

MAPLETON CITY
PLANNING COMMISSION MINUTES
March 14, 2013

PRESIDING AND CONDUCTING: Jared Bringhurst

Commissioners in Attendance: John Gappmayer
Rich Lewis
Golden Murray
Keith Stirling

Staff in Attendance: Sean Conroy, Community Development Director
Brian Tucker, Planner I
Rick Hansen, Chief Building Official
Eric Johnson, City Attorney

Minutes Taken by: April Houser, Executive Secretary

Chairman Bringhurst called the meeting to order at 6:30pm. John Gappmayer led the Pledge and Keith Stirling gave the invocation.

Alternate Commissioner Golden Murray was seated as a voting member this evening.

Items are not necessarily heard in the order listed below.

Item 1. Planning Commission Meeting Minutes – February 28, 2013.

Motion: Commissioner Lewis moved to approve the February 28, 2013 Planning Commission Minutes.
Second: Commissioner Gappmayer
Vote: Unanimous

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 East 1100 South and a request for a reasonable accommodation to allow for up to 16 residents in the proposed facility.

Sean Conroy, Community Development Director, went over the Staff Report for those in attendance. This request is to convert an existing home into a Residential Care Facility, focusing mainly on drug addictions. They will offer 30, 60 and 90 day intervals. There will be a prescreening before individuals are allowed to enter the facility. This part of the city consists of mainly large estate lots. The residence has 2 covered parking spaces attached to the home, with a 3 car detached garage in the rear of the home. The Federal Fair Housing Act prohibits discrimination based on disability, and drug and alcohol addiction is considered a disability. The State's Department of Human Services requires an extensive Policies and Procedures Manual to ensure these types of facilities meet all state standards, allowing for employment by licensed individuals only. The City Ordinance is in line with the Federal and State statutes for these types of facilities. All building codes would need to be met. The current ordinance allows for 3 unrelated individuals to occupy a home, and the applicant is requesting that to be increased to 16. The applicant

will need to justify if 16 individuals is a reasonable number to have on the property. The Commission is not allowed to discriminate based on the idea that these individuals may be a threat to the surrounding residents. The City has a similar facility called Discovery Ranch which is located in the A2 Zone on Highway 89. Some examples of other facilities similar to this were shown to those in attendance.

Eric Johnson, City Attorney, wanted to address disabilities. Federal laws do not discriminate against disabilities. As a preliminary matter, this is an issue where there can be some very strong feelings. The Commission is to sit as a neutral body this evening. If any members feel strongly one way or the other they should recuse themselves. **Commissioner Lewis** asked if Drug Addiction was a disability, and Eric stated that it was. **Chairman Bringham** stated that because of the sensitive nature of the meeting they would not like any outbursts and would like to keep the meeting professional.

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 around 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. All activities will take place on the property or with the transportation in a van. Drug testing will be administered regularly. If a person knows they are not clean they would self discharge, at which point they would be removed from the program and taken to a predetermined location. No visibility to those in the facility would be seen unless those at the facility were participating in activities outside (i.e. gardening). No vehicles are allowed on the property from the residents at the facilities. There is garage parking for 6 cars; therefore all workers will be parking in these locations. There are two garage spaces on the home and a 4 car detached garage in the rear. Visitation will be limited, and all visitors must be preapproved. Visitation is also limited to family days, and would have visitors around the same time. At any given time there is probably going to be 5 patients with black out days where no one would be able to have visitors or receive phone calls. Contract personnel will not be available during family visits. 16 individuals is the current maximum that is allowed in Residential Treatment Facilities assuming building code regulations are met. The courts have ruled that alcoholics and drug addicts do well in these types of facilities. All groups benefit from the dynamics of a 16 resident facility. There is a tremendous need for these types of facilities from a community standpoint. In reality it makes no difference in traffic since the number of individuals coming to the facility is so spread out. Bud listed a number of similar facilities that have 16 beds located in surrounding areas. He recognizes there is a lot of emotion regarding this issue. He sincerely invites everyone to go visit these facilities and he knows they will feel comfortable with his request. **Commissioner Lewis** asked what the prescreening process is. Bud stated that both a clinical and marketing director will meet with each possible resident and they will have to disclose if they have been arrested. Background checks will be done as well. **Commissioner Stirling** asked what additional work load will be required by the City to ensure all the guidelines are being met with regards to this facility. He stated that one document stated the City Council and staff would be involved in screening, and wondered if that were true. Bud stated that is not the case on an individual basis but they are allowed to visit the facility and do inspections at any time. Sean stated that the Commission and Council are the ones deciding what recommendations and limitations are put on the facility. There would be a doctor that would visit with each patient, and would prescribe any medications that may help with their recovery. Bud Harper would not be allowed to live in the home if this facility is put in. In the future Bud would like to possibly move this facility, allowing him to move back into his home. The success of the business would determine this. **Commissioner Murray** asked what the staff to patient ratio is. Bud stated that there would be one staff member to 8 residents, with one male and one female individual on site during the night hours. This facility would also accommodate

handicap individuals. There will be an electronic means for individuals to get from one level to the other. No employees will live in the home.

Chairman Bringhurst opened the Public Hearing. **Larry Haines** stated that he is part of Mapleton Fair Care group. This started with individuals who live around Bud Harper's home. It is a non-profit organization. The Federal Government requires all cities to accept drug and alcohol facilities in residential areas. Most communities would act to ensure these facilities are in appropriate locations. Bud Harper sent a letter out to his neighbors last fall. No one in the neighborhood was in favor of it. He told them he would like to take in 16 residents, charging approximately \$10-\$16 thousand per month. It is obvious Bud is looking to make a lot of money. What is wrong with this is consideration for those who are going to live next to this facility. Similar facilities have had higher crime rates in these areas. This type of facility could also affect property values. Neighbors with children would worry about the safety having this facility next to them. Mapleton Fair Care feels strong compassion for drug addicts. They feel sufficient strength in the City Ordinances lacks in regards to these facilities. They want to help the City build the strongest statute possible. They think the City Staff are competent and trying their best for the City. They have carefully studied the situation and sought advice from many individuals. A monster working in the background is always a possibility of a lawsuit. Naturally staff has adopted the most conservative approach. They would ask the Commission deny the proposal allowing time for this type of facility to meet Federal Law. If they do not do this Bud will be operating under a weak law that would not do a sufficient job of protecting the citizens. It is going a little too fast as far as they are concerned. **Rick Maingot** submitted to the City some discussion points which speak to a lot of what their questions and concerns are. They understand the Commission has a predicament here. They are not trying to put the City in a bad light. Through their research they feel the city has a way to do this properly. They request denial, feeling 16 individuals are far too many for this neighborhood and situation. The reasonable accommodations are what they are discussing. The need for 16 individuals has to be proven necessary. They feel the burdens the city will take on administratively and financially is an issue. Fundamental character changes to the neighborhood are reasons for denial of these types of facilities. Regulations state they can not be biased based on disability, but it allows the Commission to address if these individuals are a risk. Individually staff can screen those coming in. Rick does not know how the city can do this, but it is listed as something that can take place. Rick feels that Bud does need to have a vision, and that what is being proposed needs to be regulated. Trying to mitigate concerns should take place now, and not made as a direct threat in the future. In conclusion Rick Maingot stated that they have nothing against drug addicts. They do not want to limit their ability to get well. This facility is based off of a financial gain, so obviously Mr. Harper wants the maximum number of residents allowed. Are we allowing equal opportunity to allow equal housing to those adjacent property owners, as we are trying to allow to the applicant. The City needs to protect its citizen. A lower number of residents could still live in the facility. **Deborah Herbert** does not know Bud Harper and is totally independent of anyone here. She is appalled that one man would be allowed to bully them into an amendment to the Residential Care Facility ordinance. She does not feel Mr. Harper's request is considered a reasonable accommodation. Reasonable accommodations might allow for twice the amount of an average single family home, which are currently 4.8 individuals. The Planning Commission should consider the reasonable accommodations to 10 individuals. She lives in a 5,000 square foot home and she could apply tomorrow to put 16 individuals in her home. She referred to this request as a business, which Eric Johnson stated that he did extensive legal research into the Mapleton City Ordinance, and he is not sure that he reads the word business as being a fundamental change from the Utah State Code. He does not know that the one word change fundamentally changes anything. He does not have a problem looking into this, and does not see how this would alter the request before the Commission this evening. **Tara Jacobsen** is located across the street from the proposed facility. She recommends the Planning Commission deny this proposed facility. She does not feel the city has looked into the burden this will add to the city. Mr. Harper's policies only amount to promises and not what is relevant this evening. The increased traffic flow requires additional public safety officers in this area. Parking is also an issue. Increased traffic leads to

increase crime. The city has very minimal criminal activity in this area. One administrative burden to the city is administrative enforcement of code at the proposed facility. Further costs will be incurred by the city for emergency services, along with possible legal burden on the city. The city must consider the possible legal liability. They request the City Planning Commission recommendation denial until a stricter set of restrictions can be provided. **Leola Christensen** would like clarification to disability statement as to if drug addicts are considered disabled only if they have received treatment for their addictions. **Chairman Bringhurst** stated that her statement was true. She would hate to see her agricultural neighborhood change due to this facility. She wonders what would happen if Bud were to sell his home. Sean stated that the business could not be transferred if the home were sold. Mrs. Christensen stated that there will be constant changes of those individuals at the facility. Leola had a concern if the facility started to go downhill after it had been opened and approved. She feels there is a lot that could happen beyond what is being presented by the applicant at this meeting tonight. She wonders what happens to keep things in the same spirit they started with. Eric Johnson asked how long she has lived in her home, which she stated about 17 years. Most property owners in the area have lived there longer than her. **Tyler Jensen** urges the approval of this request. State and Federal Laws required approval of this. He does not want the City to lose a lawsuit. **Denise Maingot** wanted to start by saying she has no issue with Bud on a personal basis. She sat with Bud in his home for over an hour last night. She expressed her concerns as a woman, mother and neighbor. She gave him a list of individuals around her as well. That is the perspective she comes to the Commission with this year. She feels Bud is taking a very casual approach to this facility. Denise does not feel this is the approach the city should take. Mapleton City Code states that no one with any type of criminal history shall be allowed into the facility. She talked with Bud about a year ago. She had mixed feelings about it then, but was willing to listen and learn. She has not had great feedback regarding these types of facilities. She wants to state that she is compassionate to the addicts and those this will affect in the City. Residents will not be on lock down, which Mrs. Maingot felt to be a concern. She felt that 16 people being cared for by 2 individuals is also concerning. The bigger the facility the more risk there is. There is no guarantee that Bud will follow the procedures he lists in his application. She does not believe the city can take this request. She recommends the Commission recommend denial. **Randy Herbert** would like some type of line item for biohazard. He stated there will be biohazard, and Mapleton will be responsible for this. **Marianne Stephens** stated that her comment is based on 19 years of addiction. She lost a son who was addicted to opiate pain killers which led to heroine and other addictions. She observed scores of addicts as they were treated. She volunteers with substance abuse addictions. Addiction is recognized as a disease. It has personalities and characteristics. People who come to treatment centers have progressed to the point treatment are needed in order to contribute the community. Typically they will not be paying for admission to these types of facilities. This money will likely come from other individuals. Most of these individuals will come from desperate parents, and family members desperate to help these individuals. Occasionally an employer will help with these types of costs. Many are given the option to come to these types of facilities rather than going to jail. After the detox they are taken right to treatment. Most of the time these individuals have already set up a meeting location with their dealer and a stash of drugs to get them through their treatment times. These individuals lie, cheat and steal because they must have the drug they feel they need to survive. They are not stable mentally, physically or emotionally. They can not be trusted. At least 90% of them have a diagnosable mental illness along with their addiction. Group homes are not a lock down facility, and a common trick of addicts is to make contact with their dealer. A certain percentage will be using drugs while in the home. The ADA regulations states that only a clean addict is considered disabled. Who is going to monitor them at any one moment in that center? Then those in living in the area are forced to live next to these individuals. The individuals will go to any extent to befriend others. They will manipulate with elaborate stories, and loitering. You will find drug paraphernalia anywhere they can hide things. It is not something to be taken lightly. She is not opposed to high quality drug rehab centers. It typically takes years to help these individuals. Please turn down this accommodation and find a better place in the City or County that will be appropriate and do not approve it because we are afraid of legalities. **Diane Child** has great concerns of having a drug rehab

center in our city. She is fully aware that our community is in great need of these types of facilities that can help individuals dependent upon drugs or alcohol. She is speaking from a point of personal interest. She is the mother of a recovering addict. She is following the learning of her son's addiction. She went to college to get her license as a substance abuse counselor. During this time she did a one year internship with addicts. She has worked for these types of facilities for 6 years. She became burned out with these types of individuals, both the patients and staff. She compares this to working in the ER, ICU and Psych Ward all at the same time. Those she has known for the most part are the most gifted, talented and loving people she has ever experienced. These drugs however destroy the chemistry of the brain. It takes months of being free of these chemicals, which could take 3 months to a year or more, before the brain can start to function normally. She does not believe a 30-90 day facility will be able to cure these individuals of their addictions. These individuals routinely violate the ways of society. They will violate the personal rights of others. These individuals typically had other problems in addition to the addictions such as voyeurism, rapists, etc. They also are more prone to have HIV, Hepatitis, etc. They will destroy the property of the facility as well as near by neighbors. There are no exceptions. Being a resident of this community and a former resident of this neighborhood she would plead with the Commission not to approve this type of facility. She has great respect for those who have beat this disease. **Skip Tandy** feels there are some different options. The Planning Commission can approve this request, along with the City Council. The Planning Commission can recommend denial and the City Council can over ride it. O the Commission could also continue it. Skip does not agree with what Bud Harper would like to do. If this gets approved it will be approved forever. He would like this item to be continued so the neighbors and he can come up with some more ideas. Skip would like the Police Chief to look at his budget and the possibility of putting more patrol in this area. He feels the City Council and Planning Commission should know that if there are problems in the area the police need to crack that. If these problems persist the City needs to be able to revisit this. He asked Eric Johnson if that is possible. Eric stated that he is not aware of any precedence considering that one way or another. He would like it to be continued for at least a month. **Don Duncan** lives about 4-5 homes from Bud. He has lived in his home for about 6 months. Prior to purchasing his home he visited with Cory Branch regarding this area. From his perspective everything was okay for him to buy this property and that there would be no changes. He relied upon the A2 zoning when purchasing the property. He understands that the Commission must have some regulations dealing with these types of facilities. He asked if an ordinance had been adopted for such use, which Eric told him there has been one on the books for a long time and was amended last year. This is in a separate ordinance section that pertains to all property within the City. State Law mandates that all cities must allow for this type of facility to be allowed residential zones. Mr. Harper is bound by the zoning ordinance for which the property is part of. He is allowed however to request reasonable accommodation for a maximum for 16 individuals instead of the 3 which the current zone would allow. The zone has not changed, this is considered a use within the zone. Under this ordinance no variance is required. Mr. Duncan feels he did his due diligence before purchasing the property, and wondered what he should have done differently. **Chairman Bringhurst** stated that these types of facilities could be allowed anywhere within the city. **Marilyn Mower** has lived in Mapleton for 6 years. She lives here with her teenage daughter. Her home is now for sale and feels this should be denied based on the considerations outlined in the fair housing act. She does not feel Mr. Harper has provided substantial information as to the level of rehabilitation he will be providing. The change in appearance will only diminish her property values and ability to sell her home. The City and the neighbors will be subjected to whoever Mr. Harper admits to his program. The only recourse will be to submit the concerns to the State Licensing Program and hope they take the initiative to deal with these issues. A 16 person facility directly impacts the neighborhood. Potential increase to city services is real. More significant is that the proposed use will alternate the current zoning scheme. **Rich Trussell** supports recovery and feels rehab is important. He is a recovering drug addict for 10 years. Studies show that recovery is very low. Residents in the community need to be protected. During intense therapy it brings out a lot of resentment and anger. It brings up hard issues and family issues. Families are not safe, and drugs can be brought in. The outside community needs to be protected from the unstable individuals coming to these types of

facilities. Addicts inside the community need to be protected from themselves. It was said that they would do a background check. Thing is, these individuals have not been sober long enough to show they have no legal history. The joke in the addict community is “when do you believe an addict...when they stop talking”. Addicts will do whatever they need to do to get that drug. It would be enough to make him worry if it were his wife and children living in the area of these people. Most of these individuals volunteer to go to these types of facilities instead of jail. He feels these types of facilities are just a money maker for a couple individuals. **Brian Laefson** has lived here for over 15 years. They moved to Mapleton for the same reason as everyone else. His big concern is that these applicants are going to make their home into a rehab facility and the parking is an issue. They have family meetings. There is a narrow asphalt road with dirt on both sides. He wonders if people are going to park on the grass, and feels there will be a major mud bog there. If they are going to increase the population there he needs to increase the parking in this area so people have a place to park. He asked if Bud Harper has shown he filed as an LLC, and Sean stated that his application has shown his personal name as the one listed. Mr. Laefson feels that Mr. Harper should at least have a bond in case anything goes awry. He was told if there are 16 individuals at the facility there would be a minimum of 4 employees required on site. Brian also wondered if the City has walked through the home. **Rick Hansen**, City Building Official, stated that he has walked through the home. These types of rehab facilities have been known to have multiple meetings a day. He feels these individuals could possibly be outside this facility smoking and wondered what the distance from the home these individuals would have to be by law from the facility. He wonders who from the City is going to go there and check to make sure that those there do not have a criminal history, and wonders who will incur these costs. This type of business will need a fire sprinkling system, which has been shown on the plans. The impact on the city will be 18-20 individuals at any time. They will have a minimum of 18 people that will be fed daily. He wonders how they will contain garbage as well as food delivery vehicles and other types of individuals visiting the home. Mr. Laefson wonders what type of experience does individuals need to have in order to open up these types of facilities. His biggest issue here is that the neighbors do not want to be part of the learning curve. The issues should have been brought up and addressed. He does not feel this type of major impact has been addressed. He would ask that the Commission take a breath and make good decisions and not do something they would regret. He would like this to be something that is safe for everyone. **Lori Allen** is impressed by the demeanor tonight. She does not feel this will ultimately be approved as Mr. Tandy had stated in his comments. She has sat on councils before and realizes the implications that are here. Because of her experience she understands the influence of the Commission on the City Council. She feels this should be denied. Mrs. Allen feels they need to understand why it needs to be 16 individuals. She supports the fact that these are just proposals. She wonders if Mr. Harper’s proposals are part of a written document. Sean stated that this is not being deemed a business. The reasonable accommodation is what takes it from a residential home to a residential care facility. Lori would like to know which City employee would approve these screenings and where they get the ability to do that from. She would be interested to see what discussions were taken place with other cities when approving these types of facilities. She also stated that just because a similar facility was put in next to a school does not make it right. Sean stated that it was not what staff was implying. She does not feel this should be approved even with recommendations. **Andy Compass** stated that he moved to Mapleton from Spanish Fork four years ago. Everyone has a story and he knows statistics matter. He moved here because of the community and this place he believed in. He is very disappointed that this home could be taken over by something with fear and intolerance. He is not fearful of the people. He stated that we all need to love each other. We need to tell our stories and our law protects one over many. He wonders when one person’s voice became louder than many. Mr. Compass loves Bud Harper as a person and feels he needs some help financially. Why is this facility necessary and why is it necessary here. He read a letter from someone who would like to remain anonymous. It stated that this individual learned more about drugs in these types of facilities than he learned outside. He does not oppose this type of facility, but does not feel this is the right location for it or reason to open the home to these individuals. This individual did not feel this facility would be run by the right individuals. Whoever this is stated that the City required a snake farm

to leave the City because it was considered unsafe, yet we would consider allowing for this type of facility. **David Hill** moved to Mapleton about 6 months ago. The comments tonight are wrapped with a lot of unanswered question. He has personally served on both Planning Commission and City Councils. He knows that the Commission has to look at items based on clear principles. If requirements are met without question or biased these items should be approved. He does not feel any of these items or concerns have been met. The impact is noticeable. He feels the recommendation should be based upon good judgment and faith of the community. **Isaac Jacobsen** has lived all over the world. When his family made their final move, they wanted to make it in Mapleton. The individuals in this neighborhood are life time residents. He wondered if the employees were considered in this 16 number occupant request. Mr. Jacobsen feels it is up to the city to determine the best number of residents. Isaac stated that Bud had stated that 8 individuals were ideal, so he wondered why he would want to double that number. He feels this was Bud's way of saving his home because he has experience hard times. If drugs are found on the facility Mr. Jacobsen wonders if it will be reported as a crime. He believes the city should make this an absolute requirement. This type of facility will create an undo burden in the area. He is going to create a mountain of evidence to bring to the city when these types of things happen. What he really sees here is the minimum of care with the maximum residency. No additional comments were given and the public hearing was closed.

Bud Harper asked the commission not to continue the item because the City Council has over a month before they will meet to review it.

Chairman Bringhurst feels that under the law these types of things are valid. The only thing they can really discuss is the accommodation of more occupants in the home. Unfortunately you are not a criminal until you commit a crime. We cannot assume they are a criminal because they are in this type of facility. **Commission Lewis** asked about the Mapleton Fair Care statement that 6 was an appropriate number. He also wondered if we had any historical negative issues with Discovery Ranch. Sean stated that he is not aware of any, but could look into this before the item moves on to the City Council. **Commission Murray** stated his concern with the 2 employees at night being responsible for 16 individuals in a facility that is not on lock down. **Eric Johnson** stated that it is difficult to assume a person checking in here would become a direct threat. **Commission Gappmayer** asked if the number of employees to residents was mandated by the state. Eric stated they would have to meet that code in order to have this facility. Commissioner Lewis feels 16 residents is too high to allow the facility to keep the character of the neighborhood. **Commissioner Stirling** is concerned about the time and cost factor that the City will incur when supporting this facility. He feels Mr. Harper should have told them what the success rate of these facilities has been. There has been a lot of testimony tonight that this is a hard habit to break. Commissioner Stirling is not sure that this design is capable to making the necessary changes in people's lives. Commissioner Murray would like some statistics from the other facilities about any possible increase in crime. This would allow them to look at historical information in other facilities. Chairman Bringhurst does not like the occupancy set at 16, and feels that is way too high. Commission Gappmayer asked what is done to ensure those coming to the facility meets the criteria. Eric Johnson stated that it is a state agency that would police this. This is a Land Use body, not a drug rehab board. Eric stated that both the Planning Commission and City Council can ask that all approved applicants be reported to the Police Department for criminal history, etc. That would be a potential condition. Commissioner Murray had a concern with handling the commercial vehicles coming in to the facility. Sean stated that the Commission can make recommendations in regards to this. The problem is there is no hard evidence. As outlined in the beginning there are 3 options open to the commission. Commissioner Stirling feels there is a need for this type of facility but does not feel this proposal will work. Sean stated they can not judge if they feel the applicant is capable of running this type of facility. Commissioner Lewis would recommend continuance, feeling there are plenty of unanswered questions. Eric Johnson stated that he did not want to sway the Commission one way or another. He feels there has been enough evidence given tonight that all of the options in front of them could be defended.

Motion: Commissioner Lewis moved to recommend continuance of a request to convert an existing single family dwelling into a residential facility for persons with a disability located at 727 East 1100 South and a request for a reasonable accommodation to allow for up to 16 residents in the proposed facility, desiring more clarification on the below items:

1. Traffic concerns are addressed regarding food, medical, mail, etc. services visiting the facility.
2. Proposed density of the residency is addressed as to what is considered reasonable.
3. Plan of how many people would be expected to be there at any one time, including family visit days to determine if parking is adequate.
4. Methodology as to how it is determined who can be there.
5. The potential burden on all public services (i.e. public safety required to support a facility like this).
6. Provide case studies showing success rates of similar facilities (police reports stating if there were increases in crime rates etc. in these areas). The Commission would like these studies to take place from the other facilities Bud Harper listed in his presentation this evening.

Second: Commissioner Gappmayer
Vote: Unanimous

Item 3. Adjourn.

Motion: Commissioner Gappmayer moved to adjourn the meeting at 9:38pm.
Second: Commissioner Murray
Vote: Unanimous

April Houser, Executive Secretary

Date: