

April 17, 2009

Mr. Sam Kroll
C/o Mr. Steven G. Polin
3034 Tennyson St. N.W.
Washington, D.C. 20015

RE: Reasonable Accommodation Request
Primary Purpose Homes
1311 Oak Timber Drive
Euless, Texas

Dear Mr. Kroll:

On April 8, 2009, you (through your attorney Mr. Steven Polin) submitted a reasonable accommodation request pursuant to the requirements set forth in Section 84-85 of the Code of Ordinance of the City of Euless, Texas for the property located at 1311 Oak Timber Drive, Euless, Texas. The City of Euless' response is made within fourteen (14) days of the receipt of your request. Based on the information you submitted as part of your application, the City of Euless has **conditionally approved** your request, with the following additional requirements and/or restrictions. Please be advised that you have fourteen (14) days from the date that this conditional approval is granted to appeal this decision to the City Council of the City of Euless, Texas, by providing notice to the City as set forth in Sec. 84-85 (aj)(3)(a) of the Code of Ordinances.

Findings

Pursuant to Sec. 84-85 (aj)(3)(b), the City makes the following findings.

1. The requested accommodation was made by Sam Kroll as a developer or provider of housing for one or more individuals with a disability, as defined by the Fair Housing Act, 42 U.S.C. §3601 et seq.
2. The requested accommodation, as conditionally approved, is necessary to provide more than five (5) individuals with a disability an equal opportunity to use and enjoy a single-family dwelling as a single housekeeping unit.

3. The requested accommodation, as conditionally approved, will not impose an undue financial or administrative burden on the City.
4. The requested accommodation, as conditionally approved, will not result in a fundamental alteration in the nature of the City's zoning program.
5. The requested accommodation, as conditionally approved, will not, under the specific facts pertaining to the property located at 1311 Oak Timber Drive, Euless, Texas, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

In making these findings, the City is **conditionally approving** the requested accommodation with the following additional requirements and/or restrictions, which provide an equal level of benefit to the applicant while at the same time not fundamentally altering the nature of the zoning of the property located at 1311 Oak Timber Drive, Euless, Texas, and protecting the health and safety of the residents of 1311 Oak Timber Drive:

1. Based on information and belief, the City understands that the property located at 1311 Oak Timber Drive, Euless, Texas, is a four (4) bedroom home with two (2) full baths. As such, the maximum allowable density of such a dwelling is eight (8) individuals pursuant to Chapter 14, Article 10, Sec. 14 of the Code of Ordinance, City of Euless, Texas. Therefore, as a term of this conditional approval, the applicant agrees that the maximum number of individuals allowed to reside at any one time at 1311 Oak Timber Drive, inclusive of on-site staff associated with Primary Purpose, is eight (8).
2. As a term of this conditional approval, the applicant, Sam Kroll, agrees that only disabled individuals, as that term is defined by the Fair Housing Act, will be permitted to reside at the property located at 1311 Oak Timber Drive, Euless, Texas, not including on-site staff associated with Primary Purpose.
3. As a term of this conditional approval, each time a new resident moves into the property located at 1311 Oak Timber Drive, Euless, Texas, the applicant, Sam Kroll, will provide to the City a new certification that all residents of the property, including the new resident, are disabled (not including on-site staff associated with Primary Purpose), as that term is defined by the Fair Housing Act, within fourteen (14) days of the date the new resident begins residing at the property.
4. The applicant has averred that absent a sobriety setting, the residents of the property located at 1311 Oak Timber Drive, Euless, Texas would not be able to reside in a residential or single-family setting. The applicant has also averred that residents require a sober living environment in order for them to re-integrate into the world and the workforce. As a term of this conditional approval, the applicant, Sam Kroll, agrees that

residents will be prohibited from bringing alcohol intended for human consumption on the property located at 1311 Oak Timber Drive, Euless, Texas.

5. The property located at 1311 Oak Timber Drive, Euless, Texas is a single-family residential structure located in the R-1 zoning district, as defined by the City of Euless. Transient dwellings, as that term is defined by Sec. 84-85 (aj)(1), Code of Ordinances, City of Euless, Texas, are not permitted in single-family zoned districts. The applicant, Sam Kroll, has averred that the individuals who reside at the property are disabled, as that term is defined under the Fair Housing Act, and has also averred that residents of the property cannot live independently without the possibility of relapse in to active alcoholism and/or substance abuse. The applicant has also averred that residents of the property in question are not transient in nature, but also avers that "prospective residents" are anticipated to reside in the structure in question. Therefore, based on such averments and in order to reasonably accommodate the applicant, the City of Euless will increase the "transient dwelling" maximum allowable occupancy turnover by 50% per year for the property located at 1311 Oak Timber Drive, Euless, Texas. Thus, as a term of this conditional approval, the applicant agrees that the maximum turnover in occupancy for the property in question will not exceed nine (9) individuals in a twelve (12) month period.
6. As a term of this conditional approval, based on the averments by the applicant that all of the individuals who will reside at 1311 Oak Timber Drive are disabled, and because the term disabled, as defined by the Fair Housing Act, does not include individuals who are currently using alcohol or drugs, the applicant agrees to immediately expel from the property any resident found to be using alcohol or drugs, and notify the City in writing that a resident has been expelled for violating this provision within fourteen (14) days of the date of expulsion.
7. As a term of this conditional approval, each current resident and all future residents will individually certify that they are disabled as a result of alcohol or drug dependence and provide the following information in their certification: the resident has been diagnosed as suffering from alcohol or drug dependence; the resident has completed a course of alcoholism or drug dependency treatment in an in-patient or out-patient setting; the resident has been determined to be unable to abstain from alcohol or drugs without continued care in a structured setting (with supporting documentation from a medical professional); and the resident is in need of alcoholism or drug dependency services (such as those provided by Primary Purpose) in a structured group setting. Such certifications will be provided to the City within fourteen (14) days of the effective date of this conditional approval, or within fourteen (14) days of the date that a future resident begins residing at the property in question, as applicable.
8. As a term of this conditional approval, each current resident and all future residents will individually certify that they are not "parolee-probationers" as that term is defined by Sec. 84-85 (aj) (1), Code of Ordinances, Euless, Texas. Each current and all future

residents shall certify their "parolee-probationer" status by providing the City with a copy of their state issued driver's license (or identification card, as applicable) and signing a statement affirmatively averring that they are not a "parolee-probationer," as that term is defined by Sec. 84-85 (aj) (1), Code of Ordinances, Euless, Texas.

9. As a term of this conditional approval, each current resident and all future residents will individually certify that they are not subject to register as sex offenders pursuant to Chapter 62, Texas Code of Criminal Procedure. Each current and all future residents shall certify their "registered sex offender" status by providing the City with a copy of their state issued driver's license (or identification card, as applicable) and signing a statement affirmatively averring that they are not required to register as a sex offender pursuant to Chapter 62, Texas Code of Criminal Procedure.

In granting the applicant's request for a reasonable accommodation, as conditionally approved, the City considered the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the City's zoning program:

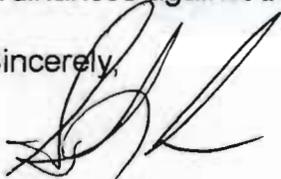
1. The City finds that limiting the maximum number of individuals who may reside in a structure protects human health and safety, which is a traditional function of the police power.
2. The City finds that prohibiting parolee-probationers from residing in a concentrated group setting in residential neighborhoods protects human health and safety, which is a traditional function of the police power.
3. The City finds that the purposes of the Fair Housing Act are advanced by granting a reasonable accommodation to a protected class – the disabled. Likewise, the City finds that the purposes of the Fair Housing Act are not advanced if individuals who are not disabled (not including staff associated with Primary Purpose) are allowed to reside at the property in question.
4. The City finds that requiring the applicant to certify that each new resident is disabled advances the City's legitimate interest in protecting the character of the single-family zoned neighborhood in question by limiting the reasonable accommodation (and the attendant waivers of zoning regulation) to only those who are qualified for protection under the Fair Housing Act.
5. The City finds that unregulated occupancy turnover (transiency) in single-family residential neighborhoods would fundamentally alter the characteristics attendant in a single-family zoning district. The City also finds that using a residential property as boarding houses (which are characterized by relatively short tenancies in exchange for monetary or other remuneration) is an incompatible use in single-family zoned districts and would fundamentally alter the characteristics attendant in a single-family zoning district.

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6. The City also finds, however, that individuals who are recovering from alcoholism and substance dependency are individuals who frequently cannot live independently without the risk of relapse and further finds that living in a single-family setting can provide such individuals with therapeutic benefits. The City, therefore, also finds that in order to reasonably accommodate the disabled, an increase in the maximum allowable occupancy turnover in a single-family zoned district in a twelve (12) month period is necessary in order to permit disabled individuals an equal opportunity to use and enjoy a single-family dwelling.
7. The City finds that failure to limit the maximum number of individuals who may reside in a single family dwelling at any one time and failure to limit the maximum number of individuals who may reside in a single family dwelling in a twelve month period would result in a substantial increase in traffic or insufficient parking, particularly as it relates to 1311 Oak Timber Drive, which is located in a cul-de-sac.
8. The City finds that granting the request for a reasonable accommodation, as conditionally approved, will not substantially undermine the express purpose of the City's Master/Comprehensive Plan.
9. The City finds that granting the request for a reasonable accommodation, as conditionally approved, will not create an institutionalized environment because, based on information and belief, no other residential care facilities such as the property in question are located within 1,000 feet of 1311 Oak Timber Drive.

Upon the effective date of this reasonable accommodation, it shall be in full force and effect for a period of twelve (12) months, unless the use is discontinued by the applicant or the terms are violated and it is revoked. It shall remain the applicant's duty to re-apply for a reasonable accommodation upon the expiration of the current one. Finally, nothing in this decision should be construed as a waiver of the City's right to otherwise enforce its regulatory land use ordinances against the applicant, Sam Kroll, or residents of 1311 Oak Timber Drive.

Sincerely,



Gary L. McKamie
City Manager

cc: Bradford E. Bullock