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CASE NO. ZA 2010-0927(ZV)(ZAA)
ZONE VARIANCE AND ZONING
ADMINISTRATOR'S ADJUSTMENT
18831 West Topham Street
Reseda-West Van Nuys Planning Area
Zone : RA-1-K
D. M. : 177B121
C. D. : 2
CEQA : ENV 2008-290-MND
Legal Description: Lot 53, Arb 4, Tract 7691

Pursuant to Los Angeles Municipal Code Section 12.27, I hereby APPROVE:

a Zone Variance from Section 12.07 granting an Alzheimer's/Dementia Care Facility in the RA-1 Zone, and

Pursuant to Los Angeles Municipal Code Section 12.28, I hereby APPROVE:

a Zoning Administrator's Adjustment from Section 12.21-C, 1(g) granting four parking spaces in the front yard as not otherwise permitted,

upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.



5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.
6. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim action or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.
5. Within 45 days of the date of this Determination or mutually agreed upon time, an acknowledgment and agreement to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and be binding on any subsequent owners; heirs or assigns. The agreement must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date must be provided to the Zoning Administrator for attachment to the file.
8. The subject grant shall be for a ten-year time period. Said time period to begin on the effective day of this action shown elsewhere in the report. If the owner of the land wishes to continue operation as granted herein, he should file a new application with the Office of Zoning Administration. Said application should be filed no later than three months prior to the expiration of this grant and said application must be made on the appropriate forms and fees paid.
9. Approval of Plans Review. At any time during the effective period of this grant, should documented evidence be submitted showing continued violation of any condition of this grant, resulting in an unreasonable level of disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Zoning Administrator reserves the right to require the applicant to file for a plan approval application together with associated fees, the purpose of which will be to hold a public hearing to review the applicant's compliance with and the effectiveness of these conditions. The applicant shall prepare a radius map and cause a notification to be mailed to all owners and occupants of properties within a 500-foot radius of the property, the Council Office, and the Los Angeles Police Department corresponding Division. The applicant shall also submit a summary and any supporting documentation of how compliance with each condition of this grant has been attained. Upon this review the Zoning Administrator may modify, add or delete conditions, and reserves the right to conduct this public hearing for nuisance abatement/revocation purposes. *(A standard used in the Office of Zoning Administration)*
10. Authority:
 - a. Zone Variance from Section 12.07 granting an Alzheimer's/Dementia Care Facility consisting of 13 bedrooms with a maximum of 15 residents.

- b. Zoning Administrator's Adjustment from Section 12.21-C,1(g) granting four parking spaces in the front yard.
 - c. The hospice care is offered for current residents only. (*Mutual agreement between Tarzana Neighborhood Council and Project Proponent*)
11. Environmental Mitigation. Comply with the environmental mitigation measures of Mitigated Negative Declaration No. 2008-290-MND, attached (*complete copy of mitigation measures in Environmental case file*). Pursuant to California State Public Resources Code Section 21081.6, the City shall monitor or require evidence that any mitigation conditions are implemented and maintained throughout the life of the project and the City may require any necessary fees to cover the cost of such monitoring. Except, the action herein deletes Mitigation Measures Mitigation Measure XVII-120.
12. Maintenance. The subject property, including any associated parking facilities and abutting streets, sidewalks and alleys, shall be maintained in a neat and attractive condition at all times and shall be kept free of trash and debris on a daily basis.
13. Noise:
 - a. Regulating noise shall comply with the City of Los Angeles Noise Ordinance Nos. 144,331 and 161,571, and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.
 - b. Trash collections and deliveries shall occur no earlier than 7 a.m. nor later than 8 p.m., Monday through Friday and no earlier than 9 a.m., nor later than 7 p.m. on Saturday and Sunday.
14. Parking (Off-street)/Circulation:
 - a. The driveway area at the east side of the front yard shall be maintained for emergency vehicles.
 - b. Transportation Demand Management:
 - 1) Include information in brochures, programs and flyers advertising activities encouraging the alternative transportation and as well offer incentives to users who use alternative means of transportation other than single-occupancy vehicles.
 - 2) Use due diligence in seeking additional sites for parking, if other mitigation measures are found deficient.
 - 3) To reduce potential spillover parking in residential areas, place signs or notices or in key locations on site or other means presenting parking policies and warning drivers of the possibility of being towed for noncompliance with Municipal Code parking laws.
15. Signs. Any sign displayed on the premises shall be limited to a conservative identification or directional type only, in keeping with the sign provisions of Section 12.21-A,7 of the Municipal Code.

OBSERVANCE OF CONDITIONS – TIME LIMIT – LAPSE OF PRIVILEGES – TIME EXTENSION

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within two years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void. A Zoning Administrator may extend the termination date for one additional period not to exceed one year, if a written request on appropriate forms, accompanied by the applicable fee is filed therefore with a public Office of the Department of City Planning setting forth the reasons for said request and a Zoning Administrator determines that good and reasonable cause exists therefore.

TRANSFERABILITY

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent upon you to advise them regarding the conditions of this grant.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

“A variance, conditional use, adjustment, public benefit or other quasi-judicial approval, or any conditional approval granted by the Director, pursuant to the authority of this chapter shall become effective upon utilization of any portion of the privilege, and the owner and applicant shall immediately comply with its conditions. The violation of any valid condition imposed by the Director, Zoning Administrator, Area Planning Commission, City Planning Commission or City Council in connection with the granting of any action taken pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code.”

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

APPEAL PERIOD – EFFECTIVE DATE

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any condition of this grant is violated or if the same be not complied with, then the applicant or his successor in interest may be prosecuted for violating these conditions the same as for any violation of the requirements contained in the Municipal Code. The Zoning Administrator's determination in this matter will become effective after DECEMBER 20, 2011, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>.** Public offices are located at:

Figueroa Plaza
201 North Figueroa Street,
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

NOTICE

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the Zoning Administrator who acted on the case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, the report of the Zoning Analyst thereon, and the statements made at the public hearing before the Zoning Administrator on October 14, 2011, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the five requirements and prerequisites for granting an adjustment as enumerated in Section 12.28 of the Los Angeles Municipal Code have been established by the following facts:

BACKGROUND

The property is a level, rectangular-shaped, interior lot, totaling 12,732.9 square feet of land lying on the north side of Topham Street with a 64-foot frontage, and developed with a 6,025 square-foot one-story building. The property is located within the Reseda-West Van Nuys Community Planning Area, Liquefaction Zone, and is approximately 12.71 kilometers from the nearest known fault. The "K" designation of the zoning indicates that the property is located within an equine keeping district. The property is occupied by "Virginia House", License No. 197607827, a licensed Residential Care for the Elderly, having a capacity for six people.

The north adjacent properties are zoned RA-1-K and developed with single-family dwellings. The south adjacent properties are zoned PF-1XL and owned by the Metropolitan Transportation Authority (MTA) for the Orange Line busway. The west adjacent property is zoned RA-1-K and developed with a single-family dwelling. Adjacent to the single-family dwelling, a parcel is zoned [Q]RD3-1-K and developed with condominiums. The east adjacent property is zoned [Q]RD3-1-K and developed with condominiums. Other properties to the east are zoned RA-1-K and there is a landscape business

Topham Street, adjoining the property is a Local Street with a width of 50 feet and improved with asphalt/concrete paved roadway, curb and gutter on the southern side of the street. There is no curb, gutter, or sidewalk on the northern side.

Previous zoning related actions on the site/in the area include:

Subject Property

Case No. ZA 2007-5104(ZAD) – On October 21, 2009, the applicant was withdrawn for a 13-guest room, 26-bed Alzheimer's/Dementia care housing (elder care facility) with five parking spaces (two covered, three uncovered).

Case No. ZA 2004-1986(ZV)(YV)(PA1) – On June 13, 2007, the Chief Zoning Administrator approved plans for changes to Case No. ZA 2004-1986(ZV)(YV), approved December 1, 2004, and to allow the use to revert to an elder care facility in the RA-1-K Zone. The 11-bedroom house is to be used as an elder care facility for a maximum of 22 residents inclusive of the live-in staff.

The Tarzana Property Owners Association appealed the Chief Zoning Administrator's approval. On August 9, 2007, the South Valley Area Planning Commission overturned the Zoning Administrator's decision letter dated June 13, 2007 and denied the plan approval to permit an elder/assisted living care facility.

Case No. ZA 2004-1986(ZV)(YV) – On December 1, 2004, the Zoning Administrator approved of a variance to allow a 12-bedroom dormitory for a maximum of 22 students enrolled at Columbia College and a maximum of two live-in staff. The Zoning Administrator approved a variance to allow five parking spaces within the front yard setback area and allow five uncovered parking spaces. On May 11, 2005, the Chief Zoning Administrator submitted a clarification letter explaining the Conditions of approval are consistent with the approval of a dormitory and consistent with the Zoning Administrator's Findings. The owner's confusion is due to the error in the grant clause, referring to an assisted living facility.

Surrounding Properties

Case No. ZA 2010-1694(ZAD)(SPR)(ZAI) – On February 14, 2011, the hearing was conducted for a request to allow the construction, use, and maintenance of an elder care facility with up to 128 units to accommodate 156 elder residents with assisted living care, skilled nursing care housing and/or Alzheimer's/Dementia Care; site plan review; and Zoning Administrator's Interpretation, to determine that Baseline Mansionization Ordinance No 179,883 does not apply to the eldercare facility. The property is located at 18731 West Calvert Street, within 1,000 feet from the subject property.

Case No. ZA 2009-0717(ZV) – On December 28, 2009, the Zoning Administrator approved the continued use and maintenance of a landscape/sprinkler business, storage of supplies, and parking of trucks, tractors, bulldozer, and trailers in the RA-1 Zone, located at 18731-18757 Topham Street.

Case No. ZA 2000-3014(ZV) – On January 18, 2001, the Zoning Administrator approved a request to permit the continued use and maintenance of three industrial uses, located at 18731-18757 Topham Street.

Case No. ZA 95-0965(CUZ) – On March 18, 1996, the Zoning Administrator approved a portion of an existing pre-school site to be converted to K through 5 with no increase in enrollment over that previously approved by existing conditional use with a total of 135 children, located at 18713 Topham Street.

Case No. ZA 95-0120(ZV) – On June 28, 1995, the Zoning Administrator approved a request for the continued use and maintenance of a trucking company landscape contractors and related offices in the RA-1-K Zone, located at 18731-18757 Topham Street.

Case No. ZA 91-0641(ZV) – On October 4, 1991, the Zoning Administrator approved the continued use and maintenance of a wholesale landscape business conducted on a lot with a modular office in the RA-1 Zone. The property is located at 18818 West Erwin Street.

Case No. ZA 90-1417(CUZ)(ZV) – On August 12, 1991, the Zoning Administrator approved a request to permit the enlargement of an existing synagogue and religious school in the RA-1-K Zone with the construction of a new social hall with 10,500 square feet and retain the existing 500-seat sanctuary and a preschool of 120 children ages two through five for Sunday school. The project also includes the addition of four new classrooms with a total of 208 parking spaces. The property is located at 6170 Wilbur Avenue.

Case No. ZA 89-1091(CUZ) – On January 30, 1990, the Zoning Administrator denied the request to permit the continued use and maintenance of a child care facility in the R1-1 Zone for a maximum of 35 children having hours of operation between 7 a.m. and 6:30 p.m. and to permit two on-site parking spaces in lieu of the required four spaces. The property is located at 6007 Wilbur Avenue.

PUBLIC HEARING

On September 13, 2011, notice of the public hearing was mailed to 117 property owners/occupants and other interested parties of which 17 were returned. On September 26, 2011, the public notice was posted on the subject site.

Prior to the public hearing, staff of the Office of Zoning Administration conducted a site visit of the property and observation of the immediate area. At the time of preparation of the Project Planner's Report, no public agency submitted written comments. A letter was submitted from the Tarzana Neighborhood Council Land Use Committee dated January 25, 2011 stating, a motion was passed by the Neighborhood Council supporting the Alzheimer's/Dementia Care facility with the following conditions:

1. That this Senior Care Facility with 13 bedrooms be restricted to a maximum of 15 residents with Alzheimer's/Dementia of which the 15 can include 2 couples;
2. That hospice care be offered for current residents only;
3. That no trash pick-up or deliveries occur between the hours of 7 p.m. and 8 a.m. weekdays and 7 p.m. and 9 a.m. weekends;

4. That the area on the east side of the front yard setback be designated for emergency vehicles only;
5. That the facility management will encourage both visiting family members and staff to use public transportation.

An anonymous letter that was received by the Office of Zoning Administration on September 27, 2011. The author states that he/she is part of the Topham Community (residents and Discovery School parents) and strongly objects to this expansion due to safety and health hazards associated with the project.

The following information was obtained from information presented in the application and research of the Project Planner:

The project would include an Alzheimer's/Dementia Care facility to accommodate 24 beds in the RA-1 Zone.

According to the applicant:

"The use of the existing structure as a single family dwelling is both impractical and infeasible. A 13 bedroom/6.5 bath structure in the Tarzana area north of Ventura Blvd. is considerably larger than the average family could reasonably expect to occupy, afford, and maintain and the exterior grounds cannot reasonably accommodate the activities typical of a very large family.

The proposed use as an Alzheimer's/Dementia Care Facility will be considerably less intense than the previously approved use as a school dormitory.

The granting of this variance will be beneficial to the public welfare as it adds an important and unique specially designed resource to the community; the facility's appearance as a new, well maintained single family dwelling lends itself to the betterment of the overall property values of the neighborhood."

Project Planner's Observations:

The site plan shows a 6,500 square-foot building, attached two-car garage, circular driveway, and two planter areas. The building consists of 12 bedrooms, six-bathrooms, two living rooms, a dining room, and kitchen with an attached two-car garage. The circular driveway will have four car spaces. The planter areas are located in the front of the property.

The elevation shows the front elevation (south side of the property) and the east elevation (the entrance of the property). No landscape plan was submitted.

Staff conducted a site visit on September 27, 2011, at approximately 3 p.m. The existing site consists of a one-story building, 6-foot high wrought iron fence, and circular driveway. There is some landscaping in the front of the property (see photos). Staff observed BTC posting on wrought iron fence. The entrance into the facility is located on the east side of the building.

The applicant and manager provided staff with a tour of the facility. The facility had a clean, well-maintained appearance with no observation of trash, graffiti, or debris outside of the facility. Inside the facility, the occupied bedrooms were tidy. The kitchen and bathrooms featured granite countertops.

In walking the neighborhood, staff noticed that the neighborhood is a transitional area originally developed with single-family residential dwellings consisting primarily of deep RA zoned properties, many of which are now used for condominiums, multi-family dwellings, non-residential uses such as plant nurseries, and landscape business.

Per conversation with the applicant on September 27, 2011, he is willing to comply with the Tarzana Neighborhood Council conditions outlined below in the Comments from Other Departments or the General Public section.

Per LAMC Section 12.21-A,4(d)(5) parking requirements for Alzheimer's/Dementia Care Housing requires 0.2 automobile parking spaces for each guest bed. In this case, since the applicant agreed to the Tarzana Neighborhood Council's recommendation for a maximum of 15 residents, three automobile parking spaces are required.

Per conversation with the applicant on September 27, 2011, if the applicant is granted 15 residents, the facility will have a maximum of ten staff. The applicant claims that most staff will travel to the facility via the Metropolitan Transportation Authority Orange Line busway.

An online search of licensed residential care for the elderly shows that there are only two facilities: St. Mary's Home Care and Virginia House, both have a capacity of six people.

The public hearing was held October 14, 2011 and attended by the project proponent, project proponent's representative, and representative of Tarzana Neighborhood Council.

The project proponent's representative provided a chronology of events leading up to the public hearing including affirmative Findings previously made to allow the property to be used as a group home and later as a dormitory. He noted that the building was originally constructed for group living and it would not be feasible to convert it to a single-family dwelling. He also highlighted support obtained from several surrounding property owners. Further, Tarzana Neighborhood Council supports the request and recommended conditions to reduce the intensity of the use. Lastly, he reiterated statements made in the application to justify why the request should be approved. The only matters of concern raised were to potential blockage for fire access caused by parked vehicles and signage should be low key.

After review of the entire public record and at the close of the public hearing, the Zoning Administrator "Approved" the request and found justification for the deviation from strict application of the Zoning and Planning Code, as discussed in the Findings.

VARIANCE FINDINGS

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 and Municipal Code Section 12.27 must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

- 1. The strict application of the provisions of the Zoning Ordinance would not result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

The site includes a 6,500 square-foot building, attached two-car garage, and circular driveway. The building consists of 12 bedrooms, six bathrooms, two living rooms, a dining room, and kitchen with an attached two-car garage and a circular driveway with sufficient space for four vehicles.

The project proponent is currently licensed by the State of California Department of Social Services (i.e., Facility No. 197607827, Virginia House) for use as Residential Care for the Elderly with a capacity of six residents. The Los Angeles Municipal Code allows group homes up to six persons in the RA Zone Classification. The project proponent is requesting a Zone Variance to exceed the permitted density.

The general purpose and intent of the use and density limitation for the RA Zone is to limit uses in order to comply with the General Plan and provide compatibility between respective properties. "Regulations in the Zoning and Planning Code are deemed necessary in order to encourage the most appropriate use of land; to conserve and stabilize the value of property; to provide adequate open spaces for light and air, and to prevent and fight fires; to prevent undue concentration of population; to lessen congestion on streets; to facilitate adequate provisions for community utilities and facilities such as transportation, water, sewerage, schools, parks and other public requirements; and to promote health, safety, and the general welfare all in accordance with the comprehensive plan." (*Section 12.02, Purpose, Los Angeles Municipal Code*)

Such regulations, however, are written on a citywide basis and cannot take into account individual unique characteristics of a specific property as well as consider dynamic changes in the economy and the use of land. A variance is a grant of permission to depart from the literal enforcement of a zoning ordinance and allow the property to be used in a manner otherwise not permitted provided that the spirit of the ordinance is observed and substantial justice is done without detrimental impacts to the community.

A project proponent seeking a Variance bears the burden of proving that circumstances exist to justify its granting (*PMI Mortgage Ins. Co. v. City of Pacific Grove (1982) 128 Cal.App.3d 724*). In order to justify an affirmative Finding, substantial evidence must be submitted that demonstrates that a reasonable return cannot be realized and the hardship is not self-imposed. In this instance, the City permitted construction of the building with 13 bedrooms and previously approved its use as a dormitory. It would be an economic loss to limit occupancy to six since optimal use of the building is for more.

In the opinion of the decision-maker, the project proponent acquired a property where the need for this Variance was created by the City. There is legitimate governmental purpose served by an approval to maintain use of the property as original intended (Certificate of occupancy issued January 4, 2007). Furthermore, the use is providing needed housing for the City's aging population. Aging is associated with various health problems and limited physical ability. In 2009, 42 percent of people aged 65 and older reported some form of functional limitation preventing them from performing their daily living activities (*National statistics, Administration on Aging 2008*). Unfortunately, the

current built environment and housing conditions disregard the physical limitations seniors face, rendering their living experience less enjoyable and many instances, quite hazardous. Housing that is not properly designed can actually cause preventable disabilities and unnecessarily force seniors to live at lower levels of functioning and independence.^{1/}

2. **There are no special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.**

The "Special Circumstances" Finding of a Variance is the second prong of the analysis. This requires distinguishing the property from other properties in the same zone and vicinity. The classic special circumstances are unusual physical characteristics of the property, such as size, shape, topography, location, or surroundings. In this instance, the City permitted construction of the building with 13 bedrooms and previously approved its use as a dormitory.

3. **Such variance is not necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question.**

The third prong of a Variance is to establish an approval is necessary to bring the property owner into parity with other properties in the same zone and vicinity. A Variance cannot grant the project proponent a special privilege (*Section 12.27-D LAMC, California Gov't Code Sec. 65906; Topanga Ass'n for a Scenic County of Los Angeles, 11 Cal. 3d 506, 520 (1974)*). There are several properties in the immediate area not used for RA single-family residential use or density including:

Case No. ZA 2009-0717(ZV) – On December 28, 2009, the Zoning Administrator approved a Variance for the continued use and maintenance of a landscaping/sprinkler business including the outside storage of materials, trucks, tractors, bulldozers and trailers, on an approximately 101,605 square-foot site in the RA-1-K Zone, located at 18800 West Calvert Street, approximately 145 feet southwest of the subject property.

Case No. ZA 2008-0536(CU)(ZV) – On August 19, 2009, the Zoning Administrator approved a Conditional Use Permit authorizing the continued use and maintenance of a dog care and wellness facility, within 500 feet of a residential use, and approved a Zone Variance to permit the use of a portion of the P Zone for an exterior, enclosed one-on-one dog training area and separate enclosed dog exercise area, all on a 23,010 square-foot property in the M1 and P Zones, located at 18603 Topham Street, approximately 494 feet southeast of the subject property.

^{1/} Using Smart Growth and Universal Design to Link the Needs of Children
<http://www.planning.org/research/family/briefingpapers/multigenerational.htm>

Case No. APCSV 2003-7329(ZC)(ZAA)(SM) – On August 18, 2004, the South Valley Area Planning Commission (and later City Council) a zone change from RA-1-K to RE-11-1-K, approved a Zoning Administrator's Adjustment from Section 12.07.01 C 4 to allow lot areas of 9,000 square feet for Parcels "A" and "B" in lieu of 11, 000 square feet, and approved a Slight Modification to allow lot widths of 64 feet in lieu of 70 feet, for a properties located at 18631, 18635 Calvert Street, and 18626, 18632 Delano Street, approximately 190 east of the subject property.

Case No. ZA 95-0965(CUZ) – On March 18, 1996, the Zoning Administrator approved a Conditional Use at 18719 Topham Street (south abutting property, same owners) to permit the addition of kindergarten to 5th grade to existing preschool.

Case No. ZA 91-0641(ZV) – On October 4, 1991, the Zoning Administrator approved a Zone Variance to permit the use and maintenance of a wholesale plant nursery with a modular office structure, accessory uses and structures related to the planting, growing, maintenance and storage of trees and plants in potted containers in the RA-1 Zone and a variance to permit the continued use and maintenance of decomposed granite and pebble surfacing for driveways and parking areas on a property located 18818 Erwin Street., approximately 380 feet northwest of the subject property.

4. **The granting of such variance will be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.**

Granting the deviation in density would not be materially detrimental for three reasons. One, residents will be seniors who do not have similar impacts as other multiple-family housing types. Two, through the environmental review procedure, it was determined that the proposed project will not have an impact on the environment. Lastly, concerns raised at the public hearing regarding fire safety and signage are addressed in the conditions approval.

5. **The granting of the variance will adversely affect the General Plan.**

The Reseda-West Van Nuys Community Plan Map designates the property for Low Residential land uses with corresponding zones of RE9, RS, R1, RU, RD6, and R5. However, the current zoning for the property is RA-1, which is associated in the Reseda-West Van Nuys Community Plan as Very Low I Residential land uses. The Plan intends to guide development consistent with guidelines contained herein and in Citywide policies." (*Community Plan, Policies Residential*)

As required by State law, zoning must be consistent with the General Plan.^{2/} The proposed project is not permitted in any of the corresponding zones of the Community

^{2/} Code of Civil Procedure, Section 65860.

(a) County or city zoning ordinances shall be consistent with the general plan of the county or city by January 1, 1974. A zoning ordinance shall be consistent with a city or county general plan only if both of the following conditions are met: (*underline added*)

(1) The city or county has officially adopted such a plan.

Plan. The Zone Variance process is intended to provide needed adjustments to the planning process versus a long-term decision such as zone change or general plan amendment. As proposed the request would hamper implementation of the Plan unless a time limit is imposed. Thus, a term period of ten years is imposed.

ADJUSTMENT FINDINGS

In order for an adjustment from the zoning regulations to be granted, all five of the legally mandated findings delineated in Section 12.28 of the Los Angeles Municipal Code must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

6. **The granting of an adjustment will result in development compatible and consistent with the surrounding uses.**

The project proponent is requesting a Zoning Administrator's Adjustment from Section 12.21-C, 1(g) allowing four parking spaces in the front yard as not otherwise permitted. In the opinion of the Zoning Administrator, continued use of parking in the front yard setback is no more objectionable than what has existed for years and is consistent with the character of the surrounding area.

7. **The granting of an adjustment will be in conformance with the intent and purpose of the General Plan.**

Continued parking in the front setback will not significantly alter the current use or its appearance.

8. **The granting of an adjustment is in conformance with the spirit and intent of the Planning and Zoning Code of the City.**

The general purpose and intent of the setback regulation is to provide compatibility between respective properties. Such regulations, however, are written on a citywide basis and cannot take into account individual unique characteristics of a specific property as well as consider dynamic changes in the economy and the use of land.

An Adjustment is a grant of permission to depart from the literal enforcement of a zoning ordinance and allow the property to be used in a manner otherwise not permitted where the spirit of the ordinance is observed and substantial justice is done without detrimental impacts to the community.

There is no history of an adverse effect from using the front yard setback for parking. Additionally, a condition is imposed to reduce any potential fire safety concern that

(2) The various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in the plan. ...

(d) Notwithstanding Section 65803, this section shall apply in a charter city of 2,000,000 or more population to a zoning ordinance adopted prior to January 1, 1979, which zoning ordinance shall be consistent with the general plan of the city by July 1, 1982. (underline added)

might occur from parked vehicles. Importantly, approval of the request would not encumber light, air, or open space.

9. **There are no adverse impacts from the proposed adjustment or any adverse impacts have been mitigated.**

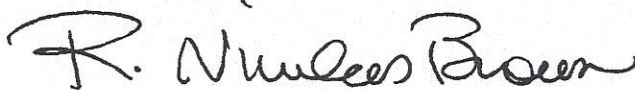
Through the environmental review procedure, it was determined that the proposed project will not have an impact on the environment. Furthermore, the project proponent submitted several signatures in support from surrounding neighbors which indicate the request is not perceived as an adverse impact.

10. **The site and/or existing improvements make strict adherence to the zoning regulations impractical or infeasible.**

Strict adherence to the zoning regulations are unnecessary and impractical. Denial of the grant would require relocation of the garage. The alternatives are to demolish a portion of the building to move the parking back or to park off-site putting additional demand on street parking. These options are unnecessary or impractical in that they would unnecessarily increase the cost and reduce the usability and function of site. Most importantly, a denial would not further a legitimate public purpose (e.g., mitigate adverse impacts or protect property rights).

ADDITIONAL MANDATORY FINDINGS

11. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that the property is located in Zone C, outside the flooding area.
12. On June 21, 2010, the Department of City Planning Environmental Staff Advisory Committee (ESAC) issued Mitigated Negative Declaration No. ENV 2008-290-MND and determined that by imposing conditions, project-related impacts could be reduced to less than significant levels (Section 15074, State CEQA Guidelines). Mitigation Measure XVII-120 is deleted since no new construction is proposed and the reduced number of residents (i.e., 15 versus 24) reduces the water consumption by 40 percent. I hereby adopt that action. This Mitigated Negative Declaration reflects the lead agency's independent judgment and analysis. The records upon which this decision is based are with the Planning Department in Room 351, 6262 Van Nuys Boulevard.



R. NICOLAS BROWN, AICP
Associate Zoning Administrator
Direct Telephone No. (818) 374-5069

RNB:aln

cc: Councilmember Paul Krekorian
Second District
Adjoining Property Owners

III-50. **Air Pollution (Stationary)**

- Adverse impacts upon future occupants may result from the project implementation due to existing diminished ambient air pollution levels in the project vicinity. However, this impact can be mitigated to a less than significant level by the following measure:
- An air filtration system shall be installed and maintained with filters meeting or exceeding the ASHRAE Standard 52.1 Minimum Efficiency Reporting Value (MERV) of 11, to the satisfaction of the Department of Building and Safety.

IX 0. **Stormwater Pollution (Parking Areas)**

- Any new paving within the required front yard for the purpose of accommodating parking shall be of a water-permeable design, including, but not limited to: porous concrete or asphalt, aggregate stone, or grasscrete, such that the paved area does not generate increased stormwater runoff flow.

XVII-90. **Utilities (Solid Waste Recycling)**

- Environmental impacts may result from project implementation due to the creation of additional solid waste. However, this potential impact will be mitigated to a less than significant level by the following measure:
- (Operational) Recycling bins shall be provided at appropriate locations to promote recycling of paper, metal, glass, and other recyclable material. These bins shall be emptied and recycled accordingly as a part of the project's regular solid waste disposal program.

~~XVII-120. Utilities and Service Systems~~

- The project will result in impacts to utilities and/or service systems. However, the impact can be reduced to a less than significant level through compliance with the following measure(s):
- Install and utilize only high-efficiency clothes washers (water factor of 6.0 or less) in the project, if proposed to be provided in either individual units and/or in a common laundry room(s). If such appliance is to be furnished by a tenant, this requirement shall be incorporated into the lease agreement, and the applicant shall be responsible for ensuring compliance.
- Install/retrofit high-efficiency toilets (maximum 1.28 gpf), including dual-flush water closets in all restrooms as appropriate.
- Install/retrofit no more than one showerhead per shower stall, having a flow rate no greater than 2.0 gallons per minute.
- Install and utilize only high-efficiency Energy Star-rated dishwashers in the project, if proposed to be provided. If such appliance is to be furnished by a tenant, this requirement shall be incorporated into the lease agreement, and the applicant shall be responsible for ensuring compliance.

REMOVED

~~XVII-120.~~

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