

APPEALING ACT 250 PERMIT FOR PHOENIX HOUSE

In the year Two Thousand Ten.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, Burlington Housing Authority in partnership with Phoenix House, a non-profit substance abuse service organization, applied for and was granted a Change of Use Permit to open a 20 bed group home at 37 Elmwood Avenue without any public hearings before any City boards; and

WHEREAS, Burlington is already home to 55 of 65 Social Service Agencies, which includes 10 substance abuse programs, in Chittenden County according to a 2006 CEDO study of Social Services; and

WHEREAS, the proposed project is subject to Act 250 jurisdiction because the project involves the construction of ten or more housing units; and

WHEREAS, an Act 250 Land Use Permit was issued to allow for the restoration of 37 Elmwood Avenue for a group home on April 23, 2010; and

WHEREAS, Criterion 7 of 10 V.S.A. §6086 requires a finding by the District Commission prior to issuance of an Act 250 permit that the proposed development “[w]ill not place an unreasonable burden on the ability of the local governments to provide municipal or governmental services;” and

WHEREAS, the District Commission never heard testimony from the Burlington Police Department prior to making its decision; and

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WHEREAS, the City of Burlington is a party by right in the Act 250 process for projects occurring within Burlington; and

WHEREAS, a party by right has a right to appeal the issuance of an Act 250 permit by a district commission pursuant to 10 V.S.A. §8504(a);

NOW, THEREFORE, BE IT RESOLVED that the Burlington City Council hereby requests that the City of Burlington take immediate action to appeal the Act 250 permit for a group home at 37 Elmwood Avenue, based on a failure to have considered sufficient evidence that the project meets Criteria 7 regarding the impact on the City's municipal services and any other criteria that may be determined applicable after further legal review; and

BE IT FURTHER RESOLVED that the Burlington City Council hereby requests that City's Attorneys Office provide a memorandum to the City Council by its meeting of May 17, 2010 outlining all possible legal options including positions from other jurisdictions that may not have yet been considered in Vermont, regardless of whether these positions are embraced by a majority of other jurisdictions for addressing any and all aspects of the Act 250 permit awarded to Phoenix House including but not limited to appeal from the District Commission; and

BE IT FURTHER RESOLVED that receipt and potential action on the Memorandum referenced above be placed on the City Council Agenda for May 17, 2010.