

Case ZA 2011-2679(ELD) (SPR)  
Council File #12-1126  
6221 N. Fallbrook Ave., Woodland Hills, CA

August 14, 2012

Dear City Council,

Date: 8/15/12  
Submitted in: person ~~Committee~~  
Council File No: 12-1126  
Item No.: 9 PLUM 8/15  
Deputy: Comm from Public

I live at 23058 Califa Street in Woodland Hills, in the Walnut Acres neighborhood and a few blocks from 6221 N. Fallbrook Ave.

This letter is meant to augment an earlier letter dated August 12, 2012. It will be an abuse of discretion and error for the City Council to reinstate the ZA determination in this case, because the proposed eldercare institution at 6221 N. Fallbrook Ave. cannot meet the threshold finding required by the ElderCare Ordinance, nor can it meet any of the five findings required in addition to the threshold finding. In addition the CEQA checklist has failed to identify various potentially significant impacts that would require mitigation, and the MND has failed to provide for appropriate mitigation of those impacts that the CEQA checklist has identified. In addition, the Master Land Use Permit Application is defective and is perjured and thus cannot form the basis for approval of entitlements sought for 6221 N. Fallbrook Ave.

**The Master Land Use Permit Application is defective and perjured and thus cannot form the basis for approval of entitlements sought for the subject property.**

The application has not provided sufficient documentation of the owner of the property so as to allow Community Multihousing Inc. to serve as the owner of record for the purposes of the application. A letter in the planning file, allegedly from John and Thomas Simmers, states that these two men are the "property owners" of 6221 Fallbrook Avenue. This document is wholly insufficient to demonstrate ownership. There is no deed referenced in the letter, nor is there a copy of the deed in the planning file. The letter fails to state the nature of the Simmers' ownership. Nor is the letter notarized. Further, the letter states that "Dan Chandler of Community Multihousing, Inc." is the "owner in escrow." The letter fails to define this term, nor does the letter reference any terms of the escrow or dates of the escrow. Nor are any terms of escrow included in the planning file. Finally, this letter was allegedly executed on September 28, 2011, approximately four weeks after the application was signed and notarized. Thus, at the time that the document was signed by Dan Chandler, only the true owner of the property could claim to be the owner for the purposes of the application. The letter, if taken as true, demonstrates that Community Multihousing Inc. was not authorized to serve as the owner and thus Dan Chandler perjured himself in signing the document. In sum, the record does not adequately demonstrate that the Simmers have the right to seek the entitlements sought here for 6221 N. Fallbrook Ave. and thus have the right to transfer authority to another person or entity to seek those entitlements, and the record does not demonstrate that Community Multihousing Inc. had any interest in the property on August 31, 2011, that would allow for it to claim to be the owner of 6221 N. Fallbrook Ave. for purposes of the application.

In addition, Dan Chandler perjures himself at other places in the document. In Sec. 2 Project Description, the document requires the applicant to “check all that apply.” The applicant checked “New Construction,” “Demolition,” and “Residential.” This is not a residential project. Nowhere in the description of the structure to be added to the property does Mr. Chandler refer to the structure as a residence. Mr. Chandler himself, at another part of the document, indicates that this is not a residential project inasmuch as he fails to state that any residential units will be added to the property. Further, the applicant failed to check “Commercial.” This is a commercial project that will be operated for profit as an institutional eldercare facility providing a myriad of services to patients. This project is no more residential than a hotel, hospital, rehabilitation center, or other such structure/business would be considered residential.

Dan Chandler also perjures himself in stating that there are no existing residential units on the property. There is a single-family house on the property. It is of no relevance that the house is not currently occupied or at one point was used for some other purpose than a house. Finally, Mr. Chandler perjures himself in failing to state that that residential unit will be demolished.

Because the document is perjured and is supported by insufficient documentation to demonstrate who the owner is who has authority to encumber the property, the Master Land Use Permit Application must be rejected and the ZA determination cannot be reinstated.

**The eldercare institution project fails to meet the threshold requirement or any of the five findings and thus the ZA determination is in error. It would be an error and abuse of discretion for the City Council to reinstate that determination.**

Besides the arguments set forth in my letter of August 12, 2012, the proposed project cannot meet the height requirement of the RA zone, and cannot meet the height requirement of the Eldercare Ordinance, and thus cannot be approved. The structures surrounding the subject property range from one to two stories. According to the ZA (and this information may not be true), the maximum height of any building in the area is 28 feet. The ZA himself admits that the height of this structure is 36 feet. This structure would tower over adjacent properties by anywhere from 8 to over 20 feet. It is immaterial that the roof line is 29 feet (which is still taller, according to the ZA’s calculations than any nearby structure). This structure far exceeds the height of structures in the surrounding area, far exceeds allowable height under zoning and under the Eldercare Ordinance, thus will destroy the privacy of surrounding residences and is completely out of character with the surrounding area. As a result, this project fails to meet finding #4 of the Eldercare Ordinance, does not meet the requirements of the RA zoning, and thus cannot be approved under law.

**The ZA erred in approving the eldercare project and the City Council will err and abuse its discretion if it reinstates the ZA’s determination, because, inter alia, the project does not meet the fifth finding of the Eldercare Ordinance.**

The Eldercare ordinance requires the ZA to determine that the proposal is “in conformance with any applicable provisions of the General Plan.” The ZA has erred and abused his discretion in that determination. The ZA states that this project is “most like a multiple-

family residential development.” This is not true. A multiple family residence has greater density in terms of number of people occupying space, but otherwise does not involve any use of property beyond residential use. The proposed eldercare facility is far higher use because, as the ZA himself states, it is “service-enriched housing.” This facility will have 24/7 staff on duty to provide these services. The staff will not live on the property. Residential housing in the 21<sup>st</sup> century does not have 24/7 staffing by people who do not live on the property. It does not have shift changes at all hours.

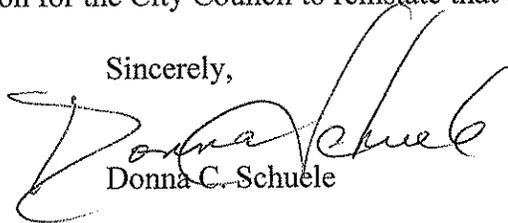
Further, this proposed project does nothing to meet Community Plan Goal 1, to provide housing “regardless of income.” The developers themselves have stated that it will cost (in today’s dollars) between \$5,000 and \$8,000 per month to live in the proposed facility. Very, very few senior citizens could afford that rate.

Further, in no way does this proposal “preserve and enhance the character and integrity of existing single and multifamily neighborhoods.” (Community Plan Objective 1-3) This proposal is located purely in a single-family neighborhood, and one that has been designated by the city as very low density. There is no multi-family dwellings within nearly a mile of the subject property. Neither does this, as an infill development, have compatibility with the character and scale of the existing residential neighborhood. Fallbrook is 93% residential and ALL of that residential is single-family. Most of the residences on Fallbrook are single story. Thus, this structure exceeds the height of the vast majority of structures on Fallbrook by upwards of 200% (36 ft. vs. 12 ft.).

**Should the City Council determine to reinstate the ZA determination, the City must enforce condition #6 in the decision, which requires the applicant to indemnify the city against any action brought to attack, set aside, void or annul the ZA’s approval.**

For all of the above reasons, including reasons set forth in my letter of August 12, 2012, the ZA erred and abused his discretion in approving the proposed eldercare project, and it would be error and abuse of discretion for the City Council to reinstate that determination.

Sincerely,



Donna C. Schuele