

1 **ELK RIDGE PLANNING COMMISSION SPECIAL WORK SESSION**

2 **November 15, 2012**

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5 **TIME AND PLACE OF PLANNING COMMISSION SPECIAL WORK SESSION**

6 A special work session of the Elk Ridge Planning Commission was held on Thursday, November 15, 2012, at 7:00 p.m. at 80 East Park
7 Drive, Elk Ridge, Utah.

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9 **ROLL CALL**

10 *Commissioners:* Kelly Liddiard, Randy Jones, Clint Ashmead, Kevin Hansbrow, Debbie Cloward
11 *Absent:* Sharon Dahlstrom, Jed Pfaff, David Clark
12 *Others:* Greg Magleby, *LEI Engineer*
13 Shay Stark, *Aqua Planner*
14 Marissa Bassir, *Planning Commission Coordinator*
15 Brian Burke, *City Council*, Mayor Shelley
16 Robert Goodwin

17
18 **WELCOME**

19 Kevin Hansbrow, Co-chair, welcomed and opened the work session at 7:00 pm.

20
21 **PENDING CODE AMENDMENT FOR RESIDENTIAL FACILITIES FOR DISABILITIES**

22 Shay Stark provided a background that Arcadia Recovery Center has put some people into a home in Elk Ridge without state licensing
23 or city approval or licensing, which kicked the whole issue off. It was realized that there is not any ordinance concerning persons with
24 disabilities. There is state and federal code that regulates it; in Utah Municipal code, under Title 10-9A-520. The key points in the state
25 code are that the city is required to adopt an ordinance to accommodate residential facilities for persons with a disability. Next, is that
26 the city must comply with both state and federal fair housing so the city can't write a code that precludes those people from living in Elk
27 Ridge. The facilities need to be allowed as a permitted use. It is not a conditional use. The state codes for elderly, which is section 519,
28 it specifically says elderly is a conditional use. Homes will be located in residential zones in the city. The city can dictate the
29 dispersement of the facilities. The city can say how far apart they are going to be and also how many occupants there can be within the
30 facility. In the case of facilities being located within 500 feet of schools. The city can require that the facility provides a security plan
31 that has been approved by local law enforcement and that there is 24 hour supervision provided.

32 Randy Jones asked if they aren't within 500 feet of a school, then that doesn't apply.

33 Shay Stark replied yes.

34 Clint Ashmead asked about daycare operations.

35 Randy Jones asked what is considered a school. There are preschools around.

36 Shay Stark said there isn't a specific definition of a school.

37 Mayor Shelley asked Randy Jones if there was anyone within his neighborhood that has a daycare and/or preschool nearby.

38 Kelly Liddiard, Chair didn't think a daycare would apply. But a preschool with a structured agenda or curriculum.

39 Randy Jones didn't know of any preschools in the area.

40 Planning coordinator asked if the mayor had checked with Mary Preece, office staff, to see if there were any business licenses for
41 preschools within the area.

42 Mayor Shelley indicated he hadn't, but thought it would be a good idea.

43 Kevin Hansbrow, Co-chair said the definition of school could be added to.

44 Randy Jones asked who determines the definition.

45 Shay Stark indicated that he had summarized the state code. "For residential facilities for persons with a disability that are substance
46 abuse facilities and are located within 500 feet of a school to provide in accordance with rules established..."

47 Kelly Liddiard, Chair indicated he didn't think the city could determine the definition of a school.

48 Shay Stark said he would look in the state code to see if there is a definition for school.

49 Randy Jones said they must have a definition because he didn't think the city could define school.

50 Clint Ashmead commented that a daycare would have a different qualification versus a preschool.

51 Kelly Liddiard, Chair said that a preschool would have a structured curriculum.

52 Kevin Hansbrow, Co-chair asked what the reason was for it not being close to a school. Because they don't want drugs coming close to
53 a school? Or sexual predators? So if they are licensed to have a daycare, they have been there longer then should the facility be
54 allowed?

55 Kelly Liddiard, Chair said if that is what the code says is by a school; then the city will go by what the definition is. He doesn't believe
56 a daycare will fall under the definition of a school.

57 Kevin Hansbrow, Co-chair said he knows a daycare and a preschool are different. He has a daughter in preschool and his wife used to
58 run a daycare. But the city is still trying to protect the children so if they are a licensed business that should be protected.

59 Kelly Liddiard, Chair said a licensed business does not have that right to do that.

60 Kevin Hansbrow, Co-chair said he still thinks the attorney should look at it to make sure there is nothing there.

61 Debbie Cloward commented that even if it is within the 500 feet of a school, they are required to have the 24 hour security. It doesn't
62 stop them from being there.

63 Randy Jones said that is one thing the city would like to have is the surveillance. If there isn't a school then that isn't a factor.

64 Shay Stark indicated that the facility will be required to obtain permits and comply with building and safety regulations that will be
65 applicable for similar uses that are not residential uses within the zone. So within the single family residences in those zones that have a
66 dedicated daycare or preschool there, some facility that isn't a home, then it has to comply with the same codes. "If the facility would
67 likely create a fundamental change in the character of the neighborhood that may be excluded from a particular zone." It looks like the

68 way that is interpreted is that most cities are saying it has to be a home and look just like a home and when they leave, it will have to be
69 a home.

70 Kevin Hansbrow, Co-chair asked if they had to be ADA compliant too.

71 Shay Stark said there is more there, but that seemed to be the interpretation of that. It specifically says that the licensure and the
72 monitoring is the responsibility of the state. That is where a lot of city codes get in trouble because they try to define what that is going
73 to be and it is clearly the state's responsibility.

74 Kelly Liddiard, Chair confirmed that the city can require a business license, but anything else is not allowed.

75 Shay Stark indicates that the state says in an area that the residents have to be screened and have to have someone licensed to ask
76 questions and make sure they are not going to be a threat to the community and then they are supposed to turn that information into the
77 State Department of Human Services. The city can require the facility to do the pre-screening, but the city can't dictate to the Dept. of
78 Human Services. They already have plenty of rules in place to take care of their job.

79 Clint Ashmead asked that the enforcement portion is left wide open? There is someone licensing and monitoring. Is that considered
80 enforcement?

81 Randy Jones said that would be his idea on the monitoring.

82 Clint Ashmead commented that monitoring in his opinion is that he has maybe observed something. Enforcing maybe says that there is
83 some "teeth" behind what is being monitored so the city is in compliance with code because he thinks that what the city wants to try to
84 do is be compliant, but the city wants to protect the residents. If 1 in 100 is a bad apple, what can be done to enforce protecting the
85 residents? That is the goal to achieve.

86 Shay Stark said there are things that the city can do in the city ordinance. The issue really becomes the privacy laws and making sure
87 the line isn't crossed. The city can't be reviewing those reports that the planning commission is reviewing, however, they can review the
88 statistics and they can also require that the licensee make some sort of a certification to the city that the people that are in the facility are
89 not a threat to the community. They use the screening process to determine that. Mr. Stark has taken it from another code that they
90 make a quarterly statement to the city considering the people that will be in the facility 2-3 months. Hopefully, by doing it quarterly the
91 city will catch most of the people that are in there. In the Utah Municipal code, they have clearly defined disability. Some of the other
92 city ordinances have tried to redefine that and that can't be done. The definition in there should be used. It says, "Disability means a
93 physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record
94 of such an impairment or being regarded as having such an impairment. Disability does not include current illegal use or having an
95 addiction to any federally controlled substance as defined in the 'controlled substance' definition." Basically, those residents in that
96 facility have to be clean.

97 Kelly Liddiard, Chair said it goes back to how to enforce it.

98 Mayor Shelley indicated that the state has to do the enforcement. The city does not have any enforcement power even within the code.

99 Debbie Cloward said if there is someone that comes into the city and says it smells like pot over there then the city will follow through
100 with the state.

101 Mayor Shelley then the state is the one to help maintain that.

102 Kelly Liddiard, Chair said that they should call law enforcement and have that paper trail created and documented.

103 Randy Jones said the facility supposedly is to house these disabled persons and as he understands it the persons are former drug users of
104 various different types, and so if they are no longer addicted to the substance in order to be called disabled, what are they helping them
105 do in the house. How come they can still be classified as disabled?

106 Debbie Cloward commented that it is kind of contradictory.

107 Shay Stark said as the ordinance research is reviewed there are some things that will help to clarify things. It is someone who has had a
108 problem and is recovering and they need the continued support to be able to stay off of the controlled substance. So there isn't an
109 alcoholic in the house who is actively drinking, it is someone who has been in a recovery center and has been clean for 30 days and now
110 it is time to introduce them back into society. Instead of just putting the individuals back on the street and putting them back in the
111 situation, they are put in a group home where there is a staff member to work with them and others who are in the same situation to help
112 each other.

113 Randy Jones commented that if they are no longer addicted then that doesn't qualify them as disabled.

114 Clint Ashmead said that if they are under the influence, that is the disability. Maybe have it say, they are not under the influence, but
115 they may be disabled because of past influence and negative result.

116 Shay Stark said as far as code is concerned, it can say if someone does start doing substances and they test positive then the city can
117 remove them from the premises. Mr. Stark went through some other city ordinances. Eagle Mountain ordinance was derived from the
118 Orem City ordinance so he reviewed them to derive a draft ordinance.

119 Clint Ashmead asked what year the said cities put the ordinances into code.

120 Shay Stark indicated that Orem City adopted their ordinance in 1990. Eagle Mountain adopted the ordinance in 2005 and he didn't
121 know when Cottonwood Heights adopted their ordinance.

122 Mayor Shelley said that Arcadia is familiar with Cottonwood Heights ordinance and he had been told that it was a good ordinance.
123 There has been a threat of a lawsuit so David Church was brought in to respond to Dustin Long's threat claiming the city is being
124 discriminatory. It needed to be addressed by November 15. Mayor Shelley has not heard from Mr. Church since then. He isn't sure
125 what has happened there. It is common practice to defer to the attorney when threatened with lawsuit. Mayor assured Mr. Long that the
126 city was not trying to keep them out, but that the city was trying to do it according to the appropriate statute. Mr. Long has not received
127 licensing with the state yet. The state requires that because they are being treated differently as a residence. It is not a common business
128 and the city cannot treat them like any other business.

129 Randy Jones commented that if monies are exchanged, doesn't that qualify as a business.

130 Mayor Shelley said Mr. Ortiz wasn't arguing that it wasn't a business. What he is saying is because of Fair Housing laws it qualifies
131 under a different concept. Mayor Shelley read from Mr. Ortiz, "If so, this is a problem and we have to handle this differently than other
132 business. Recovering drug addicts and recovering alcoholics are defined as disabled under federal law. Residential facilities for persons
133 with disabilities are required to be a permitted use in all of your residential codes. You have no choice, but to allow them. Your

134 decision on these facilities is limited to enforcing the building codes and reasonable rules on number of residents. They are not required
135 to get a business license from the city. They are licensed by the state and they are required by the state to obtain whatever zoning
136 permits are necessary from the city before the state will give them the license. Under federal law, you cannot require them to obtain any
137 permits or licenses that you would not require of a single family home.”

138 Kelly Liddiard, Chair commented that it sounds like they are in.

139 Mayor Shelley said the ordinance is what allows the city to control the numbers. In the statement from Arcadia Recovery, they have
140 indicated that they would only seek for eight residents as far as a number. Mr. Long forwarded and made sure the city received the
141 document of intent and the perimeters of their program and the mayor has it all.

142 Kelly Liddiard, Chair said that they want eight residents in there. What about the Fair Housing Act of three unrelated and no more in the
143 city ordinance?

144 Mayor Shelley said it will be handled differently than any other business.

145 Kevin Hansbrow, Co-chair responded that it is not a business. It is a residence.

146 Mayor Shelley said Mr. Ortiz said that as long as they can apply for a reasonable number that would basically be accommodated in that
147 home. They are not going to be called a typical residence, but they are a resident.

148 Clint Ashmead asked that if the city’s code is three, is it reasonable to have those three different residents recovering family members?
149 Probably not.

150 Shay Stark commented that the state code requires four non-related residents. Mr. Stark referred to page 9 in the provided document in
151 Municipal code Title 10 section 505.5: Limit on Single Family Designation. “As used in this section, single family limit means the
152 number of unrelated individuals allowed to occupy each residential unit that is recognized by land use authority in a zone permitting
153 occupancy by single family. Municipality may not adopt a single family limit that is less than three if the municipality has within its
154 boundary a state university or private university with the student population of at least 20,000 or four for each other municipality.”

155 Debbie Cloward asked if the code was saying that regardless of this topic even in a regular home there could be four renters not related.
156 It’s going to free up the city’s entire code?

157 Mayor Shelley replied no. Only in the said type of situation. State law requires that they can have up to eight people if the home meets
158 the appropriate size and standards to allow individuals to meet in.

159 Debbie Cloward asked if it is based on square footage.

160 Mayor Shelley didn’t know what the standards are. Mr. David Church is trying to warn the city about trying to make the code to
161 restrictive to force them and then the city are in trouble. The city cannot do a moratorium because the state already says the city have to
162 allow them. If the city tries to say they were illegal to begin with, it is not going to be enforceable against any business applicant unless
163 the city could show that the prior violation somehow resulted in harm to the public and the city can’t show that. They are there illegally,
164 but there has been no harm to the public.

165 Kelly Liddiard, Chair said so that is where the state comes back and says they have more people there, but they are not going to enforce
166 it because they can’t show harm.

167 Kevin Hansbrow, Co-chair asked what the city can do.

168 Mayor Shelley said the city can limit it to eight, which is what they want.

169 Kevin Hansbrow, Co-chair asked if the code says eight or that is just what they want.

170 Mayor Shelley said that is what Mr. Church is telling the city.

171 Kelly Liddiard, Chair said it is not the code. It is the type of facility or use that has to have a reasonable number.

172 Kevin Hansbrow, Co-chair asked if eight is including the supervision.

173 Mayor Shelley indicated that it is eight residents. The city can designate in the code. Eight is the number that the city would like to
174 limit it to. That would be a reasonable number according to Mr. Church. Mr. Church has written most of the code for the state.

175 Clint Ashmead said if he is asking for eight and the facility can accommodate for eight, can that facility accommodate for that? In under
176 another circumstance where a home would accommodate for four renters or eight renters?

177 Kelly Liddiard, Chair commented that if they are just going to rent it out then the city code says they can’t have more than four people.

178 Clint Ashmead said in his opinion, the facility is not designed for that kind of activity. It is not a mansion. It’s not like Michael Jackson
179 built a compound up there.

180 Kelly Liddiard, Chair said the city is being governed by federal law, which supersedes any city law.

181 Mayor Shelley had asked Mr. Church if the code would even help the city. Mr. Church said yes and to proceed with creating the code.

182 Mayor Shelley quoted Mr. Church, “No city that I know of has ever successfully fought the placing of a group home for the disabled in
183 the city. Many have tried and have paid significant damages for having done so. Draper recently lost a battle about a residential facility
184 for the elderly disabled. They ended up paying \$600,000 in damages to the applicant. Duchesne County fought a group home for
185 disabled youth and eventually paid over \$3,000,000 in damages.” The city does not have the federal law on the side of the citizens in
186 the concern over this issue. The state is going to have to determine whether they have to comply with ADA standards.

187 Kelly Liddiard, Chair commented that it is under the disabilities act and they are being declared as a disability.

188 Mayor Shelley said that his concern is that if the city can properly create an ordinance that the city can control to the extent that the city
189 can.

190 Kevin Hansbrow asked about the felonies and stuff like that.

191 Mayor Shelley replied that according to their documentation, no one with a felony conviction is housed there or is anyone permitted
192 according to their standards.

193 Kevin Hansbrow asked if the city could put it in the city’s standards.

194 Shay Stark said that all the codes are requiring quite a few things that the attorney is saying the city cannot. The Department of Human
195 Services is in charge of the sector and they have stated that any violations of any of their laws or regulations cannot exceed a Class B
196 misdemeanor, which is basically nothing. So if one of the companies is fraudulent, the worst they can be hit with is a Class B
197 misdemeanor. So they have some limitations.

198 Kelly Liddiard indicated that may be true under the Department of Human Services with an administrative citation as a Class B
199 misdemeanor, but if they are doing something criminal like fraud, that doesn’t apply. The criminal code would then apply. It depends

200 on which code is looked at. Mr. Liddiard's concern is that they say there is not anybody with a felony in the facility, but 90% of the
201 people they are dealing with are felons because as soon as they have possession of a controlled substance, they are a felon.
202 Clint Ashmead pointed out that they have not been convicted. Mr. Ashmead said the true intent of the facility from the way he
203 understands it that these are people that have probably sought treatment themselves. They have not run into the law maybe yet. If they
204 had, they probably wouldn't qualify through the screening process. So maybe they haven't gotten that far. However, if they have gotten
205 that far, then they have broken the law. He doesn't know if it is too far to allow only four if Mr. Long is asking eight. But reasonable?
206 Mr. Ashmead doesn't think the facility or any residential home is designed to house people with disabilities.
207 Kelly Liddiard commented that the city has to allow four.
208 Mayor Shelley said they have to go by what the state requires. The city does not know what those requirements are yet.
209 Kevin Hansbrow doesn't think the planning commission can create an ordinance without knowing what the state requires. There is too
210 much missing information.
211 Randy Jones commented that there are codes that have been written and have passed scrutiny and go off of that.
212 Shay Stark indicated that he is getting conflicting information and the attorney won't allow certain things.
213 Kevin Hansbrow asked if the attorney is just trying to back up what he has written for state code.
214 Mayor Shelley replied that he didn't think Mr. Church was doing that.
215 Further discussion took place on whether eight people in the residence was a reasonable number and how big, how many bedrooms was
216 in the home. It was reiterated that they need to know what the state requires.
217 Mayor Shelley read a document to the state addressing licensing, "#1 Submit application fee, policy procedure manual to the office of
218 licensing. Management will assign the licensing. Policy and procedure manual must address the specifics of how the program will
219 comply with the core rules R501-2." Mayor Shelley doesn't have it. He stated that they would have to go to the state code to find it.
220 Shay Stark said that is an internal document. It would be public, but it is going to be internal to the licensing department. It's not in the
221 general state code.
222 Kelly Liddiard stated it is licensing under the state code.
223 Mayor Shelley continued reading, "And with the categorical rule for the applicable category of service to be provided. The manual must
224 be reviewed and approved by the signed licensure. Be sure to include programs statement of purpose, description of services to be
225 provided, description of clients to be served. #2 Submit office of licensing background screening application forms on all employees 18
226 years old and older who will have direct access to clients. Adult only substance abuse programs are exempt from this. An office of
227 licensing background screen must be completed annually. #3 Prepare the following documents. 1) Business license or zoning approval.
228 2) Fire inspection clearance. 3) Health inspection clearance – not required for outpatient. 4) Evidence of insurance, etc. for liability,
229 professional liability, vehicle, workman's comp. 5) Evidence of business registration with the Department of Commerce. 6) List of
230 members of the program's governing body, organizational chart. 7) School of accreditation certificate for programs serving clients
231 under age 18. 8) Completed Youth education. 9) For residential treatment, evidence of notification provided to governing body of the
232 local government having jurisdiction in accordance with 62A-2-108.2. 10) Any other licenses, inspections required by the city, county or
233 state.
234 Kelly Liddiard, Chair said in the state code, it's got some decent "teeth" in it, as long as they will enforce it. But in the city's code, the
235 city state that they have to abide by and be in compliance with everything in that code. That includes a business license from Elk Ridge
236 City. If they do not, then that license is revoked and they are not in compliance with the state code.
237 Mayor Shelley indicated Arcadia Recovery has applied for the license, but Mayor Shelley has not given it to them. If they were to
238 present it tomorrow, he doesn't think he would have any option, but to grant it to them.
239 Clint Ashmead asked if the city has 30 days to review the licenses.
240 Mayor Shelley and Kelly Liddiard didn't know.
241 Kelly Liddiard, Chair stated that if the city adopts the state code and requires them to be in compliance with state code, then he thinks
242 that is a pretty decent code.
243 Shay Stark indicated that is what other cities have done.
244 Kevin Hansbrow, Co-chair was concerned that it didn't address whether the facility could have felons or sexual predators. He felt it
245 should be addressed.
246 Clint Ashmead said the planning commission can create what the planning commission thinks is reasonable and compliant within the
247 state. He thinks if there is a screening process, they think that is reasonable. So he thinks that the city's code would be reasonable to
248 say in order for a license to be granted in the city, they cannot have a felon. That needs to be screened. If that falls through the cracks,
249 the facility needs to be gone. If they create a felony while living in the facility, that is a violation and that is reasonable. Eight people
250 doesn't seem reasonable to him. Four if that is within the state. If, however, it is a facility that needs to be licensed, he thinks as a
251 facility that is taking care of people with disabilities, they should have wheelchair accessibility because addicts can be in wheelchairs.
252 So the planning commission needs to look at the facility and see what is reasonable for the facility. Does it need an elevator or lift? He
253 thinks if there is a wide open door to see what is reasonable and could require that of them.
254 Planning Assistant indicated in looking up the home on the Utah County website, that the home has 2500 square feet. It is one level
255 with a basement. It says it has two bedrooms and two baths, but the basement is not specified. In looking at the pictures, it looks like
256 there is a lot of open space. A lot of recreational type rooms. If the basement is finished, they haven't reported it to the city.
257 Shay Stark said some other cities codes state 6-8 unrelated people plus two staff members.
258 Mayor Shelley said that according to Arcadia's statement, they would have 24-hour supervision. So someone has to be there around the
259 clock.
260 Kelly Liddiard, Chair said that their records could not be looked at or the screening process because they are protected by HIPPA, but
261 criminal records is not. So if a background check is done then their criminal record should be a part of the city requirements.
262 Kevin Hansbrow, Co-chair asked if the city could require their criminal records to be submitted to the city.
263 Kelly Liddiard, Chair said whether they just get the name of the resident every quarter and the city looks it up or they do it through the
264 background check. He said he would rather have Arcadia do it so they have to pay for it. That will take care of felons, as well as sexual

265 offenders because that is also a felony. If that can be required... Mr. Liddiard was thinking that six is a reasonable number for unrelated
266 persons. He thinks four is a little limited and is opening the city up to litigation. Eight sounds like a lot, especially, for the said house.
267 Kevin Hansbrow, Co-chair commented that the planning commission is not writing the code for Arcadia, but for the future. As much as
268 he cares about what they won't allow in there, the city needs to write the code for future possibilities.
269 Shay Stark indicated there is another side and it is the mental disability side or physical handicaps that have nothing to do with
270 addictions so if there are four or five people with a mental disability living together in a group home that allows them to live on their
271 own. The code that is being written will cover them as well. Orem has written two sections in their code, one specifically for mental
272 and physical disabilities and the other for addictions.
273 Kevin Hansbrow, Co-chair commented that Mr. Church said they have to be treated as any other residence in a single-family zone. Can
274 two separate codes be written?
275 Shay Stark indicated that somebody who is not struggling with addiction, why would the city require them to do a urine test every day to
276 test for drug and alcohol on some interval.
277 Kevin Hansbrow, Co-chair agreed that it seems that there should be two separate codes. The addiction part needs to be finished sooner.
278 Clint Ashmead said that whatever the disability, it needs to be loosely worded to accommodate for all. Different circumstances for those
279 brush disabilities and its requirements. That can't be done in a code.
280 Kevin Hansbrow, Co-chair indicated it would be the same code, just different sections or subsections.
281 Kelly Liddiard, Chair said the code would have to be specifically for those with substance abuse and addictions.
282 The planning commission would like to make the code right. They would like to come up with recommendations. They don't want to
283 do anything rash and pass code too quickly.
284 Mayor Shelley explained that Mr. Long was pushy and that the mayor should not be listening to the residents. He claimed he had the
285 answers that the residents did not. Mayor Shelley assured Mr. Long that he was going to be listening to the residents and hung up. Mr.
286 Long later came back humble because he had been spoken to by the Department of Licensing, John Ortiz and his supervisor and they
287 were the one that indicated they were to be out of the home until things were set up correctly. Mayor Shelley asked Mr. Ortiz if it was
288 appropriate for the city to have the ordinance in place and he said yes. The question is is the city's attempt at creating an ordinance
289 predating their license sufficient for the city to move forward with the ordinance and he has not received an answer for that yet.
290 Kelly Liddiard asked when talking to Mr. Ortiz, did he indicate Mr. Long's past history with them.
291 Mayor Shelley indicated that Mr. Ortiz was frustrated that the situation was happening and the implication was that they have had issues
292 in the past. He doesn't know if it was with Arcadia Recovery or other companies.
293 Shay Stark indicated that he had written a draft code with everything. He would like to have the attorney, David Church, look over it
294 and remove things that aren't appropriate and can't be done.
295 Brian Burke said that attorneys are going to be conservative. It should also be considered that if their code has been in place since 1990,
296 the city should talk to those cities and see if there have been challenges or not.
297 Clint Ashmead said that was why he had asked about the dates in the beginning. In the 1990 code, it was amended several times since
298 then.
299 The planning commission reviewed the draft copy and pointed out some things they liked.
300 Clint Ashmead like the fact that the draft stated six unrelated people in the home. It seems reasonable.
301 Kevin Hansbrow thinks that reasonable would be that each person had their own bedroom.
302 Mayor Shelley indicated that most other cities allow for eight unrelated people.
303 Kevin Hansbrow said there should be a square footage requirement. Hospitals probably have their own square footage requirements per
304 person.
305 Mayor Shelley said that he had heard something like 300 square feet per person. He didn't know if that was true.
306 Clint Ashmead commented that these places make fairly decent money and good for them. In the business world, in his opinion, a
307 person tries to open a facility that can best operate under a business environment, especially, if there are funds to support it. It sounds
308 like if it is a business and they make revenues to support it, they should go to that type of a facility. The city needs to protect their
309 residents and the residential "feel" and if code is for, then he thinks that they can't ask for anything less.
310 Kevin Hansbrow said that the city doesn't see the code being for.
311 Clint Ashmead said that the city needs to help Mr. Long help himself put his business in the right and he has the funds to support it.
312 There are residents who should be able to live in residential areas and not have a business. If they need a bedroom for each person, let
313 them build it. That is reasonable.
314 Kevin Hansbrow wants to see where eight unrelated people are in the state code.
315 Shay Stark indicated that it says four unrelated people in the state code Section 10-98-505.5 – Limit on single family designation. The
316 code is saying that they have to live in a single family home and it has to be similar to a single family and what is going in the zone.
317 Mayor Shelley clarified that is four people besides the family.
318 Kelly Liddiard indicated that as soon as there is a married couple in the home, it becomes a single family residence. The three or four
319 unrelated do not apply. That is Mr. Liddiard's understanding.
320 Clint Ashmead said the city needs counseling on the numbers. The city doesn't go less than four because that is state code.
321 Debbie Cloward thinks that the city will see a square footage and won't care about the number per bedroom.
322 Kelly Liddiard knows that treatment facilities double up in bedrooms. So maybe reasonable is one person per bedroom and up to four
323 unrelated.
324 Clint Ashmead commented that the city should ask the attorney if that is acceptable.
325 Kevin Hansbrow said if not, show the city where it states it isn't acceptable.
326 Kelly Liddiard said that the city's single family code needs to also be changed from three to four. Parking is going to be another issue.
327 So they have to have two staff members on site at all times. Mr. Liddiard asked what kind of a treatment they are going to be
328 administering. Is it just a place for them to live? The city is not going to stop them from residing there, but are they going to be treated
329 there?

330 Mayor Shelley handed out a copy of the potential type of treatment that the facility will use. They will be treated at other facilities, as
331 well.

332 Shay Stark quoted code, "All staff members should be over age 18. The group home should be occupied only by individuals over age
333 18 and meet the following criteria as individuals who are disabled or handicapped as defined in subsection 5. The admission criteria
334 may also include, but are not limited to the following. Individuals who have been diagnosed with an addiction to alcohol or controlled
335 substance who are not currently using controlled substances and are medically stable." A lot of codes ask them to provide something
336 from a doctor.

337 Kelly Liddiard commented so they are legally using a controlled substance.

338 Mayor Shelley said they would be using a controlled substance to treat them, like methadone.

339 Shay Stark continued quoting code "Individuals who are unable to abstain from the use of alcohol or controlled substances without the
340 structure of supportive setting honored by group home and individuals who have completely and voluntarily abstained from the use of
341 alcohol and all controlled substances and are medically cleared for treatment."

342 Shay Stark indicated that his recommendations go through page 8 and there are 26 subsections.

343 Mayor Shelley indicated that he would get some clarification from Mr. Ortiz and David Church.

344 Shay Stark said that there is a difference from what code is and what the city is allowed. The state code requires the city to deal with the
345 situation through zoning laws. It is not the business license. There are other avenues that could have been used, but they chose to
346 require the city to cover an ordinance under the zoning laws.

347 Kelly Liddiard reiterated what their questions were. What is a reasonable number of people living in the home? Number of occupants
348 per bedroom? \Is there a certain amount of square footage required for each occupant? Living space and common space. Can the city
349 require a felony/criminal check? Do they have to be ADA compliant?

350 Further discussion took place regarding the amount of cars being parked at the home. The residents will not have their personal vehicles
351 there so parking should not be a problem. There is also not any parking on the road during the winter months.

352 Kelly Liddiard, Chair asked if the facility was supposed to be a closed campus controlled facility meaning visitors are coming and they
353 have to check in and out. Their policy states that they cannot leave with a family member. .

354 Kevin Hansbrow, Co-chair asked if the city can do that.

355 Mayor Shelley said the residents have to be under supervision of the staff.

356 Kelly Liddiard, Chair also wanted to have the question answered of how long the mayor has to review and sign the business license. 30
357 days?

358 Shay Stark said the fact that the people were in their without a state license is a violation so that should warrant not signing the license.

359 Mayor Shelley reiterated what Mr. Church, attorney, had indicated about if they were in the residence and didn't cause any harm, then
360 there is no fowl.

361 Brian Burke commented that it was appropriate to ask them to leave.

362 Mayor Shelley said it was appropriate, but it doesn't necessarily say they can't move back in.

363 Kelly Liddiard, Chair said if they aren't licensed by the state then they shouldn't be allowed.

364 Kevin Hansbrow, Co-chair asked if the inspections have been done by the fire department and others.

365 Mayor Shelley indicated they haven't had the inspections because Mr. Long hasn't paid for the business license. If he comes with a
366 check tomorrow, the mayor doesn't have an option, but to accept the fee. He may have at least 30 days.

367 Shay Stark indicated that in order for Mr. Long to get into the state licensing process, he has to have a business license from the city.
368 Based on that, it would be good to talk to Mr. John Ortiz to see how long the licensing process takes. He is guessing that the state won't
369 be turning it around very quickly.

370 Mayor Shelley said he was wondering the same thing. If the city grants them a business license, but then they have to show the state
371 that they have had all the appropriate inspections. He doesn't know how long that will all take.

372 Shay Stark said if the city issues a business license so the process gets started and that means they will be grandfathered in because it is
373 before the code is done.

374 Mayor Shelley would like to confirm that with Mr. Church, attorney. Mr. Long has threatened lawsuit so the only thing the mayor can
375 do at this time is defer to Mr. Church. He will have to respond to Mr. Long's threat.

376 Kevin Hansbrow, Co-chair said that he doesn't think that the business license process is a vesting type process.

377 Planning Assistant indicated that her understanding was that if they have not paid the fee for the business license, then they have not
378 started the process yet.

379 If there is a business license issued, they will have to renew at the beginning of the year and they are susceptible to any new codes at that
380 time.

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382 **ADJOURNMENT** – Chair, Kelly Liddiard, adjourned the meeting at 8:35 p.m.

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Planning Commission Coordinator