

**SOUTH OGDEN CITY
PLANNING COMMISSION BRIEFING MEETING MINUTES**

**December 11, 2014
Council Chambers, City Hall
5:30 P.M.**

PLANNING COMMISSION MEMBERS PRESENT

Chairman Todd Heslop, Commissioners Chris Hansen, Shannon Sebahar, Steve Pruess, Raymond Rounds and Mike Layton

PLANNING COMMISSION MEMBERS EXCUSED

Commissioner Dax Gurr

STAFF PRESENT

City Manager Matt Dixon, City Planner Mark Vlastic and City Recorder Leesa Kapetanov

OTHERS PRESENT

Walt Bausman, Gary Boyer, Gerrine & Ted Killian, Robert & Debby Bliss, Brent Strate, Kim Didier, Joe Holden, Sallee Orr, Andrus & Shelley Kancitis

The briefing session began at 5:39 p.m.

Chairman Heslop welcomed those present to the briefing meeting.

Commissioner Pruess moved to open the briefing meeting, followed by a second from Commissioner Sebahar.

Chairman Heslop reviewed the agenda for that evening's meeting, noting there would be a public hearing on the residential uses the commission had been discussing in past months. After the public hearing, the commission would take action on the proposed recommended changes. Mr. Heslop then turned the time to City Planner Mark Vlastic.

Planner Vlastic went over his recommendations, beginning with "educational institutions". The recommendation was that the definition be split so public and charter schools were permitted, and private, parochial, etc. schools should be conditional uses. Commissioner Sebahar asked what the difference was between a charter school and a private school, what would define one from another? Mr. Vlastic did not answer the question, but said that making private schools conditional uses gave the city the ability to lessen the intensity of the use. He gave some examples of other cities and their approach to educational institutions, stating that every city's needs were different. He recommended that South Ogden allow educational institutions as now defined in residential zones, but make private schools conditional uses to give the city more latitude in making sure they fit into residential neighborhoods. He also pointed out that in the future, the city might want to consider allowing private schools as a permitted use in commercial zones.

City Planner Vlastic continued with his review of his recommendations. There was no more substantial conversation among the planning commission concerning the recommendations. Mr. Vlastic then pointed out the reason for the current moratorium and the review of the uses in residential zones was the concern that the ordinance may allow some uses that did not fit in some

residential areas of the community, one specifically being educational institutions. He pointed out that the city's general plan stated that "necessary public uses should be allowed in residential areas". He also said that educational institutions as currently defined in the code had been allowed in all residential zones since the ordinance had been adopted 61 years ago. Private and parochial schools provided public services similar to public and charter schools; they also had similar impacts, such as traffic. Since private and parochial schools were not controlled by state law, the city had greater latitude to determine where they should be allowed and how impacts could be mitigated so they fit in. By making private and parochial schools conditional uses, the planning commission could place conditions on them to make sure they fit; they could assess traffic impacts as well as limit the size of the operation to lessen impacts. Planner Vlasic said another option to his recommendation would be to only allow private and parochial schools in commercial zones; however if that were the case, they should not be allowed as conditional uses in any residential zones. Mr. Vlasic said the commission may want to consider a few questions: 1) because the city is nearly built out and its neighborhoods well established, should that have any bearing on whether private or parochial schools should continue to be permitted in residential zones? 2) would changing private and parochial schools from a permitted to a conditional use help mitigate the potential fit of such facilities into residential neighborhoods and if not, where should they be allowed? 3) if public and charter schools are allowed in some residential zones and not in others, was it fair and consistent or arbitrary and capricious? The same question should be asked for private and parochial schools. He felt these issues should be directly addressed. There was no more discussion by the planning commission. Chairman Heslop called for a motion to adjourn.

Commissioner Rounds moved to adjourn the briefing meeting. Commissioner Hansen seconded the motion. All present voted aye. The briefing meeting ended at 6:10 pm.

I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Planning Commission Briefing Meeting held Thursday, December 11, 2014.


Leesa Kapetanov, City Recorder

Date Approved by the Planning Commission January 8, 2015

**MINUTES OF THE
SOUTH OGDEN CITY PLANNING COMMISSION SPECIAL MEETING**

**Council Chambers, City Hall
Thursday, December 11, 2014 – 6:15 p.m.**

PLANNING COMMISSION MEMBERS PRESENT

Chairman Todd Heslop, Commissioners Shannon Sebahar, Steve Pruess, Raymond Rounds, Dax Gurr, Mike Layton and Chris Hansen

STAFF PRESENT

City Manager Matt Dixon, City Planner Mark Vlastic and City Recorder Leesa Kapetanov

OTHERS PRESENT

Walt Bausman, Gary Boyer, Gerrine & Ted Killian, Robert & Debby Bliss, Brent Strate, Kim Didier, Joe Holden, Sallee Orr, Andrus & Shelley Kancitis

I. CALL TO ORDER AND OVERVIEW OF MEETING PROCEDURES

Chairman Todd Heslop called the meeting to order at 6:17 pm and called for a motion to open.

Commissioner Pruess moved to open the meeting, with a second from Commissioner Sebahar. All present voted aye.

Mr. Heslop read through the agenda as well as reviewed the procedures for the public hearing. He then called for a motion to leave the public meeting and open the public hearing.

Commissioner Sebahar moved to open the public hearing. The motion was seconded by Commissioner Pruess, with all present voting in favor of the motion.

II. ZONING PUBLIC HEARING

To Receive and Consider Proposed Changes to Permitted and Conditional Uses in Residential Zones

Chairman Heslop turned the time to City Planner Mark Vlastic for an overview of the reason for the public hearing.

Mr. Vlastic read through his staff report (see Attachment A). At the conclusion, Mr. Heslop thanked the planning commissioners and staff for their work over the past months in reviewing the residential uses. Commissioner Rounds also clarified for everyone present that what would be discussed that evening was a recommendation to the city council; the council would ultimately make any changes to the existing zoning ordinance.

Chairman Heslop then invited anyone who wished to come forward for public comment.

Walt Bausman, 5792 S 1075 E – Mr. Bausman had a summary of concerns for the proposed changes: Concerning educational facilities, he felt that tutorial programs and commercial programs should be included in the exclusionary portion of the definitions; it should be clarified how PRUDs and Cluster Subdivisions would be applied in each of the residential zones;

concerning Residential Facilities for Disabled Persons, he had brought handouts for the commissioners (see Attachment B), which were specific in detail, especially in differentiating between residential and commercial uses; it would be fine to change the term bachelor/bachelorette as long as it is name change and nothing more; define what changing group dwellings to multiple dwellings did and specify why it needed to be updated; it would be nice to be part of the process of what legal staff was doing, instead of just having a reference in the recommendations. Mr. Bausman said he appreciated the planning commission's work and looked forward to their continuing work on zoning regulations.

Gary Boyer, 5925 S 1075 E – Recommended another public hearing be held; he felt he and others had not had enough time to look over the recommendations being made. His biggest concern had always been the R-1 zone. The commission seemed to be avoiding the issues with Fair Housing and what it was. The recommendation was to make the code compliant with the Fair Housing Act, but what did compliant mean? The city had spent almost \$50,000 in attorney's fees on the issue, and all the recommendation said was the city would be compliant. What was lacking was the definitions necessary which have the greatest impact on the city; the uses were not addressed. Terminations of permitted uses were cures for causes were not even considered. He preferred the example of Salt Lake City in the handouts Mr. Bausman had prepared. It addressed the issues that were creating problems in all of Utah. Mr. Boyer then gave some quotes. He said because of past mistakes there were rehabilitation centers in the parking lots of grocery stores, using prime commercial property for medical purposes and credit unions in residentially zoned areas. Land use was at a premium because the city was developed out. People wanted vibrant communities, strong economic development, pride of ownership and safety for their families. They wanted a community that protected them from conditional use permits on properties that were non-conforming in nature to their surroundings. He wanted conditional use permits minimalized. He did not want to see large "sober" home houses which had been so problematic in other communities. Zoning ordinances had been re-written because of these "sober" houses; it was a way for people to profiteer from putting large groups of addicts in them and getting paid by the government to have the houses available. They used it as a guise. They disturbed the neighborhoods. He recommended the city get it right and take the time to do so. If zoning is done right for the future, there would be no need for conditional uses. He asked the commission to consider another public hearing.

Kim Didier, 5979 S 1055 E – Thanked everyone for the time spent. However, they had only received the recommendations a few days ago, and she did not think it was enough time to try to understand it all. She was concerned with spot zoning; she thought it should only be allowed in new development areas where potential buyers would be aware of what would be allowed next to their property. It was onerous to allow spot zoning next to homes that had always been zoned residential. She liked the recommendation that if a use is not listed, it is prohibited; it was a big step in the right direction. She also was concerned with having any conditional use permits, as conditional uses were permitted uses. The recent conditional use permit that was granted was a detriment to the neighborhood and lacked compatibility, yet it was still granted. The planning commission seemed to have little or no concern with the requirements in 10-15-5. The recent controversy over the monastery had convinced her there is no real protection in the city code when it comes to conditional use permits. She felt conditional use permits should be eliminated.

There were no more comments from the public.

Chairman Heslop called for a motion to leave the public hearing and reconvene the public meeting.

Commissioner Sebahar moved to leave the public hearing and reconvene the public meeting, followed by a second from Commissioner Pruess. The vote was unanimous in favor of the motion.

III. ZONING ACTIONS

Discussion and Recommendation on Proposed Changes to Permitted and Conditional Uses in Residential Zones

Commissioner Rounds said based on their comments, the public seemed to want more time to look at the information. He asked staff to go over the timeline as it pertained to the moratorium and getting things done. City Manager Dixon informed the commission the current moratorium ended on December 31, 2014, however an extension to the moratorium was on the council agenda for their next meeting. The council could extend the moratorium an additional 60 days if they wished. He said the commission could take as much time as they felt they needed and could call special meetings if they thought it was necessary. Mr. Rounds asked if the council was expecting a recommendation that night. Mr. Dixon replied the council had indicated they wanted things done correctly, and not rushed. He said it was important for things to be done thoroughly, and to get input from the public, but everyone also needed to realize the clock was ticking on the moratorium.

City Recorder Leesa Kapetanov suggested one option might be to leave the public record open for written comments. She also stated that the city council could hold a public hearing themselves. Commissioner Sebahar said even if they left the record open, they would still have to have another meeting to vote on the recommendations. City Manager Dixon said another option was to vote on their recommendation that evening, collect the written public comments and forward them along with their recommendation to the city council. The planning commissioners discussed the different options. Commissioner Sebahar said she was not ready to vote on the recommendations, as she still had concerns that making private and parochial schools conditional uses would politicize them, and she felt it was a dangerous position to politicize a parochial school, as it could be looked on as discrimination based on religion. Chairman Heslop said he had heard from the public comments that they wanted more time.

Commissioner Rounds moved to keep the public hearing open for written comments for two weeks, and act on the recommendation at the next meeting. Commissioner Layton asked if they could specify keeping the record open until December 29th. Recorder Kapetanov said that would be fine, and would even appreciate it if a time could be specified as well. **Commissioner Rounds amended his motion to keep the public hearing open for written comments until the end of the working day of December 29, 2014. The motion was seconded by Commissioner Sebahar. Chairman Heslop then made a roll call vote:**

Commissioner Gurr-	Aye
Commissioner Sebahar-	Aye
Commissioner Layton-	Aye
Commissioner Hansen-	Aye
Commissioner Pruess-	Aye
Commissioner Rounds-	Aye

The motion passed.

Note: The written public comments for the public hearing are included as Attachment C of these minutes.

IV. OTHER BUSINESS

There was no other business to be discussed.

V. **PUBLIC COMMENTS**

Gary Boyer, 5925 S 1075 E – Mr. Boyer thanked the commission for extending the public comment period and asked that the commissioners take the time to read the written comments that would be submitted.

There were no more public comments.

Chairman Heslop then called for a motion to adjourn.

VI. **ADJOURN**

Commissioner rounds moved to adjourn, followed by a second from Commissioner Pruess. All present voted aye.

The meeting adjourned at 7:22 pm.

I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Planning Commission Meeting held Thursday, December 11, 2014.


Leesa Kapetanov, City Recorder

January 8, 2015
Date Approved by the Planning Commission

Attachment A
Planner Recommendations

Planning Commission Report



Subject: Proposed changes to permitted and conditional uses in residential zones

Staff: Mark Vlastic

Department: Planning & Zoning

Date: December 11, 2014

Background

The South Ogden Planning Commission met on three occasions since October 2014 to consider whether any changes or modifications to the Zoning Ordinance are required, specifically related to permitted and conditional uses in residential zones. The following is a summary of findings and recommendations based on those investigations.

Originally established in 1953, the South Ogden City Code addresses land use issues in Title 10 – Zoning Regulations. Residential uses are specifically addressed in Chapter 7 (RESIDENTIAL ZONES), Chapter 11 (PLANNED RESIDENTIAL UNIT DEVELOPMENT), Chapter 12 (CLUSTER SUBDIVISIONS SPECIAL REGULATIONS) and Chapter 13: GROUP DWELLINGS SPECIAL REGULATIONS.

The Planning Commission carefully reviewed each of these chapters, in addition to other chapters of the title that do not specifically address residential uses but which affect how residential uses are administered. Most notable of these are Chapter 2 (DEFINITIONS) and Chapter 15 (CONDITIONAL USES.) The Planning Commission also reviewed case examples of how other municipalities utilize "Special Zones" for schools and other public uses. A review of Randall Arendt's work was also included, as related to discussions on Cluster Subdivisions.

General Discussion

Planning Commission members found that certain portions of the chapters reviewed are out-of-date, addressing archaic uses and applying language from bygone eras. Suggestions to modernize specific citations are contained in the Recommendations section which follows. However, a more thorough review of the Title should be undertaken in the future to ensure modernization efforts are addressed in a comprehensive manner.

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Otherwise it was found that the chapters dealing with residential uses are generally logical and consistent, but that certain changes and modifications should be made to further clarify the code.

Staff Recommendations

The following modifications to the Title10 are recommended.

1) Educational Facilities – revised Definition 1

Staff recommends that the current definition of Educational Facilities be revised as indicated below (proposed additions are highlighted in yellow, detractions in red strikethrough.)

Current Definition

Educational Institution

A public elementary or secondary school, seminary, parochial school or private educational institution having a curriculum similar to that ordinarily given in grades 1 through 12 in the public school system. The term "educational institution", for the purpose of this title, does not include post high school educational facilities."

Proposed Modification (changes highlighted in yellow)

Educational Institution

"A public elementary or secondary school, ~~seminary, parochial school, private educational institution~~ or charter school having a curriculum similar to that ordinarily given in grades 1 through 12 in the public school system. The term "Educational Institution", for the purpose of this title, does not include post high school educational facilities, trade schools, boarding facilities or any other residential uses."

2) Educational Facilities, Private (new definition)

Staff recommends that a new definition be established for private educational facilities as defined below:

Educational Institution - Private

"A private educational institution, seminary or parochial school having a curriculum similar to that ordinarily given in grades 1 through 12 in the public school system. The term "private educational institution", for the purpose of this title, does not include post high school educational facilities. The term "Educational Institution - Private", for the purpose of this title, does not include private post-high school educational facilities, trade schools, boarding facilities or any other residential uses."

3) Special Zone for Educational Facilities (Schools), Other Public Uses, Churches similar uses of a Public nature

Staff does not recommend that any special zones for such uses be applied.

4) Planned Residential Unit Development (PRUD) and Cluster Subdivisions Chapters

Staff believes the current regulations controlling PRUDs and Cluster Subdivisions is clear and logical. Staff recommends that Planned Residential Unit Developments (PRUDs) be maintained as a permitted use, but that the chapter should be modified to require such uses to meet South Ogden City street and infrastructure standards

Chapter.

5) Compliance with the Fair Housing Act and other State and Federal Requirements

Staff recommends that legal staff update the Title to ensure it complies with the Fair Housing Act, (FHA), Americans with Disabilities Act (ADA) and similar provisions of Federal and State law.

6) Change of Nomenclature for Residential zones containing special "Zoning Conditions" - MULTIPLE-FAMILY RESIDENTIAL ZONE (R-3zc(D)); MULTIPLE-FAMILY RESIDENTIAL ZONE (R-3zc(E)); MULTIPLE-FAMILY RESIDENTIAL ZONE (R-4zc(E)); MULTIPLE-FAMILY RESIDENTIAL ZONE (R-5zc(A & B)); MULTIPLE-FAMILY RESIDENTIAL ZONE (R-5zc(C)); and MULTIPLE-FAMILY RESIDENTIAL ZONE, SENIOR HOUSING (R-5zc(F))

Staff recommends that legal staff update the nomenclature of all "zc" zones - (R-5zc (A & B)), for example - in order to reduce confusion. Staff recommends that such changes should continue to relate to the base zone (R-4 in the example above), and that the "zc (A & B)" component be simplified. For example, (R-5zc (A & B)) might be simplified to become R-5A.

7) Uses Specifically Prohibited - additional clarification

Staff recommends that legal staff change language related to Permitted and Conditional Uses, noting that if a use is not listed it is specifically prohibited.

8) Bachelor and/or Bachelorette Housing - change name and definition

Staff recommends that legal staff change the name and definition of *Bachelor and/or Bachelorette Housing* to ensure it reflects current needs and is easily understood. Ideas to be considered include dormitories, multiple-family residences for unrelated persons, etc. It

may be possible to eliminate this category altogether, although it appears some housing units have been specifically approved under this definition within the R-3zc (D) zone; if the definition were to be eliminated, existing developments will become non-conforming.

9) Nursing Home and Assisted Living Units – add definitions

Staff recommends that legal staff add Nursing home and Assisted Living Units to the Definitions Chapter. Preliminary definitions to be considered follow:

Nursing Home: A residential facility for people with chronic illness or disability, particularly older people who have mobility and eating problems. Also known as a convalescent home and long-term care facility.

Assisted Living Unit: A type of room in a long-term care facility for elderly or disabled people who are able to get around on their own but who may need help with some activities of daily living or simply prefer the convenience of having their meals in a central cafeteria and having nursing staff on call.

10) Bank and Credit Union – add definitions

Staff recommends that legal staff add definitions for Banks and Credit Unions to the Definitions Chapter. Preliminary definitions to be considered follow:

Bank: A financial institution licensed as a receiver of deposits. There are two types of banks: commercial/retail banks and investment banks, both of which are regulated by the US Federal Government.

Credit Union: A member-owned financial cooperative, democratically controlled by its members and operated for the purpose of promoting thrift, providing credit at competitive rates, and providing other financial services to its members.

11) Medical Laboratory – add definition

Staff recommends that legal staff add a definition for Medical Laboratory to the Definitions Chapter. A preliminary definition to be considered follows:

Medical Laboratory: A place for doing tests and research procedures, and for preparing chemicals and some medications. Also known as a medical lab or lab.

12) Beneficial Societies – add definition

Staff recommends that legal staff add a definition for Beneficial Societies to the Definitions Chapter. A preliminary definition to be considered follows:

Beneficial Societies: An organization that exists for the mutual assistance of its members or its members' families, relatives, or designated beneficiaries, during times of hardship, such as illness or financial need. The assistance provided by a beneficial association can take the form of life, accident, health, or burial insurance. May also be called Benevolent Associations.

13) Specific Changes to Residential Zones

Staff recommends that the changes be made to the Permitted Uses and Conditional Uses in each of the twelve Residential Zones as follow:

• R-1

Permitted Use Changes

- Eliminate private school in the definitions of an Educational Institution
- Eliminate greenhouse as a permitted use
- Eliminate household pets as a permitted use
- Maintain Planned Residential Unit Development (PRUD) as a permitted use, but modify PRUD Chapter to require such uses to meet South Ogden City street and infrastructure standards
- Add Residential Facility for Disabled Persons as a permitted use in the R-1 zone

Conditional Use Changes

- Add "Educational Institution - Private School" as a conditional use, and create a new definition for the same
- Change the name of "Group Dwellings" to "Multiple Dwellings on a Single Lot" and update the definitions accordingly
- Delete Residential Facility for Disabled Persons as a conditional use

• R-2

• Permitted Use Changes

- Add Planned Residential Unit Development (PRUD) as a permitted use in the R-2 zone
- Add Residential Facility for Disabled Persons as a permitted use in the R-2 zone
- Eliminate greenhouse as a permitted use
- Eliminate household pets as a permitted use

• Conditional Use Changes

- Remove Planned Residential Unit Development (PRUD) as a conditional use
- Remove Residential Facility for Disabled Persons as a conditional use
- Add "Educational Institution - Private School" as a conditional use

• R-3

• Permitted Use Changes

- Eliminate two-family dwelling as a permitted use
- Change the name of "Bachelor and/or Bachelorette Housing" in R-3 and all other "R" zones where permitted (see item 8 for details).
- Eliminate Group Dwelling with 12 or Less Dwelling Units as a permitted use
- Eliminate greenhouse as a permitted use
- Eliminate household pets as a permitted use

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- Conditional Use Changes
 - Eliminate Group Dwelling with 13 or More Dwelling units as a conditional use
 - Change the name of "Bachelor and/or Bachelorette Housing" in R-3 and all other "R" zones where permitted as a conditional use (see item 9 for details)
 - Add "Educational Institution - Private School" as a conditional use

- **R-3zc (D)**

- Permitted Use Changes
 - Change the name of "Bachelor and/or Bachelorette Housing" in R-3 and all other "R" zones where permitted as a conditional use (see item 8 for details)
 - Other changes made to the R-3 permitted uses
- Conditional Use Changes
 - Other changes made to the R-3 conditional uses

- **R-3zc (E)**

- Permitted Use Changes
 - Change the name of "Bachelor and/or Bachelorette Housing" in R-3 and all other "R" zones where permitted as a conditional use (see item 8 for details)
 - Other changes made to the R-3 permitted uses
- Conditional Use Changes
 - Other changes made to the R-3 conditional uses which will also affect this zone

- **R-4**

- Permitted Use Changes
 - Eliminate greenhouse as a permitted use
 - Eliminate household pets as a permitted use
- Conditional Use Changes
 - Remove term "sanitarium" as a conditional use
 - Add "Educational Institution - Private School" as a conditional use

- **R-4zc (E)**

- Permitted Use Changes
 - Other changes made to the R-4 permitted uses which will also affect this zone
- Conditional Use Changes
 - Other changes made to the R-4 conditional uses which will also affect this zone

- **R-5**
- Permitted Use Changes
 - Add banks to the credit union category as a permitted use
 - Add bank and credit union to the definitions chapter
 - Eliminate Photo Studio as a permitted use
 - Eliminate greenhouse as a permitted use
 - Eliminate household pets as a permitted use
- Conditional Use Changes
 - Eliminate Apartment Hotel as a conditional use
 - Eliminate Fraternal and Sorority House as a conditional use
 - Eliminate Fraternal and Sorority House from the definitions chapter
 - Change Laboratories to Medical Laboratories as a conditional use
 - Add Medical Laboratory to the definition chapter
 - Rename Fraternal and Beneficial Societies to Beneficial Societies
 - Add Beneficial Societies to the definitions chapter
 - Eliminate "Sanitarium" as a conditional use
 - Add "Educational Institution - Private School" as a conditional use

- **R-5zc (A & B)**
- Permitted Use Changes
 - Other changes made to the R-5 permitted uses which will also affect this zone
- Conditional Use Changes
 - Rename Laboratories to Medical Laboratories
 - Other changes made to the R-5 conditional uses which will also affect this zone

- **R-5zc (C)**
- Permitted Use Changes
 - Other changes made to the R-5 permitted uses which will also affect this zone
- Conditional Use Changes
 - Other changes made to the R-5 conditional uses which will also affect this zone

- **R-5zc (F)**
- Permitted Use Changes
 - Other changes made to the R-5 permitted uses which will also affect this zone
- Conditional Use Changes
 - Other changes made to the R-5 conditional uses which will also affect this zone

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Attachment B
Handout from Mr. Bausman

Salt Lake County, Utah
Residential Facilities for Persons with Disabilities
December 2014

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STAFF REPORT

Executive Summary				
Hearing Body:	Salt Lake County Council			
Meeting Date and Time:	Tuesday, July 16, 2013	04:00 PM	File No:	2 8 2 2 5
Applicant Name:	Salt Lake County	Request:	Ordinance Amendment	
Description:	Residential facilities for persons with disabilities			
Location:	n/a			
Planning Commission Rec:	Approval			
Community Council Rec:	Varies			
Staff Recommendation:	Approval			
Planner:	Curtis Woodward			

1.0 BACKGROUND

1.1 Summary

This ordinance came about as a result of concerns from county residents regarding "group homes" existing within unincorporated Salt Lake County. There has been a lot of confusion over "group homes" (otherwise known as "residential facilities for persons with disabilities") and what the county can and cannot do with regard to licensing and enforcement. This ordinance clarifies the approval process --establishes a process when applying for a group home and defines the role of the county and state in this application and licensing process. This proposed ordinance also eliminates unenforceable provisions in compliance with federal law and recent federal cases.

In order to clarify and delineate requirements for these facilities while complying with state and federal laws, this ordinance acknowledges that a group home is a permitted use/reasonable accommodation in any single family neighborhood in unincorporated Salt Lake County so long as the home meets state licensing standards and local building codes and does not offer outpatient treatment services. It also adjusts the definition of "family" to be in line with the requirements of Utah Code (allowing up to 4 unrelated people to live together as a "family.")

1.2 Neighborhood Response

Concerns have been raised as to whether this ordinance is intended to apply only to commercially operated homes, and whether the proposed ordinance complies with the fair housing act (written citizen responses have been included in the attached packet). This ordinance was drafted by the District Attorney's Office after close study of the federal regulations and the numerous landmark court cases that have interpreted the Fair Housing Act and Americans with Disabilities Act. The D.A.'s representatives have assured us it is in harmony with those over-riding regulations. Concerns were also raised regarding the changes to the definition of "family." As explain below, the number of unrelated people who may live together in a dwelling as a "family" has been established in section 17-27a-505.5 of the Utah Code, and the proposed change is in compliance with that code.

1.3 Community Council Response

Community Council responses have varied; some recommending approval, others denial--many of which have echoed the above mentioned citizen's concerns (see written responses attached to this packet).

1.4 Planning Commission Response

The 6 planning commissions have all held public hearings and forwarded positive recommendations to the council, with the following specific recommendations for changes by the County Planning Commission:

- 1) There be some consideration given for a better parallel of the use of the definition of family, between the Definitions section and section 19.87.050,
- 2) That there be some consideration for more clarity with respect to when permits are and are not required under Subsection A and B of same section to avoid confusion.
- 3) Under Section 19.87.080 Parking, that parking ratios include accommodations for staff who operate a motor vehicle.
- 4) Change "sharing housekeeping responsibilities" to "live together in a dwelling".

2.0 ANALYSIS

2.1 Existing Ordinance

1) The definition of "family" includes up to 3 unrelated people living together in a dwelling unit. 2) Terms such as "Residential Health Care Facility" are defined in section 19.04, and are listed as permitted or conditional uses based on the number of residents and the size of the right of way on which they are located. 3) Residential facilities for persons with a disability are allowed in residential zones, provided that each such facility shall not be located within 1/2 mile of a similarly licensed facility. 4) Residential facilities for persons with disability, while allowed as permitted uses, do not have in current ordinance any standards, criteria, or regulation (other than the spacing restriction mentioned above).

2.2 Proposed Ordinance

1) The definition of "family" is being amended as required by Utah Code (17-27a-505.5) to allow up to 4 unrelated people to live together in a dwelling unit. 2) The definition of "residential health care facility" is being removed, and references to such facilities in various zones are also being removed (as being redundant in light of the fact that these facilities are included in the definition of "residential facilities for persons with disabilities." 3) The 1/2 mile separation requirement between facilities is being removed from the ordinance (as recent court cases have determined that this kind of provision is illegal. 4) A new chapter is being proposed to establish approval criteria and use standards for residential facilities for persons with disabilities. It includes provisions for ensuring state licenses are obtained, dealing with "nuisance" properties, parking and traffic concerns, and appeals.

3.0 STAFF RECOMMENDATION

3.1 Staff recommends APPROVAL of the proposed Ordinance Amendment.

3.2 Reasons for Recommendation

- 1) The Ordinance has been drafted by the District Attorney's Office in response to the County's need to comply with federal requirements as interpreted in the courts.
- 2) Positive recommendations have been received from all 6 planning commissions.

SALT LAKE COUNTY ORDINANCE

ORDINANCE NO: _____, 2013

RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY

AN ORDINANCE AMENDING DEFINITIONS AND ADDING A NEW CHAPTER IN TITLE 19 ENTITLED "ZONING" OF THE SALT LAKE COUNTY CODE OF ORDINANCES, PROVIDING THAT THE DIRECTOR SHALL CONSIDER REQUESTS FOR A PERMITTED USE/REASONABLE ACCOMMODATION FOR THE DISABLED RELATIVE TO THEIR OCCUPATION OF A GROUP HOME.

The County Council, as the legislative body of Salt Lake County ordains as follows:

SECTION I. The amendments made herein are designated by underlining the new enacted words. Words being deleted are designated by brackets with a line drawn through said words.

SECTION II. Section 19.04.230 is hereby amended and section 19.04.453 of the Salt Lake County Code of Ordinances, 2001, is hereby deleted as follows:

19.04.230 - Family.

"Family" means:

A. Any number of people living together in a dwelling unit and related by blood, marriage or adoption, and including up to [~~two~~] three additional unrelated people; or

B. One to [~~three~~] four unrelated people living together in a dwelling. Each unrelated person owning or operating a motor vehicle shall have a lawfully located off-street parking space.

~~[19.04.453 — Residential health care facility.~~

~~A. "Residential health care facility" means a facility providing assistance with activities of daily living and social care to two or more residents who require protected living arrangements.~~

~~B. Each bedroom in a residential health care facility shall contain the minimum square feet of floor space per resident as set forth in the Utah Administrative Code health facility licensure rules, or any successors, with a maximum of two residents per bedroom.]~~

SECTION III. Sections 19.08.020, 19.10.020.G, 19.12.020.G, 19.14.020, 19.32.020, 19.38.020, 19.40.020, 19.48.020, 19.50.020, 19.52.020, 19.54.020.F, and 19.55.030.A of the Salt Lake County Code of Ordinances, 2001, are hereby amended by deleting the following condition to a permitted use:

~~-- Residential facility for persons with a disability. [, provided that each such facility shall not be located within one-half mile of a similarly licensed residential facility for persons with a disability.]~~

SECTION IV. Sections 19.14.030, 19.32.030 and 19.48.030 of the Salt Lake County Code of Ordinances, 2001, are hereby amended by deleting the following conditional use:

~~[--Residential health care facility for up to five residents on streets less than eighty feet in width, and up to ten residents on streets eighty feet and wider, excluding the facility operator and his/her related family with a maximum of one nonresident part-time relief employee on the premises at any one time unless additional staffing is required by the Utah Department of Health, which use shall not change the residential appearance and character of the property;]~~

SECTION V. Section 19.38.030 of the Salt Lake County Code of Ordinances, 2001, is hereby amended by deleting the following conditional use:

~~[--Residential health care facility for up to five residents excluding the facility operator and his/her related family with a maximum of one nonresident part-time relief employee on the premises at any one time, which use shall not change the residential appearance and character of the property;]~~

SECTION VI. Sections 19.40.030 and 19.44.030 of the Salt Lake County Code of Ordinances, 2001, are hereby amended by deleting the following conditional use:

~~[--Residential health care facility;]~~

SECTION VII. Chapter 19.87 of the Salt Lake County Code of Ordinances, 2001, is hereby enacted to read as follows:

Chapter 19.87

RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY

Sections:

- 19.87.010 Purpose.**
- 19.87.020 Scope.**
- 19.87.030 Definitions.**
- 19.87.040 Licensing for Residential Facilities.**
- 19.87.050 Uses.**
- 19.87.060 Termination**
- 19.87.070 Residential day treatment.**
- 19.87.080 Parking.**
- 19.87.090 Appeals.**

19.87.010 Purpose.

The purpose of this chapter is to balance local zoning considerations with state and federal mandates requiring a reasonable accommodation for disabled persons living together in a group housing arrangement in a residential neighborhood.

19.87.020 Scope.

The requirements of this chapter apply to any facility, residence, group home or other congregate housing arrangement for persons with a disability notwithstanding any conflicting provision in this title or any other section of this code of ordinances.

19.87.030 Definitions.

“Disability” is defined in 19.04.168, “family” in 19.04.230, and “residential facility for persons with a disability” in 19.04.452 of this title.

19.87.040 Licensing for Residential Facilities

The licensing requirements for “Residential Treatment Programs” and “Residential Support Programs” are defined and administered pursuant to State law and the Utah Administrative Code.

19.87.050 Uses.

A. No permit required. Four or less unrelated individuals who share housekeeping responsibilities in a single dwelling do not require a zoning permit but function as a “family,” defined in Section 19.04.230 of this title as “one to four unrelated people living together in a single dwelling.”

B. The director of planning and zoning (“the director”), with the assistance of the district attorney, shall consider requests for a permitted use/reasonable accommodation for a “residential facility for persons with a disability” (“facility”). The director or the director’s designee shall approve a proper application for a zoning permit for the facility in any zone, including residential zones where only single family dwellings are a permitted use, provided:

1. The facility meets or will meet all program, physical facility, and licensure requirements of the state Department of Human Services or Department of Health.

2. Except as otherwise provided in this chapter, buildings and uses shall meet all applicable county development standards, licensing and zoning requirements.

3. The facility shall not house persons who are involuntarily residing therein or who are residing therein as a part of or in lieu of confinement, rehabilitation, or treatment in a correctional facility.

4. The applicant provides sufficient evidence that the requested accommodation is necessary to allow disabled individuals reasonable, non-discriminatory, federally mandated housing opportunities in the relevant zone. Evidence may include information relating to the history, management, financial feasibility, and therapeutic benefits of the facility, and applicable law.

C. The director or the director’s designee may not deny the application based upon reasonably anticipated detrimental effects to the community so long as reasonable conditions are proposed to mitigate such anticipated detrimental effects.

D. Institutional uses. Consistent with the International Building Code, residential facilities designed to house more than sixteen individuals constitute “institutional facilities” likely to create a fundamental change in the character of a single family residential neighborhood. The only residential zone where an application for a conditional use permit for an institution serving more than sixteen residents may be approved is in a zone that allows apartments as a conditional or permitted use.

19.87.060 Termination.

A use permitted by this chapter is nontransferable and shall be subject to revocation by the appropriate land use or licensing authority if:

A. The facility is devoted to a use other than a residential facility for persons with a disability, or

B. The facility exceeds the maximum number of residents specified and approved in the original application, changes the disability classification under state rules, or remodels or expands without first receiving approval from the director.

C. The facility is not licensed by the state Department of Health or Department of Human Services.

D. It is determined by an appropriate county authority that residents of the facility have engaged in a pattern of criminal acts of nuisance, theft, or violence in the adjoining neighborhood.

19.87.070 Residential day treatment.

To avoid excessive traffic, on street parking, and related impacts altering the residential character of a neighborhood, no day treatment for non-residents shall be permitted in residential facilities for the disabled in the R-1 or R-2 residential zones.

19.87.080 Parking.

The minimum number of parking spaces shall be four spaces plus one space for each five residents, provided that if the number of residents who own or operate a motor vehicle exceeds the number of parking spaces established above, additional parking shall

be provided to ensure that every resident who owns or operates a motor vehicle has a lawfully located off-street parking space.

19.87.090 Appeals.

Pursuant to section 19.92.050 of this Title for permitted uses, any person adversely affected by a final decision of the zoning authority may appeal that decision to the board of adjustment.

SECTION VIII. This ordinance shall become effective fifteen (15) days after its passage and upon at least one publication of the ordinance or a summary thereof in a newspaper published and having general circulation in Salt Lake County.

APPROVED and ADOPTED this _____ day of _____, 2013.

SALT LAKE COUNTY COUNCIL

By _____
Steve DeBry, Chair

ATTEST:

Sherrie Swensen
County Clerk

Approved as to form and legality:

Thomas L. Christensen
Deputy District Attorney
Date: _____

Voting:
Council Member Bradley voting _____

Council Member Bradshaw voting _____
Council Member Burdick voting _____
Council Member DeBry voting _____
Council Member Granato voting _____
Council Member Horiuchi voting _____
Council Member Jensen voting _____
Council Member Snelgrove voting _____
Council Member Wilde voting _____

Vetoed and dated this _____ day of _____, 2013.

By _____
Mayor McAdams or Designee

(Complete as Applicable)

Veto override: Yes ___ No ___ Date _____

Ordinance published in newspaper: Date _____

Effective date of ordinance: _____

Salt Lake County, UT

Browse  Results

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← Title 19 - ZONING

Chapter 19.87 - RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY

19.87.010 - Purpose.

19.87.020 - Scope.

19.87.030 - Definitions.

19.87.040 - Licensing for residential facilities.

19.87.050 - Uses.

19.87.060 - Termination.

19.87.070 - Residential day treatment.

19.87.080 - Parking.

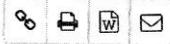
19.87.090 - Appeals.

Chapter 19.87 - RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY



Sections:

19.87.010 - Purpose.

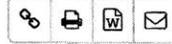


The purpose of this chapter is to balance local zoning considerations with state and federal mandates requiring a reasonable accommodation for disabled persons living

reasonable accommodation for disabled persons living together in a group housing arrangement in a residential neighborhood.

(Ord. No. 1753, § VII, 8-6-2013)

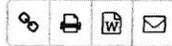
19.87.020 - Scope.



The requirements of this chapter apply to any facility, residence, group home or other congregate housing arrangement for persons with a disability notwithstanding any conflicting provision in this title or any other section of this Code of Ordinances.

(Ord. No. 1753, § VII, 8-6-2013)

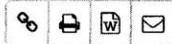
19.87.030 - Definitions.



"Disability" is defined in 19.04.168, "family" in 19.04.230, and "residential facility for persons with a disability" in 19.04.452 of this title.

(Ord. No. 1753, § VII, 8-6-2013)

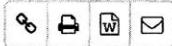
19.87.040 - Licensing for residential facilities.



The licensing requirements for "residential treatment programs" and "residential support programs" are defined and administered pursuant to state law and the Utah Administrative Code.

(Ord. No. 1753, § VII, 8-6-2013)

19.87.050 - Uses.



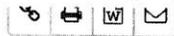
- A. No Permit Required. Four or less unrelated individuals who share housekeeping responsibilities in a single dwelling do not require a zoning permit but function as a "family," defined in Section 19.04.230 of this title as "one to four unrelated people living together in a single dwelling."
- B. The director of planning and zoning ("the director"), with the assistance of the district attorney, shall consider requests for a permitted use/reasonable

consider requests for a permitted use/ reasonable accommodation for a "residential facility for persons with a disability" ("facility"). The director or the director's designee shall approve a proper application for a zoning permit for the facility in any zone, including residential zones where only single family dwellings are a permitted use, provided:

1. The facility meets or will meet all program, physical facility, and licensure requirements of the state department of human services or department of health.
 2. Except as otherwise provided in this chapter, buildings and uses shall meet all applicable county development standards, licensing and zoning requirements.
 3. The facility shall not house persons who are involuntarily residing therein or who are residing therein as a part of or in lieu of confinement, rehabilitation, or treatment in a correctional facility.
 4. The applicant provides sufficient evidence that the requested accommodation is necessary to allow disabled individuals reasonable, non-discriminatory, federally mandated housing opportunities in the relevant zone. Evidence may include information relating to the history, management, financial feasibility, and therapeutic benefits of the facility, and applicable law.
- C. The director or the director's designee may not deny the application based upon reasonably anticipated detrimental effects to the community so long as reasonable conditions are proposed to mitigate such anticipated detrimental effects.
- D. Institutional Uses. Consistent with the International Building Code, residential facilities designed to house more than sixteen individuals constitute "institutional facilities" likely to create a fundamental change in the character of a single family residential neighborhood. The only residential zone where an application for a conditional use permit for an institution serving more than sixteen residents may be approved is in a zone that allows apartments as a conditional or permitted use.

(Ord. No. 1753, § VII, 8-6-2013)

19.87.060 - Termination.

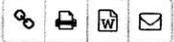


A use permitted by this chapter is nontransferable and shall be subject to revocation by the appropriate land use or licensing authority if:

- A. The facility is devoted to a use other than a residential facility for persons with a disability, or
- B. The facility exceeds the maximum number of residents specified and approved in the original application, changes the disability classification under state rules, or remodels or expands without first receiving approval from the director.
- C. The facility is not licensed by the state department of health or department of human services.
- D. It is determined by an appropriate county authority that residents of the facility have engaged in a pattern of criminal acts of nuisance, theft, or violence in the adjoining neighborhood.

(Ord. No. 1753, § VII, 8-6-2013)

19.87.070 - Residential day treatment.



To avoid excessive traffic, on street parking, and related impacts altering the residential character of a neighborhood, no day treatment for non-residents shall be permitted in residential facilities for the disabled in the R-1 or R-2 residential zones.

(Ord. No. 1753, § VII, 8-6-2013)

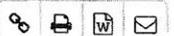
19.87.080 - Parking.



The minimum number of parking spaces shall be four spaces plus one space for each five residents, provided that if the number of residents who own or operate a motor vehicle exceeds the number of parking spaces established above, additional parking shall be provided to ensure that every resident who owns or operates a motor vehicle has a lawfully located off-street parking space.

(Ord. No. 1753, § VII, 8-6-2013)

19.87.090 - Appeals.



Pursuant to section 19.92.050 of this title for permitted uses, any person adversely affected by a final decision of the zoning authority may appeal that decision to the board of adjustment.

(Ord. No. 1753, § VII, 8-6-2013)

Cottonwood Heights, Utah
Residential Facilities for Persons with Disabilities
December 2014

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Residential facilities for people with disabilities

Lately, the city has been fielding questions about residential facilities for people with disabilities ("residential facilities") and the establishment of such facilities in the city. The city's dealings with residential facilities is subject to applicable federal and state law; any material failure by the city to comply with those federal and state legal requirements potentially will subject the city to significant liability.

Residential facilities are governed by the federal Fair Housing Act ("FHA") and related Utah state law. These laws prohibit discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, and disability. One type of disability discrimination prohibited by the FHA is the refusal to make "reasonable accommodations" in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling.

Under the FHA, a person with a disability is "any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment." A physical or mental impairment under the FHA includes, without limitation, such diseases and conditions as orthopedic, visual, speech and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; HIV infection; mental retardation; emotional illness; drug addiction (other than addiction caused by current, illegal use of a controlled substance); and alcoholism.

On a more local level, the State of Utah requires each municipality to adopt an ordinance governing residential facilities, and requires those ordinances to comply with the FHA and the Utah Fair Housing Act. What's more, each city ordinance must treat residential facilities as a permitted use in any zone where any "traditional" residential dwellings are allowed.

As a permitted use in any of the city's residential zones, federal and state law requires that (with very limited exceptions) these facilities be treated no differently than "traditional" residences. This means that no more stringent requirements may be imposed on residential facilities for people with disabilities than the city imposes on more "traditional" residences. Consequently, no additional city permits or approvals (such as planning commission or city council approval) may be required for residential facilities that are not required for "traditional" residences.

The result is that the residential facility operator typically needs only to obtain a business license and a building permit (if construction is to be performed) from the city. The city has been advised that any type of formal or informal noticing by city officers or employees to the "host" neighborhood of a proposed residential facility could be actionable as a prohibited exclusionary tactic under the FHA. In other words, and notwithstanding that residential facilities are not the type of "traditional" housing that most people might envision for their neighborhood, with very limited exceptions the city is legally required to treat a residential facility exactly like it treats any other residence.

The FHA does not protect an individual with a disability whose tenancy would constitute a "direct threat" to the health or safety of other individuals or result in substantial physical damage to the property of others unless the threat can be eliminated or significantly reduced by reasonable accommodation. Even though such "direct threats" can be mitigated, however, the FHA does not allow exclusion of residential facilities based upon fear, speculation, or stereotype about a particular disability or persons with disabilities in general.

Anyone that engages in conduct prohibited by the FHA may be held liable. Courts routinely apply the FHA to state and local governments (such as counties and cities), usually in the context of exclusionary zoning or other land-use decisions. A court recently awarded a \$3.5 Million judgment against Duchesne County for violating the FHA in connection with a residential facilities application, and Sandy City currently is litigating a \$1.4 FHA claim against it.

What has our city done to meet the federal and state requirements for residential facilities? In March 2011, Cottonwood Heights revised Chapter 19.85 of its ordinances to augment the city's legal framework for residential facilities. In compliance with the FHA and state law, a residential facility is a permitted use in any zone in the city that allows residential uses. Chapter 19.85 requires these facilities to be spaced at least 1000 feet apart, and sets a maximum occupancy of eight residents (plus a maximum of two additional qualified persons acting as house parents or guardians) in residential facilities located in the city's single family residential zones. No more than 12 residents (plus two house parents or guardians) may reside in a residential facility located in the city's R-2-8, RM, RO and MU zones. (These distance and occupancy limits may, however, be subject to change in individual situations involving requested "reasonable accommodations" under the FHA). Residential facilities are not permitted in the city's NC, CR, PF or O-R-D zones because residences are not allowed in those zones.

Cottonwood Heights clearly understands neighborhood concerns regarding this federally-protected use in existing neighborhoods, and is endeavoring to do all that the city legally can do to mitigate any adverse impacts.

- Joint statement from Department of Justice (DOJ) and Department of Housing and Urban Development (HUD): [Reasonable Accommodations Under the Fair Housing Act](#)
- Joint statement from DOJ and HUD: [Group Homes, Local Land Use, and the Fair Housing Act](#)

<http://cottonwoodheights.utah.gov/hottopics.residentialfacilities.html>

1/2

12/10/2014

Residential facilities for people with disabilities :: Cottonwood Heights, UT :: City Between the Canyons

- [Explanation of the Fair Housing Act](#) with relation to people with disabilities
- [List of housing and civil enforcement cases](#) related to disabilities

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Police			Youth City Council		
Public Works					

Cottonwood Heights City | (801) 944-7000 | 1265 E Fort Union Blvd Ste 250 | Cottonwood Heights, UT | 84047
M-Th 8 a.m. to 6 p.m., Friday 8 a.m. to 5 p.m.

**Chapter 19.85
GROUP HOMES; OTHER
FACILITIES**

Sections:

19.85.010 Definitions.

19.85.020 Residential facilities for persons with a disability.

19.85.030 Residential facilities for elderly persons.

19.85.040 Design standards.

19.85.050 Nonresidential treatment facilities.

19.85.060 Limitations.

19.85.070 Severability.

19.85.010 Definitions.

The following definitions shall apply to all sections of this title 19, and, except as provided herein, shall supersede any other definition contained in this title:

A. "*Adult daycare facility*" means any building or structure furnishing care, supervision, and guidance for three or more adults unaccompanied by guardians for periods of less than 24 hours per day.

B. "*Assisted living facility*" means a residential facility, licensed by the state of Utah, with a homelike setting that provides an array of coordinated support personnel and healthcare services, available 24 hours per day, to residents who have been assessed under the Utah Department of Health or the Utah Department of Human Services rules to need any of these services. Each resident shall have a service plan based on the assessment, which may include:

1. Specified services of intermediate nursing care;
2. Administration of medication; and
3. Support services promoting resident's independence and self-

sufficiency. Such a facility does not include adult daycare provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability.

C. "*City*" means the city of Cottonwood Heights, Utah.

D. "*Director*" means the city's community development director or, if none, its manager, or the director's designee (such as the city's planning commission).

E. "*Disability*" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such a problem or being regarded as having such an impairment. The following definitions are incorporated into the definition of disability:

1. Disability does not include current illegal use of, and/or resulting addiction to, any federally controlled substance as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802, or as defined under UTAH CODE ANN. Title 58, Chapter 37, as amended;

2. A physical or mental impairment includes the following:

(a) Any psychological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(b) Any mental or physiological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities; or

(c) Such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus (HIV), mental retardation, drug addiction (other than addiction caused by current, illegal use of controlled substances) and alcoholism.

F. “*Domestic staff*” means persons employed or residing on the premises of a dwelling or other residential facility to perform domestic services or to assist residents in performing major life activities.

G. “*Elderly person*” means a person who is 60 years or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

H. “*Family*” means one or more persons related by blood, marriage, adoption, or guardianship (including foster children), and may also include up to four additional unrelated individuals living with the family, such as domestic staff, living together as a single nonprofit housekeeping unit.

I. “*Major life activities*” means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

J “*Nonresidential treatment facility*” means a facility wherein no persons will be housed on an overnight basis, which provides services including rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol abuse, drug abuse, sexual offenses, sexual abuse, or mental health. Associated educational services may also be provided to juvenile patients.

K. “*Nursing home*” means an intermediate care/nursing facility or a skilled nursing facility licensed by the state of Utah for the care of individuals who, due to illness, advanced age, disability, or impairment require assistance and/or supervision 24 hours per day. Such a facility does not include an adult daycare facility or adult daycare provider in conjunction with residential facilities for elderly persons or a residential facility for persons with a disability.

L. “*Protective housing facility*” means a facility either:

1. Operated, licensed, or contracted by a governmental entity, or
2. Operated by a charitable, nonprofit organization, where, for no compensation, temporary protective housing is provided to:

(a) Abused or neglected children awaiting placement of foster care;

(b) Pregnant or parenting teens;

(c) Victims of sexual abuse; or

(d) Victims of domestic abuse.

M. “*Reasonable accommodation*” means a change in any rule, policy, practice, or service necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling. The following words have the following definitions:

1. “*Reasonable*” means that a requested accommodation will not undermine the legitimate purpose of existing zoning regulations notwithstanding the benefit that the accommodation will provide to a person with a disability.

2. “*Necessary*” means that the applicant must show that, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy the housing of their choice.

3. "Equal opportunity" means achieving equal results as between a person with a disability and a nondisabled person.

N. "Record of impairment" means having a record or history of having, or having been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

O. "Regarded as having an impairment." A person is regarded as having an impairment when:

1. The person has a physical or mental impairment that does not substantially limit one or more major life activities but is treated by another person as having such a limitation;

2. The person has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others towards such an impairment; or

3. The person has none of the impairments defined in this section but is treated by another person as having such an impairment.

P. "Rehabilitation/treatment facility" means a facility licensed or contracted by the state of Utah to provide temporary occupancy and supervision of individuals (adults and/or juveniles) in order to provide rehabilitation, treatment or counseling services. Without limitation, such services may include rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol abuse, drug abuse, sexual offenses, sexual abuse, or mental health. Associated educational services may also be provided to juvenile occupants.

Q. "Related." Related by blood, marriage or adoption within the definition of "family" means a father,

mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild, to include the half as well as the whole blood.

R. "Residential facility for elderly persons" means a dwelling unit that is occupied on a 24 hour per day basis by eight or fewer elderly persons in a family type arrangement. The dwelling unit must be owned by one of the residents or by an immediate family member of one of the residents, or be a facility for which the title has been placed in trust for a resident. A residential facility for elderly persons shall not include any of the following:

1. A facility which is operated as a business; provided that such facility may not be considered to be operated as a business solely because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility;

2. A facility where persons being treated for alcoholism or drug abuse are placed;

3. A facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;

4. A facility which is a healthcare facility as defined by UTAH CODE ANN. 26-21-2, as amended; or

5. A facility which is a residential facility for persons with a disability.

S. "Residential facility for persons with a disability" means a residence in which more than one person with a disability resides and which is:

1. Licensed or certified by the Utah Department of Human Services under

UTAH CODE ANN. Title 62A, Chapter 2, as amended; or

2. Licensed or certified by the Utah Department of Health under UTAH CODE ANN. Title 26, Chapter 21, as amended.

T. "*Shelter for the homeless*" means charitable lodging or sleeping rooms provided on a temporary (usually daily) basis to those members of society lacking other safe, sanitary or affordable shelter. A shelter for the homeless may also include kitchen and cafeteria facilities.

U. "*Transitional housing facility*" means a facility owned, operated or contracted by a governmental entity or a charitable, not for profit organization, where, for no compensation, temporary housing (usually three to 24 months, but in no event less than 30 days) is provided to homeless persons while they obtain work, job skills, or otherwise take steps to stabilize their circumstances. A transitional housing facility shall not include a shelter for the homeless, and a dwelling unit provided to a family for their exclusive use for more than 30 days as part of a transitional housing program shall not be considered to be a transitional housing facility.

19.85.020 Residential facilities for persons with a disability.

A. *Applicability.* This section shall govern any facility, residence, or other circumstance that constitutes a residential facility for persons with a disability as defined in this chapter. The requirements of this section shall govern and control any contrary provisions of this code.

B. *Purpose.* The purposes of this section are:

1. To comply with UTAH CODE ANN. 10-9a-520; and

2. To avoid discrimination in housing against persons with disabilities as provided in the Utah Fair Housing Act and the federal Fair Housing Act, as amended, as interpreted by the courts having jurisdiction over the city.

C. *Permitted use.* Subject to the provisions of this chapter, and notwithstanding any contrary provision of this title, a residential facility for persons with a disability shall be a permitted use in any zone where similar residential dwellings that are not residential facilities for persons with a disability are allowed. A residential facility for persons with a disability that would likely create a fundamental change in the character of the neighborhood may be excluded from a zoning area. A residential facility for persons with a disability shall be a permitted use in any zoning district where a dwelling is allowed. Each residential facility for persons with a disability shall conform to the following requirements:

1. The facility shall comply with all applicable building, safety and health regulations, the Americans with Disabilities Act, fire regulations, and all applicable state core standards and licensing requirements, and any standards set forth in any applicable contract with a state agency. The facility shall also comply with the city's land use ordinances applicable to single-family dwellings for the zone in which it is to be located, except as may be modified pursuant to this chapter.

2. The following site development standards and parking standards shall be applicable:

(a) Each facility shall be subject to the same minimum site development standards applicable to a dwelling unit in the zone in which the facility is located; and

(b) The minimum number of parking spaces required for the facility shall be the same as the number required for a dwelling with similar occupancy density in the same zone.

3. No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:

(a) May be determined to be or does constitute a direct threat or substantial risk to the health or safety of other individuals; or

(b) Has or may engage in conduct resulting in substantial physical damage to the property of others.

4. Prior to occupancy of the facility, the person or entity licensed or certified by the Utah Department of Human Services or the Utah Department of Health to establish and operate the facility shall:

(a) Provide a certified copy of such license to the city recorder;

(b) Certify, in a sworn affidavit submitted with the application for a business license, compliance with the Americans with Disabilities Act;

(c) Certify, in a sworn affidavit submitted with the application for a business license, that no person will be placed or remain in the facility whose prior or current behavior, actions and/or criminal incidents or convictions, have demonstrated that such person is or may be a substantial risk or direct threat to the health or safety of other individuals, or whose said behavior, actions and/or incidents or convictions have resulted in or may result in substantial physical damage to the property of others. Such affidavit shall be supplemented and updated not less than 150 days nor more than 190 days after the date of issuance or renewal of the business license, and at

the time of the application for renewal of the business license.

5. The use permitted by this section is nontransferable and shall terminate if:

(a) A facility is devoted to or used as other than a residential facility for persons with a disability; or

(b) The license or certification issued by the Utah Department of Human Services, Utah Department of Health or any other applicable agency, terminates or is revoked; or

(c) The facility fails to comply with the conditions set forth in this section.

6. In the F-20, F-1-43, F-1-21, RR-1-43, RR-1-29, RR-1-21, R-1-15, R-1-10, R-1-8 and R-1-6 zones, no residential facility for persons with a disability shall exceed eight residents plus a maximum of two additional qualified persons acting as houseparents or guardians.

7. In an R-2-8, RM, RO and MU zones, no residential facility for persons with a disability shall exceed twelve (12) residents plus a maximum of two additional qualified persons acting as houseparents or guardians.

8. No residential facilities for persons with disabilities shall be permitted in the NC, CR, PF or O-R-D zones, or in any other zones in the city that do not allow for residential use as a permitted or conditional use.

9. Each residential facility for persons with a disability that are substance abuse facilities and are located within 500 feet of a school, shall provide, in accordance with rules established by the Utah Department of Human Services under UTAH CODE ANN. Title 62A, Chapter 2, as amended, the following:

(a) A security plan satisfactory to local law enforcement authorities;

(b) 24-hour supervision for residents; and

(c) Other 24-hour security measures.

10. Each residential facility for persons with a disability shall obtain permits that verify compliance with the same building, safety, and health regulations as are applicable in the same zoning area to similar uses that are not residential facilities for persons with a disability.

11. No residential facility for persons with disabilities shall be located within 1,000 feet of another such facility as measured from nearest property line of the existing facility to nearest property line of the proposed facility.

D. Reasonable accommodations.

None of the requirements of this chapter shall be interpreted to limit any reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for persons with a disability; provided, however, that an accommodation cannot be granted to waive a material zoning requirement (such as lot coverage, parking, setback or height standards), as reasonably determined by the director; to diminish the required spacing of such facilities under this section; or to increase the maximum number of occupants of such facilities above the limit specified in this section.

E. Any person or entity wanting a reasonable accommodation shall make application therefor to the director.

1. Such application shall specifically articulate, in writing, the following:

(a) The name, mailing address, and phone number of the applicant;

(b) The nature and extent of the disability;

(c) An exact statement of the ordinance or policy from which the applicant needs a reasonable accommodation;

(d) The applicant's proposed reasonable accommodation;

(e) A statement detailing why such reasonable accommodation is necessary; and

(f) The physical address of the property where the applicant requests the reasonable accommodation.

2. When considering whether or not to grant a reasonable accommodation, the director shall, in consultation with the city manager and the city attorney, consider the following factors, among others deemed appropriate and applicable:

(a) The zoning ordinance applicable to the property;

(b) The anticipated parking, traffic, and noise impact on the neighborhood if the reasonable accommodation is granted;

(c) Whether or not the accommodation will be an undue burden or expense to the city;

(d) The extent to which the accommodation will or will not benefit the applicant;

(e) The extent to which the accommodation will or will not benefit the community;

(f) Whether or not the accommodation fundamentally alters the citywide zoning ordinance and whether or not the accommodation would likely create a fundamental change in the character of a residential neighborhood;

(g) Whether or not the applicant has demonstrated that the accommodation will affirmatively enhance the applicant's life or ameliorate the effects of the applicant's disability, or the lives or disabilities of those on whose behalf the applicant is applying;

(h) Whether or not, without the accommodation, similar housing is

available in the city for the applicant or group of applicants;

(i) The anticipated impact of the requested accommodation on the immediate neighborhood; and

(j) The requirements of applicable federal and state laws and regulations.

3. A written decision shall be sent to the applicant within 60 days after the application.

4. If a request for a reasonable accommodation is denied, such decision may be appealed to the city's board of adjustment within ten days after such denial.

19.85.030 Residential facilities for elderly persons.

A. *Purpose.* The purpose of this section is to comply with UTAH CODE ANN. 10-9a-516 to -519.

B. *Compliance.* Residential facilities for elderly persons shall comply with all requirements of UTAH CODE ANN. 10-9a-516 to -519, and also the following requirements:

1. The facility shall meet all applicable building codes, safety codes, zoning regulations, the Americans With Disabilities Act, and health ordinance applicable to single-family or similar dwellings; except as may be modified by the provisions of this chapter.

2. No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:

(a) May be determined to be or does constitute a substantial risk or direct threat to the health or safety of other individuals; or

(b) Has or may engage in conduct resulting in substantial physical damage to the property of others.

3. Minimum site development standards shall be the same as for a dwelling unit in the zone in which the facility is located.

4. The facility shall be capable of being used as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character.

5. A use granted under this section is nontransferable and terminates if the structure is devoted to any use other than as a residential facility for the elderly or if the structure fails to comply with all applicable ordinances, including health, safety, zoning and building codes.

6. No residential facility for elderly persons shall be established or maintained within three-fourths ($3/4$) of a mile measured in a straight line between the closest property lines of the lots or parcels of similar facilities, residential facilities for persons with disabilities, protective housing facilities, transitional housing facilities, assisted living facilities, rehabilitation/treatment facilities, or a nonresidential treatment facility.

19.85.040 Design standards.

A. The design standards set forth in this section are applicable to protective housing, rehabilitation/treatment facilities (both residential and non-residential, including, without limitation, residential facilities for persons with a disability and residential facilities for elderly persons), transitional housing and assisted living facilities, when allowed as a permitted or conditional use in the city.

B. Any newly constructed or remodeled facility in a residential zone or immediately abutting a residential

zone on at least two sides shall comply with the following design standards:

1. All setbacks shall be according to the requirements of the residential zone in which the facility sits; provided that if the facility is in a non-residential zone abutting a residential zone, then the setbacks shall be those of the abutting residential zone;

2. All required or accessory parking areas shall be located either in the rear yard area of the lot or behind the main building or garage;

3. In addition to the maximum height restrictions of the individual zone, new or additional buildings shall not exceed 110% of the average height of the closest dwellings on both sides of the proposed structure;

4. In order for new construction to reflect the design and character of the existing neighborhood, the following standards also shall be met:

(a) The roof design of the proposed structure or remodel shall be a pitched roof of the same slope as the most common roof slope of the homes on the side of the block on which the building is proposed; and

(b) The type of exterior materials shall be traditional home finished materials of brick, siding, or stucco. The use of these materials shall be applied so as to blend in with the neighborhood where the building is located and not draw undue attention to the building because its materials, color and/or design is uncharacteristic of the other buildings in the neighborhood.

5. To the extent similar requirements to any contained in this section are contained in the specific zone in which any facility referred to herein may be located, the more restrictive provisions shall apply. The requirements of this section are in addition to all other

applicable ordinances and regulations, subject to the conflicts resolution provisions of this subsection.

19.85.050 Nonresidential treatment facilities.

A. Nonresidential treatment facilities shall not be built in the city except as specifically allowed as a permitted or conditional use by proper designation in a zone or zones in this title. Each permitted facility, or facility allowed as a conditional use, shall conform to the following requirements:

1. The facility shall comply with all building, safety, zoning and health regulations, the Americans with Disabilities Act, fire regulations, and all applicable state core standards and licensing requirements, and any standards set forth in any contract with a state agency.

2. The following site development standards and parking standards shall be applicable to nonresidential treatment facilities:

(a) Each facility shall be subject to minimum site development standards applicable to a business in the zone in which the facility may be located; and

(b) The minimum number of parking spaces required shall be the same as the number required for an office building with similar size, occupancy, and density in the same zone.

3. Prior to occupancy of the facility, the person or entity licensed or certified by the Utah Department of Human Services or the Utah Department of Health to establish and operate the facility shall:

(a) Provide a certified copy of such license with the city recorder; and

(b) Certify, in a sworn affidavit submitted with application for a business

license, compliance with the Americans with Disabilities Act.

4. The use permitted by this section is nontransferable and shall terminate if:

(a) A facility is devoted to or used as other than a nonresidential facility; or

(b) The license or certification issued by the Department of Human Services, Department of Health or any other applicable agency, terminates or is revoked, or the facility fails to comply with the conditions set forth in this section.

5. No nonresidential treatment facility shall be established or maintained within 1,000 feet measured in a straight line between the closest property lines of the lots or parcels of the following facilities:

(a) A residential facility for persons with a disability;

(b) A residential facility for elderly persons; or

(c) Any of the following facilities: protective housing facility, transitional housing facility, assisted living facility or rehabilitation/treatment facility, a nonresidential treatment facility, and schools.

6. No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:

(a) May be determined to be or does constitute a direct threat or substantial risk to the health or safety of other individuals; or

(b) Has or may engage in conduct resulting in substantial physical damage to the property of others.

7. To the extent similar requirements to any contained in this section are contained in the specific zone in which any facility referred to herein may be located, the more restrictive

provisions shall apply. The requirements of this section are in addition to other applicable ordinances and regulations, subject to the conflicts resolution provisions of this subsection.

19.85.060 Limitations.

Only such uses and facilities as are specifically authorized in this chapter and in this title as permitted or conditional uses shall be allowed. All other uses and facilities are prohibited.

19.85.070 Severability.

If any provision of this chapter is declared invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

Weber County, Utah
Residential Facilities for Persons with Disabilities
December 2014

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Planning Staff Report

March 25, 2008

Zoning Petition #02-2008 by Bruce Humphries to Amend the CV-2 (Commercial Valley-2) Zone by Adding a "Commercial Facility for Persons with a Disability" as a Conditional Use

Findings of Fact

The petitioner is requesting an amendment to the existing CV-2 or Commercial Valley-2 Zone (Chapter 18-B) of the Weber County Zoning Ordinance by adding a "Commercial facility for persons with a disability" as a Conditional Use. This use, as a "residential facility for persons with a disability" is currently a permitted use in the AV-3, FV-3, FR-1, FR-3, F-5, F-10 and F-40 Zones and a conditional use in the RE-15 and RE-20 Zones. In these zones, the number of people allowed at any residential facility is limited to eight. This zoning petition was originally presented to the Ogden Valley Planning Commission on February 19, 2008 and was tabled in order to allow the Planning Commission and others time to review the proposal.

A facility like this would provide support and teach coping skills to people with disabilities such as depression, attention deficit, sleeping and eating disorders. In addition to any State of Utah requirements, a facility like this would need to meet the supplementary requirements of a "Commercial Facility for Persons with a Disability" that would be found in the Weber County Zoning Ordinance, Chapter 23, Supplementary and Qualifying Regulations. These supplementary requirements are almost identical to the existing "residential facility" requirements (found in Chapter 23) however, they have been modified to reflect the use in a commercial zone. The most noticeable difference in between the "residential" and "commercial" facilities is that the commercial facility would not limit the number of people to eight. The number of people would be based on the accommodations and any conditions imposed by the Planning Commission at the time of the Conditional Use Application.

The following supplementary requirement section comes from the existing Weber County Zoning

Ordinance, Chapter 23, Supplementary and Qualifying Regulations. The black text is the existing language and the red text is the proposed language that would apply to commercial facilities and would be added to Chapter 23 if approved.

Conformance to General Plan

The General Plan states that commercial development should occur in a manner that does not detract from the Valley's character. This proposed use, within the CV-2 Zone, can provide a commercial service that benefits society as a whole while establishing a less transient population (as compared to a hotel use) that would support local businesses.

Staff Recommendations

Staff recommends approval of petition #02-2008 to amend the existing CV-2 or Commercial Valley-2 Zone (Chapter 18-B) of the Weber County Zoning Ordinance by adding a "Commercial facility for persons with a disability" as a Conditional Use.

Amended Chapter 23-26 Language

23-26 Residential/Commercial Facility for Persons with a Disability Facility Requirements

1. Residential Facility Requirements:
 1. The facility shall meet all County Building, Safety, and Health Codes applicable to similar dwellings.
 2. The operator of the facility shall provide assurances that the residents of the facility will be properly supervised on a 24-hour basis.
 3. The facility shall be licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities. 99-26
 4. A minimum of two off street parking spaces plus one off street parking space for each staff member other than the resident manager or house parents, shall be provided.
 5. The facility shall be capable of use as a residential facility for persons with a disability without structural or landscaping alterations that would change the structure's residential character.
 6. The facility shall meet all requirements and definitions by reference to either the Federal Fair Housing Amendments Act (42 U.S.C.3602) or its successor statute(s) or the Utah Fair Housing Act (Utah Code Annotated 57-21-2 or its successor statute(s).
 7. No person being treated for alcoholism or drug abuse shall be placed in a residential facility for persons with a disability.
 8. No person who is violent shall be placed in a residential facility for persons with a disability.
 9. Placement in a residential facility for persons with a disability shall be on a strictly voluntary basis and not a part of or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.
 10. The Land Use Permit and /or Business License granted in accordance with the provisions of this ordinance, is non transferable and terminates if the structure is devoted to a use other than as a residential facility for persons with a disability or, if the structure fails to comply with the County's Building, Safety, and Health Codes or the requirements of this section.
 11. These facilities must be licensed by the County's Business Licensing Department with the original license and any renewals thereof subject to the inspection and prior approval of the

Weber County Health and Building Departments.

12. No Residential Facility for Persons with a Disability shall be made available to any individual whose tenancy therein would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.

1. Commercial Facility Requirements:

1. The facility shall meet all County Building, Safety, and Health Codes applicable to similar dwellings.
2. The operator of the facility shall provide assurances that the residents of the facility will be properly supervised on a 24-hour basis.
3. The facility shall be licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities.
4. A minimum of one off street parking space per room plus one parking space per two staff members other than the resident manager or facility operator, shall be provided.
5. The facility shall meet all requirements and definitions by reference to either the Federal Fair Housing Amendments Act (42 U.S.C.3602) or its successor statute(s) or the Utah Fair Housing Act (Utah Code Annotated 57-21-2 or its successor statute(s).
6. No person being treated for alcoholism or drug abuse shall be placed in a commercial facility for persons with a disability.
7. Not be convicted of or charged with any sexual offence, arson or aggravated assault.
8. Not be individuals with such severe psychiatric problems that they present a danger to themselves or others.
9. No person who is violent shall be placed in a commercial facility for persons with a disability.
10. Placement in a commercial facility for persons with a disability shall be on a strictly voluntary basis and not a part of or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.
11. The Land Use Permit and/or Business License granted in accordance with the provisions of this ordinance, is non transferable and terminates if the structure is devoted to a use other than as a commercial facility for persons with a disability or, if the structure fails to comply with the County's Building, Safety, and Health Codes or the requirements of this section.
12. These facilities must be licensed by the County's Business Licensing Department with the original license and any renewals thereof are subject to the inspection and prior approval of the Weber County Health and Building Departments.
13. No Commercial Facility for Persons with a Disability shall be made available to any individual whose tenancy therein would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.

The following is a definition that will appear in Chapter 1-General Provisions (Definitions) if this proposed ordinance is approved:

COMMERCIAL FACILITY FOR DISABLED PERSONS

A commercial hotel-type structure, meeting all applicable commercial development standards, that is occupied on a 24-hour per day basis by a professionally licensed, supervisory staff and persons with disabilities. Such facilities and staff shall be licensed or certified by the State of Utah, Department of Human Services under Title 62A, Chapter 2 Licensure of Programs and Facilities.

Retrieved from "http://www.co.weber.ut.us/mediawiki/index.php/ZP_02-08_Staff_Report"

Category: Staff Report

- This page was last modified on 10 March 2009, at 20:39.

Attachment C
Written Public Comment for Public Hearing

(Received 12/16/2014 via email from Jerry Cottrell)

I applaud the efforts of the City Planner and the Planning Commission in drawing up this list of zoning recommendations for the City Council. I also appreciate the fact that the Planning Commission is holding the record open for written comments since I was unable to attend the most recent public hearing. While I see these recommendations as a step in the right direction, I would have liked to see more specificity in issues that were addressed and there are additional issues that were not addressed.

- **Conditional Use Permits** -- I favor eliminating CUPs as some other Utah cities have done. Proponents will say, "But CUPs provide more flexibility!" More flexibility? Yes, that is certainly true. But that added flexibility is for the benefit of developers. I doubt that even one resident has ever woken up in the morning and thought, "If only we had more flexibility in our zoning code." What I believe the residents do want is reasonable, compatible commercial development and preservation of residential neighborhoods. These goals are both appropriate and achievable through proper zoning. The City doesn't need more flexibility in its zoning code; it needs a better zoning code. Allowing developers more flexibility does not contribute to achieving what the residents want... but it certainly does contribute to what the developers want. To whom should the City owe its allegiance?
- **Fair Housing Act (FHA) Compliance** -- as I have said, the City needs to revise its code to be in line with the FHA and I appreciate the fact that the City Planner and Planning Commission have acknowledged that need. But just stating that the code needs to be brought in line with FHA and ADA is not enough. We all know that the crux of the issue is the definition of "reasonable accommodation." Essentially, it was that issue that caused the City to contract for legal services to the tune of almost \$30,000! If reasonable accommodation had been clearly and properly defined before we ever heard of Michael Jorgensen, that \$30,000 plus another \$7,000 for the Hearing Officer would not have been necessary expenditures. Would the City be better off if it still had that \$37,000? Is there anything the City could have done to make improvements with that money? As it is, all the City did was improve the lives and lifestyles of two already very prosperous attorneys. Shouldn't the City have higher goals than that? The City Council will look to you, the Planning Commission, for advice on this issue. You should give it to them. What would be reasonable in balancing the rights of disabled persons to access housing and services versus the rights of citizens who expect the City to protect the nature and character of their neighborhoods? Should there be a one-size-fits-all definition? I don't think so! What is appropriate and compatible in an R3 zone may not be appropriate and compatible in R1 zones. There are differences in these neighborhoods and there are reasons that they were zoned as they are. The City's definition of "reasonable accommodation" should recognize that a housing limit that would be appropriate and give no offense to surrounding property owners in a higher density zone will almost certainly be inappropriately high in a lower density zone. The City

Council is not a body of zoning experts; I have heard them say that numerous times. But I have also repeatedly heard them say that you, the Planning Commission, are experts! You are the experts they rely on. The City Council needs your advice on the matter and you should give it to them. In conjunction with the City Attorney, you should draft specific guidelines for reasonable accommodation, and in so doing, you need not reinvent the wheel as several other Utah cities and counties have already addressed this issue in responsible and legally defensible ways. I highly recommend the approach taken by Salt Lake County for its clarity and the fact that its zoning has been thoroughly vetted by legal authorities. To be clear about what I am suggesting, I urge you to come up with specific recommendations for how many unrelated persons can occupy a residence for disabled persons. Look at the nature and character of each residential zone and then recommend to the City Council that for R1 zone, the limit would normally be four; but as a reasonable accommodation (under FHA), the city will permit "x" number. In R2 zone, the recommendation may be somewhat higher and in R3, higher yet. And so on. Give them specifics! Don't throw it to them to decide. You are the ones who have wrestled with this issue; you have the knowledge and the background to make specific recommendations.

- **Density** -- No one can be certain what will happen to the Monastery property but it is a sure bet that the property will be developed in some way. It's inevitable. While we may wish otherwise, such wishes are neither realistic nor reasonable. So my position is not to oppose development just for the sake of opposing but rather, to support development that is done responsibly and compatibly with the nature and character of the neighborhood.

So when the Monastery is sold someone will want to do something with it. We understand that. I personally know of at least two developers who are eyeing that particular property with the intent to build homes in case the sale to Mr. Jorgensen falls through... maybe it already has; I don't know. But while the eventual developer might favor maximum density of housing so as to maximize his or her profits, I am sure my neighbors would join me in opposing such a plan because of what it would do to public safety and the effect on the nature and character of the neighborhood.

If these concerns sound familiar to you, good! They should sound familiar. These are the very same issues that drove our opposition to Mr. Jorgensen's industrial-sized drug and alcohol treatment complex.

My neighbors and I have been consistent from Day 1 in expressing concerns about the fact that the Monastery has a single point of ingress and egress. But while the Monastery property is foremost on my mind, I really intend my comments to apply equally to any neighborhood in South Ogden that may be in a similar circumstance. At one time the Mayor offered to consider a special zone for the Monastery. While I personally appreciate his willingness to consider a

special zone, I really think that a better solution is to just apply common sense to the whole city and focus less on one particular property.

When it comes to development, the City might join the developer in favoring a maximum housing density because more building permits equals more revenue to the City. However, the City needs to act in such a way to protect the public safety as well as the nature and character of our neighborhood as they would hope others would act to protect their neighborhoods and their safety. One of the concerns I have for developing this property is the potential of high-density housing embedded deep within a residential neighborhood. If that happens, the traffic concerns will be as bad as for Mr. Jorgensen's industrial-sized treatment facility. We have expressed our concerns many times before that with a single point of ingress and egress, there is a real and foreseeable public safety concern. Suppose the residents of this newly developed neighborhood need to be evacuated quickly? We have all been to sporting events or performances where many people rush onto the roads at about the same time. It results in gridlock. Now gridlock is only an annoyance if ones goal is simply to get back home. But gridlock can be dangerous or even fatal in the event of an evacuation. And what of critical services? Would you want the ambulance needed to carry you to the hospital to be impeded by a minor fender bender that temporarily blocks access to the neighborhood? Obviously, there are potential solutions to mitigate these concerns. One obvious solution would be to provide additional roads in and out of the neighborhood. But where additional roads are not possible or are impractical, the City should limit the allowable density so that residents are not needlessly put at risk.

- **Annexation of the Stephens Ranch** -- Perhaps no discussion of development in South Ogden would be complete without addressing the last large undeveloped property adjacent to the City. As with the Monastery, the Stephens ranch will be developed some day. As I said before, we may wish otherwise, but sooner or later, the property will be sold and it will be developed. Putting this property in our General Plan Map will neither hasten nor retard the development of this property. But what it will do is open the door for eventual annexation. Why is that important to us? Because annexation will determine who has a say in how that property is developed! If that property goes to Washington Terrace, it will be developed in ways that benefit Washington Terrace. The Washington Terrace City Council will have little or no concern for what South Ogden residents want or don't want. They will do what benefits them and their citizens! And what does Washington Terrace need? Clearly, they need commercial property to provide the City much needed revenues. So a mega-sized car lot or shopping center would certainly accomplish Washington Terrace's needs... but is that what South Ogden residents would want to see there? Of course not! But we will have absolutely no say in the matter if that property is annexed by Washington Terrace. We cannot afford to stick our heads in the sand and pretend that that property will not be developed and so it is none of our concern. It is our concern and the Planning Commission needs to act. If it does not act, we place the fate of our

neighborhoods and our city in the hands of others. I recommend that the portion of the Stephens Ranch that lies east of Adams Parkway be included in our General Plan Map. The portion of the ranch west of Adams Parkway should logically go to Washington Terrace. It should not require the wisdom of a Solomon to see that this baby can be and should be divided.

- **Educational Facilities** -- Here again, I applaud the recommendations of the City Planner which seem to acknowledge that while public schools and charter schools are allowed by state law in all residential neighborhoods, that does not mean that we must turn our residential neighborhoods over to commercial educational institutions such as private schools or tutorial services. This is a very positive and needed change to the current zoning. As my neighbor, Mr. Bausman has suggested, this can be addressed by simply expanding the definition of Public Buildings to include public and charter schools.

So overall, my impression of the draft zoning changes is positive but I hope that the City Planner and the Planning Commission will give careful consideration to the points I have raised. And above all, please give the City Council specific recommendations rather than general ideas about where you see the City going with these zoning changes. Specifics will give not only the City Council, but also the residents, a baseline for their review and for the formulation of their views on the matter. Thank you for taking the time to read these remarks. I look forward to your finalized product.

Leesa Kapetanov

From: brembacz@comcast.net
Sent: Monday, December 29, 2014 4:10 PM
To: Leesa Kapetanov
Subject: City's Zoning Code

Leesa it would be appreciated if you would forward the following to the Ogden City Planning Commission.
Thank You

We know that you as a planning Commission have been very busy these last several months and we appreciate the efforts of the City Planner and the Planning Commission in drawing up a list of recommendations for the City Council. We realize that change within South Ogden City is inevitable however, we as residents of the City would like those changes to enhance our City's environment being of benefit to all residents. We realize that the Monastery property will one day be developed but it should be developed to the benefit of surrounding residents and all of South Ogden. It should not be developed to serve the interests of a select group whose only interest is to use the property as a means to generate money with little or no concern for the impact it will have on the surrounding neighborhood. We think that this property should be allowed to be developed so that it best serves the surrounding neighborhood as well as the rest of South Ogden City. It has been suggested that the Planning Commission consider the Annexation of the Stephens Ranch into the City. This appears to be a very good idea that should be considered. The development of this property over time looks to be inevitable and it is said that by doing so in the near future it can be of significant benefit to South Ogden City. We as residents care for and are concerned for the future development of South Ogden City and as our representatives we are counting on you to provide for the best interests of all the residents of South Ogden City. Thank You
Sincerely,
Bonnie and Bill Rembacz
5725 South 1075 East
801-479-1361

Leesa Kapetanov

From: Sydnee Hensley <sydnee_hensley@hotmail.com>
Sent: Monday, December 29, 2014 4:03 PM
To: Leesa Kapetanov
Subject: Planning commission requests. Please forward.

Sent from my iPadTo the Planning Commission of South Ogden City:

We have been residence of South Ogden for almost 30 years. We love our city and are concerned about possible zoning changes that will impact all members of this community.

We would like to see Condition Use Permits eliminated. Our feeling is that they do nothing for the residents who reside here and raise families in neighborhoods, but rather give developers too much freedom in "bending" laws and pushing for their commercial profit with no consideration for the local neighborhoods.

We urge you to consider public safety in all zoning. This is essential for the whole city of South Ogden. Please consider traffic flow, points of egress and ingress, character and nature of areas to be developed and preservation of family neighborhoods.

Industrial sized facilities do not belong in any residential neighborhood.

We favor annexing the Stephens ranch on the east side of Adams Ave into South Ogden City, and put it in the general plan.

We also urge you to make very specific guidelines as to how many unrelated individuals can occupy a residence for disabled persons. R1, R2, and R3 zones should be addressed individually, keeping in mind again, the design and nature of each area.

We hope you will keep car lots and multiple car repair areas at a minimum.

Responsible development is possible with your help.

Thank you,

Stephen and Sydnee Hensley
1071 E. 5950 S.
So Odgen, Utah

Leesa Kapetanov

From: breeann.alpinechurch@gmail.com on behalf of BreeAnn Duran
<Breeann@alpinechurch.org>
Sent: Monday, December 29, 2014 3:48 PM
To: Leesa Kapetanov
Subject: Comments for S.O.C. Planning Commission

To whom it may regard,

I completely disagree with the use of Conditional Use permits. When we purchased our home we were very diligent about researching the zoning laws in our area (1059 E 5950 S). By no means should the city be able to implement a CUP in a neighborhood that is under the assumption that zoning laws of that area will be upheld. When we decided to purchase in this neighborhood we were confident that our re-sale value would stay excellent. It is extremely unnerving to think that the value of my home could drop significantly due to a CUP decision. I hate to say this but if South Ogden City had adequate zoning regulations set in place CUPs would not be necessary.

Sincerely,
The Duran's

Ted Killian
5881 S. 850 E.
South Ogden, UT 84405

December 29, 2014

South Ogden City Planning Commission
Attn.: Leesa Kapetanov lkapetanov@southogdencity.com

Ms Kapetanov:

This letter is in regards to the critical zoning issue, the conditional use permit for the sale of the monastery property. Please distribute to the Commission.

Many pertinent facts have been brought up at commission meetings and city council meetings with which we agree. But with the weather conditions of the last few days, we think an additional set of issues needs to be taken into consideration.

Long term residents in near the monastery property are accustomed to driving the steep grades and curves, even in winter conditions.

It is obvious that the monastery property is in a bowl with ingress and egress on roads with steep grades and curves in each direction. And, the commercial entity proposed would introduce a changeable mix of commuting employees, family and friend visitors, and the use of buses to shuttle residents to and from the property, as noted in past commission meetings.

The terrain has to be dealt with regardless of the competence of the driver or the capability of the vehicle to manage the conditions and the grade during snow and ice in the winter.

There are many ways the conditional use permit would change the way of life for R-1-10 residents of Pleasant Valley in South Ogden City. This is one that was not apparent in September. In fact, it was inconceivable.

Ted and Gerrine Killian

South Ogden City Council and Planning Commission

I (Merlin) have attended most of the Council meetings regarding the Jorgenson Conditional Use Permit (CUP) for the Monastery and the Zoning changes.

The citizens of South Ogden elected the Council members to represent our best interests. In spite of essentially 100% of the residents, citizens, being against the CPU the Council and the Planning Commission granted the CPU, which places a commercial venture in a residential zone. This certainly does not represent the interests of South Ogden citizens, all of them not just the local neighborhood, as this would establish the precedence of commercial ventures in residential neighborhoods. The solution to this problem is to have Mr. Jorgenson establish the treatment center in a commercial zone.

This letter is to inform you we are against the Jorgenson CUP, which will now be litigated at additional cost to the City and residents a second time. In regards to rewriting zoning regulations I suggest the CPU's be removed and zoning regulations written to better define the various uses, i.e. Residential, Commercial and other specific uses and particularly not allow commercial ventures in residential areas.

Merlin & Ricki Bingham

5772 S. 1075 E.

South Ogden, UT 84405

Leesa Kapetanov

From: Norb Didier <sasflorida@gmail.com>
Sent: Monday, December 29, 2014 1:51 PM
To: Leesa Kapetanov
Subject: Comments for the South Ogden City Planning Commission

Comments to the South Ogden City Planning Commission regarding the proposed changes to permitted and conditional uses in residential zones.

Conditional Use Pemits: I propose that Conditional Use Permits be eliminated. Due diligence in purchasing a home includes researching the zoning laws that apply to the area. An individual who purchases a home in our city should have reasonable expectations that the zoning regulations in the area that they buy will be upheld. Adherence to zoning provides a degree of protection for the value of their property. CUPs allow deviations to the zoning in a residential area that could easily devalue the homes in that area. **If CUPs are retained, the city really needs to inform potential home buyers that the home they are considering in a residential area could very well end up next to a commercial venture.** If South Ogden City had adequate zoning regulations in place CUPs would not be needed.

Final approval for Zoning: I have lived in 6 different states. Until I moved to Utah I never encountered a municipality, county, or state that pushed off the responsibility for important decisions to a non-elected group. We elect our government officials to look out for our interests. **The elected council of South Ogden City should absolutely have the final say in any zoning issue.** They were elected to serve our interests. The planning commission was not elected and therefore should not have the final say on any decision regarding our city.

Spot Zoning: I heard it voiced in a recent planning commission meeting that spot zoning while in the past was not acceptable, is now somehow OK. This may be true in a new master development where the home owners realize that the lot or home they are buying is going to be located next to a commercial area. Spot zoning is not acceptable when it is inserted into a residential area of existing homes because those home owners purchased those homes with a

reasonable expectation that the residential zone the city has applied to that area would be upheld.

Regards,

Norb and Kim Didier

5979 S 1055 E

South Ogden

Leesa Kapetanov

From: shermanstrate <shermanstrate@gmail.com>
Sent: Monday, December 29, 2014 12:11 PM
To: Leesa Kapetanov
Subject: Zoning

Sherman and Rudy Strate,
1069 E. 5600 S.
South Ogden, Utah 84405

Planning Commission, 12-29-2014

We have read, studied, and discussed the letters to the planning commission by both Mr. Cottrel and Mr. Boyer. We agree with what both of these individuals have written.

We are also in favor of Mr. Boyer's remarks in regards to adding the Stephens property to the Annexation Plan. We do not believe it wise to allow another municipality to determine development of an area so close in proximity to South Ogden. Regardless of who eventually develops this property many costs associated with this area will be borne by South Ogden.

thank you for your consideration.

Sherman and Rudy Strate
Sent from my T-Mobile 4G LTE Device

Leesa Kapetanov

From: tylerdegroot@comcast.net
Sent: Sunday, December 28, 2014 9:42 PM
To: Leesa Kapetanov
Cc: tylerdegroot@comcast.net
Subject: Recommended South Ogden City Zoning Changes

Ms. Kapetanov,
We request that you forward the information in this email to all Planning Commission members.

Our family is disappointed in many aspects of the way the city has handled the potential sale of the monastery property. We request that conditional use permits (CUP) be eliminated. It was unfortunate to see the Planning Commission approve a CUP for the monastery property that could drastically impact the residential nature of our neighborhood. Such decisions should be made by the City Council, who are directly accountable to the voters of South Ogden.

Regarding the Fair Housing Act (FHA), we recommend the city enact more specific guidelines that, while providing fair accommodations, maintain the integrity of the neighborhood. Fair accommodations should imply that owners (or potential owners) of residential property have an equal opportunity to use their property in the same manner in which other residential property owners can use theirs. Anything more than that isn't fair treatment, it is special treatment. It is our understanding that there are other communities in Utah that have established sound policy for complying with the FHA that can serve as a good model for South Ogden City.

Considering how the situation at the monastery is playing out, we also request that the city will have a more focused plan for the future of the Stephens Ranch. South Ogden City needs to take action to plan for the future of that property (especially the area east of Adams Ave Parkway). Please take action to ensure that, when the time comes, this property is developed in a manner that benefits both the owners of the property, as well as the citizens of the City.

We appreciate your consideration in this matter,
Tyler and Laurel DeGroot
1079 E 5950 S
South Ogden, UT 84405

The City Council, Planning Commission and staff need to take their time and work together in reviewing and revising codes to ensure that all South Ogden neighborhoods will be protected and preserved. In attending many City meetings over the past year and half and reading the City Codes it is apparent the codes are often unclear, conflicting and not specific enough. Because of the poorly written codes there has been much debate as to how to interpret them. I would respectfully request that all codes be reviewed and prioritized as to which ones should be revised first. A time line should be developed and be met. If the deadlines are not met then predetermined steps need to be followed. The two areas of the utmost importance to review and agree upon are the City's compliance with the Federal Housing Act (FHA), American Disabilities Act (ADA) and Conditional Use Permits (CUPs).

South Ogden City needs to be very specific when updating the Code to ensure it complies with FHA and ADA. The Code needs to address what a "reasonable accommodation" is under FHA. Each zone has been defined to allow different uses. What is appropriate for one zone is not appropriate for another. The accommodation needs to be adjusted for each zone. For example, an R1 may allow 6 (4 + 2 house parents), R5 may allow 14 and R2, R3, R4 would also have their own requirements. Being specific as to what is allowed in each zone and then enforcing these codes will ensure that the nature and character of residential neighborhoods are being protected.

Conditional Use Permits need to be eliminated or the review process needs to be amended. An appointed, recommending group such as the Planning Commission should not have the final say when it comes to CUPs. The Planning Commission should make recommendations to the City Council and the City Council should be considered the Land Use Authority. The individuals who are making decisions regarding land use should be held accountable to those who elected them. If the planning commission has the final say they are not held accountable to anyone. Those who we have elected should make the final decision not those who have been appointed. Another concern is when you eliminate the City Council from reviewing the CUPs it allows fewer chances for others to review and make comments. Why would we want to limit the number of individuals, with different perspective, from reviewing and making comments? Shouldn't we want as many individuals as possible to be reviewing all the requests that may make changes to our City? Why are we limiting it to only 6 individuals who we have not had a voice in choosing?

If the City had codes that were clear and precise it would not be an issue when someone like Mr. Jorgenson came into the picture. The City could feel confident in where they stood and not be in fear of "outsiders" threatening litigation because they would know they had codes that were clear, specific and legally sound. They would also need not fear litigation from their own neighbors and citizens.

Nancy Gibson-Fagg

To: Planning Commission

From: Walt Bausman
5792 S 1075 E
South Ogden, Utah 84405

Date: December 23, 2014

Subject: Planning Commission Report dated December 11, 2014
Followup Comments to Staff Recommendations

Page 2 - Item 1: Educational Facilities

Please add: “- Public” after Educational Facilities to be consistent with Item 2 below

Page 2 - Item 2: Educational Facilities – Private

Please add: “tutorial programs” and “commercial uses” in the exclusionary portion in the last sentence.

Page 3 - Item 4: PRUDs and Cluster Subdivisions

Please clarify and reference the street and infrastructure standards by specifying the zones affected, and some written dialogue as to how each of these variances would be applied in each of the R-1 zones, including detailed examples.

Please consider moving both PRUDs and Cluster Subdivisions to Conditional Uses, since there is limited space where these 2 items could be used in R-1 zones throughout the city.

Pages 3 and 4 - Items 5 through 12

Since all of these items have not been updated by legal staff, they should be deleted from this Public Hearing, and presented at another time for review and analysis. Basically, there has been no discussion of these items since the recommendations are incomplete.

Page 3 – Item 5: Residential Facilities for Disabled Persons

Please consider adding capacity limitations to the zoning regulations, with all of them approved by health officials when licensing the facilities. For example:

R-1: 4 disabled persons, with an appropriate number of staff

R-2: 7 disabled persons, with an appropriate number of staff

R-3: 10 disabled persons, with an appropriate number of staff

R-4: 13 disabled persons, with an appropriate number of staff

R-5: 16 disabled persons, with an appropriate number of staff

This will put the maximum number under “residential” in accordance with the International Building Code, which is used by various districts throughout the state.

All other facilities with capacities exceeding those above, should be considered as an institution, and only allowed in hospital-approved zones (e.g. CP-2).

There should be a distinction made between “residential” and “commercial” uses, which needs to be clarified by your group.

Page 3 – Item 8: Bachelor and Bachelorette Housing name change

While the elimination may be possible, why not just highlight what constitutes a family, as is already defined in the city’s definitions for unrelated persons. I would assume other governmental districts have addressed this issue. If any changes are made, please specify how they differ from current regulations.

Page 5 – Specific Changes to Residential Zones

R-1: See page 3, item 4: PRUD and Cluster subdivisions comments

Under conditional uses, please define what the change from “Group Dwellings” to “Multiple Dwellings” does, and why it’s needed to be updated; it’s not clear at all.

Please consider deleting group dwellings from the R-1 zoning regulations. It doesn’t appear they fit in these specific residential zones.

For clarification purposes, it would very helpful if these proposed changes, including additions to, deletions from are specifically noted in a marked up set of regulations, so we can all see what the entire set of revised regulations is going to look like.

In conclusion, I appreciate the effort made on this preliminary report. I look forward to your continuing work of our zoning regulations, and related recommendations for us to review in the near future. Thanks.

Leesa Kapetanov

From: shelly <svrk13@gmail.com>
Sent: Tuesday, December 23, 2014 4:08 PM
To: Leesa Kapetanov
Subject: monastery land use

Dear Planning Commission and City Council Members,

We live several blocks from the monastery in South Ogden. It was wonderful to have the monastery when it was a residence for the Catholic sisters. This was their home which they lived in for years. The current proposal to allow a commercial facility or even a non-profit facility with dozens of clients who rotate in and out is not acceptable. This is a neighborhood with single family homes. That is how the land should be used. I don't like admitting it, but the monastery probably should not have been allowed in the current location because there was no common sense plan for future usage.

Please consider what makes sense in a neighborhood of families and do not allot the land to be used except for building homes.

Sincerely,

Andy and Shelley Kancitis
1051 E 5800 S
South Ogden

Leesa Kapetanov

From: Connie Kaufman <conniekaufman@gmail.com>
Sent: Wednesday, December 17, 2014 1:04 PM
To: Leesa Kapetanov
Subject: Monastery and Stephens Farm

Please know that as a resident of South Ogden in this south east corner of the city we would like clarity to the rules and regulations concerning the issues that we have all been dealing with for months. Please outline in black and white the regulations and not make just suggestions. When people know and have clarity to the rules they can expect certain outcomes. When rules and policies are vague more problems are caused. When expectations are not met that is when we all get up set and start spending money needlessly on attorneys fees. Please fix the problem by outlining the new policies. Thank You, Connie Kaufman

(Received 12/17/2014 via email from Douglas Hale)

Planning Commission Zoning Recommendations Comments

My first suggestion for the Planning Commission and City Council is to take the time to get it right! Poorly written city code and inadequate zoning are partly the cause of the recent Monastery fiasco. My specific comments are provided as follows:

- **Conditional Use Permits** – Should be eliminated. For no other reason than the South Ogden City Council should be the final Land Use Authority in the City. We the people, elected council members to act in our best interests and those of the City. These representatives have legislative accountability, which should not be advocated to the Planning Commission. The Planning Commission should provide recommendations to the City Council for final disposition. Otherwise, who does the Planning Commission answer to? The recent Monastery CUP was an outrage! The CUP was used as a means of getting around residential zoning restrictions. A 64 bed hospital should never be placed in a residential neighborhood. For a commercial property of that nature the land would have needed to be re-zoned. So based on recent experience, the CUP did nothing but protect the potential developers that wanted to use the property. South Ogden residents want more accountability from their elected officials and/or those appointed by them.
- **Fair Housing Act (FHA) Compliance** – I think that trying to put something into the zoning regarding the FHA is great. However, my concern is that the City couldn't get it right on the Monastery CUP. Why would their interpretation be any better in writing this zoning provision?

I have read the case law, sat through meetings and heard the arguments. For some reason common sense just hasn't prevailed. The intent of the FHA was so that individuals that were in "group homes", defined as 6-8 persons, could live in residential neighborhoods without fear of discrimination because of their disabilities. The intent of this law was so these individuals could have a sense of belonging, community and normalcy. I don't believe lawmakers wanted to stick treatment facilities or hospitals in family neighborhoods? I personally heard in the Monastery CUP meetings from a City Council Member, "that we just didn't feel we could keep them out". Wrong answer and time for a paradigm shift. If you are going to put something in the zoning regarding FHA, it needs to be done with protecting South Ogden residents in mind.

In order to provide a fair accommodation there are three factors that need to be considered 1) is it reasonable, 2) is it necessary and 3) is there equal opportunity to obtain housing. Seems easy enough, but maybe depends on perspective. Again

in the Monastery case; was putting a hospital in a residential neighborhood reasonable – No. Was it necessary – No. There are at least three other treatment facilities, as well as other organizations in the immediate area. Was there equal opportunity to obtain housing – Yes. The interpretation from these simple factors, eventually lead to lawyers and lawsuits. For instance, let's say I want to build a treatment facility in a national park; does the answer have to be yes because of FHA? Of course not, it's ok to say no. Go back to the intent of the law and the three simple factors for accommodation. It's great that the Planning Commission wants to address FHA, but my concern is that it's a matter of interpretation. The Planning Commission needs a new mindset, one that wants to protect the character and nature of South Ogden neighborhoods.

- **Annexation of the Stephens Ranch** – South Ogden needs to keep the Stephens Ranch. The City should put that portion of the Stephens Ranch that lies east of Adams Parkway in our General Plan Map. The portion of the ranch west of Adams Parkway should logically go to Washington Terrace. This is the largest undeveloped property in South Ogden and the residents want a say in what goes in there. My suggestion would be to tie the development of this property in with the Monastery property.
- **Educational Facilities** -- Here again, large institutions in residential neighborhoods are not a good idea. Potentially expanding the definition of an educational facility will alleviate this problem.