEPARTMENT

February 17, 2009

FEB 17 2009

Attn: Janet Brown

CITY OF NEWPORT BEACH

This letter is in response to the Use Permit Hearing notification for the Group Residential Use Permits that have been applied for by Yellowstone Women's First Step House, Inc. for 1561 Indus Street, 1621 Indus Street, 1571 Pegasus Street and 20172 Redlands Drive.

My primary objection to these use permit requests is the substantial increase in density that this represents for this neighborhood and the associated problems that come with a higher density usage than was originally planned for.

The use permits request permission to raise the density from the original design of a probable max of 6 per household to 18 (plus supervision?) per household. Although this request is for four houses, the neighborhood has an additional rehab house (and possibly two as a previous rehab house has recently changed hands and the new owner has not moved in yet), all within a 350' radius. This means that 6 houses out of 36 are involved with the rehab industry and that the possible population of the area increases from 216 to 282, a 30% increase in density. The reality is that this is an older neighborhood (most are empty nest at this point), and the average is probably more likely 2.5 - 3.0 people per household. That makes the number more like 108 residents and with the addition of the rehab houses, the population increases to 216, a 100% increase in the population density in this specific case.

The increase in density has many environmental effects on the neighborhood. When these homes were planned, the target household was for a family unit of 5-6 with 5 bedrooms and 3 baths (the typical floor plan, encompassing about 2400 square feet) and a two car garage.

The water supply and sanitary sewer were probably sized for the number of uses that 6 people would generate. As you can imagine, the systems will be over-used with a household of 18 people and we can anticipate system problems with an over-stressed older infrastructure.

Parking will become a worse problem with the addition of more cars since the houses only have 2 off-street parking spaces at most (the garages are filled with "stuff" and not used for parking). When the house at 20172 has meetings (previously every Tuesday at about 6:00 pm.) both sides of two streets were lined with cars, passage was more difficult.

Waste generation per house is substantially increased with several of the houses putting out 4 overflowing 90 gal. trash cans each week - with 18 people, I can only imagine the trash generation and disposal situation - 12 trash cans?

Smoking, though not regulated as an outside activity, still creates its own problems as we are constantly picking up cigarette butts from our yards, driveways and gutters.

Late night / early morning traffic as group home residents who do not drive are picked up and dropped off or just sitting in the car in the street as people talk - not a big deal with regular density, but with a doubling of the density, it just happens more often and becomes an irritant.

Lastly, when Yellowstone moved in, they did nothing to start a dialogue, like "here is the phone number of our customer service if there is problem we should address" which did nothing to get Yellowstone off to a good start and so we have no reason to believe they will be a good neighbor if these use permits are approved.

Sincerely,
Barry Walker
1571 Indus Street

1082 01092

February 16, 2009

RECEIVED BY
PLANNING DEPARTMENT

FEB 17 2009

CITY OF NEWPORT BEACH

Newport Beach Planning Department
Newport Beach City Hall
3300 Newport Blvd.
Newport Beach, Ca. 92658

Regarding: Yellowstone Women's First Step House Inc. application for Group Home Use permits to operate commercial business in a residential neighborhood.

Yellowstone Women's First Step House Inc. has been operating the above business for several years before West Santa Ana Heights was annexed into Newport Beach. To my knowledge these are unlicensed businesses and as such have changed the complexion and nature of our community.

Yellowstone wishes to increase the number of clients and staff at these facilities. Based on the figures given by Yellowstone, 12 clients at 1561 Indus Street, 18 clients each at 1621 Indus Street, 1571 Pegasus Street, and 20172 Redlands Drive this is a total of 66 paying customers at any given time. The application does not include live-on site staff, which I assume would be required to maintain the enterprise. Assuming staff would not share a room with clients the dorm style rooms would have to sleep 4 and each of the 3 bathrooms per property would have to accommodate between 5 and 6 individuals. With the rapid turnover this represents several hundred clients per year. Basically, these are transient hotels without the controls placed on other similar businesses. These homes were not designed or intended for this requested use.

If Yellowstone is granted the requested use permits and allowed to operate these businesses in this neighborhood, is the Planning Department willing to grant all other requests to operate business in our residential neighborhood? Newport Beach does not permit a homeowner to conduct weekly garage sale on their property because it is a business. Could another investment group purchase a home and set up a massage therapy parlor? I doubt it.

Zoning is intended to maintain balance and community structure. Commercial, industrial, and residential neighborhoods are all important to maintain a strong city. Disregarding the zoning plans of a community and combining the different uses will impact property values, destroy the nature of family neighborhoods, and set a precedence that could negatively impact all concerned.

For these reasons it is requested the applications related to these residences, to be operated as for profit businesses, be denied.

Respectfully Submitted,

Michael McDonough
Connie McDonough

Michael McDonough
Connie McDonough
1562 Pegasus Street (Newport Beach)
Santa Ana Heights, Ca. 92707





1621 INSIDE STREET

LAWN AT 1551 PECANUS STREET. BETWEEN GROUP HOMES AT 1571 & 1501 PECANUS.



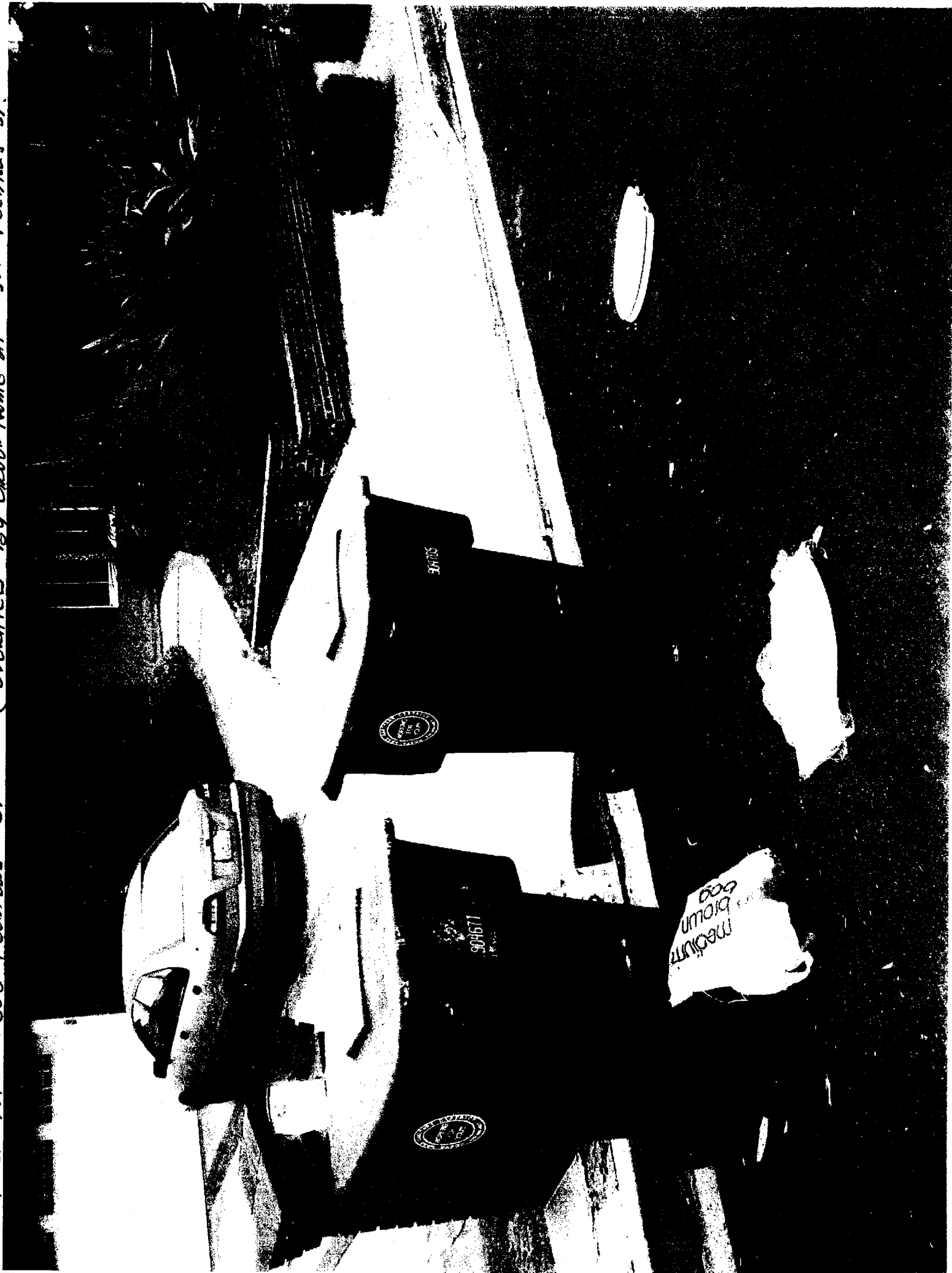
LAWN AT 1531 VEGAS STREET - BETWEEN 1571 & 1501 GROUP HOMES

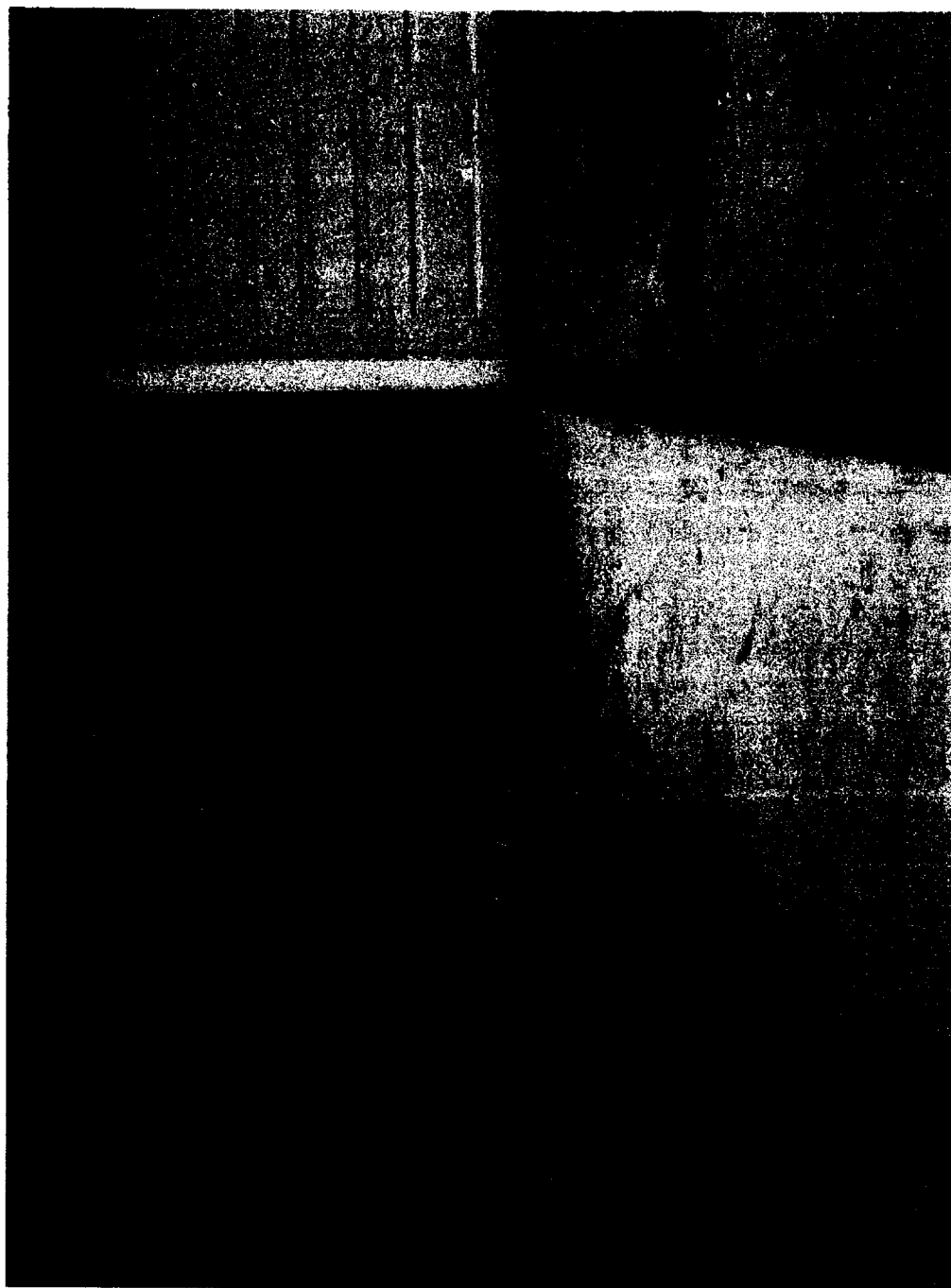




TYPICAL AMOUNT OF WEEKLY TRASH AT GROUP HOME 1501 PEGASUS ST.

TRASH AT 1500 VERMONT STREET (OPERATED BY GLOD NONG AT 1501 VERMONT ST.





YS 01100

TRASH & MATERIAL AT 15TH STREET & 10TH AVENUE N.W. - WASH. D.C.

TO: Janet Johnson Brown, Planner
City of Newport Beach CA

FROM: Judy Hoyer Walker
1571 Indus St
Santa Ana Heights, CA 92707

RECEIVED BY
PLANNING DEPARTMENT

FEB 17 2009

CITY OF NEWPORT BEACH

DATE: FEB. 17, 2009

SUBJECT: Comments on the City's Consideration of Special Use Permits for the
Yellowstone Women's First Step House Inc.

I am a property owner at the above listed address and have resided at this property for over 20 years.

The potential of ever increasing population density to my neighborhood is most disturbing. In the posted application for Use Permits by Yellowstone Women's First Step House Inc. I was overwhelmed by the proposed occupancy levels of these 4 properties. Three of the properties were listed as requesting occupancy for 16 "clients" and the fourth was listed for 12 "clients".

Many flags went up when I read this.

- 1) No mention is made of what additional "non-client" or supervisor personnel will also be residing in these dwellings. Personally I would not want to have these "clients" unsupervised. In my experience with these facilities thus far even with supervision the "client" behavior and activity is not within what I think or as residential, good neighbor, behavior. I would ask that the city have the Yellowstone Women's First Step House Inc. group provide specific staffing / supervisory information as part of this permit review. And that residence is informed of what those staffing proposals are.
- 2) Even considering the occupancy density *without* knowing what additional headcount staff/supervisory personnel may add, I am very concerned.

I will acknowledge that the dwellings in this neighborhood are large. Built in the early 60's they were intended for families (as stated in marketing materials from the original sale of the development). At five bedrooms one could see that a family unit of 6 would have been comfortable, and that the dwelling could potentially have had 10 individuals. But in reality the general large family unit in the 60's would have been in the 5 to 7 range.

You can do some mathematical weighting and estimate that the original neighborhood occupancy was 5.2 persons per dwelling. So if we look at the requested occupancy density we're looking at dwellings have 2.3 to 3.1 times the occupancy of a family neighborhood! And this is without staff/supervisor numbers being included. Given the fact that 40 years later the average Orange

County nuclear family is lower than 40 years ago any comparison we do to the weighted occupancy number from 1960's is even greater.

- 3) So now we're looking at a somewhat physically closed neighborhood (due to street layouts being closed to through traffic) we're looking at an effect of adding the equivalent of 8 additional houses!
 - a. 4 dwellings contributing an excess of 40+ individuals: 60 requested clients in 4 dwellings, less the expected occupancy of 21, based on weighted occupancy rate. 40 excess divided by the weighted occupancy of 5.2 is ~ 8 additional dwellings.
 - b. There just isn't physical room for 8 additional dwellings. And there is another factor that the proposed increased density to the neighborhood is not evenly distributed throughout the existing homes. There is a concentration to about half of the neighborhood. Is it reasonable that a burden such as this be so unevenly distributed?
- 4) Such very large increase on occupancy to individual properties gives me concern on many topics
 - a. **Infrastructure**.....specifically sewers and storm drains. The sewer and storm drain systems for this neighborhood were designed 40+ years ago. In my 20+ years of residency backups have been an issue. I suppose that I am overly sensitive due to the fact that my property is the lowest point for a portion of this development. We have experienced backups into our home due to the failure of the street system. Increasing occupancy density 3x is a frightening proposal. What has/will the city do to help mitigate the impact for an occupancy rate well over the imagined occupancy level at time of systems design?
 - b. **Traffic and parking**.....While the Yellowstone Women's First Step House Inc. group may tell the city that "clients" are not allowed to have vehicles during residency I would ask if they intend to make it a condition of employment for staff/supervisors to not have vehicles? Additionally I would ask if the city has reviewed what policies are in place now for "clients". During the months that the facility next to my home has been in operation I have had "clients" park in front of my property rather than in the empty driveway of the Yellowstone Women's First Step House Inc.>facility. When I asked if the vehicle could be moved from in front of my property to somewhere within the parameters of the property of the facility, I was told "It isn't that simple". So what are the guidelines that this group is giving that dissuades its client's from using the facilities that it owns? Why is burden being shifted to the neighborhood?

And parking is not the only concern. With so many residences the general level of vehicles coming and going is higher now than prior to the Yellowstone Women's First Step House Inc. purchasing the properties. I can specifically speak to the property next to me. There are vehicles coming and going, doing drop offs, or "visitor" standing or parking, and the

duration of this activity goes from very early in the morning (5 am) to very late at night (past 11pm and sometimes well past midnight). And then there are the weekly evening meetings that are held at some of these facilities. While occasionally residences of the neighborhood may have a gathering, party or club meeting, these are **not** routine. The parking impact to the surrounding street of the meeting house is significant.

- c. **Trash and refuse**.....I must question the city as to what would be considered reasonable for containment of refuse from one ~3000 sq. ft. dwelling that houses 16+ individuals? I haven't done the math as to how many trash receptacles will physically fit along the curb of these lots, but I invite the city to make such calculations. I would venture to say that the number would not be sufficient to manage the number of proposed "clients" and staff/supervisors.

While the sheer number of receptacles is only a physical issue on trash collection day, my concern arises from the condition of the receptacles between collections. To date the receptacles placed at the curb at the addresses covered by this application have been in overflowing conditions. Items and plastic bags are readily exposed to the exterior of the container. It is important to keep in mind the physical location of this neighborhood. The boundaries of this area on two sides have large open unpopulated space (two golf courses), and part of the area is bounded by a drainage channel. All of these areas are habitats to wildlife. Having uncontained refuse is an invitation to unwanted wildlife which is known to be attracted by rubbish, such as possums and raccoons. Even vector control directs full containment of refuse as a necessary deterrent to raccoon infestation. I ask that the city look hard at this component of allowing such dense occupancy of a dwelling, and ask that Yellowstone Women's First Step House Inc. provide detailed policies and procedures for dealing with this aspect of their facilities.

I have outlined those areas that can be spoken of in specific terms. My last area and one of the largest is how all of these factors compound together to change the character of what I purchased into.....a residential neighborhood. I purchased in the area because of the size of the property. And I fully expected to have families that were larger in number than if the dwellings were smaller. What is concerning to me is the change in the feel of the area. The "clients" of Yellowstone Women's First Step House Inc. are not in the property expecting to become a part of this community. They are temporary. Their attitude and behavior reflects this on an ongoing basis. Since Yellowstone Women's First Step House Inc. opened business in the property next to mine I now have more general debris in my yard; cellophane wrappers, plastic cup lids, cigarette butts. This is a change since the change of ownership. And it isn't just the difference of having a homeowner next door vs. a business. The former owner rented rooms, but she held her renters to strict rules and those included being respectful of the property and neighborhood. The property on my other boundary likewise is a

Policies and procedures to ensure the temporary residents exhibit a demeanor that is respectful of the permanent residence should be strongly considered. Density of inhabitants should not be substantially different from the surrounding non-facility dwellings. Impact to infrastructure of the neighborhood has to be carefully studied.

While much of what I would like to see put in place falls to the Yellowstone Women's First Step House Inc. as proprietors of the business, I also feel that it is the responsibility of the city to include provisions for review, monitoring, and reporting, on a routine basis, those conditions and stipulations established and defined by any use permit that might be granted.

Thank you for the consideration of my concerns.

rental with young adult children who have normal active lives. They too respect the neighborhood and treat it as if they were owners.

I find it is the "small" things that give a good indication of how a neighbor respects the others they are sharing the space with. I am always amazed that the facility next to me feels it totally acceptable to place their trash cans, not in front of their property, but instead in front of the property next to them. While they may try and cover this with some statement that it is less maneuvering the trash truck needs to make, they seem to overlook the fact that they are *blocking a fire hydrant*. This is a safety issue for the residences of the street. Parking and standing vehicles across a neighbors drive. It's not an inconvenience to them just for the people who consider this as their home. When asked to do what is polite or common sense the first response I generally get is something to the effect that the action I am asking to change isn't bothering me! These temporary residents are giving proclamations as to what is and isn't bothersome to me. If it didn't bother me I wouldn't mention it. An individual who has a vested interest in selecting a neighborhood as a place of residence generally understands that their personal actions have an impact on others. This attitude and understanding has never been exhibited in any of my encounters with these facilities and "clients".

The constant coming and going is tiresome. It's additional foot traffic as well as vehicular traffic. It has become extremely difficult to "know" what is normal for our area and what isn't. All the people and vehicles coming and going at all hours is un-nerving.....are they part of the Yellowstone Women's First Step House Inc. group or are they individuals who are doing reconnaissance for potential crimes. The very secluded feel of the area is part of what is desirable, but it comes with a price of being more vigilant of what is normal or expected for the neighborhood. Likewise it is difficult to evaluate if the individual would be a potential "client" and expected to have access to the property. As example the facility next to me is reportedly a women's house, yet it isn't unusual for there to be several men wandering in and out of the facility. If I didn't have prior knowledge of the business being run in the building I would easily think that there was a potential brothel being run out of that address. I feel an added burden by sheer volume of all this activity to help insure that my family and property are safe.

In closing I would comment that I feel a change in the atmosphere of the neighborhood since Yellowstone Women's First Step House Inc. has purchased properties in our development. The feel of a residential neighborhood is diminished. Today there is a much stronger feel of an apartment complex or even a hotel/motel complex. I understand that the disabilities act provides protection from discrimination for these individuals. However as a property owner whose home this area is, I expect that the city will not transfer burden to me. I believe that facilities could be run in a residential neighborhood, but careful attention to detail is paramount. The facilities must be closely supervised 24/7.

1592 Pegasus Street
Santa Ana Heights, CA 92707

February 14, 2009

Newport Beach Planning Department
City Hall
3300 Newport Blvd.
Newport Beach, CA 92658-8915

RECEIVED BY
PLANNING DEPARTMENT

FEB 17 2009

CITY OF NEWPORT BEACH

Re: UP2008-034, RA2009-004
UP 2008-035, RA 2009-005
UP 2008-036, RA2009-006
UP 2008-037, RA2009-007

Objections are hereby made to the above referenced requests for approval of use and continued use of certain residential properties as designated and requested in those same applications.

I am a resident of the community identified as Santa Ana Heights and a neighbor living adjacent to and in close proximity to the four single family residences that, if I understand correctly, are being used for commercial purposes inconsistent with current zoning and permitted uses and, furthermore, incompatible with the character of the neighborhood.

With respect to the assertion contained in the notice that the activities are categorically exempt under the requirements of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities), objection is made on two grounds.

Firstly, the activities are not existing at the time of the lead agency's determination of the applicability of the categorical exemption in that the proposed activities will not "involve negligible or no expansion of the use existing at the time the exemption is granted." In the discussion of the application of section 13501 (CCR Title 14, Chapter 3, Article 19), it cannot be that the legislature intended to sanction unpermitted and unapproved uses as those uses for which a categorical exemption would apply.

The uses contemplated under the Act as being existing and for which the exemption would apply are those that are consistent with the existing zoning and other land use regulations in effect and applicable to the property.

The homes in the community are single-family dwellings, zoned for noncommercial uses. Without discussing what would constitute a "single family," the proposed uses, including providing residences for up to 18 transient adults, is hardly consistent with any definition of single family residence.

In that same vein, the use contemplated, without giving distinction to the nature of the occupancy, is plainly commercial and not residential. That is, the purpose of operating the facilities, from the perspective of the owner, is the accumulation of rental, whether from the individual residents or some other source or form. That makes the use commercial and not residential.

By way of example, if any resident of the community chose to lift up their garage door and sell antiques on the premises on more occasions than would be considered incidental, this City would assuredly require a business license and would likely object to the use to the extent such commercial activities were deemed incompatible with existing residential zoning.

The dwellings for which the exemptions and permits are being sought are not apartment complexes. They are not retail establishments. They are not hotels. Yet, what is proposed would create those very sorts of commercial establishments.

Secondly, the Class 1 exemption is applicable only to the extent there is no possibility that the activity will have a significant effect on the environment. (Section 15300)

In claiming an exemption, what the applicants overlook is the fact that there has never been an evaluation of the burden on the environment created by the very conditions they now seek to have approved.

To the extent the proposed use has not previously been evaluated under CEQA and approved, consideration has not been given to the burden on infrastructure and other aspects of the environment that would result from the dramatic increase in occupancy density proposed under the applications.

Admittedly without any census data to support the underlying assertion, it would not be unreasonable to assume that a "typical" residence of the size contained within the community for which the applications have been submitted (4-5 bedrooms, 2-3 baths) would be occupied by 3-6 people. The applicants propose a density 4 to 6 times that number, ranging from 12 individuals (UP2008-34) to as many as 18.

Such an increase in density will assuredly have a substantial impact on traffic, parking, noise, and use of emergency services including police and fire.

While it may be suggested that the residents will not impact parking because of the prohibition against residents having cars, residents of the community can assuredly speak to a contrary condition. It is frequently observed that cars are parked on adjoining streets and the occupants then walk to the residences. Moreover, there are frequent occasions when cars line most of the streets, even spilling over into the surrounding areas on Santa Ana. Without any means of enforcing these self-described and self-imposed conditions, it is not proper for the City to rely on the assertion that there are no parking or traffic impacts in considering the application.

Moreover, the City itself is in the best position to know of and, in consideration of County statistics applicable to the area pre-annexation, to evaluate the number of emergency service calls to the applicant residences as compared to the entirety of the remainder of the community.

This factor is of considerable concern inasmuch as the community was only recently annexed to Newport Beach. As such, the City has likely not undertaken to fully evaluate the required level of emergency services necessary to support the community, without regard to the proposed density of activity proposed under the applications. Adding at least four residences with as many as 18 individuals in three and 12 individuals in the fourth dwelling will dramatically increase the burden placed upon the City to support the community.

I wish to make clear, in submitting the foregoing objections, that I am not making a specific objection to any particular use or person. Rather, the objections are based on the fact, as acknowledged in the notice, that the proposed use is dramatically out of line with existing lawfully permitted and zoned uses for every other residence in the community.

Suggesting that the proposed uses will have no impact on the environment ignores the very reasons behind passage of the Environmental Quality Act and does a disservice both to this community and the City to whom community residents look for support.

Responsible land use planning takes into consideration the overall impacts of all development. Allowing uses that dramatically exceed zoned or otherwise permitted uses undermines the nature of planning. Claiming an exemption based on prior, unpermitted and unauthorized use merely encourages further disregard

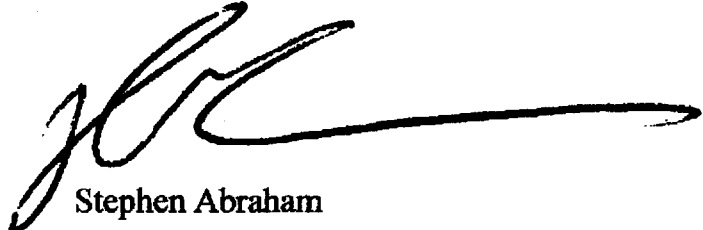
Newport Beach Planning Department
February 14, 2009
Page 4

for land use restrictions, all of which are intended not to preclude reasonable uses of property but to harmonize conflicting interests and avoid unsustainable conditions.

The proposed uses for the four residences invite the very sort of excessive uses and burdens for which CEQA review was designed.

On the basis of the foregoing, I submit that the applications should be denied in their present form and the applicants required to submit the projects to a full CEQA review prior to the resubmission of any application for the proposed uses.

Respectfully

A handwritten signature in black ink, appearing to be 'S. Abraham', with a long horizontal flourish extending to the right.

Stephen Abraham

JAMES C. HARVEY
DIANE E. HARVEY
1651 Indus Street
Newport Beach, CA 92707
Telephone (714) 979-7031
Email: harvey5@roadrunner.com

RECEIVED BY
PLANNING DEPARTMENT

FEB 18 2009

CITY OF NEWPORT BEACH

February 18, 2009

Thomas W. Allen
Hearing Officer
CITY OF NEWPORT BEACH
3300 Newport Blvd.
Newport Beach, CA 92658

Re: Opposition to Applications of Yellowstone Women's First Step House, Inc.
for Use Permits (1561 Indus Street, 1621 Indus Street, 1571 Pegasus Street,
& 20172 Redlands Drive)

We cannot be present for the public hearing on February 20, 2009 but intend this letter to register our opposition to the granting of a Use Permit for any of the four (4) facilities currently operated by Yellowstone Women's First Step House, Inc. in the former West Santa Ana Heights. We ask that you either: (1) deny all four applications, or (2) impose strict conditions on Yellowstone's operations to conform to the City's Municipal Code.

We bought a home in this neighborhood in 1998 because it was family-oriented with many small children. In the years since then, we believe that the residential character of the neighborhood has been substantially altered by the presence of Yellowstone's facilities. Those facilities have grown from the original one (at 1571 Pegasus Street) to the present four (4), all concentrated within a very small geographic area.

We are concerned about noise, trash, traffic, and transitory persons in our neighborhood, all caused by the over concentration of Yellowstone's facilities. With two children in elementary school, we are particularly concerned by Yellowstone's facility for men at 20172 Redlands Drive, as our children have been approached by some of the transitory men living in that facility. We have no idea if the men living there are parolees, probationers, or registered sex offenders, and along with other families in the neighborhood we fear allowing our children to walk past that facility unescorted. That facility is also right across the street from the neighborhood school bus stop, where children congregate every morning.

We urge you to deny Yellowstone's applications because they cannot satisfy the requirements of NBMC §20.91A.060:

1. Yellowstone's use does not conform to all applicable provisions of NBMC §20.91A.050.

A. We believe that Yellowstone is violating NBMC §20.91A.050(C)(1) and State law by conducting unlicensed treatment services at 1621 Indus Street. On several occasions we have observed a line of men walk from the Yellowstone facility at 20172 Redlands Drive, enter the adjacent Yellowstone facility for women at 1621 Indus Street, and stay there for more than an hour. We believe that this indicates the facility is providing on-site services, for which a State license is required.

B. We believe that Yellowstone has far more than two residents per bedroom, in violation of NBMC §20.91A.050(C)(2). These are single-family homes with four or five bedrooms, and at least one of the bedrooms is quite small. Yellowstone may argue that each facility has more than five bedrooms, but if so that is based on conversion of living, family, or dining rooms into "bedrooms."

2. Yellowstone's use does not meet the standards of NBMC §20.91A.060.

A. The properties are not physically suited to accommodate the proposed use. NBMC §20.91A.060(C). 18 adults living in one single-family home (as Yellowstone proposes) is ridiculous and cannot be justified by anything other than a desire to maximize profits. One need only drive through our neighborhood on trash day to see the impact: while each family home has one or two cans out front, each Yellowstone facility has four, five, or sometimes six cans, all filled to overflowing with trash. No doubt each facility's use of electricity, water, and gas is also out of proportion for a single-family home.

B. The use is not compatible with the surrounding neighborhood. NBMC §20.91A.060(D). In particular, the residential character of the neighborhood has been changed by over concentration of such facilities. In generally limiting the use to one per block, NBMC §20.91A.060(D)(3) directs the Hearing Officer to apply average or median block lengths, which are listed as 711 feet and 617 feet, respectively. We submit that by those measures our neighborhood already has more than one use per block. Using GoogleEarth, we calculate that the distance between 1621 Indus Street and 1561 Indus Street is less than 350 feet (they are only four doors apart on the same street). The distance between 1621 Indus Street and 20172 Redlands Street is less than 400 feet.

C. Contrary to Yellowstone's past assertion that its residents do not park cars in our neighborhood, we have observed that many of their residents actually do park cars on our streets, especially along Pegasus Street adjacent to the 1571 Pegasus Street facility and on Redlands Drive adjacent to the 20172 Redlands Drive facility. In addition, a large passenger van associated with Yellowstone is often parked at night across the street from the 20172 Redlands Drive facility. We also observe numerous cars entering and leaving our neighborhood containing visitors to facility residents. These activities generate traffic out of proportion to the number of facilities. NBMC §20.91A.060(E).

3. If any use is permitted, strict conditions should be imposed.

If you determine, despite the opposition of the neighboring homeowners, that Yellowstone should be granted any form of approval, we urge you to impose Conditions of Approval similar to those imposed on other applicants such as Balboa Horizons and Ocean Recovery:

A. Due to over concentration in our neighborhood, at most only two of Yellowstone's applications should be granted. The other two facilities should be abated.

B. No more than two (2) clients should be allowed per bedroom, and "bedroom" should be limited to those rooms designed for that purpose, not converted living, dining, or family rooms.

C. No probationers, parolees, or registered sex offenders should be allowed to occupy any of the facilities at any time. We suggest that you impose a condition requiring Yellowstone to obtain from a resident, prior to placement, a signed statement that he or she has never been convicted of a sex offense against a minor.

D. No more than one automobile per facility may be parked on neighborhood streets, and no commercial vehicles or passenger vans may remain overnight.

4. Yellowstone's requests for reasonable accommodation should be denied.

We presume that Yellowstone's request for reasonable accommodations involves the number of occupants allowed in its facilities, and we assume that Yellowstone claims that all its residents are persons with a "disability". But Yellowstone's request has nothing to do with "enhancing the quality of life" of any disabled person (NBMC §20.98.025(C)(1)) or granting disabled persons "equal opportunity" (NBMC §20.98.025(C)(2)). Yellowstone simply wants to pack as many people as possible into each facility to generate maximum profits.

Yellowstone cannot satisfy the requirements of NBMC §20.98.025, and per subsection (B), all the requirements must be met. Granting Yellowstone's application would undermine the City's zoning program and would continue to detract from the residential character of our neighborhood.

Thank you for considering our objections and those of our neighbors.

Very Truly Yours,

James C. Harvey

Diane E. Harvey

cc: Dave Kiff, Assistant City Manager

**ADDITIONAL CORRESPONDENCE RECEIVED
PRIOR TO FEBRUARY 20, 2009 HEARING**

Brown, Janet

From: Kiff, Dave
Sent: Friday, February 20, 2009 11:40 AM
To: Brown, Janet; 'Tom Allen'
Subject: FW: Public Hearing on Rehabilitation Houses 2/20/09

From: Jeffrey Watt [mailto:watt13@roadrunner.com]
Sent: Friday, February 20, 2009 11:38 AM
To: Henn, Michael; Webb, Don (City Council); Rosansky, Steven; Daigle, Leslie; Selich, Edward; Curry, Keith; Gardner, Nancy
Cc: Brown, Leilani; Bludau, Homer; Kiff, Dave
Subject: Public Hearing on Rehabilitation Houses 2/20/09

Dear City Council Members and Staff,

Please place this in the Public Records for the Public Hearing Today on Rehabilitation Houses 2/20/09.

We live in a Single Family Residential Neighborhood. It is and always was zoned "single family residence." Our address is: 20261 Spruce Avenue, Newport Beach, CA 92660.

When anyone, be it business, a person acting as their own contractor, or a family wants to violate the zoning laws of the neighborhood a simple "NO" by the Zoning, Building & Ordinance, Code and Enforcement, and Planning Commissions of the City would solve and resolve past, present and future attempts at such violations.

On its face "single family residence" means just that. You would save so much time and taxpayer dollars if you would just adhere to that simple fact.

Our neighborhood is now faced with several homes that have been converted to single apartments because of the failure of City Departments to enforce the zoning laws. This requires those that play by the rules to retain attorneys to defend us from those that violate the SFR laws. This places an enormous burden in terms of time and money on those of us who expect compliance with SFR laws.

The drug and rehab homes are no different than the SRF homes being converted to individual apartment units.

They place an unnecessary burden on the homeowners who have played by the rules and expect others to abide by them as well. The burdens are: inadequate parking, transient population, overburdened waste disposal and water usage. All these burdens are borne especially by the residents of the neighborhoods where these units exist, and then to the taxpayers at large.

As Nancy Reagan, wife of President Ronald Reagan famously said "Just Say NO!"

We expect the City Council and All the aforementioned Departments of the City as well as the State of California to "Just Say NO!"

If someone wants to build or lease rehab homes or apartments either for social welfare or added income, do so in an area already zoned "Commercial."

End of discussion.

Don't make it harder on yourselves and the neighborhoods than simply abiding by the rules.

Sincerely,

Ann Watt, Homeowner
20261 Spruce Avenue

Brown, Janet

From: Judy DeVine [judy@devinecopy.com]
Sent: Friday, February 20, 2009 1:23 PM
To: Brown, Janet
Subject: Public comments regarding Yellowstone First Step House

Dear Ms. Brown,

Please enter these comments to the public record regarding the application of Yellowstone Women's First Step House, Inc. to operate four unlicensed adult residential care facilities within the West Santa Ana Heights Neighborhood.

The City of Newport Beach has stated that it would like to see each of our residential neighborhoods retain residential character.

When we purchased our home, underneath the airport, we did so because it was a family neighborhood. In this little five-street neighborhood, there were dozens of kids and about 10 stay-at-home moms, which is quite unusual. It has been a very close-knit neighborhood, the kind that has neighborhood cookouts on Memorial weekend.

I am worried about losing that character due to the overconcentration of sober living facilities. It is difficult to measure the character of a neighborhood, but I think some numbers will help shed light.

Three of the five streets in our neighborhood are Pegasus, Redlands and Indus. Yellowstone is currently operating a sober living facility on each of those streets, with plans to add another. They have asked for an exemption from Section 20.91A.050, in order to house 18 resident clients each in three homes, and 12 clients in a fourth home.

I have gathered the number of residents on each of the streets for comparison.

- On Pegasus Street, where there are 28 homes, **26.8% of the population** on those two blocks would be recovering alcoholics and addicts if the exception was permitted.
- On Indus Street, where there are 14 homes total, **47% of the population** on that street would be recovering alcoholics and addicts.
- On Redlands street, **75% of the population** would be recovering addicts and alcoholics if the application was approved, and the exemption permitted.

Considering those are three of the five streets in our neighborhood, that is a huge change in the demographics of our neighborhood. **Can you really say it's a NIMBY issue if over half of our population is short-term recovering addicts and alcoholics?**

Finally, I would like to remind everyone that the normal stay indicated on the Yellowstone Recovery website is 90 days. If each of these applications is granted, and the exemptions allowed, between these four homes that would mean 264 people coming into our neighborhood each year who are not long-term residents. On those same streets, there are 104 people who are permanent residents.

How can you retain the residential character of a neighborhood if **71% of the people coming and going in the year are NOT residents for more than 90 days?**

Brown, Janet

From: Russell Niewiarowski [russdesign@roadrunner.com]
Sent: Friday, February 20, 2009 9:44 AM
To: Kiff, Dave; Brown, Janet
Subject: Public Hearing on Rehabilitation Houses 2/20/09

Dear Council Members and City staff,

My name is Russell Niewiarowski and I would like to voice my concerns regarding the drug and alcohol rehabilitation houses on discussion in today's Public Hearing.

I have been a resident at 20102 Kline Drive in Santa Ana Heights since 1995. When my family moved into the then unincorporated community governed by the County of Orange we soon realized that the County was extremely lax and that we as a community had very little representation, especially in regards to strict code enforcement and issues regarding the negative impacts of the airport.

Prior to being annexed into Newport Beach, our tract of 84 homes originally named Sherwood Estates, has seen a flood of homes being converted to rehab houses, a couple hotels and even frat houses.

To my knowledge, our community is and always has been zoned RSF (residential single family), and according to our original CC&R's on file with the County and Title company when we bought our house stated that no business can be operated from a home that causes an offense to the neighborhood.

While I do not feel that any of the 4-5 known rehab homes in my community are a direct offense, I do not agree or support the State of California's ruling that allows rehab commercial businesses, funded by tax dollars in a RSF zone. Nor do I support or agree with the County of Orange's Planning Department's last waver that allowed a resident in my tract to remodel his residence into a 3-story hotel for bachelors with 5 separate entry doors. RSF clearly implies a single owner-occupied resident and immediate family members. A commercial business which overcrowds residents with dependencies into a 5 bedroom house converted into a hotel is clearly a contradiction and offense to RSF zoning. Such a for profit business belongs in a RMF zone.

For the reasons mentioned above, I clearly do not support any rehabilitation businesses being granted permits to operate in a RSF zone. Furthermore, I feel the city needs to take a more pro-active role in defending RSF zoning at the state-level to ratify the current law to stop and prevent any other rehab homes from being established in RSF zoning.

Russ Niewiarowski
20102 Kline Drive

2/11/09

RECEIVED BY
PLANNING DEPARTMENT

To:
Janet Johnson Brown – Planner
3300 Newport Blvd.
Newport Beach, CA 92663

FEB 18 2009

CITY OF NEWPORT BEACH

From:
Eric Rosenthal
1661 Indus Street
Newport Beach, CA 92660

I am a recent resident to the city of Newport Beach. I worked the hardest I could to full-fill my dream of living in the famous Newport Beach. The prestige, the safety, the family life, the residents and the culture are so alluring. There is no place like it on earth.

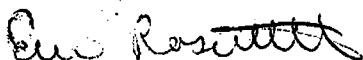
I have been employed at Fletcher Jones for almost 9 years now. I have a constant pulse on the city and some of its elite residents. This whole issue of Rehab housing in our city leaves such a sour taste in everyone's mouth. These rehab homes are filled with society's problem rejects, coming in and out in herds. These people don't need to be in the most prestigious city in the world to attempt their rehab. It's unnecessary, unwanted, undeserved and unwelcome. I simply do not understand why Newport Beach would want to allow herds of these people in its city.

The saddest part is I know people with kids who happen to be a couple doors down from one of these "rehab" homes. They have 3 children who never never get to play outside or in their front yard because their parents do not feel safe with the herds of people coming in and out all the times and hanging out in front yard smoking 24 hours a day, its simply ghetto.

I have taken great pride in my home as a Newport Beach homeowner. The owners and these rehab patients are business operators and clients, with little regard to the maintenance and appearance of their homes. Curb appeal is an important aspect of property values. Worst of all the pure mention of one of these rehab homes, especially in ones neighborhood, makes outsiders and residents cringe.

I am so 100% against these homes in our city and speaking for the other 6500 Fletcher Jones Clients I have worked with over the past 9 years, they all feel the same way.

Please call me with any questions.



Eric Rosenthal
949-718-3163
erosenthal@fjmercedes.com

Dave Kiff
Planning Department, City of Newport Beach
3300 Newport Boulevard
Newport Beach, Calif 92663

RECEIVED BY
PLANNING DEPARTMENT

FEB 19 2009

Ref: PA2008-105, PA-2008-106, PA2009-107 PA2008-108
4 Yellowstone Women's First Step House, Inc.

CITY OF NEWPORT BEACH

Dear Sir,

I formally protest about the applications for an increase of inmates in 1621 Indus, in particular. They congregate right under my bedroom and bathroom windows; to smoke and cackle on a patio which is 10 feet by 10.

The smoking is so strong it starts my chronic cough when I go in my passage way between the 2 houses.

This goes on at all times 8 in the morning, 11 at night, 3 in the morning.

When the county sold that house they "fixed" the fence so poorly that it has now collapsed. I have given my phone number to the woman who manages the place, asking that the owner contact me to do a proper fencing. No one has called me. They have piled cardboard, palm leaves, to keep the dog of the manager from wandering into my backyard. What will keep mentally disturbed people who are alcoholics and drug addicts from coming into my backyard and maybe drown themselves in the 2 feet of water of my pond when I am not at home? This owner is totally irresponsible and now you want to allow her to stick 3 people in all the rooms of the house?

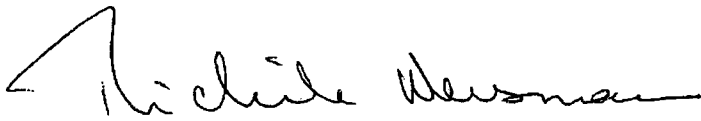
This house is a 5 bedroom house, that means the den will be converted into a bedroom too. Furthermore They gather into the back room for parties and conferences, or simply to wait for the bus, so I get all the other inmates, male and female from the neighborhood around 8 in the morning. Our street alone has 2 of these business locations and there are 2 more on Pegasus and Kline. Has our neighborhood been elected to be the dumping ground of all the drunks and addicts of Newport Beach?

And please don't pretend they are sober, or they would not be here in the first place.

What is proposed is by no means a reasonable accommodation for a single family residential neighborhood. It is just a way for the owner to make more money to turn our area into a ghetto for Newport Beach rejects.

The fence is riddled with termites is collapsing and I cannot close my gate. I have been quote 7500 dollars to build a simple wall. I believe it is the responsibility of the city to require from people who do not live in the neighborhood but get to have a business in a residential area, that they take some measures to minimize the impact on their neighbours, instead of continuously get exemptions from the basic rules and taxpayer money to boot. Your class of project is having a significant effect on me. This should be treated as a business and be removed from residential areas.

Michele Weismann
1631 Indus
949-6454064


February 9, 2009

Brown, Janet

From: Kiff, Dave
Sent: Friday, February 20, 2009 12:40 PM
To: Brown, Janet; Wolcott, Cathy
Cc: 'Tom Allen'
Subject: FW: group homes in Newport Beach

Found this one.

From: prodancer1@aol.com [mailto:prodancer1@aol.com]
Sent: Wednesday, August 27, 2008 8:49 PM
To: Kiff, Dave
Subject: group homes in Newport Beach

We received your letter dated August 18, 2008. I noticed that it mostly addressed Sober Living by the Sea, and not the group homes in our neighborhood. I would like to inform you of the situation in our neighborhood in the event the city is not fully aware.

The pictures below were taken in front of one of the five sober living homes in the Pegasus tract (at the corner of Pegasus and Santa Ana Ave. The home directly across the street on the opposite corner (entry to our tract) is also a sober living facility. Note the toilet seat in the middle of the street along with the other trash overflow and van seats. We have heard that another recent sale in the tract will be yet another sober living facility.

Bi-weekly meetings for other recovering addicts are held in the homes, rather than at churches or other community locations with adequate parking. This seriously impacts the parking on our street. Often cars are parked blocking our driveways or left for days in front of our homes. Our tract has become a parking lot for the sober living homes. Often when our friends or family come over to our homes there's nowhere for them to park. Some neighbors are parking their own cars in front of their homes, rather than in their driveways or garages to leave space for their children and visitors to park. It puzzles me why the sober living residents mostly walk down the middle of the street instead of using the sidewalks. They throw their cigarette butts on our property and leave a foul cigarette smell that hangs in the air. We have voiced our concerns to the homes but nothing has changed. Mostly, we're met with a lot of denial.

Over the years there have always been one or two group homes in our tract. I remember, with fondness, when mentally challenged adults lived here and how much I enjoyed their presence and greetings as they walked to and from the bus stop each day. We welcomed them with open arms. But the situation is currently out of hand with sober living and we feel overrun and without recourse. Realtors tell us that they have to inform prospective buyers that there are sober living homes in the tract. This affects our property values and character of the neighborhood.

The home on the corner of Pegasus and Santa Ana Ave. at the entrance to our tract has been visited at least 6 times by the Fire Department for "detox" incidents which to our knowledge, they are not licensed to perform. We have been informed, however, that the county has to "catch" them in the act when they visit the home. I don't understand why the fire department's rescue logs don't suffice. This presence has affected the young children who, unfortunately, have witnessed the rescues from their front yards or balconies of their homes.

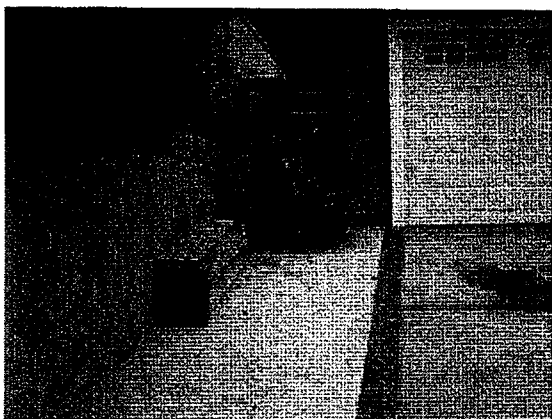
Please forward my letter to those who are involved in the settlement and future ordinance that will address this pressing issue.

Chet and Victoria Groskreutz
1551 Pegasus St.

Santa Ana Hgts, CA 92707 (annexed to Newport Beach, but no change in address as yet)



[View full size](#)



[View full size](#)



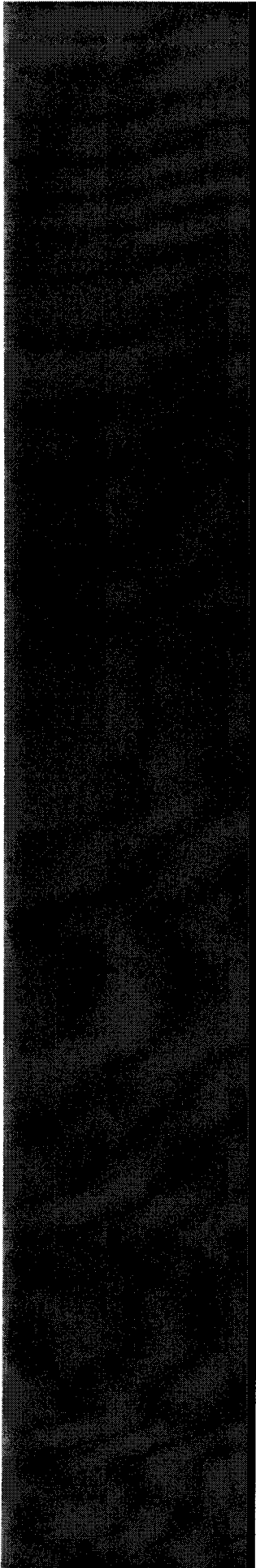
[View full size](#)



[View full size](#)

Check out [AOL Video](#) to see what's making news today!

**POWERPOINT PRESENTATION FROM
FEBRUARY 20, 2009 HEARING**



Use Permit & Reasonable Accommodation Hearings
Friday, February 20, 2009

Yellowstone Women's First Step House(s)

1561 Indus Street

1621 Indus Street

1571 Pegasus Street

20172 Redlands Drive

Today's Hearings (Part I)

- Agenda Items #1-4 – Yellowstone (four homes)
 - Hearing Officer's Decision on Request to Consolidate Hearing
 - Hearing on Use Permit Applications
 - Brief Background on Ordinance 2008-05 (Dave Kiff)
 - Presentation of Yellowstone's application(s) (Janet Brown) – 1561 Indus, 1621 Indus, 1571 Pegasus, 20172 Redlands
 - Applicant's Presentation (time not limited)
 - Public Hearing Opened
 - Comments limited to 3 minutes unless Hearing Officer determines otherwise
 - Public Hearing Closed
 - Applicant can return to rebut or clarify comments made
 - Questions from the Hearing Officer to the applicant or to City Staff
 - Hearing Officer's determination – alternatives are:
 - Approve with conditions;
 - Deny; or
 - Continue the hearing to a date certain
 - Hearing on Reasonable Accommodation Requests (assumed to be consolidated)
 - Same process, separate hearing.

Today's Hearings (Part II)

- Agenda Items #1-4 – Yellowstone (four homes)
 - Hearing on Reasonable Accommodation Requests (assumed to be consolidated)
 - Brief Background on Chapter 20.98 (Cathy Wolcott)
 - Presentation of Yellowstone's Reasonable Accommodation Requests (Cathy Wolcott) – 1561 Indus, 1621 Indus, 1571 Pegasus, 20172 Redlands
 - Applicant's Presentation (time not limited)
 - Public Hearing Opened
 - Comments limited to 3 minutes unless Hearing Officer determines otherwise
 - Public Hearing Closed
 - Applicant can return to rebut or clarify comments made
 - Questions from the Hearing Officer to the applicant or to City Staff
 - Hearing Officer's determination – alternatives are:
 - Approve request(s)
 - Deny request(s); or
 - Continue the hearing to a date certain

Staff Presentation

- This is a Use Permit hearing held under NBMC Chapter 20.91(A) – *Use Permits in Residential Districts*
- Following this Hearing (time permitting), we will open a public hearing on three requests for Reasonable Accommodation from the City's regulations – this is a separate public hearing.
- Ordinance 2008-05, effective February 22, 2008, calls out this process:
 - Most existing group residential uses had to apply for a Use Permit to stay in operations by May 22, 2008.
 - A Hearing Officer shall make a determination to approve or deny the Use Permit.
 - The Hearing Officer's decision can be appealed to the City Council.
 - The City Council's decision may not be appealed, but "reasonable accommodation" may be requested. RA requests go before a hearing officer at a public hearing, and can be appealed to the City Council.

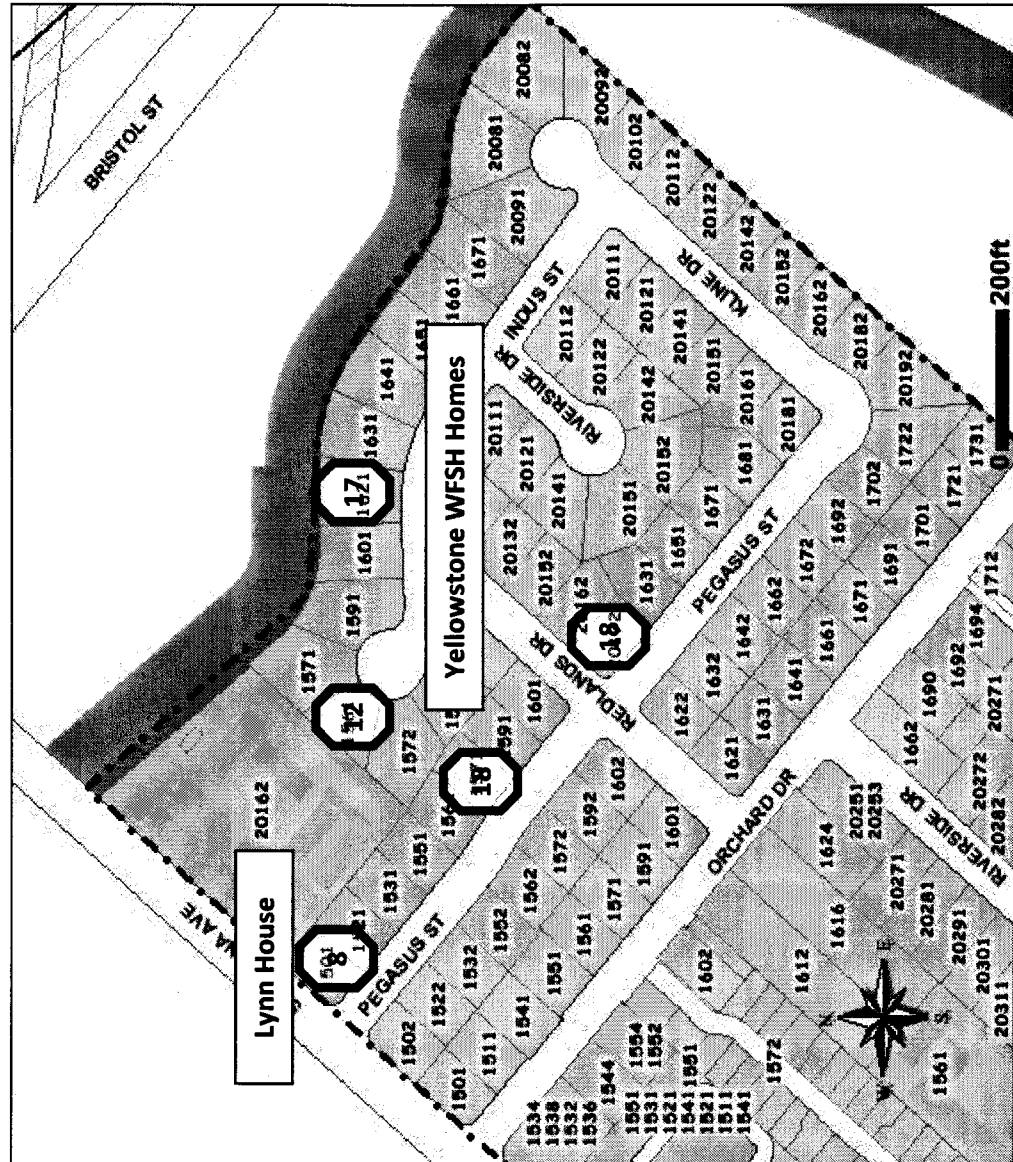
About Area Facilities

- In the West SAH area, there are at least five group residential uses:

No.	Street	Operator	Licensed?	Gender	Beds Now	Recommendation
1501	Pegasus	Lynn House	No	Women	8	N/A
1571	Pegasus	Yellowstone	No	Women	18	0
1561	Indus	Yellowstone	No	Women	12	0
1621	Indus	Yellowstone	No	Women	17	15
20172	Bedlands	Yellowstone	No	Men	18	15
					73	30

- As shown, four are operated by Yellowstone Women's First Step House.
- Yellowstone WFSH also operates two ADP-licensed facilities in Costa Mesa (15 beds and 6 beds)

Yellowstone Homes



Concerns that the Ordinance Allows to be Considered

- Allegations made that are specific to these properties. Specifically:
 - Overconcentration in this area. The City believes that at least two of Yellowstone's facilities should close in order to meet the APA standard of "one or two (group residential uses) per block" as set forth in Ordinance 2008-05;
 - Second-hand smoke, more than one would expect if the facility held an identical amount of persons not in recovery;
 - Meetings onsite that do not involve just the clients of each facility (assembly uses are not permitted);
 - Treatment provided on-site, that should only be provided in ADP-licensed facilities;
 - Profanity and/or excessive noise, as well as noise late at night;
 - Inappropriate responses from clients when neighbors attempt to remedy bad interactions, noise concerns, or profanity by themselves;
 - Trash problems – odor, vectors, etc;
 - Lack of quiet hours or curfews, if the lack thereof results in excessive noise; and
 - Quality/capability of on-site supervision.
 -

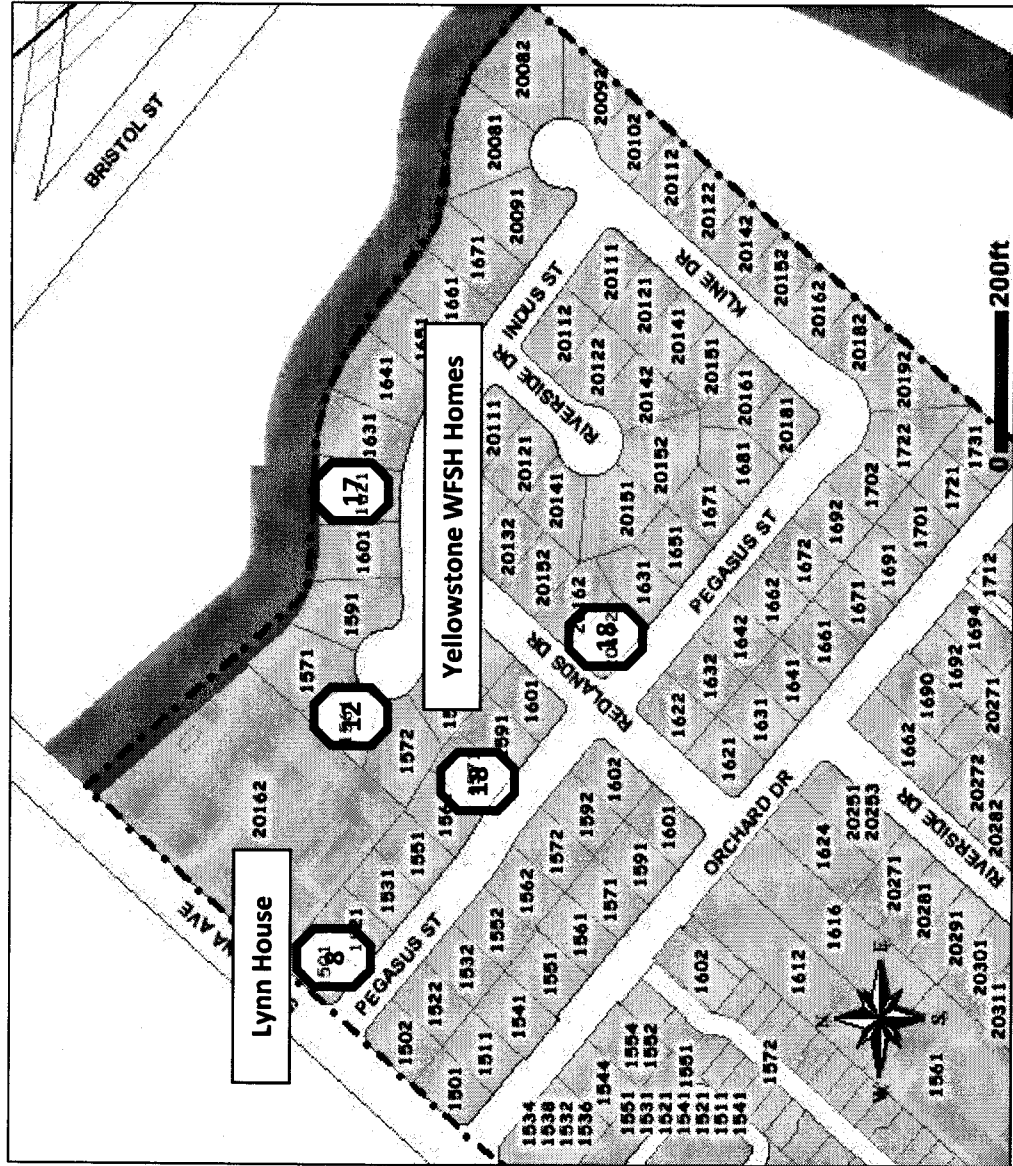
Concerns we do not or will not consider

- Declining home values. The belief that the presence of recovery facilities is any more impactful on property values than changes in the housing market, long-term rentals, vacation rentals, or other non-single family uses has been challenged nationwide.
- Allegations that recovery homes are a cost burden to the City. There is no evidence to suggest that recovery homes cost the City any more in services than a typical multi-family building housing the same amount of people, whether that is in police or emergency medical calls or other services.
- Allegations that this specific use is too close to the Orchard Drive Park. This use is roughly 1013' away from this park. While the NBMC (§20.91A.060D.1.) allows the hearing officer to consider "the proximity of the use location to schools, parks, other residential care facilities, outlets for alcoholic beverages and any other uses which *could be affected by or affect the operation of the subject use* (emphasis added)," there is no evidence on the record that this park affects or is affected by this specific use.
- General comments about recovery homes citywide, without directing specific comments to operations at 1561 Indus, 1621 Indus, 1571 Pegasus, or 20172 Redlands.

Proximity to Orchard Drive Park



Yellowstone Homes



UP Recommendations

- Approve, with conditions, the uses at:
 - 1621 Indus (reduce to 15 beds)
 - 20172 Redlands (reduce to 15 beds)
- Deny the uses at:
 - 1561 Indus (women's facility with 12 beds)
 - 1571 Pegasus (women's facility with 18 beds)

RA Recommendations

- Request #1 – Single Housekeeping Unit
 - Deny.
- Request #2 – Persons per bedroom more than 2 persons + 1.
 - Approve as to current residents only; and
 - Deny for prospective residents, except seek more financial data at 1561 Indus (if UP approved).
- Request #3 – No payment of Use Permit fee
 - Continue matter until more financial information is provided.

TRANSCRIPT OF FEBRUARY 20, 2009 HEARING

09-18838

1

2

3

4

5

6

7

PUBLIC HEARING ON

8

YELLOWSTONE WOMEN'S FIRST STEP HOUSE, INC.

9

BEFORE THOMAS W. ALLEN, ESQ., HEARING OFFICER

10

NEWPORT BEACH, CALIFORNIA

11

FRIDAY, FEBRUARY 20, 2009

12

13

14

15

16

17

18

19

20

21

22

23

24

Reported by:
LAURA A. MILLSAP, RPR
CSR No. 9266
Job No. 090220LAM

25

□

1

2

3

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Public hearing was taken on behalf of
the City of Newport Beach at 3300 Newport Boulevard,
Newport Beach, California, beginning at 2:00 p.m., and
ending at 4:53 p.m., on Friday, February 20, 2009, before
LAURA A. MILLSAP, RPR, Certified Shorthand Reporter No.
9266.

1 APPEARANCES:

2

3 For The City of Newport Beach:

4

RICHARDS, WATSON, GERSHON
BY: PATRICK K. BOBKO, ESQ.
Page 2

5 09-18838
355 S. Grand Avenue, 40th Floor
6 Los Angeles, CA 90071-3101
(213) 626-8484
7
8 CITY OF NEWPORT BEACH
BY: DAVE KIFF, Assistant City Manager
JANET JOHNSON BROWN, Associate Planner
9 SHIRLEY OBORNY, Administrative Assistant
3300 Newport Boulevard
10 Newport Beach, CA 92658-8915
(949) 644-3002
11

12 For Yellowstone Women's First Step House, Inc.:

13 DAVIS, ZFATY
BY: ISAAC R. ZFATY, ESQ.
580 Broadway Street, Suite 301
14 Laguna Beach, CA 92651
(949) 376-2828
15
16
17
18
19
20
21
22
23
24
25

3

□

1 NEWPORT BEACH, CALIFORNIA; FRIDAY, FEBRUARY 20, 2009

2 2:00 P.M. - 4:53 P.M.

3

4 MR. ALLEN: All right. So we're going to start

5 the hearings on the Yellowstone matters today. My name
6 is Thomas W. Allen, and I've been designated as a hearing
7 examiner by the City to hear these group home matters,
8 and have been assigned to this one as well.

9 I'm a former City attorney. I'm semi-retired
10 now. I have no relationship with the City of Newport
11 Beach, except as a hearing examiner. And I don't have
12 any physician relationships or involvements with group
13 recovery homes or any of those types of businesses.

14 We have four separate residential care
15 facilities to be consider today, all of them located
16 within close proximity to each other, 1561 and 1621
17 Indus, and 2172 Redlands and 1571 Pegasus.

18 Yellowstone Recovery is the applicant on all
19 four of these, and each of them seeks a use permit, which
20 is a land use approval. And they also seek reasonable
21 accommodation from the standards of the ordinances of a
22 regulatory nature that would otherwise be applicable to
23 these uses. Of course, the reasonable accommodations are
24 based upon the premise that alcohol and drug addicted
25 individuals are legally defined as disabled.

4

□

1 So with that preface, we'll get underway. So
2 would everyone please turn off their cell phones, if you
3 do happen to have them on? Thank you.

4 And with that, would Mr. Kiff wish to commence?

5 MR. KIFF: Thank you, Mr. Allen.

6 Today, as Mr. Allen noted, Yellowstone Women's
7 First Step House is applying for four use permits for
8 four facilities, as well as reasonable accommodation.
9 The Yellowstone Women's First Step House has asked to at
10 least consolidate its presentation for -- to allow them
11 to present information on all four homes at once.

12 Assuming that's amenable to you, Mr. Allen, we
13 would move forward on that basis, and then I'll describe
14 how it goes from there.

15 First would be the hearing on the use permit
16 applications. I'll give a very brief background on our
17 Ordinance regulating group residential uses, and then
18 Janet Brown, from our Planning Department, will present
19 Yellowstone's applications and some information about the
20 area.

21 Then the Applicant is invited to come up and
22 make a presentation. The applicant's time is not
23 limited, as is a tradition with use permit hearings.
24 After the Applicant is finished, the public hearing can
25 be opened, and the comments are limited to three minutes,

5

□

1 unless the Hearing Officer determines otherwise.

2 The public hearing is then closed. The
3 Applicant can then rebut or clarify comments. And then
4 there could be a dialog between the Hearing Officer and
5 the Applicant, or the City staff and the Applicant. Then
6 the Hearing Officer has the opportunity to make a

7 determination potentially to approve with conditions, to
8 deny or continue the hearing to a date certain.

9 At that point, then, we would open a hearing on
10 reasonable accommodation requests, and I'll go through
11 that briefly. Assuming these were to be consolidated,
12 Kathy Wolcott, of our City Attorney's Office, will give a
13 brief background about our reasonable accommodation
14 chapter within our Newport Beach Municipal Code, and then
15 present their requests, Yellowstone's requests.

16 The Applicant would have another opportunity to
17 stand up and make a presentation. They may defer to that
18 or stipulate to the presentation that they made
19 previously.

20 Open the public hearing. Three-minute comments
21 from the public. Close the public hearing. Applicant
22 can again return. Questions. And then the Hearing
23 Officer can approve their request, deny their request or
24 continue the hearing to a date certain.

25 So with that, I'm going start my bit of just

6

□

1 background on the Ordinance. This is a use permit
2 hearing held under the Newport Beach Municipal Code
3 20.91A, Use Permits in Residential Districts. And as
4 noted, following the hearing, we'll open a public hearing
5 on three requests for reasonable accommodations. This is
6 a separate public hearing.

7 But Ordinance 2008-05 was effective about a

8 year ago, and it calls out this process. It says that
9 "Existing group residential uses had to apply for a use
10 permit to stay in operations," and they had to apply by
11 May 22nd.

12 Yellowstone Women's First Step House did apply
13 for those permits for four facilities. Then a Hearing
14 Officer makes a determination to approve or deny the use
15 permit. That's what today's hearing is about.

16 The Hearing Officer's decision can be appealed
17 to the City Council. The City Council's decision may not
18 be appealed, but there is another opportunity for
19 reasonable accommodation requested at that point. As
20 you'll see today, the reasonable accommodation request go
21 before the Hearing Officer at a public hearing, and can
22 also be appealed to the City Council.

23 So with that, I'm going defer to Janet to talk
24 about Yellowstone'd facilities.

25 MS. BROWN: Thank you.

7

□

1 Good afternoon, Mr. Allen.

2 The four properties that we are discussing
3 today are located in the West Santa Ana Heights area of
4 the City of Newport Beach. This area was annexed into
5 the City in January -- on January 1, 2008. The
6 neighborhood in which the properties are located allows
7 for single-family residential development, and the
8 neighborhood is developed with a mix of single-story and

9 two-story dwellings.

10 As we've mentioned, there are four locations at
11 1561 Indus, 1621 Indus, 1571 Pegasus, and 20172 Redlands.
12 These four properties were established over a number of
13 years. The first property, at 1621, in 2003. The two
14 other properties were established -- the use of the
15 residential care facilities, I mean, was established in
16 2005. And then the last property, at 1561, was
17 established in 2007.

18 Three of the buildings are sober living homes
19 for women only. One facility contains beds for 12 women.
20 That's at 1561 Indus. 1621 is also a women's facility
21 with 18 beds. Pegasus Street is a facility for women
22 with 18 beds. And then the Redlands property is a
23 facility, sober living environment, for men with 17 beds,
24 although they did apply for 18 beds under the use permit
25 application.

8

□

1 Just one other thing I wanted to point out in
2 this particular neighborhood. In addition to the four
3 Yellowstone properties, there is one other house that
4 we're aware of located at 1501 Pegasus that is a
5 transitional housing for women. I believe right now it
6 has eight beds, and that property is subject to abatement
7 under the Ordinance.

8 The applications that the operator has
9 submitted are for a use permit -- a group residential use

10 permit for the four facilities, which they submitted
11 consistent with the requirements of the Ordinance number
12 2008-05. They were submitted on May 20th. In addition
13 to the use permit applications, they also submitted
14 applications for reasonable accommodation.

15 And just briefly, I wanted to state that the
16 Ordinance also included a provision for reasonable
17 accommodation, which allows for disabled individuals or
18 providers of housing for disabled persons to apply for
19 reasonable accommodation from the City zoning and land
20 use regulations, the policies and practices, when needed,
21 to provide an individual equal opportunity to use and
22 enjoy a dwelling.

23 The Applicant requests approval of the use
24 permits to allow the continued operations at the
25 facilities with the existing occupancy that I noted

9

□

1 earlier.

2 Staff is recommending approval of the use
3 permits with operational conditions for just two of the
4 properties. Those would be 1621 Indus, a women's house.
5 We're recommending a maximum occupancy of 15 beds. And
6 also, we're recommending approval with operational
7 conditions for 20172 Redlands, the men's house, with a
8 maximum of 15 beds. Staff recommends denial of the 1561
9 Indus house and the Pegasus house.

10 The information in the reports and our

11 recommendations are based on documentation that's been
12 provided to us by the Applicant and information that was
13 available to us at the time that the reports were
14 written.

15 Our recommendation is based primarily on the
16 overconcentration in this neighborhood. We tried to
17 apply the APA standards of what a block consists of. And
18 in this case, the neighborhood is characterized by
19 meandering streets and cul-de-sacs. So we felt that all
20 four facilities would be located in what we would
21 characterize as a block. And they are all within 100 to
22 3- or 400 feet from each other. That was part of the
23 reason or our basis for denial of two of the facilities.

24 There may be new information introduced at the
25 hearing today that may require further evaluation by the

10

□

1 staff and by the Hearing Officer in order to help us
2 determine if our recommendations are appropriate.

3 However, if the Hearing Officer, after hearing
4 testimony, agrees with our recommendations, staff does
5 request your direction to prepare a Resolution of
6 Approval with Operational Conditions of approval for 1621
7 Indus and the Redlands property, and we also request
8 direction to prepare a Resolution of Denial with
9 Prejudice for 1561 Indus and the Pegasus property.

10 That concludes my presentation.

11 MR. KIFF: I have a couple of additional

12 comments, Mr. Allen. In advance of the public's
13 testimony, and also in advance of the Applicant's, this
14 relates more to what we've seen in past hearings. This
15 is both a caution and an invitation for comment.

16 But the Ordinance allows us to address concerns
17 that are specific to these properties. And some of these
18 concerns include an overconcentration in the area. As
19 Janet noted, we believe that at least two of these
20 facilities should close in order meet the APA standard of
21 "one or two group residential uses per block," as set
22 forth in the Ordinance.

23 Secondhand smoke is something that can be
24 addressed and considered. Meetings on-site that do not
25 involve just the clients of each facility. Assembly uses

11

□

1 are not permitted here without a separate use for
2 assembly uses.

3 Certainly, discussion about treatment provided
4 on-site that should only be provided in ADP licensed
5 facility -- I'm sorry -- Alcohol and Drug Programs,
6 California Department of Alcohol and Drug Programs.

7 Profanity and/or excessive noise, as well as
8 noise late at night. Inappropriate responses from
9 clients when neighbors attempt to remedy that
10 interaction. Trash problems. Lack of quiet hours or
11 curfews. And then quality capability of on-site
12 supervision.

13 Now, the caution and concerns that we do not or
14 will not consider that have come up in the past,
15 declining home values. There is no data to show that the
16 presence of recovery facilities more are impactful on
17 property values than changes in the housing market or the
18 presence of long-term rentals, vacation rentals, et
19 cetera.

20 Allegations that recovery homes are a cost
21 burden to the City. There's no evidence to suggest that
22 recovery homes cost the City any more in services than a
23 typical multi-family building housing the same amount of
24 people or, in these cases of Yellowstone, a typical
25 single-family house.

12

□

1 Allegations that this specific use is too close
2 to Orchard Drive Park. This use is roughly a 1,013 feet
3 way from the park. And remember that the Ordinance
4 itself allows the Hearing Officer to consider the
5 proximity of the use locations to schools, parks and
6 other residential care facilities, outlets for alcoholic
7 beverages, and any other use which could be affected by
8 or affect the operation of the subject use. There's no
9 evidence on the record that this park effects or is
10 affected by this specific use.

11 And then, it's not appropriate, per se, to
12 offer general comments about recovery homes City-wide
13 without directing your specific comments to these

14 operations on Indus, Pegasus and Redlands. And I note
15 the proximity to Orchard Drive Park there.

16 With that, Mr. Allen, I turn it back to you.

17 MR. ALLEN: Could one of you just note, once
18 again, which ones you're recommending for denial and
19 which ones for approval on the map there, so that
20 everyone knows?

21 MR. KIFF: Yes. I have a pointer there, Kathy.

22 This is one that is proposed to stay at 15
23 beds. This would be proposed to stay at 15 beds. This
24 would be proposed to close. This would be proposed to
25 close. This one, they did not apply for a use permit,

13

□

1 and they are subject to abatement, arguably. That's not
2 to say they couldn't ask for reasonable accommodation.
3 We haven't heard from Lynn House.

4 MR. ALLEN: Okay. Thanks.

5 So with that brief introduction, let's open it
6 to the Applicant, so that they can make a presentation.
7 Excuse me, Mr. Bobko is taking the floor.

8 MR. BOBKO: I'm sorry, Mr. Allen. I just want
9 to make a quick comment.

10 Counsel for the Applicant and I and the City
11 have discussed some stipulations that we wanted to
12 present before this thing got fully under steam.

13 The first one is that we would -- the Applicant
14 now -- and I'll let him address it more fully when he

15 comes up to speak. But he would like to make general
16 comments, legal comments, about all four, on all of the
17 addresses. And then we will allow people to comment, and
18 we will deal with, at a staff level, each one
19 individually. But he would like a make a general
20 statement, which is fine.

21 Secondly, when the public comments, if there
22 are general comments, we invite the public to make those
23 generally. But if they have specific comments, we would
24 ask that they make those specific comments about specific
25 addresses. So -- and the reason for this is we would

14

□

1 like to keep our record clear of which comments -- which
2 comments apply to which address.

3 And Counsel for the Applicant and the City are
4 willing to stipulate to that. I'll let him say so when
5 he comes up to speak.

6 MR. ALLEN: So let me understand again.

7 MR. BOBKO: Okay.

8 MR. ALLEN: What I heard you say -- and by the
9 way, Mr. Bobko is an attorney representing the City here
10 advising the City on matters.

11 In any event, you're suggesting that, inasmuch
12 as we have four units independently to be considered and
13 we have four permits to be considered, that we need to
14 actually conduct separate hearings on the use permits for
15 each one of those?

16 MR. BOBKO: Well, Mr. Allen, we leave the
17 actual nuts and bolts of how the hearing is conducted to
18 you, obviously.

19 Our suggestion, though, in order to keep a
20 clean record, is to understand which comments are
21 directed to which address; that if people have comments
22 about a specific address, that they wait until we discuss
23 that specific address to give those comments and not give
24 them generally. If they have -- someone has general
25 comments about the neighborhood or something more

15

□

1 indirect, then they can present those at the beginning.

2 So yes, we would -- I think that the City or
3 staff will address all of the different addresses
4 together to some degree. But I think that we also need
5 to look at them each individually. I'm not sure.

6 MR. ALLEN: Yes, yes. Okay.

7 MR. BOBKO: Okay. But the staff report
8 suggests that there are 73 homes, and that if -- and we
9 recommended that two of them be abated.

10 Staff, at least, feel free to jump in here at
11 any time.

12 But I don't know if we can just do them each
13 individually, completely individually. But in order to
14 keep a clean record, we'd like to, if people have
15 comments about individual homes, have them address them
16 when we talk about the individual address.

17 MR. ALLEN: Possibly, mechanically, then, we
18 could open the public hearings for all four of them at
19 once after the Applicant makes his presentation and after
20 staff may do any rebuttal to that. And then people could
21 come up and make comments generally or specifically
22 on -- one at a time, I suppose, so that we keep that
23 testimony orderly.

24 MR. ZFATY: Good afternoon, Mr. Allen. Isaac
25 Zfaty, Counsel for Yellowstone.

16

□

1 As to the comments, I would propose that we
2 have specific comments separated by house, so, in other
3 words, there would be four different segments to the
4 discussion this afternoon.

5 As to my portion, I've put together a
6 presentation that will apply to each of the four homes.
7 We'll address all of the issues that are raised in
8 Ms. Brown's report. Additionally, we have a legal
9 discussion that we think specifically applies to these
10 homes, which are located in the Santa Ana Heights region,
11 which was annexed in the City in January of 2008.

12 MR. ALLEN: Right. So I think that it makes
13 sense, then, that we'll open the hearings for all four,
14 but we'll conduct individual hearings as we go through
15 with each one and have people -- if they want to make
16 general comments, they can make general comments, and
17 then get specific with regard to that one and come back

18 up with specific comments on each one. That way, there
19 is a separate record for each one.

20 MR. ZFATY: Okay. That's fine with the City, I
21 assume?

22 MR. BOBKO: That's fine.

23 MR. ALLEN: So with that preface -- and I hope
24 the public understands, you'll get plenty of opportunity
25 to speak, so that's one of the primary functions,

17

□

1 obviously, of these public hearings is that the public
2 gets to say their peace with regard to these individual
3 units.

4 All right. So the Applicant will get under way
5 now with his presentation, and we'll proceed as
6 outlined.

7 MR. ZFATY: Thank you, Mr. Allen. Again, Isaac
8 Zfaty, I am Counsel for Yellowstone.

9 We're here today to discuss these four homes.
10 And as I mentioned earlier, we have some specific legal
11 concerns that we think relate to the Santa Ana Heights
12 region that we'd like to address at the front end of this
13 entire proceeding today.

14 As you know, the Santa Ana Heights area was
15 annexed into the City on January 1st of 2008, and the
16 Ordinance came into effect on February 22, 2008. And
17 that has particular legal relevance in terms of how the
18 California Supreme Court has looked at both zoning and

19 ordinances.

20 We have -- to begin with, the law regarding
21 established use -- the law pertaining to ordinances that
22 effect existing use is well established. The California
23 Supreme Court held, in Beverly Oil Company versus the
24 City of Los Angeles, that "if the law affects an
25 unreasonable, oppressive or unwarranted interference with

18

□

1 an existing use or planned use for which a substantial
2 investment in development costs has been made, the
3 ordinance may be held invalid as applied to that property
4 unless compensation is paid."

5 Particular point of emphasis here is, I think,
6 it's been established, as discussed in the prologue by
7 Ms. Brown, that all four of these properties were being
8 run as sober living homes prior to both the annexation
9 and the Ordinance going into effect.

10 Supreme Court also noted in the Hanson Brothers
11 Enterprises, Inc., versus Board of Supervisors case, that
12 "in performing the constitutional analysis as to any type
13 of social ordinance, we have zoning ordinances and other
14 land use regulations customarily exempt existing uses to
15 avoid questions as to the constitutionality of their
16 application to those uses."

17 And for the record, the citation on that is 12
18 Cal. 4th, 533. Backing up, so the record is clear, the
19 Beverly Oil Company case is located at 40 Cal. 2nd, 552,

20 with an opinion cite at 559.

21 Supreme Court's held in Edmonds versus County
22 of Los Angeles, which is a 1953 case, located at 40 Cal.
23 2nd., 642, that "the rights of users of property as those
24 rights existed at the time of the adoption of a zoning
25 ordinance are well recognized and have always been

19

□

1 protected."

2 The Wilkins versus City of San Bernardino case,
3 which is yet another California Supreme Court case, says
4 that "cases in which zoning ordinances have been held
5 invalid and unreasonable as applied to particular
6 properties fall roughly into four categories." And
7 there's really only one that applies here. It is the
8 first, "where the zoning ordinance attempts to exclude
9 and prohibit existing established uses or businesses that
10 are not nuisances."

11 The California Supreme Court noted in the Bower
12 case, which is 75 Cal. App., 4th, 1281 -- I'm sorry.
13 That was a Cal. App. case. It was citing to the Hanson
14 case. They say there that "generally, governmental
15 agencies do not apply newly enacted zoning ordinances to
16 close businesses lawfully operating at the time that
17 those ordinances became effective."

18 Now, the Jones versus City of Los Angeles case
19 is a California Supreme Court case, which we would submit
20 to you, Mr. Allen, is on all fours. This is a case that

21 was one of the seminal Supreme Court cases regarding
22 zoning ordinances and restricting use in the State of
23 California. The case citation is 211 Cal., 304.

24 The facts in Jones are, the case -- excuse me,
25 the Court was reviewing an action to enjoin enforcement

20

□

1 of a particular Los Angeles ordinance. There, as here,
2 the City annexed an unincorporated area of Los Angeles
3 called Mar Vista.

4 Subsequently, the City enacted the offending
5 zoning ordinance. The ordinance made it specifically
6 unlawful to erect, establish, operate, maintain, or
7 conduct any hospital, asylum, sanitarium, home, retreat,
8 or other place for the care or treatment of insane
9 persons, persons of unsound mind, or persons affected by
10 or suffering from mental or nervous diseases. As you can
11 imagine, the plaintiffs ran for sanitariums.

12 At the time of the enactment, there were
13 already in operation these four sanitariums in Mar Vista,
14 which were run by Jones. There was a constitutional
15 challenge to the ordinance as applied to the sanitariums
16 as it existed with the annexed territory prior to the
17 annexation and prior to the adoption of the ordinance.

18 Just so we're clear, the constitutional
19 challenge happened after that, after both those events
20 occurred. The wording there is a little bit misleading.

21 In all events, the Courts found that "the

09-18838
22 ordinance did withstand constitutional
23 scrutiny. And in doing so, the Court found the
24 police power as evidenced in zoning ordinances
25 has a much wider scope than the mere

21

□

1 suppression of offensive uses of property. It
2 acts not only connectively, but constructively
3 and affirmatively for the promotion of the
4 public welfare."
5 Court noted that "the evidence showed in that
6 case, and the lower Court found, that the
7 restricted districts were mainly residential in
8 character, as here. This is sufficient to
9 justify the exclusion of the businesses, the
10 Court said, such as that carried on by the
11 plaintiffs.

12 "The decisions uphold the validity of
13 ordinances excluding from residential district
14 property uses much less incongruous than these,
15 as, for example, flats, stores, and business
16 buildings.

17 And again, the "these" that the Court's
18 referring to here are sanitariums.

19 Mr. Allen, the plaintiffs in that case argued
20 that zoning laws could not be applied in any event based
21 upon discrimination. The Court there found that a high
22 level of deference had to be given to zoning laws.

23 The argument -- the Court said the argument of
24 plaintiffs, carried to its logical conclusion, would
25 destroy the usefulness of zoning ordinances as an

22

□

1 effective means of city planning, or it would require
2 examination in the regulation solely on the basis of
3 present conditions.

4 But zoning legislation looks to the future, and
5 that's important. It is a constructive movement in
6 principle legislation. And as such, it's received the
7 approval of our courts.

8 The Court goes on to hold that "We have thus
9 arrived at this conclusion. The ordinance in
10 question, insofar as it prohibits the
11 establishment of hospitals for the treatment of
12 nervous diseases in certain districts in the
13 City of Los Angeles and permits their
14 establishment in other specified districts, is
15 valid.

16 "The business is so restricted or proper
17 subjects of such regulation, and, hence, the
18 ordinance does not result in a denial of due
19 process. The classification of districts is
20 reasonable and not arbitrary, and, therefore,
21 there is no denial of equal protection of the
22 laws.

23 "This one is clear, we feel, with respect to

24 the establishment of new businesses of this
25 character in the prohibited districts. But

23

□

1 does the same result necessarily follow with
2 regard to existing buildings within this
3 district -- excuse me -- existing businesses in
4 these districts?"

5 The Court goes on, Mr. Allen, to frame the
6 issue. The Court said, "Does this broad view of the
7 police power, which justifies the taking away of the
8 right to engage in such businesses in certain territory,
9 also justify the destruction of existing businesses? we
10 do not think that it does."

11 In the Jones case, Mr. Allen, the Court
12 examined prior precedents and found the following:

13 "First, that the right to engage in a lawful
14 and not dangerous business in a certain area may be taken
15 away in pursuit of a reasonable zoning scheme." But they
16 do not decide that an established and not dangerous
17 business operating in a lawful manner in a certain
18 territory may be eradicated in pursuit of an reasonable
19 zoning scheme.

20 The Court held that, "as a matter of practice
21 also, those who had drafted ordinances have
22 usually proceeded with due regard for valuable
23 vested property interests and have permitted
24 existing non-conforming uses to remain.

□

1 destruction of a existing non-conforming use
2 would be a dangerous innovation of doubtful
3 constitutionality, and that a retroactive
4 provision might jeopardize the entire
5 ordinance."

6 Court went on to hold that the problem, which
7 is the important problem of this case, has, so far as we
8 are aware, only been squarely presented to Appellate
9 Courts in a few instances. The reason for the paucity of
10 decision is illuminating. Zoning laws have almost always
11 invariably been prospective in nature.

12 Court went on to examine other state laws and
13 found that the establishing statutes which give the
14 zoning power to municipalities expressly provide that no
15 retroactive ordinances shall be passed.

16 Court continued on. "Zoning holds that an
17 ounce of prevention is worth a pound of cure,
18 and that it is fairer to all concerned to
19 prevent the establishment in residence
20 districts of objectionable businesses than to
21 drive them out once they were established.
22 Zoning looks to the future, not the past. And
23 it's customary to allow buildings and
24 businesses already in the district to remain,
25 although of a class which cannot be

□

1 established."

2 Court also held that retroactive operation of
3 the provisions of the ordinance is generally avoided.
4 Retroactive zoning is not to be recommended. Moreover,
5 the purposes of zoning, which is said to be the
6 crystallization of present conditions and the
7 constructive control of the future development, does not
8 require that existing uses be changed.

9 Hence, it has been generally assumed that any
10 attempt to make zoning ordinances retroactive would meet
11 with the opposition of the courts and might result in
12 their declaring the ordinance as a whole
13 unconstitutional.

14 Non-conforming uses may be required to be
15 removed, but the majority of the cases seem to indicate
16 that if this procedure is attempted, the ordinance will
17 be declared unconstitutional because unreasonable."

18 Court continued on. "Building zone ordinance
19 permits lawful uses of buildings at the time of
20 the passage of the ordinance, although not in
21 conformity with its provisions to continue
22 thereafter. This exception is made so that the
23 ordinance shall not have a retroactive
24 operation. It would be manifestly unjust to
25 deprive the owner of property of the use of

□

1 which it was lawfully devoted when the
2 ordinance became effective."

3 Therefore, it appears that the instant case
4 involves a situation materially different from that
5 presented in the usual zoning case. As here, Mr. Allen,
6 the exercise of power in this instance is, on the whole,
7 far more drastic than in those in which a mere right to
8 engage in a particular business is restricted.

9 Court went on to say that "we are asked to
10 uphold a municipal ordinance which destroys
11 valuable businesses built up over a period of
12 years. If we do so on the ground that this is
13 a proper exercise of the police power in the
14 enactment of zoning legislation, it follows
15 that the same thing may be done to apartment
16 houses, flats, or stores.

17 "The establishment of many lawful and not
18 dangerous businesses in a city would then
19 become an extremely hazardous undertaking. At
20 any time, in pursuance of a reasonable plan for
21 its future development, the city could prohibit
22 the continuance of the businesses, and make
23 property valueless, which was previously
24 constructed and devoted to a useful purpose.

25 "It may will be that in the course of years,

1 one of the outlying permitted districts in the
2 present scheme will become residential in
3 character," the Court said, "and will, by
4 another ordinance, be placed in the prohibited
5 area. If the plaintiffs, at great expense,
6 reestablish themselves in that district, they
7 might be pursued again, and again eradicated.

8 "All of this to be justified under the police
9 power as a proper taking of private property
10 for public use without compensation. The
11 approval of such a doctrine would be a blow to
12 the rights in private property such as this
13 Court has never been witnessed." Excuse me,
14 "never before witnessed. Only a paramount and
15 compelling public necessity could sanction so
16 extraordinary an interference with useful
17 business."

18 Court goes onto question, "what is the public
19 necessity here? we've considered the ordinance
20 solely as modern zoning legislation, for such
21 is, undoubtedly, its character. There is, it
22 is true, testimony in the record to show that
23 the district was, in some respects, a less
24 agreeable residential section than it would be
25 if the businesses of plaintiffs were removed.

1 "Neighbors complained that the presence of
2 the sanitarium depreciated the value of their
3 own property. There's similar testimony as to
4 occasional noises made by unruly patients, and
5 several patients having escaped. Although, in
6 this connection, the trial court found that
7 none of the inmates of any of the four
8 sanitariums was ever injured in any manner
9 whatsoever, any of the inhabitants of said Del
10 Mar -- excuse me -- Mar Vista district, or
11 elsewhere, nor has any of said inmates ever
12 attack or attempted to do bodily injury into
13 any of said inhabitants."

14 Court went on to look at a nuisance analysis,
15 and it held that a nuisance could be regulated against.
16 It found specifically that "a properly conducted
17 sanitarium for the care and treatment of persons affected
18 with mental or nervous diseases cannot, we feel, be held
19 to constitute a nuisance."

20 Court said that "a well-conducted modern
21 hospital, even one for the treatment of contagious and
22 infectious diseases, is not such a menace, but on the
23 contrary, one of the most beneficent of institutions and
24 needs no argument."

25 The Court continued on to say "Must we say that

1 the property of some of the residents of a
2 district can be taken from them without
3 compensation in order to make more attractive
4 and pleasant the lives of other residents? The
5 added benefit to the majority of the residents
6 of the restricted district should not be
7 received at the expense of others."

8 And then in the words of Justice Holmes,
9 Mr. Allen, in the Pennsylvania Coal Company case, which
10 is 260 U.S., 393, the general rule is:

11 "At least that while property may be
12 regulated to a certain extent, if regulation
13 goes too far, it will be recognized as a
14 taking. In general, it is not plain that a
15 man's misfortunes or necessities will justify
16 his shifting the damages to his neighbor's
17 shoulders.

18 "We are in a danger of forgetting that a
19 strong public desire to improve the public
20 condition is not enough to warrant achieving
21 the desire by a shorter cut than the
22 constitutional way of paying for the change."
23 And lastly, the holding:

24 "Court held that it follows that the present
25 ordinance is valid insofar as it prohibits the

1 further establishment of businesses of this
2 type in the redistricted -- excuse me -- in the
3 restricted districts and is invalid in its
4 application to these plaintiffs who were there
5 before the annexation occurred and before the
6 ordinance was implemented."

7 we would submit to you, Mr. Allen, that --

8 MR. ALLEN: Are you done with that legal
9 analysis or that portion of that presentation?

10 MR. ZFATY: I am.

11 MR. ALLEN: Because I'm interested in how that
12 Jones case that focuses on annexation is any different or
13 how it would apply -- how non-conforming use ordinance
14 would apply any different to you just because you were
15 recently annexed than it does to anyone else in the City
16 who's been conducting a -- I don't see the difference,
17 and I'm curious as to why you think that's significant.

18 MR. ZFATY: I think it's significant, because
19 this is a Supreme Court case that's been on the books for
20 78 years that specifically addresses that situation. And
21 I would agree with you that there's been case law that's
22 come down that probably makes it even broader in scope
23 than that, and talks about prospective zoning and the
24 utilization of reasonable accommodation for those
25 businesses that are already in place.

31

□

2 situation where you have an area of a city that was added
 3 on. The language of the Court speaks to the issue of, do
 4 we chase this business from place to place? We can enact
 5 an ordinance in this area once we annex it.

6 You'll recall, Mr. Allen, that the Court
 7 specifically said that, Are we going to -- if we are to
 8 annex another area where that business has since moved,
 9 then are they again out of compliance with our
 10 ordinances, and do they have to again come to us and
 11 either move or ask for a permit? So I think the Jones
 12 case, as I mentioned, is particularly applicable to our
 13 situation.

14 Now, specifically as to our homes, within the
 15 factual findings in the staff report, there were some
 16 issues that I think probably needed to be addressed.

17 The first is, for the record, at 1561 Indus.
 18 It is a five-bedroom home. Currently there are 12 beds
 19 there. The second home we're talking about here today is
 20 1621 Indus. It's a six-bedroom home. That has 18 beds.
 21 The next is 20172 Redlands, six bedrooms, 17 beds. And
 22 1571 Pegasus, six bedrooms, 18 -- excuse me, 18 beds.

23 All of these homes, as I mentioned earlier, are
 24 in the Santa Ana Heights area. All have been
 25 established. All are run as sober living homes. Without

32

□

1 argument, much less dangerous to any public issue, public
 2 concern than any sanitarium would present.

3 Now, there was a list of inconsistencies that
4 we found in the reports. Parking, our visitors, or the
5 issue of our visitors, meetings, the licensing issue, the
6 average stay of the individuals who are at these homes,
7 and the bed count.

8 And we noticed that overconcentration was, at
9 least appeared on the staff report, to be one of the key
10 concerns. We would note, though, that none of these
11 properties are in close proximity to any schools, day
12 cares, parks or alcohol serving facilities.

13 This portion of the staff report noted that the
14 project is located within the established single-family
15 residential neighborhood consisting of one- or two-story
16 tracked homes. And consistent with that, the report
17 notes that there are no public or private schools or
18 public parks located with any proximity of the site.

19 This slide, Mr. Allen, illustrates just one
20 example of what happens when Yellowstone comes into a
21 property. You can see on the left side there, there's a
22 photograph of the way the property looked before we came
23 in. The right side is after.

24 We have improved the homes in which we are
25 located. Yellowstone bought old dilapidated homes in an

33

□

1 area of town which was near dog kennels and under the
2 Orange County flight path. The homes were in an
3 incorporated area of Santa Ana.

4 The 1621 Indus property was abandoned. We
5 purchased it at an auction. The 20172 Redlands property
6 was run by drug dealers. One went to jail. At
7 1621 -- excuse me. At 1561 Indus, there was a woman
8 there who was renting out homes, one of them for years.
9 And at 1571 Pegasus, the property, when we took it over,
10 was in such disrepair that we had to put significant
11 assets and resources into it.

12 From the staff report, there was an indication
13 that there were numerous efforts to communicate with the
14 Applicant to provide them with an opportunity to correct
15 certain situations. And the note was that they were
16 internally inconsistent and -- and to process the
17 applications in order to deem them complete.

18 Yellowstone has made itself available to
19 clarify any of these issues. As the staff report duly
20 notes, there's been a number of correspondence exchanged
21 between my office and the City. We have -- I hope,
22 provided the City with everything that it needs in
23 hopefully a timely fashion. The common concerns are
24 listed here as to, I think, all four homes. We'll
25 address each one of these in turn.

□

1 First off, as to the parking, the slides here,
2 Mr. Allen, depict areas where there is parking on each of
3 the four properties. In the December 23, 2008, and the
4 January 29, 2009, correspondences, we noted that ample

5 parking was present for four cars to park. However, only
6 the house manager and the assistant manager are permitted
7 to park on-site.

8 UNIDENTIFIED SPEAKER: (Inaudible response.)

9 MR. ALLEN: Everybody gets their turn. It's
10 not appropriate to make comments during the time when his
11 presentation is being made. And then I won't let him
12 interrupt you either, okay?

13 MR. ZFATY: Thank you.

14 On the issue of the curfew, our residents
15 aren't allowed to actually be in the home from 8 a.m. to
16 3 p.m. Residents have to be back at 4 p.m. At 8 p.m.,
17 there's quiet time. And the lights are out uniformly at
18 10 p.m.

19 There is a transportation route that is now
20 utilized. There's a van that takes our residents to
21 treatment and also to church. There's pick up at 8 a.m.
22 There's drop off at 4 p.m.

23 To the issue of visitors, there is visitation
24 allowed at the Costa Mesa facility. There was a question
25 about this on the staff report. The question I think

35

□

1 came from a letter that was provided in support of the
2 Yellowstone homes.

3 And the question was, well, if this person
4 talked about in their letter of support how they visited,
5 why are you saying in your application that there is no

6 visitation? Answer is that it occurs in at the Costa
7 Mesa facility.

8 As to meetings, there are no treatment meetings
9 in any of the four homes. There are -- there are
10 administrative house meetings, and those happen one time
11 a week and for one hour. And there are no interactions
12 between the homes.

13 So the record is clear, the average stay is six
14 months, and that varies from time to time. I think our
15 initial note, when this process first began about a year
16 ago, was our average stay was about 12 months. And due
17 to economic issues, it's decreased to six months. I
18 think we noted that in our most recent correspondence.

19 There is no licensing at any of the properties.
20 And I think we've made the record clear that we
21 mistakenly included in our original application that one
22 or perhaps two of them were, in fact, licensed. There
23 was some confusion on our end, but we attempted to
24 address that as quickly as possible.

25 As to the issue of trash, we have the same

36

1 type, size and number of trash cans as any of our
2 neighbors. The complaints about trash and beer,
3 especially, I think are unfounded. There's certainly no
4 beer coming out of any of our houses.

5 The picture here on the screen depicts a
6 construction zone in the neighborhood, and, though we're

7 not here to provide evidence that beer came from that
8 construction zone, it's certainly something that could be
9 reasonably adduced.

10 Now, as to the City's concern of
11 overconcentration, we don't think that the measurements
12 that the City are utilizing are accurate to reflect the
13 distance between the homes. They are sort of the
14 as-the-crow-flies measurements, which probably aren't
15 properly utilized here.

16 Also, as to the location of the homes, we're
17 located on much larger lots than, for example, down on
18 the Peninsula. This is relevant to the distance between
19 the homes and also parking issues as well.

20 As to the concentration, as the map here shows,
21 there were, last month, 89 beds in this area. With the
22 closure of 1501 Pegasus, 12 beds are gone. 1502 Pegasus,
23 as well, includes, by our estimate, another 12 bed
24 reduction. So already, within this area, there's been a
25 27 percent reduction, not including a single bed from

37

1 Yellowstone.

2 The next slide, Mr. Allen, depicts
3 concentration of sober living homes. Just we've taken
4 one example on River Avenue. The distance between 5009
5 River and 5101 River is approximately 154 feet, which is
6 a smaller measurement than any of our homes.

7 This slide depicts a number of the sober living
Page 36

8 homes within the City and shows the concentration
9 throughout.

10 As to the issue of parking, this slide shows
11 the 1601 West Balboa property, which was approved by City
12 on February 12th. As we all know, parking down there is
13 quite an issue as compared with, for example, the Indus
14 Street parking, which is much less of an issue. And as
15 noted earlier, we have two cars parking at any property,
16 and we have ample parking for each of those cars on our
17 properties.

18 This slide here shows another parking
19 comparison. The Pegasus side, on the left, versus West
20 Balboa, 1115, Ocean Recovery.

21 This is a picture of the parking at 1132 West
22 Balboa. Again, much more congested than anything you
23 will find in our neighborhoods.

24 As to the particular concerns regarding
25 inconsistencies, at 1561 Indus, the bed count, there as I

38

1 mentioned earlier, Mr. Allen, is 12. It has been
2 consistently reported in our use permit application as
3 12.

4 As to the parking, the parking discrepancy as
5 to whether there were two or four cars parked on this
6 site, I think we may have noted in one of our submissions
7 that there is ample room for four cars, but, in fact,
8 there really are just two cars parked on this site.

9 As to the bed count, this has been consistently
10 reported as 12 since the May 20, 2008, application.

11 As to the parking, our May 20, 2008,
12 application noted that four residents have personal
13 vehicles, which are parked in the garage with the
14 driveway. This is no longer the case. The December 23,
15 2008, and January 29, 2009, correspondences from my
16 office clarified this. We noted in that correspondence
17 that there was ample room for four cars to park on the
18 site; however, only the house manager and the assistant
19 manager, two cars, are permitted to park on the site.

20 As to 1571 Pegasus, the bed count there is 18.
21 And the staff report erroneously provides that we
22 included in our 1-28-09 e-mail a clarification of a
23 12-bed occupancy for this facility. But as you can see,
24 Mr. Allen, excerpted in the lower left-hand corner is our
25 e-mail, which I believe was also attached to the staff

39

1 report as an exhibit. And that shows very clearly that
2 in that e-mail, we submitted that Pegasus was an 18-bed
3 count.

4 A request here today is that we provide -- we
5 be provided with continued unabated operation.
6 Yellowstone is a good neighbor. It's not located near
7 schools or day cares. We've improved the properties and
8 increased the property values around us.

9 Yellowstone sober living homes are on large
Page 38

10 lots. Yellowstone has been providing sober living since
11 2003, and we're a member of the Sober Living Coalition in
12 good standing. Of note, two of the Yellowstone homes,
13 the two that have been recommended for closure, are both
14 Oxford Charter homes.

15 That concludes my presentation Mr. Allen. As
16 we noted, we are asking for a CUP. I think that it goes
17 without saying that to the extent that any such permit be
18 denied, we're asking for reasonable accommodations. And
19 as I understand it, that may be handled in a separate
20 hearing, though I don't know that my comments need to be
21 repeated.

22 Thank you.

23 MR. ALLEN: Thank you.

24 Does staff want to give any responses to those
25 comments? Or prior to that, does anyone else from

40

□

1 Yellowstone wish to make a presentation at this time?

2 So that concludes the Applicant's initial
3 presentation?

4 MR. ZFATY: Yes.

5 MR. ALLEN: Mr. Bobko, did you have something
6 to say?

7 MR. BOBKO: I wanted to address a couple of
8 legal issues.

9 Four quick points. Number one, we don't
10 believe that under the Ordinance, respectfully,

11 Mr. Allen, that you have the authority to overturn the
12 Ordinance or decide whether or not it applies here. We
13 think that the duly elected legislative body has already
14 made that determination.

15 MR. ALLEN: I agree with that.

16 MR. BOBKO: Okay. And to give you some
17 comfort, a federal judge has also agreed that this is a
18 facially valid Ordinance, so we don't think you are
19 proceeding in peril.

20 Secondly, I wanted to be sure to point out that
21 the Applicant -- and although we haven't had a chance to
22 read Jones, although he gave an excellent resuscitation,
23 the Applicant was pointing out that in the Jones case,
24 there was a business. And I was trying to keep track of
25 how many times we were -- the case described it as a

41

1 business.

2 And I think that that's a very salient point
3 that needs to reverberate in this proceeding is that
4 Applicant is conceding that this is, in fact, a business.
5 And a business is treated a little differently.

6 More importantly, however, is that we're not
7 eradicating businesses. In fact, this proceeding is a
8 proceeding where the Applicant can avoid being completely
9 put out of business.

10 Moreover, the Ordinance makes explicit -- gives
11 explicit opportunity for the Applicant to advertise their

12 business over time and, as in many non-conforming
 13 situations, that's simply the way it's done. I know that
 14 you, as a former city attorney, are probably aware that
 15 that's very common in First Amendment cases, where you
 16 have billboards or adult uses or such that have become
 17 non-conforming. There's always a period of time in which
 18 they are allowed to gently go away.

19 So as a matter of law -- and I'll let staff
 20 deal with the particulars of the case, but as a matter of
 21 law, we don't believe there's any problem applying this
 22 Ordinance to this Applicant. And if, by some chance, you
 23 need further briefing, we'd be happy to provide briefing.
 24 And I'm sure the Applicant's Counsel would as well, so --

25 MR. ALLEN: No. As you said, I don't see my

42

1 role in these proceedings as challenging the validity of
 2 the City's legislation. I think there's left to the City
 3 and a separate proceeding.

4 So I asked the question merely because I was
 5 personally curious about the distinction between the
 6 recently annexed property versus the non-conforming uses
 7 that are created whenever an ordinance is adopted that
 8 affects them.

9 Anyway, thanks.

10 MR. BOBKO: Thank you.

11 MR. ZFATY: May I respond briefly?

12 MR. ALLEN: Sure.
 Page 41

13 MR. ZFATY: I think the response to that is
14 that it's not that we are necessarily saying that you,
15 Mr. Allen, are supposed to comment on the
16 constitutionality of the Ordinance, rather that the
17 application of the Ordinance in our particular
18 circumstance might be a little bit different and might be
19 viewed in a different light.

20 MR. ALLEN: Understand. Thank you.

21 All right. Does staff have any other comments
22 at this point?

23 MR. KIFF: I'm going to save them for the end.
24 I'd like to hear the public comment as well.

25 But to your point about annexation, I thought

43

1 it was well placed. I don't know if folks in the
2 audience knows that Newport Beach has grown with 94
3 separate annexations to this date. So I don't know where
4 one annexation's timing starts and the other does not,
5 but --

6 MR. ALLEN: All right. So with that, with
7 those comments, then, we will open the public hearing.
8 My thinking is that we'll go through the individual
9 properties one by one, so that those of you who wish to
10 comment on a particular one can do so.

11 And frankly, I think at the same time, you can
12 make your comments, if you have more general comments,
13 about the effect of these uses in the City. That's fine,

14 too. But, of course, the primary focus here is on the
15 individual properties. So how about if we start with
16 1621 Indus and work our way around Indus and then down
17 Pegasus, I think it is?

18 And please state your name for the record, and
19 common name spelling.

20 MR. HANLEY: Robert Hanley, H-a-n-l-e-y. I
21 live at 1601 Indus. I am the western neighbor to 1621.
22 I have been in my home there 27 years. I moved into that
23 home in '62 -- '63 -- I'm sorry. '72, '73 -- from the
24 Bay Area. Came out of the electron tube industry,
25 because it was fading away. And I went to work for

44

1 Hughes as a process engineer.

2 I finished raising my six children in that
3 home, four girls and two boys. And obviously having
4 lived in that home that long, they are up and gone, with
5 the exception of my youngest lad is staying with us.

6 One reason I bought there was because of the
7 community, the size of the home, the facilities close to
8 that home, the schools, my work. I worked for Hughes.
9 And basically, we have enjoyed that home. We have
10 invested in that home about \$40,000.

11 Now, the comment was made about the investment
12 in the home next to me. One of the problems we have, we
13 have a redevelopment agency. And due to that situation,
14 the County owned about ten homes in that area. And if

15 any of them degraded, it was due to that.

16 The home next to me was rented, which wasn't
17 supposed to be, for almost ten years. Then it sat empty
18 for a good year. And I never saw this, but it was
19 reported that transients were bedding down there.

20 When the home went on the market, I interfaced
21 with the Thames about what was to become of the home.
22 And I immediately wasn't happy, and they knew it. But, I
23 mean, I faced up to it. And I've been a good neighbor to
24 those people. And that's what it's about. Neighbor.

25 And our efforts, for instance, to become part

45

1 of Newport Beach started in '99. And there were five of
2 us --

3 MR. ALLEN: I'm sorry. I failed to note that
4 each person gets three minutes. And as you can see, the
5 red light is blinking, which means your time is up. So
6 if you can just summarize, that would be great.

7 MR. HANLEY: All right. I have two objections.
8 And one of the objections is they are not neighbors. If
9 we have a problem, tough. The place is inundated with
10 young people. I've seen 30 to 40 walk the streets from
11 one facility to another, or they arrive in their vans.

12 Early on, they had parties, and the whole
13 street was parked up. I had to go out and protect the
14 fire plug. Make sure they didn't park in front of the
15 fire plug.

16 And to protect my driveway, I had to
17 have -- I had a handicapped child, which we had a van
18 for, that I needed the egress and access. And I actually
19 had to run some people away, and, of course, they got of
20 niffed at me.

21 I saw people --

22 MR. ALLEN: You need to wrap it up, please.

23 MR. HANLEY: Okay. I saw people come in from
24 out of the neighborhood and say, "Oh, there's a party
25 going on."

46

1 MR. ALLEN: Thank you.

2 MR. HANLEY: There's monkey business going on.

3 MR. ALLEN: Someone else like to speak? Just
4 please come forward at the conclusion of the last one.

5 MR. WALKER: I'm Barry walker, 1571 Indus. I'm
6 next to 1561 and only a few feet away from the 1621.

7 Probably start out with, unfortunately,
8 Mr. Zfaty apparently has been misled by his clients,
9 because there are cars parked on our street from the
10 people living in that house.

11 He says nobody's supposed to be in the house
12 from eight until three. When I came to this meeting and
13 left at 1:30, one of the residents had returned home, and
14 was -- her car was parked in the driveway.

15 Being there, we know which cars apparently
16 belong to the supervisor. And this woman, you know,

17 yesterday came and parked in the drive, did some
18 business, and went and parked up the street, walked back
19 to the house. And then as I was leaving, she had come
20 back to the house for something.

21 So saying that people are meeting the time
22 tables that they have put up there, everybody's there by
23 4 o'clock, it doesn't happen.

24 This house, 16 -- excuse me -- 1561 is the only
25 one of the four that has a swimming pool. And during the

47

1 summer, the men come from the men's house, people come
2 from the other houses, come over and have swimming
3 parties. You know, middle of the afternoon. It doesn't
4 carry on to the middle of the night, but we were led to
5 believe that only these people would be using that
6 property, and that's just not the truth.

7 The other one is, as Bob mentioned, at the 1621
8 house, for years, there have been what appeared to be
9 orientation sessions, middle of the day, middle of the
10 day, 10 o'clock in the morning, that have 20, 30, 40,
11 people have been brought.

12 And then about 10:30 or 11 o'clock in the
13 morning, they're all walking out, walking the sidewalks,
14 walking, you know, occasionally across everybody's plants
15 in the parkway, you know, taking a tour of the
16 neighborhood, you know.

17 Unfortunately, when house next to us was sold

18 and taken over by Yellowstone, nobody made an effort to
 19 say, you know, we're going in there. Here's how you get
 20 a hold of us if there's a problem. You know,
 21 understanding they didn't want to be dealt with every
 22 little complaint, but when there's a problem, we have no
 23 idea who to contact.

24 You know, we've had to go over and pound on the
 25 door ourselves to say, you know, "Get your sinking car

48

1 out of our driveway." So, you know, I don't know want to
 2 be a NIMBY, but there is a problem with the amount of
 3 concentration of the vehicles that we have associated
 4 with the various houses.

5 Concentration is probably the big issue. The
 6 pictures they showed of the street and no trash, I would
 7 say yesterday, everybody had four or five trash cans out.
 8 And that's, you know, that's too much. Thank you.

9 MR. ALLEN: Thank you.

10 MR. WALKER: Thank you.

11 MR. ALLEN: We're still on 1621.

12 MR. GROSKREUTZ: Chuck Groskreutz. I live at
 13 1551 Pegasus Street.

14 THE REPORTER: Spell the last name.

15 MR. GROSKREUTZ: G-r-o-s-k-r-e-u-t-z.

16 I just might -- would like to just make my
 17 comments in the three minutes that I have that real apply
 18 to the whole group, since I've made some surveys, and so

19 I want to take the time to do that.
 20 I live on 1551 Pegasus, which is the
 21 thoroughfare by which all these people come in and out on
 22 foot through that tract. Now, based on Counsel's bed
 23 count, that means that there would be or could be 65
 24 additional people who will be traipsing in and out of our
 25 neighborhood.

49

1 And let me just mention to you that currently,
 2 the amount of people that come by my home and what they
 3 do during those trips have specific impact on my
 4 property. And as an example, just in the last week, we
 5 came out -- I came out this morning in the morning to go
 6 to work, and I found about eight 7-11 coffee chocolate
 7 cups all over my front lawn.

8 Interestingly enough, this happened after I had
 9 sent my comments in to staff about my concerns about
 10 these homes. I don't feel that the homes that we
 11 have -- and Counsel has mentioned that the parking was
 12 adequate. Well, when you take a picture of the parking
 13 at 2 o'clock in the afternoon when everybody's out at
 14 work, it's a lot different than when you look at what the
 15 situation is after five in the evening.

16 It must be known that there are no parking on
 17 the opposite side of Santa Ana Avenue. It's all red.
 18 There's no parking facilities on that thoroughfare.
 19 There's no space.

20 So everyone who parks in the apartments,
21 everyone who lives there, everyone who lives in all the
22 new condominiums up on Santa Ana Avenue, and on the new
23 homes on Riverside, they all have to park someplace. And
24 where they park is generally anywhere they can find.
25 So any extra parking that we used to have is

50

□

1 complicated now by the fact that we have extra people in
2 our neighborhood who are using those facilities and
3 attending those facilities.

4 The second thing I wanted to point out is I do
5 a walk every other evening in my exercise program, and I
6 walk by these homes. Oftentimes, and I will say
7 oftentimes, more often than not, I would say at least on
8 the average twice per week, there are several groups if
9 in these homes in the back -- on the one that's right on
10 the corner of, I believe, Redlands there, number 18, you
11 can hear the men in the back with their group.

12 There's a wave the cigarette smoke that comes
13 by, and you can hear them having a meeting. They are
14 meeting. And there's been some statements here tonight
15 that they don't occur. Well, that's not true. It's just
16 flat not true.

17 The other point I'd like to make is that there
18 is an issue with the quality of life that's been changed.
19 Counsel mentioned that they have improved the value of
20 the homes, which I understood wasn't something we're

21 supposed to talk about.

22 But sense he brought it up, I don't know how
23 you can possibly say that that use in this neighborhood
24 has improved the value of the homes. There's no way. If
25 you look at the value of the homes in that neighborhood,

51

1 there's absolutely no way, and, the sales will point that
2 out. So that's not true.

3 And then the final thing that I like to point
4 out is the kennels were zoned long ago. They are not
5 even in that neighborhood. They are around the corner
6 down the side.

7 So, you know, I really think that when you look
8 at our specific community -- I've been there for 25
9 years. This is a community that has larger homes, large
10 lots. The ability to put, you know, 65 beds in four
11 homes -- and let's put a little number to this. Let's
12 say that there's a thousand dollars a month --

13 THE COURT: You have got to put a wrap on it.

14 MR. GROSKREUTZ: -- \$65,000 per month for these
15 people to live there, and it's a huge cash cow. Even cut
16 in half, that's \$32.5. This is a business. This is not
17 a residential use. It's a business. And they are
18 running a business. The dog kennels are running a
19 business, too, but I think they keep more of their
20 business in accordance with the rules and the zoning
21 regulations.

22 And so I oppose all of these for any exception
23 whatsoever. They need to be standing and adhere to the
24 zoning regulations that everybody else does for that use.
25 Thank you.

52

1 MR. ALLEN: Thank you.

2 Folks, we're really running over these three
3 minutes, and that's the way we try to run things here,
4 and we've got off to a bad start. Let's stop it.

5 MR. ABRAHAM: Sorry. I apologize. My daughter
6 is here, and I want to get her home. So if I could, I
7 wanted to talk just a very few comments in general, but
8 then about 1571 Pegasus.

9 MR. KIFF: Your name, please?

10 MR. ABRAHAM: My name is Steven Abraham. I
11 live at 1592 Pegasus.

12 I am a newcomer there. I'll only been there
13 since 2000. People have lived in that community for 30
14 years. But what I heard today was that the home went
15 there in 2003, 2005, and 2007. And as the City attorney
16 pointed out, as Counsel pointed out, these are
17 businesses.

18 If the 7-11 were forced to close on the corner,
19 there would be no question that the 7-11 could no longer
20 operate its business. These are single-family
21 residences. They have been and they will continue to be,
22 I hope, for a very long time.

53

24 and not a single car parked in front of them. well, sir,
25 I would invite you to come to that neighborhood any

54

1 evening, and what you saw in those pictures is not what
2 you'll see. And finally, I noticed in those pictures,
3 every one of the garage doors was closed, and they talked
4 about ample parking.

5 By the way, I'm a land use attorney, and every
6 now and again, I play Bet Your Bar Card. I'm willing to
7 bet my bar card that if you go to 1571 Pegasus and open
8 that garage door, you won't find any room for a car.
9 Pictures can be a little deceiving, but I think what
10 you'll hear from most of the residents isn't. This is
11 not a compatible use.

12 Thank you, sir.

13 MR. ALLEN: Thank you.

14 MR. ROBERTSON: Good afternoon. Thank you for
15 allowing me to present my information today. My name is
16 George Robertson. I'm trying to get all the information
17 in in three minutes.

18 I have been a resident in the area since 1963.
19 I grew up in that area and purchased my house there in
20 1988. I bought it there despite some discouraging
21 comments about the airport and the kennels because it's a
22 good place to raise kids. It's a quiet area. There's no
23 traffic going through, which comes to some of my comments
24 here about the characteristics of the neighborhood.

25

Mr. Kiff did make a comment about the park at

55

□

1 the end of Orchard. By my calculation, it's a little
2 less than a thousand feet. I'm not go to quibble, but
3 there's a community park there.

4 Now, I wasn't going to do any deductions, but
5 that has seen impacts from drinking. You go down there
6 on a Saturday morning, and you'll find alcohol beverages
7 on the grass and in the gutter. I wasn't going to make
8 any deductions, but those impacts happened. It did not
9 coincide with the time of the construction, though, as
10 the attorney here has demonstrated before.

11 There's some inconsistencies and, perhaps,
12 misrepresentations about the mischaracterization of the
13 use of the treatment of these places. Go back to my
14 notes here. And I did provide written comments to the
15 City.

16 The house size and number of rooms has been
17 mentioned before. None of those houses as built had over
18 2,650 square feet, and the majority of them have 2,585
19 square feet. So the square footage provided in the
20 documentation, which, I'm assume, is being provided by
21 Yellowstone, is overestimated by -- in the neighborhood
22 of 25 percent. So I'd be interested to see where that
23 extra square footage is coming.

24 They also talked about the bedrooms. None of
25 these houses were -- had more than five bedrooms as

1 built. Many of them have four. So I'd be interested to
2 see where those additional bedrooms come from. Only one
3 house that I know of, one on River, excuse me, on
4 Redlands Drive had any modifications done to it.

5 Transportation, parking. Within the staff
6 reports, there's comments about no transportation being
7 commonly provided. That, again, is a falsehood. They
8 talk about the vans being parked in a different city.
9 They are parked right on Pegasus Drive right by the
10 Redlands facility. There's two vans there with the
11 vanpools, and they are used on a daily basis.

12 And I will concede to the attorney that there
13 is no interaction between these houses. However, there
14 is considerable interaction between the residents of the
15 houses. So with that, I'm going to leave my comments
16 there. I think that other people will probably comment.

17 I'd just like to say in closing, in regards to
18 the decisions today -- and I'm trying to do it
19 quickly -- request that the City deny all the
20 applications due to the inconsistencies and
21 contradictions contained in the application as reflected
22 in the City staff report.

23 And in lieu of that decision, I request that,
24 prior to any approvals being granted by the City, the
25 staff verify the issues contained in number two of my

1 report, which is, essentially, the square footage, number
2 of bedrooms.

3 And be more transparent about the decision of
4 which house to approve or not approve. Within the staff
5 reports, two were approved, two were not approved. Me,
6 as the public trying to review them, I couldn't figure
7 out why they approved one and didn't approve the other.

8 Additionally, I suggest to the City that if the
9 Applicant is unaware of the facts on the ground, either
10 the vanpools, residents co-mingling, use of private cars,
11 that contradict statements made by the Applicant as
12 reflected in the staff report, that there's a disconnect
13 with the on-site residence managers and the Applicant.
14 So that's another issue for the City to clarify.

15 Finally, before any granted -- are approved or
16 granted, I ask the City add a condition that the
17 Applicant provide all of the neighbors with a common set
18 of house rules that is updated as changes are made.
19 Because I have no idea some of these house rules were in
20 place and that I could even complain about them.

21 And finally, I ask that the City provide the
22 neighbors with a method of reporting violations of these
23 rules and a description of the City's action that would
24 be taken under such instances.

25 Thank you very much.

1 MR. ALLEN: Thank you.

2 And by the way, just for the audience's sake,
3 staff has received those written comments from a number
4 of different source, e-mails and so forth. And they are
5 all getting distributed around to everybody. So you can
6 be assured that I see them, as well as the other
7 stakeholders in the game here.

8 Okay. Who's next?

9 MR. MC DONOUGH: Mike McDonough,
10 M-C-D-O-N-O-U-G-H. 1562 Pegasus. I've been there since
11 '73. I raised my four children there. From my front
12 door, I can see three of the group homes. Four of them
13 are within 100 yards of my house. The other one is just
14 150, maybe.

15 The complexion of the neighborhood has
16 completely changed since I've been there. It was all
17 families, lot of kids. Rarely see kids out on the street
18 now playing as you used to. I won't allowed my grandkids
19 out front where my kids used to play. It's -- the
20 interaction between the homes, the Redlands home, are
21 often down to the Pegasus house.

22 The vehicles that transport them in the
23 morning, there's one car after another picking people up.
24 In the afternoons, there's cars coming one after another.

25 They say there's no parking problem. I've had

1 cars parked blocking my driveway. Several of the
2 residents that have cars have blocked the driveway. They
3 are running businesses. It's a transient hotel. The
4 only difference is we don't have registration cards, so
5 the police can come in to see who is in them.

6 If I wanted to run a business out of my house
7 and start a hotel, I wouldn't be able to. Just because
8 they call it a treatment center, you shouldn't allow them
9 to run businesses in a residential area.

10 Thank you.

11 MR. ALLEN: Thank you.

12 MR. MATHENA: I'm Larry Mathena. I think you
13 know how to spell it.

14 Forgive me for not submitting written comments.
15 Principally the reason I didn't is because, unlike the
16 commitment of posting everything 72 hours before, these
17 were not -- the staff reports weren't posted until very
18 recently. And even with what's out there, we don't have
19 the exhibits. So I really don't have any basis to know
20 how the staff came up with its findings.

21 And I have great concern, for example, when I
22 look at the summary report that says, "20.91(A).050 would
23 cause persons in recovery to be denied low cost housing,
24 and that the persons denied the housing are of limited
25 income whose needs can only be met by Yellowstone."

1 while generally agreeing with their assertion,
2 staff made a slight distinction here between current
3 residents, et cetera. I would have to ask, has the City
4 done a study as to what is available and where it's
5 available? If it's not, why is it making admissions like
6 this? Period.

7 Similarly, the staff goes on to note, and I'm
8 just reading this in its summary, "If use permits are
9 denied for one or more of the other Yellowstone
10 facilities, and if expenses at each home are shown to be
11 reported, then all five required reasonable accommodation
12 findings can be made and staff can recommend approval of
13 the request."

14 So when I read that, all that I know and all
15 that's been agreed to is that, evidently, if you prove
16 the expenses are low enough, their direction to you is to
17 approve. I don't get that either when you start to look
18 at the whole report, and I don't understand the logic of
19 it in any case.

20 Moving right along, and just to cover a couple
21 specific things, the Cal ADP, in its summary of
22 post-rehab folks, self-reporting say 25 percent use while
23 they are in the facility. So to kind of blindly say,
24 "Our people would never do that" is silly.

25 The other thing I would observe -- because

1 these folks out here don't understand the rules -- I have
 2 no clue if these are illegal assemblies. And if they
 3 are, it's okay, because the City, when it finds out,
 4 doesn't enforce things like anyway is what was said at
 5 the last hearing like this.

6 A final comment that I really didn't see dealt
 7 with -- and, again, I'm blind in Reasonable
 8 Accommodationland -- is the Municipal Code under
 9 20.98.025(C) and (D). Clearly, there are reasons not to
 10 grant reasonable accommodations in this context. And
 11 again, because I don't know what's on file, I'm done.
 12 And I actually did it in three minutes.

13 MS. DEVINE: Hi. My name is Judy Define, and I
 14 live at 1662 Pegasus. Thank you for letting me talk to
 15 you today.

16 When we purchased our home, it is underneath
 17 the airport, as some people have said. And no one goes
 18 looking for a home under the airport. The reason we
 19 bought it is because of the family characteristic of the
 20 neighborhood.

21 When I started raising my children there -- I
 22 have two grade-school children -- there were ten
 23 stay-at-home moms in the neighborhood. There were
 24 children running everywhere. And there are still are a
 25 lot of children in the neighborhood. It's a great

1 neighborhood.

2 And on its web site, Newport Beach said that
3 they wanted to protect the character of our neighborhood,
4 and that's all I want, too, is to protect that character.
5 Three of the main streets in our neighborhood are
6 Pegasus, the street I live on, Redlands and Indus.

7 Yellowstone is currently operating a facility
8 on each of these streets. They asked for an exemption
9 from Section 20.91A.050 in order to house 18 resident
10 clients in each of the three homes and 12 clients in a
11 fourth home.

12 My first question would be, those are the
13 resident clients. In addition, are there managers who
14 live there, too? So are you talking about not just 18
15 people but possibly 20 people in a five-bedroom house?
16 So that's something I'd like to look into.

17 Because I know the neighborhood and the
18 neighbors know each other so well, we're able to go
19 around and say how many people are in each house. So I
20 went around, and I thought, okay, how do we tell the
21 character of a neighborhood? Let's look at how many
22 people there are. You know, we can use numbers at least.
23 So I gathered the number of residents on each street for
24 comparison.

25 Now, if you were to pass the applications and

63

□

1 the exemptions for the number of people on Pegasus

2 Street, where there are 28 homes, there would be 26.8
3 percent of the population would be recovering alcoholics
4 and addicts, okay? That's two blocks, okay?

5 On Indus Street, where there are 14 homes, 47
6 percent of the people who live on that street would be
7 recovering alcoholics and addicts.

8 And then the third street that we're talking
9 about is Redlands Street. And on that street, because
10 it's a shorter street and not a lot of homes, 75 percent
11 of the population on that street would be recovering
12 alcoholics and addicts.

13 And if you figure that those are three streets
14 out of our five streets -- maybe, we only have five
15 little streets in our neighborhood. We're very -- we're
16 not a pass-through, we're an enclave. And that's a huge
17 chunk of our population. Now, how can you say it's a
18 NIMBY if over half of the population is changed? I don't
19 think that's an NIMBY issue. That's an overconcentration
20 issue.

21 Finally, I'd like to remind everyone that the
22 normal stay indicated on the Yellowstone Recovery web
23 site on the home page says 90 days. That's what it says
24 when you go there. So that means four times a year, all
25 the population of those homes would be allowed to change.

64

□

1 It would be allowed to.

2 If you take that number of homes and the number

3 of people who cycle through there altogether, that would
4 be 264 people coming in our neighborhood. In those same
5 streets, there are 104 people who live there permanently.
6 So if 71 percent of the people who are coming and going
7 on those streets are not residents for four -- or more
8 than 90 days, does that not change the complexion of my
9 neighborhood? Yes, it does.

10 Thank you.

11 Oh, I respectfully ask that you deny the
12 applications and exemptions.

13 Thank you.

14 MR. ALLEN: What was your last name, please?

15 MS. DEVINE: Devine, D-e-v-i-n-e.

16 MR. ALLEN: Thank you.

17 MS. DEVINE: Thanks.

18 MS. WALKER: Hi. I'm Judy Walker, 1571 Indus.

19 And in general comment, like our last speaker,
20 the City has indicated that they want to keep the
21 complexion of a residential neighborhood. As we've very
22 nicely demonstrated with numbers -- and I did a similar
23 exercise with just not even the turnover but with the
24 beds that have been requested -- it would be the
25 equivalent of adding eight additional homes to a very

65

1 small component of our neighborhood.

2 And my concern is infrastructure. I don't
3 believe that -- and I would ask the City, have you looked

4 at what is the impact of having that kind of increase?
5 It's like three times the concentration of population in
6 a dwelling. Are our sewers ready to hand that? Are the
7 rest of the people in the neighborhood going to fall prey
8 to problems because these are residences developed for
9 families, not for businesses?

10 And I have to say with everyone else parking is
11 an issue. Driveway gets blocked.

12 Trash is an issue. While, yes, we have trash
13 cans like everyone else, I would say if you're having
14 three to four times the population in one building, is
15 there enough curb space for the residents to put that
16 number of cans out front. They are overflowing
17 currently. They are being placed in front of fire
18 hydrants, which means there's no neighborly feeling of we
19 have concern for the people we're living with.

20 In those instances where I've had to approach
21 people to try to get cars moved from my driveway, I've
22 been met with, "You're not blocked in." It's not a
23 neighborly -- it's exchange.

24 I can speak now directly to 1561. When they've
25 overflowed their swimming pool into my yard, and I

66

1 approached their manager, she looked me straight in the
2 face and said, "Are you sure?" I had 3 extra inches of
3 water in my yard, and she had a foot in her backyard.
4 There's not a feeling that they are willing to work with

5 us. It is very confrontational at all times.

6 And in general, the feel of the neighborhood,
7 through all the traffic, we can no longer have what we
8 feel is an effective neighborhood watch. We all know
9 neighbors. But now we can't tell, does this car belong
10 here or not? With our economic situations, we know crime
11 can be an issue. How can we effectively look out for our
12 neighbors when we don't know what belongs in your
13 neighborhood and what doesn't.

14 Thank you.

15 MR. ALLEN: Thank you.

16 MS. LEE: I name is Louise Lee. I live at 1671
17 Orchard. I'm the only one that doesn't live directly
18 next to these homes, but I've lived in the neighborhood
19 since 1983 when I bought my home.

20 I have two dogs that I walk through the
21 neighborhood on a regular basis. And I see a lot of the
22 things that everyone else is saying about the traffic,
23 with the going back and forth between one home and
24 another home, with the excessive number of cars, the lack
25 of parking, the trash.

67

1 And the one house that's -- I think it's 18 on
2 the corner, where the attorney pointed out the picture of
3 the home that looked very tall, and he's intimated, well,
4 that must be the workman from that house, well, it's a
5 one man that's been doing all the construction on that