

MEMORANDUM

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Planning and Zoning Division
Department of Community Development

TO: Planning Commission Members

FROM: Elizabeth Giraud, AICP, Senior Planner

CC: Alex Ikefuna, SLC Planning Director; Cheri Coffey, AICP, SLC Deputy Planning Director; Joel Paterson, AICP, Planning Programs Supervisor

DATE: September 9, 2006

SUBJECT: Response to request from Planning Commission members for additional information for Case No. 400-04-22, amendments to the text of the zoning ordinance for specialty housing.

Background

Petition 400-04-22 is a request by Mayor Rocky Anderson to amend the provisions of the Zoning Ordinance text relative to Group Homes, Transitional Victim Homes, Transitional Treatment Homes and Residential Substance Abuse Treatment Homes. The Planning Division identified several issues that are problematic in applying the current zoning regulations, and proposed text amendments to specialty housing including provisions addressing the following issues:

1. Create new definitions for specialty housing.
2. Require that service providers obtain City registration to operate a specialty housing facility.
3. Require that all specialty housing types, with the exception of small group homes, be allowed only upon conditional use approval by the Planning Commission.
4. Allow modification of the 800 foot spacing requirement for all specialty housing types if approved by the Planning Commission as a conditional use.

The Planning Commission heard Case No. 400-04-22 on June 28, 2006. It tabled the item and requested additional information. This memo, and the attachments, represent a response to the Planning Commission's questions and concerns.

A. The Planning Commission requested a compiled, updated list of specialty housing.

The staff compiled a list of all specialty housing providers in Salt Lake County, using the website of the Licensing Division of the Utah Division of Human Services. The Licensing Division organizes specialty

housing into two broad categories of “non-profit” care and “private care,” and under these two umbrellas, specialty housing providers are divided into six categories:

- Child and Family Services Facilities
- Aging and Adult Services
- Juvenile and Justice Services (called “Youth Services” in the private care licensing category)
- Mental Health Facilities
- Substance Abuse Facilities
- People with Disability Facilities

Staff compiled the information in Table 1 (Attachment 1). Staff only included facilities located in Salt Lake County, and that were licensed as residential facilities. In Table 2 (Attachment 2), staff enumerated the number of licenses by municipality, and broke them into the categories noted above (no residential facilities licensed through the Department of Human Services under Aging and Adult Services are located in Salt Lake County). Table 2 also notes the difference between the total number of licenses and the total number of facilities. This discrepancy occurs because some service providers have more than one license per facility. For example, Odyssey House is licensed under both Mental Health Facilities and Substance Abuse Facilities, but these two services may occur in the same building.

In total, Salt Lake City has the highest number of specialty housing facilities of the cities in Salt Lake County. The numbers are high because it has the highest number of facilities licensed for substance abuse treatment, largely due to the presence of Odyssey House (4 facilities) and the Utah Alcoholism Foundation (4 facilities). Other communities also have a high number of other types of facilities. Kearns has the highest number of facilities licensed as “Child and Family Services” (10) because of the services of Valley Mental Health. Sandy has the highest number of group homes (13).

B. Is it discriminatory to request that service providers be spaced from other providers?

The Planning Division Staff will defer to the legal expertise of Deputy City Attorney Lynn Pace to answer this question.

C. The Planning Commission wanted recommendations and input from service providers about the need to congregate facilities.

The Planning Division staff has sent a letter to service providers requesting that they attend the Planning Commission meeting on September 27, 2006, and provide input regarding the need to congregate facilities (Attachment 3). On February 17, 2006, after the open house the Planning Division held on February 9, 2006, representatives from several specialty housing facilities stated the following regarding the congregating of facilities:

It is the opinion of the group that permitting the opportunity to “lessen the 800 foot distance requirement in any area in which the facility is allowed, and waiving the spacing requirement in the more intensive Downtown, Gateway Mixed-use (G-MU), and General Commercial (CG) zone where the Planning Commission finds it is appropriate to do so” is a very positive move. This change will definitely help programs located in the central city area to maximize resources and hold down costs of service in many instances. We applaud your efforts in this. [Attachment 4].

In conversations with the service providers, the Planning Division staff learned that their clients need services such as mass transit, employment opportunities, medical care and judicial services. These are often the services needed by residents of the city's homeless shelters and transient population, but the needs of the homeless are often more acute. The needs of the populations served by the specialty housing providers include people with cognitive disabilities, behavioral problems, substance abuse, teen pregnancy and juveniles who have no family support. The treatment offered by the service providers affected by the proposed changes to the specialty housing zoning text is not based on homelessness, and thus "congregation of facilities or services" has a different connotation for these service providers than those of facilities serving the homeless. City officials, social service agency representatives and downtown business owners have discussed the merits and drawbacks of concentrating homeless facilities and transient care in west downtown at different times for many years. This discussion is beyond the scope of the proposed zoning text for specialty housing.

D. Ten-Year Plan to end homelessness.

At the June 28, 2006 Planning Commission meeting, Planning Commission Member Robert Forbis mentioned the Ten-Year Plan to end homelessness, produced for Salt Lake County in an effort to end homelessness, stating that "many of the questions being raised have been researched for the 10-year plan," and that "the 10-year plan is not solely about homelessness, but that it addresses the concept of disbursement and supportive housing." While many of the reasons for homelessness noted in the Ten-Year Plan afflict the residents of specialty housing facilities, and the strategies presented in the Ten-Year Plan (prevention, access to mainstream services, housing and infrastructure) could apply to many clients of the social services, the Ten-Year Plan is specifically targeted to solving the dilemma of homelessness.

The service providers, in a memorandum to Staff dated February 17, 2006, also address this issue (Attachment 4). They state the following:

Not all residential substance abuse treatment programs are transitional housing facilities. Even when substance abuse treatment programs are used for the homeless, they are mandated by funding to provide residential services as a part of the intervention. The homelessness of the client is not part of the assessment criteria for entry. Therefore the use of the term transitional housing in this situation is not accurate...In summary, our clients are in our residential treatment programs because of their substance abuse problem, not because of homelessness, and not because of their court-related issues. Zoning language that emphasizes the treatment aspects of the program seems more informative to the public, and is more inline with the way these programs have been presented to the communities in which they provide services.¹

E. Interaction with the Service Providers

At the June 28, 2006 Planning Commission meeting, Planning Commission Member Babs De Lay asked for additional information from the specific groups Staff worked with, if the service providers had seen the new proposed definitions, and that a list of service providers commenting on the proposed text be provided to the Planning Commission (Attachment 5).

Prior to the June 28, 2006 Planning Commission meeting, the Staff conducted interviews with the following service providers and staff:

¹ Prior to the open house of February 9, 2006, the Planning Division Staff considered definitions called "Judicial-Referred Transitional Home" and "Transitional Home." The service providers objected to these definitions, and the Planning Division Staff subsequently changed them to the current proposed definitions.

- Volunteers of America, Jeff St. Romaine
- Utah Alcoholism Foundation, Valerie Fritz
- YWCA, Anne Burkholder
- Department of Corrections, Jack Ford
- Catholic Community Services, Maggie St. Clair
- Valley Mental Health, Richard Hatch
- The Road Home, Matt Minkevitch
- First Step House, Shawn McMillen

In addition, Staff toured the following facilities in 2005 and 2006:

- Catholic Community Services, St. Mary's Home for Men, 1206 W. 200 S.
- First Step House, 411 N. Grant Street
- YWCA, including the facilities for domestic crisis center, residential teen home, transitional housing for single, homeless women, and apartments for low-income women with children.
- Volunteers of America, Homeless Youth Transition Home, 718 S. 600 E.

On February 9, 2006, the Planning Division conducted an open house to solicit comment from the community council members, specialty housing facility providers, and interested members of the public. Most of the audience of 22 people represented specialty housing facilities or social service agencies, including the Veterans' Administration, Gateway Academy, The Haven, the YWCA, First Step House, Salt Lake County Division of Substance Abuse, Utah Alcoholism Foundation, Odyssey House, The Road Home, and the Disability Law Center. The attendees offered the following comments:

- Retaining the spacing requirement is very important to some types of providers, who believe it protects their clients from residents of other specialty housing facilities that could endanger the clients.
- Having a spacing requirement sends a negative message about specialty housing to the community, reinforcing stereotypes about the clients who enter rehabilitation programs.
- Requiring homes with three residents or less in a rehabilitation program would stigmatize the residents because of the noticing requirements for conditional use petitions.
- The definitions should closely mirror those of State social service agencies.
- The definitions should exclude other types of uses such as transitional homes.
- Specialty housing, if located in West Salt Lake, will lower property values.
- Why are there no restrictions on these uses that exclude sex offenders?

After the February 9, 2006 open house, several service providers submitted a memorandum to Staff (Attachment 4). The letter represented the Utah Alcoholism Foundation, Volunteers of America, Project Reality, First Step House, Valley Mental Health, Salt Lake County Division of Substance Abuse, and Catholic Community Services. Parts of the memorandum have already been quoted in this document. The service provides submitted the following comments:

- The proposal to allow the Planning Commission to modify the 800 foot spacing requirement, and waiving the spacing requirement in the Downtown, Gateway Mixed-Use and General Commercial zoning districts is a positive step. It would help programs located in the central city to maximize resources and hold down costs of services.
- The proposal to create a “judicial-referred” category stigmatizes service providers, and does not accurately reflect the fact that clients in substance abuse treatment programs need the intervention of such programs, separate from legal concerns. (Note: “judicial-referred” categories have been eliminated from the proposed text).
- The use of the definition “transitional treatment homes” connotes homelessness, and does not accurately reflect the assessment criteria or treatment program for clients. (Note: “transitional treatment” categories have been eliminated from the proposed text).

While the Planning Division Staff did not incorporate the suggestion of the service providers to provide a new definition for Residential Substance Abuse Treatment Home, the Staff removed the definitions of “Judicial-Referred Transitional Treatment Home” and “Transitional Home,” substituting them with the proposed definition, “Residential Treatment Home.” Service providers were notified of changes to the zoning ordinance after the February 9, 2006 open house and before the June 28, 2006 Planning Commission meeting in a memorandum dated June 8, 2006 (Attachment 6). Several service providers, including the Utah Alcoholism Foundation, the Disabled Rights Action Committee, and the First Step House, responded to the proposed changes, with positive comments (Attachment 7).

F. How do other cities in Utah handle specialty housing?

At the request of the Planning Commission, Staff researched the provisions of specialty housing in the ordinances of the following cities in Salt Lake County and the state: Salt Lake County, West Jordan, West Valley, Murray, Sandy, Ogden, Park City, and St. George. Staff inquired into the definitions, zoning districts in which they allow these facilities, considerations for allowing specialty housing, and whether or not the community imposes a spacing requirement. All but West Jordan and Ogden (for facilities for people with disabilities with 5 or fewer residents) impose a spacing requirement. Please refer to Table 3 in the attachments (Attachment 8).

To the best of Staff’s knowledge, facilities for people with disabilities in the cities researched are allowed as permitted uses in residential zones in all the cities. Sandy does not allow facilities for people with disabilities of 5 to 8 people to locate in single-family residential zones, and applicants for these facilities in higher-density residential zoning districts must apply to the Planning Commission for a “reasonable accommodation” approval, similar to a conditional use request, in order to be located in medium- to high-density residential zones. Park City provides a process for applicants seeking to have the spacing requirement waived. Aside from West Jordan, Sandy and Park City, the other cities do not offer relief from the spacing requirement in any circumstances when located in residential zones.

Other categories of specialty housing facilities are only allowed as conditional uses. Examples include Correctional or Protective Housing Facilities (Ogden), “Boardinghouses” (Salt Lake County), “Supervised Youth Group Homes” (Murray). For additional information, please refer to Attachment 9 entitled “Specialty Housing Regulations in Other Cities.”

- Attachments:
- 1) Table 1: Licenses Issued for Residential Facilities in Salt Lake County.
 - 2) Table 2: Number of Licenses and Number of Facilities of Specialty Housing in Municipalities in Salt Lake County.
 - 3) Planning Division Memorandum, September 14, 2006, to Specialty Housing Providers
 - 4) Memorandum, February 17, 2006, from Specialty Housing Providers to the Planning Division Staff.
 - 5) Planning Commission minutes from June 28, 2006.
 - 6) Planning Division Memorandum, June 8, 2006, to Specialty Housing Providers.
 - 7) Comments from Specialty Housing Providers to the Planning Division Staff.
 - 8) Table 3: Comparison of Spacing Requirements for Residential Facilities for Persons with a Disability
 - 9) Specialty Housing Regulations in Other Cities.
 - 10) Staff Report for the June 28, 2006 Planning Commission meeting.