

City Council Staff Report

November 2, 2016

Applicant: Bud Harper

Location: 727 E 1100 S

Prepared by: Sean Conroy,
Community Development
Director

Public Hearing: No

Zone: A-2

Attachments:

1. Applicant correspondence.
2. City Council packet dated 6/1/2016.
3. Meeting transcript for 6/1/2016.

REQUEST

Reconsideration of a request to expand the Maple Mountain Recovery Center, a residential care facility for persons with a disability, from 10 residents to 18 residents.

BACKGROUND AND PROJECT DESCRIPTION

On April 30, 2013 the City Council approved a permit to allow a single-family residence to be converted to a residential care facility for persons with a disability for a maximum of 10 occupants, five male and five female. The facility opened for business in March of 2014.

On June 1, 2016 the applicant appeared before the City Council with a request to increase the number of occupants from 10 to 16. The City Council voted to deny this request. The applicant is now requesting that the City Council reconsider the request to increase the number of residents and is asking for 18 residents rather than 16 (see attachment "1").

Staff has included the previous City Council packet from June 1, 2006 in attachment "2" along with a transcript of the meeting in attachment "3".

RECOMMENDATION

Determine whether a reasonable accommodation should be granted allowing for a maximum of 18 residents. Whether the Council allows for an increase or not, staff recommends that conditions 5 and 6 be amended as shown below (changes shown with strikeout).

5. No individual shall be admitted to the facility as a resident who ~~has a history of criminal conviction,~~ is a convicted sex offender, has been convicted of selling or manufacturing illegal drugs, is currently using drugs or alcohol, and/or who is a direct threat to the health and safety of other individuals and/or of causing substantial physical damage to the property of others.

The owner or operator of the facility shall conduct an individualized assessment of each person who desires to become a resident of the facility to determine if such person would constitute a direct threat prior to allowing occupancy of the facility by such person. The assessment shall be performed and certified by an independent medical doctor, licensed clinical social worker (LCSW), licensed professional counselor (LPC), licensed psychologist or licensed psychiatrist through a facility that is licensed and approved by the Utah Department of Human Services Division of Licensing or other

equivalent licensing board of another state as a provider for substance abuse. The person performing the assessment shall perform a background check for each potential resident.

6. Prior to the occupancy of the facility and at least quarterly thereafter, the person or entity licensed or certified by the applicable regulatory state agency shall certify in a sworn affidavit to the City that based on the individualized assessment performed for each resident, no person will or does reside in the facility whose tenancy would likely constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. The affidavit will also state that no individuals have been admitted to the facility as a resident who ~~has a history of criminal conviction~~, is a convicted sex offender, has been convicted of selling or manufacturing illegal drugs, and/or is currently using drugs or alcohol. Upon request by the City, the applicant shall provide documentation to support the affidavit(s).

Attachment "1"
Applicant Correspondence



EDWARD W. MCBRIDE, JR.
TED.MCBRIDE@VF-LAW.COM

Admitted to practice in:
Utah and New York

August 30, 2016

Eric Johnson, City Attorney
Mapleton City
eric@bcjlaw.net
125 West 400 North
Mapleton, UT 84664

Re: Maple Mountain Recovery-City restrictions

Dear Mr. Johnson:

Maple Mountain Recovery has retained me in connection with the above referenced matter. I'm writing at this time to introduce myself and to inquire as to whether the City would be interested in discussing the issues before embarking upon further legal proceedings.

I have many concerns with the Special Conditions imposed upon Maple Mountain Recovery, and I am quite confident that some of those conditions violate the Fair Housing Act. In fact, the decision to deny the request to increase to 16 beds is based entirely upon Ryan Farnsworth's speculation. In the meeting minutes, it notes:

C1. Farnsworth stated that the facility has been in operation for a while now, there have not been many great issues because there are a maximum of 10 patients there, but if you were to increase this to 16, ***it would increase the risk to have an incidence.***

This is not a legitimate basis to deny the request for 16 beds.

If you would like to discuss some of these issues, please feel free to contact me. If I don't hear from you within a week, I'll assume that the City is comfortable with its position and prepared to defend it.

Thank you.

Very truly yours,

/s/ Edward W. McBride, Jr.

Edward W. McBride, Jr.



EDWARD W. MCBRIDE, JR.
TED.MCBRIDE@VF-LAW.COM

Admitted to practice in:
Utah and New York

September 29, 2016

Eric Johnson, City Attorney
Mapleton City
eric@bcjlaw.net
125 West 400 North
Mapleton, UT 84664

Re: Maple Mountain Recovery-City restrictions

Dear Mr. Johnson:

I understand that the Maple Mountain Recovery request for additional beds has been set to go before the City Council sometime in November. Please confirm the date and time of the hearing.

By this letter, I am also clarifying that our client is attempting to accommodate 18 beds in his facility and not the 16 as indicated on the agenda.

Please feel free to contact me if you have any questions or concerns

Thank you.

Very truly yours,

/s/ Edward W. McBride, Jr.

Edward W. McBride, Jr.

City Council Staff Report

June 1, 2016

Applicant: Bud Harper

Location: 727 E 1100 S

Prepared by: Sean Conroy,
Community Development
Director

Public Hearing: Yes

Zone: A-2

Attachments:

1. Application information.
2. City Council minutes dated 4/30/13.
3. Letter on group size research.
4. Existing conditions of approval.

REQUEST

Consideration of a request to expand the Maple Mountain Recovery Center, a residential care facility for persons with a disability, from 10 residents to 16 residents.

BACKGROUND AND PROJECT DESCRIPTION

On April 30, 2013 the City Council approved a permit to allow a single-family residence to be converted to a residential care facility for persons with a disability for a maximum of 10 occupants, five male and five female (see attachment "2"). The limitation of 10 occupants was based on evidence provided by the applicant that group sizes should be at least five to 15 individuals (see attachment "3").

The facility opened for business in March of 2014. The applicant is now requesting approval to increase the number of residents from 10 to 16 (see attachment "1").

EVALUATION

Federal & State Code: The Federal Fair Housing Amendments Act of 1988 (FHA) prohibits discrimination based on race, color, religion, sex, national origin, disability or family status. Under the FHA, a person with a disability is "*any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment.*" A physical or mental impairment includes drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

One type of discrimination that is prohibited is the refusal to make "reasonable accommodations" in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy residential housing. The FHA does not allow exclusion of residential facilities based upon fear, speculation, or stereotype about a particular disability or persons with disabilities in general.

Reasonable Accommodation: MCC chapter 18.84.370.B(5)(b) indicates that "*Any person or entity who wishes to request a reasonable accommodation shall make a written request for the same...*". The purpose of a reasonable accommodation is to give individuals with a disability accommodation in rules, policies, procedures, etc. to ensure equal access to housing and to facilitate the development of housing for people with disabilities in accordance with federal and state statutes.

The Council previously granted the applicant a reasonable accommodation to allow for a maximum of 10 non-related individuals to occupy the facility.

Mapleton City Code (MCC) Chapter 18.84.370.B(5)(b) requires the applicant to describe why the requested accommodation is necessary to afford the disabled an equal opportunity to use and enjoy residential housing. Mapleton City Code also indicates that a maximum of four non-related individuals may live together in a single household unit.

The applicant is now requesting a reasonable accommodation to allow for a maximum of 16 residents. The applicant has provided an opinion that 16 residents is necessary in order to provide specialized therapy groups and to ensure client variety (see attachment "1"). Staff has included the language from the MCC that governs reasonable accommodations followed by a brief staff response.

(1) In considering whether a proposed accommodation is reasonable and necessary, the planning commission and city council shall:

(A) Consider the impact of the requested accommodation on the neighborhood in light of existing zoning and use, including any impact on neighborhood parking, traffic, noise, utility use, safety, and other similar concerns, and whether any such impact fundamentally alters the character and/or nature of the neighborhood and/or existing zoning regulations;

Response: Staff, including the Police Department, are not aware of any negative neighborhood impacts from the existing use related to parking, traffic, noise, utility use, safety and other similar concerns. Increasing the number of residents from 10 to 16 could impact the number for vehicle trips. However, the applicant can provide sufficient on-site parking to handle any increases. One of the conditions of the original approval was that no on-street parking would be permitted. This condition should remain in place if the Council allows for the increase to 16 residents.

(B) Consider whether, based on objective evidence and on an individualized basis, a particular accommodation would pose a direct threat to the health or safety of other individuals and/or would result in substantial physical damage to the property of others. In determining the likelihood of direct threat or substantial damage, the planning commission shall consider:

(i) The nature, duration, and severity of the risk;

(ii) The probability that the potential injury will actually occur; and

(iii) Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk; and

Response: Staff is unaware of any physical damage that has occurred to neighboring properties or threats to the safety of others since the facility began operation. The applicant has indicated that the facility focuses on providing care for low to medium risk clients and that high risk clients would not

be permitted. The existing conditions of approval require the applicant to conduct an individualized assessment of each person who desires to become a resident of the facility to determine if such person would constitute a direct threat prior to allowing occupancy of the facility by such person. No one may be admitted that has a history of criminal conviction.

(C) Consider whether granting the accommodation would impose any significant or undue expense and/or administrative burden on the city.

Response: Staff does not anticipate any additional burden or expense if the facility increases from 10 residents to 16.

RECOMMENDATION

Determine whether a reasonable accommodation should be granted allowing for a maximum of 16 residents. If the Council allows for the increase in residents, staff recommends that the existing special conditions remain in place (see attachment “4”).



Bud Harper
727 E. 1100 South
Mapleton, Ut. 84664

April 5, 2016

ATTN: Sean Conroy AICP
Community Development Director

This purpose of this letter is to respond to your request for a description of the program provided by Maple Mountain Recovery, as discussed in our recent meeting.

Our new Clinical Director, Hanna LeBaron, LCSW, started at Maple Mountain Recovery in July of 2015. Since that time our program has changed significantly and she has provided the following regarding changes made to our program:

“Maple Mountain Recovery is a unique mental health recovery facility. We treat people who are affected by trauma and/or adverse experiences in their past. Because of their trauma, their autonomic nervous system is dysregulated causing variety of problems in stress management, emotional regulation, relationship skills and other associated problems. In the course of their lives, alcohol and/or drugs were introduced as a way of coping. All too frequently these addictive prescription medications are prescribed by medical doctors. Our clients started relying on alcohol or prescription pills in order to deal with their emotions, life stressors and ultimately became addicted.

At Maple Mountain Recovery we treat low or medium risk clients. All potential clients go through an extensive interview process to determine if they are a good fit for our program. Additionally, various online resources are utilized to verify if there is any criminal history. Our program is not designed for high risk substance use disorder clients and/or criminals. Research presented on low and high risk clients to Utah addiction professionals at the St. George Fall Conference clearly indicates that these two clienteles are not to be mixed. When low risk clients are mixed in a facility with high risk clients, the low risk clients do not improve, on the

contrary, their situation gets worse. Maple Mountain Recovery has responded to this research by providing trauma informed care for low to medium risk clients. To make a comparison, high risk clients in treatment learn to how behave in society, whereas our clients work on their underlying issues – what caused their addiction - and they are actually healing and changing their very brain. When clients' mental health improves, there is no reason to use pills or alcohol again. However, since the substance use caused brain changes and addiction, the clients need to stay in a safe, drug free environment until they are stronger and able to prevent relapse on their own.

Maple Mountain Recovery is already establishing a reputation as a leader in the addiction treatment field. Our staff is highly educated and trained, and we are constantly improving our program to meet and exceed the highest national standards. We are working towards national accreditation through the Joint Commission on Accreditation of Healthcare Organizations and are scheduled for our accreditation review this month. We are continually working towards improving treatment outcomes by responding to field research through utilizing the most current evidence-based treatment methods available.

At Maple Mountain Recovery, we are offering exciting treatment to our clients. We are doing trauma therapy such as eye movement desensitization and reprocessing, neurofeedback and cranial electrotherapy stimulation. We are considering bringing a theta wave bed to help our clients' further work with their dysregulated nervous systems. We also do common therapies such as dialectical behavioral therapy, cognitive behavioral therapy and motivation enhancement therapy. Our clients also get massages, yoga and they participate in fun sober activities such as dancing, rock climbing and sports. We also take them on various experiential outings to start reintegrating them back into society. We provide our clients with specialized group and individual therapy. Spirituality is a very important value to us and we work hard on finding meaning in life in a variety of ways including the LDS church, other Christian religions, Native American ways, reading self-help books from world known authors and Eastern philosophies. We introduce the 12 step process to our clients to help them work on their individual character issues, amendments and relationship with their Higher Power. Another unique quality of our program is a rigorous case management program. We work on integrating our clients back into society through helping them find housing, work, schooling and outpatient treatment. The program at MMR is very rigorous. The clients who complete our program have an excellent chance for lifetime recovery. Our hope is that Maple Mountain Recovery graduates would not have to repeat treatment again, which is very common, as addiction is a chronic illness. Through a great deal of hard work and self-discovery we have seen a great deal of improvement and good recovery so far.

We need to be able to house up to 16 clients. With 16 clients, we are still a very small facility in Utah and national standards. We desire to keep our facility small,

so that our clients will get a lot of attention. Most of our clients have attachment injuries, which means that they suffered physical and/or emotional abandonment as children. With 16 clients, our clients will have an effective therapeutic milieu, and they also get a lot of attention. A sixteen client group is the minimum amount of clients to have in order to effectively offer individualized care such as specialized groups – gender groups, trauma groups etc. – and to have a large enough milieu for client variety. Client variety is very important in order to have a good enough ratio between clients that are working hard on their recovery and clients that are struggling with their motivation to work the program. Our client staff ratio is 2/1, which assures a safe environment for our recovery community.

We are very passionate about this work. We want to offer an exclusive treatment experience that works. We also take safety very seriously, as it is the first of our treatment values. Additionally, we are very careful to make sure that our Mapleton neighbors will not be disturbed or affected in a negative way. On the contrary, we want to show by our actions and behaviors that we are good neighbors and that we are an asset to have around. We want our Mapleton neighbors to be proud of us and our devotion to helping others succeed in life.”

If possible, we would like to be put on the schedule for the next available city council meeting. If you have any further questions or concerns regarding the content of this letter, please feel free to contact me at any time at 801-602-8336. Thank you for your help regarding this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Bud Harper", with a long horizontal flourish extending to the right.

Bud Harper

MAPLETON CITY COUNCIL MEETING

April 30, 2013

PRESIDING AND CONDUCTING: Mayor Brian Wall

Council Members: Ryan Farnworth
Scott Hansen- Excused
Jim Lundberg
Mike Nelson
Jonathan Reid

Also Present: Cory Branch- City Administrator
Camille Brown- City Recorder
Gary Calder- City Engineer/Public Works Director
Sean Conroy- Community Development Director
Rick Hansen, Building Official
Eric Johnson, City Attorney
Chief Pettersson- Police Chief

Minutes Recorded by: Camille Brown- City Recorder

CALL TO ORDER: Mayor Wall called the meeting to order at 7:05 pm. Cl. Lundberg gave the invocation and Cl. Nelson led the pledge of allegiance.

APPROVAL OF MINUTES:

1. Approval of City Council meeting minutes- April 16, 2013

Motion: Cl. Lundberg moved to approve the minutes of the April 16, 2013 City Council meeting.

Second: Cl. Nelson seconded the motion.

Vote: Passed 4:0

PUBLIC HEARING ITEM:

- 2. Consideration of a request to convert an existing single family dwelling into a Residential Facility for Persons with a Disability located at 727 E 1100 S, and a request for a reasonable accommodation to allow up to 16 residents in the proposed facility.**

Sean Conroy, Community Development Director reviewed the staff report for those in attendance. He reported that Mr. Harper would like to convert his residence into a Residential Facility which would focus on drug and alcohol addiction. The maximum capacity is 16 adult residents at a time which would need anywhere from 30, 60 to 90 day programs. The residents would not have vehicles and would not be allowed off the property without supervision. The

subject property is located at 727 East 1100 South in Mapleton. Mr. Conroy further stated that The Federal Fair Housing Act (FHA) prohibits discrimination based on disability and drug and alcohol addiction are considered to be a disability. Federal law prohibits failure to grant reasonable accommodations to policies, rules and regulations, etc. when justified. Also the FHA does not allow exclusion of residential facilities based upon fear, speculation or stereotype about a particular disability or person with disabilities. Mr. Conroy reviewed the state law as it applies to residential treatment facilities and that they shall be permitted in all zones that allow residential uses.

Mr. Conroy stated that the Planning Commission has heard and approved this item and now the City Council needs to give approval or denial. The City Ordinance is in line with the Federal and State statutes for these types of facilities. The current ordinance allows for 3 unrelated individuals to occupy a home, however state law now requires at least 4. The applicant is requesting 16 which would be a benefit for group therapy and the ideal size would be 8 males and 8 females in order to make the program financially viable. Several questions were outlined for the Council's review of the reasonable accommodation request.

Bud Harper, the applicant, stated that he is aware there is a lot of speculation mixed with fact and fiction. He would like to talk about some of the issues regarding the facility. The program description they will have is an adult program, so no one under the age of 18 would be admitted. All residents will have to complete a detox program before entering the facility. No one is forced to come to this facility, therefore there will be no convicted individuals allowed. The program will be offered for 30, 60 and 90 days, with focus on the 90 day program, since the 90 day program is much more affective. They will open with a variety of addictions and move to a more specific prescription drug addiction facility over time. No one in the program will be walking through the neighborhood unsupervised. All activities will take place on the property or transportation will be provided by a van. Each month there will be a family day where there would be more cars around the facility than usual. In order to not burden the neighborhood, the families will be shuttled to the facility. This facility is twice the size of facilities that are in existence already. Alcohol and drug abuse is a mental disorder; substance means alcohol and drugs. Less than 16 beds would make it so that the facility would not be profitable. There are already in most facilities about 20 people on waiting lists at any period of time.

Cl. Reid asked Mr. Harper if he would be willing to stipulate to no street parking and he stated that yes he would.

Cl. Lundberg inquired about Ms. Maloney's statements about 6-8 members would be the ideal number for group therapy. If the group is too large, patients would be reluctant to share information. Mr. Harper stated that there will be up to 5 different types of therapy but all would

be together for educational things. It is common that women are not going to talk about certain issues if there are men in the room.

The public hearing was opened at 7:15 pm

Denise Maingot, 696 South 1200 East, stated that there are numerous people in the neighborhood that are concerned about this treatment facility going in and they have donated their time to research this issue. She doesn't want the council to perceive the lack of comment as lack of interest. She was the individual that put the spread sheet together about the homes in the area and how long the families have lived in this neighborhood. Also, she personally did visit all of the facilities that are listed. Most the homes in this neighborhood exceed 5000 sq. feet. The home that Mr. Harper lives in, which was built in 1980, was built for a family of 7 and at the time when Mr. Harper bought it his family consisted of 6. The neighborhood is very concerned about the type of people that this facility will bring, mostly those being transient people. Ms. Maingot talks how Mr. Harper wants to have 16 individuals and get anyone he can to enter the program. Everything is guess work, he has shown nothing as a profit and loss. She would recommend that the City Council deny this request.

Dan McDonald, Mapleton Fair Care, LLC, stated he is representing a group of citizens living in the same neighborhood as the applicant, Bud Harper, who is seeking to convert his home into a residential treatment facility for 16 recovering addicts and substance abuse users. Mr. McDonald reviewed federal cases that he has represented clients in similar matters. He stated that Courts continue to give substantial deference to local zoning laws and local zoning authorities, who are entitled to enforce their laws so long as enforcement does not result in discrimination. Mr. McDonald and their group has submitted several documents for consideration and he encouraged the council to review the documents before a decision is made. Different circuit courts are applying different laws across the country. There is not enough information from the applicant to make this decision.

Eric Johnson, City Attorney, stated that Ms. Maloney does not connect the dots as correctly as she could, she does not even say that group treatment is necessary, in light of that, to say well, there wasn't that extra dot that was needed, if the treatment was helpful to them, why wouldn't you allow them to have that.

James Ott who is a therapist and resident in Salt Lake City stated that there needs to be more treatment facilities and more programs. He stated that he was a clinical director and does not believe that this is the correct location to put this facility.

Sandra Taylor- stated that she owns the property at approximately 1057 South 800 East. They had a cash offer on their property and once the buyers heard of what was being proposed for the location to the west of her property, the buyers pulled their offer. She thinks that this will directly affect the character of the neighborhood.

Ben Card- 1090 East Falcon Circle, stated he is a past City Council member. He remembers that back in 2005 the council had to wrestle with this same type of application with Discovery Ranch. Discovery Ranch was approved along Hwy 89 which is surrounded by a high density housing zone. Our neighborhood will be changed forever, neighborhoods in Mapleton always have homes for sale, there will be huge implications if this is approved.

Richard Nance, stated that he is the Director of the Utah County Division of Substance Abuse. He stated that Mr. McDonald said that this facility should be in a commercial zone. From Mapleton alone, 36 individuals were booked into other treatment facilities within the county or into the County Jail and he thinks that it is viable for Mapleton to have a substance abuse program.

Cory Andersen, 641 West 550 South, stated that he has lived here in Mapleton for the last 8 years and he is a developer within the community. He stated that he is a recovering alcoholic, and he facilitates a 12 step meeting in Mapleton every week. He would ask the public to not be ignorant and not be hypocrites about “these people” that would be attending this program. We need to be open to this, this can be a very touchy subject, “these people” that he is one of, it is not what you think, these facilities have saved his life. He is here as a missionary for the church. This is a huge problem in his life, but that is the nature of this disease. He would ask that you as the public try to open your hearts and minds and be considerate when “these people” live in your community. He is here to shout out his addiction because he wants to help people, and would ask that the public not refer to these individuals as “riffraff or those people”.

Ron Frasier, 266 East 900 South, stated that he is all for Mr. Harper to be able to do this, but not for 16 people, 4 is plenty.

Kelly Cook- 665 East 1100 South, stated that in the Fair Housing Act, 16 is good, but why not 4, you would not be discriminatory, if you had 4 or 6, but if you had 16, you would feel the nature of the change of the neighborhood. The Federal Law is clear, you need to allow for 4 but why 16.

Rick Maingot, 696 South 1100 South stated first of all he would like to address Cory Anderson’s issues, we know they need to be helped, this is not the issue, we want to help people, but where is the appropriate place to put these people. He talked to Mr. Harper and he doesn’t

believe that this is the right place. If you need funding, let's do it, Discovery Ranch was brought up, this is an appropriate place, this is in a commercial area, with high density housing area in the back. This facility would be smack dab in the middle of a residential area, it is not the right size. No one is saying he can't have a facility, it is the number of people, there is going to be vans, at least 2 vans. The more people you have the more parking you are going to need. It doesn't have anything to do with the type of people, it is how many people are inside. Mayor it is like everyone has had their mind made up from the beginning.

Cl. Lundberg stated that Mr. Maingot seems somewhat accusatory. Cl. Lundberg stated that he does not have his mind made up and no one else has their mind made up. We have to look at the objective evidence. We have a duty to measure the evidence, he has to divorce himself from any personal opinion, speculation opinion is not evidence. He greatly appreciates the work all of you have done, you have produced subjective evidence, and in his mind he is trying to gather the evidence, which is his duty. He hopes that you don't take this questioning that his mind is made up, in the end, everyone has to measure the evidence. Thank you for what you have provided to the City Council.

Cl. Nelson stated that his sister and her husband started New Haven. He knows the process, and has visited Telos and Discovery Ranch and is familiar with other programs.

Larry Haines, 1005 South 800 East stated that almost every time a difficult issue comes up they ask for the input of the neighbors and there is not one neighbor that likes this for the neighborhood.

The Public Hearing was closed at 9:40 pm.

Eric Johnson stated that he would like to address some of the things that have been said about where this is in the community. The federal law gives the right for this use to be in this area. If people are allowed to reside in a zone then disabled people are allowed to reside in the zone. You should not apply the tests that Mr. McDonald has applied, that would be a misapplication from the 10th Circuit Court.

Cl. Lundberg stated that this facility would not lessen the character of the neighborhood. We have a legal duty to approve a facility under federal law. Ms. Maloney's evaluation of 5 and 5 in a group setting is minimal. Mixed therapy is perfectly viable and can be perfect group therapy.

Cl. Farnworth stated that with this being reasonable in the fair housing, we have to base it off of a reasonable decision, most laws can be interpreted. In his job, he has to make a judgment and initiate the arrest and has to base it on case laws.

Motion: Cl. Nelson moved to approve to convert an existing single family dwelling into a Residential Facility for Persons with a Disability located at 727 E 1100 S, and a request for a reasonable accommodation to allow up to 12 residents in the proposed facility for persons of 6 males and 6 females.

Motion failed for lack of second.

Motion: Cl. Reid moved to approve to convert an existing single family dwelling into a Residential Facility for Persons with a Disability located at 727 E 1100 S, and a request for a reasonable accommodation to allow up to 10 residents

Cl. Farnworth would like to amend to allow for 5 males and 5 females

Second: Cl. Nelson seconded the motion

Reid Nay

Nelson Aye

Lundberg Aye

Farnworth Aye

Vote: Amendment passed 3:1

Motion: Cl. Farnworth moved to approve to convert an existing single family dwelling into a Residential Facility for Persons with a Disability located at 727 E 1100 S, and a request for a reasonable accommodation to allow up to 10 residents of 5 men and 5 women

Second: Cl. Nelson seconded the motion.

Reid Aye

Nelson Aye

Lundberg Nay

Farnworth Aye

Vote: Passed 3:1

ACTION ITEMS:

- 3. The Ensign-Bickford Company requests approval of an amendment to Exhibit M-1, M-2 and M-3 of their Development Agreement as it relates to their offsite sewer alignment and crossing location for property located generally at 4000 South Hwy 89.**

Cory Branch, City Administrator, reviewed the staff report for those in attendance. The Development Agreement was signed in August of 2011. During the last City Council meeting of April 16th the applicant was before the City Council for discussions relating to offsite sewer alignments and crossing alignments. The applicant would request an amendment of the Exhibits M-1, M-2 and M-3. Mr. Branch stated that staff has reviewed this and would

Attachment "3"
Letter on Group Size Research

ROSEMONDE MALONEY, LCSW, PsyD

Mr. Bud Harper
727 E. 1100 South
Mapleton, Utah 84664

March 27, 2013

Dear Bud,

Per our conversation, below is information that you requested regarding the ideal size for group therapy:

1. *American Group Psychotherapy Association, (2007)* guidelines indicate the general size of group to be between seven to ten participants.
2. Irvin Yalom, PhD, *The Theory and Practice of Group, (2005)*
Studies with four or less members experience:
 - a) limited interaction
 - b) passivity
 - c) Negative group image
 - d) poor group development – groups should start out bigger to account for dropouts
3. Most research stipulates five to 15 members, with six to eight the ideal number for an effective group.
Battegay, (1974), Cole, (1998), and Howe & Schwartzberg, (1995).

If the group is too large clients may be reluctant or uncomfortable in expressing themselves and may not participate, and if too small, they become bored due to the lack of variety.

Six to eight group members can establish interpersonal relationships and remain interested in each other.

Stein & Cutler, *Psychosocial Occupational Therapy; A Holistic Approach*

Based on the above information, sixteen beds would be an ideal number for your residential treatment center. Although, it may appear that you would have sixteen residents participating,

the reality is this would allow for day to day activities that occur which may prevent residents from attending group on any particular day such as; discharges, admits, sick call or other miscellaneous appointments. In essence, the group size would be approximately ten to twelve members as determined to be an "ideal" number.

As discussed, your program will incorporate various types of groups to ensure a well-balanced program. One being, *homogeneous*, this particular group is composed of individuals who experience some sort of similarity, i.e., gender. If your facility was to be limited to less than sixteen, given credence to what is stated above regarding allowances for non-participation, the groups may not be successful because it would be difficult to facilitate with too few individuals. Should there be sixteen, (eight women and eight men), again taking into account those who aren't able to attend, the group process would be able to remain constant.

The literature on group size is limited and continues to be redirected to Yalom as the forerunner, and forefather of group psychotherapy. In his work, *The Theory and Practice of Group*, (2005), he clearly indicates that the most suitable number for the group process is eight members.

I hope you find this information to be beneficial. I wish you great success in the future development of your residential treatment center.

Sincerely,

R. Maloney, LCSW, PsyD

Rosemonde Maloney, LCSW, PsyD

Attachment “4”
Existing conditions as approved by City Council on 4/30/13

1. Prior to operation, the applicant shall obtain a building permit and comply with all building and fire code requirements related to the proposed facility.
2. Prior to operation, the applicant shall obtain a business license from the City.
3. Prior to operation, the applicant shall obtain a license from the Utah Department of Human Services. This license must remain active throughout the life of the facility.
4. Placement of disabled individuals in the facility shall be on a strictly voluntary basis and not part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.
5. No individual shall be admitted to the facility as a resident who has a history of criminal conviction, is a convicted sex offender, has been convicted of selling or manufacturing illegal drugs, is currently using drugs or alcohol, and/or who is a direct threat to the health and safety of other individuals and/or of causing substantial physical damage to the property of others.

The owner or operator of the facility shall conduct an individualized assessment of each person who desires to become a resident of the facility to determine if such person would constitute a direct threat prior to allowing occupancy of the facility by such person. The assessment shall be performed and certified by an independent medical doctor, licensed clinical social worker (LCSW), licensed professional counselor (LPC), licensed psychologist or licensed psychiatrist through a facility that is licensed and approved by the Utah Department of Human Services Division of Licensing or other equivalent licensing board of another state as a provider for substance abuse. The person performing the assessment shall perform a background check for each potential resident.

6. Prior to the occupancy of the facility and at least quarterly thereafter, the person or entity licensed or certified by the applicable regulatory state agency shall certify in a sworn affidavit to the City that based on the individualized assessment performed for each resident, no person will or does reside in the facility whose tenancy would likely constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. The affidavit will also state that no individuals have been admitted to the facility as a resident who has a history of criminal conviction, is a convicted sex offender, has been convicted of selling or manufacturing illegal drugs, and/or is currently using drugs or alcohol. Upon request by the City, the applicant shall provide documentation to support the affidavit(s).
7. The applicant shall immediately discharge any resident who uses illegal drugs or alcohol while residing at the facility.

8. The approval of this use is nontransferable and terminates upon transfer of ownership of the facility. The approval may also be revoked if any use other than that approved is operated on site and/or if the facility is not in compliance with Mapleton City Code chapter 18.84.370.B.
9. The property shall maintain the appearance of a single family residence.
10. The City Council shall review this permit on an annual basis to ensure that the facility is in compliance with city standards and the conditions of this permit. The Council may amend the conditions of the permit if it is determined that new conditions are needed to ensure compliance with city standards.
11. No on-street parking shall be permitted by the employees, residents or visitors of the facility.



727 East 1100 South
Mapleton, Utah 84664

February 19, 2016

Mapleton City Corporation
125 West Community Center Way
Mapleton, Utah, 84664

Attn: Sean Conroy, Community Development Director:

The purpose of this letter is to make a formal request for approval to allow Maple Mountain Recovery to provide sixteen patient beds, as originally approved by the Mapleton City Planning Department. The following items address reasonable accommodation issues which justify approval of this request.

1. An optimal patient mix of sixteen is required in order to provide an effective program with large enough groups to maximize positive outcomes. Although Maple Mountain Recovery has operated at the current capacity of ten, there are insufficient numbers to adequately run an effective program which includes having large enough groups to individualize and specialize therapy for positive outcomes in recovery. Having an adequate number is necessary to establish a healthy therapeutic community when splitting the patients into gender specific groups. Our treatment model is based on trauma informed care for low risk patients. As such, we treat co-occurring disorders dealing with developmental, attachment, sexual victimization and other traumas. The trauma work often requires females to be separated from the males.
2. The following is a partial list of residentially constructed dwellings in various cities along the Wasatch front. The cities shown have all agreed

that sixteen, or more, is considered a reasonable accommodation regarding a residentially constructed single family dwelling to be used as a residential treatment facility for drug and alcohol recovery.

- a. Alpine Recovery Lodge, Alpine, 16 beds
 - b. Annie's house, Draper, 24 beds
 - c. Ascend Recovery, American Fork, 16 beds
 - d. Cirque Lodge, Sundance, 16 beds
 - e. Inspire Addiction Recovery, Bluffdale, 18 beds
 - f. Journey at Willow Creek, Cottonwood Heights, 16 beds
 - g. Mountain Peak Recovery, Spanish Fork, 16 beds
 - h. Olympus Drug and Alcohol Recovery, Heber, 20 beds
 - i. Renaissance ranch, Bluffdale, 30 beds
 - j. The Haven, Salt Lake City, 16 beds
 - k. Turning Point Center, Sandy, 16 beds
 - l. Wasatch Recovery Treatment Center, Cottonwood Heights, 30 beds
 - m. Willow Tree Recovery, Pleasant Grove, 16 beds
3. There are no facilities that are anywhere near as large as Maple Mountain Recovery which are licensed for less than sixteen beds. There are, however, facilities less than half the size of Maple Mountain Recovery which are licensed for sixteen beds.
 4. Maple Mountain Recovery has complied with all codes governing its operation and has operated in a manner which places a very minimal impact on the city. Maple Mountain Recovery is targeting to be the best facility of its type in the state and I believe that will also provide a favorable impact on the city of Mapleton as well.

I would like to request that we be put on the calendar for the next available city council meeting.

Thank you for your help and consideration regarding this request. Should you have any questions regarding this letter, please contact me on my cell at 801-602-8336.

Sincerely,

Bud Harper

May 28, 2016

To whom it may concern:

I am a physician and a certified addictionologist that has worked in the field of addiction for the past 10 years. I have been asked to supply an opinion about the ideal group size for a residential treatment center. I have been asked by Maple Mountain Recovery to render an opinion only. I am very interested in effective and compassionate treatment of those who suffer from addictions, and it is for that reason that I am writing this letter.

In an NIH-funded study of residential community-based homes, Jason et al. found that individuals recovering from addictions should be surrounded by a community in which they feel they belong and are able to obtain sobriety goals. They found having more residents allows members to learn from each other and increases opportunities for diversity. Additionally, residents of larger houses exhibited fewer criminal and aggressive behaviors as measured by the Global Appraisal of Individual Needs-Quick Screen than residents of smaller houses. In the National Survey of Substance Abuse Treatment Services (N-SSATS): 2012 Data on Substance Abuse Treatment Facilities, the median number of residents at residential treatment facilities was 18 to 25. The nationally-renowned treatment facility, Hazelden, which has one of the largest campuses in the world, breaks their residents down into pods of 24. Residents of communities who are faced with the possibility of a drug and alcohol treatment facility in their neighborhoods often fall victim to the not in my backyard syndrome (NIMBY) syndrome pattern. NIMBY is a syndrome where residents, and sometimes even community leaders, begin to believe hype which is not based on real evidence. Community leaders invoke maximum non-related person's occupancy laws which were definitely not intended for residential-based group homes and treatment centers in the first place.

I urge the community leaders of Mapleton to be open-minded on this subject. Because disability law will likely force the community to allow treatment centers in their neighborhoods. Limiting the number of clients has not been shown to benefit or protect the community in anyway. It will, however, negatively affect the quality of treatment that a recovering addict or alcoholic receives. Ultimately, this could negatively affect the surrounding community. Please consider these facts.

Sincerely,



Terry Sellers, MD
Medical Director
Nextstep Medical Detox

Eric:

As you know I represent Mapleton Fair Care, LLC, which forwarded to me the May 28, 2016, letter of Dr. Terry Sellers, MD. I want to respond briefly to some of the more troubling aspects of his letter.

First, he misstates the findings of the "NIH-funded study of residential community-based homes, Jason et al." I have attached the article. Nothing in the article supports a group size of 16 residents. In fact, the article states that even the Oxford House, which is the most aggressive group home advocacy group in the nation, recommends a group size of only 8-12 residents. That is what is meant by "larger." If you read the article--just look at even the portion I highlighted for you--"larger" means more than 5-6 residents. It is disturbing that Dr. Sellers would cite this article in support of an application for 16 residents when the scholarly literature does not support it. Not even the Oxford House science would support it. Read the article for yourself. It is attached as "Oxford House Recovery Homes - Characteristics and Effectiveness."

Second, RTCs like the one described in the application have group therapy. Overall, this means that, clinically speaking, a residential treatment center could have as little as 8 people and be therapeutically sound. This is what all of the scholarly literature in the field demonstrates. I have attached several articles, which are highlighted, for your review. (See also Jason & Ferrari, *Oxford House Recovery Homes: Characteristics and Effectiveness*, Psychol Serv. 2010 May ("The Oxford House organization recommends 8-12 individuals residing in each House (Oxford House, 2006).) Actually, **"Increasing the size of group homes is associated with considerable risk of losses in many dimensions of quality. The decline begins at 4 residents and above; beyond 6, the decline is sharper."** (Conroy, *Size, Quality, and Cost of Residential Settings: Policy Analysis of Literature and Large Data Sets*, p. 3, March 2011.) "There is no consensus on what constitutes the optimal number of people in a residence, but **across an extraordinary variety of states and systems, qualities of life and outcomes drop measurably when there are 5 residents, and drop sharply when there are more than 6 residents."** (*Id.* at p. 4) The scholarly literature for establishing positive peer culture environments (PPC) for children in welfare care suggests the ideal group size is no more than 8-12 persons. (See James, *What Works in Group Care? – A Structured Review of Treatment Models for Group Homes and Residential Care*, Child Youth Serv. Rev. 2011 February (citing Vorrath & Brendtro (1985); Laursen (2005); Wasmund & Tate (1996); and Brendtro & Shahbazian (2004)).

Third, I have also attached the sworn testimony of our experts on this point. I remind you that the testimony of these experts has gone un rebutted.

Fourth, the National Survey of Substance Abuse Treatment Services Data on Substance Abuse Treatment Facilities, cited by Dr. Sellers is a survey of facilities that qualify for the "I" classification or "Institutional" classification for treatment facilities under the IFC, IBC and other Safety Codes. This is obvious from the group sizes being discussed. It is not a survey that includes non-institutional settings like small residential group homes. The median size for large, institutional settings says nothing about whether 16 residents is necessary to ameliorate the disabilities of the residents in this case. At best this "evidence" is anecdotal and descriptive rather than normative.

Fifth, I remind you that your duty under the law is only to make those accommodations that are necessary to achieve an equal housing opportunity. The burden is on the applicant to demonstrate that this accommodation is as necessary to fixing or helping their disabilities as, say, a wheelchair or elevator would be to helping a quadriplegic gain access to a building on equal footing with the non-

disabled. There is nothing the applicant tells us about the disabilities that shows these individuals could not recover from their addictions unless the group size is enlarged to 16. There is nothing in the application that demonstrates how a group size of 16 is like the wheelchair to the quadraplegic. In fact, the anecdotal evidence suggests that the applicant has been doing just fine with 10--unless the applicant is willing to admit that he has been damaging all of his clients up to this point by *not* providing them with therapy in a setting that will ameliorate their disabilities. In short, the applicant's past success tends to show that a further accommodation to 16 is absolutely unnecessary from a clinical or therapeutic standpoint. If, metaphorically speaking, a "wheelchair" is sufficient you have no obligation to provide a power chair with an electric motor and hydraulic lifts. Your obligation is to make the "necessary" accommodations.

Thank you for considering this information. We would appreciate it if you could please disseminate this information to the City Council. Dr. Sellers' letter was dated May 28, 2016. We have responded as quickly as we could and feel that it is only fair if we be given the opportunity to respond.

Many thanks,

Dan McDonald

Dan McDonald

MCDONALD | FIELDING, PLLC

The Mill at Dry Creek

175 W. Canyon Crest Road, Suite 205

Alpine, Utah 84004

Direct Dial: 801-610-0011

Mobile: 801-372-0055

www.mcdonaldfielding.com

May 31, 2016

Mapleton City Council:

Kelly Cook
665 E 1100 S
801.367.9198

Maple Mountain Recovery's Request for an Increased Accommodation

Maple Mountain Recovery (MMR) was granted an accommodation 3 years ago and has since been operating for over 2 years with a 10 patient limit. They are now asking for the same accommodation they originally sought in 2013 of 16 patients. However MMR has provided no new, relevant information to support their apparent position that the current limit somehow creates an unfair housing restriction.

Question: since this is a request for an accommodation, why isn't it subject to the requirements of Ordinance 2012-01 Section E. which sets the requirements accommodation requests?

MMR's Letter

In response to Sean Conroy's request for information, MMR submitted a letter which is basically a marketing piece with a number of unsupported comments, the most significant of which occur in paragraph 8 where they state: "*We need to be able to house up to 16 clients*" and "*A sixteen client group is the minimum amount of clients to have in order to effectively offer individualized care*". These assertions by MMR are just that – assertions, and **MMR provides no supporting statistics or studies that tie the size of a therapy group to better outcomes and hence a need for more patients.**

These assertions also raise questions such as: if a 16 client group is the minimum number needed, does this mean that treatments for the last 2+ years have been ineffective? And if so, how do they quantify or evaluate the extent to which those treatments have been less effective?

There are *opinions* in the literature that the most suitable number in a group is 8 (for example, see the Rosemonde Maloney letter from Bud's 2013 submission). The unanswered question is "most suitable for whom?" The therapist? The facility? The Patients? There doesn't seem to be any objective data that an 8 person group achieves better outcomes or that 16 is necessary to have an 8 person group.

What if MMR brought in a former patient who told the council "If I only would have had 2 more people in my group I wouldn't have relapsed". That is obviously ridiculous – there are so many variables involved in recovery that the group size argument borders on sophistry.

I have included some comments from my research of information on group therapy in the notes.

MMR's Responsibility to Support Their Request

I believe that it is MMR's responsibility to provide support for their request in the following areas at minimum:

- What are their current relapse statistics and how do they compare with industry norms
- What percentage of treatment modalities does group therapy represent
- What percentage of improvement would be expected by increasing group size and **what studies support that estimate**

Fair Housing Law

One of the best resources to explain Federal Fair Housing Law is found at www.justice.gov/crt/joint-statement-department-justice-and-department-housing-and-urban-development-1. Based on information provided by the Justice Dept. in this website concerning what the law does and does not require, it appears that the law:

- Does **Not** require consideration of treatment modalities
- Does **Not** require the city to make MMR more profitable (that has been litigated in other venues and discussed 3 years ago)
- **Does** require consideration of effects on the neighborhood, cost to city, etc.
- **Does** require the city to offer **equal** access to residential housing – **not unequal**
- **Does** require a "reasonable" accommodation or modification of zoning laws

Neighborhood Statistics

MMR is in an A2 Residential zone, not a zone with apartments and high density. I computed that in the 39 residences surrounding MMR, there are 134 residents, (only 1 unrelated person) = 3.4 per residence.

MMR currently has **441% of neighborhood average density per household** (10 patients + 5 staff (counting Bud) = 15. $15/3.4 = 441\%$).

If an increase is approved, MMR will have **706% of neighborhood average density per household** (16 patients + 8 staff = 24. $24/3.4 = 706\%$).

As to unrelated persons allowed, the accommodation granted in 2013 gives MMR **350%** of the number of unrelated persons that other Mapleton residents are allowed (14/4 excluding Bud). The requested increase would increase the unrelated persons disparity to **575%** of the amount allowed to other Mapleton residents (23/4 excluding Bud).

Conclusion

This no more than a reprise of the request that was considered in 2013 with **absolutely no substantive information from MMR supporting the assertion that a 60% increase in residents and staff is necessary to afford equal access to fair housing for its patients.**

If MMR is so successful that it needs to expand, it may be more reasonable to move to a more suitable location in a higher density zone more compatible with its needs and the surrounding neighborhood.

My neighbors and I urge the council not to go from what they considered to be a **reasonable** accommodation in 2013 to an **unreasonable** one now.

In making a decision please also consider the other residents in this zone – the people who actually live here full time, who set up and take down chairs at the 24th celebration, who mentor kids at school, who coach the teams, serve on committees, and purchase or build homes here to enjoy the benefits of an agricultural, residential area with low densities.

Thank you for your consideration,



Kelly Cook

Other Comments

1. *Oversight and Liability*

Section D d. of City Code 2012 -01 says that “In determining whether proposed residents are likely to represent a direct threat as outlined above, the planning commission and the city council shall consider, on the basis of objective evidence: (1) the nature, duration, and severity of the risk; (2) the probability that potential injury will actually occur.

However, in its oversight of the facility, it appears that city staff have never:

- Visited the facility
- Interviewed the neighbors
- Reviewed the methodology used by MMR to vet patients or verify that they are low risk and do not have criminal backgrounds
- Investigated how many staff are on site during the night, number of male vs female staff or any other information regarding staff qualifications or their participation in treatment modalities

The city and the members of the planning commission and city council appear to have potential liability if someone causes damage or bodily harm to another patient or a resident and the city

has failed to do on verification. Risk of an incident increases 60% with approval of MMR's request.

2. *Lack of Complaints*

The staff report cites lack of complaints as a factor for the council to consider. However, complaining to the city is not the nature of this community and so I will mention several things that may not have come to light:

- In 2014 Bud personally talked to me about a young man who was brought in **high on drugs and related some of the bizarre things he did**. I did call Sean Conroy to let him know of that conversation since no one is to be admitted who is currently using drugs. I am not aware of any action that resulted from my call to Sean.
- My realtor, Kerry Oman, gave me an opinion letter that my property is worth 25% less as a result of proximity to MMR
- Cars are sometimes parked on the street when family visiting is going on and several times in front of my yard – Bud did have the ones in front of my house move
- At my request Bud did have smokers stop smoking in the space between our houses (mostly)
- I have counted up to 15 cars packed into Bud's driveway and cars sometimes parked on the street
- Neighbors have observed several incidents of patients walking away from the facility, in one case being pursued by a staff member

3. *Some of My Findings on Group Therapy*

I have spent hours researching studies related to group therapy and would be happy to share it with the council if asked. Some interesting things I found are summarized below:

- The National Epidemiologic Survey on Alcohol and Related Conditions actually found that people who quit alcohol without treatment had **better** relapse results over time than those who received addiction treatment for all periods <5 yrs, thru 20 or more yrs
- There is not even a definitive standard for what constitutes a successful outcome for addiction treatment – for example, what % of relapse at 6 mo, 1 yr, etc. constitutes success?
- Statistics in the TED reports are derived from treatment facilities and surveys they send to their former patients and are acknowledged as less than reliable
- A request that was solicited online asking professionals to comment on the ideal group size resulted in 51 replies with responses that ranged all over the board from 3 to 20
- Several studies acknowledge the scant evidence linking group size to outcomes

I could make a rational argument that more personal space in a recovery environment is more therapeutic than group size. Less confusion, more time for personal introspection, etc. and I'm pretty sure I could find support for that argument in the literature.

Expert opinions aren't always reliable – consider diet, exercise, medical opinions that seem to change every month or two. I found wide disagreement in the literature among different experts, some who discounted 12 step programs, some used them extensively, etc. etc.

Some references:

<http://sdsmedia.blogspot.com/2010/09/request-for-help-whats-ideal-size-for.html>

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3314708/>

<http://pubs.niaaa.nih.gov/publications/arh29-2/74-78.htm>

http://nursingplanet.com/pn/group_therapy.html

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Attorneys for Mapleton Fair Care, LLC

BEFORE THE MAPLETON CITY COUNCIL	
In re: Request for Accommodation of George E. "Bud" Harper	DECLARATION OF JAMES OTT, L.C.S.W

Pursuant to Utah Code Ann. § 78B-5-705, James Ott, declares and states as follows:

1. I am more than 18 years of age, I am competent to testify herein, and I make this declaration based upon my personal knowledge.
2. I have a bachelor's degree in Psychology from Brigham Young University.
3. I have a Masters degree in Social work from New Mexico State University.
4. I am a Licensed Clinical Social Worker (L.C.S.W.) in the State of Utah and have been since September 2000.

5. I have worked 10 years at the University of Utah Neuropsychiatric Institute (UNI) as a clinical social worker. For one year I was the clinical director of a residential treatment center (RTC) for people with drug and alcohol addiction, and have contracted services with several RTC's in the state of Utah. I have been working as an outpatient therapist in my own private practice since 2000. In these positions I have provided countless hours of individual and group psychotherapy, am very familiar with assessments, admissions, psychotropic medications, systems utilized in treatment, and Joint Commission standards of compliance. I am also a Certified ARISE Interventionist, and am familiar with many established and existing treatment programs, both outpatient and residential, for substance dependence in the State of Utah.
6. I have reviewed the March 27, 2013, letter of Rosemond Maloney, LCSW, PsyD and the literature she references and disagree with some of her assertions.
7. I agree with Ms. Maloney on the optimal group size consisting of 6-8 persons (A correction I would note is that Irvin Yalom's classic book is titled "The Theory and Practice of Group Psychotherapy"). However, this has little to no correlation on the number of individuals allowed in a residential treatment center. Much of Yalom's work pertains to groups in an outpatient setting, not residential. Having a treatment center with eight beds would also meet Yalom's recommended group size. I also agree with the concept of homogenous groups. However, the fact that the the common issue with these individuals is substance addiction meets this criteria. Furthermore, the proposed RTC is specifically targeting persons with

prescription medication addiction, which inherently creates a more homogenous group. I see no support in Ms. Maloney's statement why optimal group size adequately justifies a treatment center needing 16 beds.

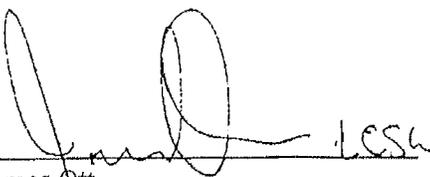
8. I have personally witnessed the startup of at least 2 RTC's that originally started with a maximum of 8 patients. These facilities are still in operation today and in fact, are two of the most successful in the State of Utah.
9. It is well documented that the most effective treatment for recovering addicts and substances abusers is group therapy. However, group living is not a prerequisite for effective group therapy, meaning it is not necessary for the people who have group therapy together to also live together in order for their therapy to be viable.
10. Generally, addicts do not need group living as, say, a person without legs needs a wheelchair or an elevator.
11. Addicts can generally have successful recoveries while living wherever they want and attending outpatient group therapy. The common model is an Intensive Outpatient Program (IOP), which provides approximately 10 hours of group therapy per week.
12. Group therapy is extremely effective on an outpatient basis, which is the most common form of therapy.
13. Outpatient therapy programs are available in Utah County and throughout the Wasatch Front.
14. Inpatient therapy is readily available in existing facilities throughout Utah County and the Wasatch Front.

15. There are a glut of these inpatient types of facilities (RTC's) throughout Utah, with vacancies in very good inpatient programs.
16. It is not necessary for recovery to separate group therapy sessions by gender.
17. Mixed-gender groups of 6-8 residents can be just as therapeutically effective as same-gender groups.
18. Therefore, absent extraordinary circumstances, the claim that any addiction treatment facility needs 16 residents or any number beyond 6-8 residents in order to create gender-separate groups and be therapeutically viable is simply incorrect from a therapeutic standpoint.
19. Residential group living arrangements are generally needed for only the most severely addicted individuals. However, those type of facilities are better for the patient if they are located in a more secure environment where access to drugs and substances are more difficult to obtain.
20. For example, it is too easy, in a residential neighborhood setting, for an addict to either walk away from the facility or have someone meet him at or near the facility and supply him or her with drugs or alcohol.
21. There is more temptation and ready access to prescription drugs in a residential neighborhood than there is if the RTC were located in a commercial or mixed use location, since many residential households use the very type of prescription drugs the recovering addict may be addicted to and since many residential households contain alcohol.

22. In contrast, larger residential treatment facilities located in more secure settings—i.e., larger facilities with staff, more eyes and ears, etc., which are typically located in commercial or mixed use neighborhoods, tend to make it less tempting for the recovering addict to seek out and find sources as there will not typically be alcohol or prescription drugs in the house next door.
23. People with the most severe addictions—the type that truly benefit from living in an RTC—tend to be more desperate and will resort to almost any means available to feed their addiction.
24. Inherent in this industry is the fact that sooner or later residents will obtain illegal drugs, alcohol, or prescription drugs in an illegal way. With this said, there is a risk to the local neighborhood of which community members need to be aware.
25. With this, there is a risk of overdose and subsequently possible death. Facilities located far away from medical resources are therefore at more risk of a resident dying from lack of proper medical care.
26. For this and other reasons, including the glut of inpatient RTC's in more suitable locations, it is my considered opinion that generally group living arrangements for recovering addicts in single family residential neighborhoods are not only not necessary but, in most instances, not recommended for recovery.

I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

DATED this 29 day of April, 2013.


James Ott

2. I have a bachelor's degree in Science with an emphasis in Psychology from the Utah Valley State College.

3. I have a Master's degree in Social Work since 2005 from Brigham Young University.

4. I have reviewed the March 27, 2013, letter of Rosemond Maloney, LCSW, PsyD and the literature she references and agree with much of the letter however disagree with some of her assertions.

5. I agree that recovering addicts and substances abusers need and benefit from group therapy. However, group living is not necessary for effective group therapy. It is not necessary for the people who have group therapy together to live together for successful outcomes.

6. Group therapy can be effective on an outpatient basis.

7. Outpatient therapy programs are readily available in Utah County and throughout the Wasatch Front.

8. Inpatient therapy is also available in existing facilities throughout Utah County and the Wasatch Front.

9. In most cases it is not necessary for recovery to separate group therapy sessions by gender.

10. Mixed-gender groups of 6-8 residents are therapeutically effective.

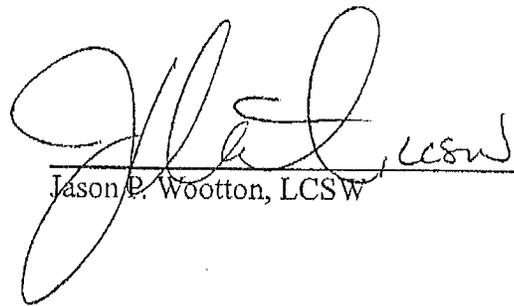
11. Therefore the claim that this or any treatment facility needs 16 residents or any number beyond 6-8 residents to be therapeutically viable is simply incorrect from a therapeutic standpoint.

12. 6-8 residents, regardless of gender, would be beneficial to achieve therapeutic viability.

13. While residential group living arrangements can help recovering addicts in some instances they are not necessary for recovery.

I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

DATED this 24 day of April, 2013.


Jason P. Wootton, LCSW

**Mapleton City
City Council Meeting Minutes
June 1, 2016**

PRESIDING AND CONDUCTING: Mayor Brian Wall

Members in Attendance: Ryan Farnworth
Scott Hansen- Excused
Jim Lundberg
Mike Nelson
Jonathan Reid

Staff in Attendance: Cory Branch, City Administrator
Camille Brown, City Recorder
Sean Conroy, Community Development Director
Gary Calder, City Engineer/ Public Works Director
John Jackson, Police Chief
Eric Johnson, City Attorney
Debbie Sanchez, Finance Director

Minutes Taken by: Camille Brown, City Recorder

2. Consideration of a request to expand the Maple Mountain Recovery Center, a residential care facility for persons with a disability, from 10 residents to 16 residents.

Mayor Wall: Sean.

Sean Conroy: Thank you, Mayor, Members of the Council. As you'll recall, back in 2013 is when the City Council reviewed the original proposal and approved the operation of the facility for 10 individuals.

Mayor Wall: You're good.

?: Oh, okay.

Mayor: We'll do it after he does the presentation.

Conroy: At the time, the approval allowed for a maximum of 10 residents – five male and five female. The applicant is now requesting an increase from 10 to a maximum of 16. You're aware of the site. This is the location of the facility. It's a very large home. It has the crescent driveway with the – I think there's about seven enclosed parking spaces on the site in addition to the parking available in the driveway of the facility. The Federal Fair Housing Act prohibits discrimination based on a variety of protected classes and that includes disability. Drug addiction is classified as a disability and failure to grant reasonable accommodation can be determined to be discriminatory.

As far as occupancy goes, the City allows up to four unrelated individuals to live together in one single-family unit. So, the applicant originally was granted an accommodation to allow for up to 10 and now is proposing--requesting an accommodation again to allow up to 16. As far as Mapleton City Code goes, the Code requires that the applicant demonstrate why a reasonable accommodation is necessary. And then once that hurdle is overcome or once the Council has determined that that has been determined, then the Council would also look at things like what impact does the accommodation have on the neighborhood, does the accommodation pose a direct threat to individuals or property, and does the accommodation present any undue burden upon the City.

The applicant has submitted a letter that was included in your packet. It included an opinion from their Clinical Director that 16 residents is necessary, specifically for providing for a variety of clientele and allowing for specialized groups. Obviously, the applicant can speak to these issues in more detail. There was also a letter submitted that we submitted to the Council electronically from a Dr. Terry Sellers. The basic gist of the letter was that in his opinion, the larger the group, the more effective the treatment may be for these individuals going through the rehabilitation process.

Just today we received some information from the Mapleton Fair Care Group. We have forwarded that to the Council. It included the submittal of three articles that address group sizes and similar literature that can be found on that topic and included two professional declarations. Those are included in the packet. The Mapleton Fair Care Group, I'm assuming, will speak to these issues. Essentially, what the information provides is contradicting the applicant's suggestion that 16 residents is required and that there are agreed opinions that 16 is a minimum amount required.

We also received a letter from one of the neighboring property owners, Mr. Kelly Cook. Just to summarize some of the items in his letter were concerns about the applicant not being in compliance with the conditions of approval, particularly for on-site parking and also for the housing of residents who have been using – or continue to use drugs or alcohol. And then concerns over the process for how applicants are screened. You've received quite a bit of information today and yesterday, which we've tried to provide for you. Hopefully you've had that opportunity to review those. Our attorney, Eric Johnson, is here and he's happy to address any comments or questions you have about that. Eric, do you have any comments before the public hearing opens?

Eric Johnson: Again, what I would suggest for the Council's review, is what you're really looking at is has the applicant demonstrated that there is a legitimate need for this reasonable accommodation. That's kind of the key question. If you determine that he has, then I think you could address the next issues. If he has not, then there's probably no basis or reason to address those additional points.

Mayor: Before we get going – I probably should have done it before. Councilman Reid had a discussion with me on a potential conflict with this item and so we're going to allow him to recuse himself, which he's asked to do. He's asked that he be allowed to sit in the audience on not be on the bench for discussion or vote tonight. So, we'll go ahead with the applicant. You're welcome to present, about anything.

?: Where is this located?

Mayor: Across from your old house. Actually, it's Anderson's old home.

Conroy: 727 East – yes, 11th South.

Bud Harper: (inaudible)

Mayor: It's up to you. You can just make a discussion to the Council, which may bring up some rebuttal comments. What happens is a lot of times if you don't come up they come up then you come up and then they want to come back up and we don't want to go all night long. So.... Good to see you again.

Harper: Good to see you all. You know I don't really intended to rehash all of the things we went over back in 2013. I believe that Maple Mountain has demonstrated pretty much everything that I stated that would happen has actually, in fact, happened. It's come to fruition. As opposed to so many things that were brought up by those who opposed us, very little if anything of that has come to fruition. I would like to just go over some facts. Relative to residential treatment center size, and some of you may have reviewed the information you got today, there are no residential treatment centers along the entire Wasatch Front anywhere near the size of Maple Mountain Recovery that has less than 16 beds. None. There are several facilities, however, that are less than half the size of Maple Mountain Recovery that have 16.

Jim Lundberg: Just so I'm clear, so when you say size, you're referring to the size of the facility....

Harper: The square footage of the facility.

Jim Lundberg: Just the square footage. Okay.

Harper: If there are concerns regarding the facility not being large enough to adequately handle 16 patients, the Foothill facility in Spanish Fork is almost exactly the same size as Maple Mountain Recovery and they have 33 patients there. In the documentation forwarded to Sean, I provided a partial list of 16 other residentially constructed buildings in residential areas licensed for 16 residential treatment facility beds with nearly all of them smaller than Maple Mountain Recovery. So, one of my questions, of course, and other people who would be concerned, is how is it that Mapleton can be so different from all of the cities that have already recognized 16 beds as a reasonable accommodation. As far as danger to the community, it appears that some of the people have done quite a bit of research on the various aspects of our request but I haven't seen any research on crimes committed by people leaving treatment. That seems to be a big concern. I believe there isn't any research because simply it doesn't exist. Any patients along the Wasatch Front know the quickest place to get drugs. They can get on the FrontRunner or TRAX or if they're in Salt Lake they can just go to the homeless shelter. And if any of you are informed at all about drug use along the Wasatch Front, you know that that's true. Beyond that, from their dealer who resides in every single city along the Wasatch Front, including Mapleton.

So, therefore, it makes no sense for anyone leaving treatment to enter unknown territory – another person’s home – when they can risk being arrested or worse. So, it’s much easier to get on TRAX and people don’t leave our facility. I mean, in the last 2 ½ years it may have happened a couple of times when someone walked out and they were either brought back and dismissed from the program. It’s handled on an individual case basis. We had someone leave who got a horrible phone call and that upset them. So, that person requested to leave. But additionally, Richard Nance, who is the Utah County Substance Abuse Director, which some of you may know, told me over three years ago that in his time managing the Foothill facility he has seen over 20,000 patients come and go. And they’re not the patients that we see at our facility. These are the people who come from jail and have horrible, horrible records and those people would not be allowed in our facility anyway. And in that duration, he has seen a total of two crimes committed, both of which were committed on their premise – breaking into an office. And that’s the only thing that he is aware of on that.

As far as group size goes, we’ve heard a lot of different scenarios from various sources regarding group size. What’s important to understand with group size is that the group size must be a functioning group. There will always be a varying number of patients because of their type and degree of addiction who will be too sick to participate in group activities. Therefore, in order to even try to maintain an effective group size, we need to be allowed to have enough patients to have effective male and female groups. Male and female, obviously because we do a lot of trauma work and you can’t have females in the same group as males. So, we’re asking that we be given a license to treat 16 patients, which is the minimum given to all other facilities having the required size with several facilities granted much more than 16 although their size is smaller than Maple Mountain Recovery. In essence, we’re trying to be a good neighbor. At opening day of Little League we handed out probably 500 cotton candies. We’ve applied to the City to do the same thing on Pioneer Day. We were told that we couldn’t give it out free so 100% of the proceeds we’ve offered to give to the Fire Department. So, we’re trying to be a good neighbor and yes, there have been family members who have parked on the street. We have employees who watch out for that and they go out and tell them. The patients are supposed to tell their families when they come that they are not supposed to park on the street. But we’re not perfect. We’re trying to be, but we’re not.

We’re licensed by the State. We just had our third review and we’re also being JCAHO accredited, which is the Joint Commission Accreditation for Hospital Organizations, and that will probably be completed prior to August of this year. So, I ask for your support in giving us 16. Thank you.

Mayor: Thank you, Bud. Council, and Bud stay here for just one second in case they have a question for you. We’ll give the Council a chance if you have any questions on this or clarifications on what he presented. Are you good? You turned him around for nothing?

Harper: I’m sorry?

Mayor: I turned you around for nothing, I guess. Sorry. Thanks.

Harper: (chuckles) Okay. Thank you.

Mayor: Any comments of staff or are you guys ready for a public hearing. You good, Jim?

Jim Lundberg: Yeah.

Mayor: Good, Mike? Alright. So, we're going to open the public hearing. I'm guessing we're going to have a decent sized public hearing, which is great. Thanks for coming out. A couple of things. Try to keep it to three minutes if you can. If somebody's already mentioned something you can say, I agreed with so and so and get on to what you may have that's new and different. We like horses. We don't like beating them to death sometimes. So, get the best you can to the point. We've got a lot of data. If you've given us data, we've got copies of most of it here. Refer to it, we can get to it, and we can write notes and highlight it as you go. So, with that we'll open the public hearing and there's no order. You're welcome to come in any way, shape, or form. First up? Come on up. Again, just name and address is all we need for the record.

Darren Parks: Thank you. My name is Darren Parks, 1057 South 800 East. So, we're just east of the Maple Mountain Recovery. My question – I just had a couple of points, I guess. So, we built a house and just recently moved here. We've been in Mapleton for about – going on 11 months. Moving here we came here looking for the type of setting that we were able to find in Mapleton, especially looking at the agricultural residential zoning, which we really liked that and so we went ahead and did that. And then, after we'd been here we obvious kind of – it became obvious what was kind of going on over there and we did a little more research and we were a bit surprised to see that the reasonable accommodation that was made previously of 10 was obviously seemed very generous to us considering the zoning in this particular area being Agricultural Residential. And my wife and I have children that walk back and forth and one of the things I just wanted to bring up that I don't understand is how it's being addressed currently is given the fact that we moved in and we don't know are neighbors and we don't know who these people are. Well, here we don't know who these people are. It's more of a transient type of situation. There are 10 patients there plus staff, obviously. When our kids are walking past there and there are people out there whether it be during the day or in the evening and they're out just kind of around, these are strangers to our children. What I would like to know is how far – well what is happening as far as these criminal background checks. I understand that that's a requirement as far as a patient being admitted there that must be a criminal background check. How do we know as residents in the neighborhood that that's occurring, to what extent it is occurring. Is it possible that sex offenders could be potentially coming through there. Obviously they are not there for a very long time period so it's a concern to a family with children. Just kind of what the situation is there and it's almost like living next to an apartment building where there are a lot of people coming through as opposed to living in an Agricultural Residential zone. So, that's my question. What is happening as far as criminal background checks.

Mayor: John, do you know – or Sean specifically...?

Conroy: Well, yes so what our ordinance states is that they are not allowed to admit people who have a criminal background – a criminal history. And the condition of approval indicates that they cannot house people who have a criminal conviction, sexual assault, those type of issues. And so, when we approved the permit in 2013 we required that the applicant submit us quarterly affidavits saying that we are complying by these rules. We are doing our due diligence to ensure that these type of people are not coming. Because these individuals, obviously they're histories are private.

The City can't go in and request a background check on our own. We can't ask our Police Department to find out who's there and do background checks on them. So that was the condition that we came to, was that the applicant would be required to submit those affidavits and that's what we rely on. Now, the applicant may be able to speak to what they do and what their process is when they are screening applicants but that's the process that's in place.

Parks: Are they being submitted (inaudible)?

Conroy: Yes, they are. I received on today.

Parks: Okay, but we don't know, I guess, anything about the history then. It's more just kind of they are stating that the background checks have occurred?

Conroy: And that they're not housing anyone with any criminal convictions.

Parks: Okay, so I guess that would be one of the main points I would just want to leave is you know - we don't know obviously the background, so it's a little hard for families that are kind of around especially with young kids, to just hope that they're doing what they're supposed to be doing if the City can't actually know what they're doing.

Mayor: If you'd like them to, you're welcome to.

Parks: Yes, I would just like to know...

Mayor: Are you guys okay with that Council, if he just asks as we go?

Park: Yeah, that's it.

Cl. Farnworth: As long as he's done.

Mayor: Oh yes are you done? (inaudible)

Harper: To begin with, the patients are not allowed off the property so concerns of having little kids around and having them out should be non-existent because they're just not out on the street. They're within the walls that surround the property and that's where they are. I've heard comments from most every neighbor I have of "gee, you guys are really quiet and I never see you and I never hear you." That's the way it is. It is not so transient in that our average day is close to 60 days. We're not an outpatient facility, we're an inpatient facility so when they come, we try to get them to stay for 60 and some actually have stayed over 90 days. So, and we don't take high risk and that should be in the documentation that your received from our clinical director. We treat only the low to medium risk. Consequently, we get requests for a lot more females than males. We don't treat any sexual problems so sexual offenders are absolutely crossed off, that's the first thing that gets crossed off the list. Safety not only for the neighbors, but for the rest of our patient group, is most important. We want everyone to be safe. We have dismissed people from the program for making a small threat to another patient. We don't put up with any of that and we certainly don't put up with them being mean to anyone. So, again, if you're afraid for them being at the facility,

that's where they're at. The only time you'll see them is probably in the early mornings before they go to their first meeting at 8:30. If they're outside between 3:30 and 5:00 when dinner is, they might eat out on the patio if the weather is nice and they play badminton in the backyard. They all seem to love to play that. They're people just like us. I attend church every Sunday with normally anywhere from one to seven patients. So people in the ward can see that they're just the same as they are. I've allowed patients to bring their families to church and sit with them, depending on where they are in the program. Safety is our biggest issue; I mean we don't allow for anything that's out of line at the facility. Remember, we're a low to medium risk. We don't take patients like Foothill and like a lot of other facilities that take everyone. We don't. Consequently, we get a lot of referrals from other facilities because they know we're low to medium risk. We do a lot of trauma work. We use neuro feedback equipment. We use EMDR. We're looking at either a Theda bed or Biosound bed which deals with anxiety and a lot of other issues with addicts and alcoholics. So, I don't know if I answered your questions but I hope I did.

Mayor: Yeah, I think pretty good.

Dallas Hakes: Dallas Hakes, 753 East Sierra View Drive. I don't want to be naïve to think that 60 days isn't transient in our neighborhoods, but obviously 60 days is extremely transient. We live in Mapleton. I don't know if you had a chance to review some of the information. One point that I want to make is that in the A2 Residential Zone, of the 39 residences surrounding them, there are 134 residents. Only one unrelated person and 3.4 people per residence. I guess I know that there are a lot of laws that have to do with this stuff and you're trying to protect yourselves from the laws and what not, but it seems reasonable to think, I think that the law states something like you have to give a reasonable accommodation. It seems like 16 unrelated plus staff, so I don't know, 24 unrelated individuals as highly unreasonable. Seems like 10 is more than what would be reasonable, let alone 16 to 24 including the staff. I fall in the same boat that Darren does. I have little kids that run around there and I know that the rules state you stay inside the fence, but that's only as good as you can run that business, that the people are going to stay inside the fence. So you're relying on a person to run his business in a way that's according to the rules. We all know (laughs) what the result of that can be. So I would just recommend that you take consideration if it is that you give a reasonable consideration to the amount of residents that that's highly weighted if that falls within the laws that the City's taking into consideration.

Mayor: Thanks, Dallas.

James Wuthrich: My name is James Wuthrich. I live at 152 East 1100 South, just down from MMR. To keep it brief, I agree with the documentation that you received earlier about the reasonable accommodation and Dallas. I'm deeply concerned as a member of the community and the neighborhood and as kind of as a broad statement, I would ask the counsel not to approve this. I would, interestingly, I do have some information that over the last year and a half, I have personally witnessed two runaways from this facility. I know Bud, I wouldn't question his integrity necessarily, but it would be interesting – I'm interested that I personally witnessed the two that he claims that have left. It may be the coincidence, but that with my son, and it was very concerning because one of their - I believe it was obviously an employee that was following these two residents down to my house, which is at the bottom of the street of 1100 South and just a few hundred feet from the corner. They followed those two individuals down, they could not stop them

or control them, and the individuals fortunately went on. But I was in front of the house and probably kept them from coming hopefully to my place. I don't know if they would've, but they went on and those two people were not.... I don't know what the result was, if Bud collected them or if they were able to be taken to a safe facility. On another occasion, I did call the Police Department and thanked them and your officer who was very responsive and very respectful. We've noticed on multiple occasions, my wife, myself, my son I can't speak for my neighbor who has told me, it would be hearsay, that we've seen the van speeding down and the officer came out and put out one of the radar detectors to slow them down and anybody else that might be coming down that hill. So it's particularly dangerous. Troy Nielsen who lives next to me, has small children. They're obviously dear friends of ours and their kids are like our kids, so my son is older, but still have a concern because we have a dog and we're on the street. In talking about running the stop sign, we've seen the van, if there's deep concern for the safety of these residence that are being treated at MMR that something should be done there. I'm concerned that if we raise this to 16, the traffic increases and I've personally given direction to people looking for MMR facility to people that are lost in that area. So has there been... I guess the question for me is, is there a requirement to report runaways to the City and/or the state, I don't know that question and maybe Bud could answer that.

Mayor: Not to us.

Conroy: The residents aren't required. They're not on court order to stay, it's a voluntary housing.

Mayor: It's a volunteer...it's not a lockdown facility. They can come and go, but he has rules like you said. If they are there and they choose to leave like that, they don't allow them to come back. They dismiss them and get them out and bring someone else in. And there's a lot of those facilities around the County.

Wuthrich: So, it's not a lockdown. Okay. It was just interesting that I actually saw the two. So, I don't know that I have anything else that's going to be, but hopefully there's some other comments. I do appreciate the Council, again, and the work that you put forward and Mr. Mayor as well. So uh, but uh, again, I would ask that we keep our neighborhood as it is. I think we gave a reasonable accommodation three years ago when we went through this. Thank you.

Mayor: Thank you, James.

Harper: Can I respond to that?

Mayor: Sure.

Harper: (Inaudible)

Mayor: It's a pointer.

Cory Branch: Stays there.

Mayor: It a laser pointer.

Harper: Relative to the van speeding down the street, I have to argue that. Driving the van down the street is a matter of employment.

Eric Johnson: Bud, can I stop you short? Who drives the van?

Harper: My employees.

Eric Johnson: Not residents?

Harper: No, oh no!

Eric Johnson: That's all we need to know. That's all we need to know.

Harper: Yeah, residents don't drive.

Eric Johnson: It's not the residents who are driving?

Harper: Oh, no, no, no.

Eric Johnson: In that case, I don't think in that case you need to say anymore.

Harper: That's why there's really no difference between 10 and 16 as far as the community is concerned because residents don't drive period. They're not allowed to drive their own vehicles. Only we drive them and the only time they go out. They attend six meetings a week, either AACA or NA and it's usually about seven o'clock in the evening. Employees are not allowed to drive the van down our street. It's a question of employment. If they're caught driving the van down the street period, they'll be terminated on the spot. I heard the other day from someone that someone said they're going to call the police because our van was driving down the street. My response was I'm sorry, but I know it's not us, it's not. Then we had an employee say they saw a female driving white van up the street and she was speeding. Yes, it's probably a neighbor or someone else that's working in the area. I don't know, but I know it's not our van. I question the residents from time to time and ask them, have you seen any of our employees drive down our street?

Mayor Wall: Your vans are not marked, correct?

Bud: I'm sorry?

Mayor Wall: They're not marked?

Bud: No.

Mayor Wall: I wouldn't know if I passed it or not.

Bud: Yeah, it's a 15 passenger van - Ford Van.

Mayor: Okay, fair enough.

Harper: Was there another part of that concern?

Mayor: No. I think as he was saying you know, the police are always there. If somebody in the neighborhood has a question, they can always call and we can come out and mitigate. So, that's good, thanks.

Harper: Thank you.

Mayor: Next.

Sid Bastian: Sid Bastian, 366 East 1100 South. First of all, I'd like to say I certainly have a lot of empathy towards those that battle with addiction and I think the Council has also shown empathy towards that. Bud had mentioned earlier that he didn't want to rehash what we had talked about in '13. I think that the allotment was reasonable and there is – and I don't see any compelling evidence. Bud has stated that a lot of the other residents have 16 but why do we have to have 16 in our neighborhood? Also too, if you Council Members just received your packet yesterday or today, at a minimum, I feel that this needs to have a continuation so further discussion and exploration can be made. Again, I would question why would we entertain a higher number. I see this as creeping. We learned three years ago that eight was actually satisfactory to have a group discussion and to be able to move forward with treatment. As a Council you voted for 10 and that was above and beyond what was stated as reasonable and so now we're talking about 16. So I question that highly. Why we would need to do that. I think that we have respected the law that the federal government has handed down. Why in the world they would allow a treatment center to be in the residential area I have no idea. But that's beside the point. I mean that's my opinion, but again like I said at a minimum we need further exploration on this and I don't think this can be voted on tonight.

Mayor: Thanks, Sid.

Denise Maingot: Hi, I'm Denise Maingot, I live at 1265 South 1000 East. Three years ago I did some extensive research and presented to the Council that research that I had done. We had a slideshow presentation. I wanted to address that once again because Bud brought that up in his opening statement as far as his home is large, which it is. Back then, he had presented all the different facilities in all the areas and I, along with Rick, took the liberty to drive out to all those different facilities and put together a slideshow presentation along with what zoning those homes were in. And so my discussion for tonight would be that his point is not valid considering our neighborhood is in a totally different zoning than most of those homes. Most of those homes that are treatment facilities are in high density areas. I was glancing through my notes this afternoon about the slideshow presentation that I had put together before and the two that were larger were on extremely rural streets with long driveways that sat way far back. And so as comparing our neighborhood to those neighborhoods, there really was no comparison back then and unless there's been a whole slew of new facilities that have been built, that I'm not aware of, I would say that that argument really doesn't hold much water for this night.

My other thing that I was looking at as far as my past notes was that Bud wanted 16 patients back then and there was much discussion about that as far as how that would affect our neighborhood. We all recognize that the Fair Housing Act put out by the federal government, that we would more than likely have to accept that enter our neighborhood, which we did. I know you guys took into a lot of consideration the impact it would have on the neighborhood. Bud brought up the fact that they had people parking on street, which is fine and he's been trying to be a good neighbor, and I've actually been told that that he's trying to be a good neighbor, but if we increase that number tonight along with the patients' families that will come for family days and along with the new personnel that they will need, that's going to increase our trash again, which we addressed three years ago. That will increase the parking problem, which we addressed three years ago. That may increase food service, that we addressed three years ago. So, I'm trying to wrap my head around the fact of all the things we addressed three years ago. There's no new evidence. There's no new anything, just the fact that Bud wants more patients in his facility. I know that in watching from the back that the people that are sitting with Bud have been nodding their head in agreement with a lot of things and I get that. But, I don't think they recognize that it will have an impact on the neighborhood and I don't think they're recognizing that treatment can be done with a five and five and I have a feeling they'll probably address that. But in the letters that you guys have received, and I don't know if you've had a chance to read them, there's also rebuttals in there stating that eight isn't the ideal for therapy. That therapy can be done with smaller groups, which was why you guys approved the five and five last time, because there was no evidence. They had one letter last time, I believe there's one letter this time. There's people from the facility that will probably say they need more people, but in the research that we did via Google searches, via when I went out three years ago and talked to different facilities and talked to owners of facilities. There is no actual evidence that states that we have to have a larger group to have success. So, if you guys are trying to give them fair housing, three years ago that was accomplished. There would be no need to change that because the fair housing has been met. And that's all I have to say. Thank you.

Mayor: Thanks, Denise.

Kelly Cook: Kelly Cook, 665 East 1100 South. I live right next to Bud and have probably more exposure to his property than anybody else. That's one of the reasons I went ahead and took some initiative to put that letter together that I sent. I had one question though for the Council, or the staff, somebody, why wasn't Bud required to go through Section E of the Ordinance, which specifies what the requirements are for requesting an accommodation. Because in my mind, this is another accommodation that he's seeking and yet that was bypassed. It never went through the Planning Commission or anything else. We found out about it for the first time last Wednesday. I was just curious about that.

Conroy: When the Planning Commission reviewed this originally, they punted on the issue of number of residents. They said that's not an issue we're going to decide, we're going to leave that to the City Council.

Cook: Okay, right but there were other things that Bud was supposed to do to prepare and submit that were all bypassed. I was just curious as to why that process was circumvented.

Conroy: Yay, well that's what the Council's reviewing is has he met that threshold of determining whether a reasonable accommodation....

Cook: I don't think he went through the proper process and you could decide to postpone your decision based on that alone. We know drugs are a plague on our society. Nobody is questioning that there needs to be treatment facilities. And I'm one of the ones that said Bud tries to be a good neighbor. He's been my neighbor for over 10 years now. One time we had to get some horses out of a place between our two properties, but I think he's trying to be a good neighbor. Some of the things that I wanted to talk about were already talked about, but when it gets down to it, Bud is trying to create a nexus between the Fair Housing laws, which say you have to give them a right to fair and equal housing opportunity and a treatment modality, which is the size of a group. So he submitted this time two letters like he did last time. Mark Twain popularized the saying that there are three types of lies – lies, damned lies, and statistics. We're kind of down to that now where we have statistics supporting this. Bud has statistics supporting something else, but the letter he – the first letter that he sent was basically a marketing piece except when you get down to the end and he says - makes an assertion that a 16-client group is the minimum amount of clients to have in order to effectively offer individualized care. That's not supported by any studies. There are people --

Mayor: Kelly, what letter are you referring to?

Cook: What's that? This is the letter that he signed....

Mayor: Yeah, not from Dr. Sellers?

Cook: Nope. This is the one that his - well I don't know where Bud started and his clinical director stopped, but the letter starts --

Mayor: It's the letter with Bud's name at the end.

Cook: (inaudible) Anyway, so if you look at the last page, that just comes out of left field and there's plenty of statistics and information that I've gathered that we gathered three years ago that gives a different opinion about that. So for example, here's one by a PhD In Psych Central and he says at the end here "Groups of greater than 12 participants should usually be avoided as it becomes increasing difficulty for people to attain sufficient time to make the group process work as effectively as it does with smaller groups. So, we have evidence that this statement is just an assertion and it's not backed by anything. And the assertion implies that you would get better outcomes in group therapy if you have larger groups. There are no studies that really support that. If there were, Bud would have presented that the first thing. I've looked until I'm blue in the face until I finally decided it's not really my responsibility to find the information, it's Buds responsibility supported with actual factual studies, which he has not done. He submitted today a second letter, which is kind of a little bit of an embarrassing letter, but it talks about generalized sizes and never gets down to anything. He doesn't seem to know the difference between a median and the mean in here, but he talks about for example Hazelton. That's part of the Betty Ford Clinic. They have 16 large things throughout the country, they're totally different than what we're talking about here in our A2 Residential Zone. Then he insults the City by saying we should keep an open

mind and he thinks we're phobic about drug users. We know that there's drug users all around us. They're just not all concentrated in one place right now.

So, I don't want to spend a lot of time on a lot of these things, but it was interesting to me that Bud mentioned that they take their patients off-site for their group therapy. If they're taking them off site for group therapy, why would that be necessary. Also, the first letter talks about the good success and so forth they've been having. Well does that imply then that if they had a smaller group that the therapy they've been giving is substandard and is so, how do they quantify that? How much better would it be if they had had 16? Do they have any statistics to support that? These are just allegations, or not allegations, but assertions that 16 is necessary and not supported by any real research. In fact, I've got a number of things, one of which says that the outcome literature on group care is scant and current knowledge about its effect on targeted outcomes is mostly based on studies with small non-representative samples and weak study designs lacking control groups and standardized measures. So, it was interesting tonight to hear Bud kind of changed from showing support for the 16 to well everybody else has 16 so why don't we? Well, we don't know well - Denise talked about the fact that she visited many of these places and they're in totally different zones.

So anyway, you've had a chance to read my letter and I go into a number of different things, but it's Bud's responsibility to support his contention that 16 is necessary for him to properly give these residents equal and equal and fair access to housing - residential housing - and I don't think he's done that. I would indicate, I indicated in my letter that he should - I can't find it here right now, that what are their current relapse statistics? How do they compare with norms? What percentage of treatment modalities do require group therapy? What percentage improvement would be expected by increasing group size and what studies support that estimate? It's like having one his patients now come up and say gosh, you know I relapsed, but if I'd have just had two more people in my group, I wouldn't have. It doesn't make any sense. There's so many variables in human behavior that have to be changed in drug addiction. It's a terrible thing. My contention there, just to summarize, he hasn't supported his contention that he needs 11 except everybody else around us has it and so we should be required to have it too.

And then, let's see, I just wanted to hit a couple of extra things. One is on the oversight that's been brought up a little bit. In the Mapleton zoning requirements it says "no individuals shall be admitted to the facility as a resident who has a history of criminal conviction" blah, blah, blah. Then it says in determining whether proposed residents are likely to represent a direct threat as outlined above, the Planning Commission and the City Council shall consider on the basis of objective evidence, and I guess you're using the cross my heart hope to die thing with the submission of his quarterly thing, the nature duration severity of the risk, the probability the potential injury will actually occur etc. I think the City has some liability there, if something were to happen because to the best of my knowledge, from what I could find out, the - let's see excuse me here while I turn to this, too many pieces of paper I brought up, that no one on the staff has visited the facility, have interviewed the neighbors, they haven't really reviewed the methodology. You don't have to look at the actual files but they haven't reviewed the methodology to see what he actually does and what kind of files he keeps. They haven't investigated how many staff are on site during the night, the qualifications of the staff, their participation in treatment and are they qualified to do that. None of those things has the City done in oversight. I think that the City's

leaving itself open for some liability in that regard. Then also, it was mentioned there are lack of complaints. We're not a group that complains and calls the City or the police every time we see something. We want to be good neighbors too. I mentioned earlier I think Bud is trying to be a good neighbor but there are things that go on that the City's not aware of that haven't been reported. I mentioned several and probably the main one was when he mentioned about to me a young man who was brought in that was high on drugs and related some of the bizarre things he did.

At any rate, I have some findings on group therapy and its efficacious use in treating drug addictions and so forth and nowhere other than opinions does anybody have any hard data that a 16-member group living in your home results in better treatment outcomes. Appreciate your listening to me. I realize that probably what I say isn't going to make a huge difference. Cities are running scared over legal liability because of the laws that were originally intended to increase fairness for people and now have seemed to tip toward favoring businesses over others over the majority of people who live somewhere. But you know, just remember the real people who live here full-time, the ones that set up and take down the chairs at the 4th of July celebration, that coach the teams, that serve on committees, that do all those things and treat us fair as well. We don't believe that 16 is necessary or warranted, you know God bless Bud for doing what he's doing if he can make a change in somebody's life, great. We don't want to have a facility in this City that's a failure, that's not having good results. That's not our intent either. We have to have it, it's here, we want it to be successful, but the assertion that having 16 will make it successful where having 10 it's not, doesn't make any sense. Thank you.

Mayor Wall: Two things I think that Bud would stand up and say, just to zoom back, you talked about they're doing therapy on-site. What he was saying is they attend the meetings like Alcohol Anonymous and stuff and they support those groups that those guys are going to, they're 12 steps and stuff, but they have other therapy that they're doing all day, every day.

Cook: I realize that, this is the first time though that I've heard that they're augmenting that by going outside.

Mayor Wall: No, I knew they were doing that.

Cook: So, that gives them the group contact that they might need. If having six more people isn't...

Mayor Wall: Oh, I see what you're saying. In that group they have bigger groups I'm guessing.

Cook: So, they get that.

Mayor Wall: And then the other one was, and I'm not sure our Code exactly, I read part of it when he was talking - but a lot of what you said I believe, and I may be speaking, but I think that we discussed this three years ago that most of that is managed and oversight by state controls. They come in, they look at what he's doing, they look at his files, they look at his patient list. They are the ones that give them a license to operate, not the city.

Cook: Okay, but in the Ordinance, it says the Planning Commission and the City Council will look at objective evidence to make sure of these things, and I don't think they've ever implemented any kind...just a second let me finish...have implemented any procedures to accomplish that. That I'm aware of. Maybe there are some if you would enlighten me that'd be great.

Mayor Wall: I'm not, I'm just trying to recall some of the discussion three years ago and that Ordinance was written and put into play, obviously prior to the application. That may not even be legal or feasibly possible, I'm not sure what exactly it was.

Cook: Then you might want to take it out (laughter)

Mayor Wall: Now that we know more focus is on it, we'll ask staff to give us an idea of what the City has rights to do, because we're walking on, because we're dealing with somebody who has a disability, there are things we cannot get involved in.

Cook: I understand that, I'm just saying...

Mayor Wall: We want to make sure Bud's operating a safe facility and he's complying with all the ordinances and whatever. Obviously, we don't want to slip, but we have to rely somewhat on other state entities to provide us the data that he's okay.

Cook: I'm just notifying you that this is in there. I don't see any evidence that you're complying or there's a system for complying with looking at the objective evidence in the...

Mayor Wall: Probably other than the quarterly notifications of what's going on and the state.

Cook: That's a decision you guys will have to make, I just...that's a concern to me and I know it's been a concern to people I've talked to in terms of this City really policing it.

Mayor: Okay. Sounds fair. Anybody else?

Jim Lundberg: We're sensitive about raising taxes so we can hire the necessary therapist to do that, not kind of an audit.

Cook: Transfer it from the irrigation fund.

Mayor: You and Richard can have it out in the back room then. (Laughter) Sure Bud.

Harper: In response to the City not being over there, Shawn will attest to it. I gave the City an open invitation to come over and visit. When I introduced my Clinical Director to him back in March or April and that stands. Anyone that wants to come visit can come. I won't say any time because you have to make an appointment. We do have HIPA violations that we have to work around. So, we can bring you over when you're out at a meeting or in a group, and I can walk you through and obviously you can't come look at my records because you're no more qualified to look at them and Kelly or anybody else sitting behind me. That's up to the state to do and JCAHO, that's they're job. As far as me telling Kelly that somebody came in high into my facility, people

come in high to my facility every day. The reason is that if you were smoking and you were going to quit smoking, how much would you relish the last cigarette before you quit. It's the same scenario, someone that's using the last Percocet or the last pill they're going to take, do you think maybe they're going to use it before they come into the facility. You bet they are. But are they using in the facility? Heaven's no, heavens no. We do quite a verified search when they come in too. We go through all of their luggage, we do a person search and such. It's a non-issue as far as I'm concerned as well as the other nimby issues we're hearing.

Sid Bastian: Hang on I've got a question.

Mayor: You've got to come up to the mic. Sorry Sid.

Ryan Farnworth: We're going to start the back and forth?

Mayor: We don't want to do too much of this.

Bastian: I was just wondering if Bud lives on the premises. Do you stay there night and day?

Harper: Um, I stayed there 24 hours a day until Christmas vacation and then, and now it's very little and I have staff there. (inaudible).

Mayor: Hold on, you've got to come up. We've got to record it. Sometimes people ask for these records.

Harper: Yeah, there is a ratio that's required by the state licensing for youth. There is no requirement for adults. We don't even have to have two people but it would be insane not to have two people. In other words, if one person got sick, what would happen if there was a problem in the facility. If someone has to be transported to a hospital or something of that nature, we have to have at least one person there and then we'll call in a second if that happens. So we always have a minimum of two people there.

?: (inaudible).

Mayor: I think that's total staff to total residents. It didn't mean that they're there all the time. That's how I read it.

Harper: I'm sorry?

Mayor: But there's not always eight residents either, so it could be 5-to-1 some days. Answer your question, Sid?

Bastian: Well, I just appeal to the Council too that this was part of the concern back in '13 is that Bud would no longer continue to live on the premises, and he has for couple of years, two and a half years, I guess. But us residents, we're all in. We're here, I've lived here 15 years and this is part of my concern. The great thing about America, is you know, Bud certainly doesn't have to share my point of view. He went through the process and I think that there was some compromise.

We had compromise in this. And so again to readdress, and I haven't heard any other reason, and I guess to echo what Kelly was saying, okay there are other facilities that are doing 16 and maybe could be an ideal situation, but that contradicts what we've heard before. I think that there was a good compromise and that I think that it would be unfair and not responsible to then remind where we've already been. So I'll leave my comments to that.

Mayor: Thanks, Sid. Ladies first.

Michelle Bowman: So I just wanted to address the..

Mayor: Name?

Bowman: Oh sorry Michelle. You need my address?

Mayor: Last name.

Bowman: Bowman.

Mayor: Sorry.

Bowman: That's okay.

Mayor: And where do you live?

Bowman: I live in Santaquin.

Mayor: Okay, that's all we need.

Bowman: Okay, we've mentioned quite a few times about the ideal group size being around eight. We increased it to 16 any given day we have people detoxing that are in bed and sick. We have three different Therapists and a Case Manager that they can be in with therapy and in with case management. That takes it down to six people, that's our 10 - eight to 10 is our ideal group size and that's if we're full at 16. So that's what we seem to run into at times if we're maxed out at our 10, people are in individual therapy, they're in with case management, they're sick so that takes us down to quite a low number. With the ideal group size as eight, that's why going up to 16 would be beneficial because they would be in the individual...

Mayor: I guess what I was hearing from everybody is, well not from anybody but for some, is where does the number ideal come from? How do we find out what an ideal group is? I think that's what the Council's struggle is. There doesn't seem to be a lot of documentation and I'm sure you do multiple therapy session types and I'm sure they all vary somehow and what's more efficient, what's less efficient. It's kind of like when we go make a decision right, it's better when some of us are sick because we get the decision made quicker. When we're all here, we have too many opinions right. So, that's where they're talking about group size and what the group that sent letters in, I don't know if Bud shared them with you, shows that four is optimum, five starts to diminish, six significantly diminishes and over that is even worse. So they're showing that,

historically, they're saying that four or less is a better group. We're not experts at this and we don't know, so what we're trying to get is the information to make a reasonable request of what it is you need. So all we have is what they're hounding on, what you're hearing is, everyone else has 16, we need 16 and we can do a better job with 16. What I think these guys are going to be looking for is in the stuff that's given to them, what's given to them that denotes the reasons why 16 is such the right number and how that equates out. Because we don't know day to day what you're doing internally. That's what you're hearing these people ask is how do you arrive at 16. I'm guessing still that's eight women eight men, right?

Bowman: Uh huh.

Mayor: Is that how you divide the 16 out and then how that works. That was more I think of what they're trying to say, yeah they're finding numbers that say – eight's not a great group number that actually four would be better. They're saying we haven't seen anything that says that that's the case. We haven't seen any case studies. We haven't any success stories. We haven't seen anybody come in and say that they were in a therapy session of x and y and this worked great for me and this didn't. So that's what they're trying to gather or they're asking for that they haven't seen. We're looking for the same kinds of things.

Bowman: Okay.

Mayor: So that's all.

Bowman: Yeah.

Mayor: But I know your staff and things happen. They're trying -

Bowman: I'm just hearing eight a lot, that they were okay – you know you guys approved the 10. Eight is ideal. There was some documentation that was turned in to support that and I am letting you guys know that that does go down to eight when we have people in therapy, we have people sick. As Bud has mentioned before, we split the groups off. Females need to work on some trauma that they're not comfortable doing with males and so that's where the smaller groups can happen sometimes. As far as the parking increasing with the family, we have starting getting more clients out of state and so we do – are going to kind of do a global family group instead of the parking. As far as the safety aspect, there hasn't been any issues. I personally take my kids to the facility. I do the screening. There's no sexual, we check that right away – the criminal stuff. We're the ones, heaven forbid any of your kids, loved ones need treatment. They're going to get the best treatment at our facility and we're going to make sure they're taken care of. We take care of the professionals, the mom and dad's, people that have families. I bring my kids all the time, I'm a recovering addict. If it wasn't for these types of facilities, I wouldn't be able to help people.

Mayor: And I think just to be fair, I don't think anybody's questioning that what you're doing it wrong.

Bowman: No.

Mayor: No. We realize that it needs to be there, we love it. What they're questioning is we've got a recommendation – or request - to go from 10 to 16. So, the accommodation has to be made – or a decision to be made – is that detrimental to the business or the laws of the land if we do one thing or do another. So, that's kind of what they're digging for.

Bowman: And I just want...

Mayor: We know you guys do great work, we've heard about the success stories.

Bowman: And I just wanted to address a few of those things and also to explain the group why going to 16 would make a difference.

Lundberg: I have a question. As far as a comparative, the number of therapy sessions that you talked about include both male and female versus the numbers of either just male or female group therapies. Can you give me an idea of what the comparative is. At 90% group both male and female and 10% individualized as far as gender?

Bowman: I'll probably have a licensed clinical person do that.

Mayor: (laughs) That works. No, go ahead.

Jenny Mower: Hi my name is Jenny. I live in Herriman. Is that everything you needed?

Mayor: Jenny, what's your last name.

Mower: Mower.

Mayor: Jenny Mower. I ran out of paper, I need to write on something else. Okay, go ahead.

Mower: I have a Master's of Science in Counseling so I think I'm pretty well sufficient to speak to group size. Just as some of my other colleagues were speaking, we have clients come in. It takes them sometimes a few days to a week to really be joining into the groups, right? So running a group of a small amount does not go well, because the power of group, the art of group and what works is to be able to get feedback and support from your peers. And if there aren't enough in there to do it, then it's not effective. There are studies to speak to that. There are many, many studies to speak to that, and I can speak to that just being a therapist myself. I've been a therapist for over five years and I have run many, many, many groups from two people, which does not go well, up to 22 people, which is a little rough and I would prefer not. We would like to be able to split the groups more frequently, which would help us, because we are a Trauma Informed Care facility and I can speak to that a little bit if you don't know what that is. Addiction and trauma tend to go hand in hand. It just is that way. We have found that over the years and I have come to know that in my experience. So, we became a Trauma Informed Care facility so that we could specialize in trauma and treat those things. We found that if we were just treating the addiction, we weren't really helping what was really going on. So in that, that kind of speaks to the security aspect that I can't bring in harmful or people with scary backgrounds or violent people because I can't have that going on in group. Could you imagine having somebody with violent tendencies

in a group where we're processing sexual abuse or things like this. To be able to really be able to process those groups effectively, I need to be able to split men and women. Would you really want to process a rape in front of a man when you were raped by a man? You wouldn't. So, we find ourselves taking them out more for individual work and not getting as much group time. The other thing I wanted to speak towards about safety is that we watch out for our own staff. Please know that. We get it. We have kids ourselves, but look at some of our staff members. Moms, single moms, I have two adorable, darling, pregnant, expecting staff members not to mention we do leave our clients with two very well trained technicians overnight.

Eric Johnson: Could you please speak into the mic?

Mayor: We need you at the mic, sorry.

Mower: Sorry. I'm used to speaking to a group.

Mayor: I know you are. (laughter)

Mower: I apologize.

Mayor: We'll bring our chairs closer if you like. (laughs)

Mower: If we could just do the circle, I would feel better. So you can imagine why it's so important to us. Safety is so important to us. Not to mention, but we have state come out and inspect us. It was part of that inspection. It was – they drilled us beyond belief. Know that that they do that. We also just went through Drug Commission. I was a huge part of that as well – that inspection - and they went through everything with a fine tooth comb and we did pretty dang well. We will have our seal, our gold seal, here very shortly. We are working with them to get that all wrapped up. Were there any more questions about groups and why we want to be able to expand to 16. Was there any more questions really about the effectiveness of us having the 16 beds? Is there any more I can speak to about that?

Mayor: We may ask later some stuff. Thanks. Sid?

Bastian: So

Mayor: We're going to have to start charging a fee – a second time fee.

Bastian: So, I'm not going to say that Mrs. Mower doesn't know what she's talking about because I don't know. The only therapy I give is to kids in diapers, which most of you are probably past that by now. One thing is that there's as many articles that speak to size of groups, bigger are as good as or not as good as small groups so the articles go back and forth. She can't sit here and just like you were asking, Mayor, where's the evidence that shows that the bigger group is better besides opinion. And that's all we have is opinion. One of the questions I wanted to ask that I didn't ask earlier is is it required for the MMR to have some kind of signage so that people that come visiting know where the facility is that that's it. Like a commercial location would have, or is any of that required?

Conroy: Not through the City, no. I don't know if the state has a requirement to do that but I don't believe so.

Bastian: And I have to say, Bud's a good guy. I talk to Bud often as a neighbor and what not. He's a good guy and I believe he means well. But I've had on three occasions that I know of, I've had someone come knock on my door and one of the times the person, when the door opened, he walked in the house and by the looks of the person, it's not somebody you'd invite into your home. It was obvious that he was high on drugs or whatever it was and this person was coming to visit someone at MMR and walked right into the house. Now, if my wife had opened the door instead of me or if I hadn't have been there, she would have had a bigger problem. Luckily, I was there and grabbed the guy and showed him the door. But that's a concern that I have because where my house is located on the corner it's easy for people to think that's it.

Mayor: So, would you generally prefer some signage, is that what you're saying?

Bastian: At least something at the door or somewhere where you don't see it from the road necessarily that you know, not some big pole sign but some kind of something that people know that they're at the right spot.

Mayor: Noted. Thanks.

Jesse Mclean: Council, my name is Jesse Mclean. I live at 763 East 900 South. I bought Clyde Rollins' old house. Relatively new to the area. My young family and I moved here in December so we're excited to be a part of the Mapleton area. And just to be candid, I applaud the process that Bud and his team are going through. My older brother has battled with addiction his entire life. He's actually in prison right now for seven years for crimes that he's committed that are related to drugs. So, I see an interesting dichotomy here and I applaud you for going through this process. My only gripe with this in kind of the outside perspective in coming to Mapleton is just the location. I think if the shoe were on the other side of the foot, a lot of these people would probably have a different perspective. I go to work every day and even Bud, I go to work every day, and then I come home and I leave my work at work. Whereas, us the residents of the neighborhood, we live in it and we're largely associated with things that are going on. And I applaud you as a Council because I think that you've been reasonable. I think that you've been fair. You look at the needs of the people in the area and the statutes that you operate under within the law and I feel like you've made a good concession and that you've been fair and that you've been reasonable. So, as you approach these four items I think that the collective opinion of the people is starting to become a little bit more apparent that the applicant must demonstrate why the accommodation is necessary. I think we've talked about why it would be desired for them but not necessarily necessary. Necessary is kind of the key word. What impact will the accommodation have on the neighborhood? Well, this is pretty apparent. This is just the people that you've seen within 500 feet that got the notice in the mail. Think about if we expanded that to 1,000 or 1,500 or 2,000 feet. How many more people would be seated in the audience tonight. Does the accommodation pose a direct threat to others or property? Maybe not physically. Bud hasn't had any incidents that have been annotated yet but maybe psychologically. I know once I found out that that was a recovery center I kind of have a little hesitancy every time I pass that area and that's

just the reality of the world that we live in. And so, does the accommodation present any undue burden on the City. I think that's pretty apparent. And I think as we calculate this petition to go from 10 to 16 you have to take into consideration that any business it's just a matter of time before you have an incident. Really, if you go from 10 to 16 all you're doing is accelerating that time for that incident to happen. When that incident happens do you want it to happen in the middle of a residential neighborhood with Dallas and his kids, my kids, Sid and his kids, or Darren and his kids? And I'm not trying to be morbid or anything like that but that's the reality of the world that we live in. Incidents are going to happen. It's just a matter of time. So, do we want that to happen in the middle of Mapleton. So, I just think the location, it's a round peg in a square hole. So, that's my two cents. Thank you.

Mayor: Thanks. Next, anyone? Alright, Bud, just go ahead and close it off then. You can respond to that. Rick? No. You scare me by bringing a computer though. Come on three minutes.

Rick Maingot: I was a little behind so I didn't have time to print and so forth but anyways, Rick Mango, 1265 South Petersen Lane. So, I have to say that I'm actually not one of those ones within 500 feet. And actually too, and I brought stuff to Sean earlier, I was kind of surprised that I wasn't notified. And I think just speaking in general procedure for the City, and we've been through this many times, we've talked about on the Planning Commission, you guys have talked about it on City Council as far as for your requirements are only I think it's 500 feet but in circumstances like this, something that has been throughout the City and had that much interest, it seems to make a lot of sense that you would actually notify more and even in my case, where Sean, normally actually Sean is really good when he knows I'm interested in stuff in letting me know. So, I think that would be something the City would consider because now some people didn't even know about it. We had hardly any time to prepare to talk about it. So, again I understand that's the legal part of it but for the benefit of the residences, I think we want to include as many as possible. So, first off, I'd like to say that all these guys here, I appreciate them. I'm sure they're good. What they're doing is a great service. I had a brother that was a drug addict and went through a treatment facility and it changed him quite a bit. So, I know that it's necessary and this isn't about trying to get rid of these guys or to go against what they're doing. I am concerned that Bud isn't living there anymore because I actually think that that's probably part of the reason why the thing has done well and we haven't had problems. At least that was my opinion is because Bud was there and was being a good neighbor and he was kind of watching over things. So, I don't know if – that makes me concerned and now we'd have more people there and not his supervision. Again, that's just my opinion.

I want to go back to this reasonable accommodation again and it was just brought up and you did a great job of explaining it but if we go back three years ago, and I don't want to go back through all that, but we come back to the same thing. And Sean laid it out really well here for us to go through. He has demonstrated if the accommodation is necessary. So, I just want to remind you that you're not bound to do it just because it's something that they want to do or because it makes better therapy. It may make better therapy to have 16 people. I don't know. There's lots of studies out there that say no. There's some studies that say yes. But even if it is true it doesn't mean that you have to do it. The act that brought all this together says that "it is not a reasonable accommodation if it creates a fundamental alteration in a local government's land use and zoning scheme". So again, we go back and look at where this is at. It's agricultural. It's A-2 or A-1, or

is it called A-2? And that's not what that zoning is about and it says, "This new commercial business venture will alter the land use scheme of this...." – I'm sorry, skip that part. But it asks whether or not it makes that change. The act says, "A local government has primary power and is not preempted by the act." So, you still have the power. The act isn't forcing you to go a certain direction. It still gives you the power to make these decisions based on the evidence that is put forth before you. It also says, "The act states that we cannot treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons".

So, we're just talking about the disability. We need to accommodate them so they can live in residential but we don't have to give them everything that they want if it goes against what the nature is of the zoning and the neighborhood and so forth. I think when we go back and look at this, I think 16 is probably ideal. Actually, I think probably 100 is ideal. If I were Bud and I could have that kind of a program and if it's successful and you could bring in more people and make good money at it and all and if group therapy is good, then I think it's probably better to have I don't know, 50, 100, 150, whatever, a big one. But obviously, that's not reasonable. As a matter of fact, the DOJ and HUD said that a 50-bed nursing home would not ordinarily be considered an appropriate use in a single-family neighborhood for obvious reasons. So, they're saying, hey, you guys can't discriminate. Here it is. But they're also saying, but you know, it's got to be within reason on both sides. You're not forced to allow anything they ask, so the 16 number, I assume that's the number he came up with because that's what the state allows maximum, I think in his size and all, I think that's where that originally came from. If the state, for example, if that's where it comes from, and they change there's to where it's 30 now, and they'll allow and that size 30 if your city allows you to, then he comes back to the City and says, I need 30 now. It's got to stop at some point obviously because we have to do what's reasonable for both sides, not just the facility, but the neighbors. So, we have to look at it as if we would look at any other disability. If this disability were someone who as the attorney said, he gave the example of a wheelchair. We need to accommodate them to have a wheelchair. We don't have to accommodate them to have a power wheelchair. We need to accommodate them with a ramp if that makes sense to where they can reasonably use the building. We don't have to put in an elevator if a ramp works. And this is the same thing we're looking at here. If 10 people works then you've given them reasonable accommodation already. Sixteen is just ideal for him. It makes more money. It maybe makes group therapy better. We don't know. But it is not a requirement. It is not a necessity. Last time we provided a lot of information. I don't know how much of that has circulated back but for example, this whole therapy thing, we brought in expert testimony to that. I don't know if you guys remember that.

Mayor: We got it.

Maingot: Okay, so we brought in expert testimony. He came in and said that you know, smaller group sizes. We also had literature and studies and so forth and we brought all of this. So, hopefully, as you decide you've seen that if not you would go and look to that because we spent quite a bit of resources on providing that for the City. In this instance here, what we're looking at is Bud has come before us and said I need the 16 because this therapist, this person, expert witness, whatever you want to call, has said so. Well, that person probably is pretty legit I'm assuming, so but it's still one opinion and it even says in the letter, this is an opinion. And, I'm sorry I forgot the name, but the lady that stated that here as well, I'm sure they're legit too and they know what

they're talking about. It's still an opinion. And even if their opinion is correct, it doesn't mean that you have to accommodate it if it is above reasonable. And so, I would say that when we look at all this we want him to be successful. We want this to be able to treat people but it needs to be in the appropriate location. So, if it's better to have 100 residents in there then let's move it to a location where it's more reasonable where you can accommodate 100 people, 100 residents. And so, 16 is excessive. Sixteen means 24 people from what they're saying if it's 2-to-1 or 1-to-2. Twenty-four unrelated individuals in a zoning that allows what is it, three or four. So, it allows four and now he's looking to do 24. And so, that's six times the amount. So, that's not exactly reasonable based on where you're accommodated in that area. And also, and some of this was brought up about speaking to crime and drug dealing and the type of people. I don't think that's really what we're talking about here, the concern. I know they're trying to put us at ease with that. That's not really even an issue. So, I don't want you to think this is an issue of you know, hey, the drug addicts and the drug dealing and the crime or whatever. It's just a people issue. It's just a number of people and how that effects it.

Mayor: Thanks, Rick. Appreciate it. Alright, Bud, sum us up.

Conroy: Mayor, should we close the public meeting before he comes up?

Mayor: Yeah, the applicant will get a chance to speak. Is there anybody else quickly before Bud speaks. Alright, we'll close the public hearing. Bud, as the applicant you can come up and give us a final statement.

Harper: Thank you.

Mayor: Pull that mic right in front of you.

Harper: In response to the last comments, my Marketing Director, Michelle, who spoke earlier, came from a facility that has 90 beds in it. I have several employees that worked in a facility to the south, which I won't name, that has 24 beds. We're still considered to be a small facility. Sixteen beds is what I asked for from Day 1. I didn't ask for it because everybody else had it. I asked for it because from the professionals that I spoke with, felt like it was the right number to have. It was right sized and that's what we're asking for. I actually have 18 beds in the facility. I'm not asking for 18. I'm asking for 16, which I believe is right sized. It's what the Planning Commission agreed to do in the beginning. I've never asked for anything less than 16. I'm not asking for anything more. That's what I'm asking for and I'm asking that the City approve it. And for Dallas, I'm sorry if somebody came to your house looking for our facility and they appeared high. We do not accept any visitors who are under the influence, period, for obvious reasons. It triggers those who are there receiving treatment. So, that would be insane for us to even think about letting someone in and the employees that we have are very good at recognizing someone if they are high and they would be turned away and they would put on a list and would not be allowed back, period. So, again safety is our biggest concern. The difference between 10 and 16 is negligible. The City can't possibly know the difference. There are no differences between 10 and 16. People are in the facility. The patients are in the facility all day long. The only possible thing that anyone could notice is that if all 16 were capable of going to a meeting, we might need to take another car to get all 16 to a meeting in the evenings. That's the only thing that the City could

notice. Other than you might see a couple more people out in the yard playing badminton or something. The difference of 10 to 16 is insignificant for the City and the neighborhood and it's not as though we're increasing the size of people that are in a building because it's not – just like having 16 or 24 unrelated people in the building, these people don't drive cars. The only ones that drive cars are the employees. So, the rest of the people are in the facility. If they were a normal family of 16 you would have kids going to soccer, kids going here, adults going here and there and multiple adults. That's not the case. They aren't doing that. They are in the facility and as I said earlier, I get comments all the time from neighbors saying, you know, we never see anybody. We never hear anybody. And that's because they're in the facility. They're in treatment. That's what they're there for. They're there for treatment. They're not out in the neighborhood. They're not out running around. They're in the facility getting treatment and that's what we're trying to provide. Thank you.

Mayor: Thanks, Bud. I want to turn the time over to Eric for a minute just to clarify anything that may need to be clarified.

Johnson: Thank you, Mayor. I wanted to go over a few things just because in making this decision I've looked at the law rather extensively and want to give you some guidance on some things you've heard that the law would caution you against weighing those factors. Others that would be appropriate to weigh. What you're looking at here on the reasonable accommodation is what is reasonably needed to therapeutically treat and help these disabled people. So, that's where the focus needs to be. Things like the square footage of the facility could fit more people, I'm sure that there's nothing out there that says more square footage in a facility helps the therapeutic treatment. I don't know that that's something that you really could take into account. However, there is plenty of evidence that group therapy is helpful. The question is what size does that treat. With that let me address a few thoughts on things that have been said. It seems to me that the primary justification for wanting more than the current 10 – five male, five female, is that at times there are absences and then the group gets small. They are asking for I would note, a 60% increase due to absences. Let me address some of the other things that have been brought up. Whether it is an A-2 zone or any of your other residential zones, that really doesn't impact the reasonable accommodation. Let me give you two examples in cases, one out of St. George. In that instance, they said if you have a zone that allows no residential in the zone, strictly commercial or industrial zone, then you can say no to one of these facilities in that zone. You're not dealing with that. As long as the zone allows *any* residential then you must consider the reasonable accommodation. You don't get to look at, well, this zone isn't as densely populated as another.

The other case that is on the flip side is that. There was a case out of Florida where there was a neighborhood where these type of treatment facilities were congregating and there were a lot of people in them. It was high density housing in that area. And in that instance, ironically, the court upheld saying, you know what, we cannot create a treatment ghetto that all of these facilities have to go into. And so, I share those two cases so you can kind of see the two extremes. On the parking issue, there is a case out of Duchesne County where the county leaned on parking and traffic issues fairly heavily. They in the end had to file, they had a \$5 million award.

(inaudible): We can't hear you.

Johnson: Sorry. Out of Duchesne County....

Mayor: Hey Eric, why don't you just take Jonathan's mic.

Johnson: I'll come around, thanks. Is this better? Great. Sorry. Out of Duchesne County there was an application for a treatment facility. The County leaned fairly heavily on parking and traffic as a grounds to not approve and in the end, not just on that, but other things, the county was hit with a \$5 million award to the applicant and so I would say, you have to be somewhat carefully weighing those things. You need to be able to establish that it isn't just that someone parked on the street sometime but that there's inadequate parking consistently. Also, another thing I wanted to mention is on unrelated people, again, that is not a factor that you're allowed to look at. I mean, it's much like saying we would not allow a family in that neighborhood if they have 12 children. Well, you can't do that. And the reasonable accommodation requirements essentially put to bed the unrelated persons that normally applies in other situations. And so, that isn't a factor that you'd be allowed. Those are my thoughts on what have been presented as to what are allowable factors and not. I would have one comment to the applicant about current drug users. Federal law is very clear that current drug users are not allowed and so I would just – there were some comments made that I thought – ooh, I'm concerned for Bud based on those statements but would just caution him to comply with both state and federal laws in that respect.

Mayor: Okay, Council, we'll turn this back over to you for questions from staff, the applicant, or legal if you'd like.

Ryan Farnsworth: For me, obviously the facility has been in operation for a while now.

Mayor: Three years, I think.

Farnsworth: Obviously, not many great issues, which to me is because of the fact that that there are a maximum 10 patients there. And I think personally that has a lot to do with the fact that there haven't been a lot of great issues in that neighborhood. You know, would 16 create greater issues. It's one of those what ifs or what can be. And so, to me it just falls back on the reasonable accommodation. Obviously, when we decided on this three years ago, which hasn't been a long time ago, 10 was what we decided as reasonable. I haven't necessarily seen anything to say that that still isn't reasonable. The expert opinions to me, anybody can find an expert opinion. The expert opinion here with the veiled threat of a lawsuit doesn't do very good for us. And so, the issues become, you know, do I feel as a Councilman that that reasonable accommodation has been met because in the end I have to go off of what I feel and through my research through what I've done not only three years ago, but the last several weeks as this has come forward. To me, I believe that 10 still works. And that's nothing against Bud or what he's doing at all. I have nothing against the facility at all. To me, 10 still works. Obviously, with their success it works very well. And I think you change that number drastically and 60% is a drastic change, will that success stay. Will it continue? It's one of those trial and error things but for me I think 10 is still reasonable.

Jim Lundberg: I would probably echo that. I think just with an additional comment there that, I mean, ultimately we have to make a decision based on what evidence we have before us and really, we start with that as reference to that first element of the reasonable accommodation and that is is

it necessary. The evidence we have before us and in many respects is far from providing or at least convincing me that it is necessary for fixing or helping the disabilities that you treat. In fact, I think Bud, your letter talks about – your April 5th letter talks about and discusses many different types of successful therapies that you’re currently utilizing. You know, clearly group therapy is one of those but there are, I don’t know, 15 or 20 different types of therapies and treatments that are referenced in your letter that appear to be very successful and doing well. Ms. Mower even talked about you have a gold seal. It sounds good to me. It sounds like the success is fantastic. I applaud you for that. I think that’s wonderful. I do have concerns as expressed by Councilman Farnsworth that I would hate to see that success diminished if, in fact, there is an increase that causes some concern. So, the other evidence we have Dr. Seller’s letter in front of us and he provides a letter that references an NIH funded study but nowhere in that letter is there any reference to the need or the necessity for a successful treatment center to have at least 16. There’s a reference in there about more residents allow members to learn from each other but there’s no references to how many that is. And there’s a reference to a national survey of substance abuse as well but again, it’s talking about a median number but that doesn’t address in my mind the necessity for a successful treatment.

And like I said, in fact the evidence we have before us appears that thankfully, you are having success there currently and in fact, there’s additional evidence been presented to us from some of the residents that cite two studies indicating that, and I’ll quote these, “Increasing the size of group homes is associated with considerable risk of losses and many dimensions of quality. The decline begins at four residents and above. Beyond six the decline is sharper.” Another study, and I’ll again quote, this is a 2011 study that references, “There’s no consensus on what constitutes an optimal number of people in a residence but across an extraordinary variety of states and systems, qualities of life and outcomes drop measurably when there are five residents and drops sharply when there are more than six residents.” So, in my mind what we have before us as a Council tonight is that it’s clear that there’s some uncertainty about what is necessary in order to have a successful treatment center. But there’s also evidence before us that you have been successful. Even your own materials and some of the information we’ve received tonight, have indicated that you have been successful. I applaud you on that but based on that, I think the first element to show that the requested accommodation is necessary for having the success for fixing and helping individuals with these types of disabilities hasn’t been sufficient. Based thereon, that’s my thought.

Mayor: Bud, is there anything you want to add more? There’s only three here tonight. Sorry you didn’t get to hear from all five. We’re just asking if there’s any more you want to add now that the Council has kind of commented and then we’ll move to let them decide which way they want to go. (inaudible) We’re asking him if there’s anything that he’s left out or needs to add before the Council makes their decision.

(Inaudible)

Farnworth: It’s the Mayor’s meeting. He can do what he wants.

Denise Maingot: Okay. Sorry.

Mayor: Go ahead. I know you kind of closed. I just wanted to know if there was anything that was said or done that you hadn't had a chance because Council delayed their making a decision or any comments prior to the Open House. So, now they've made their comments. I want Bud to be able to respond to them.

Harper: Thank you. We are trying to be the best facility of our type. We're trying to be the best that we can be. We know that we can improve our outcomes if we have 16 people because the importance of splitting male and female, we just can't make that impression large enough. We have to be able to split males from females into two groups. With the Trauma Informed Care we can't have females with males. We need to have six to eight people to make a valid group. If we have too few, there's not enough to have the compassion, the input from other patients. If we have too many, then the patients can hide. Such as in the facility to the south that has 24. I know that they've had groups of 24 before. When you have a group of 24 people, people can hide. They don't have to participate. No treatment occurs there. We need to have six to eight functioning people in order to provide the best treatment. We're trying to be as good as we can and we don't feel that there's going to be any significant change to the neighborhood if we go to 16. There just isn't. You don't see them. They're in treatment. They're in the home or they're out in the meeting. I just don't see why we wouldn't consider that a reasonable accommodation and I'm not just saying because every other facility that has the size to allow 16 has it, it's that they do it for a reason. The cities have granted it and recognized it as a reasonable accommodation. I don't see how Mapleton should be any different than that.

Mayor: Thanks.

Johnson: Mayor?

Mayor: Go ahead, Eric.

Johnson: Mr. Harper, perhaps I could ask a question or two of you. Mayor, I think that this original application came out so long ago and I think many Council Members are the same from the prior application. I just want to review a few things to make sure I was understanding correctly. In the research that showed six to eight as an optimum size, my understanding was that that was not gender specific. That on the evidence about gender specific, which is evidence that you provided in your prior application it said that five was needed and that's the reason that the original approval was for 10 total; five men and five women, gender specific. And so, now when you're talking about six to eight, do you have additional evidence that it has to be gender specific, six to eight?

Harper: It has to be, yes. Because we are doing Trauma Informed Care and we have to be able to split the males from the females. If we had five females in the facility, the odds are that I'm not going to ever get five of them functioning in a group together because we have people who are continuing to detox who cannot participate in meetings. Anything less than five is non-productive or very minimally productive.

Johnson: And where is that evidence?

Harper: I'm sorry.

Johnson: I'm unclear the evidence when you say six to eight that it's gender specific groups as opposed to a group of....

Harper: It's groups, period. It's groups. Six to eight is a minimal effective size. You can have up to 12 but six to eight is the minimum of a good, functioning group but they have to be functioning people. So, if you have six or eight together that's good but you can have up to 12. You can have a little bit more than that but not much. But when you split them into gender specifics you still have to have that functioning number in order to be a productive group. It still has to be the same size. How could it be less?

Johnson: I think I follow what you're saying. I'll just note that's contrary to evidence you previously submitted to the City.

Harper: It was intended. It may not have been said.

Mayor: Alright, Council.

Farnsworth: I think it's important to understand that obviously this is a touchy subject and what we do – we definitely any decisions that I make I don't make them based on someone's ability. By making a decision, it doesn't mean that someone's not doing a good job or performing to the best of their standards. With that, I'd like to make a motion. Mayor?

Mayor: Go ahead.

Farnsworth: **I move to deny the request to expand the Maple Mountain Recovery Center, a residential care facility for persons with a disability from 10 residents to 16 residents.**

Mike Nelson: **Second.**

Mayor: We have a motion and a second. I don't know where we are roll call wise.

Nelson: **Nelson, yes.**

Farnsworth: **Farnsworth, yes.**

Lundberg: **Lundberg, yes.**

Mayor: Alright, the motion fails – well passes, sorry. I said that totally wrong. Sorry. Alright, that finishes up our public hearing items.