

RECEIVED

2023 JUL 21 AM 11:55

CITY CLERK
CITY OF
HUNTINGTON BEACH

Notice of Appeal to the City Council

To the City Clerk of the City of Huntington Beach:

1. **Notice of Appeal:** Pursuant to Section 248.20 of the Zoning and Subdivision Code of the City of Huntington Beach, Legacy Living LLC hereby appeals the decision of the Planning Commission in File #23-553 denying administrative permit #22-015 (request for reasonable accommodation re dwelling at 9452 Castlegate Drive, Huntington Beach, CA 92646) to the City Council. A copy of the determination from which Legacy appeals is attached hereto.

2. **Persons Appealing:**

- Dylan Walker, property owner, PO Box 2320, Costa Mesa CA 92628; and,
- Michael Garrett, Legacy Living, authorized representative, PO Box 3911, Huntington Beach CA 92605.

3. **Attorney Representatives:**

- Garrett Prybylo, Seyfnia & Prybylo, LLP, 633 West 5th Street, Suite 2600, Los Angeles, California 90071; Tel: (213) 770-4529; email: gprybylo@splawllp.com; and,
- Christopher Brancart, Brancart & Brancart, PO Box 686, Pescadero, CA 94060; (650) 879-0141; email: cbrancart@brancart.com.

4. **Grounds for Appeal:** The grounds for appeal include but are not limited to the following:

- The City subjected the dwelling at 9452 Castlegate Dr., Huntington Beach, to municipal regulations, HBZSO 230.28 that violate state statutes, Cal. Govt. Code §§ 65008, 12955(1), 11135, 8899.50, and related federal statutes, including the Fair Housing Act and Americans with Disabilities Act;
- The City failed or refused to engage in an interactive process, as

required under the Fair Employment and Housing Act or the Fair Housing Act prior to denying applicant's request for reasonable accommodation;

- The second Finding for Denial in the Planning Commission's Notice of Action misconstrued and misapplied the necessity standard under HBMC17.77.050(B) and under state and federal fair housing laws;
- The fourth Finding for Denial in the Planning Commission's Notice of Action misconstrued and misapplied the fundamental alternation standard under HBMC 17.77.050(D) and under state and federal fair housing laws;
- The Planning Commission erred in failing or refusing to classify the use of the dwelling at 9452 Castlegate Drive as a "Single Housekeep Unit" or "Supportive Housing;"
- The retroactive application of the City's municipal regulations, HBZSO 230.28 to the dwelling at 9452 Castlegate Drive is inconsistent with state law and the City's treatment of nonconforming uses; and,
- Even the City's regulation were valid, the records before the Planning Commission does not support the denial of applicant's request for reasonable accommodation.

5. Appeal Fee. Applicant-appellant tenders with this notice of appeal a check made payable to the City of Huntington Beach in the sum of \$2,855.00.

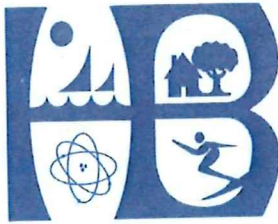
* * *

Timely delivered to the Clerk of the City of Huntington Beach on Friday, July 21, 2023.

/s/ Michael Garrett

Michael Garrett

Michael Garrett, Authorized Representative



Huntington Beach Planning Commission

2000 MAIN STREET

CALIFORNIA 92648

NOTICE OF ACTION

July 12, 2023

Michael Garrett
PO Box 3911
Huntington Beach CA 92605

SUBJECT: ADMINISTRATIVE PERMIT NO. 22-015 (LEGACY LIVING LLC
SOBER LIVING REASONABLE ACCOMMODATION)

APPLICANT: Michael Garrett, PO Box 3911, Huntington Beach CA 92605

PROPERTY OWNER: Dylan Walker, P.O. Box 2320, Costa Mesa CA 92628

REQUEST: To provide Reasonable Accommodation to the operator of a sober living home requesting to operate on a property that is located within 1000 linear feet of another group home or State-licensed residential care facility.

LOCATION: 9452 Castlegate Drive, 92646 (Southside of Castlegate Drive, west of Bushard Street)

DATE OF ACTION: July 11, 2023

On Tuesday, July 11, 2023, the Huntington Beach Planning Commission took action on your application, and your application was **denied with findings**. Attached to this letter are the findings for denial.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Planning Commission becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the City Clerk within ten (10) calendar days of the date of the Planning Commission's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. Said appeal must be accompanied by a filing fee of Two Thousand, Eight Hundred and Fifty-Five Dollars (\$2,855.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property and Four Thousand, Five Hundred and Eighty-Two Dollars (\$4,582.00) if the appeal is filed by any other party. In your case, the last day for filing an appeal and paying the filing fee is **Friday, July 21, 2023, at 5:00 PM.**

Excepting those actions commenced pursuant to the California Environmental Quality Act, you are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this

Notice of Action: AP 22-015
July 12, 2023
Page 2

Notice, you will be legally barred from later challenging such action pursuant to *Government Code* §66020.

If you have any questions regarding this Notice of Action letter or the processing of your application, please contact Hayden Beckman, the project planner, at (714) 536-5561 or via email at hayden.beckman@surfcity-hb.org, or the Community Development Department at (714) 536-5271.

Sincerely,

Ursula Luna-Reynosa, Secretary
Planning Commission

By:


Matthew Schneider, Planning Manager

ULR:MS:HB:kdc

Attachment: Findings For Denial – AP 22-015

c: Honorable Mayor and City Council
Chair and Planning Commission
Al Zelinka, City Manager
Ursula Luna-Reynosa, Director of Community Development
Tim Andre, Fire Division Chief
Mike Vigliotta, Chief Assistant City Attorney
Bob Milani, Principal Civil Engineer
Jasmine Daley, Building Manager
Hayden Beckman, Senior Planner
Property Owner
Project File

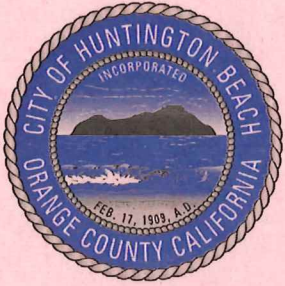
ATTACHMENT NO. 1

FINDINGS FOR DENIAL

ADMINISTRATIVE PERMIT NO. 22-015

FINDINGS FOR ADMINISTRATIVE PERMIT NO. 22-015:

1. The City recognizes that the housing that is the subject of the request for reasonable accommodation will be used by individuals protected under the Federal Fair Housing Amendments Act of 1988 and California Fair Employment and Housing Act.
2. The Planning Commission finds that the request is not necessary to make such housing available to disabled individuals, as defined by state or federal law. To date, the City has approved six Special Use Permits for sober living facilities that comply with the regulations of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO), and upon full implementation of the requirements of the HBZSO, many more will also be available on properties that received City approval to operate. Furthermore, an online search and contact of advertising facilities identifies that multiple sober living beds are currently available for disabled persons within the City. Therefore, the request for reasonable accommodation is not necessary to make such housing available to a disabled individual, as defined by state or federal law.
3. The Planning Commission finds the requested reasonable accommodation will not impose an undue financial or administrative burden on the City.
4. The Planning Commission finds the reasonable accommodation would require a fundamental alteration to the nature of a City program or to the City's zoning or building laws, policies, or procedures because the operation of the subject sober living home is within the minimum one thousand (1000) foot buffer from an operating Group Home, Sober Living Home, or Residential Care Facility, as classified by the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The City seeks to ensure that disabled persons recovering from addiction can reside in a comfortable residential environment versus in an institutional setting. The subject sober living home is in such close proximity (60 linear feet) that it does not provide the disabled resident with the opportunity to live in normal residential surroundings and instead places such individuals into living environments more in common with the types of institutional living that state and federal laws were designed to provide them relief from. As such, the request would result in an overconcentration, and accommodation would require a fundamental alteration to the nature of the City's zoning laws and modification of the policy intent behind regulation.



CASH RECEIPT

CITY OF HUNTINGTON BEACH
P.O. BOX 711
HUNTINGTON BEACH, CALIFORNIA 92648-0711
www.huntingtonbeachca.gov/payments

DATE 7/21/2023 Issuing Dept. City Clerk's Office
Dept. Phone # (714) 536-5000

FUNDS RECEIVED FROM Michael Garrett, Legacy Living
ADDRESS P.O. Box 3911, Huntington Beach, CA 926405
Phone #: (714) 226-0450

FOR Appeal Planning Commission Decision for
Administrative Permit No. 22-015 (Legacy Living LLC)

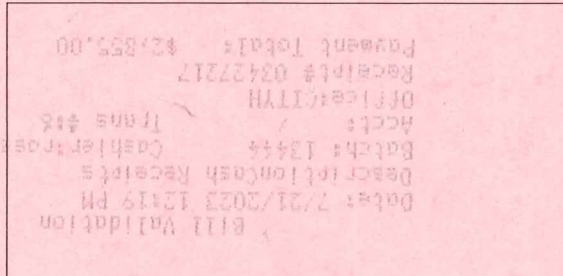
AMOUNT RECEIVED Cash Check # 0207 Credit Card \$ 2855.00

Prepared By _____ Received By CP Finance Approval _____
IF OBJECT = 50000 THRU 90000, FINANCE APPROVAL REQUIRED Approval Date _____

Business Unit	Object	Subs	Sub-Ledger	Type
<u>10000100</u>	<u>42815</u>			<u>2855.00</u>
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----

TOTAL \$ 2855.00

Stamped Validation Only
Please do not write in the box below



No. 1339090

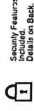
LEGACY LIVING HOMES LLC
10311 MONITOR DR
HUNTINGTON BEACH, CA 92646-3757
7143360450

PAY TO THE ORDER OF City OF Huntington Beach

Two thousand Eight Hundred Fifty-Five $\frac{00}{100}$

\$ 2855.00

DOLLARS



JPMorgan Chase Bank, N.A.
www.Chase.com

FOR Appeal Admin Permit No. 22-015

Michael Gamett

MP

⑈000207⑈ ⑆322271627⑆ 769027753⑈

DATE 7-21-23

90-7162/3222

0207