Pleasant View City ** 520 W Elberta Dr * Pleasant View, UT 84414 * (801) 782-8529**

Appeal Application (REV. Feb 2017)

Applicant/Representative's Name: Blake D. Johnson and Kennedy Kawaguchi, attorneys for Westview Homeowners, LLC		
Applicant Company Name (if applicable): Westview Homeowners, LLC., The (aka Westview Homeowners, LLC)		
Applicant's Address : 3116 N. 1250 W., Pleasant View UT 84414		
Phone: (801)476-0303	Cell: (801)476-0303	Email: kkawaguchi@smithknowles
Property Owner's Name:		
Company Name (if applicable):		
Owner's Address:		
Phone:	Cell:	Email:
Date of Decision: June 25, 2026		**Original File No. (if applicable):**
Appeal Request (may attach additional letter or materials):		
The appeal is attached and titled "Westview Homeowners, LLC Pleasant View City Planning Commission Appeal".		

- Item will be scheduled for the next available City Council meeting, not sooner than two weeks from date of application submittal and fee payment.
- Appeals are de novo. Applicant may submit additional material with this application to be included in the packets that are sent to City Council prior to the meeting, or they may choose to only present at the Council meeting.

Pleasant View City ** 520 W Elberta Dr * Pleasant View, UT 84414 * (801) 782-8529**

Appeal Application (REV. Feb 2017)

The information on this form is true and accurate to the best of my knowledge. **I understand my responsibility to pay Pleasant View City for all professional and other fees associated with this application as stated in City Code 18.60.045**. Furthermore, I understand that the submittal of this application is not a guarantee of the City granting or approving the request.

Kennedy Kawaguchi _____

Signature of Applicant/Representative Signature of Property Owner

Submittal Requirements

- [x] Completed and signed application
- [x] Application Fee ($150.00)
- [x] Noticing Fee ($200.00)
- [ ] *Optional:* Additional material or narrative describing appeal request

For City Use

Pleasant View City ** 520 W Elberta Dr * Pleasant View, UT 84414 * (801) 782-8529**

Appeal Application (REV. Feb 2017)

Date Submitted:	Received By:
$150.00 APPLICATION FEE	
Routed to:	File No.

smith|knowles attorneys

Blake D. Johnson
bjohnson@smithknowles.com

Kennedy Kawaguchi
kkawaguchi@smithknowles.com

www.smithknowles.com

July 24, 2026

VIA EMAIL:

Pleasant View City Council
520 W Elberta Drive
Pleasant View, UT 84414
asteiniger@pleasantviewut.gov

RE: Westview Homeowners, LLC Pleasant View City Planning Commission Appeal

This firm represents Westview Homeowners, LLC., The, aka Westview Homeowners, LLC ("Westview") and has been retained to appeal a conditional use permit, for Rise Recovery, LLC ("Rise Recovery"), approved by the Pleasant View City Planning Commission (the "Planning Commission"). The purpose of this appeal is to inform the Pleasant View City Council (the "City Council") that:

(a) the Planning Commission's process for allowing Rise Recovery to operate a sober living facility at the 1330 West 3100 North, Pleasant View, UT 84414 (the "Property") with up to fourteen residents was improper and the resulting approval is invalid;

(b) the statute of limitations for appealing the Planning Commission's approval of the conditional use permit, including the approval of the reasonable accommodation request, has not yet begun to run, or alternatively, if the City Council determines that it has begun, it commenced on June 25, 2026, when the Planning Commission approved the conditional use permit;

(c) because Rise Recovery is a for-profit LLC, it was required to obtain a reasonable accommodation from Pleasant View City Code (the "Code"), 18.04.250 to permit not more than five unrelated persons to reside together as a single housekeeping unit, as the Code limits occupancy to "not more than five unrelated persons living together as a single non-profit housekeeping unit.";

(d) even if Rise Recovery were granted an accommodation allowing not more than five unrelated persons to reside together in a housekeeping unit, increasing the occupancy limit from five to fourteen individuals is not necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling, and therefore no such accommodation is required; and

(e) Because reasonable conditions capable of mitigating the reasonably anticipated detrimental effects of the proposed use cannot be imposed in accordance with the applicable standards, the conditional use permit should be denied.

I. LEGAL STANDARD

The Code provides "[f]or purposes of this chapter [Chapter 18.54 – Conditional Uses and Site Plans], the City Council shall be the Appeal Authority." Code, 18.54.100. "All appeals of actions taken under the authority of this chapter shall be heard by the City Council." *Id*. "Appeal requests must be submitted to the Community Development Department within 30 days of the action appealed." *Id*.

Exhibits

- Memorandum Decision and Order on Reasonable Accommodation Request - Exhibit A
- June 25, 2026 Pleasant View City Planning Commission Meeting Minutes – Exhibit B
- Rise Recovery, LLC Conditions – Exhibit C
- Reasonable Accommodation Request Under the Federal Fair Housing Act (42 U.S.C.A. § 3604(f)(3)(B)), Title II of the ADA (42 U.S.C. § 12132), Rehabilitation Act (29 U.S.C. § 794), and the Utah Fair Housing Act (Utah Code Ann. § 57-21-5(4)(b)) – Exhibit D
- Pleasant View City Zoning Map – Exhibit E
- Rise Recovery, LLC Entity Information – Exhibit F
- Westview Plat – Exhibit G
- Westview Receipt for Appeal Fees - Exhibit H

II. FACTUAL BACKGROUND

Sometime prior to April 21, 2026, the Planning Commission and Rise Recovery stipulated to a third-party acting as the decision authority to decide whether Rise Recovery may operate a sober living facility with up to fourteen residents at the Property. *See* Exhibit A and Exhibit B. This process was done because there was no reasonable accommodation request process in the Code. *See* Exhibit B.

Attorney, Christopher Crockett ("Mr. Crockett") was appointed as the decision authority and issued the Memorandum Decision and Order on Reasonable Accommodation Request (the "Order") on April 21, 2026. *See* Exhibit A. In the Order, Mr. Crockett allowed Rise Recovery to operate a sober living facility for persons with a disability with up to fourteen residents at the

Property and treat the use as residential in nature and evaluated in the same manner as any other similar residential use. *See Id*.

The Order required Pleasant View City (the "City") to conduct a limited scope conditional use hearing. *See Id*. The City would not reconsider whether the use was allowed, whether residents qualify as persons with disabilities, or whether the number of residents should be reduced. *See Id*. Instead, the purpose of the hearing would be to determine whether any reasonably anticipated use impacts associated with the proposed use could be mitigated through reasonable conditions consistent with the Code. *See Id*.

On June 25, 2026, the Planning Commission held a meeting where it determined reasonable conditions necessary to mitigate reasonably anticipated detrimental effects, of the operating of the sober living facility on the Property with up to fourteen residents, could be imposed in accordance with applicable standards. *See* Exhibit B and Exhibit C.

III. ARGUMENT

a. Because the Planning Commission's process for allowing Rise Recovery to operate a sober living facility at the Property with up to fourteen residents was improper, the resulting approval is invalid.

i. Municipal Land Use, Development, and Management Act

The City is governed by the Municipal Land Use, Development, and Management Act (MLUDMA). "[A] legislative body may, enact a land use regulation only by ordinance." Utah Code Ann. § 10-20-501(2)(a). Land use regulation is defined as "a legislative decision enacted by ordinance, law, code, map, resolution, engineering or development standard, specification for public improvement, fee, or rule that governs the use or development of land." *Id*. at § 10-20-102(43)(a). Legislative body is defined as "the municipal council." *Id*. at § 10-20-102(44). MLUDMA prohibits the City from creating its own process, when one is not stated in the ordinance.

As a result, the City may establish procedures governing land use decisions only through ordinances enacted by the municipal council. The June 25, 2026 Planning Commission meeting minutes indicate that the decision to delegate aspects of the conditional use permit review process to a third party was influenced by the absence of an express procedure in the City Code for reviewing reasonable accommodation requests. *See* Exhibit B. However, the reasonable accommodation request was part of the conditional use permit application and should have been processed through the procedures governing that application. Even if the Code does not expressly describe the process for reviewing a reasonable accommodation request, MLUDMA does not permit the Planning Commission to create a procedure in the absence of a duly enacted ordinance. Any procedure governing the use or development of land must be established by the municipal council through an ordinance.

Here, the delegation of authority to a third party to determine the reasonable accommodation request was not created by ordinance. Instead, it was established through an agreement between the Planning Commission and Rise Recovery. Because that procedure was not enacted in the manner required by MLUDMA, the delegation was improper and contrary to state law. The resulting decision is invalid.

MLUDMA provides that "[a] municipality may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with objective standards set forth in an applicable ordinance." Utah Code Ann. § 10-20-506(1)(a). MLUDMA further provides that "[a] municipality may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law." *Id*. at § 10-20-501(1)(b). Pursuant to this authority, Pleasant View City adopted a conditional use permit process that requires compliance with objective standards set forth in its ordinances. Once adopted, the City is required to follow that process when reviewing and approving conditional use applications.

The review procedure for conditional use permit is as follows:

> "A. Application on forms provided by the city for a conditional use permit or site plan approval shall be made to the City Planner.
>
> B. Detailed location, site and building plans according to the check list provided with the application forms shall accompany the completed application forms.
>
> C. The city planner shall determine whether or not an application is complete. If not complete the applicant will be informed of the deficiencies. Once an application is complete, the city planner shall forward copies to appropriate staff or agencies for review and comment and schedule the application at a regularly scheduled DRC (Development Review Committee) meeting. Upon a recommendation from the DRC, who may do so with conditions or list of requirements, the application shall be scheduled for a hearing at the next applicable Planning Commission meeting.
>
> D. The Planning Commission may approve, deny or approve with conditions. (Ord 2009-16, dated 10/13/09; prior codes: Ord. 2007-9, 6/26/07, Ord. 87-17.03 (part), 1987 and §34-23-1)"

Code, 18.54.040.

Here, Rise Recovery sought a conditional use permit to operate a fourteen-person sober living facility on the Property. Approval of that use necessarily required relief from Code, 18.04.250 because the proposed occupancy exceeded the number of unrelated persons otherwise permitted under the Code. As part of its conditional use permit application, Rise Recovery therefore requested a reasonable accommodation. Under MLUDMA, conditional use decisions must be made in accordance with the objective standards established by ordinance. Utah Code Ann. § 10-20-506(1)(a). Likewise, the City may not create an alternative review process for a component of a conditional use application that is not authorized by ordinance.

The applicable approval process is set forth in Code, 18.54.040. Nothing in that section authorizes the Planning Commission to delegate its decision-making authority regarding a conditional use application, or any component of that application, to a third party. Because the Code does not authorize such a delegation, and because no ordinance establishes a separate procedure for reviewing reasonable accommodation requests, the Planning Commission lacked authority to delegate the reasonable accommodation determination to a third party. That delegation was inconsistent with both MLUDMA and the Code and renders the resulting approval invalid.

ii. Public Policy and Due Process

Moreover, the Planning Commission's process for approving Rise Recovery's request raises significant public policy and due process concerns. The Order was based exclusively on materials submitted by Rise Recovery. *See* Exhibit A. The Order further provided that the purpose of the conditional use hearing would be limited to determining whether any reasonably anticipated impacts of the proposed use could be mitigated through reasonable conditions consistent with the City's ordinances. *See* Exhibit A. The Order also prohibited the decision-maker from reconsidering whether the proposed use was allowed, whether the residents qualified as persons with disabilities, or whether the number of residents should be reduced. *See* Exhibit A.

This process is inconsistent with the review procedure established in the Code. Under Code, 18.54.040(c), a conditional use permit application must be scheduled for a hearing before the Planning Commission. The Planning Commission then has the authority to approve, deny, or approve the application with conditions. Code, 18.54.040(d). These hearings are public meetings that allow neighboring property owners and other interested parties, whose properties and interests may be affected by the proposed conditional use, to present evidence, express concerns, and participate in the decision-making process.

By removing key issues from consideration and limiting the scope of the hearing, the Order effectively deprived the Planning Commission and the public of the opportunity to fully evaluate the proposed use. Interested parties were prevented from addressing whether the requested accommodation was necessary, whether the proposed occupancy level was appropriate, and whether the use complied with applicable law. In doing so, the process undermined the purpose of the public hearing and the procedural safeguards established by the Code.

Accordingly, the Order is invalid. The Planning Commission must review Rise Recovery's application in accordance with the procedures set forth in Code, 18.54.040, including conducting a public hearing and exercising its authority to approve, deny, or approve the application with appropriate conditions based on the standards established by the Code.

b. Because the conditional use permit was not approved in accordance with the procedures required by MLUDMA and the Code, the statute of limitations for an appeal has not yet commenced. Alternatively, if the City Council determines that the statute of limitations has begun to run, it should be deemed to have commenced on June 25, 2026.

As discussed above, the process for allowing Rise Recovery to operate a sober living facility at the Property was invalid because it did not comply with the procedures required by MLUDMA and the Code. Accordingly, the thirty-day appeal period set forth in the Code, 18.54.100 has not begun to run because no valid conditional use permit approval has occurred through the required process.

Although the appeal period did not begin to run as a result of the Order because the Order was issued through an improper process, if the City determines that the appeal period has commenced, it could not have begun earlier than June 25, 2026, when the Planning Commission conducted the conditional use permit hearing and approved the conditional use permit.

Accordingly, under either analysis, this appeal is timely. If the approval process was invalid, the thirty-day appeal period has not yet commenced. Alternatively, if the City concludes that the appeal period began to run, it commenced on June 25, 2026, and had not expired as of the date this appeal was submitted.

c. Because Rise Recovery is a for-profit LLC, it was required to obtain a reasonable accommodation from Code, 18.04.250 to permit not more than five unrelated persons to reside together as a single housekeeping unit, as the Code limits occupancy to "not more than five unrelated persons living together as a single <u>non-profit</u> housekeeping unit."

In the "Reasonable Accommodation Request Under the Federal Fair Housing Act (42 U.S.C.A. § 3604(f)(3)(B)), Title II of the ADA (42 U.S.C. § 12132), Rehabilitation Act (29 U.S.C. § 794), and the Utah Fair Housing Act (Utah Code Ann. § 57-21-5(4)(b))" (the "Rise Recovery Request"), Rise Recovery stated, "[u]nder Pleasant View's current zoning framework, up to five (5) unrelated disabled individuals may reside together at the Property without special approval." *See* Exhibit D. In support of that statement, Rise Recovery cited Code, 18.04.200 (defining "Dwelling"), Code, 18.04.230 (defining "Dwelling – Single Family"), Code, 18.04.250 (defining "Dwelling Unit"), and Code, 18.04.260 (defining "Family")." *See Id*. Rise Recovery further stated that it was "requesting relief from the five-person occupancy limitation as applied to disabled residents." *See Id*. Rise Recovery sought approval to house fourteen people at the Property. *See Id*.

The Property is zoned RE-15. *See* Exhibit E. One of the permitted uses within the RE-15 zone is a single-family dwelling. Code, 18.09.20. "Single-family dwelling" means a building arranged, or designed to include only one (1) dwelling unit. *Id*. at 18.04.230. "'Dwelling unit' means any building or portion thereof designed, occupied, or intended as a residence for a family with

complete, and independent facilities for living, sleeping, eating, cooking and sanitation." *Id*. at 18.04.250. Family is defined as:

> "one or more persons related by blood, marriage, adoption, or guardianship or a group of not more than five unrelated persons living together as a single non-profit housekeeping unit, together with any incidental domestic staff who may or may not reside on the premises. Family does not exclude the care of foster children."

Id. at 18.04.260 (emphasis added).

The Code further provides a residential facility for persons with a disability shall be permitted only when authorized by a conditional use permit. *Id*. at 18.09.030.

Rise Recovery is a limited liability company and is not organized as a non-profit entity. *See* Exhibit F. As a result, Rise Recovery's proposed use did not comply with the Code's requirement that a group of not more than five unrelated persons live together as a single non-profit housekeeping unit. Code, 18.09.030. Accordingly Rise Recovery was required to obtain a reasonable accommodation from Code, 18.04.260 not only to exceed the five-person occupancy limitation, but also to permit a group of unrelated individuals to reside together as a single for-profit housekeeping unit. However, Rise Recovery's request sought relief only from the five-person occupancy limitation. *See* Exhibit A, Exhibit B, and Exhibit D. Rise Recovery did not request, and Pleasant View did not approve, a reasonable accommodation from the separate requirement that the housekeeping unit operate on a non-profit basis. Consequently, the requested and approved accommodation did not encompass all relief necessary for Rise Recovery to lawfully operate the requested sober living facility under the Code.

d. Even if Rise Recovery were granted an accommodation allowing not more than five unrelated persons to reside together in a housekeeping unit, increasing the occupancy limit from five to fourteen individuals is not necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling, and therefore no such accommodation is required.

Even if Rise Recovery had properly received a conditional use permit to operate a for-profit sober living facility housing five unrelated individuals and later sought a conditional use permit to increase that number to fourteen residents, the requested accommodation would still not be required under applicable law.

As discussed above, Rise Recovery requested approval to operate a sober living facility at the Property with up to fourteen residents. The issue is whether allowing fourteen unrelated individuals to reside together at the Property is necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling. "[A] reasonable accommodation is required whenever it 'may be *necessary* to afford [a disabled] person equal opportunity to use and enjoy a

dwelling.'" *Cinnamon Hills Youth Crisis Ctr., Inc. v. Saint George City*, 685 F.3d 923 (10th Cir. 2012) (quoting 42 U.S.C. § 3604(f)(3)(B)). The Tenth Circuit has provided guidance on the word "necessary".

> "What does it mean to be 'necessary'? The word implies more than something merely helpful or conducive. It suggests instead something 'indispensable,' 'essential,' something that 'cannot be done without.' What's more, the FHA's necessity requirement doesn't appear in a statutory vacuum, but is expressly linked to the goal of afford[ing] ... equal opportunity to use and enjoy a dwelling. And this makes clear that the object of the statute's necessity requirement is a level playing field in housing for the disabled. Put simply, the statute requires accommodations that are necessary (or indispensable or essential) to achieving the objective of equal housing opportunities between those with disabilities and those without."

Id.

The Tenth Circuit and Utah Courts have established that Rise Recovery's Request does not satisfy this standard. In *Recovery Landholding, LLC v. City of S. Ogden,* Brighton operated a residential facility for people recovering from alcoholism and substance abuse and requested that South Ogden City allow up to twenty patients at his facility. The Court held that Brighton's failure to accommodate claim did not survive summary judgment. Brighton argued that its requested accommodation was necessary to give disabled people the equal opportunity to live in residential neighborhoods. The Court held that Brighton's argument failed to recognize that the applicable city code allowed residential facilities for disabled persons and failed to provide evidence that these individuals require treatment in residential group setting. *Recovery Landholdings, LLC v. City of S. Ogden,* No. 1:17-CV-152 TS, 2019 WL 1489003, 6 (D. Utah Apr. 4, 2019). Additionally, Brighton failed to provide evidence that such treatment must occur with the number of patients it requested. *Id*.

The Court further explained that "even if Brighton had done so, such evidence would likely not be of paramount importance to the FHA analysis requiring a showing that the accommodation would better provide to Brighton's residents equal opportunity to enjoy a dwelling." *Id*. "Brighton is requesting something, a group of thirty-two unrelated individuals living together in a residential area, that is unavailable to anyone, disabled or not." *Id*. "There is no evidence that the City has or ever would grant a request to allow thirty-two unrelated, non-disabled people to live together in an R-1-10 zone." The Court emphasized that the Fair Housing Act does not compel the city to provide Brighton "an opportunity that isn't available to others." *Id*.

Similarly, in *Cinnamon Hills Youth Crisis Ctr., Inc., v. Saint George City*, the Court held that the Cinnamon Hill's request for zoning variance to allow residential treatment center to operate within public motel was not a reasonable accommodation. *Cinnamon Hills*, 685 F.3d at 917. There, the Court stated that "in seeking to occupy the top floor of a motel in a commercial zone, Cinnamon

Hills is seeking an opportunity that isn't available to others rather than one that is…[a]nd that's a result the statute does not compel." *Id*. at 924.

Like Brighton, Rise Recovery included reports and articles suggesting sober living facilities with more residents may be beneficial. However, Rise Recovery did not present evidence that these individuals require treatment in this group setting or that treatment must occur with fourteen residents. Even if, Rise Recovery had presented this evidence, Rise Recovery would still fail to establish the necessary requirement. Like Brighton and Cinnamon Hills, Rise Recovery is not requesting the same opportunity enjoyed by those without disabilities. Like, the city code in Brighton, the Code allows a group of disabled people to live in the applicable zone. The City does not allow more than fourteen unrelated individuals to live together in the RE-15 zone, whether disabled or not.

Accordingly Rise Recovery's request is not necessary to provide people with disabilities an equal opportunity to use and enjoy a dwelling. Because increasing the number of unrelated individuals that can live together from five to fourteen would grant a housing opportunity unavailable to non-disabled persons, the requested accommodation exceeds what is required under applicable law. Therefore, a reasonable accommodation authorizing fourteen unrelated individuals to live together in an RE-15 Zone is not required.

Rise Recovery also argued that increasing the residents to fourteen is necessary for the sober living facility to remain financially viable. In *Etna Properties, LLC and SquareOne Recovery, LLC v. Holladay City*, Etna and SquareOne requested a reasonable accommodation allowing a substance abuse treatment facility to house twelve unrelated residents rather than six permitted under the applicable ordinance because it would not be economically feasible for them to operate the facility with only six residents. *Etna Props., LLC v. Holladay City*, No. 217CV00980DBBCMR, 2020 WL 1236439, 1 (D. Utah Mar. 13, 2020). The Court rejected that argument. The Court found that because the city code already provided some preferential treatment for persons with disabilities by allowing up to six unrelated disabled individuals to reside together, while only four unrelated non-disabled individuals could do so, the additional accommodation requested by Etna and SquareOne was not necessary to ensure people with disabilities received the same housing opportunities as non-disabled people. *Id*. at 3.

Like Etna and SquareOne, Rise Recovery seeks to increase the permitted occupancy based on financial viability. However, financial viability is not the standard. The relevant question is whether the requested accommodation is necessary to afford persons with disabilities an equal housing opportunity. Accordingly, Rise Recovery's claim that fourteen residents are required to make the sober living facility financially viable is not relevant in the reasonable accommodation analysis.

e. Because reasonable conditions capable of mitigating the reasonably anticipated detrimental effects of the proposed use cannot be imposed in accordance with the applicable standards, the conditional use permit should be denied.

The Code provides

"**18.54.020 Conditional Use Permit.**

A. A conditional use permit shall be required for all uses listed as conditional uses in the zone regulations.

B. A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

C. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

D. A conditional use permit may be revoked by the Planning Commission, upon failure to comply with the conditions imposed with the original approval of the permit.

E. The consideration of a conditional use permit shall also include the consideration of a site plan as contained in this chapter and the Planning Commission may impose any conditions or requirements designated or specified to meet the provisions of this chapter and the City's General or Master plans."

Code, 18.54.020

The following conditions were approved at the June 25, 2026 Planning Commission meeting:

Rise Recovery, LLC – Conditions

1. Address parking concerns including a parking plan the city and applicant agree upon
2. Maintain the residential character of the surrounding neighborhood
3. No commercial signage
4. Comply with all generally applicable public health & safety standards
5. Comply with Noise ordinances
6. Control site lighting
7. Obtain all required State and local licensing prior to commencing operation
8. Maintain all required licensing in good standing
9. Operate in a manner consistent with the representations made in the application and supporting documents

10. Any material change to the nature of use, including any increase in the number of residents or alteration in operational characteristics shall require approval as
applicable by City code
11. Other land use standards that are applicable to residential uses in general

See Exhibit C.

The Order and Westview anticipate various detrimental effects of the operation of business within the Westview Subdivision, compromised of single-family homes. *See* Exhibit G. The Rise Recovery, LLC – Conditions (the "Conditions") do not adequately mitigate the reasonably anticipated detrimental effects of operation of a business in the Westview Subdivision. Increased traffic and parking demands are an anticipated detrimental effect of a business in a residential subdivision. The only condition specifically addressing the traffic and parking concerns is Condition No. 1 which is vague and fails to establish applicable standards to mitigate the increased traffic and parking concerns. If the increased traffic and parking concerns cannot be mitigated, the Code requires that the conditional use be denied. Code, 18.54.020.

Likewise, Condition No. 2, requiring Rise Recovery to maintain the residential character of the surrounding neighborhood does not adequately address the reasonably anticipated detrimental effects associated with operating a for-profit entity from a residential subdivision. The condition fails to provide a standard to maintain the residential character of the surrounding neighborhood.

The remaining conditions are similarly broad and generic. Requirements to comply with licensing requirements, public health and safety standards, noise ordinances, and other applicable laws merely require compliance with existing legal obligations. They do not identify or mitigate any specific detrimental effects associated with the proposed use. As a result, the conditions fail to satisfy the requirement of Code, 18.54.020(B) that reasonably anticipated detrimental effects be mitigated through reasonable conditions in accordance with applicable standards. *Id*. at (B).

Accordingly, because the approved conditions do not adequately mitigate the reasonably anticipated detrimental effects of the proposed use, and because no additional conditions have been identified that would achieve compliance with the applicable standards, the conditional use permit should be denied pursuant to Code, 18.54.020(C).

IV. CONCLUSION

This appeal should be granted. The City Council should determine the Planning Commission's process for approving Rise Recovery's conditional use permit, including the reasonable accommodation request, was improper and invalid; that the appeal period for the conditional use permit approval, including the reasonable accommodation request, has not begun to run, or alternatively began on June 25, 2026; that Rise Recovery was required to obtain a reasonable

accommodation permitting a for-profit housekeeping unit with not more than five unrelated residents; that increasing the occupancy limit from five to fourteen individuals is not necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling, and therefore no such accommodation is required; and that the conditional use permit should be denied because the reasonably anticipated detrimental effects of the proposed use cannot be adequately mitigated through reasonable conditions imposed in accordance with applicable standards.

Sincerely,

SMITH KNOWLES, PLLC

/s/ Blake D. Johnson
Blake D. Johnson
Attorney at Law

/s/ Kennedy Kawaguchi
Kennedy Kawaguchi
Attorney at Law

Exhibit A

RISE RECOVERY LLC

CONSIDERATION OF THE RISE RECOVERY LLC PROPOSED SITE PLAN/CONDITIONAL USE PERMIT FOR A RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY – SOBER LIVING, LOCATED AT 1330 WEST 3100 NORTH
APPLICANT: Rise Recovery LLC
June 4, 2026

REQUEST SUMMARY

Rise Recovery, LLC has applied for a conditional use permit along with a Reasonable Accommodation request to operate a 14-bed residential support facility for individuals with disabilities recovering from substance use disorders and other qualifying mental health conditions at 1330 West 3100 North in Pleasant View.

The request is made pursuant to the federal and state Fair Housing Acts and Utah land use law, which require municipalities to provide reasonable accommodations necessary to afford persons with disabilities equal housing opportunity. Under the current Pleasant View City Code, only five unrelated disabled individuals may reside together without additional approval; therefore, Rise Recovery has requested accommodation from the City's occupancy limitations.

BACKGROUND

The applicant submitted an ADA Reasonable Accommodation Request concurrently with a business license application for the proposed residential facility at 1330 West 3100 North. As part of the request, the applicant sought waiver of the City's conditional use permit process applicable to residential facilities for persons with disabilities housing more than five unrelated individuals. The City consulted with legal counsel regarding the request, and

counsel advised that the matter should be reviewed by an independent third-party hearing/appeal officer. The City's legal counsel subsequently retained Christopher Crockett, a land use attorney, to review the accommodation request and supporting materials submitted by both the applicant and the City and to render a decision. Following his review, Mr. Crockett determined there was insufficient evidence to support waiving the conditional use permit process. Mr. Crockett also issued additional findings and conclusions, which are further discussed in the accompanying Memorandum of Decision.

ANALYSIS

In the Memorandum Decision and Order, the independent hearing officer, Christopher K. Crockett, determined that the applicant provided sufficient evidence demonstrating that the proposed residential support program qualifies as a residential facility for persons with disabilities under applicable federal and state law.

The decision notes:

- ✓ That the proposed use is residential in nature, will operate within an existing residential structure, and is not intended to function as an institutional or inpatient treatment facility.
- ✓ The applicant represented the facility would maintain the residential character of the neighborhood and would not create impacts beyond those typically associated with residential occupancy
- ✓ The applicant provided adequate documentation supporting the necessity and reasonableness of the requested accommodation to allow up to fourteen unrelated residents at the property (PVC code allows up to 5).
- ✓ The conditional use review must be limited in scope. Specifically, the conditional use process is not intended to reconsider whether the use is permitted, whether the residents qualify as persons with disabilities, or whether the number of residents should be reduced. The purpose of the conditional use process is limited to evaluating whether reasonably anticipated land use impacts can be mitigated through objective and reasonable conditions consistent with City code and Utah law.
- ✓ Examples of conditions that may be considered during the conditional use review, including parking management, compliance with health and safety standards, maintaining residential character, obtaining and maintaining required state licensing, and ensuring the facility operates consistent with representations made in the application materials.
- ✓ The conditional use permit should be approved if reasonably anticipated impacts can be mitigated through appropriate conditions supported by substantial evidence in the record.

ORDER

- The City must recognize the proposed use as a residential facility for persons with disabilities under applicable federal and state law.
- The City must allow Rise Recovery to operate at the property with up to fourteen (14) residents as a reasonable accommodation.
- The City must treat the use as residential in nature and evaluate it in the same manner as other similarly situated residential uses.
- The City may not reconsider during the conditional use process whether:
    - the use is allowed,
    - the residents qualify as persons with disabilities, or
    - the number of residents should be reduced.
- The City must conduct the conditional use permit review consistent with the standards outlined in the Decision and Order and in compliance with federal and state law.
- **The City must limit the scope of the public hearing and decision-making process to objective land use impacts and whether those impacts can be mitigated through reasonable conditions.**
- **The City may not base its decision on generalized public opposition, speculation, stigma, or discriminatory concerns regarding the residents.**
- The City must approve the conditional use permit if reasonably anticipated impacts can be mitigated through reasonable conditions supported by substantial evidence in the record.
- Any conditions imposed by the City must:
    - be directly tied to specific City Code provisions,
    - be supported by substantial evidence in the record, and
    - include a factual basis explaining the need for the condition.
- The City may impose reasonable conditions related to items such as parking, maintaining residential character, compliance with health and safety standards, licensing requirements, noise, lighting, and consistency with the submitted application materials.

PUBLIC NOTICE

Public notice of the proposed General Plan amendment was published in accordance with Utah State Code requirements, including:

- Posting on the Utah Public Notice Website

- Posting on the Pleasant View City website
- Posting at City Hall

STAFF RECOMMENDATION

Staff recommends Planning Commission grant approval of the conditional use permit allowing fourteen residents if they can determine the reasonably anticipated impacts can be mitigated through appropriate conditions.

STAFF CONTACT

Andrea Z. Steiniger, MBA – City Administrator
asteiniger@pleasantviewut.gov
801.782.8529

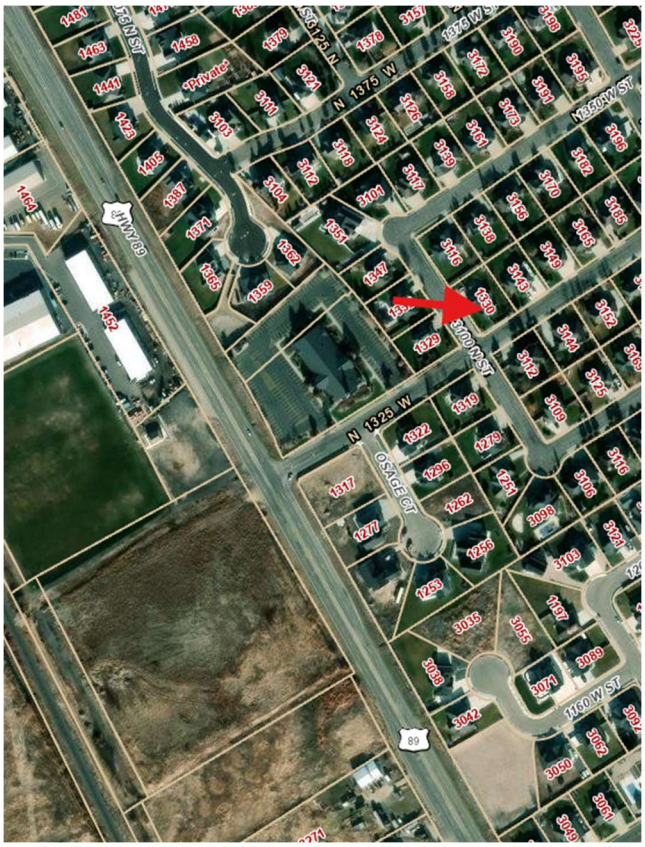
ATTACHMENTS

- Attachment A – Property & Vicinity Map
- Attachment B – Memorandum Decision and Order on Reasonable Accommodation Request

ATTACHMENT A

Property:

Vicinity Map:



ATTACHMENT B

PLEASANT VIEW CITY, STATE OF UTAH

IN THE MATTER OF AN APPLICATION FOR REASONABLE ACCOMMODATION – RISE RECOVERY LLC (1330 W 3100 N, PLEASANT VIEW, UT 84414)	**MEMORANDUM DECISION AND ORDER ON REASONABLE ACCOMMODATION REQUEST** **DECISION MAKER: CHRISTOPHER K. CROCKETT**

I. INTRODUCTION

This matter involves a request by Rise Recovery LLC ("Rise") for a reasonable accommodation under the Fair Housing Act to operate a residential support program at 1330 West 3100 North in Pleasant View, Utah (the "City"). Rise seeks to house up to fourteen adult men who qualify as persons with disabilities under the law and asks the City to treat the use as residential. Rise also asks the City to modify certain land use requirements that would otherwise limit occupancy and require a public hearing for a conditional use permit. For the reasons discussed below, the requested accommodation is granted in part and denied in part.

II. BACKGROUND

Rise submitted a written request for reasonable accommodation, together with supporting declarations and exhibits describing the proposed use and the necessity of the requested occupancy on February 24, 2026. In its application, Rise seeks multiple accommodations under federal and state law. First, Rise requests relief from the City's occupancy limitations to allow up to fourteen unrelated individuals with disabilities to reside together in a single residential household, rather than the five-person limit otherwise applicable under City code. Second, Rise requests modification of the City's procedural requirements by seeking waiver of the conditional

use permit process, including the public hearing requirement, as applied to this use. Third, Rise requests that the City interpret and apply its definition of "disability" consistent with federal and state law, or, to the extent necessary, grant an accommodation from any narrower interpretation that would exclude the proposed residents from protection.

The City and the applicant have stipulated that the undersigned would act as the decision authority for purposes of deciding the reasonable accommodation request and that the matter be resolved based upon the written record submitted. The City has not presented additional evidence either in support or opposition to the proposal. As a result, the matter is being decided solely based upon the materials provided by Rise. The City and Rise also stipulated that the public hearing ordinarily required as part of the conditional use permit process be waived.

III. FINDINGS

The subject property is located in the RE 15 zone, which is intended for single-family residential use. Within that zone, a residential facility for persons with a disability is permitted through issuance of a conditional use permit. PLEASANT VIEW CITY CODE § 18.09.030.

The record establishes that Rise's proposed use is to establish a residential support program (commonly referred to as "sober living") where residents live together in a shared dwelling environment with peer support and supervision. The program is voluntary, does not involve court-ordered placement, and does not function as an institutional or inpatient treatment facility. Decl. of Brock Howick ¶¶ 8–9. The property itself will remain a residential structure, and Rise does not propose exterior or structural changes that would alter its residential appearance or character of the surrounding neighborhood. Application at 2; Decl. of Brock Howick at ¶ 17. Rise also states that the use will not materially increase traffic, parking demand, noise, or lighting beyond levels typically associated with residential occupancy. *Id.* at ¶¶ 15–18.

Rise has also submitted a business license application and an application to the Utah Department of Health and Human Services for a license to operate. Business License Application at 1–12. Rise represents that all required licensing from the State of Utah will be obtained and maintained as a condition of operation, and certifies that all residents qualify as persons with disabilities under applicable law. Decl. for Business License at ¶ 4. Finally, Rise has submitted a substantial amount of secondary material in support of its request. Taken together, the undersigned finds that the record sufficiently demonstrates the proposed use will function as a residential household and is consistent with the character of the surrounding neighborhood.

IV. LEGAL ANALYSIS

The Fair Housing Act ("Act") requires municipalities to make reasonable accommodations when necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B). The governing standard requires that the accommodation be both reasonable and necessary, with necessity meaning that the accommodation is essential rather than merely helpful. See *Bangerter v. Orem City Corp.*, 46 F.3d 1491, 1502 (10th Cir. 1995); *Cinnamon Hills Youth Crisis Center, Inc. v. Saint George City*, 685 F.3d 917, 923 (10th Cir. 2012). [1]

The Act does not displace local zoning authority, and state and local governments may continue to implement and enforce neutral land use procedures. The United States Department of Justice and the United States Department of Housing and Urban Development have jointly recognized that group homes for persons with disabilities remain subject to state and local land use regulations, provided that such regulations are applied in a manner consistent with the Fair Housing Act and include reasonable accommodations where necessary. *See* HUD Joint

[1] Rise has provided a thorough and comprehensive legal analysis of reasonable accommodation requests under the Fair Housing Act.

Statement – State and Local Land Use Laws and Practices and the Application of the Fair Housing Act, Exhibit KK. In short, while the Act preserves local zoning authority and permits the use of neutral procedures, it prohibits the application of those regulations in a manner that discriminates against protected individuals or treats them differently than similarly situated families.

Utah's Land Use, Development, and Management Act ("LUDMA") governs the process for reviewing land use applications. Under UTAH CODE ANN. § 10-20-506 and the corresponding provisions of the Pleasant View City Code, a conditional use permit shall be approved if reasonably anticipated detrimental effects can be mitigated through reasonable conditions. *See* Pleasant View City Code § 18.54.020. Utah's courts have also made clear that municipalities must comply with their own ordinances and may not disregard procedural requirements absent lawful authority. *Springville Citizens for a Better Community v. City of Springville*, 1999 UT 25, ¶ 29.

Two distinct legal inquiries are presented here as a result. First, the reasonable accommodation analysis determines whether the use must be allowed and how it is classified. Second, the conditional use process determines whether any site-specific impacts associated with that use can be mitigated through reasonable conditions. The determination that a use is residential in nature does not mean that it is free from impacts. Even residential uses may give rise to considerations such as parking, traffic, or similar issues, which are properly addressed through the conditional use process.

The record more than adequately establishes that the requested accommodation is necessary and reasonable, that the requested occupancy level is supported by the evidence as essential to the functioning of the program and to providing meaningful housing opportunity, and

that any impacts associated with the use can be mitigated through reasonable conditions imposed through the conditional use process based on objective land use standards that are applicable to residential uses in general.

A. Request to Waive Public Hearing

Rise has requested that the City waive the public hearing ordinarily required as part of the conditional use permit process. The reasons identified include concerns regarding presumed stigma and embarrassment, potential public opposition, and delay. While those concerns are understandable, the governing legal standard requires a showing that waiver is necessary to afford equal housing opportunity. The evidence does not demonstrate that a public hearing cannot occur; rather, it reflects concern regarding the nature of potential public comment. That concern can be addressed through a more narrowly tailored approach. By clearly defining the scope of the hearing and limiting the decision to objective land use considerations supported by substantial evidence, the City can ensure compliance with federal law without eliminating the hearing entirely. Public clamor or generalized opposition cannot form the basis for a land use decision, and the decision maker must rely only on substantial evidence contained in the record. It is not reasonable to assume that every public hearing, by virtue of accepting comment, will result in discriminatory decision making. The land use authority is capable of receiving public input, considering relevant and credible evidence, and disregarding comments that are speculative, unsupported, or based on improper considerations. This conclusion is reinforced by the structure of Utah land use law and the City's ordinances, which mandate that conditional uses shall be approved when impacts can be mitigated through neutral and objective conditions. Rendering a decision based on public clamor would be arbitrary and capricious and grounds for reversal under state law as well.

The public hearing is a procedural component of that approval process, not a barrier to it. Although the LUDMA does not independently require a public hearing in all cases, the City has adopted such a requirement by ordinance.[2] Once adopted, that requirement must be followed. The City may not waive it absent authority within the ordinance or a showing that waiver is necessary under federal law. Neither is present here. For these reasons, the request to waive the public hearing is denied.

B. Scope of Hearing and Decision Framework

The conditional use permit proceeding must be conducted in a manner that reflects the determinations made in this Order and complies with federal and state law. At the outset of the hearing, the decision maker should clearly explain the scope and purpose of the proceeding so that all participants understand the issues. By way of example, a public hearing may be opened with an introductory statement, such as:

> This matter is under consideration for a conditional use permit. The City has already determined that the proposed use is residential in nature and that occupancy of up to fourteen residents is permitted as a reasonable accommodation under the Fair Housing Act.
>
> This hearing is thus limited in scope. The decision maker is not reconsidering whether the use is allowed, whether the residents qualify as persons with disabilities, or whether the number of residents should be reduced. Those issues have already been decided and are not before us.
>
> Instead, the purpose of this hearing is to determine whether any reasonably anticipated land use impacts associated with the proposed use can be mitigated through reasonable conditions consistent with the City's ordinances. Public comment will be accepted; however, the decision must be based on substantial evidence in the record. Comments based on generalized concerns, speculation, or opposition to the nature of the residents do not constitute substantial evidence and cannot be relied upon in making this decision.

---

[2] It has been represented that Pleasant View City intends to remove residential treatment facilities as generally permitted uses in the future. As of the date of the business license and conditional use applications, however, they are still listed as a conditional use under the City's Land Use Code.

The decision maker shall ensure that the hearing remains focused on those issues and shall not rely on generalized public opposition or speculation. The decision maker may also implement appropriate time, place, and manner restrictions on the conduct of the hearing, including reasonable limits on the duration of individual comments or the overall length of the hearing. Such restrictions are constitutionally permissible within a limited public forum and ensure that the hearing is conducted in an orderly, fair, and efficient manner while preserving the rights of all participants.

C. Conditions and Approval Standard

The record supports the conclusion that reasonably anticipated impacts associated with the proposed use can be mitigated through reasonable conditions. Under Utah law and City code, the conditional use permit shall be approved if such mitigation is achieved. In doing so, the use must be evaluated and regulated in the same manner as any other similarly situated residential use. The accommodation requires that the proposed use be treated as a residential use for purposes of applying land use regulations, and it may not be subjected to different or more burdensome standards based on the status of its residents.

Conditions imposed as part of the conditional use approval must be directly tied to specific provisions of City code and must be supported by substantial evidence in the record. Each condition shall be accompanied by a clear statement of the factual basis supporting the condition and the corresponding code provision that justifies its inclusion. This requirement ensures that the final decision is supported by substantial evidence on the record and is not arbitrary or capricious, consistent with Utah law governing judicial review of land use decisions. *See* UTAH CODE ANN. § 10-20-1109.

Appropriate conditions may include requirements addressing parking, including the development of a parking plan agreed upon by the City and the applicant, as well as requirements ensuring that the use is operated in a manner that maintains the residential character of the surrounding neighborhood. Additional conditions may require that no commercial signage be installed, that the facility comply with all generally applicable public health and safety standards, including applicable noise and lighting ordinances, and that the applicant obtain all required licensing from the State of Utah prior to commencing operation and maintain such licensing in good standing. Conditions may also require that the facility operate in a manner consistent with the representations made in the application and supporting materials. Any material change to the nature of the use, including any increase in the number of residents or alteration in operational characteristics, shall require approval under the applicable provisions of City code. These requirements ensure that the conditional use process complies with both federal and state law and that the accommodation granted is implemented in a manner that is consistent, lawful, and supported by the record.

V. DECISION AND ORDER

Rise has presented sufficient evidence demonstrating that the requested accommodation is necessary and reasonable, and there is no evidence submitted to the contrary. The record further supports the conclusion that the proposed residents qualify as persons with disabilities protected under the Act and applicable state law. The proposed use is residential in nature, and the requested occupancy level of up to fourteen unrelated individuals is supported by the record. The request for reasonable accommodation to that extent is therefore granted. Rise is permitted to operate a residential facility for persons with a disability at the subject property with up to

fourteen residents, and the use shall be treated as residential in nature and evaluated in the same manner as any other similarly situated residential use.

The request to waive the conditional use permit process and the public hearing required by City ordinance is denied, and the conditional use permit process shall proceed in accordance with this Order. The decision maker, whether the undersigned if so designated by the City Council or the Planning Commission, shall apply the standards set forth herein and shall approve the conditional use permit if reasonable conditions can mitigate any identified impacts.

This Decision and Order ensures compliance with federal and state law, preserves the integrity of the City's land use framework, and provides a clear and legally defensible path forward to final decision.

DATED this 21st day of April, 2026.

Christopher K. Crockett
Reasonable Accommodation Decision Maker

Exhibit B

MINUTES OF A SPECIAL PLEASANT VIEW CITY
PLANNING COMMISSION MEETING HELD
June 25th, 2026 at 6:00 P.M.
Planning Commission (youtube.com)

MEMBERS PRESENT	VISITORS
Andy Nef	Dan Biddulph – Petitioner Attorney
Jeff Bolingbroke	Matt Wilson – Land use Attorney
John Morris	
Dean Stokes	
Manya Speelman	
David Grose	MINUTES PREPARED BY:
Brian Gray	Janitza Osuna(with AI Assistance)
Nic Bennion	
	MINUTES APPROVED:
EXCUSED	
David Gossner	
STAFF PRESENT	
Andrea Steiniger, City Administrator	
Tammy Eveson, Planner I	
Janitza Osuna, Planner Tech	

1) CALL TO ORDER

a. Pledge of Allegiance and Opening Prayer, Reading or Expression of Thought. (Commissioner David Grose)
b. Declaration of Conflicts of Interest. *NONE DECLARED*

2) ADMINISTRATIVE ITEMS

a. ***Conditional Use Permit:*** **Consideration of a tabled item from the June 4, 2026, Planning Commission meeting for a Conditional Use Permit for a Residential Facility for Persons with a Disability – Sober Living, located at 1330 West 3100 North – (Presenter: Andrea Steiniger)**

The City Administrator reviewed the approval process for the proposed Sober Living Facility, stating that she wanted to clarify the process and address what she believed were areas of confusion and misinformation. She explained that the City first received a reasonable accommodation request and a business license application. Because the City does not have a formal process for evaluating reasonable accommodation requests, the matter was referred to legal counsel. She stated that the City's legal counsel and the applicant's legal counsel agreed to appoint an independent third-party hearing officer with experience in land use law to evaluate the request.

The City Administrator explained that the hearing officer reviewed extensive documentation, including more than 800 pages of supporting materials, and evaluated the request under applicable federal and state law, including the Fair Housing Act (FHA), the Americans with Disabilities Act (ADA), and relevant City ordinances. She clarified that the reasonable accommodation process is not a public process and does not include a public hearing because the decision must be based on applicable federal and state law rather than public opinion.

She stated that, following the review, the hearing officer issued a Memorandum of Decision and Order, which was provided to the applicant, the City, and legal counsel. After that decision was issued, the

DRAFT

applicant submitted an application for a Conditional Use Permit (CUP). She explained that all actions taken prior to the CUP application, including the reasonable accommodation determination, were made by the independent hearing officer and were not subject to review or modification by the Planning Commission.

The City Administrator stated that the Planning Commission's role is limited to considering the Conditional Use Permit. She explained that the required public hearing was held in accordance with Pleasant View City Code, and that all written correspondence received before the public hearing was provided to each Planning Commission member. She further stated that, because the public hearing was closed at the June 4 meeting, additional public comments received afterward were not forwarded to the Commission.

The City Administrator noted that the Conditional Use Permit had been tabled at the June 4 meeting and was now before the Planning Commission for further consideration. She explained that the Commission could approve the application with conditions that mitigate legitimate land use concerns, table the application, or deny the matter if additional reasonable evidence was needed. She reiterated that staff's recommendation remained unchanged and was that the application should be approved if any legitimate land use concerns could be adequately mitigated.

The City Administrator also noted that questions raised at the previous meeting regarding fire code requirements had been one of the reasons for tabling the application and invited City Attorney Matt Wilson to address those questions.

City Attorney Matt Wilson addressed questions regarding the Fire Marshal's recommendation that a fire sprinkler suppression system be installed in the residence. He stated that, in his legal opinion, requiring a fire sprinkler suppression system solely because of the proposed use would be discriminatory, as a residence occupied by a family of similar size would not be subject to the same requirement.

Attorney Wilson explained that a fire suppression system could be required if the requirement were based on generally applicable fire safety standards, such as inadequate fire hydrant access or the property's location within a designated fire hazard area. He further stated that the applicant's legal counsel had researched the applicable state fire code and identified an exception that, in his understanding, would exempt the property from such a requirement even if it would otherwise apply.

Based on his legal interpretation, Attorney Wilson concluded that it would not be lawful for the Planning Commission to require installation of a fire sprinkler suppression system as a condition of approval for the Conditional Use Permit.

Commissioner Morris asked whether the proposed facility should be classified as an R-3 or R-4 residential occupancy. Attorney Matt Wilson stated that, in his legal opinion, the proposed use qualified as an R-3 residential occupancy and would not constitute a change of use. He further noted that information brought to his attention indicated that, even if the facility were classified as an R-4 occupancy, an exception under the Utah State Fire Code could apply.

Commissioner Stokes asked who had the ultimate authority regarding fire code requirements, noting the distinction between legal counsel's opinion and the authority of fire officials. Attorney Wilson responded that the Planning Commission's decision on the Conditional Use Permit would not bind the Fire Marshal or the Fire District. He explained that if the Fire Marshal or Fire District determined additional fire safety requirements were necessary, they retained the authority to impose and enforce those requirements through their own regulatory processes.

DRAFT

Discussion followed regarding the licensing process through the Utah Department of Health and Human Services (DHHS). Attorney Wilson explained that the Fire Marshal or other reviewing agencies could conduct inspections or require compliance with applicable standards as part of the state licensing process, although he was uncertain whether fire inspections were specifically required by DHHS. He confirmed that the applicant would still be required to obtain all applicable approvals and licenses from the appropriate agencies.
A question was raised regarding the application requirement for a copy of a business license from the Utah Department of Health and Human Services. The City Administrator explained that the Planning Commission could impose conditions of approval requiring the applicant to obtain and maintain all required state licenses and remain in good standing.

Planning Commission Chair Andy Nef read portions of the Memorandum of Decision to remind the Commission of the scope of its review. He stated that the City had already determined that the proposed residential use, accommodating up to 14 residents, was permitted through the reasonable accommodation process. He emphasized that the Planning Commission's consideration of the Conditional Use Permit was limited to evaluating anticipated land use impacts and determining whether any such impacts could be mitigated through reasonable conditions of approval. He further noted that the Commission was not to reconsider whether the use was permitted, whether the residents qualified as persons with disabilities, or other matters that had already been decided through the reasonable accommodation process.

A Planning Commission member asked for clarification regarding the order in which City, county, state, and federal approvals and licensing requirements apply to the proposed facility. The discussion focused on whether the applicant could proceed with the project before obtaining all required approvals.

The City Administrator explained that the Utah Department of Health and Human Services (DHHS) application requires a copy of the City's business license. She stated that, as previously recommended, the Planning Commission could impose a condition of approval requiring the applicant to obtain all required state licenses before commencing operations and to maintain those licenses in good standing. She explained that such a condition would prevent the facility from operating until the Conditional Use Permit, City business license, and all required state licenses had been obtained.

A Planning Commission member asked whether the Commission could address potential additional costs or financial burdens to the City if such impacts were to occur after approval of the Conditional Use Permit. The member asked whether the matter could be revisited in the future if a financial impact became evident or whether any related language should be included as part of the current approval conditions.

Attorney Matt Wilson responded that such a provision could be included in the approval conditions and stated that it would generally be more helpful to clarify expectations at the time of approval. He noted that similar language was included in the applicant's materials and suggested that any condition should incorporate the representations made by the applicant regarding operation of the facility.

The applicant's attorney addressed the Planning Commission regarding the question of potential financial burden to the City. He explained that, as part of the reasonable accommodation review conducted by Mr. Crockett, the analysis included two considerations: whether the accommodation was necessary and whether it was reasonable. He stated that the reasonableness analysis includes consideration of whether the accommodation would create an undue financial burden on the municipality.

DRAFT

He explained that, based on Mr. Crockett's decision approving the reasonable accommodation request, the necessary analysis regarding reasonableness and financial burden had already been completed. He stated that federal law provides guidance regarding undue financial burden and that costs associated with administrative matters, such as holding meetings or processing paperwork, have consistently not been considered an undue burden on municipalities.

The applicant's attorney stated that, from the applicant's perspective, the issue of undue financial burden on the City had already been addressed and determined not to exist as part of the reasonable accommodation review.

The applicant's attorney addressed concerns raised through public comments and stated that the applicant did not anticipate the circumstances discussed occurring. He expressed concern that some public comments could create discriminatory bias toward individuals with disabilities and emphasized that the facility should be treated the same as any other residential use under federal and state law.

The applicant's attorney provided an example of an individual with a disability residing in a home who may require emergency medical assistance due to health conditions. He stated that a resident would not be removed from their home solely because emergency services were called multiple times, and he expressed concern that creating conditions based on potential emergency service calls would be ambiguous and difficult to enforce. He questioned where a threshold would be established if emergency service calls were used as a basis for action, noting that similar circumstances could apply to any resident in the community with medical needs. He reiterated that the applicant's position was that the facility should be treated in the same manner as any other residential use, as required by federal and state law.

The applicant's attorney addressed continued concerns regarding fire code requirements and referenced the North View Fire District report prepared by Fire Marshal Ryan Barker. He stated that the report cited International Fire Code Section 903.2.8 and identified an exception containing four requirements, including a provision requiring all resident sleeping rooms and living spaces to be located exclusively on the level of exit discharge with direct exterior access. He stated that this provision is not part of the current Utah-adopted fire code and referenced Utah Code 15A-5-204, explaining that while Utah has adopted portions of the International Fire Code, the State has adopted its own modified version. He stated that the cited provision has not been part of Utah's adopted fire code since at least 2023. He reiterated that, as previously discussed by Attorney Wilson, the applicant's position is that the proposed use is residential in nature, does not constitute a change of use, and should be treated the same as any other residential use. He referenced the extensive documentation, studies, and research submitted with the reasonable accommodation request and stated that those materials supported the necessity of the accommodation, which resulted in approval by the third-party hearing officer.

The applicant's attorney stated that the current matter before the Planning Commission was limited to consideration of the Conditional Use Permit and appropriate conditions of approval. He reiterated that Utah Code 15A-5-204(6) outlines the applicable modified exemption provisions and stated that the exit discharge requirement referenced in the Fire District report is not included in Utah's adopted code.

The applicant's attorney stated that, in his opinion, imposing such a requirement would create unnecessary barriers for individuals with disabilities who require residential group settings and could result in discriminatory treatment. He further stated that, even if the facility were considered an R-4 occupancy, the applicable exemption would allow a group R-4 fire area not exceeding 4,500 gross

DRAFT

square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved interconnected fire alarm system receiving primary power from the building wiring and commercial power system. He stated that the proposed facility met those criteria.

Planning Commission Chair Andy Nef interrupted the discussion and stated that additional information was being introduced regarding fire code matters that had not been formally presented to the Planning Commission He noted that the Commission had not reviewed any related letters of approval or additional documentation being referenced and requested that discussion remain limited to information properly before the Commission.

The applicant's attorney stated for the record that the Fire Marshal's report had been provided to the applicant by Pleasant View City. Chair Nef acknowledged that the report had been provided to Pleasant View City; however, he clarified that the report had not been presented to the Planning Commission as part of the materials before the Commission. Chair Nef thanked the applicant's attorney for addressing the question raised and reiterated that the Commission's discussion would be limited to the information properly before the Planning Commission.

A proposed condition of approval was discussed requiring the applicant to obtain and maintain all required licenses in good standing. It was also noted that failure to comply with the conditions of approval could result in enforcement action or other appropriate remedies.

Planning Commissioner Morris made a motion to recommend approval of the Conditional Use Permit, subject to the eleven conditions outlined in the June 4 staff memorandum. The motion did not receive a second.

Following discussion of the motion, Commissioner Morris proposed amending the conditions of approval to specifically require the applicant to obtain all required state and local licenses before commencing operations. The maker of the motion accepted the amendment as part of the original motion.

Before calling for a second to the amended motion, a Planning Commission member asked City Attorney Matt Wilson whether the Conditional Use Permit should include language stating that it was non-transferable. Attorney Wilson explained that a Conditional Use Permit runs with the property rather than the individual or business and remains in effect unless it is abandoned or revoked due to a violation. He clarified that while the Conditional Use Permit is tied to the land, a business license is separate and is not necessarily transferable.

The Chair then restated the amended motion as approval of the Conditional Use Permit, subject to the eleven conditions of approval, with the revised condition requiring the applicant to obtain all required state and local licenses prior to commencing operations.

FINAL MOTION
MOTION TO ***APPROVE*** *BY* ***COMMISSIONER BOLINGBROKE - Accepted Amendment***
MOTION ***SECONDED*** *BY* ***COMMISSIONER MORRIS - with Amendment***
VOTE: ***UNANIMOUS***
CONDITIONS/AMENDMENT: Subject to the eleven conditions of approval outlined in the memorandum presented by the City Administrator and dated June 4 and obtain all required state and local licensing prior to commencing operation

DRAFT

3) ADJOURNMENT
The meeting was adjourned with no further items discussed.

DRAFT

Exhibit C

RISE RECOVERY, LLC – Conditions

1. Address parking concerns including a parking plan the city and applicant agree upon
2. Maintain the residential character of the surrounding neighborhood
3. No commercial signage
4. Comply with all generally applicable public health & safety standards
5. Comply with Noise ordinances
6. Control site lighting
7. Obtain all required State and local licensing prior to commencing operation
8. Maintain all required licensing in good standing
9. Operate in a manner consistent with the representations made in the application and supporting documents
10. Any material change to the nature of use, including any increase in the number of residents or alteration in operational characteristics shall require approval as applicable by City code
11. Other land use standards that are applicable to residential uses in general

Exhibit D

PARSONS BEHLE & LATIMER

350 Memorial Drive, Suite 300
Idaho Falls, Idaho 83402
Main 208.522.6700
Fax 208.522.5111

A Professional
Law Corporation

Daniel Biddulph
Attorney at Law
Direct 208.528.5221
DBiddulph@parsonsbehle.com

February 24, 2026

VIA EMAIL

Tammy Eveson
Pleasant View City Planner
520 W Elberta Drive
Pleasant View, Utah 84414
teveson@pleasantviewut.gov

Re: Reasonable Accommodation Request Under the Federal Fair Housing Act (42 U.S.C.A. § 3604(f)(3)(B)), Title II of the ADA (42 U.S.C. § 12132), Rehabilitation Act (29 U.S.C. § 794), and the Utah Fair Housing Act (Utah Code Ann. § 57-21-5(4)(b))

Applicant: Rise Recovery LLC
Property: 1330 West 3100 North, Pleasant View, UT 84414

To Whom it May Concern,

This firm has been engaged to assist Rise Recovery, LLC ("Rise Recovery") in submitting this Application for Reasonable Accommodation to Pleasant View regarding Rise Recovery's intended use of real property located at 1330 West 3100 North, Pleasant View, Utah (the "Property"). This Application is submitted pursuant to the Fair Housing Act, 42 U.S.C. § 3601 et seq., including 42 U.S.C. § 3604(f)(3)(B), the Utah Fair Housing Act, Utah Code § 57-21-1 et seq., and Utah Code § 10-9a-104, which requires municipal land use regulations to comply with federal law.

At the Property, Rise Recovery seeks to operate a "residential facility for persons with a disability," as that term is used in the Codification of the Ordinances of Pleasant View, Utah (the "City Code") § 18.04.465 and as defined in Utah Code § 10-9a-103(66). Specifically, Rise Recovery intends to provide a residential support program (sometimes referred to as "sober living") to individuals with disabilities recovering from debilitating substance use disorders and other qualifying disabilities, including PTSD, anxiety disorders, and major depressive disorder. See Utah Admin. Code r. R501-18-3(3). These individuals are persons with disabilities as defined under 42 U.S.C. § 3602(h). They require stable, structured residential environments in order to heal from trauma and receive services necessary to accommodate their disabilities. Rise Recovery provides those services.

Rise Recovery seeks to use the Property as a fourteen (14)-bed residential facility for persons with disabilities. Under Pleasant View's current zoning framework, up to five (5) unrelated disabled individuals may reside together at the Property without special approval. See City Code §§ 18.04.200 (defining "Dwelling"), 18.04.230 (defining "Dwelling – Single Family"), 18.04.250 (defining "Dwelling Unit"), and 18.04.260 (defining "Family"). Because Rise Recovery intends to house fourteen (14) disabled residents, it hereby submits this Application for Reasonable Accommodation pursuant to 42 U.S.C. § 3604(f)(3)(B), which requires municipalities to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling.

In addition to requesting relief from the City's five-person occupancy limitation as applied to disabled residents, Rise Recovery also seeks a reasonable accommodation from the City's typical procedural requirements governing residential facilities for persons with disabilities. Specifically, under City Code § 18.09, and more specifically under City Code §§ 18.09.020 and 18.09.030, a conditional use permit is required for a residential facility for persons with disabilities with more than 5 unrelated individuals. The conditional use permit process includes additional regulatory burdens, including at least one public hearing. When applied to housing for persons with disabilities, such additional procedural barriers may not be imposed where they are unnecessary and where they have the effect of denying equal housing opportunity. Accordingly, Rise Recovery respectfully requests that these procedural requirements be waived as part of this Application, consistent with the Fair Housing Act's mandate and Utah Code § 10-9a-104, which requires municipal land use decisions to conform to federal law.

Rise Recovery also requests relief from the City's definition of "Disability," as stated in City Code § 18.04.200 to the extent it conflicts with controlling state and federal law. Pleasant View's definition must be interpreted consistently with the broad remedial purposes of the Fair Housing Act and federal case law expansively construing what constitutes disability. To the extent the City construes its definition of disability more narrowly than federal law, such interpretation would conflict with and be preempted by the Fair Housing Act and Utah Code § 10-9a-104.

I. Relevant Material Facts

The principal and affiliates of Rise Recovery have been effectively treating individuals recovering from disabilities attributed to mental health and substance abuse diagnoses for over a decade. The purpose of the requested use is residential and is consistent with that of the character of the surrounding neighborhood. Any ancillary clinical treatment would be provided to the Property residents upon request and offsite. Rise Recovery's program serves adults only, and this location will serve adult men only. Its target demographic age is 18-70 years of age. Length of stay typically ranges from 6 months to one year but can be longer depending on the individual's

needs. Rise Recovery does not admit clients that are a direct threat to themselves, others, or to property. Admission to Rise Recovery's program is strictly voluntary. Rise Recovery does not accept residents in lieu of confinement or as part of a court-ordered treatment program, or rehabilitation or treatment in a correctional facility. Rise Recovery's residents will have 24/7/365 supervision by professionally trained staff members.

Parking needs are minimal and primarily for staff. Staff-to-resident ratios are generally 1:7 during normal business hours and 1:14 on evenings/graveyards and weekends. There may be as many as 3 staff members present during peak daylight hours.[1] Fewer staff members are present during the evening/graveyards and on weekends. Although clients are allowed to have personal vehicles, the vast majority do not. Historically, about 1 out of every 6 residents owns a personal vehicle. The Property has ample parking, including a three-car garage and a driveway wide enough to park 5 additional vehicles, totaling at least 8 off-street parking spaces. The Property is also located on a street corner with access to abundant street parking, although street parking is anticipated to be minimal—1 to 3 cars at most during peak daylight hours and less during evenings/graveyards and on weekends. Overnight parking demand is expected to be limited with approximately only 1 to 2 vehicles.

The requested accommodation is for 14 disabled individuals to reside at the Property. The 14 disabled residents include one or two disabled live-in staff. These are disabled individuals with longer periods of sobriety and reside there to support/hold the other residents accountable in their respective recoveries.

Utah Administrative Code R501-18 requires recovery residences to meet standards for safety, staffing, and operations. These homes provide primarily non-clinical, supportive housing for adults in recovery but offer ancillary clinical treatment services upon request. They must maintain safe facilities, trained staff, secure medication storage, and basic health screenings, while supporting residents through structure and peer accountability. *See generally* Utah Admin. Code R501-18. Rise Recovery intends to comply with these rules, along with all laws applicable to the operation of its Pleasant View residential facility for persons with a disability.

Rise Recovery does not presently have any plans to make structural alterations to the existing building or landscaping that would change the structure's residential character or impose adverse impacts on the surrounding neighborhood. Rise Recovery's facility will not be fundamentally different from existing uses at the Property and will not create any additional parking, traffic, noise, lighting, etc. than is already present.

[1] One or two of the fourteen disabled residents requested to live at the Property will be disabled live-in staff members. These are disabled individuals who have longer periods of sobriety and support/hold the other residents accountable in their respective recoveries. This Reasonable Accommodation Application states that "there may be as many as two staff members present during peak daylight hours." This statement is intended to acknowledge that other staff members occasionally visit the Property during the day.

All individuals that would occupy the Property are those considered "disabled" or "handicapped" under the Fair Housing Act ("FHA" or "FHAA"), the Utah Fair Housing Act ("UFHA"), and the Americans with Disabilities Act ("ADA"), as all residents will be diagnosed with mental health disorders, including alcoholism and general substance abuse disorders prior to being admitted.

I. Reasonable Accommodation Analysis

Under the FHA, it is unlawful "[t]o discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of … (A) that buyer or renter, (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or (C) any person associated with that buyer or renter." 42 U.S.C. § 3604(f)(1). The Utah Fair Housing Act mirrors this prohibition. *See* Utah Code Ann. § 57-21-5(1). Similarly, Title II of the ADA provides "[n]o otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance ...." 29 U.S.C. § 794(a). *See also* 42 U.S.C. § 12132 ("no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity").

The FHA and Title II of the ADA provide that discrimination against the handicapped or disabled includes "a refusal to make ***reasonable*** accommodations … when such accommodations may be ***necessary*** to afford such person equal opportunity to use and enjoy a dwelling." 42 U.S.C.A. § 3604(f)(3)(B) (emphasis added). *See also Olmstead v. L.C.*, 527 U.S 581, 592 (1999) (Title II of the ADA "requires public entities to 'make reasonable modifications' to avoid 'discrimination on the basis of disability,' unless those modifications would entail a 'fundamenta[l] alter[ation]'[.]") (quoting 28 C.F.R. § 35.130(b)(7)(i)). The Utah Fair Housing Act has similar requirements. *See* Utah Code Ann. § 57-21-5(4)(b).

As the Tenth Circuit explained in *Bangerter v. Orem City Corp.*, 46 F.3d 1491, 1502 (10th Cir. 1995), "the thrust of a reasonable accommodation claim is that a defendant must make an affirmative change in an otherwise valid law or policy." By definition, "a 'reasonable accommodation' involves 'changing some rule that is generally applicable so as to make its burden less onerous on the handicapped individual.'" *Id.* at 1502. Waiving otherwise enforceable code provisions is precisely what a reasonable accommodation contemplates. *Cinnamon Hills Youth Crisis Center, Inc. v. Saint George City*, 685 F.3d 917, 923 (10th Cir. 2012) ("And that is precisely the point of the reasonable accommodation mandate: to require changes in otherwise neutral policies that preclude the disabled from obtaining 'the same ... opportunities that those without disabilities automatically enjoy.'").

The FHA's "'reasonable accommodations' provision prohibits the enforcement of

'zoning ordinances and local housing policies in a manner that denies people with disabilities access to housing on par with that of those who are not disabled.'" *Hovsons, Inc. v. Township of Brick*, 89 F.3d 1096, 1104 (3d Cir. 1996) (quoting Laurie C. Malkin, *Troubles at the Doorstep: The Fair Housing Amendments Act of 1988 and Group Homes for Recovering Substance Abusers*, 144 U. Pa. L.Rev. 757, 804 (1995)).

If a local government's laws, ordinances or practices would otherwise prohibit the type of housing proposed, then the FHA and ADA[2] impose "'an affirmative duty' to make reasonable accommodations on behalf of handicapped persons." *Id.* Hence, courts interpreting the reasonable accommodation provisions of the FHA and ADA have ruled that municipalities "must change, waive, or make exceptions in their zoning rules to afford people with disabilities the same opportunity to housing as those who are without disabilities." *Horizon House Developmental Servs., Inc. v. Township of Upper Southampton*, 804 F. Supp. 683, 699-700 (E.D. Pa. 1992).

An accommodation here is necessary to meet the City's growing needs for residential support programs, to ensure economically feasible operations, to safeguard the privacy of the disabled individuals, and to harbor therapeutic benefits vital to the individuals' recovery. This request is also reasonable, as it does not fundamentally alter the City's zoning scheme and aligns with the City's goals and objectives in several respects.

a. The accommodation to increase the number of permissible residents living at the residential facility for persons with a disability is necessary.

Participating in a recovery residence program is a necessary asset in supporting an individual on their journey of recovery. By definition, a "recovery residence" is "a home, residence, or facility that meets at least two of the following requirements:

> (i) provides a supervised living environment for individuals recovering from a substance use disorder;
>
> (ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

[2] The FHA and the ADA have such similar origins, contain such similar wording, and are so interrelated, that they are, for the most part, interpreted in the same way by the courts. Indeed, the United States Court of Appeals for the Tenth Circuit, which is the federal circuit with jurisdiction over federal cases arising in Utah, interprets the two statutes the same way. *See Courage to Change Ranches Holding Co. v. El Paso Cnty.*, 73 F.4th 1175, 1187 (10th Cir. 2023) ("The legal frameworks for intentional discrimination and reasonable accommodation are identical under the FHAA, ADA, and RA."); *Cinnamon Hills*, 685 F.3d at 919 & n.1, 924 at n.4.

> (iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;
>
> (iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or
>
> (v) (A) receives public funding; or
>
> (B) is run as a business venture, either for-profit or not-for-profit

Utah Code Ann. § 26B-2-101(47).

A growing body of research supports the necessity of recovery residences as a critical component in the continuum of care for individuals recovering from substance use disorders. Studies have consistently shown that recovery housing improves abstinence outcomes, promotes treatment retention, and supports psychosocial stability. Studies have concluded that recovery housing leads to improved abstinence, employment, and mental health outcomes, while noting its cost-effectiveness compared to institutional treatment settings. (Reif et al., 2014;[3] Vilsaint et al., 2025;[4] Rinker, 2019[5]).

Additional publications demonstrate that residents of recovery homes during outpatient treatment engage longer in services and report greater odds of satisfactory discharge, due in part to the accountability, structure, and peer support these residences provide. (Mericle et al., 2022[6]). Other studies underscore the importance of physical environment and design in supporting long-term recovery, finding that sober living residences serve not just as housing, but as therapeutic spaces that promote stability and autonomy. (Wittman et al., 2014).[7] Despite concerns sometimes raised by communities, empirical research indicates that recovery residences do not increase

[3] Reif, S., George, P., Braude, L., Dougherty, R. H., Daniels, A. S., Ghose, S. S., & Delphin-Rittmon, M. E. (2014). *Recovery Housing: Assessing the Evidence*. Psychiatric services (Washington, D.C.), 65(3), 295–300. https://doi.org/10.1176/appi.ps.201300243. Attached hereto as Exhibit A.

[4] Vilsaint, C. L., Tansey, A. G., Hennessy, E. A., Eddie, D., Hoffman, L. A., & Kelly, J. F. (2025). *Recovery Housing for Substance Use Disorder: A Systematic Review*. Frontiers in Public Health, 13, 1506412. https://doi.org/10.3389/fpubh.2025.1506412. Attached hereto as Exhibit B.

[5] Rinker B. (2019). *Recovery Residences Combat Addiction in Rural Communities*. Health Affairs (Project Hope), 38(12), 1968–1970. https://doi.org/10.1377/hlthaff.2019.01489. Attached hereto as Exhibit C.

[6] Mericle, A. A., Slaymaker, V., Gliske, K., Ngo, Q., & Subbaraman, M. S. (2022). *The Role of Recovery Housing During Outpatient Substance Use Treatment*. Journal of substance abuse treatment, 133, 108638. https://doi.org/10.1016/j.jsat.2021.108638. Attached hereto as Exhibit D.

[7] Wittman, F., Jee, B., Polcin, D. L., & Henderson, D. (2014). *The Setting is the Service: How the Architecture of Sober Living Residences Supports Community Based Recovery*. International Journal of Self Help & Self Care, 8(2), 189–225. https://doi.org/10.2190/SH.8.2.d. Attached hereto as Exhibit E.

crime or pose safety risks, and instead offer public health benefits while reducing strain on emergency, housing, and justice systems. (Polcin et al., 2010;[8] Polcin et al., 2012;[9] Jason et al., 2006[10]).

Residential substance use treatment services generally, including those implemented in recovery residences, are associated with a variety of positive outcomes for residents, including decreased substance use, reduced likelihood of return to use, lower rates of incarceration, higher income, increased employment, and improved family relationships. (De Andrade et al., 2019;[11] Jason et al.[12]; Whitten et al.[13]).

For example, a 12-year study conducted by Drug Abuse Reporting Program (DARP), which followed 4,107 patients, showed significant improvements in abstinence. (Princeton University).[14] Of the random sample selected for follow-up at the 12-year mark, daily use had fallen by 76%. Ample evidence exists showing that recovery residences are a necessary modality to help provide a foundation for clean and sober living and long-term recovery.

Community-based residential treatment and recovery services have particularly been shown to be necessary in obtaining long-term abstinence because it leads to relationship building, increased trust, and a supportive recovery community. (Pettersen et al.;[15] Mutschler et

---

[8] Polcin, D. L., Korcha, R., Bond, J., & Galloway, G. (2010*). Eighteen Month Outcomes for Clients Receiving Combined Outpatient Treatment and Sober Living Houses*. Journal of Substance Use, 15(5), 352–366. https://doi.org/10.3109/14659890903531279. Attached hereto as Exhibit F.

[9] Polcin, D. L., Henderson, D. M., Korcha, R., Evans, K., Wittman, F., & Trocki, K. (2012). *Perceptions Of Sober Living Houses Among Addiction Counselors and Mental Health Therapists: Knowledge, Views and Perceived Barriers*. Journal of Psychoactive Drugs, 44(3), 224–236. https://doi.org/10.1080/02791072.2012.703103. Attached hereto as Exhibit G.

[10] Jason, L. A., Olson, B. D., Ferrari, J. R., & Lo Sasso, A. T. (2006). *Communal Housing Settings Enhance Substance Abuse Recovery*. American Journal of Public Health, 96(10), 1727–1729. https://doi.org/10.2105/AJPH.2005.070839. Attached hereto as Exhibit H.

[11] Dominique de Andrade, Rachel A Elphinston, Catherine Quinn, Julaine Allan, & Leanne Hides (2019). *The Effectiveness of Residential Treatment Services for Individuals with Substance Use Disorders: A Systematic Review*. Drug and Alcohol Dependence, 201, 227-235. https://doi.org/10.1016/j.drugalcdep.2019.03.031. Attached hereto as Exhibit I.

[12] Jason, L. A., Olson, B. D., Ferrari, J. R., & Lo Sasso, A. T. (2006). *Communal Housing Settings Enhance Substance Abuse Recovery*. American Journal of Public Health, 96(10), 1727–1729. https://doi.org/10.2105/AJPH.2005.070839. Attached hereto as Exhibit H.

[13] Tyson Whitten, Jesse Cale, Sally Nathan, Megan Williams, Eileen Baldry, Mark Ferry, & Andrew Hayen (2023). *Influence Of a Residential Drug and Alcohol Program on Young People's Criminal Conviction Trajectories*. Journal of Criminal Justice, 84, 102026. https://doi.org/10.1016/j.jcrimjus.2022.102026. Attached hereto as Exhibit J (Overview only).

[14] Princeton University (1990). *The Effectiveness of Treatment for Drug Abuse*. https://www.princeton.edu/~ota/disk2/1990/9041/904106.PDF. Attached hereto as Exhibit K.

[15] Pettersen, H., Landheim, A., Skeie, I., Biong, S., Brodahl, M., Oute, J., & Davidson, L. (2019). *How Social Relationships Influence Substance Use Disorder Recovery: A Collaborative Narrative Study*. Substance Abuse: Research and Treatment, 13. https://doi.org/10.1177/1178221819833379. Attached hereto as Exhibit L.

al.[16]). As one scholarly study recognized when researching into the effects of group living on recovery:

> Research continues to document the important role of social factors in recovery outcome (Polcin, Korcha, Bond, Galloway & Lapp, in press). For example, in a study of problem and dependent drinkers Beattie and Longabaugh (1999) found that social support was associated with drinking outcome. Not surprising, the best outcomes were predicted by … social support that discouraged drinking. Similarly, Zywiak, Longabaugh and Wirtz (2002) found that clients who had social networks with a higher number of abstainers and recovering alcoholics had better outcome 3 years after treatment completion.[17]

"A critically important aspect of one's social network is their living environment." *Id.* at p. 2. "Lack of a stable, alcohol and drug free living environment can be a serious obstacle to sustained abstinence." *Id.* at p. 1. "Destructive living environments can derail recovery for even highly motivated individuals." *Id.* "An important component of relapse appears to be immediate re-exposure to risks associated with one's ongoing living situation (e.g., high substance availability, family and peers non-supportive of recovery, interpersonal conflict, poorly structured time). Drug-free housing that supports recovery, risk avoidance, and employment … heighten one's chances of recovery (Jason, Olson, Ferrari, & Davis, 2004)."[18] "Individuals recovering from addiction should be surrounded by a community in which they feel they belong and are able to obtain sobriety goals (Jason & Kobayashi, 1995)."[19] Studies have shown that a sufficient number of residents is "a necessary component in the effectiveness [of the treatment model] through the mechanism of social support." *Id.*

Taken together, these studies affirm that recovery residences are not merely helpful but necessary in maintaining recovery, reducing relapse and recidivism, and promoting meaningful reintegration into society—particularly when recovery is rightly understood as a long-term, chronic care process. (Rinker, 2019: "Safe and secure housing is increasingly recognized as an essential component of successful recovery, since residential drug treatment programs—live-in facilities that offer patients education, support groups, therapy, and sometimes clinical services—last typically only twenty-eight to ninety days."). And, more specifically, the requested census size is necessary because, "Larger homes … offer more opportunities to exchange positive social

---

[16] Mutschler, C., Junaid, S., Tellez, C., Franco, G., Gryspeerdt, C., & Bushe, J. (2022). *Community-Based Residential Treatment for Alcohol and Substance Use Problems: A Realist Review*. Health & Social Care in the Community, 30, e287–e304. https://doi.org/10.1111/hsc.13511. Attached hereto as Exhibit M.

[17] *What Did We Learn From Our Study on Sober Living Houses and Where Do We Go From Here?*, J. Psychoactive Drugs, at p. 1 (Polcin et al., 2010). Attached hereto as Exhibit N.

[18] *The Need for Substance Abuse After-Care: Longitudinal Analysis of Oxford House*, Addictive Behaviors 32 at p. 804 (2007). Attached hereto as Exhibit O.

[19] *Counteracting "Not in My Backyard": The Positive Effects of Greater Occupancy with Mutual-help Recovery Homes*, J. Community Psychol., Jason, Groh et al. at p.3 (September 1, 2008). Attached hereto as Exhibit P.

support …." *Id*. Studies indicate that "larger Houses will promote recovery through their ability to promote larger (Zywiak, Longabaugh, & Wirtz, 2002), more supportive social networks (MacDonald, 1987), that include sober others in recovery (Hawkins & Fraser, 1987, Zywiak et al.), constructs linked to sober living." *Id*. at p. 3.

"[L]arger social networks" are correlated with "stronger improvement on abstinence."[20] "Given the widespread finding that social contact and social support facilitates health and well-being," the experts urge that "recovery home service providers … consider ways to increase social support for socially isolated residents through structured recreational and social activities within the home" among other things. *Id.* at pp. 9-10. *See also Social Networks Among Residents in Recovery Homes*, Adv. Psychol. Study at p. 8 (Jason et al., 2012) ("studies suggest a strong relationship between an individual's social connection … and their own likelihood of remaining abstinent" and that "the overall size of the important person network was materially significant");[21] *see also Benefits of Peer Support Groups in the Treatment of Addiction*, Substance Abuse and Rehabilitation at p. 145 (Tracy & Wallace, 2016).[22]

Studies suggest that larger group sizes are necessary in addressing the disabled individuals' disadvantages and special needs and allowing all members to effectively participate. (Velasquez et al.;[23] Sobel et al.[24]). Even the federal agency, Substance Abuse and Mental Health Services Administration ("SAMHSA") recognizes that larger groups are necessary in these settings.[25] Given the essential advantages associated with group treatment, and given its available services on request (i.e., Cognitive Behavioral Therapy, Dialectical Behavioral Therapy, Motivational Interviewing, and a significant focus on education such as psychoeducational multifamily group sessions[26]) that rely on group engagement for success, Rise Recovery's request for an accommodation of 14 individuals is necessary.

Additionally, the 14-resident limit requested is necessary because there is a normal attrition that occurs in any therapeutic context. For example, speaking of psychotherapeutic groups, one of the foremost and pioneering scholars in this area, Irvin D. Yalom, writes, "Since it is likely that one or possibly two clients will drop out of the group in the course of the initial

---

[20] *Interaction of Motivation and Social Support on Abstinence among Recovery Home Residents*, J. Drug Issues at 9 (Korcha, Polcin & Bond, 2016). Attached hereto as Exhibit Q.
[21] Attached hereto as Exhibit R.
[22] Attached hereto as Exhibit S.
[23] Velasquez, M., Crouch, C., Stephens, N. S., & DiClemente, C. C. (2016). *Group Treatment for Substance Abuse: A Stages-Of-Change Therapy Manual* (2nd ed.). Guilford.
[24] Sobell, L. C., & Sobell, M. B. (2011). *Group Therapy for Substance Use Disorders: A Motivational Cognitive-Behavioral Approach*. Guilford.
[25] Substance Abuse and Mental Health Services Administration. (2021). *Group Therapy in Substance Use Treatment*. Advisory. Attached hereto as Exhibit T.
[26] Wendt, D. C., & Gone, J. P. (2018). *Group Psychotherapy in Specialty Clinics for Substance Use Disorder Treatment: The Challenge of Ethnoracially Diverse Clients*. International Journal of Group Psychotherapy, 68(4), 608–628, attached hereto as Exhibit U.

meetings, it is advisable to start with a group slightly larger than the preferred size; thus, to obtain a group of seven or eight members, many therapists start a new group with eight or nine."[27] The approval of a census of 14 is also essential to maintain the therapeutic community size at all times due to resident absences caused by conflicting schedules, appointments, and admissions schedules and cycles. *See id.* Also, in the context of group therapy, SAMHSA also states that "Revolving membership groups," such as Rise Recovery's, "can be larger than fixed membership groups" and indicates that such groups can contain up to 20 individuals and that, ideally, groups should consist of "around 15 or fewer" individuals.[28]

The "residential" aspect of the living arrangement is also necessary to the patients' treatment. Being in a home-like setting provides essential benefits not offered by more formal, institutional treatment. While residents are allowed to leave the property, they generally remain on-site and nonetheless engage with the surrounding community in subtle ways. Just living in a residential area by itself acts as an important steppingstone of reintegration back into society at large. The lifestyle exposes the patients to observations of communal interactions and healthy living and allows them to engage in some of the activities they observe (i.e., things as simple as taking the trash out, shoveling snow, mowing the lawn, weeding the garden, and greeting a neighbor). It also provides a more private, quieter, less chaotic atmosphere than the cold, "institutional" feel offered at commercial facilities. Studies show that community-based residential programs are more effective than institutionalized facilities at staving readmission rates for similar reasons. (R. H. Moos et al.[29]). And courts around the country have found accommodation necessary when living in the dwelling serves a therapeutic purpose for its inhabitants that enhances the residents' recovery from alcohol and drug addiction. *See e.g.*, *Harmony Haus Westlake, L.L.C. v. Parkstone Prop. Owners Ass'n*, 851 F. App'x 461, 466 (5th Cir. 2021); *One Love House, LLC v. City of Anoka, Minnesota*, 93 F.4th 424, 435 (8th Cir. 2024); *Yates Real Est., Inc. v. Plainfield Zoning Bd. of Adjustment*, 404 F. Supp. 3d 889, 919 (D.N.J. 2019).

To further ease patients' transition into society, it is important to reduce the risk of isolation by residing in a group home with a shared bedroom. Those receiving treatment from substance abuse are "significantly more likely to relapse" when socially isolated. (Johnson et al., 2018).[30] Making things more difficult is that "people with substance use problems are vulnerable

[27] *The Theory and Practice of Group Psychotherapy*, Irvin D. Yalom (5th ed. 2005), at p. 292. Exhibit V.
[28] Center for Substance Abuse Treatment. *Substance Abuse Treatment: Group Therapy*. Treatment Improvement Protocol (TIP) Series, No. 41. HHS Publication No. (SMA) 15-3991. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2005, p. 60. Attached hereto as Exhibit W.
[29] Moos RH, King MJ, Patterson MA. *Outcomes Of Residential Treatment of Substance Abuse in Hospital- And Community-Based Programs*. Psychiatr Serv. 1996 Jan;47(1):68-74. doi: 10.1176/ps.47.1.68. PMID: 8925349. Attached hereto as Exhibit X (Overview only).
[30] Johnson, B., Pagano, M., Lee, M., & Post, S., *Alone on the Inside: The Impact of Social Isolation and Helping Others on AOD Use and Criminal Activity*. Youth & Soc'y. 2018 50(4):529–550, 541. doi: 10.1177/0044118X15617400. Attached hereto as Exhibit Y.

to experiencing loneliness that arises from stigma and social isolation." (Ingram et al., 2020).[31] "Because people with dependencies usually are isolated from healthy social groups, the [recovery] group helps to acculturate clients into a culture of recovery."[32] In addition to the therapeutic advantages of group treatment, SAMHSA has found that it "provides potential benefits in promoting social support, reducing isolation and stigma, developing effective communication and interpersonal skills, and practicing recovery-oriented coping strategies with group members."[33] Rise Recovery actively works to create an enriching environment where these social benefits are maximized for patients. This includes maintaining optimal group sizes and sharing bedrooms to reduce isolation and increase community-centric recovery.

It is known that Utah, like other states, has a growing substance abuse problem. A report from the Utah Department of Health and Human Services revealed that more people died from a drug overdose in 2023 than ever before.[34] In total, there were 606 drug overdose deaths, which marks an increase of 14.3% from the year prior.[35] Apart from the obvious effect on Utah's residents—the threat to the residents' health and lives—substance abuse significantly impacts the state in other ways, such as that it contributes to homelessness (Moxley et al.[36]), family disruption,[37] unemployment and lost productivity,[38] increased public assistance and social

---

[31] Ingram, I., Kelly, P., Deane, F., Baker, A., Goh, M., Raftery, D., & Dingle, G., *Loneliness Among People with Substance Use Problems: A Narrative Systematic Review*. Drug Alcohol Rev. 2020 Jul;39(5):447-483. Doi:10.111/dar.13064. PMID: 32314504. Attached hereto as Exhibit Z.

[32] Center for Substance Abuse Treatment. *Substance Abuse Treatment: Group Therapy*. Treatment Improvement Protocol (TIP) Series, No. 41. HHS Publication No. (SMA) 15-3991. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2005, p. xix. Exhibit W.

[33] Substance Abuse and Mental Health Services Administration. (2021). *Group Therapy in Substance Use Treatment*. Advisory. Exhibit T.

[34] *Ten Years of Data Show Drug Overdoses Remain a Significant Health Threat in Utah*. Utah Dept. of Health and Human Services, p. 4, attached hereto as Exhibit AA; *see also* Utah Department of Health and Human Services, *Health Indicator Report of Drug Overdose and Poisoning Incidents*, https://ibis.utah.gov/ibisph-view/indicator/view/PoiDth.SA.html. Attached hereto as Exhibit BB.

[35] *Ten Years of Data Show Drug Overdoses Remain a Significant Health Threat in Utah*. Utah Dept. of Health and Human Services, p. 4. Exhibit AA.

[36] Moxley VBA, Hoj TH, Novilla MLB. *Predicting Homelessness Among Individuals Diagnosed with Substance Use Disorders Using Local Treatment Records*. Addict Behav. 2020 Mar;102:106160. doi: 10.1016/j.addbeh.2019.106160. Epub 2019 Oct 22. PMID: 31841870. Attached hereto as Exhibit CC.

[37] Utah Department of Health and Human Services, *DCFS Annual Report Fiscal Year 2022*, https://dcfs.utah.gov/wp-content/uploads/DHHS_DCFS-Annual-Report_2022.pdf ("Of the 1,483 children who were placed in foster care in fiscal year 2022, **76%** involved substance use as a safety concern"—indicating that substance use disorders are a cause of strained or broken family relationship). Attached hereto as Exhibit DD.

[38] Individuals with untreated substance use disorders often struggle to maintain steady employment. Addiction can impair one's ability to perform at work or even participate in the labor force. National research has shown that the opioid epidemic alone accounted for an estimated 43% of the decline in labor force participation among prime-age men from 1999 to 2015 brookings.edu (attached hereto as Exhibit EE), due to factors like disability, incarceration, or overdose. In Utah's strong economy, labor shortages are exacerbated by many would-be workers being sidelined by addiction. Employers also bear costs in the form of reduced productivity and higher healthcare and absenteeism costs when employees have untreated substance problems brookings.edu (Exhibit EE). Each opioid-related overdose

service costs,[39] increased crime,[40] and other issues. Pleasant View is not free from the substance abuse problem and its effects.[41] However, despite this landscape, Rise Recovery is not aware of any other similarly modeled recovery residence in or around Pleasant View. Given the significant and well-documented prevalence of substance use disorders and co-occurring mental health conditions, access to stable, structured recovery-oriented housing is essential for individuals with these disabilities to achieve meaningful recovery. The proposed residential facility provides that necessary housing opportunity. Residents of Pleasant View who are disabled by substance use disorders likewise require access to such supportive residential environments to live safely and successfully within the community.

Having 14 residents in the household is also necessary for the financial viability of Rise Recovery's operations. Operating a recovery residence entails significant costs, including expenses for acquiring the Property, staffing, property maintenance, insurance, regulatory compliance, and the provision of supportive services essential to residents' recovery. In order to cover the costs of housing and the services while simultaneously providing affordable rent amounts to the clients, the facility must be able to house the 14-person limit requested. Otherwise, the recovery residence will not be financially viable. *See Harmony Haus Westlake, L.L.C. v. Parkstone Prop. Owners Ass'n,* No. 20-50185 (5th Cir. 2021) (citing

---

death represents not just a personal tragedy but also an average of $1.4 million in lost productivity (based on national cost estimates) cdc.gov (attached hereto as Exhibit FF).

[39] Untreated addiction increases demand on public programs. Utah's state and local governments incur substantial costs for healthcare, welfare, child protective services, and other assistance related to substance abuse. For example, caring for children removed from drug-affected homes (foster care, counseling, etc.) is a significant expense. Healthcare costs also rise – Medicaid and emergency services often cover untreated addicts in crisis. One analysis found that *excessive alcohol use cost Utah's state government an estimated $316 million in 2019* (in expenditures on healthcare, criminal justice, and social services), out of a $1.34 billion total economic cost of alcohol abuse in the state that year ibis.utah.gov (attached hereto as Exhibit GG). Similarly, the opioid crisis has imposed enormous costs: The CDC estimated that in 2017 the combined economic cost of opioid use disorder and opioid overdose in Utah was about *$11.9 billion* (including healthcare, lost productivity, criminal justice, and other costs) cdc.gov (Exhibit FF). These figures illustrate how failure to treat addiction leads to expensive downstream consequences paid by taxpayers and communities.

[40] Desperation to obtain drugs or alcohol can drive some people to criminal activity. Law enforcement officials in Utah report a *rise in thefts and property crimes linked to drug addiction*, as individuals resort to stealing goods to resell for drug money citizenportal.ai (attached hereto as Exhibit HH). These crimes range from shoplifting and copper wire theft to burglary of homes – all of which threaten community safety and property. Additionally, possession of illegal substances itself is a crime: thousands of Utahns are arrested annually for drug offenses. In 2020, there were roughly *14,661 illicit drug-related arrests* in Utah poisoncontrol.utah.edu (attached hereto as Exhibit II). Although Utah enacted justice reforms (downgrading simple possession to misdemeanors) which have modestly reduced the number of drug arrests in recent years poisoncontrol.utah.edu (Exhibit II), drug offenses still make up a significant share of police and court caseloads. Communities with high levels of untreated addiction may experience higher overall crime rates, not only for drug possession/sales but also secondary crimes (thefts, assaults, impaired driving incidents). This creates a public safety challenge that could be mitigated if more people received treatment instead of cycling in and out of trouble.

[41] *See, e.g.*, Utah Department of Health and Human Services, *Health Indicator Report of Drug Overdose and Poisoning Incidents*, https://ibis.utah.gov/ibisph-view/indicator/view/PoiDth.SA.html (Exhibit BB).

Elderhaven, Inc. v. City of Lubbock, 98 F.3d 175, 178 (5th Cir. 1996)) (explaining that necessity of a reasonable accommodation can be shown by the financial viability of the program); *see also Harmony Haus Westlake*, No. 20-50185 (5th Cir. 2021) (citing *Bryant Woods Inn, Inc. v. Howard Cnty.*, 124 F.3d 597, 605 (4th Cir. 1997)).

The requested reasonable accommodation allowing a maximum of fourteen (14) residents at the Property is necessary to afford individuals with disabilities an equal opportunity to use and enjoy the dwelling, as required by the Fair Housing Act and the Americans with Disabilities Act. As explained in the Declaration of Brock Howick, LCSW, ¶¶ 19–40, the functional limitations associated with substance use disorders and co-occurring mental health disabilities—including heightened vulnerability to isolation, relapse, emotional dysregulation, and inability to live independently—render housing unusable for this population unless it provides sufficient peer presence, continuity, and stability. Due to the size, layout, and shared residential configuration of the Property, operation at a lower census would materially undermine the peer-support structure and household functioning necessary to mitigate these disability-related barriers. Although the Property would remain physically available at a lower occupancy, it would be functionally inaccessible to the intended residents. The requested fourteen-resident (14) census therefore represents the minimum necessary accommodation to make the Property usable for individuals with disabilities on terms comparable to those enjoyed by non-disabled residents.

b. The accommodation to increase the number of permissible residents living at the recovery residence is reasonable.

The foregoing analysis demonstrates that Rise Recovery's request for accommodation is necessary. But, as Rise Recovery recognizes, its request must also be reasonable. An '[a]ccommodation is not reasonable if it either (1) imposes undue financial and administrative burdens on a [city] or (2) requires a fundamental alteration in the nature of [a city] program.'" *Schwarz v. City of Treasure Island*, 544 F.3d 1201, 1220 (11th Cir. 2008) (quoting *Sch. Bd. of Nassau Cty. v. Arline,* 480 U.S. 273, 288 n. 17, 107 S.Ct. 1123, 94 L.Ed.2d 307 (1987) (quotation marks, alteration, and citations omitted)). In assessing whether an accommodation is reasonable, "a court may consider as factors the extent to which the accommodation would undermine the legitimate purposes and effects of existing zoning regulations . . . ." *Bryant Woods Inn, Inc. v. Howard Cty.*, 124 F.3d 597, 604 (4th Cir. 1997). In other words, the analysis of reasonableness is both aspirational/normative (evaluating purposes and goals) and actual/descriptive (taking into consideration the actual "effects" of existing zoning regulations). *Id.*

The basic purpose of zoning is to bring complementary land uses together, while separating incompatible ones. *See Vill. of Euclid v. Ambler Realty Co.,* 272 U.S. 365, 388, 47 S.Ct. 114, 71 L.Ed. 303 (1926) ("A nuisance may be merely a right thing in the wrong place, like a pig in the parlor instead of the barnyard."). "Thus, ordering a municipality to waive a zoning rule ordinarily would cause a 'fundamental alteration' of its zoning scheme if the proposed use

was incompatible with surrounding land uses." *Schwarz*, 544 F.3d at 1221. "On the other hand, if the proposed use is quite similar to surrounding uses expressly permitted by the zoning code, it will be more difficult to show that a waiver of the rule would cause a 'fundamental alteration' of the zoning scheme." *Id.*[42]

Here, there is no fundamental alteration or imposition of an undue financial or administrative burden beyond what already exists. Traffic and parking at the Property will stay consistent, and Rise Recovery employees will use only a few vehicles during business hours and less in the evenings/overnight. And, as is mentioned above, the Property has ample parking available. The Property will still operate as a single housekeeping unit – the residents live together, prepare meals together, share common areas, and function like any family would.

Under the City Code, a single-family dwelling is a permitted use as of right, and there is no numerical limit on the number of related persons who may reside together as a family. Large households— including households of fourteen related individuals—may occupy a home without applying for any special permit, variance, or reasonable accommodation.[43] These households are not required to justify their household size, demonstrate operational necessity, or undergo discretionary review simply because of the number of occupants. In short, nondisabled related families may use and enjoy a single-family home in whatever household size they choose, as a matter of right.

By contrast, individuals with disabilities who must live together in a therapeutic residential household cannot qualify as a "family" solely because they are unrelated, even though they function as a single cohesive household in the same residential manner. The reasonable accommodation process is therefore required only because of the residents' disabilities and lack of biological relation—not because of any difference in the residential character of the use. Granting the requested accommodation simply places disabled residents on equal footing with those nondisabled families by allowing them the same opportunity to live together as a single household in a residential neighborhood.

---

[42] A few examples help make sense of these general principles. In *Hovsons,* 89 F.3d 1096, 1105, the Third Circuit concluded that allowing the developer to build a nursing home in a residential zone would not be a "fundamental alteration" of the zoning code because the proposed facility was "similar to that of the local planned residential retirement communities" already allowed in that zone. *Id.* at 1105.

By contrast, in *Bryant Woods Inn* the operator of a group home for elderly residents suffering from Alzheimer's and dementia was denied an accommodation allowing it to expand the home from 8 to 15 residents because the expansion would only worsen already-prevalent parking congestion on streets near the facility. *See* 124 F.3d at 604. In other words, the proposed expansion was incompatible with the surrounding area because of the traffic congestion it would cause.

[43] These types of large family households are common in Utah, with nearly one in five family households consisting of five or more persons. U.S. Census Bureau. "Household Type by Household Size." American Community Survey, ACS 5-Year Estimates Detailed Tables, Table B11016, https://data.census.gov/table/ACSDT5Y2024.B11016?q=B11016+Utah.

In addition, the accommodation proposed by Rise Recovery aligns with Pleasant View's visions, goals, or objectives. Generally, it supports the City's attempts to ameliorate the substance abuse problem that it and the state of Utah at large are attempting to combat. The mere fact that the City's code provides for residential facilities for persons with a disability and for accommodations thereof evidences this objective. *See* City Code § 18.04.465. The purpose of the City's code on the subject, *see id*, is to comply with the Americans with Disabilities Act and the Fair Housing Act, which statutes were created "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities," *see* 42 U.S.C.A. § 12101, and to provide "for fair housing throughout the United States," respectively. 42 U.S.C.A. § 3601. For each of the reasons provided above, the City will be satisfying the purposes of its Code by granting Rise Recovery's application for reasonable accommodation.

Additionally, the accommodation is consistent with Pleasant View's General Plan. In the plan, the City indicates that City's "intent" is "to pursue any and all applicable avenues that will lead to equitable housing choice for all its residents."[44]

The City also shares several policies underlying its General Plan, including to 1. "provide a variety of housing types and neighborhoods for a diverse range of incomes, ages, and populations…" 2. "facilitate a reasonable opportunity for a variety of housing…" and 3. "ensure that all feel welcome within the City, including through housing choice…."[45]

Granting the requested accommodation to allow additional disabled individuals to reside in this facility directly advances the City's vision to uphold community health, safety, diversity, and quality of life by supporting a therapeutic, residential environment for individuals recovering from substance use disorders and mental health disabilities. This use aligns with Pleasant View's goals to promote wellness-related industries, enhance the livability of the community, and expand diverse, supportive housing options that respond to changing demographic and healthcare needs.

Regarding the administrative or financial burden aspect, granting this accommodation simply requires the City to waive enforcement of the 5-person cap for this specific house. There is no financial cost to the City. Administratively, the City already has processes to consider special exceptions or conditional uses; here, the Fair Housing Act's reasonable accommodation process is the vehicle, and following it imposes at most a minor paperwork burden. The City need not re-zone any property or create a new land use category; it can simply allow this home to house 14 disabled people instead of the 5-person limit that is currently permitted.

[44] Pleasant View General Plan, p. 22, accessible at 2017_General_Plan_FINAL.pdf. Pages 22, along with other relevant pages cited herein, are attached hereto as Exhibit JJ.
[45] *Id.* at 21, 23.

In short, Rise Recovery's proposed use is reasonable because it "is quite similar to surrounding uses expressly permitted by the zoning code," and, therefore, granting Rise Recovery an accommodation will not "cause a 'fundamental alteration' of the zoning scheme." *Schwarz*, 544 F.3d at 1221.

c. The accommodation to forgo the conditional use permit process is both reasonable and necessary.

In addition to its request to accommodate an increased number of residents, Rise Recovery respectfully requests a reasonable accommodation from the City's code requirement that a residential facility for persons with disabilities apply for and obtain a conditional use permit—which requires being subject to a public hearing. City Code §§ 18.02.050(B); 18.09.020.

As established above in Rise Recovery's initial reasonable accommodation request to increase the number of occupants, the residents of this Property—individuals in recovery from substance use disorders—are disabled persons under state and federal law. Subjecting Rise Recovery and its disabled residents to a conditional use permit process, especially one that includes a public hearing, imposes a discriminatory and unnecessary burden that is neither imposed on families in traditional single-family homes nor justified by a compelling governmental interest.

The same reasons supporting Rise Recovery's request to increase the occupancy limit—including the need for peer support, the importance of integrated community-based living, privacy concerns, and the absence of any evidence of adverse impacts—apply with equal force here.[46] However, additional compelling reasons support the necessity and reasonableness of this request.

Public hearings are stigmatizing and harmful, particularly for individuals with substance use disorders, who may face community hostility, stereotyping, and opposition when their housing is publicly debated. This chills their willingness and ability to seek stable housing in residential facilities for persons with disabilities.

Additionally, decisions made in the face of public clamor are inherently discriminatory because such opposition is motivated by ill-conceived stereotypes of the disabled, ignorance and prejudice, which are inappropriate bases for decision making. *Assoc. of Relatives and Friends of AIDS Patients v. Regulations & Permits Administration*, 740 F. Supp. 95, 104 (D. Puerto Rico 1990). A "decisionmaker has a duty not to allow illegal prejudices of the majority to influence the decision-making process." *Id.* "[I]f an official act is performed simply in order to appease the discriminatory viewpoints of private parties, that act itself becomes tainted with

[46] Rise Recovery hereby incorporates all previous sections of this *Application for Reasonable Accommodation* as if fully set forth in this section.

discriminatory intent even if the decisionmaker personally has no strong views on the matter." *Id.*

Taking public comment and involving the public in a decision that is technical and inherently administrative, if not quasi-judicial, in nature and which must be guided by the handicaps and disabilities of Rise Recovery's residents would simply give rise to a potentially stronger discrimination claim, especially if the City denies the conditional use permit or places unreasonable conditions on the approval. This is because, with a record of public clamor, an inference of discrimination arises where "local officials are effectuating the discriminatory designs of private individuals." *Dailey v. City of Lawton*, 425 F.2d 1037, 1039 (10th Cir. 1970). Public clamor followed by a negative decision raises a de facto inference of discrimination that will be imputed to the City. *See, e.g., Resident Advisory Board v. Rizzo*, 564 F.2d 126, 144 (3d Cir. 1977) (inferring improper racial motivation from city's "sudden shift in . . . position from passive acceptance [of low-income housing project] to active opposition, in the face of protests by demonstrators manifesting racial bias") (footnote omitted), *cert. denied*, 435 U.S. 908, 98 S. Ct. 1457, 55 L. Ed. 2d 499 (1978); *United States v. Yonkers Bd. of Educ.*, 837 F.2d 1181, 1223-24, 1226 (2nd Cir. 1987) ("It is sufficient to sustain a racial discrimination claim if it has been found, and there is evidence to support the finding, that racial animus was a significant factor in the position taken by the persons to whose position the official decision-maker is knowingly responsive.").

Moreover, requiring such individuals to participate in a public forum to justify their need for housing violates their right to privacy. Public hearings expose the nature of residents' disabilities and treatment needs to neighbors, elected officials, and the general public—disclosures that non-disabled persons are never required to make to access single-family housing in residential zones.

The procedural delay and uncertainty associated with conditional use permits—including public notice periods, opposition campaigns, and appeal processes—create a significant barrier to opening or maintaining a residential facility for persons with a disability, often during periods of acute housing need. HUD has explicitly stated that "[a] local government's undue delay in responding to a reasonable accommodation request may be deemed a failure to provide a reasonable accommodation."[47]

HUD guidance has repeatedly emphasized that municipalities must modify zoning and permitting procedures when they function to exclude or unduly burden individuals with disabilities in accessing housing of their choice. Requiring a public hearing for this protected population, while exempting others in similar living arrangements, constitutes a facially discriminatory practice unless narrowly tailored and justified. *See e.g.*, HUD Joint Statement – State and Local Land Use Laws and Practices and the Application of the Fair Housing Act, at 3

[47] *HUD Joint Statement — State and Local Land Use Laws and Practices and the Application of the Fair Housing Act* (Exhibit KK).

("Examples of state and local land use and zoning laws or practices that may violate the [Fair Housing] Act include: … Imposing… additional conditions on group housing for persons with disabilities that are not imposed on families… by, for example, requiring an occupancy permit for persons with disabilities to live in a single-family home while not requiring a permit for other residents of single-family homes.").

These concerns are not merely theoretical. In *Alamar Ranch, LLC v. Boise County*, a similar situation resulted in a $5.4 million judgment against the county. Other recent cases in Florida and South Carolina have resulted in substantial settlements under similar facts, where municipalities refused to waive their public hearing or special permit requirements for housing individuals with disabilities.

Moreover, granting the requested accommodation to waive the conditional use permit and public hearing process is reasonable because it does not impose an undue financial or administrative burden on the City, nor does it constitute a fundamental alteration of the City's zoning scheme. The City retains its ability to enforce health, safety, and building codes applicable to all residential uses, and no structural changes or rezoning actions are required. In fact, removing this requirement streamlines the process and reduces administrative load.

The use of the property as a residential facility for persons with a disability is substantially similar to other residential uses permitted by right under the zoning code. The conduct and impact of the residents—living cooperatively in a single housekeeping unit—mirrors that of any traditional family household. Importantly, waiving the conditional use permit requirement (and public hearing) prevents the potentially discriminatory effects of allowing community opposition to dictate housing access for persons with disabilities, and preserves the dignity, privacy, and safety of a highly vulnerable population. Courts and federal guidance have consistently recognized that requiring persons with disabilities to subject their housing to a public hearing process, when other similarly situated uses are permitted as of right, can itself constitute a discriminatory barrier.

Therefore, granting this accommodation is not only necessary, but wholly reasonable and consistent with both the spirit and the letter of the FHA and ADA. For these reasons, and pursuant to the City's obligations under the ADA and FHA to provide reasonable accommodations where necessary to afford individuals with disabilities equal opportunity to use and enjoy housing, Rise Recovery respectfully requests that the City waive the conditional use permit and public hearing requirement for this residence. Such an accommodation is reasonable, necessary, and legally required to avoid discrimination and to facilitate the integration and recovery of individuals with disabilities in our community.

d. Application of the City's Definition of "Disability."

Rise Recovery further requests confirmation that Pleasant View's definition of "Disability," as set forth in City Code § 18.04.194, will be interpreted and applied consistently with controlling federal and state law.

The Fair Housing Act defines disability broadly. See 42 U.S.C. § 3602(h). Courts have consistently recognized that substance use disorder (excluding current illegal drug use), PTSD, anxiety disorders, major depressive disorder, and related mental health conditions constitute qualifying disabilities where they substantially limit one or more major life activities. The Utah Fair Housing Act mirrors this definition and is interpreted consistently with federal law.

Federal law further requires that the term "substantially limits" be construed expansively and in favor of broad coverage. See 42 U.S.C. § 12102(4)(A). Municipal definitions must be applied in a manner consistent with these federal standards. Utah Code § 10-9a-104 expressly provides that municipal land use regulations must comply with federal law.

Rise Recovery does not contend that the City's definition is facially invalid. However, to the extent the City interprets or applies its definition of "Disability" more narrowly than federal or state law—whether by imposing heightened evidentiary requirements, excluding individuals in recovery from substance use disorders, or otherwise limiting coverage beyond what federal law permits—such interpretation would conflict with and be preempted by controlling law.

Accordingly, and out of an abundance of caution, Rise Recovery respectfully requests that, if necessary, the City grant a reasonable accommodation from any interpretation of City Code § 18.04.194 that would exclude the proposed residents from protection under the Fair Housing Act or Utah Fair Housing Act. This request is limited to ensuring that the term "Disability" is applied in a manner consistent with governing federal and state law.

Granting this clarification does not alter the City's zoning framework, impose administrative burden, or require structural change; rather, it ensures compliance with existing legal obligations and avoids unnecessary legal conflict.

II. CONCLUSION

For the reasons set forth above, Rise Recovery respectfully requests that the City grant a reasonable accommodation from the requirements of City Code §§ 18.04.200, 18.04.230, 18.04.250, 18.04.260, 18.09.020, 18.09.030, and 18.02.050(B) and any other provisions applied to (i) limit the number of unrelated disabled residents at the Property or (ii) require a conditional use permit and public hearing for the proposed use. Rise Recovery further requests, to the extent necessary, a reasonable accommodation from any interpretation of City Code § 18.04.194 that would construe "Disability" more narrowly than controlling state and federal law. With these accommodations, Rise Recovery requests approval to operate a fourteen (14)-bed residential

facility for persons with disabilities at the Property without requiring compliance with the conditional use permit process.

We appreciate the City's consideration of this request and look forward to working collaboratively with Pleasant View to ensure individuals with disabilities have an equal opportunity to use and enjoy the Property. Please contact me if the City has any questions or would like additional information to facilitate a timely decision.

Respectfully submitted,

PARSONS BEHLE & LATIMER

Daniel Biddulph
Attorneys for Rise Recovery, LLC

Enclosures:

Ex. A – Reif, S., George, P., Braude, L., Dougherty, R. H., Daniels, A. S., Ghose, S. S., & Delphin-Rittmon, M. E. (2014). *Recovery Housing: Assessing the Evidence*. Psychiatric services (Washington, D.C.), 65(3), 295–300.

Ex. B – Vilsaint, C. L., Tansey, A. G., Hennessy, E. A., Eddie, D., Hoffman, L. A., & Kelly, J. F. (2025). *Recovery Housing for Substance Use Disorder: A Systematic Review*. Frontiers in Public Health, 13, 1506412.

Ex. C – Rinker B. (2019). *Recovery Residences Combat Addiction in Rural Communities*. Health Affairs (Project Hope), 38(12), 1968–1970.

Ex. D – Mericle, A. A., Slaymaker, V., Gliske, K., Ngo, Q., & Subbaraman, M. S. (2022). *The Role of Recovery Housing During Outpatient Substance Use Treatment*. Journal of substance abuse treatment, 133, 108638.

Ex. E – Wittman, F., Jee, B., Polcin, D. L., & Henderson, D. (2014). *The Setting is the Service: How the Architecture of Sober Living Residences Supports Community Based Recovery*. International Journal of Self Help & Self Care, 8(2), 189–225.

Ex. F – Polcin, D. L., Korcha, R., Bond, J., & Galloway, G. (2010*). Eighteen Month Outcomes for Clients Receiving Combined Outpatient Treatment and Sober Living Houses*. Journal of Substance Use, 15(5), 352–366.

Ex. G – Polcin, D. L., Henderson, D. M., Korcha, R., Evans, K., Wittman, F., & Trocki, K. (2012). *Perceptions Of Sober Living Houses Among Addiction Counselors and Mental Health Therapists: Knowledge, Views and Perceived Barriers*. Journal of Psychoactive Drugs, 44(3), 224–236.

Ex. H – Jason, L. A., Olson, B. D., Ferrari, J. R., & Lo Sasso, A. T. (2006). *Communal Housing Settings Enhance Substance Abuse Recovery*. American Journal of Public Health, 96(10), 1727–1729.

Ex. I – *The Effectiveness of Residential Treatment Services for Individuals with Substance Use Disorders: A Systematic Review*, Drug and Alcohol Dependence, (Dominique de Andrade, Rachel A. Elphinston, Catherine Quinn, Julaine Allan, Leanne Hides, 2019).

Ex. J – *Influence of a residential drug and alcohol program on young people's criminal conviction trajectories*, Journal of Criminal Justice, (Whitten et al., 2023).

Ex. K – *The Effectiveness of Treatment for Drug Abuse*, Princeton University (1990).

Ex. L – *How Social Relationships Influence Substance Use Disorder Recovery: A Collaborative Narrative Study*, Substance Abuse: Research and Treatment, 13, (Pettersen, H., Landheim, A., Skeie, I., Biong, S., Brodahl, M., Oute, J., & Davidson, L., 2019).

Ex. M – *Community-Based Residential Treatment for Alcohol and Substance Use Problems: A Realist Review*, Health & Social Care in the Community, 30, e287–e304, (Mutschler, C., Junaid, S., Tellez, C., Franco, G., Gryspeerdt, C., & Bushe, J. 2022).

Ex. N – *What Did We Learn From Our Study on Sober Living Houses and Where Do We Go From Here?*, J. Psychoactive Drugs, at p. 1 (Polcin et al., 2010).

Ex. O – *The Need for Substance Abuse After-Care: Longitudinal Analysis of Oxford House*, Addictive Behaviors 32 at p. 804 (2007).

Ex. P – *Counteracting "Not in My Backyard": The Positive Effects of Greater Occupancy with Mutual-help Recovery Homes*, J. Community Psychol., Jason, Groh et al. at p.3 (September 1, 2008).

Ex. Q – *Interaction of Motivation and Social Support on Abstinence among Recovery Home Residents*, J. Drug Issues at p. 9 (Korcha, Polcin & Bond, 2016).

Ex. R – *Social Networks Among Residents in Recovery Homes*, Adv. Psychol. Study at p. 8 (Jason et al., 2012).

Ex. S – *Benefits of Peer Support Groups in the Treatment of Addiction*, Substance Abuse and Rehabilitation at p. 145 (Tracy & Wallace, 2016).

Ex. T – *Substance Abuse and Mental Health Services Administration*. (2021). Group Therapy in Substance Use Treatment. Advisory.

Ex. U – *Group Psychotherapy in Specialty Clinics for Substance Use Disorder Treatment: The Challenge of Ethnoracially,* International Journal of Group Psychotherapy, 68(4), 608–628, *Diverse Clients* Wendt, D. C., & Gone, J. P. (2018).

Ex. V – *The Theory and Practice of Group Psychotherapy*, Irvin D. Yalom (5th ed. 2005), at p. 292.

Ex. W – *Substance Abuse Treatment: Group Therapy*. *Treatment Improvement Protocol (TIP) Series, No. 41*, Center for Substance Abuse Treatment. HHS Publication No. (SMA) 15-3991. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2005, p. 60.

Ex. X – Moos RH, King MJ, Patterson MA. *Outcomes Of Residential Treatment of Substance Abuse in Hospital- And Community-Based Programs*. Psychiatr Serv. 1996 Jan;47(1):68-74. doi: 10.1176/ps.47.1.68. PMID: 8925349.

Ex. Y – Johnson, B., Pagano, M., Lee, M., & Post, S., *Alone on the Inside: The Impact of Social Isolation and Helping Others on AOD Use and Criminal Activity*. Youth & Soc'y. 2018 50(4):529–550, 541. doi: 10.1177/0044118X15617400.

Ex. Z - Ingram, I., Kelly, P., Deane, F., Baker, A., Goh, M., Raftery, D., & Dingle, G., *Loneliness Among People with Substance Use Problems: A Narrative Systematic Review*. Drug Alcohol Rev. 2020 Jul;39(5):447-483. Doi:10.111/dar.13064. PMID: 32314504.

Ex. AA – *Ten Years of Data Show Drug Overdoses Remain a Significant Health Threat in Utah*. Utah Dept. of Health and Human Services, p. 4.

Ex. BB – Utah Department of Health and Human Services, *Health Indicator Report of Drug Overdose and Poisoning Incidents*.

Ex. CC – Moxley VBA, Hoj TH, Novilla MLB. *Predicting Homelessness Among Individuals Diagnosed with Substance Use Disorders Using Local Treatment Records*. Addict Behav. 2020 Mar;102:106160. doi: 10.1016/j.addbeh.2019.106160. Epub 2019 Oct 22. PMID: 31841870.

Ex. DD – Utah Department of Health and Human Services, *DCFS Annual Report Fiscal Year 2022*.

Ex. EE – *The economic impact of the opioid epidemic*, Brookings, (Julia Paris, Caitlin Rowley, and Richard Frank 2023).

Ex. FF – *State-Level Economic Costs of Opioid Use Disorder and Fatal Opioid Overdose — United States, 2017*, CDC Morbidity and Mortality Weekly Report (2021).

Ex. GG – *PHOM Indicator Profile Report of Alcohol Consumption - Binge Drinking*, Utah Department of Health and Human Services.

Ex. HH – *Drug-fueled theft rings exploit local vulnerabilities*, Utah Attorney General (2024).

Ex. II – Utah Drug Monitoring Initiative, Annual Report, *Analysis of the impact relating to illicit drug in Utah* (2021).

Ex. JJ – Pleasant View General Plan, pp. 21–23.

Ex. KK – HUD Joint Statement – State and Local Land Use Laws and Practices and the Application of the Fair Housing Act.

Also attached and incorporated – Declaration of Brock Howick.

Exhibit E

Link to Pleasant View City Zoning Map (August, 12, 2025):

https://www.pleasantviewut.gov/DocumentCenter/View/177/Zoning-Map-as-of-August-12-2025-PDF

Exhibit F

Print Date: 07/24/2026

This is not an official certificate of good standing.

Entity Information

Entity Name:	RISE RECOVERY LLC	Entity Status:	Active
Business Type:	Domestic Limited Liability Company	Entity Status Details:	Current
Business ID:	14640850-0160		
Effective Date:	12/17/2025		
Entity Subtype:	Limited Liability Company		

Registered Agent Information

Name:	Jared Fredrickson
Street Address:	4088 S EMMA CIRCLE, Salt Lake City, UT, 84124, USA
Last Updated:	12/17/2025 11:59:25 AM

Principal Information

Title	Name	Address	Last Updated
Member	JARED FREDRICKSON	4088 S EMMA CIRCLE, Salt lake city, UT, 84124, USA	12/17/2025

Address Information

Physical Address:	4088 S Emma Circle, Salt Lake City, UT, 84124, USA	Updated Date:	12/17/2025
Mailing Address:	4088 S Emma Circle, Salt Lake City, UT, 84124, USA	Updated Date:	12/17/2025

Exhibit H

---------- Forwarded message ---------
From: <no-reply@1stpaygateway.net>
Date: Thu, Jul 23, 2026 at 2:22 PM
Subject: PLEASANT VIEW CITY Transaction Receipt - 178482357423538
To: <tjkahmann@gmail.com>

Receipt #178482357423538
Date: 7/23/2026 4:20:19 PM EST

PLEASANT VIEW CITY
520 W ELBERTA DRIVE
PLEASANT VIEW, UT 84414
Phone: 801-782-8529

==========
Customer Information:

==========
Transaction Information:

Type: Authorization
Card Type: Visa
Account Number: **********8305
Status: Success
Bank Response: APPROVED
Auth Code: 85743D
Card Entry Method: Keyed
CVV2 Response: M
Settled Amount: $350.00

Comments: Appeal Fees

==========
==========