

EAGLE MOUNTAIN CITY
PLANNING COMMISSION MEETING MINUTES

TUESDAY, MARCH 26, 2013 AT 6:00 P.M.

Eagle Mountain City Council Chambers; 1650 E. Stagecoach Run, Eagle Mountain, UT 84005

6:00 P.M. - Eagle Mountain City Planning Commission Policy Session

COMMISSION MEMBERS PRESENT: Preston Dean, Scott Langford, Bonnie ElHalta, Wendy Komoroski, and John Linton.

CITY STAFF PRESENT: Steve Mumford, Planning Director; Mike Hadley, City Planner; Linda Peterson, Public Information Director; Jeremy Cook, City Attorney; Fionnuala Kofoed, City Recorder; and Johna Rose, Deputy Recorder.

ELECTED OFFICIAL PRESENT: Donna Burnham

1. Pledge of Allegiance

Commissioner Linton led the Pledge of Allegiance.

2. Declaration of Conflicts of Interest

None

3. Approval of Meeting Minutes

A. March 12, 2013

MOTION: *Preston Dean moved to approve the March 12, 2013 meeting minutes. Scott Langford seconded the motion. Those voting aye: Scott Langford, Preston Dean, John Linton, Bonnie ElHalta, and Wendy Komoroski. The motion passed with a unanimous vote.*

4. Development Items

A. Porter's Crossing Town Center – Site Plan & Final Plat; Public Hearing. Action Items

A proposed 20.148-acre, 9-lot commercial subdivision, and a site plan for Ridley's Market and Ace Hardware, located northwest of the intersection of Pony Express Parkway and Porter's Crossing Road.

Steve Mumford explained that the applications were originally approved by the City Council on May 3, 2011, along with a master site plan and preliminary plat. Since that time the anchor tenant of the development has changed, and both the site plan and final plat approvals have expired. The approved master site plan is still valid, however, so this site plan proposal is for the Ridley's Market portion of the project, including road, parking, and landscaping improvements.

This final plat contains 9 lots on 16.902 acres, and includes approximately 3.2 acres in roads (Porter's Crossing and Smith Ranch Road). The only change from the previously approved plat includes a very slight modification to the property line between Lot 5 and Lot 1. No other modifications have been made.

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A site plan application is required for Lot 5 and a portion of Lot 1 (Retail A & associated access and parking), and it has been reviewed and compared to the approved master site plan.

Buildings & Commercial Design Standards

The Ridley's Market and Ace Hardware building is shown at 54,960 square feet in size. Since this is larger than the building in the previous plan, it has taken up additional space to the west, just cutting into the landscaping. The building contains a pharmacy drive-through on the west side. The grocery store has been separated from Retail A, with sufficient space for a good walkway in between the buildings.

Building elevations and renderings have been submitted for the Ridley's Market grocery store. Staff has no concerns with these elevations. Minor deviations from these elevations, still in compliance with the Design Standards, require approval by the Planning Director.

Parking

The biggest change to the parking lot is that the accessible (handicap) parking stalls have been moved and are now in front of the Ace Hardware portion of the building, rather than in the closest parking row. This could impact the functionality of the parking lot, but it may also have the result of slowing down vehicles. Required parking is 1 stall per 200 square feet of the grocery store and hardware store, plus 1 per 250 for Retail A. The plan provides the required number of parking stalls.

Landscaping

The applicants have designed the site according to our standards, including parking lot landscape islands with trees, pedestrian walkways, etc. No street trees were included in the park strips, however, on Porter's Crossing and Smith Ranch Road. These are required. 3 ½-foot high landscape berms are also required between sidewalks and parking areas, when adjacent to streets. These must be noted on the landscape plans. Due to the nature of this commercial area and the potential for occasional large truck traffic, the landscape median islands in Porter's Crossing and Smith Ranch Road were removed. If the Planning Commission desires to have landscaped entryway medians, similar to other roads in the Ranches, they should be placed far enough back to allow for proper truck turning radii, and have a mountable curb on the nose. The applicants have provided entrance features similar to those found in other areas of The Ranches. The landscaping along Pony Express Parkway has also been designed to match existing areas of the road. More deciduous trees would be beneficial along this right-of-way, especially between the street and the path.

Tickville Wash

Care should be taken near the Tickville Wash when developing Lots 7-9. The applicant's plan is probably to pipe the wash in this location, depending on the uses for those lots. Building restrictions will apply to these areas.

Lighting

The previous lighting plan was found to be sufficient for this project. All lights must be shielded downward and the light source may not be visible from surrounding properties.

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Signs

A signage plan showing the planned locations of combined monument signs and individual monument signs has been submitted and reviewed. Staff has no concerns with this plan, as long as the signs meet the standards found in the City Code. Sign permits are required prior to any construction.

Commissioner ElHalta was concerned that there was not enough space for delivery trucks accessing the parking lot.

Mr. Mumford explained that the islands along Porter's Crossing and Smith Ranch Road would be removed to allow the trucks adequate access.

Trevor Hull represented SK Hart; he explained that Ridley's will be ready to start digging May 1st and are hoping to be opened for business October 1st. That date would include the Ace Hardware store. SK Hart has no issues with the recommended conditions of approval.

Commissioner Linton opened the public hearing at 6:15 p.m.

Lewis Sturgeon 8074 Clear Water Road, stated that Smith Ranch road is only 25 ft away from homes in Plum Creek development. The residents in Plum Creek development would like to request that a concrete wall be put up to help separate the development. Residents in Plum Creek are also concerned with the amount of foot traffic.

Commissioner Linton closed the public hearing at 6:17p.m.

Mr. Hull explained that the intersection dictated where Smith Ranch Rd would follow.

MOTION: *Preston Dean moved that the Planning Commission recommend the Porter's Crossing Town Center Site Plan to the City Council with the recommended conditions stated in the staff report. Scott Langford seconded the motion. Those voting aye: Scott Langford, Preston Dean, Bonnie ElHalta, John Linton, and Wendy Komoroski. The motion passed with a unanimous vote.*

MOTION: *Preston Dean moved that the Planning Commission recommend the Porter's Crossing Town Center Final Plat to the City Council with the recommended conditions stated in the staff report. Scott Langford seconded the motion. Those voting aye: Scott Langford, Preston Dean, Bonnie ElHalta, John Linton, and Wendy Komoroski. The motion passed with a unanimous vote.*

B. Arcadia Residential Center – Conditional Use Permit; Public Hearing. Action Item

A proposed residential rehabilitation and treatment facility for adults with disabilities, specifically those suffering with a substance abuse use disorder or a co-occurring mental

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health disorder with a substance abuse use disorder. Arcadia is proposed to be located at 4682 E. Foxwood Drive, within the SilverLake neighborhood.

Steve Mumford explained the Planning Department received a Conditional Use Application for the Arcadia Residential Center, a residential rehabilitation and treatment facility for adults with disabilities. The facility, or group home, would be located at 4682 E. Foxwood Drive, within the SilverLake neighborhood. The property is approximately 7,013 square feet in size, and the house is approximately 4,159 square feet, of which 1,498 square feet is an unfinished basement. A building permit to finish the basement was recently issued by the City Building Department.

The proposed Arcadia Residential Center will specifically treat adults that are either suffering singularly with a substance abuse use disorder or a co-occurring mental health disorder alongside a substance abuse use disorder. The treatment program is designed to be a 30, 60, or 90 day inpatient facility for either adult males or adult females only (but never on a co-ed basis). The applicant is requesting a maximum of eight (8) unrelated adult residents/patients. The residents/patients will be able to come and go as they please; there will be no lockdown. The Center would have 1 to 2 staff members on duty at all times.

The Federal Fair Housing Act prohibits a broad range of practices that discriminate against individuals on the basis of race, color, religion, sex, national origin, familial status, and disability. The act prohibits local government entities from making zoning or land use decisions or implementing land use policies that exclude or otherwise discriminate against protected persons, including individuals with disabilities. Persons with disabilities are individuals with mental or physical impairments which substantially limit one or more major life activities. The term "mental or physical impairment" includes, among others, people with drug addiction, alcoholism, and mental illness. "Persons with a disability" does not, however, include persons diagnosed with kleptomania, pyromania, pedophilia, exhibitionism or voyeurism, or any history of sexual or physical assault, not resulting from physical impairments or other disorders.

Current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders, are also not considered disabled under the Fair Housing Act. It also affords no protections to individuals with or without disabilities who present a direct threat to the persons or property of others. Determining whether someone poses such a direct threat must be made on an individualized basis, however, and cannot be based on general assumptions or speculation about the nature of a disability.

He explained that with the Federal Fair Housing Act, any applicant is able to ask for reasonable accommodations and government agencies are required to grant reasonable accommodations in certain cases. In order to house more than three unrelated adults at the home, the applicant is requesting that "reasonable accommodations" be made and approved by the City. The Fair Housing Act makes it unlawful to refuse to make "reasonable accommodations" in land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing. Reasonable accommodations are determined on a case-by-case basis. Not all requested modifications of rules or policies are reasonable. An accommodation is "reasonable" under the Fair Housing Act

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unless it imposes an undue financial and administrative burden on the City or requires a fundamental alteration in the City's land use and zoning scheme.

Eagle Mountain City Code defines "family" to mean:

- Persons related by blood, marriage, adoption, guardianship, or under foster care arrangements;
- Or up to three unrelated persons;
- Or up to two unrelated persons and their children, living together as a single housekeeping unit.

The following are some requirements or items of note or concern for this proposal:

- Neighborhood Character – This home is on a 7,000 square-foot lot in the middle of a neighborhood with similar-sized lots. The home sits approximately twelve feet away from the homes to each side, and the backyard is only about 20 feet deep.

There are approximately 167 homes currently within a 1/4 mile of this property, with future planned neighborhoods to the east and south. In comparison, there are approximately 54 homes within a 1/4 mile of The Ark of Eagle Mountain, or Utah Addiction Center, located in Westview Heights.

- Nuisances & Danger - Any and all nuisances and potential threats of danger to persons or property must be completely controlled. A thorough screening process is required so that no person who may be a danger to neighbors will be accepted into the home. The definition of a nuisance will vary, but nine to ten adults in a small yard at one time could result in nuisance complaints, depending on their actions while outside, or while being heard from inside the home.
- Parking – Two sections of the City Code address parking for this type of facility. *Table 17.55.120(c) Required Parking by Land Use* requires the following: Residential Facility is 1 stall per patient bed.

Likewise, Section 17.75.060-C-7 of the City Code requires a minimum of one parking stall for each resident of the group home in order to properly provide for staff and visitor parking. The proposed facility has only three stalls (parking in driveways behind garages is not considered a stall for purposes of the City Code) and therefore does not comply with this requirement.

The applicant has requested a "reasonable accommodation" in order to obtain approval for a reduced number of parking stalls. The applicant plans to place three vehicles in the garage, and has room for up to four vehicles in the driveway (parking stalls are 9'x20'; the driveway is approximately 36' wide). According to the applicant's submitted materials, the residents of the home would not have vehicles. The vehicles would include staff member vehicles, a transport van or vehicle for outings, and visitor vehicles for family therapy.

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- Supervision - The residents have to be properly supervised and monitored on a 24-hour basis. What is considered “proper supervision” would be up for debate, since a majority of each day there will only be one staff member for all eight residents.
- Violations - Conditions violated that are not enforced by DHS may lead to violation notices and fines by the City, and eventual revocation of the business license and conditional use permit. 1st violation = violation notice; 2nd violation w/in 18-month period = \$500.00 fine; 3rd violation w/in 18-month period = \$2,000 fine; 4th violation w/in 18-month period = revocation of conditional use permit and license.
- No Neighborhood Contact - No resident of the group home shall initiate any contact of any kind with residents of the neighborhood except: (1) in the case of notice or prevention of an emergency which may cause personal injury, death or substantial property damage; (2) residents who are cleared by staff to attend local worship services.
- Number of Residents – The applicant is requesting up to eight residents in the home, in addition to staff members. This means that nine to ten adults will be living in this home on a 24-hr basis.

The State limits the number of occupants by the square footage of the bedrooms. The state requires 60 sq ft. per person per bedroom. The City reviewed the building permit plan.

- Master bedroom -169 sq ft., allows 2 patients/residents
- Upstairs bedroom #1 – 118 sq ft., allows 1 patient/resident (depending on how the state measures the bedroom)
- Upstairs bedroom #2 – 156 sq ft., allows 2 patients/resident
- Basement bedroom (when finished) – 123 sq ft., allows 2 patients/resident
- Staff Concerns - The “Ark of Eagle Mountain” was approved with eight residents, but the facility is located on a 1-acre lot and is surrounded by 5-acre, 1-acre, and 1/2-acre lots. Staff’s primary concern is that due to the small lot size, small backyard and proximity of neighboring houses, any and/or all discussions or activities that occur in the yard or in the house with windows open will be heard or seen by neighbors, and having nine to ten adults in one house may therefore fundamentally alter the land use and zoning scheme in this area.
- Resident Background - The facility is not allowed to house anyone with a history of sexual or physical assault, voyeurism, felony crimes of possession with intent to distribute a controlled substance, distribution of a controlled substance, a crime involving the use of a weapon, firearm or violence, burglary, unlawful entry, or sexual crimes.
- DHS - The applicant must comply with all requirements, regulations, and standards of the Utah State Department of Human Services. Prior to obtaining a business license the applicant will have to obtain a license from DHS for the facility. DHS will perform an

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annual review of the facility, as well as unannounced inspections based upon complaints and/or issues. Noncompliance may result in fines, probation, and revocation of the license.

- Separation - The City's one-mile separation radius from another existing group home has been met with this proposal. The only other group home in the city is the Utah Addiction Center (previously known as Intervention and the Ark of Eagle Mountain) in the Westview Heights neighborhood.
- Addictive Substances - All residents in the home must completely abstain from using alcohol and controlled substances during the period that they are residents in the group home. The house rules for this facility prohibit any use of tobacco and caffeine as well.

Commissioner Dean asked what City Code allows for limiting parking on the street. How is it notified on the property that no parking is allowed?

Mr. Mumford explained that the City did limit the Ark of Eagle Mountain's parking. There is no notification around the center to notify that no parking is allowed on the street. The residents around the Ark of Eagle Mountain have notified the City of any violations and the City has been able to take care of any issues.

Commissioner Dean asked if the Ark of Eagle Mountain houses 8 residents, what is the difference in square footage between the Ark of Eagle Mountain home and the Arcadia Residential Center.

Mr. Mumford said that the Ark of Eagle Mountain house is 5,129 sq. ft.

Commissioner Langford asked if a care provider would be occupying one of the bedrooms.

Commissioner ElHalta asked if there were plans for a security or surveillance system for the home.

Matthew Jacobson, Executive Director for the Arcadia Residential Center, explained that Arcadia Residential Center is a home based treatment center. Their program consists of clients that range from the age of 18 to 65 that battle substance abuse, alcohol abuse, and co-occurring disorders. To help overcome these addictions the program utilizes basic gospel principles, a 12 step program and other evidence based treatment methods. To help provide safety to clients and Eagle Mountain residents, the center will not be co-ed, and does not provide service to sex-offenders, and/or a person that has been convicted of a violent or domestic crime. Their clients do suffer from addiction, but do not currently use illegal substances. That classifies their clients as disabled and therefore they are Federally protected.

He explained that this type of center does not require 2 staff members on duty at all times. That is not found in Federal law, State law or Municipal Code. He stated that, according to the Federal Fair Housing Act, the great majority of these types of centers are subject to State law and not City Code. He said that a State licensing agent by the name of John Ortiz stated that the State

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handles all safety issues and what is considered proper supervision. He stated that John Ortiz also stated that the State requirement is a 1 staff member to 8 client ratio and that there is no restriction or set rule with supervision regarding substance abuse residential treatment programs. The State does not require a surveillance system for the Arcadia Residential Center.

They are aware of the Municipal Code restricting parking and have requested reasonable accommodations. He explained that they are able to park 3 cars in the garage and 4 cars on the driveway.

He explained that the Municipal Code states that a group home is not to be construed to mean a family. They are requesting reasonable accommodations from the City to allow 8 clients in the group home.

He discussed the concern about the quarter mile ratio and the amount of homes and citizens in that radius. Federal Fair Housing Act states it is their object to integrate persons with disabilities into the community; however, it is not their objective to restrict them as to which community they could be a part of, regardless of community size or density. He stated that Arcadia Residential Center lives up to all Federal, State, and Municipal Codes. Their goal is to work alongside all local agencies and citizens.

Commissioner Linton opened the public hearing at 6:49 p.m.

Jeremy Johnson, SilverLake HOA Attorney, made it clear that his clients and the SilverLake HOA are not opposed to having individuals with drug addiction or alcohol addiction disabilities in the neighborhood. His clients are very concerned that the Arcadia Residential Center has 8 individual clients in too little space, with few bedrooms, and in too short of time. He stated that Utah Administrative Code 501-19-5 subsection F states a minimum of two staff on duty and, a staff ratio of no less than one staff to every four consumers shall exist at all times, except nighttime sleeping hours when staff may be reduced. He stated that local government believes that they are required to provide reasonable accommodation. He cited the court case Swarovski v. Treasure Island citing the Seventh District court Judge Posner, who explained that while Congress intended for discrimination laws like DADA and FHA, to apply to the zoning ordinance, they do not pre-empt or abolish a municipality's power to regulate land use and pass zoning laws. He explained that the City could absolutely enforce City zoning laws and the City can impose conditions on the permit, which will preserve the residential character of the neighborhood.

He stated that there is a difference in what the City has permitted in the past and what the City is being asked now. He compared the proposed Arcadia Residential Center to the Utah Addiction Center (UAC). The proposed home is only a sixth of the size of the UAC and is requesting the same accommodations. He believes the Arcadia Residential Center facility is too small, and cannot safely and healthily house the same number of patients compared to a dramatically larger facility. The home's proximity to other homes is creating problems with privacy and limiting the amount for each individual's space. He requested that the Planning Commission table the item so that his clients and others would be able to look into the concerns and be able to address them at

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a later date. He also requested that a condition be added that all clients are required to stay for at least a 100-day period so the home does not become a transient place.

Matthew Rouanzion, 4807 Levi Lane, asked the Planning Commission not to accept the reasonable accommodation for parking, and to use the Municipal Code that allows one client per parking stall. He also requested that all clients have a third party background check.

Matthew Robertson, 7493 Campbell Circle, asked if the clients would be integrated into the community. He felt that the reasonable accommodation for parking was being used to crank up the number of residents in the home for profit.

Ryan Huston, 4674 Foxwood Drive, asked the Planning Commission to look at the staffing code for the Utah Administrative Code (501-19-5. Staffing). In the code, if there is an unlicensed staff member being used, they shall be supervised by a licensed staff member. He explained that he and his wife have been going through the State approval process to become foster parents, and with this home next door, the State will have to better look at the age and condition of the kids that could be placed into their home.

Danna Ridge, 4692 Foxwood Drive, requested that the Planning Commission impose conditions requiring the client's stay be no less than 6 months, and that a surveillance system be installed for the safety of the residents and the clients of the Arcadia Residential Center.

Jessica Anderson, 7528 Levi Lane, explained that she is a nurse and advocate for the patients and children. She explained that individuals with drug addiction are one of the most vulnerable groups and children are right up there with that vulnerability. She stated that SilverLake is one of the densest populations of children in the state. With both groups together in such a dense area the City is in uncharted territory. She felt that this was not a good situation for those groups.

Francine Jones, 4689 Foxwood Drive, wanted to support the efforts of the Arcadia Residential Center. She explained that her daughter has a drug addiction disability. Because of financial issues they were not able to keep her in a rehab home, and she relapsed and had a stroke. She felt that the community should educate themselves and have an open mind about the Arcadia Residential Center.

Lynn Manning, 4787 Addison Ave, explained that with her personal experience with drug and alcohol abuse in the past, she was unpredictable and did things that required more supervision in her vulnerable state. She requested that the Planning Commission look at the supervision and safety of the residents and clients. She explained that with her treatment she needed space and activities. She felt that the home in question does not have space that is sufficient to handle the needs of their clients.

Monica Ririe, 4669 Campbell Circle, was concerned that privacy will be hard to provide with the proximity of the lot. The neighbors' homes are so close together. She also felt that the home is not adequate for those recovering to have space for onsite activities for therapeutic reasons, compared to other state residential treatment centers.

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Becca Jensen 4619 Campbell Circle, explained that she is a recovered addict with personal experience living in a treatment center. She explained her recovery required peace and quiet, open space, and outdoor activities. The proximity of neighboring homes and the nature of the current residents do not lend themselves to be a very conducive healing environment.

Bryce Matthews, 4426 Bridal Way Rd, explained that there are many open space areas in the neighborhood where children play. He explained that 40 to 60 percent of drug addicts relapse. That means that three to five clients out of eight clients will relapse. He does not want those clients to be relapsing in places the children play.

Matthew Stegeman Sr., 7707 Silver Ranch Rd, wanted to know the statistics and ratio of children that live around these types of group homes. He felt that SilverLake subdivision is not the place for this type of home.

Edward Bradley 4701 Decrescendo Drive, was concerned with the parking qualification not adding up to what is required. He was concerned with safety of the children in the area.

Nathan Ochsenhirt, 8956 N. Mt. Airey Drive, stated that this is not an appropriate home based business. A home based business should not negatively impact the neighborhood, by lowering property values, or impact the safety of the general public.

Commissioner Linton closed the public hearing at 7:31 p.m.

Benjamin Jones, 4682 E. Foxwood Drive, explained that the Arcadia Residential Center has not broken any Federal, State, or Municipal Codes. He stated that the Federal Fair Housing Act clearly states that density shall not be a factor. He explained that the one to four ratio is only applied to youth or child residential treatment programs. He asked the Planning Commission to only consider the facts that are based on laws.

Commissioner Elhalta asked if their clients would be volunteers, or commissioned.

Mr. Jones explained that he is a licensed clinical social worker and would be the main employee that would take care of their clients. He explained in the application he would not hire somebody without a bachelor's degree. He stated that the majority of their clients would be volunteers.

Commissioner Dean stated that he would feel more comfortable with knowing what the actual State requirements are for staff.

Jeremy Cook, City Attorney, stated that the Utah Administrative Code 501-19-05 only required one staff member on duty for this type of treatment center. The State is responsible for the center to meet all state licensing requirements. The staffing issues would fall under state requirements; the City could make a condition that the licensee meets all State requirements.

Commissioner Dean asked Mr. Mumford to review conditional uses, and prohibited uses in the area.

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Mr. Mumford explained that the following conditional uses and such uses as the Planning Director and Planning Commission may recommend as similar and consistent with the scale, character and impact of the area will be considered:

- Multifamily dwellings
- Cluster homes, patio homes, garden courts, and other detached housing
- Tier III and Tier IV development
- Religious or cultural meeting halls
- Public/private schools
- Radio, microwave or other transmission towers
- Accessory apartments in accordance with the standards contained in this title
- Commercial development is also a conditional use in the residential zone, but it may not be the predominant use of the development. This development is allowed to offer convenience and service to residential uses, but commercial uses will only be approved if they do not inhibit the full use and enjoyment of the predominant residential uses. This definition includes mixed-use commercial and residential developments.

The following are prohibited uses and such uses as the Planning Director and Planning Commission determine to be similar or consistent with the prohibited use:

- Sexually oriented businesses
- Industrial uses

Mr. Cook stated that the City Code (17.75.060) states that a residential facility for persons with a disability is a conditional use in any zoning district where residential dwellings are allowed. The Code is also consistent with Utah Code 10-985-20.

Commissioner Dean was concerned with the request for reasonable accommodations on parking.

Mr. Cook explained that the Planning Commission needs to look at the reasonable accommodations on parking, on a case-by-case basis. In this case, is it a reasonable request by the applicant?

Commissioner Komoroski asked if there were regulations on group space or living space other than the bedrooms.

Mr. Cook explained that group space is regulated by the State and would be enforced by a State agency.

Commissioner Langford asked how the applicant felt about the conditions in the staff report.

Mr. Jacobson stated the following conditions:

- a. A maximum of 2 vehicles may be allowed in the driveway at any time. No vehicles may park on the street.
- b. Therapy sessions may not take place outside.

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- c. A reduction in maximum number of residents.
- d. The applicant must allow DHS and/or the City access to the facility for inspections, when warranted by complaints or suspicion of noncompliance of the City Code.
- e. The basement must be completed and a Certificate of Occupancy given prior to obtaining a business license for more than six residents.

He explained that the Arcadia Residential Center has reviewed the conditions. They have already touched on parking and maximum number of residents earlier in the meeting. He stated that therapy sessions will not be conducted outside, because of client confidentiality. He explained that the main floor and the upstairs can hold up to eight clients. The house has four bedrooms between the main floor and upstairs floor. They would not need to use the basement floor for bedroom space. It was their choice to finish the basement to give their clients activity space. He stated that the State would require access to the facility for inspection at any time.

Commissioner Dean recommended that the City allow the State to take care of the maximum number of residents in the home.

Commissioner Langford recommended that, based on current code a maximum of 2 vehicles may be allowed in the driveway at any time. That would allow the applicant to have five parking spaces and it would also maintain the character of the neighborhood. That would also limit the number of clients to five.

Mr. Jones stated that their clients would not have vehicles, that the parking would be used by staff. He believes that is the reason it's a reasonable accommodation. He explained that the reason they are fighting the issues is because of their rights; he does not believe they will need to use all of the parking spaces.

Commissioner Langford explained that the home would also have family therapy days and visitors. He does not believe there is any justification for allowing more, and that allowing five cars is more than fair.

Commissioner Linton explained that he voted in favor of the Ark of Eagle Mountain because he was able to see things at that home that would benefit their clients and that home did not require many reasonable accommodations. But he feels that the Arcadia Residential Center has more reasonable accommodations stacked on more reasonable accommodations to make the home benefit their clients and try to fit into the neighborhood. How many reasonable accommodations do you make before it becomes an unreasonable accommodation?

MOTION: *Preston Dean moved that the Planning Commission approve a Conditional Use Permit for the Arcadia Residential Center, subject to the following conditions*

- a. A maximum of 2 vehicles may be allowed in the driveway at any time. No vehicles may park on the street.*
- b. Therapy sessions may not take place outside.*
- c. A maximum number of five residents.*

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- d. The applicant must allow DHS and/or the City access to the facility for inspections, when warranted by complaints or suspicion of noncompliance with City Code.*
- e. Security surveillance must be installed monitoring the front entrance of the home, also be provided with a 30 day loop and maintained for access for security reasons.*

Scott Langford seconded the motion. Those voting aye: Scott Langford, Preston Dean, and Wendy Komoroski. Those voting nay: Bonnie ElHalta and John Linton. The motion passed with a 3 to 2 vote.

- 5. Other Business
 - A. Updates

- 6. Adjournment

The meeting was adjourned at 8:17 p.m.

APPROVED BY THE PLANNING COMMISSION ON APRIL 23, 2013.



Steve Mumford, Planning Director