

2 The Lindon City Planning Commission held a regularly scheduled meeting on **Tuesday,**
3 **September 23, 2014 at 7:00 p.m.** at the Lindon City Center, City Council Chambers,
4 100 North State Street, Lindon, Utah.

6 **REGULAR SESSION** – 7:00 P.M.

7 Conducting: Sharon Call, Chairperson
8 Invocation: Bob Wily, Commissioner
9 Pledge of Allegiance: Andy Skinner, Commissioner

10 **PRESENT**

ABSENT

11 Sharon Call, Chairperson
12 Mike Marchbanks, Vice Chairperson
13 Ron Anderson, Commissioner
14 Rob Kallas, Commissioner
15 Bob Wily, Commissioner
16 Matt McDonald, Commissioner
17 Andrew Skinner, Commissioner
18 Hugh Van Wagenen, Planning Director
19 Jordan Cullimore, Associate Planner
20 Brian Haws, City Attorney
21 Kathy Moosman, City Recorder

22 **Special Attendee:**

23 Councilmember Matt Bean

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- 25
- 26
- 27 1. **CALL TO ORDER** – The meeting was called to order at 7:00 p.m.
- 28
- 29 2. **APPROVAL OF MINUTES** – The minutes of the regular meeting of September 9,
30 2014 were reviewed.

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32 COMMISSIONER MARCHBANKS MOVED TO APPROVE THE MINUTES
33 OF THE REGULAR MEETING OF SEPTEMBER 9, 2014 AS WRITTEN.
34 COMMISSIONER WILY SECONDED THE MOTION. ALL PRESENT VOTED IN
35 FAVOR. THE MOTION CARRIED.

36 3. **PUBLIC COMMENT** –

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38 Chairperson Call called for comments from any audience member who wished to
39 address any issue not listed as an agenda item. There were no public comments.

40

41 **CURRENT BUSINESS** –

- 42
- 43 4. **Site Plan** – *Reflections Recovery Center, 145 South 200 East.* Ron Wentz of
44 Reflections Recovery Center seeks site plan approval for a residential substance use
45 disorder and mental health recovery center for up to 24 residents at 145 South 200

east in the R1-20 (Single Family Residential) zone. Recommendations will be made to the City Council at their next available meeting after Planning Commission review.

Hugh Van Wagenen, Planning Director, opened the discussion by giving some background of this agenda item. He explained this is a site plan review for approval of a 7,822 square foot residential substance use disorder and mental health recovery center (Reflections Recovery Center). He further explained the applicant is requesting a reasonable accommodation from Lindon City Code 17.70.040(6) to allow 24 residents instead of 4 residents in the facility. He noted this issue will also go before the City Council following recommendation from the Planning Commission. He went on to say there is an Lindon City Ordinance in place that covers this issue, but there are several paragraphs in the ordinance that are not applicable due to the Federal Americans with Disabilities Act and the Fair Housing and Regulations Act, which City Attorney, Brian Haws will go over to make sure it is understood what is applicable and what is not applicable for consideration in making a decision.

He commented, regarding this application, there is still information not yet received by staff, building and fire codes (which was started yesterday with the chief building official) and financial details of the operation that are currently under review with no business plan proposed and if 24 residents is necessary to financially operate the facility. Because of these issues that need review and vetting, Mr. Van Wagenen stated that staff would strongly recommend that this item be continued to the next Planning Commission meeting to be held on October 14th. He re-iterated that Lindon City Attorney, Brian Haws, is in attendance to help the Commission and the audience understand which parts of the code are applicable and what is a reasonable accommodation.

Mr. Van Wagenen then referenced a memorandum from Brian Haws, Lindon City Attorney, addressing standards to follow and factors to consider when making a reasonable accommodation determination. He noted the purpose of the memorandum is to provide a legal opinion regarding the application of Reflections Recovery Center to establish a group home, it requests for reasonable accommodation under the Americans with Disabilities Act, and the application of City's Development Code in dealing with the regulation of housing for persons with disabilities. He pointed out that in dealing with the current application and request, it is important to understand the historical and legal background the City is obligated to in order to consider in making its determination in deciding this matter. Mr. Van Wagenen then turned the time over to Mr. Haws.

Mr. Haws opened the discussion by describing the legal environment and background for regulation of disability housing. He explained that up until May 2013, Utah state law allowed municipalities to place several unique regulations on residential facilities for persons with a disability. These regulations included reasonable dispersal requirements, occupancy limits, and security and supervision requirements. Lindon's current ordinance was drafted and adopted under these state provisions and incorporated many of these provisions in its terms and conditions, however, since 2005 there have been numerous federal cases in which many similar provisions from other states have been successfully challenged and struck down as violating the Federal Fair Housing Act and the Americans with Disabilities Act. These state and federal laws greatly restrict the ways in which a municipality may regulate residential facilities for persons with a disability. Mr. Haws then referenced for discussion the federal laws that will have to be

2 considered, the Fair Housing Act and the Americans with Disabilities Act. He went on to
3 say the purpose behind these Acts and Statutes was to eliminate discrimination that
4 reduce the availability of residential housing for persons with disabilities. He noted the
5 original Fair Housing Act prohibited discrimination in housing on the basis of a person's
6 race, color, religion, sex, or national origin. However, in 1988 Congress amended the
7 Act to also include prohibitions on housing discrimination based on a person's disability
8 or familial status.

9 Mr. Haws further discussed that since then, federal courts have handed down
10 hundreds of rulings interpreting and applying the FHAA in a variety of housing contexts.
11 Mr. Haws pointed out that it is important to understand that under federal law, the
12 terminology that is used for a person with a disability is anyone who has a physical or
13 mental condition that has a significant impact on a major life function. He noted that case
14 after case has litigated this and it is very clear that those individuals that are suffering
15 from addictions to substance abuse fall under that definition of disabled.

16 Mr. Haws explained that the Americans with Disabilities Act makes it clear that
17 those who are currently consuming or participating in active use of these substances do
18 not fall within that definition or category. It is those who are going through the process
19 of rehabilitation and trying to overcome that addiction that fall within that definition. He
20 further explained the uses that are being sought in this current application clearly falls
21 under the statute; which statute prohibits us from discriminating against anyone with a
22 disability in these housing operations. Mr. Haws went on to say that this applies to
23 municipalities also, not just landlords, renters or people who are selling etc. in acting
24 and enforcing zoning laws.

25 Mr. Haws then defined discrimination stating that it doesn't mean there is a bad
26 intent, it simply means that we treat someone differently than we do others. He
27 mentioned the law does allow us to treat people with disabilities differently if we do it
28 for their benefit; an exception that will help them. He did note, if the radius restriction is
29 put in, and in order to ensure that we are not creating a defacto group home zone (so
30 many clustered together that it loses its residential nature), there has been a court that
31 has upheld this stating it is a legitimate purpose that is designed to benefit the disabled
32 person. In our particular situation (without the clustering of group homes) our radius
33 restriction is applicable or enforceable in this circumstance.

34 Mr. Haws stated the other part of discrimination is that we can treat everybody
35 exactly the same. For example, our limit on the number of residents for group homes is
36 four (4), which is the same number imposed on everyone who is not related. City code
37 allows four (4) unrelated individuals to live together and count as a family, so we treat
38 everybody the same that way. The question is, how is it possible that we have to even
39 consider 24 residents. This is where the Americans with Disabilities Act comes in again
40 and says that accommodations have to be made to persons with disabilities if it is
41 reasonable and necessary. Mr. Haws further discussed that in order for a group to live
42 in the home they want to live in, is there an accommodation that we can make that will
43 allow them to do that, and is it necessary to make an accommodation up to 24 residents
44 that this applicant is asking for? That is a decision where all of the facts need to be
45 gathered and looked at. Reasonable accommodation is a very fact intensive question.
46 We have to determine if it is necessary that they are able to have the full 24 residents
they are asking for. Mr. Haws added a caveat stating an economic factor is an
appropriate factor for someone to claim it is necessary.

2 Mr. Haws stated that the burden is upon the applicant to prove that this request
for accommodation is necessary. Once the burden has been met (necessary and
4 reasonable), then we move on to the second prong which is “is it reasonable”? Where
the courts will be looking at this to see if it will have a significant impact on the
6 residential character of the neighborhood, or alter what the city’s intent and design was
in establishing this zone. Once the applicant has met that burden, and we still have
8 questions or concerns, then the burden shifts to the city where the Commission will
have to use the “Quasi-Judicial” function where judgment calls will be made in making
a recommendation. He went on to say the codes have been established and now there is
10 a request for an accommodation from those codes (excluding the radius, per state statute
and case law, and non-enforceable).

12 Mr. Haws further discussed that it is now the Commission’s obligation to look at
this and determine if it is necessary and if it is reasonable, and if they find it is not, the
14 City has to come in with very clear and convincing evidence as to why it doesn’t meet
the burden. He noted that all of the facts have not been gathered, but once they have
16 been gathered and reviewed the Commission will make a recommendation to the City
Council. He noted that public input is very important to this process but it is also
18 important to understand that the courts have articulated that this is not a referendum (a
vote to the citizens) as to whether or not this requested accommodation is necessary or
20 reasonable. Opinions from both the City and the citizens need to be backed by good
solid facts and research and need to be taken into consideration, but the courts are very
22 carefully in scrutinizing the reasons and the facts. Mr. Haws then discussed land-
regulation context. He noted the FHAA prohibits three types of discrimination: (1)
24 disparate treatment, (2) disparate impact, and (3) failure to make reasonable
accommodation.

26 Mr. Haws concluded by stating given the current state of the law, it really is not a
question of whether or not the City must make some accommodation to its current
28 requirements, it is clear that the City must do this. It is really a question of what is
necessary to accommodate the applicants based on the service they provide to disable
30 persons and what is a reasonable accommodation that does not go so far as to alter the
neighborhood so as to fundamentally change its residential nature. There was then some
32 general discussion by the Commission with Mr. Haws regarding this issue.

34 Mr. Van Wagenen then presented the site plan including photos depicting the
site. Mr. Van Wagenen addressed the following applicable Lindon City Code sections
36 addressing group homes for persons with a disability followed by discussion (staff
analysis is included in italics).

38 He then referenced Section 17.70.040 *Group Home for Persons with Disabilities*

- 40 • *The applicant has submitted a land use application for site plan
approval of a residential treatment facility in an existing dwelling
42 in the Single Family Residential (R1-20) zone.*
- 44 • *The applicant has indicated that the facility will only serve
individuals that are considered disabled under Federal guidelines.*
- 46 • *The applicant has passed pre-certification standards through the Utah
State Division of Licensing and Department of Human Services. The
facility will receive a license after final inspection. Staff recommends*

2 *that the Planning Commission require, as a condition of approval, that*
3 *the applicant present the license to the City upon issuance.*

- 4 • *The applicant is currently working with Building and Fire Inspection*
5 *Officials to achieve compliance with this requirement. Staff*
6 *recommends that the item be continued so that Building and Fire*
7 *Inspection Officials have the opportunity to fully review the submitted*
8 *plans, and can verify that the applicant will meet applicable code*
9 *requirements.*
- 10 • *The applicant has submitted plans, which are currently under review.*
11 *Staff recommends that the item be continued to allow adequate time to*
12 *review the plans for compliance with this requirement.*
- 13 • *The applicant has submitted calculations showing compliance with the*
14 *bedroom floor area requirements. The applicant is requesting a*
15 *reasonable accommodation from the 4 person occupancy limitation. The*
16 *applicant is requesting that the facility be allowed to house up to 24*
17 *residents. The Planning Commission needs to review this request*
18 *according to the standards presented by Lindon's City Attorney in the*
19 *memorandum below.*
- 20 • *The applicant's floor plan identifies 7 sleeping rooms. The site plan*
21 *proposes 8 stalls for visitor and handicap parking on a concrete*
22 *surface in the rear yard. The applicant is proposing an additional 9*
23 *stalls for employees and overflow on compacted gravel. The Planning*
24 *Commission needs to discuss whether a hard surface, other than*
25 *compacted gravel will be required.*
- 26 • *The proposed site plan indicates that compliant fencing will be*
27 *installed. Staff has requested a sample of the fence style and design for*
28 *review by the Planning Commission.*
- 29 • *The proposed site plan does not identify any portion of the required*
30 *front or side yard as parking area. The Planning Commission needs to*
31 *determine whether the proposed parking area changes the residential*
32 *character of the property.*
- 33 • *The applicant has verified that they will provide applicable proof of*
34 *insurance. Staff recommends that this requirement be included as a*
35 *condition of site plan approval.*
- 36 • *The applicant has indicated that the facility will not admit persons with*
37 *a history of sexual offence or violence. Staff recommends this as a*
38 *condition of approval. The applicant also states that the facility is*
39 *monitored continually.*

40 Mr. Van Wagenen re-iterated that in addition to the recommendations identified
41 above, Staff recommends that the item be continued to the next regularly scheduled
42 Planning Commission meeting to be held on October 14, 2014 for the following reasons:

1. To allow Lindon City's Attorney adequate time to review financial statements submitted by the applicant to verify financial viability of the operation at different occupancy levels.
2. To allow Building and Fire Code Officials adequate time to review the submitted plans to determine whether the facility will be able to achieve building, safety, and fire code compliance.
3. The conclusions identified from items #2 and #3 above will assist the Planning Commission in making a determination regarding the applicant's request for reasonable accommodation.

Chairperson Call invited the applicants forward at this time to address the Commission. Ron Wentz, Business Director, and Dave Cox, Program Director, representing Reflections Recovery Center were present for discussion. Mr. Wentz began by thanking the Commission for the opportunity to speak tonight and also thanked city staff for their assistance in the application process. Mr. Wentz stated that drug and alcohol abuse has reached epidemic proportions with Utah having the 8th highest drug mortality rate in the entire nation. The Utah Department of substance abuse and mental health annual report shows the current treatment system is only serving 16% of the current need, which means there are 76,000 adults in Utah that are in need of treatment but are not receiving it. He noted they are here tonight to seek approval to become part of the answer to this catastrophe. He added that it is shown that the most efficient therapy and longest lasting recovery is accomplished within a residential setting which is paramount in successful re-entry into society. Mr. Wentz stated they are trying to achieve that medium where they can meet all of the city codes and yet still maintain the residential nature of use. He explained this site was chosen because it is ideally situated on the edge of a residential zone adjacent to a commercial zone and is a beautiful and spacious home, on 1.3 acres. It has over 8,800 square feet of living area, including 9 bedrooms consisting of two wings for separate male and female accommodations, 6 1/2 bathrooms and plenty of room which allows residents the comfort and personal space needed for successful therapy and recovery.

Mr. Wentz explained there will be a six foot high, full privacy fence installed around three sides of the property; each side yard and the back yard, in accordance with Lindon City regulations and code. The property will be manicured and maintained to the upmost standard. Adequate illumination for safety and all lighting will be kept shielded to prevent glare onto neighboring properties. There will not be any signage and residents will be allowed privacy and respect during the healing and recovery process.

Mr. Wentz went on to say those working at Reflections Recovery Center will exceed the State's requirements for a residential facility. Competent staff will be on the premises 24/7 to provide supervision and direction. He noted that Reflections Recovery Center will be subject to City, State and Federal licensing requirements. This will include the appropriate number of licensed professional staff as well as standard policies and operational practices.

Mr. Wentz further discussed that today's abuser has become more suburban with successful careers and has more disposable income. These are people seen in the community as leaders and role models. Pride and personal standards keep them from entering the "normal" facility while their checkbook limits them from the super high end facilities. Many times the only solution they can see is to continue down the dead end

2 road they have been traveling. Reflections will fill the needs of these clients. The facility,
3 staff, program and overall image will allow them to start down the road of recovery while
4 still maintaining their dignity and personal standards. The typical resident will be over
5 eighteen (18) years of age, of mixed gender, have a primary diagnosis of a drug and/or
6 alcohol addiction, who are actively seeking help and recovery. The main focus will be on
7 the professional segment, 20 to 40 years old, of middle to upper middle class. This
8 segment is highly self-motivated to regain control of their lives, generally of a higher
9 caliber, very predictable and extremely safe.

10 Mr. Wentz explained that all residents are given a thorough evaluation by a State
11 Licensed Clinician prior to acceptance. The clients overall health, mental and emotional
12 status as well as required level of care, are established during this assessment. Reflections
13 will not grant admittance to anyone with a history of violent crimes or sexually oriented
14 offences. Reflections will accept those with minor legal issues, on an individual basis and
15 circumstance, as long as that person is seriously motivated to receive treatment and not
16 simply avoiding legal consequences. Those who are in need of moderate to severe
17 detoxification will only be admitted after hospitalization and medical clearance.

18 Mr. Wentz commented that all potential clients will undergo a therapeutic
19 assessment. Those requiring detoxification will be referred to an appropriate facility until
20 they are medically cleared for residential treatment. Reflections will not admit a client
21 with a primary diagnosis other than substance abuse. They will offer 30 day, 60 day and
22 90 day programs. Each resident is clinically assessed to determine which program is
23 appropriate for them. Residents usually elect to stay additional time because they are
24 pleased with the progress they are making and want to continue the learning and personal
25 growth. The average stay at similar programs is 60 days.

26 He further explained Reflections Recovery Center is a closed campus where
27 residents are restricted to Reflections property at all times. Passes are typically restricted
28 to activities such as doctor appointments, church attendance, or time with family. The
29 resident must be accompanied by family, facility staff, ecclesiastical leader or someone
30 approved by clinical staff.

31 Mr. Wentz stated that Lindon City code requires a monitored fire panel installed
32 in the residence. The Fire Department will regularly review the property for safety and
33 code compliance. Reflections Recovery Center will be governed by State licensing
34 requirements. There will be supervision 24/7 along with cameras monitoring the
35 residents, facility and grounds at all times. Reflections is located within 0.7 mile of the
36 Lindon City Police Department and Lindon City Fire Department. They will be subject to
37 regular and frequent drug testing. Failure to conform to a drug and alcohol free
38 environment will result in immediate discharge from the facility. Mr. Wentz stated that
39 Reflections Recovery Center will maintain a zero tolerance policy.

40 He noted the Reflections Recovery Center will look, act and feel just like any
41 other residence in the neighborhood. There will not be a noticeable difference with the
42 number of vehicles at the facility. Residents are not allowed private vehicles at
43 Reflections. Parking is based on city requirements with visitor, staff and ADA parking
44 behind the structure and privacy fence out of view. There will not be a noticeable
45 increase in daily traffic from the Center. All visitor, staff and handicapped ADA parking
46 will be provided off-street behind the building and full privacy fencing.

47 Mr. Wentz concluded by stating Reflections Recovery Center places enormous
48 emphasis on being involved in community outreach programs, service organizations,
49 drug and alcohol prevention education and suicide prevention awareness. This not only

benefits the community but also instills pride, a sense of belonging and accomplishment within the Center and its residents. Numerous studies show there is no evidence to suggest that property values have been negatively affected by residential treatment centers. Studies show that there is no correlation between crime and the presence of substance treatment centers. Other types of businesses such as convenience stores and pawnshops tend to have more crime associated with them. Chairperson Call thanked the applicants for their comments at this time. She called for questions or comments from the Commission at this time.

Commissioner Kallas inquired if the applicants have other facilities. Mr. Wentz replied this is their first facility but they have been involved with other treatment centers. Chairperson Call asked what treatment centers they have been involved with. Mr. Cox stated they have been involved with the Steps Recovery Center in Payson and the ARC of Little Cottonwood located in Sandy. Chairperson Call also asked what other types of addictions they plan to treat at the facility. Mr. Cox replied that the term “dual diagnosis” includes depression, anxiety, etc., which is secondary to the substance abuse diagnosis. Chairperson Call also asked what their intended fee schedule will be. Mr. Cox stated they have tried to keep the fee structure very affordable (approx. \$9,500 per month) which is the low end and makes it affordable for the average middle class person who cannot afford the high end treatment facilities (there will be no court mandated residents). Chairperson Call inquired what the average length of stay is. Mr. Cox stated the average stay is 60 days based on criteria. Commissioner Anderson asked for further definition of “closed campus.” Mr. Cox stated residents will not be allowed off of the property. Mr. Cox then explained what a typical day of treatment at the center is like, they do not have a lot of time when they are not in a class so there is not a lot of opportunity to leave the campus and if they do leave they must be escorted; if they leave unsupervised they will be removed from the program. Commissioner Anderson also asked what the staffing levels will be and if it will be similar to youth group homes. Mr. Wentz replied it is the State mandated requirements (1 per 8); they will actually plan to have more staff than is required. Commissioner Skinner asked if they anticipate a lot of traffic in taking the clients to the different programs and activities. Mr. Cox informed him they plan to use two 15 passenger vans where all of the clients can come and go as a group.

Commissioner Kallas commented with all the controls they will have on the residents to prevent them from leaving the property, what is the importance of the facility being in a residential setting. Mr. Cox stated it is because so much of the property itself is not institutionalized, and the fact that they are in a residential setting and community and that it is not a sterile environment like a hospital. He went on to say that studies have shown that it is a much better experience for not only the client but for the neighborhood when the neighborhood becomes involved and interact as a community to work with the clients, which benefits both. Commissioner Wily commented that there must be thousands of facilities like this throughout the country and asked Mr. Wentz to cite what the experience has been in integrating them into a residential setting.

Mr. Wentz stated the most recent study took 50 studies and did a synopsis; which showed there was no need to do further studies as they have all come to the same conclusion which states these facilities are good and beneficial. He further stated that he feels the fears and concerns of the citizens are a fear of the unknown and the negative stigma associated with substance abuse. He noted that when residents can see what benefits these facilities have and the people that are helped it may change that negativity.

2 Mr. Wentz expressed that they want to be pro-active and a part of the community. He
3 urged the citizens to read their provided information that may give them a different
4 perspective.

5 Chairperson Call pointed out that it appears that one of the main things to
6 consider here tonight is the number of residents. She noted that several models have been
7 cited that this model of 24 residents is the optimum number, but she is aware of many
8 other residential treatment centers that operate successful program with less residents
9 (8 clients); is that the reason to be financially viable. Mr. Wentz replied it is a
10 combination of several things, they are not in a \$750,000 home and they are not
11 unreasonable. Chairperson Call asked if they realized, when buying the home; that the
12 numbers they want are a lot higher than what the code allows. Mr. Wentz stated they
13 realized that and noted they are not unreasonable as they are seeking to help those who
14 need help that cannot afford it. He noted that 12% of their gross will be pushed directly
15 towards scholarship treatments.

16 Commissioner Kallas asked for clarification if the fact that this industry is related
17 closely to the Disabilities Act trumps the zoning. Mr. Haws confirmed that statement if
18 there can be a reasonable accommodation when going through the factors. He noted it's
19 the fact that the individuals fall within the definition of disabled according to the ADA
20 (in regards to occupancy, no other zoning requirements). Commissioner McDonald
21 inquired how often the clientele will be drug tested and what the policy is if someone
22 tests positive. Mr. Wentz replied that they will be tested at least 3 times a week
23 depending on the substance used. If they have a positive test they will face expulsion
24 from the program until they are clean and then will possibly re-admit.

25 At this time Chairperson Call opened the meeting to public comment. Several
26 residents in attendance addressed the Commission as follows:

27 **Spencer Killian:** Mr. Killian commented that he lives directly east of the property in
28 question. Mr. Killian then read a letter from residents that was emailed to the
29 Commission earlier today. He added his personal comments stating that he has lived in
30 Lindon for one year. He also noted that he sees the need for Recovery Centers but would
31 prefer they be located further from schools and residential areas. He expressed his
32 concerns that this facility will change the look and feel of the neighborhood and will
33 compromise the privacy and safety of the children and residents. Mr. Killian further
34 noted that he moved to Lindon because of the rural feel and closeness of the community
35 and he feels a Recovery Center will change the look and feel of the neighborhood; with
36 so many clients in the center it will be similar to having a hotel in his neighborhood. He
37 would also worry about what the curious kids would see and hear as they observe what is
38 going on in the backyard. He noted the amount of land between the privacy fence and the
39 structure would do very little to obscure the facility and they would need a 20 foot high
40 fence to obscure anything in the backyard. He also has concerns that this would devalue
41 his home with an addiction recovery center in his backyard. Mr. Killian concluded by
42 requesting that this center not be allowed to open. He also thanked the Commission for
43 hearing their comments.

44 **Renee Condie:** Ms. Condie commented that they (citizens) are aware that there are
45 substance abuse problems but as concerned citizens they obtained a copy of the city code
46 which states this recovery center is in violation of at least 3 or 4 city codes. She stated
47

2 that they have gotten together a petition with over 100 signatures of citizens who are in
3 opposition. She then read the code sections pertaining to this issue. Ms. Condie noted the
4 second code section states that in no case should a group have no more than 4 residents at
5 any given time. Ms. Condie noted after looking at the ADA and Fair Housing Acts she
6 will focus on the total number of residents in the group house. Ms. Condie stated the
7 public notice stated there are 22 proposed beds in this facility; she inquired why the large
8 numbers and noted the applicant maintains that is the optimal number for group therapy
9 and counseling. She mentioned that she checked with a few local facilities and they seem
10 to differ in these numbers. She asked what the optimal group size is for patients with

- 11 • Utah Valley Regional Medical Center: 5-10
- 12 • Mapleton Mountain Recovery Center: 6-10
- 13 • Willow Tree Recovery/Pleasant Grove: 16

14
15 Ms. Condie referenced the building code stating group home occupancy below 15
16 can be considered residential in the code but more than 15 is considered institutionalized.
17 This should be considered in the code and to realize it may be reasonable to have the
18 lower number of residents. Ms. Condie stated the residents of the facility are not just
19 residents of Lindon they could be from anywhere in the country. No one else bears the
20 increased ramification from these group homes but the neighborhood itself. Ms. Condie
21 concluded by asking for a reasonability standard for the number of occupants that should
22 be applied to assure the residential quality and character of the neighborhood be
23 maintained. She noted that there are many more people who are really concerned that
24 this is a 3 story facility as the residents can look over into other peoples home. If this
25 continues forward she would also propose that all the bedrooms be located in the
26 basement so they are not watching to see what is going on in neighboring homes. Ms.
27 Condie stated the Mr. Haws said to rely on specific dates and exact codes and things have
28 to be proven to be reasonable and necessary. She suggested that Lindon City perhaps
29 needs more time to step back and refer to specialized lawyers in city code and land
30 management before making a decision. She thanked the Commission for their time and
31 stated that she hopes everyone can work together and come to a good conclusion.

32
33 **Tom Robinson:** Mr. Robinson stated that he is a retired chief financial officer from the
34 VHA where he worked for over 12 years. He commented that his question is what the
35 failure rate is; the VHA has those figures. Mr. Robinson stated he has 15 grandchildren
36 that live within 3 blocks of this proposed facility and he is not happy about it. He noted
37 he has big concerns because he knows the failure rate and the Commission should find
38 this out. He commented that this type of facility in a residential area will work but has to
39 work with the right number of staff and doctors on staff 24/7. He expressed his concerns
40 that this is their first facility of this type and is just not enough information. And if this
41 type a facility is going to be brought to Lindon don't have a first timer come in.

42
43 **Paul Russell:** Mr. Russell stated that he lives across the street from the proposed facility.
44 He noted that his comments are not directed to people who have disabilities as they need
45 a place to be treated, but there are plenty of places in the commercial zones that treat
46 people successfully. He noted that living on 200 east they are back to back to the
commercial zone already. They have been encroached from behind and now they will be

2 encroached on the other side. Mr. Russell commented that the complexion of their
neighborhood is continuing to change and they do not want to see commercial on both
sides and it will impact the neighborhood greatly and he has concerns.

4
6 **Kerian Ross:** Ms. Ross commented that the applicant mentioned they chose this location
knowing the city code would not allow the volume of people at the facility. She
8 questioned if Lindon City would consider putting a nursing home in this same location, in
terms of density, as it changes the aspect of the residential area. Lindon is supposed to be
10 a “little bit of country” and this will significantly change this and have a huge impact on
the area. She also questioned what would stop the applicants from choosing to change
12 their entrance requirements to allow court mandated residents in. She noted if this goes
through she would like to know that there will be something in place that will stop them
from making this a higher level rehab center.

14
16 **Mark Robinson:** Mr. Robinson commented that he works from home and is about to
purchase his home and he has talked to a real estate agent that informed him this recovery
18 center would affect the value of the home and property. He noted that he has 4 boys. He
also noted that he has a history with working with and growing up with people with
substance abuse issues. He stated that he does not have a problem with these homes but
20 he is concerned about the look and feel of this facility in the neighborhood. He went on to
say that this will certainly change the feel and residential nature of the neighborhood. He
22 moved from the east coast to Lindon because he liked the country setting and if this is
approved this facility will be a business out of his back window. He voiced his biggest
24 concerns stating this is about the security and surveillance around the facility and that
would encroach on the residential neighborhood and also safety issues and that this
26 would change the value of his home.

28 **Chris Clark:** Mr. Clark commented that he lives next door to the proposed facility. Mr.
Clark also stated that he believes in helping others who want to clean up their lives. He
30 further stated that the windows of the facility are 35 ft. from his back gate and there is not
one corner of his back lot that those windows don’t look at. He noted the he has eleven
32 grandchildren that visit and play in his backyard and he is concerned for safety reasons.
He went on to say for anyone to say this will not fundamentally change the residential
34 nature of the neighborhood is absurd. He added that to say that this will not change the
value of the properties is ridiculous. He made one more point that based on the figures
36 given, this proposed facility is equivalent to having a 6 person family moving in or out
every 2 weeks in the neighborhood with alcohol or drug problems.

38
40 **Dave Phlegl:** Mr. Phlegl voiced his many concerns about putting this facility in their
neighborhood. He noted that in the past city code has not been in compliance with other
issues as well, and this code has not been in compliance since 2013. Now we have this
42 facility supposedly coming into our neighborhood that has not been under the code and
we are here tonight because we are doing something that hasn’t been done before that
44 didn’t fix that portion of the code. He stated that the city government must resolve this.
There have been a lot of things talked about his evening and from what he has heard this
46 company does not have a track record and they have not presented any record to prove
they are legitimate. To summarize, this is a bunch of rich people coming to our city to

dry out and is no benefit to our city in any way. This does not fit in with Lindon values and we the citizens do not need this business here, let them go to Las Vegas.

Paul Peterson: Mr. Peterson has lived in Lindon for 43 years. He expressed his concerns that this facility will de-value his property and he is also concerned about the amount of traffic and also the parking situation. Another concern is that these people with substance abuse problems can fall off the wagon, and what if someone escapes, steals a gun and goes to one of the schools. Mr. Peterson commented that putting something like this in a residential area is just wrong and these concerns need to be considered.

William Hardy: Mr. Hardy stated that he moved to Lindon 13 years ago. He also stated that he cannot understand why this facility is even being considered with three (3) schools in the area. He also agrees with the comment to see what their success rate is and to consider their track record.

Val Killian: Mr. Killian commented that it is evident that the citizens do not want this facility to go in but we also value the need for treatment. Mr. Killian stated that the site plan only shows the fence going half way up around the backyard. If they choose to do this he would suggest an 8 ft. fence with cement and have it go the entire distance of the property with no openings where the gate can be a secured and controlled at the front of the driveway (which will not make it look residential). He also mentioned the parking situation and noted that the van parking will accommodate almost twice as much and will not be covered which will be visible (so it will be a commercial looking building). Mr. Killian also brought up the fact that residents will not be able to sell their property if this facility goes in. There are 2 acres of prime developable land and they will not put in nice homes and be able to sell them with an alcohol recovery center behind them. This will also have a major impact on the Stratton's property who are not in favor of this going in. Mr. Killian voiced his opinion that these people are very are naïve with respect to what they can do to the code. The reality is as soon as they step above the margin and go to the 24 units they step up from a residential code to an institutional code and it must be enforced. Mr. Killian then presented a document (submitted as part of the public record) that lists the major criteria that have to be applied. Mr. Killian concluded by stating the city must deny this project and he would suggest to serve the citizens by hiring an attorney to help them defend their rights to live in this city and pay taxes and continue to be "a little bit of country."

Justin Hydeman: Mr. Hydeman commented that he has great respect for Mr. Haws and appreciates his analysis but he has several points in which he differs with him or that have not been addressed in the analysis that he would recommend to the Commission. He mentioned an opinion handed down by the Utah Supreme Court in 2008 called CRT vs. Draper. Mr. Hydeman then read the opinion. Mr. Hydeman stated that per this opinion he does not believe this would be an administrative action but a legislative action and one that would be subject to voters and something the Commission should consider closely because there would be a material change in the law, particularly with the zoning in the area. Mr. Hydeman went on to say the bigger issue is how to comply with federal law. He agrees the analysis offered to this point regarding the Fair Housing Act is "spot on" but he does not think the Fair Housing Act applies. The reason for that is there has been

no analysis offered to this Commission on the difference between a dwelling and shelter.
2 There is significant case law that indicates a shelter is a place where persons have no
4 desire to maintain a permanent residence. The only time the Fair Housing Act applies is if
6 it is, in fact, a dwelling, and it has been clearly stated that this is a 30, 60, 90 day
8 program, so therefore ADA does not apply and the analysis that the Commission should
10 come under is directly under its current R1-20 zoning. Failure to do that exposes this
12 Commission and exposes the city. He would strongly encourage that there be legal
14 analysis on that particular point. Mr. Hydeman would also agree with the previous
16 statement because it is a 3 story building there must be an elevator and fire sprinkler
18 systems. It is also important for the Commission to look at the fact if there is a reasonable
20 accommodation that can be made that does not place them in this particular place; they
were not forced to buy this building, they could go to other areas in the city where the
zoning would accommodate this use. They chose not to go to another area and they chose
a location in an area that does not allow for the use they want to engage in; this is
something they will have to deal with. At the end of the day this Commission has heard
an overwhelming rejection of this proposal by the citizenry in the surrounding area. As a
result of that, this Commission should take a very dim view of this proposal, particularly
in light of the opportunity to avoid the entanglements associated with the ADA and Fair
Housing Acts. He concluded by thanking the Commission for allowing him to comment
on behalf of these individuals.

22 Chairperson Call closed the public comment portion of the meeting at this time.
24 She called for any additional discussion from the Commissioners. She reminded the
Commission that staff has recommended continuance of this agenda item.

26 Commissioner Kallas asked in regards to occupancy of what the determination is
28 of who can reside at the center and if that can be changed. Mr. Haws stated it would have
30 to come back and go through review process again because it goes into the question of
32 reasonable accommodation; they could not change it on their own without any
34 consideration from the City. Commissioner Anderson asked if that could it be included
as a condition to not allow court mandated individuals to the center. Mr. Haws stated that
36 the approvals that will be given are giving accommodations, and in those
38 accommodations conditions are given that make those accommodations reasonable and if
40 they don't follow those conditions then another analysis would have to be done.
42 Commissioner Kallas also inquired if this goes forward could there be a request to
expand the facility. Mr. Van Wagenen stated they would have to go through the same
approval process. Commissioner Kallas asked what tax revenue the city would derive
from an operation like this. Mr. Van Wagenen stated it is not a retail establishment so
there is not sales tax involved; just property tax. Commissioner Kallas questioned if the
revenue that will be received from the group home residents is not taxed. Mr. Van
Wagenen stated is a service. Commissioner Kallas referenced Mr. Hydeman's comments
and questioned if that is something to review with Mr. Haws.

44 Mr. Haws stated he is assuming he is questioning the transitional nature and that it
46 is not a permanent residence. Commissioner Kallas confirmed that statement. Mr. Haws
48 mentioned that he did find one case in the Eighth Circuit Court that upheld that position
along with many more that upheld that argument. Mr. Haws confirmed that he would be
happy to sit down with Mr. Hydeman to discuss which cases he is referring to and is open
for discussion. Mr. Haws noted they have been in communication and have been seeking

2 out a lot of help on this issue. They have contacted Jody Burnett, who is one of the two
3 leading experts regarding group homes and will be working very closely with him.

4 Chairperson Call had additional questions. She noted that Mr. Killian's comment
5 that this would be considered an institutional use because of the number of residents. Mr.
6 Haws confirmed that under the building code it would fall under institutional code. Mr.
7 Haws stated the main reason they are asking to postpone this item is to have the time to
8 for staff to verify all the building codes and go through that process. Chairperson Call
9 also asked the applicant what they predict will be the percent of occupancy they expect to
10 have. Mr. Wentz stated they expect 80% occupancy, which is the industry standard.

11 Chairperson Call reminded the Commission that staff is recommending
12 continuance on this item to allow staff and the City Attorney the time necessary to
13 research the points brought up by the residents. She noted that staff recommends making
14 a motion to continue based on the Chief Building Official's review and also review of the
15 financials. She noted the next meeting will be held three weeks from tonight which will
16 also give the residents additional time to research or investigate this issue. Chairperson
17 Call then thanked the applicants and the residents in attendance for their comments and
18 input.

19 Chairperson Call called for any further discussion regarding this agenda item.
20 Hearing none she called for a motion.

21 COMMISSIONER ANDERSON MOVED TO CONTINUE THE
22 APPLICANT'S REQUEST FOR SITE PLAN APPROVAL OF REFLECTIONS
23 RECOVERY CENTER TO ALLOW TIME FOR THE CHIEF BUILDING OFFICIAL
24 TO REVIEW THE BUILDING AND FIRE PLANS AND THE FINANCIAL
25 ANALYSIS. COMMISSIONER KALLAS SECONDED THE MOTION. THE VOTE
26 WAS RECORDED AS FOLLOWS:

27 CHAIRPERSON CALL	AYE
28 COMMISSIONER ANDERSON	AYE
29 COMMISSIONER KALLAS	AYE
30 COMMISSIONER MARCHBANKS	AYE
31 COMMISSIONER WILY	AYE
32 COMMISSIONER MCDONALD	AYE
33 COMMISSIONER SKINNER	AYE

34 THE MOTION CARRIED UNANIMOUSLY.

35 5. **Continued Public Hearing** – *Ordinance Amendment, LCC 17.38 Completion Bonds.*
36 Lindon City requests an amendment to Lindon City Code 17.38 Bonds for
37 Completion of Improvement to Real Property.
38

39 COMMISSIONER ANDERSON TO OPEN THE PUBLIC HEARING.
40 COMMISSIONER SKINNER SECONDED THE MOTION. ALL PRESENT VOTED
41 IN FAVOR. THE MOTION CARRIED.
42

43
44 Mr. Van Wagenen led the discussion by explaining Lindon City is requesting an
45 amendment to Lindon City Code 17.38 Bonds for Completion of Improvement to Real
46 Property. He noted that City staff is in the process of consolidating and making
47 necessary changes to these ordinances to reflect changes in Utah State Code.
48

2 Mr. Van Wagenen went on to say this has been a work in progress for some time
and will continue to be. He mentioned that one of the reasons the ordinance is before
4 them in draft form tonight is because they are trying to get ahead of the curve because
large new developments may be coming down the road and they want to make sure they
6 are in compliance with state law. He also directed the Commission to take the time to
read the draft and provide any feedback to staff. Mr. Van Wagenen then directed the
8 Commission to continue this item at this time until a further meeting when the document
is closer to its final form. Mr. Van Wagenen re-iterated, if there are any comments from
10 the Commissioners or the general public, staff will be happy to receive them. Mr. Van
Wagenen then referenced the proposed amendment.

12 Chairperson Call called for any discussion from the Commission. Hearing none
he called for a motion.

14 COMMISSIONER ANDERSON MOVED TO RECOMMEND
CONTINUATION OF THE PROPOSED ORDINANCE AMENDMENT TO LCC 17.38
16 COMPLETION BONDS AS PRESENTED. COMMISSIONER KALLAS SECONDED
THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

18	CHAIRPERSON CALL	AYE
	COMMISSIONER ANDERSON	AYE
20	COMMISSIONER KALLAS	AYE
	COMMISSIONER MARCHBANKS	AYE
22	COMMISSIONER WILY	AYE
	COMMISSIONER MCDONALD	AYE
24	COMMISSIONER SKINNER	AYE

THE MOTION CARRIED UNANIMOUSLY.

26

28 6. **Continued Public Hearing** – *Ordinance Amendments, LCC 17.32 Subdivisions;*
LCC 17.58 Dedication of Subdivisions; LCC 17.66.020 Subdivision recordation.
Lindon City requests amendments to the Lindon City Code to make general revisions
30 to LCC 17.32, Subdivisions; LCC 17.58, Dedication of Subdivisions; and LCC
17.66.0220, Subdivision Recordation.

32

34 Mr. Van Wagenen gave a brief summary of this agenda item stating Lindon City
is requesting amendments to the Lindon City Code to make general revisions to LCC
17.32, Subdivisions; LCC 17.58, Dedication of Subdivisions; and LCC 17.66.020,
36 Subdivision Recordation. He noted that City staff is in the process of consolidating and
making necessary changes to these ordinances to reflect changes in Utah State Code. He
38 went on to say this has been a work in progress for a period of time and will continue to
be so in preparation for future development.

40 Mr. Van Wagenen commented that the ordinance before the Commission tonight
is still in draft form. He also directed the Commission to please take the time to read the
42 draft and provide any feedback to staff. He explained, regarding the motion for the item,
that staff is requesting that the item be continued until a further meeting when the
44 document is closer to its final form.

46 Chairperson Call called for any discussion from the Commission. Hearing none
she called for a motion.

COMMISSIONER MARCHBANKS MOVED TO RECOMMEND
CONTINUATION OF THE PROPOSED ORDINANCE AMENDMENTS TO LCC
17.32 SUBDIVISIONS; LCC 17.58 DEDICATION OF SUBDIVISIONS; LCC
17.66.020 SUBDIVISION RECORDATION AS PRESENTED. COMMISSIONER
WILY SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

CHAIRPERSON CALL	AYE
COMMISSIONER ANDERSON	AYE
COMMISSIONER KALLAS	AYE
COMMISSIONER MARCHBANKS	AYE
COMMISSIONER WILY	AYE
COMMISSIONER MCDONALD	AYE
COMMISSIONER SKINNER	AYE

THE MOTION CARRIED UNANIMOUSLY.

Chairperson Call called for any public comments at this time. Hearing none she called for a motion to close the public hearing.

COMMISSIONER ANDERSON MOVED TO CLOSE THE PUBLIC HEARING. COMMISSIONER SKINNER SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

7. New Business (Reports by Commissioners) –

Chairperson Call called for any new business or reports from the Commissioners. Chairperson Call mentioned there are some high weeds on an area of Center Street where the street narrows, which makes the road seem even narrower and poses a safety issue. Mr. Van Wagenen stated he will check into the issue. Chairperson Call also gave a summary of the recent bike tour in Boulder, Colorado followed by some general discussion.

8. Planning Director Report–

Mr. Van Wagenen had no items to report at this time. Chairperson Call called for any further comments or discussion. Hearing none she called for a motion to adjourn.

ADJOURN –

COMMISSIONER KALLAS MADE A MOTION TO ADJOURN THE MEETING AT 10:00 P.M. COMMISSIONER SKINNER SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

Approved – October 14, 2014

Sharon Call, Chairperson

Hugh Van Wagenen, Planning Director