

The use, if approved subject to conditions included with the use permit, will conform to the standards set forth in Section 20.91A.050, and this finding can be made as follows:

- a. Smoking is permitted only in the rear yard and patio area. Given the size of the lot and the proximity of the surrounding residential uses, it is unlikely that secondhand smoke can be detected outside the property, and no complaints have been submitted by adjacent neighbors regarding secondhand smoke.
- b. The facility has been in operation since 2003, and the applicant has submitted documentation that the facility has never been cited by a state or local agency as violating any of those agencies laws or regulations.
- c. Contact names and telephone numbers have been provided within the application. Approval of a use permit for the facility would include a condition of approval requiring the applicant to provide the City with the appropriate "after hours" names and contact information numbers.
- d. The residential care facility is used for housing purposes only and is not licensed for on-site treatment. All treatment services are provided at a site that is located approximately two and a half miles from the site in Costa Mesa, and transportation to the site is provided by van three days a week. Approval of a use permit for the facility would include a condition of approval limiting attendance of any type of meeting on-site to residents who reside on-site only.
- e. The unlicensed residential care facility has six bedrooms and there is a total occupancy of 17 residents. Therefore, the facility exceeds the standard of two persons per bedroom plus one additional resident by four, and does not comply with this operational standard. Staff is recommending that the maximum number of residents be reduced to 15. While the staff recommended 15 residents is in excess of the Code occupancy standard, staff does not consider this to be excessive in terms of traffic and parking impacts to the surrounding neighborhood with conditions of approval regulating on-site meetings, parking and transportation.
- f. The facility is certified as a member of the Orange County Sober Living Coalition, and proof of that certification has been provided by the applicant.
- g. The applicant has provided all names of those involved in the facility's operation within the application.

- h. There are no known violations or code violations for the facility or the individual operators and managers.

**B. Finding: The project includes sufficient on-site parking for the use, and traffic and transportation impacts have been mitigated to a level of insignificance.**

The NBMC requires off-street parking and loading spaces for a residential care facility at a ratio of one space for every three beds. The project site has an enclosed two-car garage and a driveway is that 24 feet deep, providing a total four off-street parking spaces. Therefore, the property does not meet the NBMC requirements for off-street parking. However, irrespective of whether the property would meet the resident standard of 13 or the staff recommended maximum number of residents of 15, the property would be one space deficient. As discussed above, in staff's opinion, given the large lots in the neighborhood as well as the operational characteristics of the facility, the one parking space deficiency will not cause significant adverse parking and traffic impacts provided that the facility does not exceed 15 residents.

Van transportation to an off-site treatment facility and to a church is provided approximately three to four times a week, and residents utilize public transit for commuting to work (an OCTA bus stop is located on Santa Ana Avenue within walking distance). The vans are parked off-site and are only at the residence for a short period of time to pick-up and drop-off residents.

With respect to traffic generation, the facility itself does not present an adverse impact to the neighborhood. However, staff is concerned about the comments from the area residents regarding the traffic and parking impacts from family and other visitors to the site during evening hours and on weekends, which results in cars parked throughout the vicinity. Staff notes that five group homes with a total of 73 residents exist in this neighborhood (see map in this staff report). As noted above, if two of those homes were closed in accordance with staff's recommendation, and if the subject property was restricted to a maximum of 15 residents, the on-street parking and traffic would be decreased significantly. It is further noted that one of the group care facilities that staff is recommending not be approved is located on a cul-de-sac, with very limited on-street parking in front of or near the dwelling. The parking generated by that facility uses the street in front of other dwellings along the street, including the area in front of and near the subject property. Closing that group home would alleviate some of the guest and visitor parking in the immediate area.

In summary, the facility provides sufficient off-street parking for management and residents, as well as guests. Given staff's recommendation to limit maximum number of residents to 15, as well as recommended conditions noted in previous sections of this staff report, including restricting the use of vehicles to staff

members only, the traffic and parking impacts on the surrounding neighborhood can be mitigated to an insignificant level. Therefore, this finding can be made.

**C. Finding: The property and existing structures are physically suited to accommodate the use.**

The subject property is approximately 7,500 square feet in area and the structure consists of approximately 3,892 square feet of living area with a total of six bedrooms. The size of the structure appears adequate to accommodate the use as a residential care facility with 15 beds.

The City of Newport Beach Fire Department is the responsible agency for implementing fire protection of all group residential care facilities and residences. As discussed above, the property has not received a "fire clearance" from the Newport Beach Fire Marshal. Therefore, if the Hearing Officer approves the application, staff recommends that a condition of approval be included that provides that the use is approved subject to the approval by the Fire Marshal. Given the conditions recommended by staff and the staff-recommendation to restrict the facility to a maximum of 15 residents, this finding can be made.

**D. Finding: The use will be compatible with the character of the surrounding neighborhood, and the addition or continued maintenance of the use will not contribute to changing the residential character of the neighborhood, such as creating an over concentration of residential care uses in the vicinity of the proposed use. In making his finding or sustaining such a finding, the Hearing Officer and/or City Council shall consider, as appropriate, the following factors:**

- a. 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;
- b. The existence of substandard physical characteristics of the area in which the use is located such as lot widths, setbacks, narrow streets, limited available parking, short blocks, and other substandard characteristics which are pervasive in certain areas of the City of Newport Beach, including portions of West Newport, Lido Isle, Balboa Peninsula, Balboa Island, Corona del Mar and Newport Heights, which portions were depicted on a map referred to as the Nonstandard Subdivision Area presented to the Newport Beach Planning Commission on September 20, 2007 and on file with the Director of Planning; and
- c. Whether, in light of the factors applied in subsections 20.91A.D.1 and D.2, it would be appropriate to apply the American Planning Association standard of permitting one or two such uses per block.

**Median block lengths in different areas of Newport Beach widely range from 300 feet in the Nonstandard Subdivision Areas to as much as 1,422 feet in standard subdivision areas. The average calculable block length in much of the standard subdivision areas is 711 feet and the calculable median block length is 617 feet. The Hearing Officer shall apply the American Planning Association standard in all areas of Newport Beach in a manner that eliminates the differences in block lengths. In making this determination, the hearing officer shall be guided by average or median block lengths in standard subdivisions of the City. The Hearing Officer shall retain the discretion to apply any degree of separation of uses, which he or she deems appropriate in any given case. A copy of the American Planning Association standard is on file with the Director of Planning.**

The proposed use, as conditioned, will be compatible with the residential character of the surrounding neighborhood and will not contribute to creating an institutional character of the area, and this finding can be made for the following reasons:

The project site is located within an established single-family residential neighborhood consisting of one and two story tract homes. There are no public or private schools, or public parks located within close proximity to the site. The closest elementary school is Kaiser Elementary School, which is located approximately two miles to the south, and Brentwood Park located approximately one and a half miles to the south. Facilities licensed to sell or serve alcohol located within three blocks of the project site include a 7-11 Store and a Mexican restaurant on the southeast corner of Santa Ana Avenue, and an AM/PM Service Station and Market on the northeast corner of Santa Ana Avenue. Those facilities are located within the City of Costa Mesa, approximately 2,000 feet or more walking distance from the subject property.

The subject property is located in a neighborhood that is not characterized by standard physical characteristics such as a typical street grid pattern; but instead has meandering streets and cul-de-sacs. The ordinance recognizes that there are instances when the lack of a straight-line grid pattern street will make it difficult to exactly define a block; and also recognizes that blocks through out the City are not always inform in size. In those instances, Code Section 20.91A.060.D.3 provides that the Hearing Officer may apply the American Planning Association (APA) standard of 617 feet (median) or 711 feet (average) in determining the block size and configuration.

Given the close proximity of this facility to four group residential uses located within the same neighborhood, it is critical to define "block" in this particular case. If the APA standard is used, and the median block length of 617 feet applied, the four houses would all fall within a single block area. Therefore, the subject



property is located within a block and in close proximity to four other residential care facility uses. In staff's opinion, the presence of five residential care facilities in very close proximity to each other is an overconcentration and two of the facilities are recommended for closure. Only if two of the use permits are denied can staff recommend that the use of the subject property as a residential care facility will not result in an overall adverse impact on the neighborhood and will be compatible with the character of the surrounding neighborhood. Given staff's recommendation for denial of two of the use permits, this finding can be made.

- E. Finding: The operation of buses and vans to transport residents to and from off-site activities does not generate vehicular traffic substantially greater than that normally generated by residential activities in the surrounding area.**

Residents of the facility do not have automobiles, and utilize public transit from an OCTA bus stop located on Santa Ana Avenue. Vans are used to take residents to a treatment facility and to church approximately three to four times a week. It is staff's opinion that the traffic generated from these van trips, separate from the overall traffic generation discussed earlier in this report, is not excessive. Therefore, this finding can be made.

- F. Finding: Arrangements for delivery of goods are made within the hours that are compatible with and will not adversely affect the peace and quiet of neighboring properties.**

Deliveries to the residences are typical of the normal use of the property for residential purposes. Shopping is done by management staff and delivered to the house during daytime or early evening hours. Therefore, staff believes that this finding can be made.

- G. Finding: Arrangements for commercial trash collection in excess of usual residential collection are made within hours that are compatible with and will not adversely affect the peace and quiet of neighboring properties.**

The facility utilizes the regularly-scheduled Costa Mesa Sanitary District residential refuse collection services provided throughout the neighborhood. Neighborhood complaints about excessive trash need to be evaluated further. In the event that the once-a-week trash service does not adequately serve this facility, staff suggests a condition allowing the City's Planning Director to require the facility to secure and maintain commercial bin service. With this condition, this finding can be made.

### **Analysis Summary**

As indicated at the beginning of this report, staff recommends approval of this application for the following reasons:

1. The ability to make all of the findings required by the NBMC Sections 20.91.035 (A) and 20.91A.060, provided that the facility is limited to a maximum of 15 residents and also provided that two of the group homes operated by Yellowstone in the vicinity are closed.
2. The proposed use is consistent with the purposes of NBMC Section 20.91A as set forth in Section 20.91A.010, and the requirements of Section 20.91.020 if limited to a maximum of 15 residents and with conditions of approval as recommended.

If, after reviewing this report, and hearing testimony from the applicant and the public, the Hearing Officer agrees with staff's recommendation for approval, staff requests the Hearing Officer's direction to prepare a Resolution for Approval for adoption at a time and date set by the Hearing Officer.

### **APPLICATION FOR REASONABLE ACCOMMODATION**

#### **BACKGROUND**

On May 20, 2008, the applicant submitted an Application for Reasonable Accommodation (Exhibit 2) that discussed the need for accommodation, but did not seek exemption from any specific City rule, policy or practice.

On August 22, 2008, the applicant submitted an Application for Reasonable Accommodation that requested an exemption "from single family to multi-family residence." (Exhibit 7) The applicant also indicated the need for an accommodation from the required use permit fee due to financial hardship. Upon request for clarification and additional information from staff, the applicant's attorney submitted a supplemental request for accommodation from specific provisions of the Newport Beach Municipal Code ("NBMC") on January 29, 2009. (Exhibit 8) The three specific accommodations requested are:

1. That the residents of the Yellowstone facility at 1621 Indus Street be treated as a single housekeeping unit, as the term is defined in NBMC Section 20.03.030 of the Newport Beach Municipal Code;
2. An exemption from the occupancy restrictions of NBMC Section 20.91A.050, which requires that use permits granted to residential care facilities restrict facility occupancy to no more than two residents per bedroom plus one additional resident;
3. An exemption from the City's requirement that all use permit applicants pay a use permit application fee to permit cost recovery by the City. (NBMC Chapter 3.36 and NBMC Section 20.90.030)

NBMC Section 20.98.015 provides that if the request for a Reasonable Accommodation requires another discretionary permit, the applicant may request a simultaneous hearing. In this case, the use of the property as a residential care facility does require a use permit, and the applicant has requested simultaneous hearing of both the use permit application and the various requests for reasonable accommodation.

## **DISCUSSION**

The federal Fair Housing Amendments Act (FHAA), adopted in 1988, prohibit housing discrimination based on a resident's disability. Under the FHAA, it is discriminatory for government entities to refuse to make reasonable accommodations from rules, policies, and practices when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling (42 U.S.C. § 3604(f)(3)(B)).

Cases interpreting the FHAA have held that a government agency has an affirmative duty to grant a requested reasonable accommodation if: (1) the request is made by or on behalf of a disabled individual or individuals, (2) the accommodation is necessary to afford the disabled applicant an equal opportunity to use and enjoy a dwelling, and (3) the request is reasonable.

Cities may find an accommodation request unreasonable if granting the request would: (1) result in a fundamental alteration in the nature of a City program (often described as undermining "the basic purpose which the requirement seeks to achieve"), or (2) would impose undue financial or administrative burdens on the city (See *U.S. v. Village of Marshall*, 787 F.Supp. 872, 878 (W.D. Wisc. 1991)).

Whether a requested accommodation is reasonable and necessary must be determined on a case-by-case basis. *Because the applicant has requested three very different types of reasonable accommodation, staff will present a separate analysis of each specific accommodation request.*

### **Reasonable Accommodation Analysis No. 1 – Request to be Treated as a Single Housekeeping Unit**

In the January 29, 2009 letter clarifying applicant's request for reasonable accommodation, the applicant requested its facility be treated as a Single Housekeeping Unit, as that term is defined in NBMC Section 20.03.030. The applicant said the accommodation requested is necessary because the facility "is not transient or institutional in nature such that it fits the definition of a non-licensed residential care facility." The applicant stated:

*"[T]he 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 . . . 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."*

Ordinance No. 2008-05 codified the procedures for requesting, reviewing and granting, conditionally granting, or denying all requests for reasonable accommodation in the City of Newport Beach. The Hearing Officer is designed to approve, conditionally approve, or deny all applications for a reasonable accommodation. The ordinance also established required findings and factors the Hearing Officer may consider when making those findings.

Pursuant to Section 20.98.025(B) of the NBMC, the written decision to approve, conditionally approve, or deny a request for reasonable accommodation shall be based on the following findings, all of which are required for approval.

1. *Finding: That the requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws.*

This finding can be made. The applicant submitted a statement signed under penalty of perjury that every resident of the facility is in recovery from alcohol addiction. Federal regulations and case law have defined recovery from alcoholism and drug addiction as a disability, because it is a physical or mental condition that substantially impairs one or more major daily life activities.

2. *Finding: That the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.*

This finding cannot be made. Staff does not question the need for sober living homes, nor the fact that persons with a disability must have the opportunity to use and enjoy a dwelling. However, the exemption requested by the applicant is unnecessarily broad to achieve the goal of providing disabled housing. As staff informed the applicant's counsel, a request to be considered a Single Housekeeping Unit is essentially a request to be exempted from *all* of the provisions of Ordinance 2008-05 which place *any* sort of reasonable regulation on the operations of residential care facilities. This is not necessary, because there are many more narrowly tailored accommodations that could enable facility residents to enjoy the housing of their choice without depriving the surrounding neighborhood of reasonable conditions that mitigate the adverse secondary impacts that emanate from this facility.

Applicant's counsel asserts in his January 29, 2009 letter that being treated as a Single Housekeeping Unit 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."<sup>1</sup> Even if

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<sup>1</sup> The residents are recovering alcoholics living together in order to maintain their sobriety. Therefore, the facility closely fits the profile of a sober living home, or unlicensed recovery facility, contrary to applicant's counsel's assertions. Whether the facility is transient or institutional in nature does not enter that analysis, although staff believes there is a strong

the facility were not transient or institutional in nature, and did not clearly fit the definition of a sober living home, or unlicensed residential care facility, an exemption from the provisions of 2008-05 is not necessary to afford its residents the opportunity to live in and enjoy a dwelling.

However, the applicant raised the issue of how the facility should be characterized in its necessity argument, and asserted the facility more closely resembles a Single Housekeeping Unit than any other type of residential use. Staff has analyzed the facility's appropriate use classification based on the applicant's submitted materials.

Staff has determined the nature of applicant's facility operations, as reported in the original application for reasonable accommodation submitted in May 2008, most closely resembles a boarding house use. But for the fact residents are recovering alcoholics, the facility would be classified as a prohibited Group Residential use, or a Boarding or Rooming House as that term is defined in NBMC 20.05.030. (Residential Use Classifications) ("A residence or dwelling unit, or part thereof, wherein a room or rooms are rented under two or more separate written or oral rental agreements, leases or subleases or combination thereof . . .")

On the May 2008 application for reasonable accommodation, the applicant states, "The residents at the property reside separately at the property and interact within the property. There is individual use of common areas. The residents are responsible for their own meals, expenses and chores. *Each individual resides at the property subject to a separate contractual arrangement with the applicant.*" (Italics added)

In a follow-up conversation with staff, applicant's CEO, Dr. Anna Thames stated that the facility has no written leases with any of the residents. Rental agreements with residents are verbal. Again, the description of operations is much closer to the NBMC's definition of a boarding house or group residential use than a single housekeeping unit, as the NBMC's definition of Single Housekeeping Unit requires dwellings rented to bona fide Single Housekeeping Units to be occupied under a single written lease.

The self-reported pattern of facility operations and resident interaction in no way resembles the NBMC definition of a Single Housekeeping Unit. NBMC Section 20.03.030 (Definitions) defines as Single Housekeeping Unit as:

*"The functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses, and where, if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written*

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argument that the existence of the three additional facilities owned and operated as sober living homes by the applicant within 100 to 300 feet of each other does create a quasi-institutional environment.

*lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager."*

Applicant's resident clients may be an interactive group of persons jointly occupying a single dwelling unit who share common areas, but the applicant's own submittals indicate there is no joint responsibility for meals or expenses, no single written lease (or any written leases at all), and the makeup of the household is determined by the applicant rather than the residents.

Staff is troubled by the contradictory information submitted regarding whether the facility operator or the residents determine the household makeup. Given that both the May 20, 2008 reasonable accommodation application and the applicant's CEO stated that the applicant determines the household makeup, applicant's counsel's assertion in the January 29, 2009 letter that "the makeup of the Property is determined by the residents of the unit rather than the property manager" is difficult to accept. The remainder of the applicant's presentation regarding classification as a "Single Housekeeping Unit" suffers from the inconsistency in the information it submitted to the City.

After the inconsistency was pointed out to applicant's counsel by staff, counsel submitted additional correspondence dated February 13, 2009, (Exhibit 10) addressing the discrepancy which staff believes still exists.

NBMC Section 20.98.025(C) allows the City to consider the following factors in determining whether the requested accommodation is necessary to provide the disabled individual an equal opportunity to use and enjoy a dwelling:

*A. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability.*

If the requested accommodation is granted, any number of the applicant's current and potential clients will be able to live in a home in a single-family zone with other recovering alcoholics. This is a situation that can affirmatively enhance the quality of life of a person in recovery from addiction, unless overcrowding of the facility or institutionalization of the neighborhood interferes with the residents' re-integration into society. The applicant's sliding scale of rental rates offers a sober living environment to residents who might not otherwise be able to afford to live in a single-family home in this area.

*B. Whether the individual or individuals with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation.*

As stated above, the exemption requested by the applicant is broader than necessary to achieve the goal of enabling disabled individuals an equal opportunity to enjoy the housing type of their choice. City staff discussed more narrowly tailored exemptions

that could enable disabled individuals to reside at the applicant's facility, but the applicant has chosen to retain this request.

C. *In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants.*

The applicant does not state why being treated as a Single Housekeeping Unit is necessary to make its facilities viable in light of the current market for the type of services it provides. In relation to Reasonable Accommodation Request #2, the applicant states that each facility requires 15 residents in order to be financially viable, and provides a general summary of average income and expenses for all four facilities. In light of the analysis performed in full in Reasonable Accommodation Request #2, Finding 2, Section C below, the evidence does not lead to the conclusion that being treated as a Single Housekeeping Unit is necessary to make applicant's facilities financially viable.

D. *In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.*

In 2007, City staff estimated that there were more than 315 sober living beds in the city (these are exclusive of the up to 213 ADP-licensed treatment beds). These numbers were compiled before applicant's facilities, with a total of 58 sober living and eight staff beds, were added to the city's supply. Operators of many sober living facilities within the city have reported decreased census and vacant beds, which could provide potential Yellowstone clients with an equal opportunity to live in a sober living environment without granting the accommodation. Further, a recent agreement with Sober Living by the Sea, Inc., authorized SLBTS to provide up to 204 beds citywide. However, many of these alternate sober living beds are probably not offered on a sliding fee scale based on ability to pay. The evidence does not support the applicant's contention that treating residents of its facility as a Single Housekeeping Unit will change the availability of the existing supply of facilities of a similar nature, or afford them a substantially greater access to an equal opportunity to live in a residential setting.

Even if the applicant provides housing for the disabled, and even if the requested accommodation is necessary, the City is not required to grant a request for accommodation that is not reasonable. Cities may find a requested accommodation unreasonable if it either (1) imposes an undue financial or administrative burden on the city, or (2) results in a fundamental alteration in the nature of a city program, often described as undermining "the basic purpose which the requirement seeks to achieve."

3. *Finding: That the requested accommodation will not impose an undue financial or administrative burden on the City as "undue financial or administrative burden" is defined in Fair Housing Laws and interpretive case law.*

This finding can be made. Treating the facility as a Single Housekeeping Unit would not impose a currently identifiable undue financial or administrative burden on the City. However, staff makes this finding with caution, because the applicant is requesting similar accommodations at each of its facilities. If this reasonable accommodation request were granted for all four Yellowstone facilities, the applicant would be able to house a number of residents far in excess of the 66 individuals currently residing in the four homes. Currently unidentifiable financial or administrative burdens could arise as a result.

4. *Finding: That the requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program, as "fundamental alteration" is defined in Fair Housing Laws and interpretive case law.*

This finding cannot be made. The purpose of the NBMC's definition of Single Housekeeping Unit is to allow staff to determine whether groups of related or unrelated individuals are living together in a dwelling as a single housekeeping unit. This definition is necessary because of the persistent attempts by landlords to establish illegal boarding houses in dwellings within the City.

Groups living as a single housekeeping unit can live together in any residential zone in Newport Beach. Groups not living as a single housekeeping unit are prohibited from establishing residences in any of the City's residential zones. There is, however, an important exception to the total prohibition of groups not living as a single housekeeping unit -- groups not living as a single housekeeping unit in residential care facilities of any size.

Essentially, all residential care facilities in the City have *already* received a reasonable accommodation from the NBMC's restrictions on groups not living as a single housekeeping unit. The NBMC provides many opportunities for new facilities to establish, and has provisions for existing facilities to continue in their current locations with appropriate impact mitigation. Licensed facilities housing six or fewer residents can establish in any residential zone of the City.

Although the residents of residential care facilities receive preferential treatment because of their disabled status, the NBMC's Zoning Code also applies regulations to unlicensed and larger (more than seven residents) licensed facilities. These regulations are in place to ensure that the fundamental purposes of the Zoning Code can be achieved, and so the adverse secondary impacts higher density residential care facilities have on the surrounding neighborhood can be mitigated.

If the facility is treated as a Single Housekeeping Unit, it is entirely exempt from any of the reasonable controls the City might place on it. The City would be unable to make any reasonable effort to reduce the adverse secondary impacts such as noise, overcrowding, and unruly behavior by residents of applicant's facility to the detriment of neighbors, in addition to finding solutions to the applicant's disproportionate consumption of available on-street parking, and the overconcentration of facilities within



a single block to the point of creating a quasi-institutional environment in this neighborhood. It is highly likely that most other similar facilities within the City would request a similar exemption, thus nullifying the Ordinance's effect entirely.

Pursuant to Section 20.98.025(D) of the NBMC, the City may also consider the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the City's zoning program:

*A. Whether the requested accommodation would fundamentally alter the character of the neighborhood.*

Staff acknowledges that a petition stating, "Yellowstone is a good neighbor" was presented to the City, signed by four residents of Pegasus Street (where one of the other facilities of applicant is located). However, these signatures of support were countered by letters, emails and phone calls from neighbors of the facilities that reported increasing negative secondary impacts on the neighborhood as more of the applicant's facilities established there in recent years. The impacts reported include:

- Litter in the neighborhood which complainants attribute to the applicant's facilities, including cigarette butts, soda cans, and beer cans and bottles;
- Family and other visitors to the facilities;
- Facility residents traveling in groups between one facility and the others;
- Meetings held regularly at one or more of the applicant's facilities, with outside attendees;
- Excessive use of on-street parking by facility residents and their guests; and
- Decline in property values in the neighborhood.

Due to a number of factors, including general fluctuations in the real estate market, staff is reluctant to speculate that any decline in property values is a direct result of the operation of applicant's facilities. Accordingly, this consideration was not factored into Staff's analysis.

A number of the neighbors' allegations appear credible, and directly contradict applicant's representations to the City. Specifically, the applicant stated in its submittals that:

- There are no outside visitors allowed at the facility;
- Residents are not permitted to have cars while they reside at the facility and rely on public transportation, carpools with the resident managers to get to the full-time jobs which the applicant states all residents have, and facility vans to get to treatment facilities and church (although the May 20, 2008 use permit application stated that this facility then allowed up to four resident vehicles onsite);
- No interaction between the four facilities operated in close proximity by the applicant is permitted.

Based on the misstatements and inconsistencies of the information supplied by the applicant in its use permit and reasonable accommodation applications, Staff views these representations about restrictions on visitors, cars and facility interaction with skepticism.

In particular, staff does not find the applicant's statement about its "no visitors" policy to be credible, because one of the letters of support (Exhibit 6) submitted by a former Yellowstone resident said, "I come to Yellowstone every week and am still a part of this place still to this day . . . 6 years later. I hope it is here for other girls to come back and work with the newcomers the way I have been given the chance too." Another former resident wrote, "Yellowstone is the place that I will continue to come back to and visit the new girls who are struggling the way I did." (Note: applicant's attorney states that these letters refer to meetings at another Yellowstone facility in Costa Mesa.)

The applicant's possible misstatements of easily verifiable facts (such as policies about no meetings, no visitors, and no inter-facility interaction), and early written and oral representations that two of the facilities held ADP licenses (which they never had), causes staff concern about the overall responsibility of the operator, and its ability to successfully manage both its residents and the negative impacts its facilities have on the surrounding neighborhood.

*B. Whether the accommodation would result in a substantial increase in traffic or insufficient parking.*

**Parking** - The applicant stated in its original reasonable accommodation application for this property (May 20, 2008) that facility residents were not permitted to have personal vehicles at the property. The use permit application stated that four residents have personal vehicles they park onsite. Later correspondence and conversations with the applicant's attorneys indicated that no resident vehicles would be permitted onsite, and that only the two resident staff members would be permitted vehicles.

The enclosed garage spaces and driveway parking spaces allow for the staff vehicles to be accommodated without impacting neighborhood parking. However, the weekly meetings and weekend visitors reported by neighbors and former residents of the facilities disproportionately consume available neighborhood parking. Four other facilities are located in the same neighborhood in close proximity to this site. The cumulative impact of having more than one facility operating within a very restricted distance results in increased traffic and parking demands.

#### **Traffic and Generated Trips**

The Institute of Transportation Engineers (ITE) establishes and publishes standards for trip generation rates based on the use classification of a site. In the case of a single family dwelling, the standard trip rate is based on 9.57 average daily trips per dwelling unit. Trip rates for residential care facilities (also classified as an "assisted living" use by ITE) are based on 2.74 average daily trips per each occupied bed. Staff recognizes that the use pattern of an assisted living or residential care facility is similar, but not identical

to a sober living facility. However, the trip generation rates established by ITE for residential care facilities is the closest land use classification to a sober living home.

Based on the ITE standards, a single family dwelling would generate approximately 10 average daily trips (rounded up), whereas a 17-bed residential care facility would generate approximately 47 average daily trips.

5. *Finding: That the requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.*

This finding can be made. A request for reasonable accommodation may be denied if granting it would pose "a direct threat to the health or safety of other individuals or result in substantial physical damage to the property of others." See 42 U.S.C. § 3604(f)(9). This is a very limited exception and can only be used when, based on the specific facts of a situation, a requested accommodation results in a significant and particularized threat. Federal cases interpreting this exception in the FHAA indicate that requested accommodations cannot be denied due to generalized fears of the risks posed by disabled persons.

#### **SUMMARY – REASONABLE ACCOMMODATION REQUEST #1**

In summary, with regard to the applicant's request to provide reasonable accommodation that treats the facility as a Single Housekeeping Unit, Findings 2 and 4 cannot be made. In accordance with the provisions of Section 20.98.025 of the NBMC, all five findings must be made in order for the Hearing Officer to approve a request for Reasonable Accommodation. Therefore, staff recommends that the Hearing Officer deny the Reasonable Accommodation request for the residents of the subject property to be treated as a Single Housekeeping Unit.

#### **Reasonable Accommodation Analysis No. 2 – Request to be Exempted From Occupancy Standards of NBMC Section 20.91A.050.**

In the January 29, 2009 letter from applicant's counsel's clarifying and supplementing applicant's request for reasonable accommodation, the applicant requested that the facility receive an exemption from the occupancy standards of NBMC Section 20.91A.050. NBMC Section 20.91A.050(C)(2) requires that use permits granted to residential care facilities restrict facility occupancy to no more than two residents per bedroom plus one additional resident.

All of applicant's facilities currently have residents in excess of the number that would be permitted under the use permit standards. One facility (1561 Indus) has 12 residents in five bedrooms; the other three (1621 Indus, 20172 Redlands, and 1571 Pegasus) have 18 residents in six bedrooms. Under the operating standards of NBMC Section 20.91A.050(C)(2), a use permit issued to 1621 Indus would be limited to no more than 13

residents (six bedrooms x two residents per bedroom plus one = 13). The applicant requests an exemption from this requirement that will allow each facility to continue at its current occupancy level of 17.

The applicant's counsel did not indicate in the January 29, 2009 letter why the accommodation requested is necessary, but clarified the assertion of necessity via telephone and email to staff on February 12, 2009.

Applicant's counsel asserts that, as to current residents of 1621 Indus, the accommodation is necessary because if a use permit were granted restricting occupancy to 13, current residents would be displaced. Because of financial constraints on the displaced resident's earning capability that result from the resident's disability, the applicant's counsel states that the displaced resident would have no other place to reside in a sober environment.

As to prospective residents of 1621 Indus, the applicant's counsel states that the accommodation is necessary because the prospective residents of 1621 Indus also have financial constraints caused by their disability, and would be unable to afford to rent a dwelling if the additional bed(s) at 1621 Indus were unavailable to them because of the occupancy restrictions of NBMC Section 20.91A.050(C)(2).

Ordinance No. 2008-05 codified the procedures for requesting, reviewing and granting, conditionally granting, or denying all requests for reasonable accommodation in the City of Newport Beach. The Hearing Officer is designed to approve, conditionally approve, or deny all applications for a reasonable accommodation. The ordinance also established required findings, and factors the Hearing Officer may consider when making those findings.

Pursuant to Section 20.98.025(B) of the NBMC, the written decision to approve, conditionally approve, or deny a request for reasonable accommodation shall be based on the following findings, all of which are required for approval.

1. *Finding: That the requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws.*

This finding can be made. The applicant has submitted a statement signed under penalty of perjury that every resident of the facility is in recovery from alcohol addiction. Federal regulations and case law have defined recovery from alcoholism and drug addiction as a disability, because it is a physical or mental condition that substantially impairs one or more major daily life activities.

2. *Finding: That the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.*

*As to current residents of 1621 Indus: This finding can be made.* If a use permit is issued for this facility without the requested accommodation, five current residents of 1621 Indus would have to be removed from the facility in order comply with the terms of

the use permit. The applicant reported in its application that the average length of stay for residents of this facility is six months; the applicant later verbally informed staff that residents stay six months to one year, sometimes longer. Granting the requested accommodation would allow that individual to remain in the dwelling for the remainder of her temporary stay, providing that individual with the opportunity to continue to live in her current dwelling for the necessary limited period of time.

*As to prospective residents of 1621 Indus: This finding cannot be made.*

Applicant states that it charges monthly fees on a sliding scale based on ability to pay, and that the applicant's recovery services are needed services for many persons in recovery from alcoholism. Applicant has submitted an Affidavit of Disability-Related Hardship, signed under penalty of perjury, on behalf of the facility's residents. The affidavit states that before becoming disabled, Yellowstone residents earned an average of \$50,000 per year, and that in recovery the residents are earning an average of \$20,000 per year. It is plausible that persons in early recovery from addiction tend to have lower incomes than they had before addiction temporarily reduced their employment opportunities. This will necessitate shared living arrangements in one form or another. Adding beds, in the case of 1621 Indus, could afford an additional disabled individual the opportunity to use and enjoy a dwelling.

The analysis does not stop at the financial needs of the potential residents, however. Were that the case, the City might be obligated to authorize an unlimited number of residents at the applicant's facilities at greatly reduced rents; the population of recovering alcoholics with financial limitations is vast. Even the Ninth Circuit has noted that mandating lower rents for disabled individuals would probably not be considered a reasonable request. (See *Giebeler v. M&B Associates*, 343 F.3d 1143, 1154 (9th Cir. 2003))

NBMC Section 20.98.025(C) permits the City to consider the following factors in determining whether the requested accommodation is necessary to provide the disabled individual an equal opportunity to use and enjoy a dwelling:

A. *Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability.*

Staff does not question the need for sober living homes, nor the fact that persons with a disability must have the opportunity to use and enjoy a dwelling. If the requested accommodation is granted, a slightly higher number of the applicant's current and potential clients will be able to live in a home in a single-family neighborhood with other recovering alcoholics. This is a situation that can affirmatively enhance the quality of life of a person in recovery from addiction, unless overcrowding of the facility or institutionalization of the neighborhood interferes with the residents' re-integration into society. The applicant's sliding scale of rental rates offers a sober living environment to residents who might not otherwise be able to afford to live in a single-family home in this area.

*B. Whether the individual or individuals with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation.*

*As to current residents of 1621 Indus:* If the use permit is granted and the accommodation is denied, five residents will be displaced from their temporary home.

*As to prospective residents of 1621 Indus:* The applicant has not submitted information on whether the facility at 16211 Indus is currently operating at full census, or whether it has a waiting list of potential residents. However, if all of the applicant's Yellowstone facilities are running at full census with a waiting list of potential residents who can not afford to reside in a sober environment in any of the vacant beds in other facilities within the city, then denying the accommodation could deny prospective residents the opportunity to live in a sober living environment.

*C. In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants.*

The applicant states that each facility requires 15 residents in order to be financially viable, and provides a general summary of average income and expenses for all four facilities. In some federal cases in which a sober living or other group home made a similar statement in support of its request for an accommodation allowing additional residents, courts found that the accommodation should be granted. However, the courts generally consider more detailed, verified financial information to reach that conclusion. (See *Oxford House-Evergreen v. City of Plainfield*, 769 F.Supp. 1329 (1991))

The applicant has not submitted financial information specific to each facility, but it has supplied an average cost analysis for its four facilities overall. The analysis was not signed under penalty of perjury, and although staff requested it, the applicant did not submit specific evidence such as mortgage statements or utility bills by the date of this report. If a residential recovery home is adding residents for its own financial advantage rather than to accommodate the financial limitations of the residents, the City is not obligated to grant the requested accommodation.

*D. In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.*

In 2007, City staff estimated that there were more than 315 sober living beds in the city (these are exclusive of the up to 213 ADP-licensed treatment beds). These numbers were compiled before applicant's facilities, with a total of 58 sober living and eight staff beds, were added to the city's supply. Operators of many sober living facilities within the city have reported decreased census and vacant beds, which could provide potential Yellowstone clients with an equal opportunity to live in a sober living environment

without granting the accommodation. Further, a recent agreement with Sober Living by the Sea, Inc., authorized SLBTS to provide up to 204 beds citywide. However, many of these alternate sober living beds are probably not offered on a sliding fee scale based on ability to pay. The evidence does not support the applicant's contention that treating residents of its facility as a Single Housekeeping Unit will change the availability of the existing supply of facilities of a similar nature, or afford them a substantially greater access to an equal opportunity to live in a residential setting.

Even if the applicant provides housing for the disabled, and even if the requested accommodation is necessary, the City is not required to grant a request for accommodation that is not reasonable. Cities may find a requested accommodation unreasonable if it either (1) imposes an undue financial or administrative burden on the city, or (2) results in a fundamental alteration in the nature of a city program, often described as "undermining the basic purpose which the requirement seeks to achieve."

3. *Finding: That the requested accommodation will not impose an undue financial or administrative burden on the City as "undue financial or administrative burden" is defined in Fair Housing Laws and interpretive case law.*

*As to current residents of 1621 Indus: This finding can be made.* Allowing five additional beds on a temporary basis at the facility would not impose an undue financial or administrative burden on the City. Applicant states that the average length of stay for individual residents is 6 months. It creates little burden on the City to allow one of the current residents of 1621 Indus to complete her stay at the facility. Upon her departure, the facility's bed count will be within the range contemplated by the operating standards of the NBMC. The primary administrative burden on the City would be ensuring compliance.

*As to prospective residents of 1621 Indus: This finding can be made.* Allowing five extra beds at this facility would not create a currently identifiable undue financial or administrative burden on the City. However, staff makes this finding with caution, because applicant is requesting similar accommodations at each of its facilities. If all use permits and reasonable accommodation requests are granted, this would create a total of 16 residents in excess of the highest number permitted for the four facilities by the operating standards of the NBMC.

4. *Finding: That the requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program, as "fundamental alteration" is defined in Fair Housing Laws and interpretive case law.*

*As to current residents: This finding can be made.* Allowing five additional beds on a temporary basis at the facility would not result in a fundamental alteration in the nature of the City's zoning program. Applicant states that the average length of stay for individual residents is 6 months to one year. It does not fundamentally undermine the nature of the City's zoning program to allow one of the current residents of 1561 Indus

to complete her stay at the facility. Upon her departure, the facility's bed count will be within the range contemplated by the zoning program.

*As to prospective residents:* This finding cannot be made. Permanently allowing five additional beds in excess of the highest number allowed under the operational standards of the NBMC could undermine the basic purpose which the requirement seeks to achieve. The basic purpose of the bed count limits is to draw a line at a reasonable density for a business providing residential recovery services within a residential neighborhood. Five additional beds can undermine the fundamental purpose of the zoning program, unless Yellowstone's program impacts are eliminated or substantially reduced at other facilities.

Appellant may argue that five extra beds does not undermine the basic purpose the bed count restriction seeks to achieve, but the line must be drawn somewhere. The City Council found that that line was two residents per bedroom plus one additional resident. These regulations are in place to ensure that the fundamental purposes of the Zoning Code can be achieved, and so that secondary impacts of the higher density residential care facilities on the surrounding neighborhood can be mitigated.

Staff is also concerned that if use permits are granted at each facility, and each facility receives the reasonable accommodation requested here, the extra 16 individuals could trigger an overconcentration that contributes even further to the change in the character of the neighborhood. The residents living in five recovery facilities located between 100 and 400 feet from each other are likely to create a quasi-institutional environment within the neighborhood. This will not benefit either the surrounding neighborhood or the recovering individuals attempting to reintegrate into the lifestyle found in a residential neighborhood.

In a joint statement on the Fair Housing Act, the Department of Justice and the Department of Housing and Urban Development have recognized it would adversely affect persons with disabilities and would be inconsistent with the object of integrating persons with disabilities into the community if a neighborhood came to be composed largely of group homes. They agree that it is appropriate to be concerned about the setting for a residential care facility, and that a consideration of overconcentration may be considered in this context.

Pursuant to Section 20.98.025(D) of the NBMC, the City may also consider the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the City's zoning program:

A. *Whether the requested accommodation would fundamentally alter the character of the neighborhood.*

Staff acknowledges a petition stating "Yellowstone is a good neighbor" was presented to the City, signed by four residents of Pegasus Street (where one of the other facilities of applicant is located). However, the petition was countered by letters, emails and phone



calls from the facilities' neighbors reporting increasing negative secondary impacts on the neighborhood as the applicant established more facilities in recent years. The letters of support, the letters of complaint, and the applicant's submissions do not indicate which Yellowstone facility the impacts are reported (or denied) for. Therefore, staff will analyze the reported impacts as if they apply to each facility equally. The impacts reported include:

- Litter in the neighborhood which complainants attribute to the applicant's facilities, including cigarette butts, soda cans, and beer cans and bottles;
- Family and other visitors to the facilities;
- Facility residents traveling in groups between one facility and the others;
- Meetings held regularly at one or more of the applicant's facilities, with outside attendees;
- Excessive use of on-street parking by facility residents and their guests; and
- Decline in property values in the neighborhood.

Due to a number of factors, including general fluctuations in the real estate market, staff is reluctant to speculate whether any decline in property values is a direct result of the operation of applicant's facilities. This consideration was not included in staff's analysis.

However, a number of the neighbors' allegations appear credible, and directly contradict representations made to the City by the applicants. Specifically, the applicant has stated in its reasonable accommodation applications and supplemental communications that:

- There are no outside visitors allowed at the facility;
- Residents are not permitted to have cars while they reside at the facility and rely on public transportation, carpools with the resident managers to get to the full-time jobs which the applicant states all residents have, and facility vans to get to treatment facilities and church (although the May 20, 2008 use permit application stated that this facility then allowed up to four resident vehicles onsite); and
- No interaction between the four facilities operated in close proximity by the applicant is permitted.

Based on the other misstatements and inconsistencies in the information supplied by the applicant in its use permit and reasonable accommodation applications, staff is inclined to view the applicant's representations about restrictions on visitors, cars and facility interaction with skepticism.

In particular, staff is not sure the applicant's statement about its "no visitors" policy is credible, because neighbors report visitors are common, and because one of the letters of support submitted by a former Yellowstone resident said, "I come to Yellowstone every week and am still a part of this place still to this day . . . 6 years later. I hope it is here for other girls to come back and work with the newcomers the way I have been given the chance too." Another former resident wrote, "Yellowstone is the place that I will continue to come back to and visit the new girls who are struggling the way I did."

(Exhibit 6) (Note: applicant's attorney states that these letters refer to meetings at another Yellowstone facility in Costa Mesa.)

The applicant's possible misstatements of easily verifiable facts (such as policies about no meetings, no visitors, and no inter-facility interaction), and early written and oral representations that two of the facilities held ADP licenses (which they never had), causes staff concern about the overall responsibility of the operator, and its ability to successfully manage both its residents and the negative impacts its facilities have on the surrounding neighborhood.

Allowing facilities that are not well run to operate with a high concentration of residents can lead to a further alteration in the character of the neighborhood. If a use permit in this location is granted, it may be necessary to scale back rather than expand the population of the facility, and increase supervision and enforcement of existing house rule to mitigate the impact of the facility on the surrounding neighborhood.

Applicant's counsel has been informed of the inconsistencies in the applicant's submitted materials, and will submit additional information addressing the inconsistencies. On February 12, 2009, applicant's counsel informed staff by telephone that:

- Meetings referenced in Yellowstone alumni letters of support occur only at Yellowstone's Costa Mesa facility, and there are no meetings held at the Newport Beach facilities.
- There has been a change in policy since the original application for reasonable accommodation was submitted in May 2008. Personal vehicles are no longer allowed at 1561 Indus. Only the two resident managers may have vehicles in the neighborhood, which must be parked onsite.

Letters from facility neighbors indicate this may not be the case. Public testimony at the hearing will allow the hearing officer and staff a clearer picture of the actual situation.

*B. Whether the accommodation would result in a substantial increase in traffic or insufficient parking.*

**Parking** - The applicant stated in its original reasonable accommodation application for this property (May 20, 2008) that facility residents were permitted to have four personal vehicles at the property. (This application also stated that the facility at 1621 Indus had 12 residents instead of the 18 referenced in other applications and correspondence – the original 1621 Indus reasonable accommodation applications appear to have been submitted with the 1561 Indus use permit application, and vice versa). The use permit application stated that no residents except the two resident managers have personal vehicles which they park onsite. Later correspondence and conversations with the applicant's attorneys indicated that facility policy has changed, and that now no resident vehicles are permitted onsite at any facility, and that only the two resident staff members would be permitted vehicles. If residents are not allowed personal vehicles in

the neighborhood, then there should not be a substantial increase in insufficient parking as a result.

However, the weekly meetings and weekend visitors reported by neighbors and former residents of the facilities do appear to impact neighborhood parking to an excessive degree. (Letters from the public say that meetings occur, but do not indicate which of the facilities hold meetings.)

Three other facilities operated by the applicant are located in the same neighborhood at a distance that varies from 100 to 300 feet from each other. If requested reasonable accommodations are granted for all four of applicant's facilities, 16 facility residents in excess of the operating standards would be allowed. The operating standards already limit the overall population at the four facilities to 50. The cumulative impact of having 16 extra residents in more than one facility operating within a very restricted distance could result in increased traffic and parking demands.

**Traffic and Generated Trips** – The Institute of Transportation Engineers (ITE) establishes and publishes standards for trip generation rates based on the use classification of a site. In the case of a single family dwelling, the standard trip rate is based on 9.57 average daily trips per dwelling. Trip rates for residential care facilities are based on 2.74 average daily trips per each occupied bed. Based on these standards, an 18-bed residential care facility would generate approximately 49.32 average daily trips. A 13-bed facility would generate 35.62 average daily trips, arguably an appreciable difference in traffic generation.

5. *Finding: That the requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.*

This finding can be made. A request for reasonable accommodation may be denied if granting it would pose "a direct threat to the health or safety of other individuals or result in substantial physical damage to the property of others." See 42 U.S.C. § 3604(f)(9). This is a very limited exception and can only be used when, based on the specific facts of a situation, a requested accommodation results in a significant and particularized threat. Federal cases interpreting this exception in the FHAA indicate that requested accommodations cannot be denied due to generalized fears of the risks posed by disabled persons.

## **SUMMARY – REASONABLE ACCOMMODATION REQUEST #2**

The applicant has requested that the facility at 1621 Indus continue to have five beds in excess of that allowed by the operating standards specified in the NBMC operating standards for the duration of the stay of the five extra residents. In accordance with the provisions of Section 20.98.025 of the NBMC, all five findings must be made in order for the Hearing Officer to approve a request for Reasonable Accommodation.

*Current Residents:* All five findings were made as to the current residents of 1621 Indus. I Staff recommends that if a use permit is granted for this facility, the Hearing Officer also grant the requested accommodation as to the current residents only.

*Prospective Residents:* Findings 1, 3 and 5 can be made with respect to the additional prospective residents at this facility. However, Findings 2 and 4 cannot be made. All five findings must be made in order for the Hearing Officer to grant the use permit. If a use permit is granted for this facility, staff recommends that the Hearing Officer deny this accommodation request.

**Reasonable Accommodation Analysis #3 – Request to be Exempted From the City's Use Permit Application Fee Requirement.**

The applicant has stated that, as a non-profit organization that relies on contributions from the community to keep it from operating at a loss, paying the use permit application fee deposit presents a financial hardship. Staff offered a payment plan to enable the applicant to pay the application fee within a reasonable period of time. In lieu of the payment plan, the applicant has requested an exemption from the \$2,200 use permit application deposit required to process the use permit application submitted for this facility.

NBMC Chapter 3.36 sets forth the fee schedule for municipal services, and mandates 100% cost recovery for services when the fee schedule does not set forth a lower rate of recovery. Use permits processing is not one of the services that are generally provided at a rate below 100% cost recovery NBMC Section 20.90.030 states that applications for discretionary approvals, including use permits, shall be accompanied by a fee as established by resolution of the City Council.

Federal courts have periodically reviewed whether the financial limitations of disabled individuals must be considered when analyzing reasonable accommodation requests, with inconsistent results. The Ninth Circuit has indicated that some disability-related financial constraints must be considered when the request is reasonable. As with all reasonable accommodations, the analysis of whether a requested accommodation from financial policies is reasonable must be determined on a case-by-case basis.

The applicant has submitted a signed Affidavit of Disability-Related Financial Hardship that gives general information on the pre- and post-disability average income range of typical facility residents. The applicant has also submitted an unverified statement of the average income and expenses related to the four facility properties, discussed above in Reasonable Accommodation Request #2, Finding Two (C).

**SUMMARY – REASONABLE ACCOMMODATION REQUEST #3**

Although staff requested further verifiable financial information from the applicant, this information had not been received at the time this report was prepared. Therefore, staff is unable to perform an accurate analysis of the actual financial needs of the applicant

at this time. Staff recommends that the Hearing Officer continue this portion of the applicant's reasonable accommodation requests to a date certain, to allow the applicant time to submit and staff to analyze verifiable financial information.

### **RECOMMENDATION**

Staff recommends that the Hearing Officer conduct a public hearing, receive testimony from the applicant, the City of Newport Beach and its legal counsel, and members of the public. At the conclusion of the public hearing, staff recommends the Hearing Officer:

1. Approve the use permit application with a reduction in the number of beds (from 17 to 15) within the facility based on the findings discussed in this report, and provide direction to staff to prepare a resolution of approval of Use Permit No. 2008-037.
2. Deny the request for reasonable accommodation for the residents of the facility to be treated as a single housekeeping unit subject to the findings discussed in this staff report.
3. If a use permit is granted for this facility, staff recommends that the requested accommodation for an exemption from the occupancy restrictions of NBMC Section 20.91A.050 be granted as to the current residents. As to future residents of this facility, staff recommends continuance to a date certain pending receipt of additional financial information.
4. Staff recommends a continuance to a date certain for the request for reasonable accommodation for an exemption of the application filing fee requirement pending receipt of additional financial information.

### **Environmental Review**

This activity has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities). This class of projects has been determined not to have a significant effect on the environment and is exempt from the provisions of CEQA. This activity is also covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section 15061(b)(3) of the CEQA Guidelines. It can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment and therefore it is not subject to CEQA.

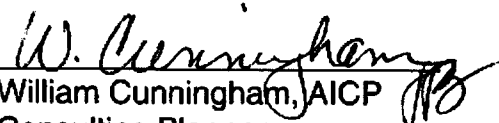
### **Public Notice**

Notice of this hearing was published in the Daily Pilot, mailed to property owners and occupants within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item

appeared upon the agenda for this meeting which was posted at City Hall and on the City website.

Prepared by:

Submitted by:

  
William Cunningham, AICP  
Consulting Planner

  
Dave Kiff  
Assistant City Manager

### EXHIBITS

1. Findings Chart
2. Initial Application Submittal dated May 20, 2008
3. Notices of Incomplete Application dated June 19, 2008, November 7, 2008, and January 14, 2009, Including Subsequent Submittals
4. Site Plan/Floor Plans
5. Fire Marshal Correspondence and Code Analysis Submittal
6. Letters in Support (submitted by Applicant) and Letters in Opposition
7. Application for Reasonable Accommodation dated August 22, 2008
8. Applicant's Supportive Documentation submitted for Reasonable Accommodation
9. Applicant's E-mail dated January 28, 2009
10. Applicant's Additional Correspondence dated February 13, 2009
11. Additional Letters of Opposition Received After February 13, 2009

**SUBJECT PROPERTY: 1621 INDUS STREET (YELLOWSTONE FIRST STEP HOUSE)**  
**PART 1 – FINDINGS REQUIRED TO APPROVE THIS GROUP RESIDENTIAL USE PERMIT**

YS 00327

NBMC Code Section	What the Finding Says, Generally	Is this Finding met without Conditions?	Do Conditions Allow this Finding to be Met?
<b>\$20.91A.035 – A.1.</b>	The use's location is in accord with the objectives of the Code and the purposes of the district. Finding encompasses (1) whether this application is appropriate in this district; and (2) whether or not it will result in overconcentration.	1 – Yes, as an existing facility, this facility operator is entitled to apply for and receive a Use Permit. 2 – Yes – but other facilities must not receive use permits.	Yes
<b>\$20.91.035 – A.2.</b>	That the use and proposed conditions will allow the use to be consistent with the General Plan and not be detrimental to public health, safety, peace, morals, comfort, or welfare of persons residing in or adjacent to the neighborhood of the use, and won't be detrimental to the properties or improvements in the vicinity or to the general welfare of the City.	No.	Yes, with conditions as follows: - Bed count goes from 17 to - Operational/Management - No assembly uses - Residents may not have pe
<b>\$20.91.035 – A.3.</b>	That the proposed use complies with the provisions of the code.	No.	Yes, with lowered bed count an
<b>\$20.91.035 – A.4.</b>	That the proposed use complies with Chapter 20.91A	No.	Yes, with lowered bed count an
<b>\$20.91A.060 – A.</b>	That the use conforms to Section 20.91A.050 relating to operations and management standards (smoking, licensure, residents per bedroom, etc.)	No.	Yes – Conditions include standards (smoke control, management of medical waste plan, more).
<b>\$20.91A.060 – B</b>	Project includes sufficient on-site parking, traffic mitigated to a level of insignificance.	No	Yes, with lowered bed count an
<b>\$20.91A.060 – C</b>	Property and structures are physically suited to accommodate the use.	Yes, Generally	Yes
<b>\$20.91A.060 – D</b>	Use will be compatible with the character of the neighborhood and won't create an overconcentration of residential care uses.	No.	Yes, provided that other facilities
<b>\$20.91A.060 – E</b>	Buses and vans won't generate traffic substantially greater than that normally generated by residential activities in the surrounding area.	Yes, provided that residents are not allowed vehicles.	Condition to be added limiting having personal vehicles, more
<b>\$20.91A.060 – F</b>	Delivery of goods is made within compatible hours and won't adversely impact the neighborhood.	Yes, provided that delivery hours are adhered to.	Condition to be added requiring limitations.
<b>\$20.91A.060 – G</b>	Trash collection – commercial if necessary and done within hours that do not adversely impact the neighborhood.	No.	Yes. Condition: - Require use of a commercial directed at a later date by



# PART 2 – FINDINGS REQUIRED TO APPROVE REASONABLE ACCOMMODATION REQUESTS

328 YS 00328

Request Information & NBMC Code Sections	General Explanation of Required Finding	Can the finding be made?	Staff recommendation
Request #1 – Residents treated as a single Housekeeping Unit (NBMC §20.03.030)			
Section 20.98.025(B) – Finding #2	<p>Is the accommodation requested by or on behalf of disabled individuals?</p> <p>Is the accommodation requested necessary to provide one or more disabled individuals with an opportunity for housing?</p> <p>Will the accommodation enhance the quality of life of one or more disabled persons?</p> <p>If the accommodation is not granted, will persons with disabilities be denied a housing opportunity?</p> <p>Is the accommodation necessary in light of economic conditions?</p>	<p>Yes</p> <p>No.</p> <p>Generally, yes.</p> <p>Not supported by evidence provided.</p> <p>Not supported by evidence provided.</p>	
Section 20.98.025(B) – Finding #3	<p>Will the accommodation, if the existing supply of residential care facilities sufficient to provide housing?</p> <p>That the accommodation will not impose an undue financial or administrative burden on the City.</p>	<p>Yes.</p>	
Section 20.98.025(B) – Finding #4	<p>That the accommodation will not result in a fundamental alteration in the nature of the City's zoning program.</p> <p>Will the accommodation fundamentally alter the character of the neighborhood?</p> <p>Will the accommodation cause an increase in traffic or result in insufficient</p>	<p>No.</p> <p>Yes, possibly.</p> <p>Yes.</p>	<p>Inconsistency not allow us to alter.</p>



Section 20.98.025(B) – Finding #5	parking	That the requested accommodation will not result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.	Yes.	
Request #2 – Exempted from requirement of 2 persons/bedroom + 1 (NBM/CSD 091A.050)				If the Hearing for this project the RA request continuing a d applies to pros
Section 20.98.025(B) – Finding #1	Is the accommodation requested by or on behalf of disabled individuals?	Yes		
Section 20.98.025(B) – Finding #2	Is the accommodation requested necessary to provide one or more disabled individuals with an opportunity for housing?	Yes for current residents of 1621 Indus. No for prospective residents of 1621 Indus.	Yes	Staff does not have enough information to make a conclusion on prospective residents
	Will the accommodation enhance the quality of life of one or more disabled persons?	Yes, for current residents. Staff does not have enough information to make a conclusion on prospective residents.		
	If the accommodation is not granted, will persons with disabilities be denied a housing opportunity?	Not supported by evidence provided.		
	Is the accommodation necessary in light of economic conditions?	Not supported by evidence provided.		
	Without this accommodation, is the existing supply of residential care facilities sufficient to provide housing?	Yes, for both current and prospective residents.		
Section 20.98.025(B) – Finding #3	That the accommodation will not impose an undue financial or administrative burden on the City.	Yes, for current residents provided that the stay is short.		Permanently a Code allows the purpose of the
Section 20.98.025(B) – Finding #4	That the accommodation will not result in a fundamental alteration in the nature of the City's zoning program.	No, for prospective residents.	Yes, possibly.	Inconsistency not allow us to alteration.
	Will the accommodation fundamentally alter the character of the neighborhood?			

Section 20.98.025(B) - Finding #5		Will the accommodation cause an increase in traffic or result in insufficient parking?	This depends on the outcome of other accommodation requests.	A cumulative homebound and parking
Request #3 - Exemption from the permit application fee to cover cost of reviewing application (NBMC §20.90.020 and Chapter 3.36)		That the requested accommodation will not result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.	Yes.	
Not enough data		Not enough data	Not enough data	Staff recommend

# # #

**EXHIBIT 2**

**INITIAL APPLICATION SUBMITTAL**

Mark S. Adams  
Scott R. Albrecht  
Ryan N. Burns  
Loren A. Deters  
Howard Goldstein\*  
Matthew A. Goldstein\*\*  
Beatriz M.G. Gordon  
Philip W. Green  
Megan G. Mayer  
Herbert N. Samuels\*\*\*  
Hugh A. Sanders  
William L. Steel  
Martin J. Stein  
Isaac R. Zfaty

**SGSA**  
LAWYERS

Senior Counsel  
Jeffrey S. Grider

**RECEIVED**

**MAY 20 2008**

Office of the  
City Manager

\*Also admitted in Nevada  
\*\*Also admitted in Arizona  
\*\*\*Also admitted in New York and Florida

May 20, 2008

8005-003

**HAND DELIVERED**  
**CITY OF NEWPORT BEACH**  
3300 Newport Boulevard  
Newport Beach, CA 92658-8915

**Re: Ordinance 2008-5 (the "Ordinance") Use Permit Application; Reasonable Accommodation; Federal Exemption Permit; Non-Conforming Use Application**

To Whom It May Concern:

This firm is general counsel for **Yellowstone Women's First Step House, Inc. ("Yellowstone")**. Please direct all future correspondences regarding this matter to this office.

Enclosed herewith are the following items:

1. Ordinance 2008-5 Use Permit Application for the property located at 1571 Pegasus, Newport Beach, CA 92707;
2. Reasonable Accommodation Application for the property located at 1571 Pegasus, Newport Beach, CA 92707;
3. Ordinance 2008-5 Use Permit Application for the property located at 1621 Indus St., Newport Beach, CA 92707;
4. Reasonable Accommodation Application for the property located at 1621 Indus St., Newport Beach, CA 92707;
5. Ordinance 2008-5 Use Permit Application for the property located at 20172 Redlands Dr., Newport Beach, CA 92707;

6. Reasonable Accommodation Application for the property located at 20172 Redlands Dr., Newport Beach, CA 92707;
7. Ordinance 2008-5 Use Permit Application for the property located at 1561 Indus, Newport Beach, CA 92707; and
8. Reasonable Accommodation Application for the property located at 1561 Indus, Newport Beach, CA 92707.

Additionally, by and through the materials included herein (including this correspondence), Yellowstone seeks a Federal Exemption Permit and a grant of Non-Conforming Use for the continued use of the above referenced four properties (the "Properties") as sober living homes.

Yellowstone operates the Properties as not for profit homes where individuals with drug and alcohol addictions can live in a sober and supportive environment. As you know, these individuals are protected under, *inter alia*, the Americans With Disabilities Act (the "ADA") and the Federal Fair Housing Act Amendments (the "FHAA"). This application is brought by Yellowstone (the "Applicant") on the behalf of all of the disabled individuals who reside at the Properties, both currently and prospectively.

It is worth noting that Yellowstone is less than confident that the instant applications are necessary. Yellowstone hereby submits these applications out of an abundance of caution and in a continued effort to remain compliant with all applicable Newport Beach ordinances.

With respect to each of the Properties, the following facts apply:

The Properties were originally purchased in the unincorporated area of Orange County known as Santa Ana Heights. Recently, the Properties were annexed by the City of Newport Beach. Further, Ordinance 2008-5 was signed into law. As a result, Yellowstone has decided to submit the referenced applications under Ordinance 2008-5 and Municipal Code sections 20.62.010, et seq., 20.91.010, et seq., 20.91A.010, et seq., and 20.98.010, et seq.

The Ordinance requires that a number of questions be addressed in the permit application, and also in connection with the request for reasonable accommodation. In response to those requirements, Yellowstone provides the following specific information: Yellowstone does not provide medical services, or any other type of health care, at any of the Properties. Rather, the Properties are available as separate and distinct sober living homes of residence for disabled individuals who seek to live in a house with other similarly disabled individuals (who have made a commitment to sobriety), in community, and with the purpose of maintaining that sobriety and addressing their respective disabilities.

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 Properties addressed herein. A sample of the literature on sober living homes is attached to the applications. Without the sober living homes addressed in these applications, i.e., the Properties, the individuals who live at these homes 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 these homes 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, these Properties affirmatively enhance 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 these Properties, it will suffer extreme economic hardship. Moreover, with any prospective closure of any of the Properties as sober living homes, the individuals with disabilities who live in these homes will be without accommodations.

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 Properties strictly observe these requirements. Approval of these applications would not alter the nature of the municipal code or impose any financial or administrative burden on the City. These Properties have been operating under these same general guidelines for between two and seven years (depending upon the property) without imposing any burden upon the County or City. The residential character of the neighborhoods in which these Properties are located will not be altered in any way with the approval of these applications. In fact, there is no non-residential use at any of the Properties. Moreover, there is no campus established through the grant of these applications. Residents from any one Yellowstone property are not allowed at any of the other Properties, and there are no functions that include all residents. Yellowstone has never been cited by any municipality - at any of the Properties - 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.

On a separate but related matter, Yellowstone would like to apply for a Federal Exemption Permit ("FEP") to continue its operations, pursuant to Municipal Code section 20.91.035, et seq. We have been unable to locate any FEP forms on the City's website. Yesterday, Ms. Leisha Mello of Yellowstone personally appeared at City Hall to attempt to obtain such forms. She was informed by an individual identified as Mr. Alford, a senior planner, that the FEP was no longer available, and that the municipal code as well as Ordinance 2008-5, had been amended to exclude the FEP. After re-reviewing the municipal code, as well as the

City of Newport Beach

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Ordinance, this does not appear to be the case. Accordingly, we would hereby request that an FEP application be sent to us at your convenience. Alternatively, to the extent that the FEP application requirements are satisfied with the information provided herein, we would request that these applications be deemed FEP requests.

Lastly, we would note that Yellowstone would like to simultaneously apply for a continued use permit under the non-conforming use statutes (Municipal Code section 20.62.010 et seq.). As with the FEP, Ms. Mello was informed that no forms currently exist for application under this code section. That section provides that "Uses, buildings, structures or lots that become nonconforming due to reclassification, ordinance changes, or annexations may be continued subject to the provisions of this Chapter." As discussed above, each of the Properties addressed in this application will fit this definition in the event that a use permit is not granted. In that case, Yellowstone will have become nonconforming due to reclassification and the enactment of Ordinance 2008-5. In reviewing the factors that are to be considered, they are similar in nature to those required for the Use Permit and the Reasonable Accommodation application. Accordingly, Yellowstone incorporates the materials provided herein as they relate to this instant request for a non-conforming use permit. Of note, section 20.62.030D requires that "sufficient documentation" be provided to establish that the structure was lawfully established. Given that: 1. The City annexation of the Santa Ana Heights region is well-documented; 2. The public record duly reflects that the Properties at issue here are a part of such annexation; and 3. Ordinance 2005-8 may have rendered Yellowstone's use of these Properties noncompliant; Yellowstone sees no need to submit any additional documentation to the City. If there are any documents that are required by the City in undertaking this analysis, however, which are not already in the City's possession, please advise us of same, and we will diligently supply any such documentation.

In sum, Yellowstone submits that it provides a vital service for the City of Newport Beach at the Properties while, at the same time, avoiding any burden whatsoever to the City or its residents. Yellowstone brings these applications in a continued effort to ensure that the City of Newport Beach is fully apprised of all of its operations, and that there are no misconceptions about Yellowstone or its character. As discussed above, we have attached to each individual application some published materials that support the contentions made in these applications. We are further committed to provide the City with any documentation that it requires in connection with these applications (subject to any privacy considerations). This correspondence is incorporated by this reference into each individual above-referenced application.

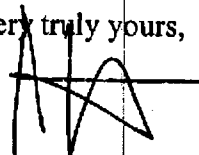
City of Newport Beach

May 20, 2008

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As always, if you have any questions regarding these applications, please feel free to contact us.

Very truly yours,

A handwritten signature in black ink, appearing to be 'ISAAC R. ZFATY', written over a horizontal line.

ISAAC R. ZFATY

IRZ/jn

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





## CITY OF NEWPORT BEACH

### **Request for Reasonable Accommodation Request Worksheet**

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

Application Number \_\_\_\_\_

The purpose of a request for "Reasonable Accommodation" is to ensure compliance with City zoning regulations in the context of State and Federal Fair Housing law. Reasonable Accommodation is used here just as the term is used in the Federal Fair Housing Act Amendments (FHAA) and the case law implementing the FHAA. Reasonable Accommodation shall be approved so long as there is substantial evidence in the administrative record that establishes that all of the following findings for approval have been made:

1. The exception sought is necessary to mitigate a handicap-related barrier to housing; and
2. The living group is not residing in the Dwelling or Dwellings as a Single Housekeeping Unit.
3. Reasonable Accommodation, if approved, would not require a fundamental alteration in the nature of a municipal program nor impose an undue financial or administrative burden on the City. To the extent authorized by law, the factors that a Hearing Officer or the City Council on review or appeal may consider in deciding whether to grant Reasonable Accommodation include, but are not necessarily limited to:
  - (i) Whether the nature and/or extent of vehicular traffic, such as the frequency or duration of trips by commercial vehicles, would be altered to such an extent that it would be contrary to, or violate, any relevant provision of the Newport Beach General Plan, Specific Plan, Planned Community Text or Municipal Code if reasonable accommodation was approved. The intent of this provision is to ensure that the approval of Reasonable Accommodation does not tend to change the residential character of the neighborhood; or
  - (ii) Whether development or use standards established in the Newport Beach Municipal Code applicable to other residential uses in the neighborhood would be violated. The intent of this provision is to ensure that the use of the property is not being substantially changed, for instance, by adding unpermitted, non-residential uses to a residential use in a residential zone; or
  - (iii) Whether a Campus would be established in a residential zone if the Reasonable Accommodation request was granted.

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

1. How many dwelling units exist on the property and how many bedrooms are within each unit?  
There is one dwelling unit with five bedrooms.
2. How many persons will reside at the location for which you are seeking this permit?  
12
3. How many clients reside within each dwelling unit and how many reside in the total facility?  
12
4. What is the anticipated average length of stay for residents?  
12 months (minimum)
5. 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? Yes. The individuals who reside at the property are all disabled under the Americans with Disabilities Act.
6. Are any of the clients below the age of 18 years old, if so, how many? No.
7. Are any of the clients provided any type of medical care, non-medical services or supervision on site? If so, please describe. No medical care or non-medical services are provided.
8. How many caretakers or other staff will reside at the location? How many additional caretakers or staff will visit the facility on a daily basis? Weekly basis? Two staff members reside at the property. There are no other "caretakers" or "staff" that will visit the facility on a daily or weekly basis.
9. What is the operational nature of the facility (i.e. group home, sober living environment, recovery facility, varying types of non-medical care for persons in need of certain services essential for sustaining the activities of daily living)? The property is a sober living home. There are no medical services provided at this property. This sober living home serves the function of providing a sober living environment for those who are disabled under the American With Disabilities Act.
10. Describe available on-site parking resources and the staff and visitor parking plans. The property has a two-car garage and a four parking space driveway. This parking is ample for all of the property's needs. Four of the residents at the property have automobiles and the remainder rely upon public transportation and/or carpooling.
11. Describe client's ability to drive and operate a vehicle while residing at the facility. The tenants' vehicles are allowed to have vehicles, but they must be approved. They may only be parked and/or utilized at the property upon prior approval, and they may only park in the garage and driveway.

12. Does the facility provide transportation services (i.e. transportation to school, jobs, medical treatment, or other activities)? If yes, please describe the frequency, duration and schedule of services and where the vehicles are stored? No.
13. Are any physical alterations or changes proposed to the property or needed to accommodate the use? No.
14. Is counseling provided to clients? If so, is it provided on-site or off-site? If on-site, does counseling only include clients that reside within the unit or does it include other individuals? If counseling is provided off-site, where is it provided? No.
15. Please list location and describe operational characteristics of other facilities operated by same applicant (or owner or business or non-profit entity) within the City. Will this facility provide office functions to serve other facilities owned or operated by the same entity? The four homes operated by the applicant in the city of Newport Beach are: 1571 Pegasus, Newport Beach, CA 92707, 1621 Indus St., Newport Beach, CA 92707, 20172 Redlands Dr., Newport Beach, CA 92707, 1561 Indus, Newport Beach, CA 92707. Each facility is stand-alone, and no office functions are provided by any one facility for the benefit of another.
16. How do the clients/residents interact with each other within the unit? Is there joint use of common areas? Do clients share household activities and responsibilities such as meals, chores, and expenses? Will goods or services that require the use of delivery vehicles be provided to the facility? The residents at the property reside separately at the property and interact within the property. There is individual use of common areas. The residents are responsible for their own meals, expenses and chores. Each individual resides at the property subject to a separate contractual arrangement with the applicant. There are no delivery vehicles required at the property.
17. If the facility is operated within multiple dwelling units on a single property, does each unit operate independent of each other or do any units serve a function for the residents of other units (i.e. one unit serving the function of food preparation, office, laundry, group meeting space, counseling space, etc.). There are not multiple dwelling units at the property.
18. What types of licenses are required to be obtained from other agencies to operate this use (i.e. Department of Social Services, Department of Alcohol and Drug Programs, etc.)? If any, describe agency, type, and capacity of licenses. None. The property does, however, have voluntary certification with the Oxford House Carter in Washington D.C.
19. Please explain why the requested accommodation is necessary. is application is brought by the applicant on the behalf of all of the disabled individuals who reside at the property. Each individual resident at the property is considered disabled under the Americans With Disabilities Act and the Federal Fair Housing Act Amendments. The applicant is unsure as to whether the instant request for accommodation is necessary, but the applicant is applying for a reasonable accommodation out of an abundance of caution. The property was originally purchased as an unincorporated area of Orange County. Recently, the property was annexed by the City of Newport Beach. Further, Ordinance 2008-5 was signed into law. As a result, the applicant has decided to ask for a reasonable accommodation under section 20.98.010 et seq. The applicant does not provide medical services or any other type of health

care at the property. Rather, the property is available as a sober living home for individuals who seek to live in a house with other sober individuals (who have a similar disability), in community, and with the purpose of maintaining sobriety and addressing their respective disabilities. The success of sober living homes throughout the United States is well-documented. Similar success has been realized at the property. Without sober living homes, the individuals who live at the property would not have access to sober living homes, and would not be able to afford to live in a sober living home in Orange County. The rent charged to these individuals simply covers the applicant's costs; no profit is realized. The applicant 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 follow these requirements. Approval of this application would not alter the nature of the municipal code and/or impose undue financial or administrative burden on the City. This property has been operating under the same guidelines for two years without imposing any additional burden upon the County or City. The residential character of the neighborhood will not be altered in any way with the approval of this application. Attached hereto, and incorporated herein by this reference, are just some published materials that support the contentions made in this application. There is no non-residential use at the property. There is no campus established through the grant of this reasonable accommodation. Residents from any one property utilized by the applicant are not allowed on any of the other properties, and there are no functions that include all residents. In sum, the applicant provides a vital service for the City of Newport Beach at the property while, at the same time, avoiding any burden to the City and its residents. Importantly, the applicant has never been cited by any municipality – at this property or any other – for any of the complaints set forth specifically in Ordinance 2008-5, Page 4, Paragraph 13.

20. Please attach any house rules or "good neighbor" policies applicable to the proposed facility. All residents at the property follow the City of Newport Beach Good Neighbor Principles, as published on the City's website.
21. What uses will occur on the property that are ancillary, accessory or secondary to use of the property as a residential dwelling? None.
22. Will the facility operator, manager or applicant live on the property? Yes. The manager and assistant manager live at the property.
23. Will any alterations to the internal or external structural form of the residence be made? No.
24. Will any evidence of uses ancillary, accessory or secondary to use of the property as a residential dwelling be visible from off the lot where the facility is located? N/A.
25. Will any equipment or materials needed for uses ancillary, accessory or secondary to use of the property as a dwelling be stored or used on the property outside the residence? N/A.
26. Will any equipment or process be used that will emit radiation or create noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the property for uses ancillary, accessory or secondary to use of the property as a residential dwelling? No.
27. Will the number of parking spaces available to each dwelling unit used by the facility be reduced to less than that required by NBMC Chapter 20.66 (Off-street Parking and Loading) and Section 20.62.060 (Nonconforming Parking)? No.
28. Will the facility create pedestrian, vehicle or truck traffic significantly in excess of the normal amount in the area? No.
29. Will any vehicle associated with uses ancillary, accessory or secondary to use of the property as a residential dwelling be stored or repaired on the facility property? No.
30. Will the facility be open to visitors and clients without prior appointments for uses ancillary, accessory or secondary to use of the property as a residential dwelling? No.

## THE SOBER LIVING NETWORK

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### The Sober Living Network

#### A SOBER HOUSING VISION

Someday there will be **recovery supportive housing and community centers throughout the United States**. These clusters will be developed with a variety that will include individual houses, apartments, and congregate living accommodations. There will be a mixture of housing with normal-cost apartments for recovery veterans and low-cost, supervised shared housing for those in early recovery. In many accommodations there will be specially designed housing sections for women and/or men with children that have play areas and childcare. Sober housing clusters will be designed to accommodate persons who are physically and mentally challenged.

Sober housing clusters will be **recovery-promoting incubators**. The clusters will include meeting spaces to host self-help and educational meetings, recreational, and social events. They will be operated within a democratic culture and a high level of recovery enthusiasm.

These clusters will become **islands of sobriety in our alcohol and drug using society**. Sober housing and community centers will become continuously available as a recovery assistance resource for alcoholics, addicts, and family members. They will be available and noticeable not only to those who are fully into their addiction, but those who are in their earlier or experimental stages. Communities of stable recovering persons can easily absorb newly recovering persons into their community.

Currently many sober living homes are trying to meet the needs of newly recovering persons without the benefit of having a core of stable recovering residents or the management resources to meet their recovery service needs.

The rationale for cluster housing is that the **self-help learning process comes in bits and pieces**. The greater the exposure to a comprehensive recovery environment with many recovery activities and a predominance of recovering people, the greater chance a person has to learn recovery. The need for a balance of recovery experiences became evident when twelve-step meetings dominated by newcomers were not as effective in assisting recovery as those meetings where most members have long-term stable recovery.

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## The Sober Living Network

### COMMUNITY RECOVERY SUPPORT RESOURCES

Community recovery resources offer a practical and cost-efficient way to assist alcoholics, addicts and family members to enter and maintain long-term recovery.

The current alcohol and drug treatment system does not have the capacity to meet the long-term recovery assistance needs required to meet the needs of the many. The treatment system is too heavily invested in short-term treatment and too little invested in the development of safe and healthy community recovery promoting environments and activities that are constantly available to support recovery and life style enhancements.

Alcohol and drug treatment programs have been formatted by government and academic institutions into quality "people processing" treatment stations that are now too costly per person assisted to significantly reduce addiction problems.

Community recovery is based on the postulate that safe and sober places filled with healthy recovery activities provide the environments, motivation and recovery tools for alcoholics, addicts and family members to assist (process) themselves. Operators maintain healthy and safe environments and promote individual recovery responsibility. Community recovery resources include self-help meetings, Alano clubs-which host self-help activity, community recovery centers, sober living housing, and sober recreational and social events. Community recovery centers are self-service spaces that offer education sessions, host self-help groups, hold social/recreational events and have counseling and therapy available by self-selection. Community recovery centers, activities and housing are easily adaptable to meet the broad ethnic, cultural and physically challenged needs.

Community recovery resources are assisting millions of alcoholics, addicts and family members in recovery from alcoholism and other drug addictions with little or no support from government and health insurance funding sources. Sober living homes, Alano clubs and community recovery centers are primarily created and supported by recovering persons motivated by a call to be of service to others.

**The Sober Living Network**  
P.O. Box 5235, Santa Monica, CA 90409  
(310) 396-5270

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**The National Council on Alcoholism and Drug Dependence** fights the stigma and the disease of alcoholism and other drug addictions.

## Facts and Information

# Alcoholism and Drug Dependence Are America's Number One Health Problem

The cost and consequences of alcoholism and drug dependence place an enormous burden on American society. As the nation's number one health problem, addiction strains the health care system, the economy, harms family life and threatens public safety.

Substance abuse crosses all societal boundaries, affects both genders, every ethnic group, and people in every tax bracket. Scientific documentation defines alcoholism and drug dependence as a disease that has roots in both genetic susceptibility and personal behavior.

## THE SCOPE OF THE PROBLEM

- *There are more deaths and disabilities each year in the U.S. from substance abuse than from any other cause.* <sup>1</sup>
- *About 18 million Americans have alcohol problems; about 5 to 6 million Americans have drug problems.* <sup>2</sup>
- *More than half of all adults have a family history of alcoholism or problem drinking.* <sup>3</sup>
- *More than nine million children live with a parent dependent on alcohol and/or illicit drugs.* <sup>4</sup>

## THE CONSEQUENCES

- *One-quarter of all emergency room admissions, one-third of all suicides, and more than half of all homicides and incidents of domestic violence are alcohol-related.* <sup>5</sup>



- *Heavy drinking contributes to illness in each of the top three causes of death: heart disease, cancer and stroke.* <sup>6</sup>

- *Almost half of all traffic fatalities are alcohol-related.* <sup>7</sup>
- *Between 48% and 64% of people who die in fires have blood alcohol levels indicating intoxication.* <sup>8</sup>
- *Fetal alcohol syndrome is the leading known cause of mental retardation.* <sup>9</sup>

## THE COST

- *Alcohol and drug abuse costs the American economy an estimated \$276 billion per year in lost productivity, health care expenditures, crime, motor vehicle crashes and other conditions.* <sup>10</sup>
- *Untreated addiction is more expensive than heart disease, diabetes and cancer combined.* <sup>11</sup>
- *Every American adult pays nearly \$1,000 per year for the damages of addiction.* <sup>12</sup>

## SO, WHAT CAN BE DONE?

Like other diseases, addiction can be overcome with proper treatment, prevention and more research. By increasing access to care, the costly toll on society and the burden it places on families can be reduced. Research shows conclusively that successful prevention and treatment leads to reductions in traffic fatalities, crime, unwanted pregnancy, child abuse, HIV, cancer and heart disease. Treatment reduces drug use, improves health, improves job performance, reduces involvement with the criminal justice system, reduces family dysfunction and improves quality of life.

The Comprehensive Assessment Treatment Outcomes Registry Data in Ohio have documented dramatic results in decreasing occupational problems, including the following reductions after treatment:

- *Absenteeism decreased by 89%*

- *Tardiness decreased by 92%*
- *Problems with supervisors decreased by 56%*
- *Mistakes in work decreased by 70%*
- *Incomplete work decreased by 81%* <sup>13</sup>

Additionally, a California Study found significant decreased health care costs from before to after treatment in:

- *Hospitalizations for physical health problems (-36%)*
- *Drug overdose hospitalizations (-58%)*
- *Mental health hospitalizations (-44%)*
- *The number of emergency room visits (-36%)*
- *The total number of hospital days (-25%)* <sup>14</sup>

Americans increasingly recognize that alcoholism and drug dependence is a disease with consequences that affect both physical and behavioral health. Diagnostic and treatment services have changed in recent years and modern treatment, when adequately provided, enables a great many people to recover and rebuild productive lives.

It is important that the public be aware of evidence generated by scientific inquiry, clinical evaluation and clinical experience. The evidence demonstrates that treatment for alcohol and other drug abuse works. Treatment not only saves lives, it also saves dollars that would otherwise be spent in other areas of medical care and social services. For every dollar spent on addiction treatment, seven dollars is saved in reduced health care costs.<sup>15</sup>

The National Council on Alcoholism and Drug Dependence is dedicated to fighting the stigma and the disease of alcoholism and other drug addictions by providing education, information, help and hope to the public. NCADD advocates prevention, intervention, and treatment through a network of 97 affiliates across the United States. For more information, visit: [www.ncadd.org](http://www.ncadd.org).

Alcoholism and drug dependence are treatable and millions of people achieve recovery.

## SOURCES

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2. "Substance Abuse: The Nation's Number One Health Problem," Institute for Health Policy, Brandeis University, 2001.
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7. National Highway Traffic Safety Administration, Annual Report, 1992.
8. "Substance Abuse: The Nation's Number One Health Problem," Institute for Health Policy, Brandeis University, 1993.
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10. "Substance Abuse: The Nation's Number One Health Problem," Institute for Health Policy, Brandeis University, 2001.
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13. Ohio Dept. of Alcohol and Drug Addiction Services, New Standards, Inc., St. Paul, MN, 1994.
14. Gerstein, et al, "Evaluating Recovery Services: the California Drug and Alcohol Assessment," Sacramento, 1994.
15. Ibid.

*Compiled 6/02*



**National Council on Alcoholism and Drug Dependence, Inc.**

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244 East 58th Street, 4th Floor, New York, NY 10022  
phone: 212/269-7797 fax: 212/269-7510  
email: [national@ncadd.org](mailto:national@ncadd.org) <http://www.ncadd.org>  
**HOPE LINE: 800/NCA-CALL** (24-hour Affiliate referral)

## General population

According to data from the 2005 National Household Survey on Drug Use and Health (NSDUH) --

- 112 million Americans age 12 or older (46% of the population) reported illicit drug use at least once in their lifetime
- 14% reported use of a drug within the past year
- 8% reported use of a drug within the past month.

Data from the 2005 survey showed that marijuana and cocaine use is the most prevalent among persons age 18 to 25.

Drug use	Age of respondent, 2004		
	12-17	18-25	26 or older
Marijuana			
Last month	6.8%	16.6%	4.1%
Last year	13.3	28.0	6.9
Cocaine			
Last month	0.6%	2.8%	0.8%
Last year	1.7	6.9	1.5

Source: SAMHSA, Office of Applied Studies, *2005 National Survey on Drug Use and Health: National Findings*, September 2006.

The *Drug Abuse Warning Network* (DAWN) monitors drug-related emergency department (ED) visits for the nation and for selected metropolitan areas. DAWN also collects data on drug-related deaths investigated by medical examiners and coroners in selected metropolitan areas and States.

In 2005, DAWN estimates that nearly 1.4 million emergency department visits nationwide were associated with drug misuse or abuse.

An estimated 816,696 drug-related emergency department visits involved a major substance of abuse. DAWN estimates that:

- Cocaine was involved in 448,481 ED visits.
- Marijuana was involved in 242,200 ED visits.
- Heroin was involved in 164,572 ED visits.
- Stimulants, including amphetamines and methamphetamine, were involved in 138,950 ED visits.
- Other illicit drugs, such as PCP, Ecstasy, and GHB, were much less frequent than any of the above.

Source: U. S. Department of Health and Human Services, SAMHSA, Office of Applied Studies, *Drug Abuse Warning Network, 2005: National Estimates of Drug-Related Emergency Department Visits*. DAWN Series D-29, DHHS Publication No. (SMA) 07-4256, Rockville, MD, 2007.

In 2003, 122 jurisdictions in 35 metropolitan areas and 6 States submitted mortality data to DAWN. The States, which are all new to DAWN, are Maine, Maryland, New Hampshire, New Mexico, Utah, and Vermont. DAWN cannot provide national estimates of drug-related deaths.

In the metropolitan areas, nearly half of drug misuse deaths, on average, involved a major substance of abuse (cocaine, heroin, marijuana, stimulants, club drugs, hallucinogens, or non-pharmaceutical inhalants). Across the 6 States, major substances were reported in about a third of misuse deaths. Still, major substances were reported in 40% to 45% of drug misuse deaths in Maryland, New Mexico, and Utah. Descriptions of drug abuse deaths in the participating metropolitan areas are available in the *Mortality Data from the DAWN, 2003* report.

According to data from the *2003 Mortality Data from DAWN* -- Cocaine was the most frequently reported illicit drug. In the drug misuse deaths, cocaine was among the top 5 drugs in 28 of the 32 metropolitan areas and all of the 6 States. On average, cocaine alone or in combination with other drugs was reported in 39% of drug misuse deaths (range 8% to 70%). Alcohol was one of the 5 most common drugs in 30 of the 32 metropolitan areas and 5 of the 6 States. In 29 of the 32 metropolitan areas, more drug misuse deaths involved an opiate/opioid than any other drug.

Source: U. S. Department of Health and Human Services, SAMHSA, Office of Applied Studies, *Drug Abuse Warning Network, 2003: Area Profiles of Drug-Related Mortality*. DAWN Series D-27, DHHS Publication No. (SMA) 05-4023, Rockville, MD, 2005.

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## Drugs and Crime Facts

# Drug use

## Youth | General population

### Youth

- Use
- Perceived risk
- Student reports of availability of drugs

### Use

The Monitoring the Future Study asked high school seniors, "On how many occasions, if any, have you used drugs or alcohol during the last 12 months or month?"

Reported drug and alcohol use by high school seniors, 2006

Drugs	Used within the last:	
	12 months*	30 days
Alcohol	66.5%	45.3%
Marijuana	31.5	18.3
Other opiates	9.0	3.8
Stimulants	8.1	3.7
Sedatives	6.6	3.0
Tranquilizers	6.6	2.7
Cocaine	5.7	2.5
Hallucinogens	4.9	1.6
Inhalants	4.5	1.5
Steroids	1.8	1.1
Heroin	0.8	0.4

\*Including the last month.

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 576.81KB)

Self-reports of drug use among high school seniors may under represent drug use among youth of that age because high school dropouts and truants are not included, and these groups may have more involvement with drugs than those who stay in school.

Percent of all college students, 1995-2005

Drug use	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
<b>Marijuana</b>											
Daily within											
last month	3.7%	2.8%	3.7%	4.0%	4.0%	4.8%	4.5%	4.1%	4.7%	4.6%	4.0%
Last month	18.6	17.5	17.7	18.6	20.7	20.0	20.2	19.7	19.3	18.9	17.1
Last year	31.2	33.1	31.8	35.9	35.2	34.0	35.6	34.7	33.7	33.3	33.3
<b>Cocaine</b>											
Daily within											
last month	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	*	0.0%	0.1%
Last month	0.7	0.8	1.6	1.6	1.2	1.4	1.9	1.8	1.9	2.4	1.8
Last year	3.6	2.8	3.4	4.6	4.8	4.8	4.7	4.8	5.4	6.6	5.7

\* Less than 0.05%

Rates of past year cocaine use by college students have varied over the past 10 years from a low of 2.9% in 1996 to a high of 5.7% in 2005. Past year marijuana use has ranged from a low of 31.2% in 1995 to a high of 35.9% in 1998.

Source: University of Michigan, *Monitoring the Future National Survey Results on Drug Use, 1975-2005, Volume II: College Students and Adults Ages 19-45, 2005*, October 2006. (Acrobat file 2.31 MB)

Of high school seniors in 2005 --

- 44.8% reported having ever used marijuana/hashish
- 8.0% reported having ever used cocaine
- 1.5% reported having ever used heroin.

Source: University of Michigan, *Monitoring the Future National Results on Adolescent Drug Use: Overview of Key Findings 2006*, April 2006. (Acrobat file 442.77KB)

The increase in the use of marijuana has been especially pronounced. Between 1992 and 2005 past-month use of marijuana increased from:

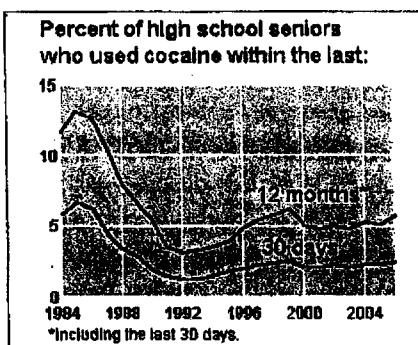
- 12% to 20% among high school seniors.
- 8% to 15% among 10th graders.
- 4% to 7% among 8th graders.

Reported use of marijuana by high school seniors during the past month peaked in 1978 at 37% and declined to its lowest level in 1992 at 12%.

The use of cocaine within the past month of the survey by high school seniors peaked in 1985 at 6.7%, up from 1.9% in 1975 at the survey's inception. Cocaine use declined to a low of 1.3% in 1992 and 1993. In 2005, 2.3% of high school seniors reported past-month cocaine use.

Source: University of Michigan, *Monitoring the Future National Results on Adolescent Drug Use: Overview of Key Findings 2006*, April 2006. (Acrobat file 442.77KB).

Cocaine use among high school seniors peaked in 1985.



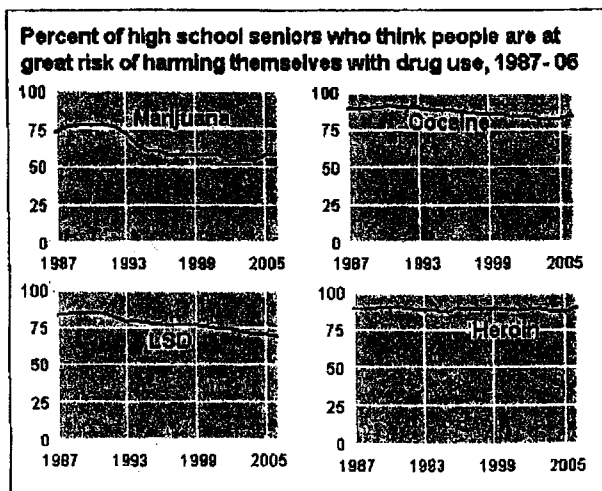
[D]

Click on the chart to view the data.

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 576.81KB).

#### Perceived risk

From 1987 to 2006 the percentage of high school seniors that were asked, "How much do you think people risk harming themselves?" remained virtually stable. Those students answering "great risk" in regular use accounted for the following --



[D]

Click on the chart to view the data.

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 576.81KB)

#### Student reports of availability of drugs

Percent of high school seniors reporting they could obtain drugs fairly easily or very easily, 2006

Marijuana	84.9%
Amphetamines	52.9
Cocaine	46.5
Barbiturates	43.8
Crack	38.8
LSD	29.0
Heroin	27.4
Crystal methamphetamine	26.7
Tranquilizers	24.4
PCP	23.1
Amyl/butyl nitrites	18.4

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 576.61KB)

In 2005, 26% of all students in grades 9 through 12 reported someone had offered, sold, or given them an illegal drug on school property. There was no measurable change with the percentage of students who reported that drugs were offered, sold, or given to them at school between 2003 and 2005.

Males were more likely than females to report that drugs were offered, sold, or given to them on school property in each survey year between 1993 and 2005. In 2005, 29% of males and 22% of females reported availability of drugs.

Source: BJS jointly with the U.S. Department of Education, *Indicators of School Crime and Safety, 2006*, NCJ 214262, December 2006.

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## General population

According to data from the 2005 *National Household Survey on Drug Use and Health (NSDUH)* –

- 112 million Americans age 12 or older (46% of the population) reported illicit drug use at least once in their lifetime
- 14% reported use of a drug within the past year
- 8% reported use of a drug within the past month.

Data from the 2005 survey showed that marijuana and cocaine use is the most prevalent among persons age 18 to 25.

Drug use	Age of respondent, 2004		
	12-17	18-25	26 or older
<b>Marijuana</b>			
Last month	6.8%	16.6%	4.1%
Last year	13.3	28.0	6.9
<b>Cocaine</b>			
Last month	0.6%	2.6%	0.8%
Last year	1.7	6.9	1.5

Source: SAMHSA, Office of Applied Studies, 2006 *National Survey on Drug Use and Health: National Findings*, September 2006.

The *Drug Abuse Warning Network (DAWN)* monitors drug-related emergency department (ED) visits for the nation and for selected metropolitan areas. DAWN also collects data on drug-related deaths investigated by medical examiners and coroners in selected metropolitan areas and States.

In 2005, DAWN estimates that nearly 1.4 million emergency department visits nationwide were associated with drug misuse or abuse.

An estimated 818,696 drug-related emergency department visits involved a major substance of abuse. DAWN estimates that:

- Cocaine was involved in 448,481 ED visits.
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# Homeowner's Guide

May 2007

Compliments of Ted Bosley, Your Neighbor and RE Professional

Issue 16



**Edward "Ted" Bosley**  
(949) 294-2126

TedBosley@yahoo.com

Service • Integrity • Commitment



**WWW.TEDBOSLEY.COM**  
Great source for RE information,  
tools plus Bi-monthly  
**OC Homeowner's Guide**  
**Newsletter**

## Ted Bosley Appointed to SAH Project Advisory Committee

I started attending the SAH PAC meetings 5 years ago, mostly so that I could learn as much as possible about events affecting our community.

You, the readers of my periodic newsletters, have been the benefactors since I have shared with you much of what was learned in that forum as well as Supervisor, City Council and LAFCO meetings. Many of you have also been in attendance at those same meetings.

I appreciate being appointed to serve on the SAH Project Advisory Committee. This gives me the opportunity to serve on critical sub-committees that make recommendations to the Bd of Supervisors and the NB City Council on matters that have significant impact on our community.

## Waterpointe to Start Development on Orchard

In a recent response to my inquiry about the timeline for this Westside SAH project, I received the following statement:

"We are still processing our final map with the County of Orange. Once recordation of the map occurs we are planning on starting the project. ... Once again I thank you for your assistance in getting this project approved."

Garrett Calacci,  
Waterpointe Development Principal



## Westside SAH Annexation Update

The next LAFCO hearing date is May 9th at 9:00 AM. The meeting will be held in the Hall of Administration, 12 Civic Center Plaza, Santa Ana, in the Planning Commission Hearing Room.

The City of Newport Beach's application for a sphere of influence change and concurrent annexation of West Santa Ana Heights and the City of Costa Mesa's application for a sphere of influence change for the Banning Ranch property will be considered by LAFCO on this date.

Staff reports for both proposals will be available for review on Wednesday afternoon, May 2, 2007, on the Orange County LAFCO website: [www.orange.lafco.ca.gov](http://www.orange.lafco.ca.gov). Click on the "Agenda and Minutes" link, then click on agenda item.

This is the meeting we all have been waiting for. LAFCO is suppose to come to a final resolution on the West Side Annexation to Newport at this meeting. PAC will be there to support Annexation as always.

If you would like more information relating to the history of this effort please visit [www.sahpac.com/sys-tmpl/westsidexannexation](http://www.sahpac.com/sys-tmpl/westsidexannexation).

## Sober Living Homes Make Their Community Christmas Contribution

Were you as surprised as I by the amazing decorations exhibited by the residents of the 3 (at that time) Yellowstone Recovery homes during the Christmas holidays? One of the reasons was a little competition between the 3 homes along with the help the men's home provided to the other 2 women's homes.

Their effort also brought out the competitive spirit in some of the other homes in the neighborhood ...

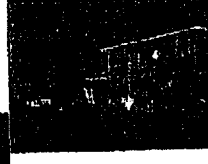
Congratulations!!



Indus Street  
Women's Home



Redlands St.  
Men's Home



Pegasus Street  
Women's Home

Their Last  
"Contribution"  
to Westside SAH  
5th Sober Living Home  
Indus Cul-de-Sac  
Women's Home



## Golf Course or Parking Lot?

Daily Pilot Article on April 18th discusses this subject. If you do not take the Pilot you can go to [www.daily-pilot.com/articles/2007/04/18/politics/dpt-golfcourse18.txt](http://www.daily-pilot.com/articles/2007/04/18/politics/dpt-golfcourse18.txt) to view it.

What I cannot understand is why anyone on the Airport Committee would suggest that a Car Rental Auto Storage facility should replace the Newport Beach Golf Course Back 9, that brings so much pleasure to so many, when their lease is up at the end of July, 2007.

(Continued on page 2)

Send an email to [John.Moorlach@ocgov.com](mailto:John.Moorlach@ocgov.com) AND [TedBosley@yahoo.com](mailto:TedBosley@yahoo.com) with your opinion of the possibility of not extending the lease for the NB Golf Course!! ... AND to let me know of your interest in participating in this season's \$100 drawing!!

**City of Newport Beach**  
**GROUP RESIDENTIAL USES – USE PERMIT APPLICATION**  
**STANDARD GROUP RESIDENTIAL USE PERMIT APPLICATION**  
(Form 100 – Revised March 2008)

**1. APPLICANT/FACILITY PROGRAM INFORMATION**

STEP 1: Completely fill out Form 150 (attached).

STEP 2: Fill out the following:

**TYPE OF ORGANIZATION:**

☐ For Profit      ☒ Nonprofit

☐ Other, please explain: \_\_\_\_\_

**PROPERTY OWNERSHIP:**

☐ Own      ☐ Rent      ☒ Lease      ☐ Other (specify): \_\_\_\_\_

**IS THE OPERATOR/MANAGER ALSO THE LESSEE OF THIS PROPERTY?**

☒ Yes      ☐ No

☐ If no, please explain: \_\_\_\_\_

**IS THE APPLICANT OR PROGRAM OPERATOR PART OF A PARTNERSHIP, CORPORATION, FIRM, OR ASSOCIATION?**

☒ Yes      ☐ No

If yes, please fill out and attach either Form 200C (if 200C, applicants must fill out Form 200D) or Form 200P, whichever is applicable.

**2. PROPERTY OWNER INFORMATION**

**Dr. A.M. Thames**

Name of Property Owner where facility is proposed (if Corporation, legal name of Corporation)

**28 Ima Loa**      **Newport Beach, CA**      **92663**  
(Mailing Address of Property Owner)      (City/State)      (Zip)

**(949) 678-9000**      **(949) 646-5296**  
(Telephone)      (Fax number)

\_\_\_\_\_  
(E-Mail address)

**1621 Indus, Newport Beach, CA**      **119-361-04**  
(Subject Property Address)      Assessor's Parcel Number (APN)

### 3. SIMILAR USES

**A. Your Firm's Current Uses.** Do you or your firm (or any entity or person affiliated with you or your firm) currently operate, manage, or own other group residential uses in Newport Beach?

☒ Yes      ☐ No

If yes, cite address(es) of facility(ies) (attach more pages if necessary):

EXAMPLE:

1234 Main Street, Newport Beach	Unlicensed "Sober Living"	7
Site Address	Type of Use	Bed Capacity
1571 Pegasus, Newport Beach	Cert. Sober Living	18
Site Address	Type of Use	Bed Capacity
20172 Redlands Dr., Newport Beach	Cert. Sober Living	18
Site Address	Type of Use	Bed Capacity
1561 Indus, Newport Beach	Oxford Sober Living	12
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
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Site Address	Type of Use	Bed Capacity

**B. Other Similar Uses.** What uses, not operated by or affiliated with you or your firm, are of a similar type as your proposed use here in Newport Beach? Please cite address(es) of facility(ies) (attach more pages if necessary):

**EXAMPLE:**

1234 Main Street, Newport Beach	Unlicensed "Sober Living"	7
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
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Site Address	Type of Use	Bed Capacity

**C. Evidence of Need for this Extent of Use.** Per NBMC §20.91A.030 (E), please attach Evidence of Capacity and Need by residents of Newport Beach for this capacity based on published sources.

**4. YOUR FIRM'S HISTORIC USES**

Per the requirements of NBMC §20.91A.030.G & H, in the past five (5) years, have you or your firm or any entity or person affiliated with you or your firm operated, managed, or owned other group residential uses in California?

☐ Yes ☒ No

If yes, show the site address(es) of each facility(ies) and show whether the facility(ies) have ever been in violation of Federal, State or local law (attach additional pages if necessary):

**EXAMPLE:**

1234 Main Street, Santa Barbara	ADP-Licensed Facility	8
---------------------------------	-----------------------	---

Street Address, City

Type of Use

Bed Capacity

Has this facility or your operations at this facility, ever been in violation of State or local law?

☐ Yes

☒ No

If Yes, please explain: Applicant has not operated any other group residential uses in Newport Beach during the last 5 years. No home has been in violation of state or local law.

Facility #1

Street Address, City

Type of Use

Bed Capacity

Has this facility or your operations at this facility, ever been in violation of State or local law?

☐ Yes

☐ No

If Yes, please explain: \_\_\_\_\_

Facility #2

Street Address, City

Type of Use

Bed Capacity

Has this facility or your operations at this facility, ever been in violation of State or local law?

☐ Yes

☐ No

If Yes, please explain: \_\_\_\_\_

Facility #3

Street Address, City

Type of Use

Bed Capacity

Has this facility or your operations at this facility, ever been in violation of State or local law?

☐ Yes

☐ No

If Yes, please explain: \_\_\_\_\_

Facility #4

Street Address, City

Type of Use

Bed Capacity

Has this facility or your operations at this facility, ever been in violation of State or local law?

☐ Yes

☐ No

If Yes, please explain: \_\_\_\_\_  
\_\_\_\_\_

5. **LOCATION MAP AND SIMILAR USES**

Provide a **Location Map** showing the location of the proposed use plus all known conditional uses within a three-block radius. Include the property addresses of the proposed use and known conditional uses. Please consult the Newport Beach Planning Department (949-644-3225) for nearby conditional uses.

6. **SITE PLAN**

Provide a **Site Plan** that shows the facility's building footprint and property lines. Include property lines and building footprints on immediately adjacent parcels. Note the uses (i.e. *single family use, group residential use, or other*) on adjacent parcels.

7. **LICENSE AND PERMIT HISTORY OF APPLICANT**

A. Per NBMC §20.91A.030(H), please summarize the license and permit history of each facility applicant or operator has managed, owned, or operated in the State of California within the last five (5) years which require either a license or a permit by the State or by a locality (attach additional sheets if necessary):

\_\_\_\_\_  
Name of Facility

\_\_\_\_\_  
(Facility Address) (City) (Zip)

Please describe the nature of the license or use permit, the issuing agency, its reference number (if applicable), and any enforcement actions by any agency against the license or use permit:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Has the applicant ever voluntarily surrendered, had a denial, suspension, or revocation of a residential license for an alcoholism or drug abuse recovery or treatment facility or a facility licensed by the California Department of Alcohol and Drug Programs (ADP) or the California Department of Social Services - Community Care Licensing?

☐ Yes ☒ No

If yes, the date license was surrendered, denied, suspended, or revoked: \_\_\_\_\_

Reason for revocation, surrender, denial, or suspension: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Has the applicant ever voluntarily surrendered, had a denial, suspension, or revocation of a Use Permit or similar permit for a group residential use in this community or another community?

☐ Yes ☒ No

If yes, the date Use Permit (or similar) was surrendered, denied, suspended, or revoked: \_\_\_\_\_

Reason for revocation, surrender, denial, or suspension: \_\_\_\_\_

D. Has the applicant ever voluntarily surrendered, had a denial, suspension or revocation of a certification by any public or private agency other than ADP or the California Department of Social Services-Community Care Licensing for a group residential use in this community or another community?

☐ Yes ☒ No

If yes, the date Use Permit (or similar) was surrendered, denied, suspended, or revoked: \_\_\_\_\_

Reason for revocation, surrender, denial, or suspension: \_\_\_\_\_

## 8. NATURE AND CHARACTERISTICS OF PROPOSED USE

Per NBMC §20.91A.030(A-D), please provide the following information about each proposed facility (attach additional sheets if necessary). The components of this Section 8 (and other sections) comprise the *Operations and Management Plan* and *Rules of Conduct* envisioned by NBMC §20.91A.050.B:

### A. TYPE OF ALCOHOL AND/OR OTHER DRUG RECOVERY OR TREATMENT SERVICES PROVIDED (for ADP-licensed facilities only – check all that apply):

☐ Non-Medical Detoxification

☐ Group Sessions

☐ One-on-One Sessions

☐ Educational Sessions

☐ Recovery or Treatment Planning

☒ Other: None

### B. NUMBERS AND TYPES OF FACILITY USERS & STAFF:

**TOTAL OCCUPANCY OF FACILITY** (This is the maximum number of individuals who live at the facility and are approved by the fire safety inspector.) These individuals include the residents receiving recovery, treatment or detoxification services, children of the residents, and staff. Staff includes individuals who work for the applicant in exchange for either monetary or in-kind compensation (e.g., room and board). Total occupancy cannot be exceeded for any reason. 18

**MAXIMUM REQUESTED ADULT RESIDENT CAPACITY OF THE FACILITY** (The number of adult residents that receive recovery, treatment or detoxification services at any one time, which cannot be greater than the total occupancy shown above): 0

**MAXIMUM NUMBER AND AGE RANGE OF DEPENDENT CHILDREN WHO ARE SUPERVISED BY THEIR PARENT(S) IN THE FACILITY.** This includes temporary residing (i.e., overnight, weekend visits) of dependent children. (Since there must always be at least one adult being served, the maximum number of dependent children housed must be at least one less than the total occupancy, determined by the fire inspector, as shown above): 0

Are all clients who reside on-site disabled persons? \_\_\_\_\_

Number of staff who will reside on-site: 2

Maximum number of staff who will provide services during any one week to clients at the facility: 2

Provide the Facility Staffing Form shown as Form 400 to this Application.

Total number of employees of provider:

Please characterize the nature of staff services to the facility (i.e., nutritionists, massage therapists, counselors, maids, cooks, etc):

House Manager

Assist Manager

Maximum number of clients who will use the facility on any one day but reside elsewhere: 0

Maximum number of client visitors who will visit the facility during any one week: 0

Maximum number of others who will visit the facility during any one week: 0. Please explain:

**C. BUILDING DIAGRAM/FLOOR PLAN**

Include a Building Diagram showing all building(s) to be occupied, including a floor plan of all rooms intended for residents' use. Include the grounds showing buildings, setbacks, driveways, fences, storage areas, pools, gardens, recreational area and other spaces. All sketches shall show dimensions but need not be to scale. Identify the number of residents per bedroom and the location and the number of beds for all residents, including the location of beds for infants and other non-ambulatory persons. The Building Diagram supplied with this application must be accurate as to existing conditions in the building and must be consistent with the building plans currently on file with the Newport Beach Building Department for permitted construction.

**D. DURATION OF TYPICAL CLIENT STAY IN FACILITY (In days): 180**

If you wish, please explain:

**E. IS THE FACILITY ACCESSIBLE TO INDIVIDUALS IN WHEELCHAIRS OR OTHER NONAMBULATORY CONDITIONS?**

☐ Yes ☒ No

**NOTE:** The Americans with Disabilities Act of 1990 (ADA) is a comprehensive federal anti-discrimination law for people with disabilities. The City reminds all providers of residential recovery facilities that discrimination against persons with disabilities is prohibited. Please contact Newport Beach's Building Department (949-644-3275) for specific ADA requirements that may apply to your facility.

**F. ACTIVITY INFORMATION**

Hours which facility will be in use:



☒ 24/7    ☐ Other (please describe) \_\_\_\_\_

Will there be a curfew? If so, please note quiet hours:

☒ 10 p.m. – 8 a.m.    ☐ Other (please describe) \_\_\_\_\_

Besides household activities, what types of care-related activities will occur on-site, and how many residents and non-residents (including staff and clients from other facilities) will attend?

☐ "AA"-type meetings \_\_\_\_\_    ☐ Physical Fitness (gym, yoga, etc) \_\_\_\_\_

☐ ADP-Treatment (see 5A) \_\_\_\_\_    ☐ Other wellness (massage, etc) \_\_\_\_\_

☐ Meal preparation/delivery \_\_\_\_\_    ☐ Other: \_\_\_\_\_

Provide the Weekly Schedule of Services shown as Form 500 to this Application.

**G. DELIVERY INFORMATION:**

What types of deliveries will occur at the facility and how often (per day or per week – circle whichever is applicable) will they occur?

☐ Laundry Services: \_\_\_\_\_ /day or week    ☒ Trash disposal or recycling: 1 /day or week

☐ Meals: \_\_\_\_\_ /day or week    ☐ Business products: \_\_\_\_\_ /day or week

☐ Correspondence, packages (other than USPS): \_\_\_\_\_ /day or week

☐ Medical Products/Medical Waste Pickup: \_\_\_\_\_ /day or week

☐ Other: \_\_\_\_\_ /day or week

**H. TRANSPORTATION AND PARKING:**

Will clients residing on-site be allowed to use personal vehicles and/or keep them on-site or nearby?

☐ Yes    ☒ No

If Yes, describe where clients will park personal vehicles (garage, carport, on-street location, other – if on-street, be specific about which streets)

\_\_\_\_\_  
\_\_\_\_\_

If No, describe other modes of transportation that clients will use (bus, other transit, bicycle, other).

Bus – Carpools, bikes

\_\_\_\_\_

Please provide a **Route Map** showing transit and travel routes that will be used to transport clients off-site, showing destinations of travel and approximate times of departure and return.

Will staff serving the facility be allowed to drive personal vehicles to the site?

☒ Yes    ☐ No

If Yes, describe where staff will park personal vehicles (garage, carport, on-street location, other – if on-street, be specific about which streets)

In driveway

NOTE: The City may not authorize on-street parking for clients or staff depending upon how impacted the facility's streets are.

**I. MEDICAL AND BIO-WASTE**

NBMC §6.04.120 (Health and Sanitation: Prohibited Materials) prohibits the disposal of certain medical waste or bio-waste into the City's refuse disposal system. Syringes, needles, urinalysis cups, and other waste must be disposed of in accordance with the NBMC and other applicable laws. If you are uncertain as to what wastes can be disposed of in the City's disposal system, contact the City's General Services Department at 949-644-3066.

Applicants who will be disposing medical waste or other bio-waste must provide a Disposal Plan for Medical and Bio-Waste showing how and where these wastes are disposed of (required by NBMC §20.91A.030.I).

Please attach the Disposal Plan if applicable.

**J. RULES OF CONDUCT – GOOD NEIGHBOR PRINCIPLES**

If you have them, please include any documents that describe rules of client conduct and/or *Good Neighbor Principles* that your facility's staff and clients will adhere to if the City issues a Use Permit for this facility.

The City of Newport Beach has developed *Good Neighbor Principles* for these uses (see the City's website under Group Residential Uses).

Please state whether you agree voluntarily to comply with the City's *Good Neighbor Principles*:

☒ Yes    ☐ No

**K. OTHER AVAILABLE CERTIFICATIONS**

NBMC §20.91A.050.C.4 directs that applicants shall attain certification (or similar validation), where available, from a governmental agency or qualified non-profit organization. This includes:

- The Orange County Sheriff's Department's Orange County Adult Alcohol and Drug Sober Living Facilities Certification Program (see [www.ocsd.org](http://www.ocsd.org) for more information or contact Certificate Coordinator Lt. Jeff Bardzik at 714-773-4523 or [jbardzik@ocsd.org](mailto:jbardzik@ocsd.org) or Margo Grise at 714-773-4521 at [mgrise@ocsd.org](mailto:mgrise@ocsd.org). This certification is required.
- The Orange County Sober Living Network (see [http://www.soberhousing.net/orange\\_county.html](http://www.soberhousing.net/orange_county.html) or contact Grant McNiff at 714-875-2954. This certification is recommended.

You do not have to attain the OCSD certification to apply for a Use Permit, but we suggest that you attain the certification within a reasonable amount of time (twelve [12] months) following your application submittal. Should a Use Permit be issued, it may include a condition that certification be obtained within a stated time period. If you have attained this certification prior to applying for the Use Permit, verify here that you have attained this certification, and attach the verifying document from the certifying entity:

☐ 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: \_\_\_\_\_

5/20/08

**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.

D. The applicant(s) affirms that the facts contained in this application and supporting documents are true and correct.

Leisha Miller 5/20/08 Administrator  
(Signature) (Date) (Title)

Dr. Am Thomas 5/20/08 CEO  
(Signature) (Date) (Title)

\_\_\_\_\_  
(Signature) (Title)  
(Date)

Quality Sober Living Homes in Southern California

## THE SOBER LIVING NETWORK

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### The Sober Living Network

#### A SOBER HOUSING VISION

Someday there will be **recovery supportive housing and community centers throughout the United States**. These clusters will be developed with a variety that will include individual houses, apartments, and congregate living accommodations. There will be a mixture of housing with normal-cost apartments for recovery veterans and low-cost, supervised shared housing for those in early recovery. In many accommodations there will be specially designed housing sections for women and/or men with children that have play areas and childcare. Sober housing clusters will be designed to accommodate persons who are physically and mentally challenged.

Sober housing clusters will be **recovery-promoting incubators**. The clusters will include meeting spaces to host self-help and educational meetings, recreational, and social events. They will be operated within a democratic culture and a high level of recovery enthusiasm.

These clusters will become **islands of sobriety in our alcohol and drug using society**. Sober housing and community centers will become continuously available as a recovery assistance resource for alcoholics, addicts, and family members. They will be available and noticeable not only to those who are fully into their addiction, but those who are in their earlier or experimental stages. Communities of stable recovering persons can easily absorb newly recovering persons into their community.

Currently many sober living homes are trying to meet the needs of newly recovering persons without the benefit of having a core of stable recovering residents or the management resources to meet their recovery service needs.

The rationale for cluster housing is that the **self-help learning process comes in bits and pieces**. The greater the exposure to a comprehensive recovery environment with many recovery activities and a predominance of recovering people, the greater chance a person has to learn recovery. The need for a balance of recovery experiences became evident when twelve-step meetings dominated by newcomers were not as effective in assisting recovery as those meetings where most members have long-term stable recovery.

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**The Sober Living Network****COMMUNITY RECOVERY SUPPORT RESOURCES**

Community recovery resources offer a practical and cost-efficient way to assist alcoholics, addicts and family members to enter and maintain long-term recovery.

The current alcohol and drug treatment system does not have the capacity to meet the long-term recovery assistance needs required to meet the needs of the many. The treatment system is too heavily invested in short-term treatment and too little invested in the development of safe and healthy community recovery promoting environments and activities that are constantly available to support recovery and life style enhancements.

Alcohol and drug treatment programs have been formatted by government and academic institutions into quality "people processing" treatment stations that are now too costly per person assisted to significantly reduce addiction problems.

Community recovery is based on the postulate that safe and sober places filled with healthy recovery activities provide the environments, motivation and recovery tools for alcoholics, addicts and family members to assist (process) themselves. Operators maintain healthy and safe environments and promote individual recovery responsibility. Community recovery resources include self-help meetings, Alano clubs-which host self-help activity, community recovery centers, sober living housing, and sober recreational and social events. Community recovery centers are self-service spaces that offer education sessions, host self-help groups, hold social/recreational events and have counseling and therapy available by self-selection. Community recovery centers, activities and housing are easily adaptable to meet the broad ethnic, cultural and physically challenged needs.

Community recovery resources are assisting millions of alcoholics, addicts and family members in recovery from alcoholism and other drug addictions with little or no support from government and health insurance funding sources. Sober living homes, Alano clubs and community recovery centers are primarily created and supported by recovering persons motivated by a call to be of service to others.

**The Sober Living Network**  
**P.O. Box 5235, Santa Monica, CA 90409**  
**(310) 396-5270**

Home Organizing Training Community Contact Site Map

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<http://www.soberhousing.net/community.html>

5/15/2008

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**The National Council on Alcoholism and Drug Dependence** fights the stigma and the disease of alcoholism and other drug addictions.

## Facts and Information

# Alcoholism and Drug Dependence Are America's Number One Health Problem

The cost and consequences of alcoholism and drug dependence place an enormous burden on American society. As the nation's number one health problem, addiction strains the health care system, the economy, harms family life and threatens public safety.

Substance abuse crosses all societal boundaries, affects both genders, every ethnic group, and people in every tax bracket. Scientific documentation defines alcoholism and drug dependence as a disease that has roots in both genetic susceptibility and personal behavior.

## THE SCOPE OF THE PROBLEM

- *There are more deaths and disabilities each year in the U.S. from substance abuse than from any other cause.* <sup>1</sup>
- *About 18 million Americans have alcohol problems; about 5 to 6 million Americans have drug problems.* <sup>2</sup>
- *More than half of all adults have a family history of alcoholism or problem drinking.* <sup>3</sup>
- *More than nine million children live with a parent dependent on alcohol and/or illicit drugs.* <sup>4</sup>

## THE CONSEQUENCES

- *One-quarter of all emergency room admissions, one-third of all suicides, and more than half of all homicides and incidents of domestic violence are alcohol-related.* <sup>5</sup>

- *Heavy drinking contributes to illness in each of the top three causes of death: heart disease, cancer and stroke.* <sup>6</sup>
- *Almost half of all traffic fatalities are alcohol-related.* <sup>7</sup>
- *Between 48% and 64% of people who die in fires have blood alcohol levels indicating intoxication.* <sup>8</sup>
- *Fetal alcohol syndrome is the leading known cause of mental retardation.* <sup>9</sup>

### THE COST

- *Alcohol and drug abuse costs the American economy an estimated \$276 billion per year in lost productivity, health care expenditures, crime, motor vehicle crashes and other conditions.* <sup>10</sup>
- *Untreated addiction is more expensive than heart disease, diabetes and cancer combined.* <sup>11</sup>
- *Every American adult pays nearly \$1,000 per year for the damages of addiction.* <sup>12</sup>

### SO, WHAT CAN BE DONE?

Like other diseases, addiction can be overcome with proper treatment, prevention and more research. By increasing access to care, the costly toll on society and the burden it places on families can be reduced. Research shows conclusively that successful prevention and treatment leads to reductions in traffic fatalities, crime, unwanted pregnancy, child abuse, HIV, cancer and heart disease. Treatment reduces drug use, improves health, improves job performance, reduces involvement with the criminal justice system, reduces family dysfunction and improves quality of life.

The Comprehensive Assessment Treatment Outcomes Registry Data in Ohio have documented dramatic results in decreasing occupational problems, including the following reductions after treatment:

- *Absenteeism decreased by 89%*



- *Tardiness decreased by 92%*
- *Problems with supervisors decreased by 56%*
- *Mistakes in work decreased by 70%*
- *Incomplete work decreased by 81%* <sup>13</sup>

Additionally, a California Study found significant decreased health care costs from before to after treatment in:

- *Hospitalizations for physical health problems (-36%)*
- *Drug overdose hospitalizations (-58%)*
- *Mental health hospitalizations (-44%)*
- *The number of emergency room visits (-36%)*
- *The total number of hospital days (-25%)* <sup>14</sup>

Americans increasingly recognize that alcoholism and drug dependence is a disease with consequences that affect both physical and behavioral health. Diagnostic and treatment services have changed in recent years and modern treatment, when adequately provided, enables a great many people to recover and rebuild productive lives.

It is important that the public be aware of evidence generated by scientific inquiry, clinical evaluation and clinical experience. The evidence demonstrates that treatment for alcohol and other drug abuse works. Treatment not only saves lives, it also saves dollars that would otherwise be spent in other areas of medical care and social services. For every dollar spent on addiction treatment, seven dollars is saved in reduced health care costs.<sup>15</sup>

The National Council on Alcoholism and Drug Dependence is dedicated to fighting the stigma and the disease of alcoholism and other drug addictions by providing education, information, help and hope to the public. NCADD advocates prevention, intervention, and treatment through a network of 97 affiliates across the United States. For more information, visit: [www.ncadd.org](http://www.ncadd.org).

Alcoholism and drug dependence are treatable and millions of people achieve recovery.

## SOURCES

1. "Substance Abuse: The Nation's Number One Health Problem," Institute for Health Policy, Brandeis University, 1993.

2. "Substance Abuse: The Nation's Number One Health Problem," Institute for Health Policy, Brandeis University, 2001.
3. Position Paper on Drug Policy, Physician Leadership on National Drug Policy (PLNDP), Brown University Center for Alcohol and Addiction Studies, 2000.
4. Ibid.
5. "Sobering Facts on the Dangers of Alcohol," NY Newsday, April 24, 2002.
6. Position Paper on Drug Policy, Physician Leadership on National Drug Policy (PLNDP), Brown University Center for Alcohol and Addiction Studies, 2000.
7. National Highway Traffic Safety Administration, Annual Report, 1992.
8. "Substance Abuse: The Nation's Number One Health Problem," Institute for Health Policy, Brandeis University, 1993.
9. E. Abel, "Incidence of Fetal Alcohol Syndrome and Economic Impact of FAS-Related Anomalies," Drug and Alcohol Dependence, 1987.
10. "Substance Abuse: The Nation's Number One Health Problem," Institute for Health Policy, Brandeis University, 2001.
11. Ibid.
12. The National Drug Control Strategy, The White House, 1997.
13. Ohio Dept. of Alcohol and Drug Addiction Services, New Standards, Inc., St. Paul, MN, 1994.
14. Gerstein, et al, "Evaluating Recovery Services: the California Drug and Alcohol Assessment," Sacramento, 1994.
15. Ibid.

Compiled 6/02



National Council on Alcoholism and Drug Dependence, Inc.

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244 East 58th Street, 4th Floor, New York, NY 10022  
phone: 212/269-7797 fax: 212/269-7510  
email: [national@ncadd.org](mailto:national@ncadd.org) <http://www.ncadd.org>  
HOPE LINE: 800/NCA-CALL (24-hour Affiliate referral)

## General population

According to data from the 2005 National Household Survey on Drug Use and Health (NSDUH) –

- 112 million Americans age 12 or older (48% of the population) reported illicit drug use at least once in their lifetime
- 14% reported use of a drug within the past year
- 8% reported use of a drug within the past month.

Data from the 2005 survey showed that marijuana and cocaine use is the most prevalent among persons age 18 to 25.

Drug use	Age of respondent, 2004		
	12-17	18-25	26 or older
Marijuana			
Last month	8.8%	16.8%	4.1%
Last year	13.3	28.0	6.9
Cocaine			
Last month	0.8%	2.6%	0.8%
Last year	1.7	6.9	1.5

Source: SAMHSA, Office of Applied Studies, 2005 National Survey on Drug Use and Health: National Findings, September 2006.

The Drug Abuse Warning Network (DAWN) monitors drug-related emergency department (ED) visits for the nation and for selected metropolitan areas. DAWN also collects data on drug-related deaths investigated by medical examiners and coroners in selected metropolitan areas and States.

In 2005, DAWN estimates that nearly 1.4 million emergency department visits nationwide were associated with drug misuse or abuse.

An estimated 816,696 drug-related emergency department visits involved a major substance of abuse. DAWN estimates that:

- Cocaine was involved in 448,481 ED visits.
- Marijuana was involved in 242,200 ED visits.
- Heroin was involved in 164,572 ED visits.
- Stimulants, including amphetamines and methamphetamine, were involved in 138,950 ED visits.
- Other illicit drugs, such as PCP, Ecstasy, and GHB, were much less frequent than any of the above.

Source: U. S. Department of Health and Human Services, SAMHSA, Office of Applied Studies, *Drug Abuse Warning Network, 2005: National Estimates of Drug-Related Emergency Department Visits*. DAWN Series D-29, DHHS Publication No. (SMA) 07-4256, Rockville, MD, 2007.

In 2003, 122 jurisdictions in 35 metropolitan areas and 6 States submitted mortality data to DAWN. The States, which are all new to DAWN, are Maine, Maryland, New Hampshire, New Mexico, Utah, and Vermont. DAWN cannot provide national estimates of drug-related deaths.

In the metropolitan areas, nearly half of drug misuse deaths, on average, involved a major substance of abuse (cocaine, heroin, marijuana, stimulants, club drugs, hallucinogens, or non-pharmaceutical inhalants). Across the 6 States, major substances were reported in about a third of misuse deaths. Still, major substances were reported in 40% to 45% of drug misuse deaths in Maryland, New Mexico, and Utah. Descriptions of drug abuse deaths in the participating metropolitan areas are available in the *Mortality Data from the DAWN, 2003* report.

According to data from the 2003 *Mortality Data from DAWN* – Cocaine was the most frequently reported illicit drug. In the drug misuse deaths, cocaine was among the top 5 drugs in 28 of the 32 metropolitan areas and all of the 6 States. On average, cocaine alone or in combination with other drugs was reported in 38% of drug misuse deaths (range 8% to 70%). Alcohol was one of the 5 most common drugs in 30 of the 32 metropolitan areas and 5 of the 6 States. In 29 of the 32 metropolitan areas, more drug misuse deaths involved an opiate/opioid than any other drug.

Source: U. S. Department of Health and Human Services, SAMHSA, Office of Applied Studies, *Drug Abuse Warning Network, 2003: Area Profiles of Drug-Related Mortality*. DAWN Series D-27, DHHS Publication No. (SMA) 05-4023, Rockville, MD, 2005.

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Use

The Monitoring the Future Study asked high school seniors, "On how many occasions, if any, have you used drugs or alcohol during the last 12 months or month?"

Reported drug and alcohol use by high school seniors, 2006

Drugs	Used within the last:	
	12 months*	30 days
Alcohol	66.5%	45.3%
Marijuana	31.5	18.3
Other opiates	9.0	3.8
Stimulants	8.1	3.7
Sedatives	6.6	3.0
Tranquilizers	6.6	2.7
Cocaine	5.7	2.5
Hallucinogens	4.9	1.5
Inhalants	4.5	1.5
Steroids	1.8	1.1
Heroin	0.8	0.4

\*Including the last month.

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 576.81KB)

Self-reports of drug use among high school seniors may under represent drug use among youth of that age because high school dropouts and truants are not included, and these groups may have more involvement with drugs than those who stay in school.

Percent of all college students, 1995-2005

Drug use	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
<b>Marijuana</b>											
Daily within											
last month	3.7%	2.8%	3.7%	4.0%	4.0%	4.6%	4.5%	4.1%	4.7%	4.6%	4.0%
Last month	18.6	17.5	17.7	18.8	20.7	20.0	20.2	19.7	19.3	18.9	17.1
Last year	31.2	33.1	31.6	35.9	35.2	34.0	35.6	34.7	33.7	33.3	33.3
<b>Cocaine</b>											
Daily within											
last month	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	*	0.0%	0.1%
Last month	0.7	0.8	1.6	1.6	1.2	1.4	1.9	1.6	1.9	2.4	1.8
Last year	3.6	2.9	3.4	4.6	4.6	4.8	4.7	4.8	5.4	6.6	5.7

\* Less than 0.05%

Rates of past year cocaine use by college students have varied over the past 10 years from a low of 2.9% in 1996 to a high of 5.7% in 2005. Past year marijuana use has ranged from a low of 31.2% in 1995 to a high of 35.9% in 1998.

Source: University of Michigan, *Monitoring the Future National Survey Results on Drug Use, 1975-2005, Volume II: College Students and Adults Ages 19-45, 2005*, October 2006. (Acrobat file 2.31 MB)

Of high school seniors in 2005 --

- 44.8% reported having ever used marijuana/hashish
- 8.0% reported having ever used cocaine
- 1.5% reported having ever used heroin.

Source: University of Michigan, *Monitoring the Future National Results on Adolescent Drug Use: Overview of Key Findings 2006*, April 2006. (Acrobat file 442.77KB)

The increase in the use of marijuana has been especially pronounced. Between 1992 and 2005 past-month use of marijuana increased from:

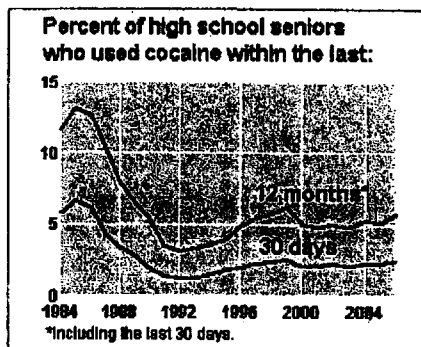
- 12% to 20% among high school seniors.
- 8% to 15% among 10th graders.
- 4% to 7% among 8th graders.

Reported use of marijuana by high school seniors during the past month peaked in 1978 at 37% and declined to its lowest level in 1992 at 12%.

The use of cocaine within the past month of the survey by high school seniors peaked in 1985 at 8.7%, up from 1.8% in 1975 at the survey's inception. Cocaine use declined to a low of 1.3% in 1992 and 1993. In 2005, 2.3% of high school seniors reported past-month cocaine use.

Source: University of Michigan, *Monitoring the Future National Results on Adolescent Drug Use: Overview of Key Findings 2006*, April 2006. (Acrobat file 442.77KB).

Cocaine use among high school seniors peaked in 1985.



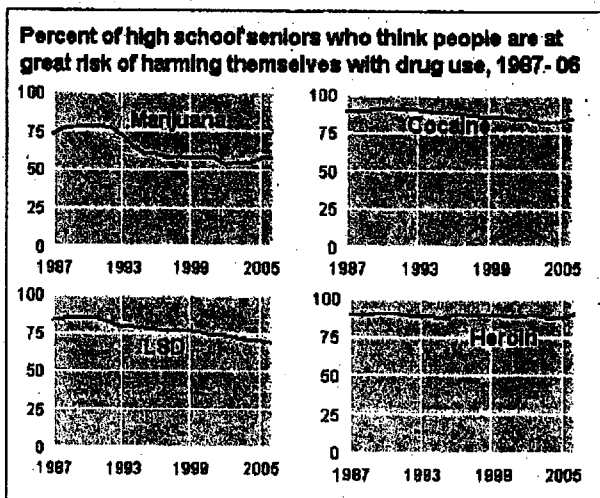
[D]

Click on the chart to view the data.

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 676.81KB).

#### Perceived risk

From 1987 to 2006 the percentage of high school seniors that were asked, "How much do you think people risk harming themselves?" remained virtually stable. Those students answering "great risk" in regular use accounted for the following —



[D]

Click on the chart to view the data.

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 676.81KB)

#### Student reports of availability of drugs

Percent of high school seniors reporting they could obtain drugs fairly easily or very easily, 2006

Marijuana	84.9%
Amphetamines	52.9
Cocaine	48.5
Barbiturates	43.8
Crack	38.8
LSD	29.0
Heroin	27.4
Crystal methamphetamine	26.7
Tranquilizers	24.4
PCP	23.1
Amyl/butyl nitrites	18.4

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 576.81KB)

In 2005, 25% of all students in grades 9 through 12 reported someone had offered, sold, or given them an illegal drug on school property. There was no measurable change with the percentage of students who reported that drugs were offered, sold, or given to them at school between 2003 and 2005.

Males were more likely than females to report that drugs were offered, sold, or given to them on school property in each survey year between 1993 and 2005. In 2005, 29% of males and 22% of females reported availability of drugs.

Source: BJS jointly with the U.S. Department of Education, *Indicators of School Crime and Safety, 2006*, NCJ 214262, December 2006.

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## General population

According to data from the 2005 *National Household Survey on Drug Use and Health* (NSDUH) –

- 112 million Americans age 12 or older (46% of the population) reported illicit drug use at least once in their lifetime
- 14% reported use of a drug within the past year
- 8% reported use of a drug within the past month.

Data from the 2005 survey showed that marijuana and cocaine use is the most prevalent among persons age 18 to 25.

Drug use	Age of respondent, 2004		
	12-17	18-25	26 or older
Marijuana			
Last month	6.8%	16.6%	4.1%
Last year	13.3	28.0	8.9
Cocaine			
Last month	0.6%	2.6%	0.8%
Last year	1.7	6.9	1.5

Source: SAMHSA, Office of Applied Studies, 2005 *National Survey on Drug Use and Health: National Findings*, September 2006.

The *Drug Abuse Warning Network* (DAWN) monitors drug-related emergency department (ED) visits for the nation and for selected metropolitan areas. DAWN also collects data on drug-related deaths investigated by medical examiners and coroners in selected metropolitan areas and States.

In 2005, DAWN estimates that nearly 1.4 million emergency department visits nationwide were associated with drug misuse or abuse.

An estimated 818,896 drug-related emergency department visits involved a major substance of abuse. DAWN estimates that:

- Cocaine was involved in 448,481 ED visits.
- Marijuana was involved in 242,200 ED visits.
- Heroin was involved in 164,672 ED visits.
- Stimulants, including amphetamines and methamphetamine, were involved in 138,950 ED visits.
- Other illicit drugs, such as PCP, Ecstasy, and GHB, were much less frequent than any of the above.

Source: U. S. Department of Health and Human Services, SAMHSA, Office of Applied Studies, *Drug Abuse Warning Network, 2005: National Estimates of Drug-Related Emergency Department Visits*. DAWN Series D-29, DHHS Publication No. (SMA) 07-4256, Rockville, MD, 2007.

In 2003, 122 jurisdictions in 35 metropolitan areas and 6 States submitted mortality data to DAWN. The States, which are all new to DAWN, are Maine, Maryland, New Hampshire, New Mexico, Utah, and Vermont. DAWN cannot provide national estimates of drug-related deaths.

In the metropolitan areas, nearly half of drug misuse deaths, on average, involved a major substance of abuse (cocaine, heroin,

marijuana, stimulants, club drugs, hallucinogens, or non-pharmaceutical inhalants). Across the 6 States, major substances were reported in about a third of misuse deaths. Still, major substances were reported in 40% to 45% of drug misuse deaths in Maryland, New Mexico, and Utah. Descriptions of drug abuse deaths in the participating metropolitan areas are available in the *Mortality Data from the DAWN, 2003* report.

According to data from the 2003 *Mortality Data from DAWN* — Cocaine was the most frequently reported illicit drug. In the drug misuse deaths, cocaine was among the top 5 drugs in 28 of the 32 metropolitan areas and all of the 6 States. On average, cocaine alone or in combination with other drugs was reported in 39% of drug misuse deaths (range 8% to 70%). Alcohol was one of the 5 most common drugs in 30 of the 32 metropolitan areas and 5 of the 6 States. In 29 of the 32 metropolitan areas, more drug misuse deaths involved an opiate/opioid than any other drug.

Source: U. S. Department of Health and Human Services, SAMHSA, Office of Applied Studies, *Drug Abuse Warning Network, 2003: Area Profiles of Drug-Related Mortality*. DAWN Series D-27, DHHS Publication No. (SMA) 05-4023, Rockville, MD, 2005.

[Previous](#)[Contents](#)[Next](#)[BJS home page | Top of this page](#)

Bureau of Justice Statistics  
[www.ojp.usdoj.gov/bjs/](http://www.ojp.usdoj.gov/bjs/)  
Send comments to [askbjc@bjs.ojp.gov](mailto:askbjc@bjs.ojp.gov)

OJP Freedom of Information Act page  
Legal Policies and Disclaimers  
Page last revised on April 11, 2007

# Homeowner's Guide

May 2007

Compliments of Ted Bosley, Your Neighbor and RE Professional

Issue 16



**Edward "Ted" Bosley**  
(949) 294-2126

[TedBosley@yahoo.com](mailto:TedBosley@yahoo.com)

Service • Integrity • Commitment



[WWW.TEDBOSLEY.COM](http://WWW.TEDBOSLEY.COM)

Great source for RE information,  
tools plus BI-monthly  
**OC Homeowner's Guide**  
Newsletter

## Ted Bosley Appointed to SAH Project Advisory Committee

I started attending the SAH PAC meetings 5 years ago, mostly so that I could learn as much as possible about events affecting our community.

You, the readers of my periodic newsletters, have been the benefactors since I have shared with you much of what was learned in that forum as well as Supervisor, City Council and LAFCO meetings. Many of you have also been in attendance at those same meetings.

I appreciate being appointed to serve on the SAH Project Advisory Committee. This gives me the opportunity to serve on critical sub-committees that make recommendations to the Bd of Supervisors and the NB City Council on matters that have significant impact on our community.

## Waterpointe to Start Development on Orchard

In a recent response to my inquiry about the timeline for this Westside SAH project, I received the following statement:

*"We are still processing our final map with the County of Orange. Once recording of the map occurs we are planning on starting the project. ... Once again I thank you for your assistance in getting this project approved."*

Garrett Calacci,  
Waterpointe Development Principal



## Westside SAH Annexation Update

The next LAFCO hearing date is May 9th at 9:00 AM. The meeting will be held in the Hall of Administration, 12 Civic Center Plaza, Santa Ana, in the Planning Commission Hearing Room.

The City of Newport Beach's application for a sphere of influence change and concurrent annexation of West Santa Ana Heights and the City of Costa Mesa's application for a sphere of influence change for the Banning Ranch property will be considered by LAFCO on this date.

Staff reports for both proposals will be available for review on Wednesday afternoon, May 2, 2007, on the Orange County LAFCO website: [www.orange.LAFCO.ca.gov](http://www.orange.LAFCO.ca.gov). Click on the "Agenda and Minutes" link, then click on agenda item.

This is the meeting we all have been waiting for. LAFCO is suppose to come to a final resolution on the West Side Annexation to Newport at this meeting. PAC will be there to support Annexation as always.

Source of this information is [www.SAHPAC.com](http://www.SAHPAC.com)

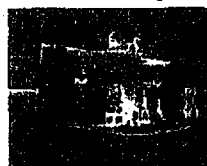
If you would like more information relating to the history of this effort please visit [www.sahpac.com/sys-trmpl/westsideannexation](http://www.sahpac.com/sys-trmpl/westsideannexation).

## Sober Living Homes Make Their Community Christmas Contribution

Were you as surprised as I by the amazing decorations exhibited by the residents of the 3 (at that time) Yellowstone Recovery homes during the Christmas holidays? One of the reasons was a little competition between the 3 homes along with the help the men's home provided to the other 2 women's homes.

Their effort also brought out the competitive spirit in some of the other homes in the neighborhood ...

Congratulations!!



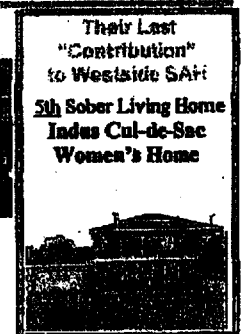
Indus Street  
Women's Home



Redlands St.  
Men's Home



Pegasus Street  
Women's Home



Their Last  
"Contribution"  
to Westside SAH  
5th Sober Living Home  
Indus Cul-de-Sac  
Women's Home

## Golf Course or Parking Lot?

Daily Pilot Article on April 18th discusses this subject. If you do not take the Pilot you can go to [www.dailypilot.com/articles/2007/04/18/politics/dpt-golfcourse18.txt](http://www.dailypilot.com/articles/2007/04/18/politics/dpt-golfcourse18.txt) to view it.

What I cannot understand is why anyone on the Airport Committee would suggest that a Car Rental Auto Storage facility should replace the Newport Beach Golf Course Back 9, that brings so much pleasure to so many, when their lease is up at the end of July, 2007.

(Continued on page 2)

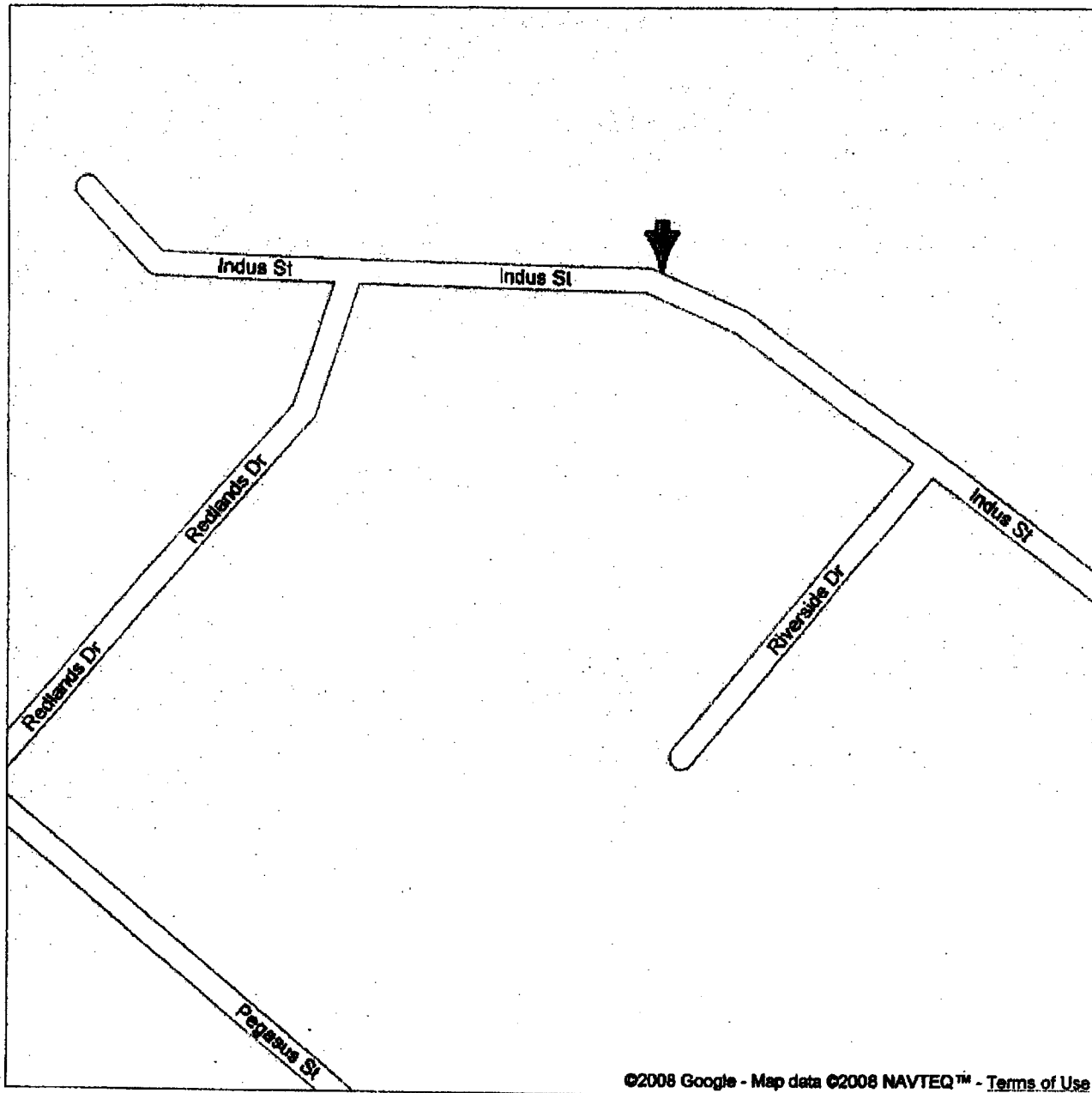
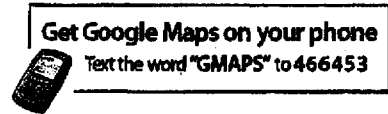
Send an email to [John.Moorlach@ocgov.com](mailto:John.Moorlach@ocgov.com) AND [TedBosley@yahoo.com](mailto:TedBosley@yahoo.com) with your opinion of the possibility of not extending the lease for the NB Golf Course!! ... AND to let me know of your interest in participating in this summer's 2008 drawing!!

YS 00376

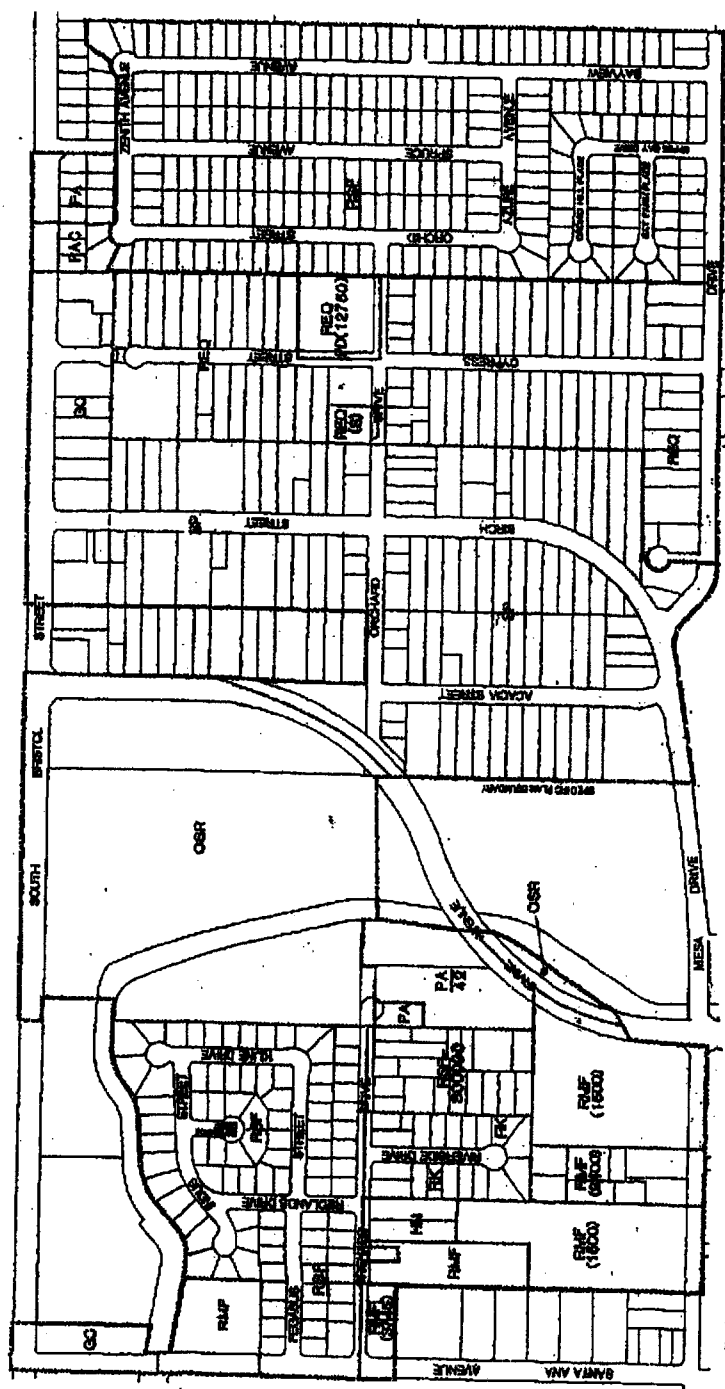




Address **1621 Indus St**  
**Santa Ana, CA 92707**

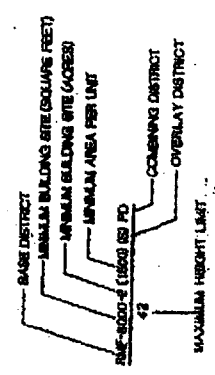


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- Severely Amendment**
- OSR OPEN SPACE/RECREATION
  - REQ RESIDENTIAL EQUESTRIAN
  - RK RESIDENTIAL KENNEL
  - RPF RESIDENTIAL SINGLE FAMILY
  - RUF RESIDENTIAL MULTIPLE FAMILY
  - RH HORTICULTURAL NURSERY
- Zone Change ZC 00-05**
- GC GENERAL COMMERCIAL
  - BP BUSINESS PARK
  - PA PROFESSIONAL AND ADMINISTRATIVE OFFICE
  - PD PLANNED DEVELOPMENT
  - CO COMMERCIAL STABLE
  - CU COMMERCIAL NURSERY

# **LAND USE DISTRICT MAP** **SANTA ANA HEIGHTS SPECIFIC PLAN**



ACCEPTED AND FILED AT THE  
 CLERK OF  
 PLANNING AND DEVELOPMENT SERVICES  
 DEPARTMENT  
 ON April 30, 2001  
 THE 3:49 P.M. REGISTRY  
 DEPARTMENT, 10000 10TH AVE  
 ROOM 2 PAGE 316  
 GARY L. GARNER  
 COUNTY CLERK-RECORDS  
*[Signature]*

WE HEREBY CERTIFY THAT THIS  
 LAND USE DISTRICT MAP  
 WAS APPROVED BY THE ORANGE  
 COUNTY PLANNING COMMISSION IN DECEMBER, 2000  
 AND ADOPTED BY ORDINANCE NO. 01-51  
 BY THE ORANGE COUNTY BOARD OF SUPERVISORS  
 ON JANUARY 24, 2001  
*[Signature]*  
 BY THOMAS E. MATTHEWS  
 DIRECTOR OF PLANNING  
 AND DEVELOPMENT SERVICES  
 DEPARTMENT

**Attachment 7A**

1. 1571 Pegasus, Newport Beach, CA 92707
  - a. Certified Sober Living Home
  - b. Original Certification: April, 2005
2. 1621 Indus St., Newport Beach, CA 92707
  - a. Certified Sober Living Home
  - b. Original Certification: April, 2005
3. 20172 Redlands Dr., Newport Beach, CA 92707
  - a. Certified Sober Living Home
  - b. Original Certification: April, 2005
4. 1561 Indus, Newport Beach, CA 92707
  - a. Certified Sober Living Home
  - b. Original Certification: April, 2005



City of Newport Beach  
**GROUP RESIDENTIAL USES - USE PERMIT APPLICATION**  
**ADMINISTRATIVE ORGANIZATION & DELEGATION INFORMATION - CORPORATIONS**  
 (Form 200 - February 2008)

**INSTRUCTIONS:** This form must be updated and submitted to the City each time there is a change in officers or change in the corporation.

Yellowstone Women's first Step House **CORPORATION** Dr. A.M. Thames  
 Name (as listed with the Secretary of State) Chief Executive Officer  
 Incorporation Date 1997 Place of Incorporation Costa Mesa, Ca  
 Principal office of business:  
 Address 1546 Bay St. City Costa Mesa, Zip Code 92627 Telephone 949-646-4494  
 Contact Person Leisha Mello Title Admin Coord. Telephone 949-678-0761

Names and addresses of all persons who own ten per cent (10%) or more of stock in corporation.

N/A

**Governing Board of Directors**

a. Number of Board Members 12

b. Term of Office 5 years

c. Frequency of Meetings Bimonthly

d. Method of Selection Voted

**Board Officers and Members**

**USE A SEPARATE SHEET FOR ADDITIONAL NAMES**

Office	Name	Business Address & City & Zip Code	Telephone Number	Term Expiration
President	<u>Dr. A.M. Thames</u>	<u>1546 Bay St, Costa Mesa, Ca</u>	<u>949-678-9000</u>	<u>2010</u>
Vice-President	<u>Dexter Cohen</u>	<u>15 Lucene, Newport Bch, Ca</u>	<u>949-</u>	<u>2010</u>
Secretary	<u>Leisha Mello</u>	<u>165 Virginia Pl. Costa Mesa, Ca 92627</u>	<u>949-678-0761</u>	<u>2010</u>
Treasurer	<u>Joan Franco</u>	<u>476 Trause Dr Costa Mesa, Ca 92627</u>	<u>949-678-0762</u>	<u>2010</u>
Other				

City of Newport Beach  
GROUP RESIDENTIAL USES - USE PERMIT APPLICATION  
DELEGATION FORM - CORPORATIONS  
(Form 200D - February 2008)

STATEMENT OF CORPORATE DELEGATION

Applicants who are corporations shall attach board resolutions authorizing a delegation to the Program Director and/or Administrator or other appropriate staff.

1. Applicant Name: Dr. A. M. Thames
2. Program Name: Yellowstone
3. Program Address: 1221 Indus
4. City: Newport Beh County: Orange Zip Code: 92707
5. Telephone: (949) 646-4494
6. Leisha Mello  
(Name of person(s) authorized by applicant)

...is hereby designated as administrator, program manager, or agent of the above-named program and is authorized to receive at the above named program on my behalf, any documents including reports of inspections and consultations, accusations, and civil and administrative processes.

I WILL NOTIFY THE CITY WITHIN 10 WORKING DAYS OF ANY CHANGE OF THE ADMINISTRATOR OF THE FACILITY.

7. Dr. A. M. Thames  
Signature of applicant(s)
8. Title: CEO
9. Address: 28 Ima Loa
10. City: Newport Beh County: Orange Zip Code: 92707

City of Newport Beach  
GROUP RESIDENTIAL USES – USE PERMIT APPLICATION  
ADMINISTRATIVE ORGANIZATION -  
PARTNERSHIPS, SOLE PROPRIETOR, AND OTHER ASSOCIATIONS  
(Form 200P – February 2008)

**PARTNERSHIPS**

1. Attach a copy of the partnership agreement

N/A

2. Partners

	Type of Partnership	Name	Business Address, City and Zip Code
1st Partner	<input type="checkbox"/> General <input type="checkbox"/> Limited		
2nd Partner	<input type="checkbox"/> General <input type="checkbox"/> Limited		
3rd Partner	<input type="checkbox"/> General <input type="checkbox"/> Limited		
4th Partner	<input type="checkbox"/> General <input type="checkbox"/> Limited		

Contact Person \_\_\_\_\_ Title \_\_\_\_\_ Telephone # \_\_\_\_\_

**SOLE PROPRIETOR/OTHER ASSOCIATIONS**

Sole Proprietors/other associations must also provide a list of all person(s) legally responsible for the organization, the contact person, and appropriate legal documents (fictitious name statement, business license) which set forth legal responsibility of the organization and accountability for opening the program. Use the following space or attach a separate sheet.

City of Newport Beach  
**GROUP RESIDENTIAL USES – USE PERMIT APPLICATION**  
**WEEKLY ACTIVITIES SCHEDULE**  
 (Form 500 – February 2008)

**WEEKLY SCHEDULE OF SERVICES**

Time	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
6-7 a.m.							
7-8 a.m.							
8-9 a.m.							
9-10 a.m.							
10-11 a.m.							
11 a.m.-12							
12-1 p.m.							
1-2 p.m.							
2-3 p.m.							
3-4 p.m.							
4-5 p.m.							
5-6 p.m.							
6-7 p.m.							
7-8 p.m.							

*NA  
 Sober living*

TOTAL HOURS PER WEEK OF INDIVIDUAL/GROUP/EDUCATION SESSIONS, RECOVERY OR TREATMENT PLANNING, AND DETOXIFICATION SERVICES (IF PROVIDED): \_\_\_\_\_

Comments:



## FIRE SAFETY INSPECTION REQUEST

STD. 880 (REV. 10-94)

See instructions on reverse.

AGENCY CONTACT'S NAME		TELEPHONE NUMBER ( )	REQUEST DATE	PROGRAM
EVALUATOR'S NAME		REQUESTING AGENCY FACILITY NUMBER		REQUEST CODE 1A
LICENSING AGENCY NAME AND ADDRESS Department of Alcohol & Drug Programs Licensing and Certification Branch 1700 K Street Sacramento, Ca. 958-14-4037				<b>CODES</b> 1. ORIGINAL A. FIRE CLEARANCE 2. RENEWAL B. LIFE SAFETY 3. CAPACITY CHANGE 4. OWNERSHIP CHANGE 5. ADDRESS CHANGE 6. NAME CHANGE 7. OTHER
<b>AMBULATORY</b> CAPACITY 18 PREVIOUS CAPACITY		<b>NONAMBULATORY</b> CAPACITY — PREVIOUS CAPACITY —		<b>BEDRIDDEN</b> CAPACITY — PREVIOUS CAPACITY —
<b>TOTAL CAPACITY</b> 18				<b>FACILITY NAME</b> Women's Recovery of California, Yellowstone, Indus <b>STREET ADDRESS (Actual Location)</b> 1621 Indus Street <b>CITY</b> Santa Ana, CA 92707 <b>FACILITY CONTACT PERSON'S NAME</b> Dr. A. M. (Honey) Thames <b>SPECIAL CONDITIONS</b>
<b>LICENSE CATEGORY</b> Alcohol/Drug Facility <b>NUMBER OF BUILDINGS</b> <b>RESTRAINT</b> <b>HOURS</b> 24 hours				

## TO BE COMPLETED BY INSPECTING AUTHORITY

<b>FIRE AUTHORITY NAME AND ADDRESS</b> Orange County Fire Authority 1 Fire Authority Way Irvine, CA 92619				<b>CLEARANCE/DENIAL CODE</b> 1
<b>CODES</b> 1. FIRE CLEARANCE GRANTED 2. FIRE CLEARANCE DENIED A. EXITS B. CONSTRUCTION C. FIRE ALARM D. SPRINKLERS E. HOUSEKEEPING F. SPECIAL HAZARD G. OTHER				
<b>INSPECTOR'S NAME (Typed or Printed)</b> Mike Johnson	<b>TELEPHONE NUMBER</b> (949) 347-2240	<b>CFRS NUMBER</b> 30065	<b>OCCUPANCY CLASS</b> R6-2	
<b>INSPECTION DATE</b> 2/22/05	<b>INSPECTOR'S SIGNATURE</b> 			
<b>EXPLAIN DENIAL OR LIST SPECIAL CONDITIONS</b>				

This is an existing home. Some correcting need to be made. Clearance is granted on the condition that the attached violations are addressed within noted time.

# Orange County Sober Living Coalition

Affiliated with the Sober Living Network

## YELLOWSTONE SOUTH

*The Yellowstone South Sober Living House at 1621 Indus, Newport Beach, CA*

Is approved as a member in good standing  
Meets the health and safety standards, as well as the management ability  
and ethical guidelines in the operation of a quality sober living home.



Coalition inspection completed 4/15/08  
Expires 4/14/09

*Thomas J. Smith, C.A.T.C.*  
OC Coalition Chair  
*Shirley R. Miller*  
OC Coalition Secretary

**PROVIDING EQUAL RECOVERY OPPORTUNITIES FOR ALL**

**EXHIBIT 3**

**CORRESPONDENCE AND SUBSEQUENT  
APPLICATION SUBMITTALS**



CITY OF NEWPORT BEACH  
PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92658  
(949) 644-3200; FAX (949) 644-3229

June 19, 2008

YELLOWSTONE WOMEN'S FIRST STEP HOUSE, INC.  
c/o Isaac R. Zfaty  
SGSA Lawyers  
19800 MacArthur Blvd., Suite 1000  
Irvine, CA 92612

Dear Mr. Zfaty:

Subject: **NOTICE OF INCOMPLETE APPLICATION**  
Use Permit No. 2008-035  
Property located at 1621 Indus Street

This letter serves as notification that the Planning Department is in receipt of your application submittal regarding the proposed Use Permit for property located at the above referenced address. Upon review of your submitted application, documents and exhibits, the application has been deemed incomplete. Please provide the following clarifications and/or additional information:

1. Application Form 100, Item 2, Property Owner Information: Please provide a copy of a Preliminary Title Report or property profile that is less than 60 days old that verifies the legal owner of the property, and written authorization from the legal owner authorizing filing of this application.
2. Application Form 100, Item 3B, Other Similar Uses: Information on other Similar Use permits within the City is not provided, but will be provided by City staff from City records. However, the application is not complete until this information is included in application package.
3. Application Form 100, Item 4, Firm's Historic Uses: Other managed group residential uses are checked no, however your applications indicate that three other group homes are operated in Newport Beach. Please list these uses.
4. Application Form 100, Item 5, Conditional Uses Within 3 Block Radius: Information on other Use permits within the 3 block radius area is not provided, but will be provided by City staff from City records. However, the application is not complete until this information is included in application package.
5. Application Form 100, Item 6, Site Plan: Please provide a site plan which shows the building footprint and property lines and the building footprints and property lines for immediately adjacent properties. Show dimensions and setbacks. YS 00388

6. Application Form 100, Item 8B, Facility Users and Staff: The maximum resident capacity is stated as zero (0) but the total occupancy is stated as 18. As two staff residents are indicated does that mean the resident capacity is 16? Please clarify.
7. Application Form 100, Item 8C, Floor Plan: Please provide a floor plan identifying the number of residents per bedroom. The diagram must also show setbacks, driveways, and usable outdoor spaces.
8. Application Form 100, Item 8L, Secondhand Smoke: As Dr. Anna Marie Thames is indicated as facility Administrator/Director, please have her sign the acknowledgement to control secondhand smoke. It is not clear what role Leisha Mello plays at the facility.
9. Application Form 100, Item 10D, Signature of Applicant: Leisha Mello is listed as administrator, however Dr. Anna Marie Thames is indicated as facility Administrator/Director on Form 150. Please clarify.
10. Application Form 200, Corporate Delegation: Please provide corporate board resolution(s) authorizing delegation of corporate representation to the person indicated on line 6 of the form. Line 6 designates Leisha Mello as administrator/program manager. Please clarify the roles and responsibilities of Leisha Mello and Dr. Anna Marie Thames as Dr. Thames is indicated as facility administrator/director on Form 150.
11. Application Form 850, Fire Marshall Clearance: Please provide evidence (Form 850) of recent Fire Marshall clearance.
12. Filing Fee: Please remit the Use permit filing fee of \$2,200.00.
13. Request For Reasonable Accommodation: Please provide additional information regarding the Request for Reasonable Accommodation using the enclosed forms.

Should you have any questions regarding the requested clarifications or additional information, please do not hesitate to contact me at (949) 266-7548.

Sincerely,

By   
Roger Mobley  
Consulting Planner

cc: Janet Brown, Associate Planner  
Dr. Anna Marie Thames, Yellowstone Women's First Step House

YS 00389



DAVIS • RAYBURN  
A PROFESSIONAL LAW CORPORATION

July 25, 2008

RECEIVED BY  
PLANNING DEPARTMENT

JUL 29 2008

**VIA FIRST CLASS MAIL**

CITY OF NEWPORT BEACH  
Planning Department  
3300 Newport Boulevard  
Newport Beach, CA 92658-8915

CITY OF NEWPORT BEACH

*Re: Use Permit Applications; 2008-034; 2008-035; 2008-036; and 2008-037*

To Whom It May Concern:

This firm is general counsel for **Yellowstone Women's First Step House, Inc.** This correspondence is in response to your notices of incomplete application concerning the above-referenced Use Permit Applications for the following properties: 1561 Indus, 1621 Indus, 1571 Pegasus, and 20172 Redlands.

Our office is currently gathering the required information referenced in your notices in order to complete our applications. We should have the information forwarded to you within the next twenty-one (21) days.

Thank you for your courtesy and if you have any questions regarding this correspondence, please feel free to contact us.

Very truly yours,

DAVIS & RAYBURN  
a professional corporation

ISAAC R. ZFATY

IRZ:jdb

RECEIVED BY  
PLANNING DEPARTMENT

AUG 25 2008

CITY OF NEWPORT BEACH



DAVIS • RAYBURN  
A PROFESSIONAL LAW CORPORATION

August 22, 2008

8005-003

**VIA FIRST CLASS MAIL**

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

**Re: Notice of Incomplete Application: 1621 Indus Street**

Dear Ms. Brown:

As you know, this firm is general counsel for **Yellowstone Women's First Step House, Inc. ("Yellowstone")**. We are in receipt of the City of Newport Beach's Notice of Incomplete Application for the property located at 1621 Indus Street (the "Property").

In response to that notice, we provide herewith the following:

1. Application Form 100, Item 2, Property Owner Information: the requested information is enclosed herewith.
2. Item 3B: We have no information regarding other similar uses and we appreciate the City's offer to provide this information.
3. Item 4: We cross-reference and incorporate the other applications, which are being provided concurrently under separate cover.
4. Item 5: We have no information regarding other conditional uses and we appreciate the City's offer to provide this information.
5. Item 6: A site plan is enclosed herewith.
6. Item 8B: Resident capacity is 16. Total capacity is 18.
7. Item 8C: A floor plan is enclosed herewith.
8. Item 8L: The acknowledgement re secondhand smoke is enclosed herewith.
9. Item 10D: Dr. Thames is the facility Director.
10. Form 200: A board resolution is enclosed herewith.
11. Form 850: Fire Marshall Clearance is enclosed herewith.
12. Request for reasonable accommodation: See the enclosed form.

The one item that we have not included in this correspondence is the requested \$2,200.00 fee. After reviewing the code, we have been unable to locate any discussion of such fee. We mention this not to question the City's authority to impose such a fee, but rather because we have not seen any statutory scheme that should provide for a hardship exception. We would respectfully request that the City furnish such authority, and also provide us with any exemption

City of Newport Beach  
August 22, 2008  
Page 2

application. Alternatively, we would request an extension of time to remit such fee so that we might be able to raise the funds necessary to accommodate the City's request.

As a final note, it is worth mentioning that it is our understanding that the Property is still currently located in an unincorporated area of Orange County known as Santa Ana Heights, and that the Newport Beach annex of the property is not yet complete. If this is true, then we would submit that the city of Newport Beach does not have jurisdiction over this property. Any response that the City can provide regarding this matter would be greatly appreciated. To the extent that our understanding is correct, we would ask that the City simply hold our application until such time as the annexation is complete, so that the parties are not required to reinitiate this process.

Please accept our apologies for the delay in providing the enclosed information. As always, if you have any questions regarding these applications, please feel free to contact us.

Very truly yours,



ISAAC R. ZFATY

IRZ/jmk

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



Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder



9.00

2007000110650 10:25am 02/21/07

100 96 D10 2

0.00 0.00 0.00 0.00 3.00 0.00 0.00 0.00

RECORDING REQUESTED BY:

ANNA MARIE THAMES

WHEN RECORDED, MAIL TO  
AND MAIL TAX STATEMENTS TO:

Dr. A.M. Thames, Trustee

28 Ima Loa

Newport Beach, CA 92663

THIS SPACE FOR RECORDER'S USE ONLY

APN: 119-361-04

The undersigned Grantor declares that this conveyance transfers  
her interest to her Revocable Living Trust and  
is exempt from the Documentary Transfer Tax pursuant to R & T Code §11911.

## DEED TO A REVOCABLE TRUST

DR. ANNA M. THAMES,

HEREBY GRANTS TO

ANNA MARIE THAMES, as Trustee of THE THAMES TRUST, U/A dated January 25,  
2007,

The real property at 1621 Industrial Street, Santa Ana, California, described as:

LEGAL DESCRIPTION IS HEREBY ATTACHED AS EXHIBIT "A" AND IS MADE A PART  
HEREOF.

Executed on January 25, 2007, in Orange County, California.

  
DR. ANNA M. THAMES

STATE OF CALIFORNIA

COUNTY OF ORANGE

On this 25 day of January, 2007, before me (BRIAN MANDEL, a Notary Public in and for said State), personally appeared DR. ANNA M. THAMES, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

  
NOTARY PUBLIC

[SEAL]



TO: CITY OF NEWPORT BEACH  
FROM: DR. ANNA THAMES, OWNER  
RE: AUTHORIZATION

THIS IS AN OFFICIAL AUTHORIZATION TO MAKE  
APPLICATIONS FOR MY RESIDENCE AT

1621 INDUS , NEWPORT BEACH, CAL.

IT IS CURRENTLY LICENSED WITH THE STATE OF  
CALIFORNIA.

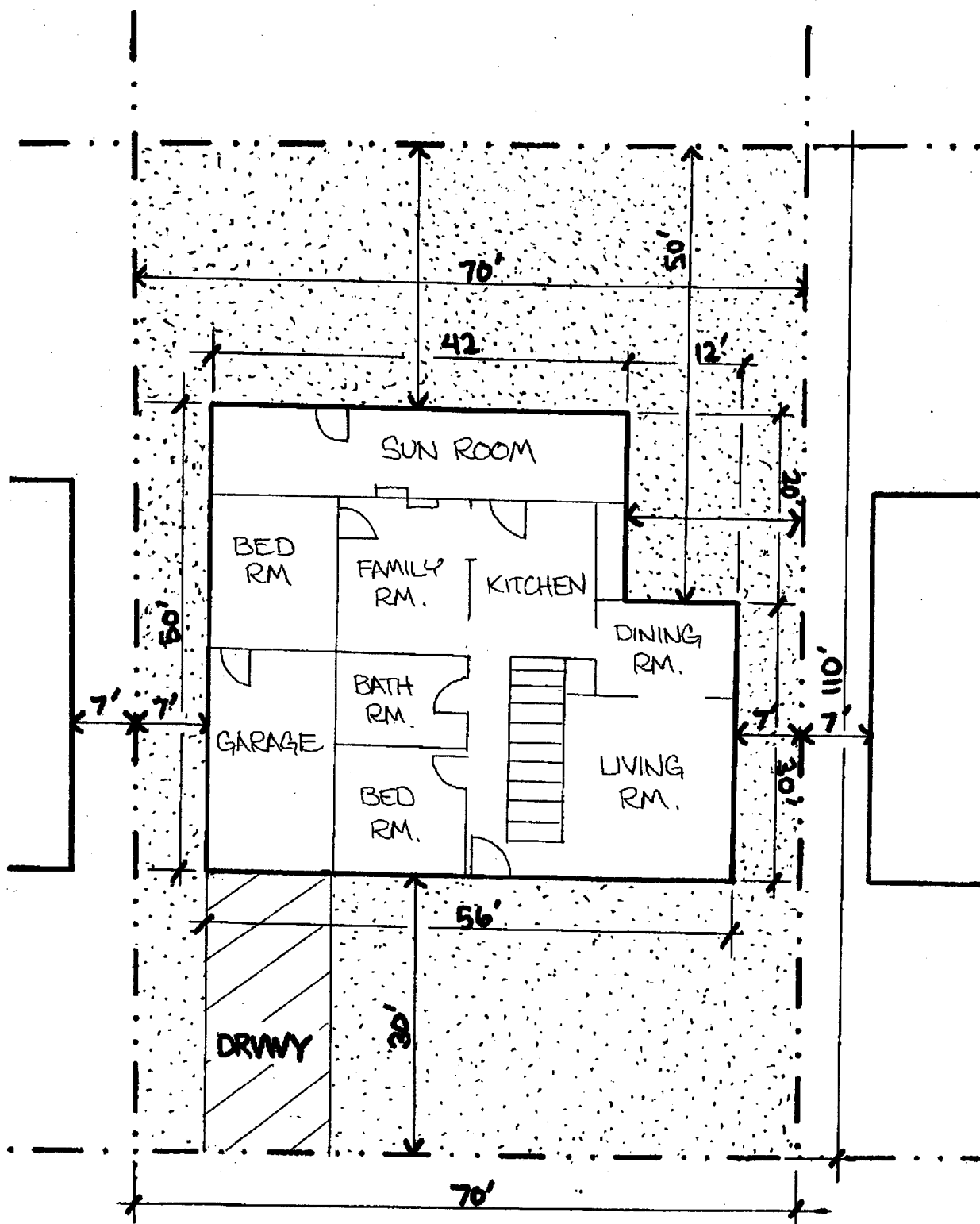
DATE AUTHORIZED: JUNE 30, 2008

A handwritten signature in cursive script, appearing to read "Dr. Anna Thames", is written over a horizontal line.

SIGNATURE



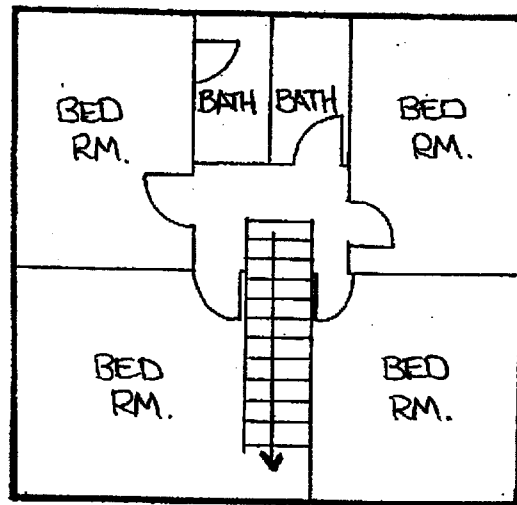
**Y<sup>305</sup>S 00395**



LEGEND	
	SETBACKS
	DRIVEWAYS
	USABLE OUTDOOR

1621 INDUS STREET  
 SOUTH HOUSE

# 1<sup>ST.</sup> FLOOR PLAN



PROPERTY LINE

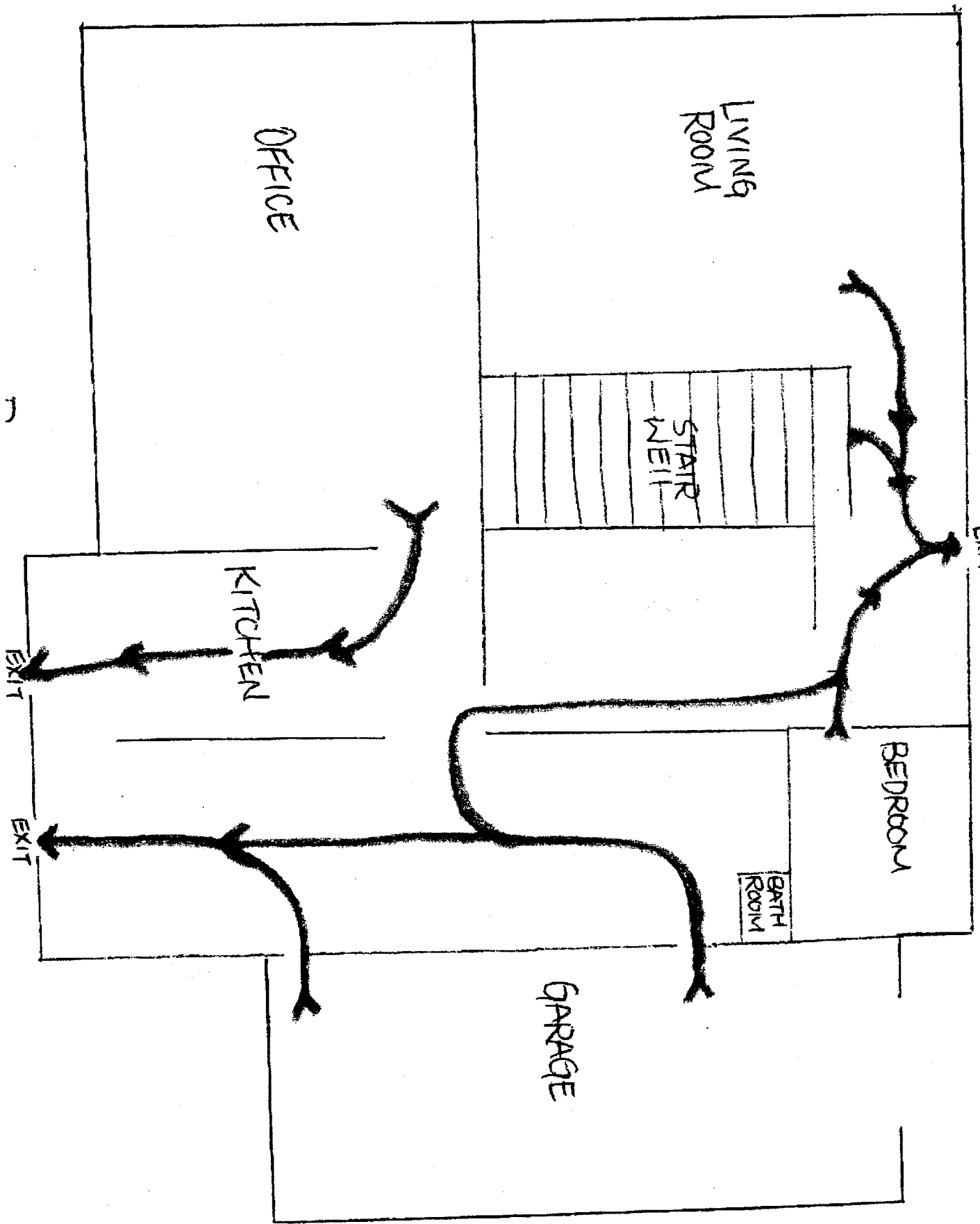
1621 INDUS STREET

.. SOUTH HOUSE ..

2<sup>ND.</sup> FLOOR PLAN

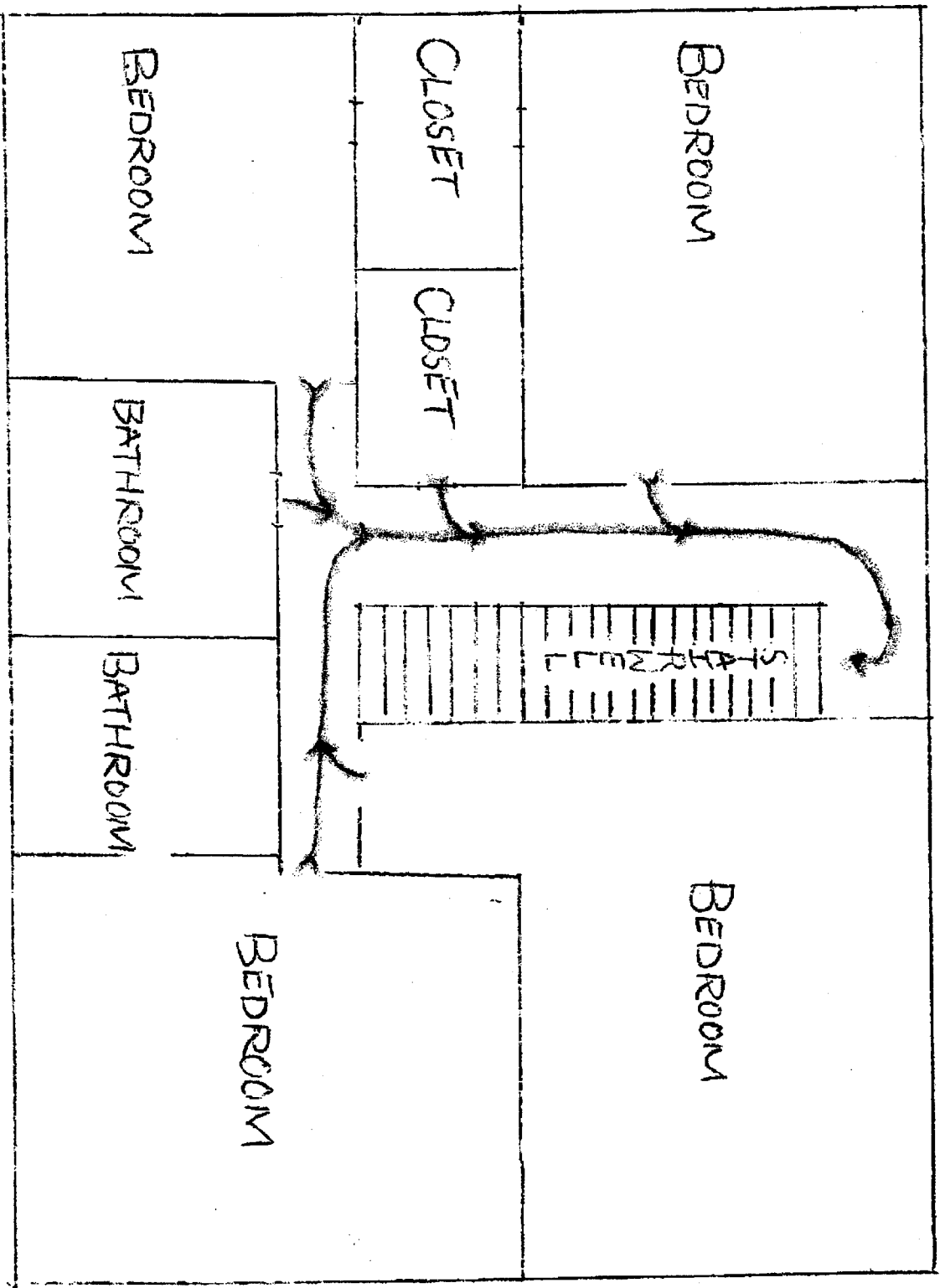
FRONT  
GROUND FLOOR  
EXIT

KEYSTONE  
HOUSE



FRONT  
TOP FLOOR

Keystone House



Back

☐ 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: *Adam Thomas*

Date: 7/21/2008

**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.

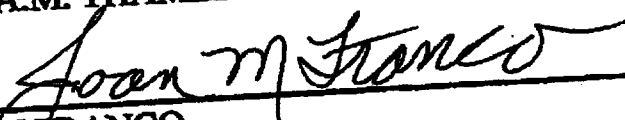
ATTORNEY ISAAC ZFATY, WILL PROVIDE LEGAL REPRESENTATION IN ALL MATTERS IN THE AGREEMENTS WITH THE CITY OF NEWPORT BEACH

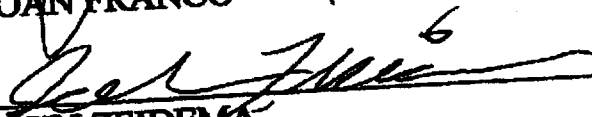
LEISHA MELLO, AS ADMINISTRATOR FOR YELLOWSTONE WILL ALSO BE AVAILABLE FOR DISCUSSIONS RELATED TO THE AGREEMENTS WITH THE CITY OF NEWPORT BEACH.

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

## FIRE SAFETY INSPECTION REQUEST

See instructions on reverse.

STD. 880 (REV. 10-94)

AGENCY CONTACT'S NAME

TELEPHONE NUMBER

REQUEST DATE

PROGRAM

EVALUATOR'S NAME

REQUESTING AGENCY FACILITY NUMBER

REQUEST CODE

1A

## CODES

1. ORIGINAL A. FIRE CLEARANCE
2. RENEWAL B. LIFE SAFETY
3. CAPACITY CHANGE
4. OWNERSHIP CHANGE
5. ADDRESS CHANGE
6. NAME CHANGE
7. OTHER

LICENSING  
AGENCY  
NAME AND  
ADDRESS

Department of Alcohol & Drug Programs  
Licensing and Certification Branch  
1700 K Street  
Sacramento, Ca. 958-14-4037

AMBULATORY		NONAMBULATORY		BEDRIDDEN		TOTAL CAPACITY
CAPACITY	PREVIOUS CAPACITY	CAPACITY	PREVIOUS CAPACITY	CAPACITY	PREVIOUS CAPACITY	
18						18
FACILITY NAME Women's Recovery of California, Yellowstone, Indus						LICENSE CATEGORY Alcohol/Drug Facility
STREET ADDRESS (Actual Location) 1621 Indus Street						NUMBER OF BUILDINGS
CITY Santa Ana, CA 92707						RESTRAINT
FACILITY CONTACT PERSON'S NAME Dr. A. M. (Honey) Thomas						HOURS 24 hours
SPECIAL CONDITIONS						

## TO BE COMPLETED BY INSPECTING AUTHORITY

FIRE  
AUTHORITY  
NAME AND  
ADDRESS

Orange County Fire Authority  
1 Fire Authority Way  
Irvine, CA 92619

CLEARANCE/DENIAL CODE

## CODES

1. FIRE CLEARANCE GRANTED
2. FIRE CLEARANCE DENIED
  - A. EXITS
  - B. CONSTRUCTION
  - C. FIRE ALARM
  - D. SPRINKLERS
  - E. HOUSEKEEPING
  - F. SPECIAL HAZARD
  - G. OTHER

INSPECTOR'S NAME (Typed or Printed) <i>Mike Johnson</i>	TELEPHONE NUMBER (949) 347-2240	CFRS NUMBER 30065	OCCUPANCY CLASS R6.2
INSPECTION DATE 2/22/05	INSPECTOR'S SIGNATURE <i>[Signature]</i>		
EXPLANATION OR LIST SPECIAL CONDITIONS			

This is an existing home. Some corrections need to be made. Clearance is granted on the condition that the attached violations are addressed within noted time.



**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?

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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.

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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.

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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.

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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.

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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.

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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.) \_\_\_\_\_

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## 1621 Indus Attachment

Name of applicant: Yellowstone, Woman's First Step House, Inc., 1621 Indus St., Santa Ana Heights, CA 92701; Phone: 888.941.9048; Fax: 949.646.5296; APN: 119-361-04.

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.



# PLANNING DEPARTMENT

3300 Newport Boulevard, Building C, Newport Beach, CA 92663  
(949) 644-3200 Fax: (949) 644-3229 website: [www.city.newport-beach.ca.us](http://www.city.newport-beach.ca.us)

November 7, 2008

**YELLOWSTONE WOMEN'S FIRST STEP HOUSE, INC.**

c/o Isaac R. Zfaty  
Davis & Rayburn, Attorneys at Law  
580 Broadway Street, Suite 301  
Laguna Beach, CA 92651

Dear Mr. Zfaty:

Subject: **NOTICE OF INCOMPLETE APPLICATION**  
Use Permit No. 2008-035  
Property located at 1621 Indus Street

I am writing as the City of Newport Beach's consulting case planner for this use permit application. This letter is a response to your letter dated August 22, 2008, in which you responded to the City's Notice of Incomplete Application dated June 19, 2008, and is also a follow-up to our October 8, 2008, meeting at the City. The City appreciates your responses and the opportunity to meet with you. However, at this time your application for Use Permit No. 2008-035 for property located at 1621 Indus Street remains incomplete.

As we discussed at our October 8<sup>th</sup> meeting, the area of West Santa Ana Heights was formally annexed to the City of Newport Beach, effective January 1, 2008, and the property located at 1621 Indus Street is therefore subject to the City's land use regulations, including the Residential Care provisions of the Newport Beach Municipal Code (NBMC).

With respect to the items that continue to be deficient or missing from the use permit application submittal, please provide the following:

1. A Preliminary Title Report that is less than 60 days old. This requirement is necessary to not only verify the ownership of record, but also will verify any deed restrictions (or lack thereof) such as CC&Rs that may place restrictions on the use of the property.



2. The site plan submitted does not appear to be accurately drawn when reviewing it against aerial photographs, and the site plan and floor plans are not drawn to scale. The site plan must show the property line dimensions, distance or setback from property lines to the building, usable outdoor spaces, and the location of driveways. The site plan must also include the property lines and building footprints on immediately adjacent parcels. The floor plans must provide an accurate count of bedrooms and number of beds/residents within each bedroom, as well as all rooms intended for residents' use, and the location and dimension of the garage.
3. As noted at the meeting of October 8<sup>th</sup> you are required to provide the City of Newport Beach Fire Marshal with a comprehensive code analysis prepared by a licensed architect. Requirements for the code analysis were provided to you at the meeting. However, should you have any questions regarding these requirements, please contact Steve Bunting, Fire Marshal, at (949) 644-3106. In addition, please provide the Fire Marshal with the year the home began to be used for sober living purposes. The plans that are required to be prepared for the code analysis may also be used to satisfy the requirement for a site plan and floor plans as noted above.
4. Please provide an explanation of the number of parking spaces provided on site and information regarding the maximum number of employees or others on site at any one time that will have autos. Include an explanation of the use of vans to transport residents to treatment facilities and other activities and provide a transportation route diagram.
5. You have discussed the unlicensed status of the Yellowstone facility at this address with our City Attorney's Office. Please review the Disclosure Statement and revise the licensing statement made in the application if necessary.
6. If certification specific to the type of facility is available from a governmental agency or qualified nonprofit organization, the facility shall receive such certification including without limitation, certification by Orange County under its Adult Alcohol and Drug Sober Living Facilities Certification Program. Please provide evidence of any certifications held for this address.

You also have requested information regarding the City's authority to impose an Application Fee of \$2,200 and have asked for evidence of such City authority. Please note Section 20.90.030(D) (Application Filing) of Title 20 of the NBMC states that "Applications for discretionary approvals shall be accompanied by a fee as established by resolution of the City Council." In addition, Chapter 3.36 of the NBMC provides the basis for recovering actual costs for application processing.


On the basis of the foregoing requirements, you may wish to reevaluate and amend the Reasonable Accommodation application you have submitted with the use permit

application. In addition, Item 2 on the Reasonable Accommodation supplemental form requests documentation of the disability for which the request for a reasonable accommodation is being made. That documentation has not been provided. Please provide documentation that the individuals on whose behalf the application is made are disabled under the governing law. The City leaves to the discretion of Yellowstone Women's First Step House and/or the individuals the nature of the documentation to be submitted. Understanding the concerns about privacy, the City will accept documentation disclosing only the person's first name or initials (with all other identifying information redacted).

Please be advised that failure to obtain a use permit for the residential care facility use of the subject property shall render the use of property nonconforming. Nonconforming uses of property are subject to abatement, per Section 20.62.090 of the NBMC, and if the required use permit is not obtained by February 9, 2009, the use will be subject to abatement in accordance with the Code.

City staff appreciates your continuing cooperation. However, we are unable to process your Use Permit application and Reasonable Accommodation application and schedule a public hearing until we receive the pending submittal items outlined above. Should you have questions regarding the aforementioned, please contact me at (562) 989-6664 or by email at [dgbc@verizon.net](mailto:dgbc@verizon.net).

Sincerely,

By   
William Cunningham  
Consulting Planner

Cc: Janet Brown, Associate Planner  
Dr. Anna Marie Thames, Yellowstone Women's First Step House

RECEIVED BY  
PLANNING DEPARTMENT

DEC 29 2008

CITY OF NEWPORT BEACH

  
DAVIS • ZFATY  
A PROFESSIONAL LAW CORPORATION

December 23, 2008

Z175.1

**VIA FIRST CLASS MAIL**

Ms. Janet Brown  
City of Newport Beach  
3300 Newport Boulevard  
Newport Beach, California 92658

*Re: Notice of Incomplete Application: Yellowstone - 1621 Indus*

Dear Ms. Brown:

This firm is general counsel for Yellowstone Women's First Step House, Inc. ("Yellowstone"). We are in receipt of the City of Newport Beach's Notice of Incomplete Application dated November 7, 2008 in which the City asked Yellowstone to address six deficiencies in its Use Permit Application for 1621 Indus. Enclosed herewith is the documentation you requested. Below is a brief description of the enclosed materials.

**Preliminary Title Reports**

A preliminary title report for 1621 Indus is included. As requested, the preliminary title report is less than 60 days old.

**Site Plans**

The site plans for 1621 Indus show the property dimensions, setback from the property line to the buildings, useable outdoor space, and the location of driveways. The site plans also include the property lines and building footprints on immediately adjacent parcels. Finally, the site plans include an accurate count of bedrooms in the home, the number of residents within each bedroom, the rooms intended to be used by residents, and the location and dimension of the garage.

Ms. Janet Brown  
December 23, 2008

### **Code Analysis**

A code analysis is provided herewith. The code analysis discusses the property, which is in compliance with the R4 Building and Fire Code Requirements. Also, your November 7, 2008 letter requested that we provide the Fire Marshal with the year each of the homes began to be used for sober living purposes.

Those dates are as follows:

1561 Indus – 2007  
1621 Indus – 2003  
20172 Redlands – 2005  
1571 Pegasus – 2005

### **Parking and Transportation**

The documentation enclosed provides the number of available parking spaces at 1621 Indus and the number of employees who park on site. Route maps from the home to treatment and from the home to St. John church are also provided.

With respect to parking and transportation to and from 1621 Indus, we would like to address variations in previous submittals that have since been resolved. Paragraph 10 of the Request for Reasonable Accommodation for 1621 Indus states that four of the residents have automobiles. This is no longer the case. As correctly stated in Paragraph 8(H) of the Use Permit Application and the enclosed documentation, personal vehicles are not permitted onsite.

Paragraph 11 of the Request for Reasonable Accommodation for 1621 Indus that we previously submitted states that tenants are allowed to have vehicles provided that such vehicles are approved and are parked in the garage or driveway. This is no longer true. Residents are no longer permitted to have vehicles on site. As stated in Paragraph 8(B) of the Use Permit Application and the included documentation, the only two employees residing onsite are the home's manager and assistant manager. As stated in Paragraph 8(H) of the Use Permit Application and the enclosed documentation, their cars are will be parked onsite in the driveway and no other cars are permitted on the premises.

Finally, Paragraph 12 of the Request for Reasonable Accommodation for 1621 Indus states that Yellowstone does not provide transportation. Though this is generally true, upon further review, we feel that it is important to note that the home provides some basic transportation to other non-Newport Beach facilities and to St. John church. Both locations are within ten minutes of the home and, as stated above, we have included route maps for your convenience. Finally, the vans that transport the residents are not parked onsite. When not in use, the vans are kept in another city.

Ms. Janet Brown  
December 23, 2008

**Licensing Status**

As we have discussed, none of the four homes is ADP licensed. To the extent that any prior representations regarding ADP licensing were made, we have learned that same were incorrect. If you have any questions regarding this item, or need any further explanation as to the reasons for our error, we are more than happy to provide same. As we have never provided treatment in these facilities (nor represented that in any prior communication with the City), this does not represent a material change to our application.

**Certifications**

Enclosed is a copy of the certification for 1621 Indus. The home is certified as a member of the Orange County Sober Living Coalition.

I hope that the enclosed materials complete Yellowstone's Application and clarify any ambiguities in our previous submissions to the city regarding 1621 Indus. 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

<u><b>YELLOWSTONE - 1621 INDUS</b></u>	
1.	Preliminary Title Report
2.	Code Analysis
3.	Parking and Route Maps
4.	Certification

RECEIVED BY  
PLANNING DEPARTMENT

DEC 29 2008

CITY OF NEWPORT BEACH



CHICAGO TITLE COMPANY

## PRELIMINARY REPORT

Dated as of: November 18, 2008 at 7:30 AM  
Order No.: 880523122 - S04

Regarding: 1621 INDUS STREET  
Newport Beach, CALIFORNIA

In response to the application for a policy of title insurance referenced herein, Chicago Title Insurance Company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The policy(s) of title insurance to be issued hereunder will be policy(s) of Chicago Title Insurance Company.

Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.

The form of Policy or Policies of title insurance contemplated by this report is:  
AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (6-17-06)

Visit Us On The Web: [ChicagoTitle.com](http://ChicagoTitle.com)

Title Department:

CHICAGO TITLE COMPANY

16969 VON KARMAN

IRVINE, CA 92606

(949) 263-6800

Fax: (949) 263-0872



JOHN ALLEN  
Title Officer

## **SCHEDULE A**

Order No: 880523122 804

Your Ref:

1. The estate or interest in the land hereinafter described or referred to covered by this report is:

A FEE

2. Title to said estate or interest at the date hereof is vested in:

ANNA MARIE THAMES, AS TRUSTEE OF THE THAMES TRUST, U/A DATED JANUARY 25, 2007

3. The land referred to in this report is situated in the State of California, County of ORANGE  
and is described as follows:

LOT 18 OF TRACT NO. 4307, AS SHOWN ON A MAP RECORDED IN BOOK 153, PAGES 18,  
19 AND 20 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.



## SCHEDULE B

Page 1

Order No: 880523122 S04

Your Ref:

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in the policy form designated on the face page of this Report would be as follows:

- A 1. PROPERTY TAXES, INCLUDING ANY ASSESSMENTS COLLECTED WITH TAXES, TO BE LEVIED FOR THE FISCAL YEAR 2009-2010 THAT ARE A LIEN NOT YET DUE.
- B 2. PROPERTY TAXES FOR THE FISCAL YEAR SHOWN BELOW ARE PAID. FOR INFORMATION PURPOSES THE AMOUNTS ARE:

FISCAL YEAR: 2008-2009  
1ST INSTALLMENT: \$3,521.52  
2ND INSTALLMENT: \$3,521.52  
EXEMPTION: \$NOT SHOWN  
CODE AREA: 07212  
ASSESSMENT NO: 119-361-04

- C 3. SAID PROPERTY HAS BEEN DECLARED TAX-DEFAULTED FOR NON-PAYMENT OF DELINQUENT TAXES FOR FISCAL YEAR 2003-2004 (AND SUBSEQUENT YEARS, IF ANY)

AMOUNT TO REDEEM: \$33,049.34  
IF PAID BY: NOVEMBER 30, 2008

AMOUNT TO REDEEM: \$33,383.17  
IF PAID BY: DECEMBER 31, 2008

- D \$267 DEEDED-TO-STATE FEE IS INCLUDED IN REDEMPTION AMOUNTS

- E 4. THE LIEN OF SUPPLEMENTAL OR ESCAPED ASSESSMENTS OF PROPERTY TAXES, IF ANY, MADE PURSUANT TO THE PROVISIONS OF PART 0.5, CHAPTER 3.5 OR PART 2, CHAPTER 3, ARTICLES 3 AND 4 RESPECTIVELY (COMMENCING WITH SECTION 75) OF THE REVENUE AND TAXATION CODE OF THE STATE OF CALIFORNIA AS A RESULT OF THE TRANSFER OF TITLE TO THE VESTEE NAMED IN SCHEDULE A; OR AS A RESULT OF CHANGES IN OWNERSHIP OR NEW CONSTRUCTION OCCURRING PRIOR TO DATE OF POLICY.

- F 5. COVENANTS, CONDITIONS AND RESTRICTIONS BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW AS SET FORTH IN THE DOCUMENT

RECORDED: IN BOOK 437 PAGE 231 OF OFFICIAL RECORDS

- G SAID COVENANTS, CONDITIONS AND RESTRICTIONS PROVIDE THAT A VIOLATION

**SCHEDULE B  
(continued)**

Order No: 880523122 904

Your Ref:

THEREOF SHALL NOT DEFEAT THE LIEN OF ANY MORTGAGE OR DEED OF TRUST MADE IN GOOD FAITH AND FOR VALUE.

H SAID INSTRUMENT ALSO PROVIDES FOR THE LEVY OF ASSESSMENTS, THE LIEN OF WHICH IS STATED TO BE SUBORDINATE TO THE LIEN OF CERTAIN MORTGAGES OR DEEDS OF TRUST MADE IN GOOD FAITH AND FOR VALUE.

I MODIFICATION(S) OF SAID COVENANTS, CONDITIONS AND RESTRICTIONS

RECORDED: IN BOOK 5296 PAGE 239 OF OFFICIAL RECORDS

J 6. COVENANTS, CONDITIONS AND RESTRICTIONS BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW AS SET FORTH IN THE DOCUMENT

RECORDED: IN BOOK 123 PAGE 266 OF OFFICIAL RECORDS

K SAID COVENANTS, CONDITIONS AND RESTRICTIONS PROVIDE THAT A VIOLATION THEREOF SHALL NOT DEFEAT THE LIEN OF ANY MORTGAGE OR DEED OF TRUST MADE IN GOOD FAITH AND FOR VALUE.

L SAID INSTRUMENT ALSO PROVIDES FOR THE LEVY OF ASSESSMENTS, THE LIEN OF WHICH IS STATED TO BE SUBORDINATE TO THE LIEN OF CERTAIN MORTGAGES OR DEEDS OF TRUST MADE IN GOOD FAITH AND FOR VALUE.

N 7. COVENANTS, CONDITIONS AND RESTRICTIONS BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW AS SET FORTH IN THE DOCUMENT

RECORDED: IN BOOK 255 PAGE 139 OF OFFICIAL RECORDS

N SAID COVENANTS, CONDITIONS AND RESTRICTIONS PROVIDE THAT A VIOLATION THEREOF SHALL NOT DEFEAT THE LIEN OF ANY MORTGAGE OR DEED OF TRUST MADE IN GOOD FAITH AND FOR VALUE.

O SAID INSTRUMENT ALSO PROVIDES FOR THE LEVY OF ASSESSMENTS, THE LIEN OF WHICH IS STATED TO BE SUBORDINATE TO THE LIEN OF CERTAIN MORTGAGES OR DEEDS OF TRUST MADE IN GOOD FAITH AND FOR VALUE.

P 8. COVENANTS, CONDITIONS AND RESTRICTIONS BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL

**SCHEDULE B  
(continued)**

Order No: 880523122 804

Your Ref:

ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW AS SET FORTH IN THE DOCUMENT

RECORDED: IN BOOK 511 PAGE 111 OF OFFICIAL RECORDS

Q SAID COVENANTS, CONDITIONS AND RESTRICTIONS PROVIDE THAT A VIOLATION THEREOF SHALL NOT DEFEAT THE LIEN OF ANY MORTGAGE OR DEED OF TRUST MADE IN GOOD FAITH AND FOR VALUE.

R SAID INSTRUMENT ALSO PROVIDES FOR THE LEVY OF ASSESSMENTS, THE LIEN OF WHICH IS STATED TO BE SUBORDINATE TO THE LIEN OF CERTAIN MORTGAGES OR DEEDS OF TRUST MADE IN GOOD FAITH AND FOR VALUE.

S 9. AN EASEMENT FOR SEWER LINES AS SHOWN ON THE MAP OF SAID TRACT AND AS SET FORTH IN INSTRUMENTS RECORDED IN BOOK 4566 PAGES 57 AND 59, OFFICIAL RECORDS AND RE-RECORDED IN BOOK 4588 PAGES 72 AND 74, OFFICIAL RECORDS, OVER THE NORTHERLY 35 FEET OF THE LAND

T 10. COVENANTS, CONDITIONS AND RESTRICTIONS BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW AS SET FORTH IN THE DOCUMENT

RECORDED: IN BOOK 5923 PAGE 378 OF OFFICIAL RECORDS

U SAID COVENANTS, CONDITIONS AND RESTRICTIONS PROVIDE THAT A VIOLATION THEREOF SHALL NOT DEFEAT THE LIEN OF ANY MORTGAGE OR DEED OF TRUST MADE IN GOOD FAITH AND FOR VALUE.

V SAID INSTRUMENT ALSO PROVIDES FOR THE LEVY OF ASSESSMENTS, THE LIEN OF WHICH IS STATED TO BE SUBORDINATE TO THE LIEN OF CERTAIN MORTGAGES OR DEEDS OF TRUST MADE IN GOOD FAITH AND FOR VALUE.

W 11. AN EASEMENT FOR THE PURPOSE SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS SET FORTH IN A DOCUMENT

GRANTED TO: NOT SHOWN

PURPOSE: EITHER OR BOTH POLE LINES, CONDUITS AND INCIDENTAL PURPOSES

RECORDED: IN BOOK 6009 PAGE 242 OF OFFICIAL RECORDS

AFFECTS: OVER THE NORTHERLY 12 FEET OF THE LAND

X 12. AN EASEMENT FOR THE PURPOSE SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS

**SCHEDULE B  
(continued)**

Order No: 880523122 804

Your Ref:

SET FORTH IN A DOCUMENT

GRANTED TO: NOT SHOWN  
PURPOSE: EITHER OR BOTH POLE LINES, CONDUITS AND INCIDENTAL PURPOSES  
RECORDED: IN BOOK 6023 PAGE 2 OF OFFICIAL RECORDS  
AFFECTS: OVER THE REAR 10 FEET OF THE LAND

Y SAID DEED PROVIDES THAT NO BUILDING OR STRUCTURE OVER 15 FEET IN HEIGHT OR NEARER THAN 3 FEET TO ANY POLE, SHALL BE ERECTED ON SAID EASEMENT.

Z 13. THE EFFECT OF A MAP PURPORTING TO SHOW THE LAND AND OTHER PROPERTY, FILED BOOK 110, PAGES 39 - 42 INCLUSIVE OF RECORD OF SURVEYS.

NOTE: A DOCUMENT ENTITLED "RECORD OF SURVEY CERTIFICATE OF CORRECTION" RECORDED NOVEMBER 27, 1985 AS INSTRUMENT NO. 85-479201 OF OFFICIAL RECORDS.

AA 14. THE EFFECT OF A MAP PURPORTING TO SHOW THE LAND AND OTHER PROPERTY, FILED BOOK 117, PAGE 5 OF RECORD OF SURVEYS.

AB 15. THE EFFECT OF A MAP PURPORTING TO SHOW THE LAND AND OTHER PROPERTY, FILED BOOK 118, PAGES 24 AND 25 OF RECORD OF SURVEYS.

A DOCUMENT ENTITLED "TRACT OR PARCEL MAP CERTIFICATE OF CORRECTION" RECORDED JANUARY 8, 1992 AS INSTRUMENT NO. 92-011710 OF OFFICIAL RECORDS.

AC 16. THE FACT THAT THE LAND LIES WITHIN THE BOUNDARIES OF THE LAND USE DISTRICT MAP SANTA ANA HEIGHTS SPECIFIC PLAN REDEVELOPMENT PROJECT AREA, AS DISCLOSED BY THE DOCUMENT RECORDED MAY 4, 1990 AS INSTRUMENT NO. 90-235869 OF OFFICIAL RECORDS.

AD 17. AN EASEMENT FOR THE PURPOSE SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS SET FORTH IN A DOCUMENT

GRANTED TO: COUNTY OF ORANGE  
PURPOSE: NOT SHOWN  
RECORDED: APRIL 29, 1991 AS INSTRUMENT NO. 91-200914 OF OFFICIAL RECORDS  
AFFECTS: SAID LAND

AE NOTE: SAID EASEMENT RECITES IN PART:

THIS EASEMENT CONSTITUTES A PERPETUAL AND ENFORCEABLE RESTRICTION, AND IS BINDING UPON GRANTOR, ITS SUCCESSORS, ASSIGNS AND ALL PERSONS AUTHORIZED BY THEM TO OCCUPY OR ENTER UPON THE SUBJECT PROPERTY. THIS EASEMENT IS APPURTENANT TO, FOR THE BENEFIT OF, AND RUNS WITH THE LAND IN RESPECT OF THAT CERTAIN PROPERTY COMMONLY KNOWN AS JWA.

**SCHEDULE B  
(continued)**

Order No: 880523122 804

Your Ref:

- AP 18. THE EFFECT OF A MAP PURPORTING TO SHOW THE LAND AND OTHER PROPERTY, FILED BOOK 138, PAGE 28 OF RECORD OF SURVEYS.
- AG 19. RIGHTS OF PARTIES IN POSSESSION OF THE LAND BY REASON OF UNRECORDED LEASES, IF ANY.
- AH 20. ACQUISITION DEED INCLUDED PROPERTY USE RESTRICTION, A 5-15 CONDITION "STATEMENTS"
- AI 21. A DOCUMENT ENTITLED "CERTIFICATE OF COMPLETION (WEST SANTA ANA HEIGHTS REORGANIZATION TO THE CITY OF NEWPORT BEACH (RO 06-25))", DATED SEPTEMBER 17, 2007 EXECUTED BY ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION, SUBJECT TO ALL THE TERMS, PROVISIONS AND CONDITIONS THEREIN CONTAINED, RECORDED SEPTEMBER 17, 2007 AS INSTRUMENT NO. 2007000566527 OF OFFICIAL RECORDS.
- AJ 22. A DEED OF TRUST TO SECURE AN INDEBTEDNESS IN THE ORIGINAL AMOUNT SHOWN BELOW

AMOUNT: \$637,500.00  
DATED: JULY 1, 2005  
TRUSTOR: DR. ANNA M THAMES, A MARRIED WOMAN AS HER SOLE AND SEPARATE PROPERTY  
TRUSTEE: TOWN AND COUNTRY TITLE SERVICES, INC.  
BENEFICIARY: AMERIQUEST MORTGAGE COMPANY, A CORPORATION  
RECORDED: JULY 12, 2005 AS INSTRUMENT NO. 2005000536838 OF OFFICIAL RECORDS  
ORIGINAL LOAN  
NUMBER: NOT SHOWN

AK END OF SCHEDULE B

AL NOTE NO. 1: THE ONLY CONVEYANCES AFFECTING SAID LAND, WHICH RECORDED WITHIN TWENTYFOUR (24) MONTHS OF THE DATE OF THIS REPORT, ARE AS FOLLOWS:

GRANTOR: DR. ANNA M. THAMES  
GRANTEE: ANNA MARIE THAMES, AS TRUSTEE OF THE THAMES TRUST, U/A DATED JANUARY 25, 2007  
RECORDED: FEBRUARY 21, 2007 AS FILE NO. 2007000110650, OFFICIAL RECORDS

AN NOTE NO. 2: WE WILL REQUIRE A STATEMENT OF INFORMATION FROM THE PARTIES NAMED BELOW IN ORDER TO COMPLETE THIS REPORT, BASED ON THE EFFECT OF DOCUMENTS, PROCEEDINGS, LIENS, DECREES, OR OTHER MATTERS WHICH DO NOT SPECIFICALLY DESCRIBE SAID LAND, BUT WHICH, IF ANY DO EXIST, MAY AFFECT THE TITLE OR IMPOSE LIENS OR ENCUMBRANCES THEREON.

**SCHEDULE B  
(continued)**

Order No: 880523122 804

Your Ref:

**PARTIES:****ALL PARTIES**

(NOTE: THE STATEMENT OF INFORMATION IS NECESSARY TO COMPLETE THE SEARCH AND EXAMINATION OF TITLE UNDER THIS ORDER. ANY TITLE SEARCH INCLUDES MATTERS THAT ARE INDEXED BY NAME ONLY, AND HAVING A COMPLETED STATEMENT OF INFORMATION ASSISTS THE COMPANY IN THE ELIMINATION OF CERTAIN MATTERS WHICH APPEAR TO INVOLVE THE PARTIES BUT IN FACT AFFECT ANOTHER PARTY WITH THE SAME OR SIMILAR NAME. BE ASSURED THAT THE STATEMENT OF INFORMATION IS ESSENTIAL AND WILL BE KEPT STRICTLY CONFIDENTIAL TO THIS FILE.)

AN

NOTE NO. 3: IF THIS COMPANY IS REQUESTED TO DISBURSE FUNDS IN CONNECTION WITH THIS TRANSACTION, CHAPTER 598, STATUTES OF 1989 MANDATES HOLD PERIODS FOR CHECKS DEPOSITED TO ESCROW OR SUB-ESCROW ACCOUNTS. THE MANDATORY HOLD PERIOD FOR CASHIER'S CHECKS, CERTIFIED CHECKS AND TELLER'S CHECKS IS ONE BUSINESS DAY AFTER THE DAY DEPOSITED. OTHER CHECKS REQUIRE A HOLD PERIOD OF FROM TWO TO FIVE BUSINESS DAYS AFTER THE DAY DEPOSITED. IN THE EVENT THAT THE PARTIES TO THE CONTEMPLATED TRANSACTION WISH TO RECORD PRIOR TO THE TIME THAT THE FUNDS ARE AVAILABLE FOR DISBURSEMENT (AND SUBJECT TO COMPANY APPROVAL), THE COMPANY WILL REQUIRE THE PRIOR WRITTEN CONSENT OF THE PARTIES. UPON REQUEST, A FORM ACCEPTABLE TO THE COMPANY AUTHORIZING SAID EARLY RECORDING MAY BE PROVIDED TO ESCROW FOR EXECUTION.

**WIRE TRANSFERS**

THERE IS NO MANDATED HOLD PERIOD FOR FUNDS DEPOSITED BY CONFIRMED WIRE TRANSFER. THE COMPANY MAY DISBURSE SUCH FUNDS THE SAME DAY.

**WIRE-IN INSTRUCTIONS:**

**BANK:** COUNTRYWIDE BANK FSB  
1199 W. FAIRFAX ST., SUITE 500  
ALEXANDRIA, VA 22314

**BANK ABA:** 056009110

**ACCOUNT NAME:** CHICAGO TITLE COMPANY  
ORANGE MARKET CENTER

**ACCOUNT NO.:** 412684

**FOR CREDIT TO:** CHICAGO TITLE COMPANY  
16969 VON KARMAN  
IRVINE, CA 92606

**FURTHER CREDIT TO:** ORDER NO.: 880523122

**FEDERAL RESERVE WIRE SHORT NAME:**  
COUNTRYWIDE BKFBS ALEXANDRIA, VIRGINIA

**SCHEDULE B  
(continued)**

Order No: 880523122 S04

Your Ref:

- AO NOTE NO. 4: ON THE DATE YOU FUND THE LOAN AND WIRE FUNDS TO CHICAGO TITLE AND REFERENCE THE ABOVE ORDER NUMBER, YOU MUST SEND WRITTEN NOTICE TO THE TITLE OFFICER'S UNIT BY MESSENGER OR E-MAIL THAT YOU SENT THE FUNDS.
- CHICAGO TITLE WILL SEND AN EMAIL ACKNOWLEDGING RECEIPT OF THE FUNDS AS SOON AS PRACTICABLE.
- CHICAGO TITLE WILL NOT BE RESPONSIBLE FOR ANY DELAY IN CLOSING AND RECORDING THE TRANSACTION, NOR WILL CHICAGO TITLE BE LIABLE FOR ANY CLAIM OF LOST INTEREST UNLESS SUCH WRITTEN NOTICE IS SENT THE DAY OF FUNDING AND CHICAGO TITLE HAS ACKNOWLEDGED RECEIPT OF FUNDS.
- AP NOTE NO. 5: NONE OF THE ITEMS SHOWN IN THIS REPORT WILL CAUSE THE COMPANY TO DECLINE TO ATTACH CLTA ENDORSEMENT FORM 100 TO AN ALTA LOAN POLICY, WHEN ISSUED.
- AQ NOTE NO. 6: THERE IS LOCATED ON SAID LAND SINGLE FAMILY RESIDENCE KNOWN AS: 1621 INDUS (INDUSTRIAL) STREET, AREA OF SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA
- AR NOTE NO. 7: IF A COUNTY RECORDER, TITLE INSURANCE COMPANY, ESCROW COMPANY, REAL ESTATE BROKER, REAL ESTATE AGENT OR ASSOCIATION PROVIDES A COPY OF A DECLARATION, GOVERNING DOCUMENT OR DEED TO ANY PERSON, CALIFORNIA LAW REQUIRES THAT THE DOCUMENT PROVIDED SHALL INCLUDE A STATEMENT REGARDING ANY UNLAWFUL RESTRICTIONS. SAID STATEMENT IS TO BE IN AT LEAST 14-POINT BOLD FACE TYPE AND MAY BE STAMPED ON THE FIRST PAGE OF ANY DOCUMENT PROVIDED OR INCLUDED AS A COVER PAGE ATTACHED TO THE REQUESTED DOCUMENT. SHOULD A PARTY TO THIS TRANSACTION REQUEST A COPY OF ANY DOCUMENT REPORTED HEREIN THAT FITS THIS CATEGORY, THE STATEMENT IS TO BE INCLUDED IN THE MANNER DESCRIBED.
- AS NOTE NO. 8: NO EXAMINATION OF THE COMPANY'S RECORDS HAS BEEN MADE FOR, NOR IS REPORT MADE IN THIS PRELIMINARY REPORT OF, MONETARY LIENS, OR ENCUMBRANCES, IF ANY, WHICH MAY AFFECT TITLE TO AN ESTATE OR INTEREST IN THE LAND DESCRIBED HEREIN ACQUIRED BY A PROSPECTIVE PURCHASER OR PURCHASERS.
- AT NOTE NO. 9: THE CURRENT OWNER DOES NOT QUALIFY FOR THE \$20.00 DISCOUNT PURSUANT TO THE COORDINATED STIPULATED JUDGMENTS ENTERED IN ACTIONS FILED BY BOTH THE ATTORNEY GENERAL AND PRIVATE CLASS ACTION PLAINTIFFS FOR THE HEREIN DESCRIBED PROPERTY.
- AU NOTE NO. 10: THE CHARGE FOR A POLICY OF TITLE INSURANCE, WHEN ISSUED THROUGH THIS TITLE ORDER, WILL BE BASED ON THE SHORT-TERM RATE.
- AV NOTE NO. 11: IF TITLE IS TO BE INSURED IN THE TRUSTEE(S) OF A TRUST, (OR IF THEIR ACT IS TO BE INSURED), THIS COMPANY WILL REQUIRE A COPY OF THE ORIGINAL TRUST AGREEMENT INCLUDING ALL EXHIBITS LISTING REAL AND PERSONAL PROPERTY TRANSFERRED INTO THE TRUST TOGETHER WITH COMPLETE COPIES OF ANY

**SCHEDULE B**  
**(continued)**

Order No: 880523122 S04

Your Ref:

AMENDMENTS OR MODIFICATIONS THERETO. THE COMPANY MUST ALSO BE FURNISHED WITH A VERIFICATION OF ALL PRESENT TRUSTERS STATING THAT THE COPY BEING FURNISHED IS A TRUE AND CORRECT COPY OF THE ENTIRE TRUST AGREEMENT INCLUDING ALL MODIFICATIONS OR AMENDMENTS; THAT THE TRUST IS CURRENTLY IN FULL FORCE AND EFFECT; AND THAT IT HAS NOT BEEN REVOKED OR TERMINATED.

AW

TR-T/R



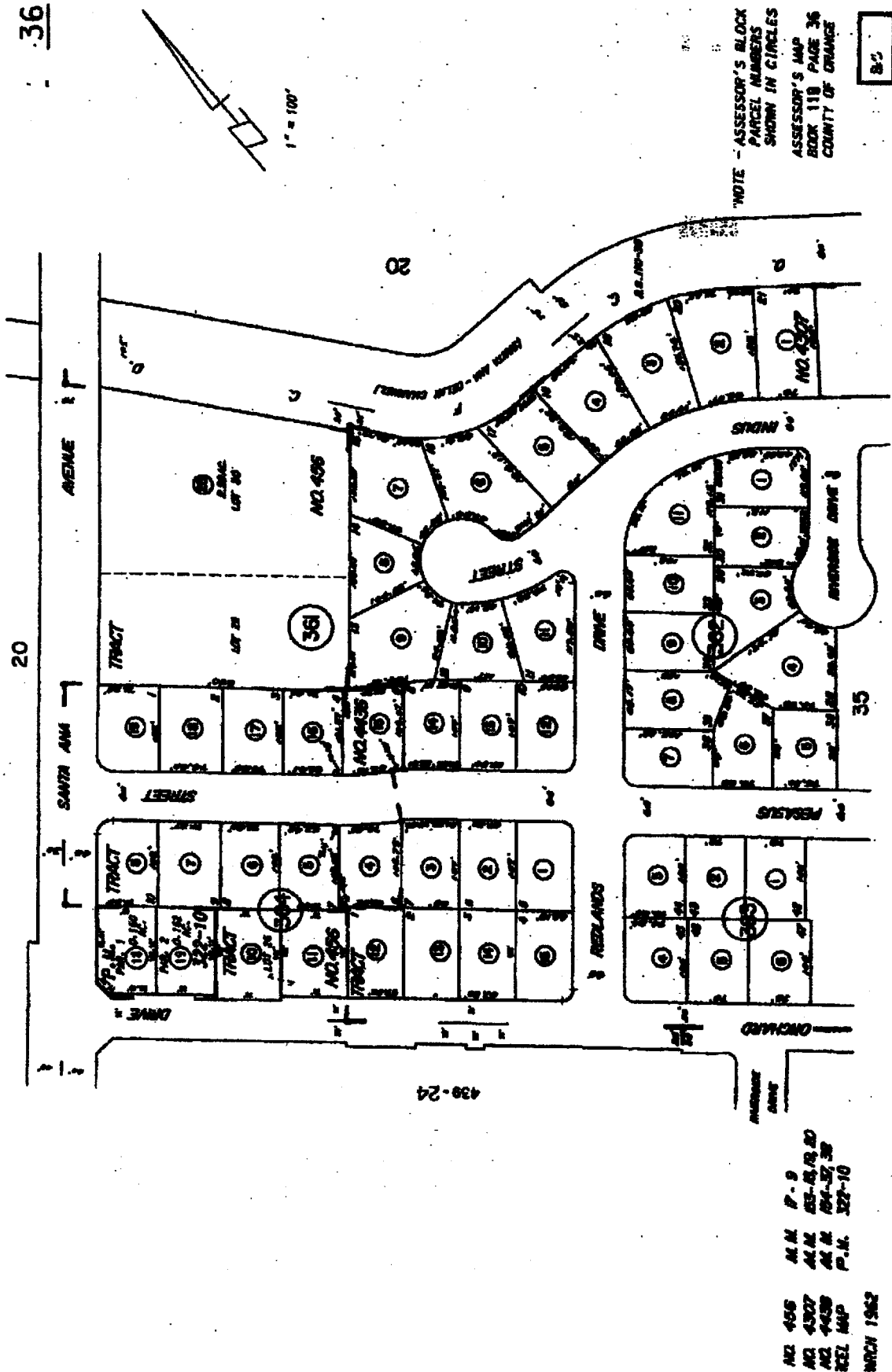
## **Notice**

**You may be entitled to receive a \$20.00 discount on escrow services if you purchased, sold or refinanced residential property in California between May 19, 1995 and November 1, 2002. If you had more than one qualifying transaction, you may be entitled to multiple discounts.**

**If your previous transaction involved the same property that is the subject of your current transaction, you do not have to do anything; the Company will provide the discount, provided you are paying for escrow or title services in this transaction.**

**If your previous transaction involved property different from the property that is subject of your current transaction, you must - prior to the close of the current transaction - inform the Company of the earlier transaction, provide the address of the property involved in the previous transaction, and the date or approximate date that the escrow closed to be eligible for the discount.**

**Unless you inform the Company of the prior transaction on property that is not the subject of this transaction, the Company has no obligation to conduct an investigation to determine if you qualify for a discount. If you provide the Company information concerning a prior transaction, the Company is required to determine if you qualify for a discount which is subject to other terms and conditions.**



## Fidelity National Financial, Inc. Privacy Statement

Fidelity National Financial, Inc. and its subsidiaries ("FNF") respect the privacy and security of your non-public personal information ("Personal Information") and protecting your Personal Information is one of our top priorities. This Privacy Statement explains FNF's privacy practices, including how we use the Personal Information we receive from you and from other specified sources, and to whom it may be disclosed. FNF follows the privacy practices described in this Privacy Statement and, depending on the business performed, FNF companies may share information as described herein.

### Personal Information Collected

- We may collect Personal Information about you from the following sources:
- Information we receive from you on applications or other forms, such as your name, address, social security number, tax identification number, asset information and income information;
- Information we receive from you through our Internet websites, such as your name, address, Internet Protocol address, the website links you used to get to our websites, and your activity while using or reviewing our websites.
- Information about your transactions with or services performed by us, our affiliates, or others, such as information concerning your policy, premiums, payment history, information about your home or other real property, information from lenders and other third parties involved in such transactions, account balances, and credit card information; and
- Information we receive from consumer or other reporting agencies and publicly recorded.

### Disclosure of Personal Information

- We may provide your Personal Information (excluding information we receive from our consumer or other credit reporting agencies) to various individuals and companies, as permitted by law, without obtaining your prior authorization. Such laws do not allow consumers to restrict these disclosures. Disclosures may include, without limitation, the following:
- To insurance agents, brokers, representatives, support organizations, or others to provide you with services you have requested, and to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure in connections with an insurance transactions.
- To third-party contractors or service providers for the purpose of determining your eligibility for an insurance benefit or payment and/or providing you with services you have requested.
- To an insurance regulatory, or law enforcement or other governmental authority, in a civil action, in connection with a subpoena or a governmental investigation
- To companies that perform marketing services on our behalf or to other financial institutions with which we have had joint marketing agreements and/or
- To lenders, lien holders, judgement creditors, or other parties claiming an encumbrance or an interest in title whose claim or interest must be determined, settled, paid or released prior to a title or escrow closing

We may also disclose your Personal Information to others when we believe, in good faith, that such disclosure is reasonably necessary to comply with the law or to protect the safety of our customers, employees, or property and/or to comply with a judicial proceeding, court order or legal process.

**Disclosure to Affiliated Companies** - We are permitted by law to share your name, address and facts about your transaction with other FNF companies, such as insurance companies, agents, and other real estate service providers to provide you with services you have requested, for marketing or product development research, or to market products or services to you. We do not, however, disclose information we collect from consumer or credit reporting agencies with our affiliates or others without your consent, in conformity with applicable law, unless such disclosure is otherwise permitted by law.

**Disclosure to Nonaffiliated Third Parties** - We do not disclose Personal Information about our customers or former customers to nonaffiliated third parties, except as outlined herein or as otherwise permitted by law.

### Confidentiality and Security of Personal Information

We restrict access to Personal Information about you to those employees who need to know that information to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulation to guard Personal Information.

### Access to Personal Information/

#### Requests for Correction, Amendment, or Deletion of Personal Information

As required by applicable law, we will afford you the right to access your Personal Information, under certain circumstances to find out to whom your Personal Information has been disclosed, and request correction or deletion of your Personal Information. However, FNF's current policy is to maintain customers' Personal Information for no less than your state's required record retention requirements for the purposes of handling future coverage claims.

For your protection, all requests made under this section must be in writing and must include your notarized signature to establish your identity. Where permitted by law we may charge a reasonable fee to cover the costs incurred in responding to such requests. Please send requests to:

Chief Privacy Officer  
Fidelity National Financial, Inc.  
601 Riverside Drive  
Jacksonville, FL 32204

### Changes to this Privacy Statement

This Privacy Statement may be amended from time to time consistent with applicable privacy laws. When we amend this Privacy Statement, we will post a notice of such changes on our website. The effective date of this Privacy Statement, as stated above, indicates the last time this Privacy Statement was revised or materially changed.

## ATTACHMENT ONE

### AMERICAN LAND TITLE ASSOCIATION RESIDENTIAL TITLE INSURANCE POLICY (6-1-67) EXCLUSIONS

In addition to the Exclusions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
  - land use
  - improvements on the land
  - land division
  - environmental protectionThis exclusion does not apply to violations or the enforcement of these matters which appear in the public records at policy date. This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.
2. The right to take the land by condemning it, unless:
  - a notice of exercising the right appears in the public records on the Policy Date
  - the taking happened prior to the Policy Date and is binding on you if you bought the land without knowledge of the taking

In addition to the Exclusions, you are not insured against loss, costs, attorneys' fees, and the expenses resulting from:

1. Any rights, interests, or claims of parties in possession of the land not shown by the public records.
2. Any easements or liens not shown by the public records. This does not limit the lien coverage in Item 8 of Covered Title Risk.

3. Title Risk:
  - that are created, allowed, or agreed to by you
  - that are known to you, but not to us, on the Policy Date unless they appeared in the public records
  - that result in no loss to you
  - that first affect your title after the Policy Date this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
4. Failure to pay value for your title.
5. Lack of a right:
  - to any land outside the area specifically described and referred to in Item 3 of Schedule A
  - or
  - in streets, alleys, or waterways that touch your landThis exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

3. Any facts about the land which a correct survey would disclose and which are not shown by the public records. This does not limit the stored removed coverage in Item 12 of Covered Title Risks.
4. Any water rights or claims or title to water in or under the land, whether or not shown by the public records.

### CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990 EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.

2. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the liability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

### SCHEDULE B, PART I EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

#### PART I

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortages in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.

# ATTACHED ONE

(Continued)

## AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (10-17-92) WITH A.L.T.A. ENDORSEMENT-FORM COVERAGE EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

- (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
- Defects, liens, encumbrances, adverse claims, or other matters:
  - created, suffered, assumed or agreed to by the insured claimant;
  - not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - resulting in no loss or damage to the insured claimant;
  - attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or to the extent insurance is afforded herein as to assessments for street

improvements under construction or completed at Date of Policy); or

- (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
- Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing-business laws of the state in which the land is situated.
- Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
- Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not assumed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
- Any claim, which arises out of the transaction creating the interest of the mortgage insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the interest of the insured mortgage being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the subordination of the interest of the insured mortgage as a result of the application of the doctrine of equitable subordination; or
  - (iii) the transaction creating the interest of the insured mortgage being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

### EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

- Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
- Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
- Statements, liens or encumbrances, or claims thereof, not shown by the public records.
- Discrepancies, conflicts in boundary lines, shortages in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
- (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.

## 2006 AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (06-17-06) EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

- (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions, or location of any improvement erected on the land; (iii) the subdivision of land; or (iv) environmental protection; or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
- Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
- Defects, liens, encumbrances, adverse claims, or other matters:
  - created, suffered, assumed, or agreed to by the insured claimant;
  - not known to the Company, not recorded in the Public Records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
  - resulting in loss or damage that would not have been sustained if the insured claimant had paid value for the insured mortgage.

(c) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or

- (e) resulting in loss or damage that would not have been sustained if the insured claimant had paid value for the insured mortgage.
- Unenforceability of the lien of the insured mortgage because of the inability or failure of an insured to comply with applicable doing-business laws of the state where the land is situated.
- Invalidity or unenforceability in whole or in part of the lien of the insured mortgage that arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
- Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the insured mortgage, is (a) a fraudulent conveyance or fraudulent transfer, or (b) a preferential transfer for any reason not stated in Covered Risk 12(b) of this policy.
- Any lien on the title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the insured mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

### EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

- (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
- Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
- Statements, liens or encumbrances, or claims thereof, not shown by the Public Records.
- Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
- (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

# ATTACHMENT ONE

(CONTINUED)

## AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (10-17-93) EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

- (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, loss or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, loss or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.

- Defects, liens, encumbrances, adverse claims, or other matters:
  - created, suffered, assumed or agreed to by the insured claimant;
  - not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - resulting in no loss or damage to the insured claimant;
  - attaching or created subsequent to Date of Policy; or
  - resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
- Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - to timely record the instrument of transfer; or
    - of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

### EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

- Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
- Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.

- Encumbrances, liens or encumbrances, or claims thereof, not shown by the public records.
- Discrepancies, conflicts in boundary lines, shortages in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
- Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.

## 2006 AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (06-17-06) EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

- (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions, or location of any improvement erected on the Land; (iii) the subdivision of land; or (iv) environmental protection; or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
- Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
- Defects, liens, encumbrances, adverse claims, or other matters:
  - created, suffered, assumed, or agreed to by the Insured Claimant;
  - not known to the Company, not recorded in the Public Records at Date of Policy, but

known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an insured under this policy;

- resulting in no loss or damage to the Insured Claimant;
- attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
- resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
- Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is:
  - a fraudulent conveyance or fraudulent transfer; or
  - a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
- Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

### EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that may arise by reason of:

- (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
- Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.

- Encumbrances, liens or encumbrances, or claims thereof, not shown by the Public Records.
- Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and that are not shown by the Public Records.
- (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

# ATTACHMENT ONE

(Continued)

## CLTA HOMEBOWNER'S POLICY OF TITLE INSURANCE (10-22-03) ALTA HOMEBOWNER'S POLICY OF TITLE INSURANCE (10-22-03) EXCLUSIONS

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorney's fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
  - a. building
  - b. zoning
  - c. Land use
  - d. improvements on Land
  - e. Land division
  - f. environmental protection
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the Land by condemning it, unless:
  - a. notice of exercising the right appears in the Public Records at the Policy Date; or
  - b. the taking happened before the Policy Date and is binding on You if You bought the Land

4. without Knowing of the taking.
  - a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records;
  - b. that are known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date;
  - c. that result in no loss to You; or
  - d. that first occur after the Policy Date. This does not limit the coverage described in Covered Risk 7, 8(d), 22, 23, 24 or 25.
5. Failure to pay value for Your Title.
6. Lack of a right:
  - a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
  - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 18.

## LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 14, 15, 16 and 18, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 14:	1.00% of Policy Amount or \$2,500.00 (whichever is less)	\$10,000.00
Covered Risk 15:	1.00% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 16:	1.00% of Policy Amount or \$1,000.00 (whichever is less)	\$25,000.00
Covered Risk 18:	1.00% of Policy Amount or \$1,000.00 (whichever is less)	\$1,000.00

## ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10-13-01) EXCLUSIONS FROM COVERAGE

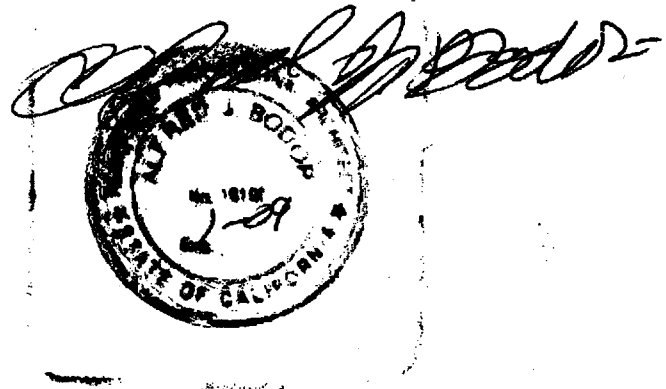
The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorney's fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions or location of any improvements now or hereafter erected on the Land; (iii) a separation in ownership or a change in the dimensions or areas of the Land or any parcel of which the Land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy.
  - (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the Public Records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without Knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the Insured Claimant;
  - (b) not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (this paragraph does not limit the coverage provided under Covered Risks 8, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26); or

- (e) resulting in loss or damage which would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the insolvency or failure of the Insured at Date of Policy, or the insolvency or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the Land is situated.
5. Invalidity or unenforceability of the lien of the Insured Mortgage, or claim thereon, which arises out of the transaction evidenced by the Insured Mortgage and is based upon warranty, except as provided in Covered Risk 27, or any consumer credit protection or truth in lending law.
6. Real property taxes or assessments of any governmental authority which become a lien on the Land subsequent to Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 7, 8(c) and 24.
7. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This exclusion does not limit the coverage provided in Covered Risk 8.
8. Lack of priority of the lien of the Insured Mortgage as to each and every advance made after Date of Policy, and all interest charged thereon, over liens, encumbrances and other matters affecting the title, the existence of which are known to the Insured at:
  - (a) The time of the advance; or
  - (b) The time a modification is made to the terms of the Insured Mortgage which changes the rate of interest charged, if the rate of interest is greater as a result of the modification than it would have been before the modification. This exclusion does not limit the coverage provided in Covered Risk 8.
9. The failure of the residential structure, or any portion thereof to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at Date of Policy.

December 15, 2008

Mr. Steve Bunting  
Fire Marshall  
CITY OF NEWPORT BEACH  
FIRE AND MARINE DEPARTMENT  
3300 Newport Boulevard  
P.O. Box 1768  
Newport Beach, Ca 92658-8915



RE: Yellowstone Recovery ("South House" Residence)  
Coda Analysis For The Existing Building

Dear Mr. Bunting,

Alfred J. Boder, Architect has been contracted by Yellowstone Recovery to review details of their existing building, titled "South House", located at 1621 Indus Street, Santa Ana, Ca 92707. Yellowstone Recovery intends to change the use of the building from a single-family residence to a Residential Facility for the non-medical rehabilitation of drug abuse and alcoholism. We have surveyed the existing building and the summary of our findings and conclusions are as follows:

- A. The existing building was constructed in 1961, and was built as a single-family residence, occupancy type R-3. The building is a two-story structure with an attached garage.
- B. The building is set back from the front property line 26'-0". The side yard set back is 20'-0" clear on the north side and 8'-0" clear on the south side of the structure.
- C. As the attached plans indicate, the residence is entered through the front door that faces the addressed street. The first floor consists of a living room, dining room, kitchen, family room, bathroom, and two bedrooms. The second floor consists of four bedrooms, and two bathrooms.

Based on this research, the following code issues are in compliance with the current code requirements of the California Building Code, CBC 2007.

- 01. **Location On The Property:** As indicated on the attached plans, the building setbacks for the side yard is 20'-0" from the property line. This distance includes the attached garage. Per CBC section 6, Table 602, the minimum fire separation distance is five feet. This setback is achieved to the property lines.



**Conclusion:** The wall of the garage at the side yard is not required to be of fire rated construction and there are no penetrations or openings in the attached garage wall.

02. **Section 419, Group I-1, R-1, R-2, R-3, R-3.1, R-4:** 419.2, Separation walls. Section does not apply. Note that the common wall between the attached garage is of one-hour fire rated construction to the bottom of the roof diaphragm and the door from the house is a hour rated fire door.
03. **Section 419.3, Horizontal Separation:** This section does not apply per section 711.1.
04. **Section 425, Special Provisions For Licensed 24-Hour Care Facilities in Group R-1, R-3.1 or R-4 Occupancy (SFM):** Per section 425.3.5, Limitations – Seven or More Clients; The second floor area is less than three thousand (3,000) square feet and therefore a one-hour fire rated construction is not required.
05. **Section 425.7, Fire Protection System Provisions:** Section 425.7.1, Automatic Fire Sprinkler Systems. Per section 903.2.7, Group R, an automatic fire sprinkler system is not required per exceptions 1 and 3.  
  
**Section 425.7.2, Fire Alarm Systems:** Per section 907.2.8 an approved, hard-wired fire alarm system is installed as required per section 907.2.8.2.  
  
**Section 427.7.3, Smoke Alarms:** Per section 907.2.8.3, battery powered smoke detectors/alarms are installed in the required areas per section 907.2.10.  
  
**Section 906.1, Portable Fire Extinguishers:** Portable fire extinguishers are installed and located per the California Fire Code.
06. **Chapter 10 Means Of Egress:** Section 1006, means of egress illumination. There is illumination at the top, middle, and bottom of the staircase.  
  
**Section 1009, Stairways:** Per section 1009.1, exception 1, the staircase complies with the code requirement.

I believe that this is a complete analysis of the code related items which apply to this building during the change of occupancy. Please call Anthony Grillo, my representative, at (949) 678-3214 if you have any questions.

Sincerely,

Alfred Bodor – Architect

A handwritten signature in dark ink, appearing to read 'Alfred Bodor', written in a cursive style.

Attachments; Scale as-built plans

## **PARKING AND TRANSPORTATION**

There is room for four cars to park on the property; however, residents are not permitted to park there. Only the house manager and assistant manager are permitted to park onsite. Thus, the maximum number of cars parked onsite at any time will be two. Most residents ride the bus and there is a bus stop located near the home.

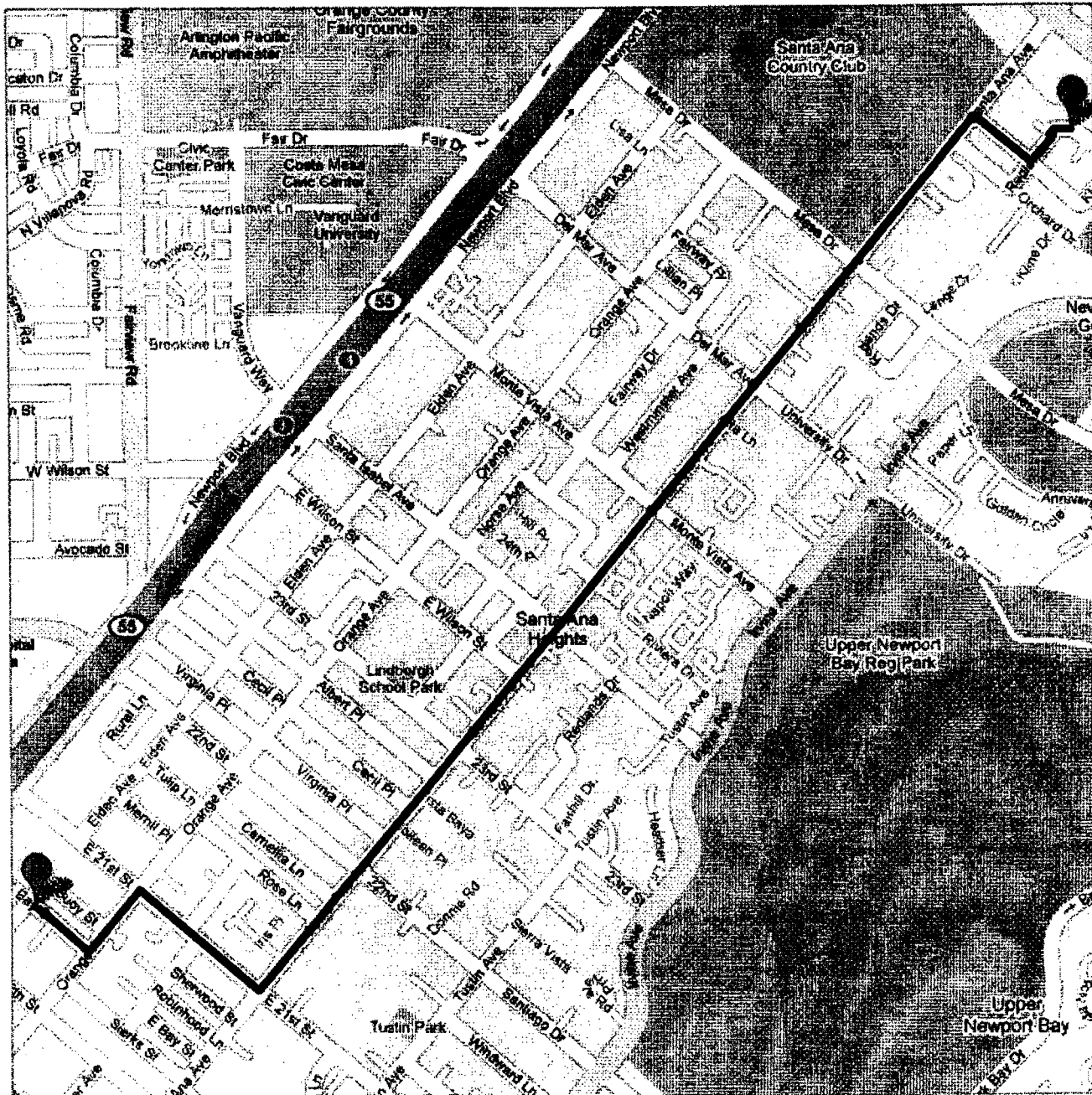
The home does not provide general transportation throughout Newport Beach and other neighboring cities. The home provides transportation to only two locations: the treatment facility and St. John church. Both are within ten minutes of the home. St. John is located at 183 East Bay Street in Costa Mesa. The treatment facility is located at 154 East Bay Street in Costa Mesa. Route maps from the home to the treatment facility and from the home to St. John church are attached.

In the morning, residents are transported to either church or treatment. All residents are prohibited from being in the house between 8:00 a.m. and 3:00 p.m. Additionally, all residents must return to the house by 4:00 p.m. Finally, the vans that transport the residents are not parked onsite. When not in use, the vans are kept in another city.







**Directions to 154 E Bay St, Costa Mesa, CA 92627**

2.5 mi – about 8 mins

From HOME to TREATMENT



 Indus St, Santa Ana, CA 92707

- 
- |   |                           |
|---|---------------------------|
| 1. Head west on Indus St toward Redlands Dr   | go 138 ft<br>total 138 ft |
|  2. Turn left at Redlands Dr                                   | go 341 ft<br>total 479 ft |
|  3. Turn right at Pegasus St                                   | go 0.1 mi<br>total 0.2 mi |
|  4. Turn left at Santa Ana Ave<br>About 6 mins                 | go 1.8 mi<br>total 2.0 mi |
|  5. Turn right at E 21st St<br>About 1 min                     | go 0.2 mi<br>total 2.3 mi |
|  6. Turn left at Orange Ave                                    | go 0.1 mi<br>total 2.4 mi |
|  7. Turn right at E Bay St<br>Destination will be on the right | go 0.1 mi<br>total 2.5 mi |

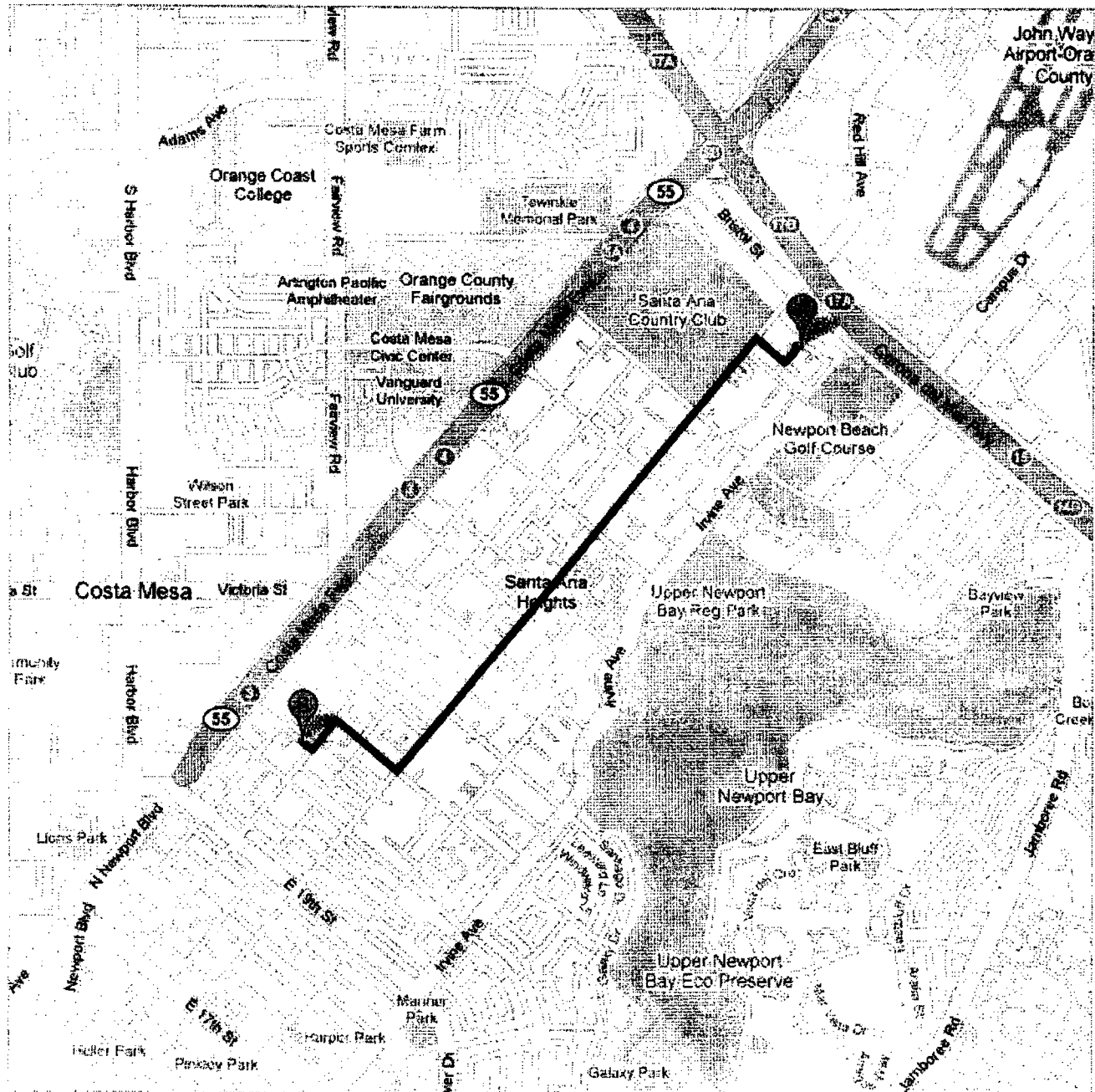
 154 E Bay St, Costa Mesa, CA 92627


These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.







Map data ©2008, Tele Atlas



**Directions to 183 E Bay St, Costa Mesa, CA 92627**  
2.4 mi – about 8 mins  
From HOME to CHURCH



 1621 Indus St, Santa Ana, CA 92707

- |  |                                  |
|--|----------------------------------|
| 1. Head <b>west</b> on <b>Indus St</b> toward <b>Redlands Dr</b>   | go <b>75 ft</b><br>total 75 ft   |
|  2. Turn <b>left</b> at <b>Redlands Dr</b>                                  | go <b>341 ft</b><br>total 417 ft |
|  3. Turn <b>right</b> at <b>Pegasus St</b>                                  | go <b>0.1 mi</b><br>total 0.2 mi |
|  4. Turn <b>left</b> at <b>Santa Ana Ave</b><br>About 6 mins                | go <b>1.8 mi</b><br>total 2.0 mi |
|  5. Turn <b>right</b> at <b>E 21st St</b><br>About 1 min                    | go <b>0.2 mi</b><br>total 2.2 mi |
|  6. Turn <b>left</b> at <b>Orange Ave</b>                                   | go <b>0.1 mi</b><br>total 2.4 mi |
|  7. Turn <b>right</b> at <b>E Bay St</b><br>Destination will be on the left | go <b>223 ft</b><br>total 2.4 mi |

 183 E Bay St, Costa Mesa, CA 92627

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2008 . Tele Atlas

# Orange County Sober Living Coalition

Affiliated with the Sober Living Network

## YELLOWSTONE SOUTH

*The Yellowstone South Sober Living House at 1621 Indus, Newport Beach, CA*

Is approved as a member in good standing  
Meets the health and safety standards, as well as the management ability  
and ethical guidelines in the operation of a quality sober living home.



Coalition inspection completed 4/15/08  
Expires 4/14/09

*Debra J. Smith, CATC*  
OC Coalition Chair

*Shirley M. Hill*  
OC Coalition Secretary

**PROVIDING EQUAL RECOVERY OPPORTUNITIES FOR ALL**





# PLANNING DEPARTMENT

3300 Newport Boulevard, Building C, Newport Beach, CA 92663  
(949) 644-3200 Fax: (949) 644-3229 website: [www.city.newport-beach.ca.us](http://www.city.newport-beach.ca.us)

January 21, 2009

Davis & Rayburn, Attorneys at Law  
Attention: Isaac R. Zfaty  
580 Broadway Street, Suite 301  
Laguna Beach, CA 92651

Dear Mr. Zfaty:

Subject: Yellowstone Women's First Step House, Inc.  
Property located at 1621 Indus Street  
Use Permit No. 2008-035 (PA2008-106)

Thank you for your follow-up submittal dated December 23, 2008, and received by the City on December 29, 2008. After reviewing the re-submittal material, the following items are incorrect or otherwise incomplete:

1. Please revise the site plan (Sheet A-1) to show the building footprints on adjacent parcels, including the distances of those improvements from the property lines. Please note that your original submittal included a site plan showing portions of adjacent structures, but those plans were not accurately drawn, not drawn to scale, and the dimensions indicated were in error.
2. Please add the location of the driveway and the street curb line (as distinguished from the front property line) to the site plan.
3. The plans are not consistent with respect to the number of beds provided. The number of beds shown on the plans total 17 (11 upstairs and 6 downstairs), but the bed summary indicates that there are 16 beds. A site inspection of the property indicates that there are a total of 16 beds.
4. Municipal Code Section 20.91A.050 (C.2) states that the maximum number of residents is restricted to a total of two per bedroom plus one additional resident, resulting in a total of 13 residents for this specific property. As related to the foregoing item relative to the inconsistency of the beds shown, please clarify the total number of residents in the dwelling. If it is proposed to exceed the maximum of 13 residents, a justification needs to be submitted.

(please refer to page 3 of the application for those items to be considered in determining if a different occupancy limit is to be considered).

In addition to the above items, the application filing fee of \$2,200 remains unpaid. However, per e-mail correspondence with both the City Attorney's Office and the Planning Department, it is our understanding you will be applying for a reasonable accommodation for a fee waiver based on disability-related financial hardship. This is in addition to the separate request for a reasonable accommodation to be treated as a single housekeeping unit.

Pursuant to Chapter 20.98 of the Zoning Code, if the project for which the request for a reasonable accommodation is made requires another discretionary permit or approval (in this case, a use permit), the applicant may request that the Hearing Officer hear the request for a reasonable accommodation at the same time as the use permit. If you do not request a simultaneous hearing, the request for reasonable accommodation will not be heard until after a final decision has been made regarding the use permit.

Please inform us of whether or not you wish to schedule the requests for reasonable accommodation to be treated as a single housekeeping unit and/or for a fee waiver at the same hearing as the use permit or at a later date. We will need this information by January 27, 2009, so that we may proceed appropriately with preparation of the staff report.

Please be advised that the City of Newport Beach will proceed with the use permit application hearing for the above referenced property on Thursday, February 12, 2009, at 4:00 p.m. in the City Council Chambers. This will be a public hearing and will take place before a third-party hearing officer.

The City has scheduled this hearing despite the fact that your use permit application remains incomplete. Please be advised that by scheduling your application for a public hearing, the City is not deeming your application complete.

We will send a copy of the staff report which discusses your application to you and the hearing officer for review four to seven days in advance of the hearing date.

If you have any questions regarding the process, please do not hesitate to contact me at (562) 989-6664 or [dgbcc@verizon.net](mailto:dgbcc@verizon.net), or you may contact Associate Planner Janet Brown at (949) 644-3236 or [jbrown@city.newport-beach.ca.us](mailto:jbrown@city.newport-beach.ca.us).

Sincerely,

  
William Cunningham, AICP  
Contract Planner

cc: Dr. Honey Thames, Yellowstone Recovery Programs

  
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PLANNING DEPARTMENT

JAN 27 2009

CITY OF NEWPORT BEACH

January 23, 2009

**VIA FIRST CLASS MAIL**

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

Re: *Hearing for Use Permit Application and Reasonable Accommodations*

Dear Janet:

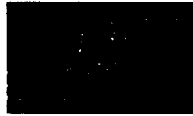
I received your letters regarding the February 12, 2009 hearing date for the Use Permit Application for the Yellowstone properties. We would like to have both our fee-waiver and our Single Housekeeping Unit Requests for Reasonable Accommodation heard on February 12, 2009 for all of the Yellowstone properties as well. As always, please feel free to contact me if you have any questions.

Very truly yours,

DAVIS ZFATY



NICOLE COHRS



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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: 1621 Indus Street*

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 1621 Indus 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 1621 Indus 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

1621 Indus



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RECEIVED BY  
PLANNING DEPARTMENT

FEB 02 2009

January 29, 2009

CITY OF NEWPORT BEACH

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**

**1621 Indus, 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 from 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.