

November 21, 2022

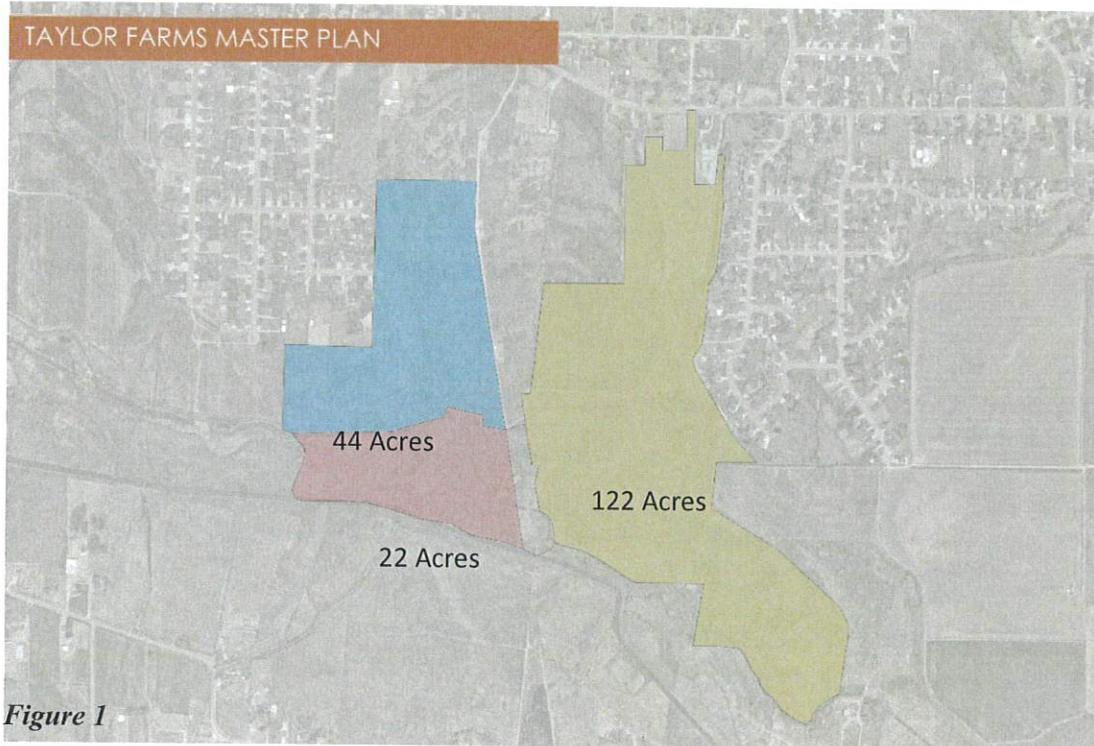


Mayor Jon Beesley; Members of the City Council of Plain City, Utah

Re: Taylor Property rezoning request

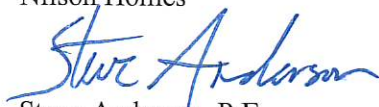
Dear Mayor and City Council Members;

We are writing regarding property located at approximately 3000 W, south of 1900 N. The property consist of approximately 180 acres of which approximately 160 are within Plain City's boundaries (see figure 1 below). On November 3rd of this year, we appeared before you on behalf of the property owners, the Taylor family and 317 Sycamore, LLC, to request that the property be rezoned. The City Council decided to table this item. They asked Nilson Homes and the Family to come back with other options at a work session meeting with the City Council, Planning Commission and other concerned property owners to discuss the project. We are requesting this work session be on December 1st at your regular scheduled city council meeting. In addition, we have had meetings with the property owners that expressed concerns during the November 3rd meeting to further discuss their concerns. We have also informed them that we are asking to be at the December 1st meeting, so they could attend. We appreciate



Plain City working with us on this project.

Sincerely,
Nilson Homes


Steve Anderson, P.E.

PLAIN CITY COUNCIL
MINUTES OF REGULAR MEETING
NOVEMBER 17, 2022

The City Council of Plain City convened in a regular meeting at City Hall, 4160 W 2200 N in Plain City, on Thursday, November 17, 2022 also accessible via ZOOM beginning at 7:00 p.m.

Present: Mayor Jon Beesley, Jed Jenkins, Rachael Beal, Buddy Sadler, Todd Skeen
Excused: Councilmember Luigi Panunzio
Staff: Diane Hirschi, Dan Schuler, Melissa Miller
Present: Rob Ortega, Shawna Faulkner, Cody Rhees, John Newhall
Also Present via Zoom: Brandon Richards, Jim Beesley

Call to Order: Mayor Beesley
Pledge of Allegiance: Councilmember Beal
Invocation/Moment of Silence: Councilmember Jenkins

Approval of Minutes from November 3, 2022

Councilmember Sadler moved to approve the minutes from November 3, 2022. Councilmember Beal seconded the motion. Councilmembers Jenkins, Beal, Sadler and Skeen voted aye. The motion carried.

Comments: Public

None

Report from Planning Commission

Rob Ortega stated the Planning Commission had a final for the C & B Subdivision, which was approved for preliminary. They also had a final for Phase 1 of the Sage Creek Subdivision, which was approved upon the contingencies that the road is widened by four feet, as per the County, and that the developer coordinates with the neighboring properties regarding the wells and ditches, which is already mentioned in the developer agreement. Mayor Beesley stated he had spoken with someone from Lynx and was told the well had been broken but repaired and it will be deeded to the adjacent property landowner.

Shawna Faulkner mentioned that neighbor Conn Wilcox has requested a 24-inch pipe be installed instead of an 18-inch pipe for the Sage Creek development and would like that added as part of the agreement. She also mentioned that Steve Diamond brought a site plan for an assisted living property to be built in Sunflower Estates and he feels that he has met the reasonable accommodations to allow him to develop the individual rooms to his liking. She stated the Planning Commission is in favor of this development. She suggested that the City Council attend the work session that is scheduled for Dec. 8th with the commission. She mentioned that they are also asking for a group home, which is completely different, and she is asking for a moratorium to be placed on this until the council and commission can research it further. She stated Jarod Maw has been investigating it, but the most updated version the State is using is from 2010 and it doesn't have a lot of specifics. Mayor Beesley stated he has some concerns about site plans and commercial site plans. He asked Shawna if it would be beneficial for the council to approve final site plans. Shawna said she thought it would be a good idea. Mayor Beesley and Shawna both agreed the ordinances should probably be reviewed to see where improvements can be made.

Discussion/Motion: Final Approval of Town Center Business Plaza – Cody Rhees

Cody Rhees was invited to address the council. Mayor Beesley mentioned that Cody had sent a letter to the council regarding his position on this final. Mayor Beesley stated the issue at hand is the switch from the properties changing from rentals to being sold individually. He stated he believes the POA covers potential liability issues. Cody mentioned there were two technical reviews regarding the plaza. He stated the commission and also Bona Vista were also aware the properties would be marketed for sale. Mayor Beesley stated they were mentioned as rentals in technical review. Cody read through Brad Jensen's letter regarding his instructions for building maintenance and billing. Cody said the buildings that are currently standing are shells and the impact fees will be paid when a business buys and finishes the interior. He said he updated the POA to satisfy the council. Mayor Beesley and the council members agreed. Cody did mention the ordinance regarding water development standards. He stated there are two water meters currently installed on the property and he believes he is in full compliance according to city ordinance. Councilmember Sadler stated commercial property sewers are billed differently and asked Cody how he proposes to bill them. Mayor Beesley stated the POA would take care of that. Cody spoke about public improvement and the specific responsibilities regarding each of them. He mentioned there was no chance the city would assume responsibility nor liability for this property. He is asking the council to approve the subdivision based on the city ordinances. He stated Bona Vista will not allow two more connections without cutting a 20-foot swath into the state road. He said it is a huge burden on him. He stated he is happy to put his own private meters

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on if the problem becomes something for him that must be dealt with. Councilmember Jenkins said he is comfortable approving this motion because of the POA protection in place. Councilmember Beal pointed out that Cody had failed to mention a couple of sections of Brad Jensen's letter which gave the option for the installation of two more meters so each building had its own meter; the letter also stated approval was recommended once the issues were met with satisfaction by the city council. She stated the council asked for the additional two meters the first time he came for approval, the second time the council said they would grant approval with the meters and the impact fees, but Cody asked the council to table the approval. She said the council had set a precedent and she has requested that this precedent be made into an official ordinance. She stated the council has asked for two meters from the beginning and Cody has said that Bona Vista is fine with what is currently installed. Cody read city code 11.5.15 #2 to rebut Councilmember Beal's comments. He stated he understands her ask, but it is not included in the ordinances, standards or codes. He stated it is the city council's duty to change the ordinance if they do not like the verbiage. When asked for his opinion on the approval, Councilmember Skeen said he didn't like it. He felt that it appeared that there was poor planning involved from the beginning. He said it makes sense that each individual tax ID should have its own water meter and utilities. Mayor Beesley stated that it needed to be fixed and Councilmember Skeen agreed. Councilmember Beal asked about the individual meters that were required at Still Creek. Cody asked if those were residential and Mayor Beesley confirmed that they were. Mayor Beesley stated the council knows where he stands on this issue and suggested that the council find a way to move forward and fix the ordinance for future developments. Councilmember Skeen stated his hang up is that the council set a precedent and required the developer in Still Creek to abide by it. He commented that perhaps Cody is able to get around it through the POA, but he's worried that by not requiring him to follow precedent, the city opens itself up to litigation. Mayor Beesley asked city attorney, Brandon Richards, for his opinion. Brandon stated he sees no issues with liability or the possibility for litigation due to the way the POA is written. Mayor Beesley asked for a motion. **Councilmember Jenkins offered a motion to approve, mentioning that this is commercial property where the water usage would be much lower than a residential property. Mayor Beesley asked that a review period be included with the motion. No second was offered and the motion died. Councilmember Beal offered a motion to disapprove. Councilmember Sadler offered a second. Mayor Beesley warned that if this is approved, the next step might include litigation. Cody also commented that this motion is not just a city motion, but also personal. Councilmember Sadler withdrew his second. The motion died. Cody offered to work with the council for any type of time period review they wished. Councilmember Sadler asked what benefit would come from a review if approval has already been granted. Mayor Beesley stated the review would give the council a chance to see how the POA is working. He suggested approval could be given with condition that the review be done in a year with the right to revoke it if the POA is not working. The council and Cody discussed the possibility of when the properties would actually be occupied and agreed it could take up to or even more than a year for that to happen. Cody suggested setting a review for 6 months out from the first rental. Councilmember Sadler said he liked that idea. Cody reminded the council that every business that applies to occupy one of the buildings will have to go through council for approval, so this is something that will be ongoing and they council will have the ability to approve or deny what goes in. Councilmember Sadler complimented Cody on the buildings and said the property looks nice. Councilmember Jenkins motioned to give final approval of Town Center Business Plaza with the condition that a review is conducted 6 months after the first two buildings are occupied. Councilmember Sadler seconded the motion. Councilmembers Jenkins, Sadler and Skeen voted aye. Councilmember Beal voted nay. The motion carried.** Councilmember Skeen asked that the ordinance be fixed. Mayor Beesley gave instructions to Rob Ortega to take back to Planning Commission regarding future site plan approval.

Discussion/Motion: Final Approval of Sage Creek Subdivision Phase 1 – 30 Lots – approximately 4277 W 3600 N
John Newhall addressed the council. Mayor Beesley mentioned the engineer's comments regarding the widening of the road, as per Weber County. He asked for a larger plat for the council to be able to review. He stated parcel A needs to be deeded to the neighbor with a provided culinary and secondary water connection by Lynx. John agreed that those would be included. John also mentioned the 24-inch pipe that would be installed in the concrete ditch. Councilmember Sadler asked if the Planning Commission added fencing around the agricultural areas and suggested adding it in the motion. Mayor Beesley stated the fencing is listed in the ordinance, but agreed it could be added to the motion. Mayor Beesley stated a geo-tech survey would be conducted on each lot. Mayor Beesley asked for any additional questions or comments from council. There were none. **Councilmember Sadler moved to approve Sage Creek Phase 1 conditional upon the following: Parcel A is given a quit-claim deed to Bart Cragun along with a culinary and secondary water connection; the pipe to be installed in the concrete ditch will be 24 inches, as per Conn Wilcox; any agricultural areas will be fenced according to city standards. Councilmember Beal seconded the motion. Councilmembers Jenkins, Beal, Sadler and Skeen voted aye. The motion carried.**

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Discussion/Motion: Conditional Final Acceptance – Stoneybrook Subdivision

Mayor Beesley stated the only wait on this was 150 feet of vinyl fence to be built which has been completed.

Councilmember Beal moved to approve Conditional Final Acceptance of Stoneybrook Subdivision.

Councilmember Jenkins seconded the motion. Councilmember Jenkins, Beal, Sadler and Skeen voted aye. The motion carried.

Discussion/Motion: Poo-Gloo Rehabilitation Project – Sewer Lagoons

Mayor Beesley stated there were 50 Poo-Gloos that were purchased and installed about 12 years ago. They have not been serviced in years. He also mentioned the aerators that Don Weston built and have been working well. The issue approaching is the nitrogen levels. The city will soon be required to measure and stay within certain levels to be in compliance. The Poo-Gloos and aerators are no longer working well enough to control nitrogen levels. He stated the fix for now is to reconstruct and fix the Poo-Gloos and aerators in order to keep the lagoon in compliance. Dan stated the system works well; it just needs some rehabilitation. Mayor Beesley stated the Poo-Gloos are designed to create micro-bubbles, but because they are plugged up, they aren't performing well and need to be rehabbed. Dan Schuler stated the lagoons don't need to be drained, the system just needs to be cleaned up to function better. He said if everything can be rehabbed, the lagoons can be back to 98% efficiency. Mayor Beesley reminded the council the money from ARPA can be used to help with cost of rehabilitation. Dan Schuler also said the city has received additional grants as well to help. He then explained the process of rehab to the council, stating the person who does this has found ways to improve the cleaning. Councilmember Skeen asked if the city was obligated to seek out several bids before paying for the rehab. Mayor Beesley stated the uniqueness of our system does not require that. Councilmember Sadler stated he would like to see additional bids, but understands if it is not feasible. There was some discussion regarding the nitrogen levels. Councilmember Sadler asked if the person who is being considered for rehabbing the system has been independently reviewed to check that his claims are accurate. Councilmember Jenkins reminded the council that he is actively involved in this particular industry and said there are several companies that will do lagoon system aeration. He said there are some that can get better nitrogen levels, but those companies are dealing with much deeper lagoons. He stated our system is shallow. He said the deeper the system, the more sludge can be mixed and nitrogen released. He also mentioned that Poo-Gloos are only installed in maybe three cities throughout the U.S.A. He believes there are more of these systems in other countries. He agrees with Dan that it should be serviced by someone who understands this system. He isn't sure it would be all that cost effective to bid it out to companies that have never worked on this type of system. He addressed Councilmember Sadler's concerns stating the Poo-Gloos have been installed for several years now and have proven themselves to be effective. Councilmember Sadler conceded that Councilmember Jenkins does know more about this than he does. Councilmember Jenkins stated when Don Weston worked on this in the past, he did the work himself and he doesn't believe that it could be done like that now. Councilmember Sadler commented that the price tag of \$100,000 is just hard to swallow. Mayor Beesley suggested asking if the service company would be willing to service ten of the Poo-Gloos to show the council what's involved. Councilmember Sadler made the comment that perhaps the council should be the ones to go out and service one themselves before deciding anything. Councilmember Jenkins warned that by asking the service company to only rehab a small handful of units, it could end up costing more money. Mayor Beesley asked about a timeframe on the entire rehab. He also asked if the intention was to rehab one at a time. Dan confirmed that was his plan and that it would take approximately four months or more to complete the entire rehab. Mayor Beesley stated that would give the council ample time to visit the lagoons and review the work being done to determine if it is something to continue with going forward. Councilmember Sadler asked if this would be a recurring cost every five to ten years. Dan said it would maybe be every twelve years. Mayor Beesley reminded the council that it is a maintenance issue. Dan said the city has a permit with the state and they have toured the lagoons. After the inspection, they complimented the city on the cleanliness of the lagoons and approved the direction the city was headed with them. Dan warned that if the council chooses to just approve half of the rehab, the city could lose the approved funding from the state. Mayor Beesley asked Dan if the service company would be willing to come address the council and present his plan to them. Councilmember Skeen asked if the \$1 million dollar grant had been approved for this project. Mayor Beesley stated the money was coming from ARPA, not the grant, and it was approved. He stated the grant money being used is for all water-related purposes. Councilmember Sadler commented that the headworks have been in the works for six years and nothing has been started. He would like to see one project started and completed before another one is started. Dan stated the state would never sign off on the headworks project in the past. He stated he wants it done as well. He stated the headworks have now been approved and should go out to bid within the first part of next month. Dan agreed with Councilmember Sadler stating this has been frustrating, but said there was a lot of paperwork involved. Dan asked the council to rehab the Poo-Gloos and get them working at 98% and then the city can move forward on other projects. Councilmember Sadler mentioned possibly tabling the motion to have more time to think about it. Councilmember Jenkins asked if it was tabled could a presentation be done through Zoom for the council to consider. Mayor Beesley stated he would like to have a presentation on record for

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the council. Councilmember Beal asked about the possibility of getting other bids regardless of their experience level on this system. Councilmember Jenkins reminded the council that in order to do it, they would have to research contractors to see if anyone knows anything about the system. Councilmember Sadler asked if there were other vendors who may offer Poo-Gloos at a lower price that might be more cost effective than rehabbing the existing ones. Councilmember Jenkins stated he's been across the country and hasn't found anyone who is using the system Plain City does. He stated these systems can cost upwards of \$1 million dollars. Dan said the system in place is good, and rehab wouldn't cost nearly as much as some of the newer systems. Councilmember Jenkins agrees with Dan, but said his only issue is that the nitrogen removal is not quite as effective as other technologies. However, the city system is already in place and does a decent job. Councilmember Skeen stated he was satisfied with the conversation and his questions have been answered. He believes the service company knows what they're doing and isn't trying to take advantage of the city. He did suggest calling Don Weston and asking for his opinion on the rehab. He stated he's okay to approve it, but if the council still has questions, it might be worth calling Don. Councilmember Jenkins stated he's spoken with Don in the past and he's always been pro Poo-Gloo. He mentioned he's also leaning towards approval on this motion. Mayor Beesley said Don's invention does help, but they're not as effective as the Poo-Gloos. Councilmember Sadler stated he would like Don's opinion on it and a presentation from the service company before making any decisions. Councilmember Beal liked Councilmember Sadler's suggestion before considering approval. **Councilmember Sadler moved to table approval of the Poo-Gloo Rehabilitation Project and have the Poo-Gloo service representatives present to the council; additionally, the council will meet with Don Weston. Councilmember Beal seconded the motion. Councilmembers Jenkins, Beal, Sadler and Skeen voted aye. The motion carried.**

Discussion/Motion: UV Lighting for Sewer Treatment

Councilmember Jenkins recused himself from discussion due to conflict of interest. Mayor Beesley explained that the UV light removes hazardous chemicals from the lagoons. The city currently spends \$20,000 a year on different chemicals and manhours. This light would pay for itself in four to five years. Mayor Beesley stated the savings over time would benefit the city. Dan stated two sets would allow the city to run the lighting both inside and outside. The council discussed the cost of chemicals and the replacement of pumps. Councilmember Beal mentioned she like the idea of the UV light being safer for the employees to handle versus exposure to dangerous chemicals. Mayor Beesley said there are several plants throughout the U.S. installing these lights. Councilmember Beal asked about the availability of different companies being available to use if necessary. Mayor Beesley stated there were more to choose from. The council discussed various costs regarding the installation and setup. Councilmember Beal asked if it could be tabled until more detailed expenses could be given to the council for consideration. She also asked if grant money could be used for this as well. Mayor Beesley stated it was possible. Councilmember Skeen asked that the chemical pumps be sold, rather than ripped up and junked, should the UV light treatment be approved. Dan agreed. **Councilmember Beal moved to table the UV Lighting for Sewer Treatment until cost expense can be determined. Councilmember Sadler seconded the motion. Councilmembers Beal, Sadler and Skeen voted aye. Councilmember Jenkins abstained. The motion carried.**

Motion: Approval of Business License

There were none.

Motion: Approval of Warrant Register

See warrant register dated 11/01/2022 to 11/16/2022. **Councilmember Beal moved to approve and pay the bills as presented. Councilmember Skeen seconded the motion. Councilmembers Jenkins, Beal, Sadler and Skeen voted aye. The motion carried.**

Report from City Council

Councilmember Beal reminded the council that the Taylor Property representatives would like to schedule a work session with the council and Planning Commission. She also reminded the council to participate in the Christmas parade.

Mayor Beesley reiterated the Christmas parade and the tree lighting. He also touched on the work meeting. Councilmember Sadler said notifications should go out to all interested parties, including the citizens who gave public comment regarding the property, for the meeting. Mayor Beesley stated he would make sure to reach out and ensure notification is given.

At 8:51 p.m. Councilmember Skeen moved to adjourn and was seconded by Councilmember Beal. The vote was unanimous.

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City Recorder

DRAFT

Mayor

Date approved _____

CHAPTER 17

GROUP LIVING FACILITY

SECTION:

10-17-1: Purpose And Applicability

10-17-2: Terms

10-17-3: Permitted Uses

10-17-4: Residential Facility Development Standards

10-17-5: Reasonable Accommodation

10-17-1: PURPOSE AND APPLICABILITY:

A. Purpose: It is the purpose of this chapter to:

1. Comply with Utah Code Annotated sections 17-27a-515 through 519.
2. Avoid discrimination in housing against any person regardless of age or disability in compliance with the Utah fair housing act and the federal fair housing act as interpreted by the courts having jurisdiction in Utah.

B. Applicability: This section shall be deemed to govern any facility, residence, or other circumstance that meets the definition of a "residential facility" as set forth in this title.

C. Limitations: Only such residential facilities as are specifically authorized in this chapter and in this title as permitted or conditional uses shall be allowed. All other residential facilities are prohibited. (Ord. 2009-08, 9-3-2009, eff. 9-3-2009)

10-17-2: TERMS:

Certain words and phrases in this chapter are defined in section 10-2-1 of this title. (Ord. 2009-08, 9-3-2009, eff. 9-3-2009)

10-17-3: PERMITTED USES:

A. Permitted Uses: A residential facility for persons with a disability or a residential facility for elderly persons shall be a permitted use in any zoning district where a single-family dwelling is allowed.

B. Termination: A use permitted by this chapter is nontransferable and shall terminate if any of the following occur:

1. A facility is devoted to a use other than a residential facility for elderly persons or a residential facility for persons with a disability;
2. The facility fails to comply with the requirements of the issued permits, this chapter, or other Plain City ordinances; or
3. The license or certification issued by the department of human services or department of health terminates or is revoked. (Ord. 2009-08, 9-3-2009, eff. 9-3-2009)

10-17-4: RESIDENTIAL FACILITY DEVELOPMENT STANDARDS:

Each residential facility shall conform to the following requirements:

A. Residential Facility Design Standards: Any newly constructed or remodeled residential facility in a residential or agricultural zone or within one thousand feet (1,000') of a residential or agricultural zone shall comply with the following design standards:

1. The residential facility shall comply with: all building, safety, and health regulations; the Americans with disabilities act; fire regulations; and all applicable state code standards and licensing requirements. Additionally, residential facilities shall comply with all standards set forth by any other local, state, or federal agency for the operation of the residential facility.

2. All setbacks shall be according to the requirements of the zone in which the facility sits.

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

- a. The roof design of the proposed or remodeled structure shall be a pitched roof of the same slope as the most common roof slope of the homes within the surrounding area of the proposed building; and

- b. The type of exterior materials shall be of traditional home finished materials of brick, siding, rock, stucco, etc. The use of these materials shall be applied in such a manner as to blend in with the neighborhood where the building is located and not draw undue attention to the building because of the materials, their color, and/or their combination being uncharacteristic of the other buildings in the neighborhood.

4. An existing structure may not be utilized as a residential facility unless no structural or landscaping alterations that change the structure's residential character are required for the residential facility to operate. Any alterations to the structure, landscape, or site will require the approval of the planning commission and must be completed in compliance with this section.

B. Parking Standards: The residential facility shall be required to provide sufficient parking for the intended use as provided below:

1. Each facility shall be subject to minimum site development standards applicable to the dwelling units in the zone in which the facility is located; and

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

C. Number Of Occupants: Pursuant to the definition of "family" in section 10-2-1 of this title, not more than four (4) unrelated persons shall occupy a residential facility for elderly persons or any residential facility for persons with a disability established in a dwelling unit unless a reasonable accommodation is granted in conformance with section 10-17-5 of this chapter.

D. License And Certification: Prior to the issuance of a zoning clearance by Plain City for the residential facility, the person or entity licensed or certified by the department of human services or the department of health to establish and operate the residential facility shall:

1. Provide a certified copy of the license issued or the filed application for a license by the department of human services or the department of health to the city offices.

2. Certify, in a sworn affidavit submitted with the application for a zoning clearance, that no person will be placed or remain in the facility whose prior or current behavior, actions and/or criminal incidents or convictions, have demonstrated that such person is or may be a substantial risk or direct threat to the health or safety of other individuals, or whose said behavior, actions and/or incidents or convictions have resulted in or may result in substantial physical damage to the property of others.

3. Residential facility for persons with a disability:

a. Certify, in a sworn affidavit submitted with the application for a zoning clearance, that all current residents/clients qualify and that all future residents/clients will qualify prior to admission to the facility as persons with a disability as defined within the Americans with disabilities act;

b. Obtain a city business license, if required under applicable provisions of the Plain City ordinances.

4. Residential facility for elderly persons:

a. Certify, in a sworn affidavit submitted with the application for a zoning clearance, that all current residents/clients qualify and that all future residents/clients will qualify prior to admission to the facility as persons with a disability as defined within this title;

b. Certify, in a sworn affidavit submitted with the application for a zoning clearance, compliance with all relevant state code requirements. (Ord. 2009-08, 9-3-2009, eff. 9-3-2009)

10-17-5: REASONABLE ACCOMMODATION:

A. Reasonable Accommodation Required: None of the foregoing conditions shall be interpreted to limit reasonable accommodations necessary to allow the establishment or occupancy of a residential facility for person(s) with a disability.

B. Application: Any person or entity who wishes to request a reasonable accommodation shall make application to the city. Application shall be accompanied by all appropriate fees and affidavits. The application shall contain the following:

1. The name, mailing address, fax number, and phone number of the applicant, including cellphone number if applicable;

2. The nature and extent of the disability;

3. An exact statement of the ordinance or policy from which the applicant needs a reasonable accommodation;

4. The applicant's proposed reasonable accommodation(s);

5. A statement detailing why a reasonable accommodation is reasonable and necessary in order to afford handicapped persons equal opportunity to use and enjoy housing; and

6. The physical address of the property where the applicant intends on living.

C. Decision: The planning commission shall render a decision on each application for a reasonable accommodation within ninety (90) days. The decision shall be based on evidence of record demonstrating all of the following:

1. The requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.

2. That but for the accommodation, one or more persons with a disability will be denied an equal opportunity to enjoy housing within the city.

3. That equal results will be achieved as between the person with a disability requesting the accommodation and a nondisabled person.

D. Appeal: Any person adversely affected by a final decision of the planning commission may appeal that decision in compliance with title 2, chapter 3 of this code. (Ord. 2009-08, 9-3-2009, eff. 9-3-2009)