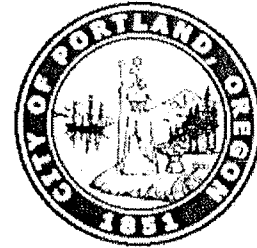


CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade
1221 S.W. 4th Avenue, Room 140, Portland, Oregon 97204
web: www.portlandonline.com/auditor/
Email: Karla.Moore-Love@portlandoregon.gov
Phone: (503) 823-4086 Fax: (503) 823-4571



May 3, 2012

Rodelo and Vivian Asa, Property Owners
2027 SE 174th Avenue
Portland, OR 97233

RE: LU 11-146609 CU AD

Appeal of East Portland Land Use and Transportation Committee against Hearings Officer's decision to approve with conditions the application of Rodelo and Vivian Asa for a conditional use and adjustment for a group living facility at 2027 SE 174th Ave (Hearing; LU 11-146609 CU AD)

To Whom It May Concern:

Enclosed is a copy of the Order of Council on LU 11-146609 CU AD. This Order must be recorded with the Multnomah County Recorder within 10 days of receipt of this letter. **Please send a check for \$46.00 made payable to the Multnomah County Recorder, indicating the file number on your check and Send to: The City of Portland, Office of the City Auditor, 1221 SE 4th Ave. Room 140, Portland, OR 97204-1900**

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with the Board within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have appeared orally or in writing during the City's proceedings on this land review. The Board's address is: Public Utility Commission Building, 550 Capitol Street NE, Suite 235, Salem, OR 97310-2552. You may call the Land Use Board of Appeals at 1-503-373-1265 for further information on filing an appeal.

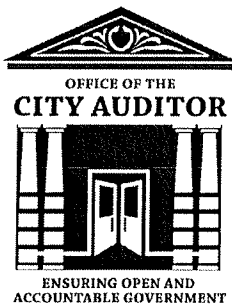
Yours sincerely,
LaVonne Griffin-Valade
Auditor of the City of Portland

By: 

Karla Moore-Love, Council Clerk

Encl.

Cc: Edward Radulescu, EPR Design
Thomas H. Cutler, Harris Berne Christensen LLP



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NOTICE OF FINAL DECISION

TO: All Interested Persons

DATE: May 3, 2012

RE: LU 11-146609 CU AD

Appeal of East Portland Land Use and Transportation Committee against Hearings Officer's decision to approve with conditions the application of Rodelo and Vivian Asa for a conditional use and adjustment for a group living facility at 2027 SE 174th Ave (Hearing; LU 11-146609 CU AD)

Enclosed is a copy of the Order of Council on LU 11-146609 CU AD denying the appeal of the East Portland Land Use and Transportation Committee against Hearings Officer's decision to approve with conditions and upholding the Hearings Officer's decision, adopting Hearings Officer's Findings with conditions as Council's. If you wish to obtain a copy of the City Council's findings and conclusions, please contact Karla Moore-Love, Council Clerk at (503) 823-4086 or by email at: Karla.Moore-Love@portlandoregon.gov

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with the Board within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have appeared orally or in writing during the City's proceedings on this land review. The Board's address is: Public Utility Commission Building, 550 Capitol Street NE, Suite 235, Salem, OR 97310-2552. You may call the Land Use Board of Appeals at 1-503-373-1265 for further information on filing an appeal.

Encl.

**ORDER OF COUNCIL ON APPEAL OF
EAST PORTLAND LAND USE AND TRANSPORTATION COMMITTEE AGAINST HEARINGS
OFFICER'S DECISION TO APPROVE WITH CONDITIONS THE APPLICATION OF RODELO
AND VIVIAN ASA FOR A CONDITIONAL USE AND ADJUSTMENT FOR A GROUP LIVING
FACILITY AT 2027 SE 174TH AVENUE (HEARING; LU 11-146609 CU AD)**

Applicants: Rodelo and Vivian Asa, Property Owners
2027 SE 174th Avenue
Portland, OR 97233

**Applicants'
Representative:** Edward Radulescu
EPR Design
825 NE 20th Avenue, #202
Portland, OR 97232

Site Address: 2027 SE 174TH Avenue

Legal Description: TL 8300 0.71 ACRES, SECTION 06 1S 3E

Zoning: R7a: Single Dwelling Residential 7,000 with Alternative Design Density

Land Use Review: Type III, CU AD: Conditional Use and Adjustments

Proposal:

The applicants request a Conditional Use and Adjustment to replace the existing single family residence at 2027 SE 174th Avenue (the "Subject Property") which had previously operated as an Adult Foster Care home, with a new Group Living use that will be licensed for 39 beds (the "Facility"). The applicants note that the lender for this project requires that two beds will be empty and available within the Facility, so that at any given time, there will be up to a maximum of 37 residents.

The Facility will be 2-story, with a parking lot that will accommodate 10 cars and one loading space. The parking lot will be screened by a 19 foot 8-inch deep landscaped area. The Facility will have a total of 23,963 square feet of which approximately 4,000 square feet will be used as household living by the owner and the owner's family.

The Facility will provide care for adults related to their day-to-to-day activities due to advanced age and or handicap restrictions. The Facility is not intended to serve patients with memory care issues, as such facilities require additional licensing and an around the clock secure facility. The residents at the proposed facility will be limited to a sleeping room, closet and private half bath.

The Facility will have 24-hour staff which will primarily consist of the owner and family members, who are medical and care professionals. Two additional staff are anticipated to also provide care, one during the day shift, the other during the night.

The zoning code requires one loading space for buildings that include a use that is not household living and is greater than 20,000 square feet of floor area. (PCC 33.266.310.C.2.a) The regulation requires that the one loading space meets the "Standard A" size: at least 35 feet in length, 10 feet wide, and with 13 feet of clearance. The applicants request an Adjustment to allow the required loading space to meet "Standard B"

size: 18 feet long, 9 feet wide and with a clearance of 10 feet. Attached to this decision is a zoning map and site plans depicting the proposal.

Following a public hearing and subsequent open record period, the Hearings Officer issued his decision approving with conditions a Conditional Use for a Group Living facility with up to 39 residents. On February 9, 2012, the East Portland Land Use & Transportation Committee appealed the Hearings Officer's decision to the City Council based on arguments that: "Does not meet approval criteria because not allowed by 33.110 Single Dwelling Zone Standards for Single Family R7; does not meet 33.700.070.c General Rules for application of the Code Language; and does not meet approval criteria for 33.229 Elderly and Disabled High Density Housing Code.

The appeal hearing before the City Council was opened in the Council Chambers, 1221 SW 4th Avenue on March 8, 2012 at approximately 3:00 p.m. At the request of the Applicant, and after hearing from the Appellant, Council postponed the hearing until April 26, 2012 at 2:00 p.m. On April 26, 2012 at 2:00 p.m. at the conclusion of the public hearing and after hearing public testimony, Council voted 4-1 to uphold the Hearings Officer's decision, adopt Hearings Officer's Findings as Council's and denied the appeal.

DECISION

Based on evidence in the record and adoption of the Council's Findings and Decision in **Case File LU 11-146609 CU AD** and by this reference made a part of this Order, **it is the decision of Council** to deny the appeal by East Portland Land Use and Transportation Committee and uphold the approval of the Hearings Office's Decision, adopt Hearings Officer's Findings as Council's which granted a Conditional Use and Adjustment, with conditions. The effect of the Council's decision is:

Approve:

- Conditional Use for a Group Living facility with up to 39 residents, subject to the following conditions:
 - A. As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 11-146609 CU AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
 - B. Because of the size and scale of the modified Group Living structure, and the sensitivity of the inherent visual impacts on the surrounding residential area, the applicants will be required to call for a Special Inspection by BDS staff at time of inspection of foundation forms to ensure that the proposed 10 foot side setback is met prior to completing the foundation, and allowing for the 2 foot bump outs for façade bays as shown on the plans. The 10 foot setback shall be considered a minimum. Any setback greater than 10 feet is allowed.
 - C. At time of landscape installation, the applicants will install evergreen hedge plantings that are at least 12 feet in height at time of planting.

IT IS SO ORDERED:

MAY 03 2012

Date



Mayor Sam Adams
Presiding Officer at Hearing of
April 26, 2012
2:00 p.m. Session