

MEMORANDUM

CITY/BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801

DATE: October 10, 2014

TO: Planning Commission

FROM: Beth McKibben, Planner *BMM*
Community Development Department

FILE NO.: USE2014 0008

PROPOSAL: Conditional Use permit for transitional housing for up to nine women coming out of prison.

Supplemental Staff Report

Attachment A- Email from Charlie Ford, Building Official

Introduction

The Tall Timbers Neighborhood Association (TT) submitted written comments on October 1, 2014 for Haven House's requested conditional use permit. It was TT's understanding that October 1st would be timely enough to ensure their comments were reviewed and addressed in the staff report. While TT's comments were submitted in time to be included in the Planning Commission packet, the comments were not submitted in time to be addressed in the staff report.

Discussion

TT asserts that Haven House's proposal is a halfway house under CBJ Title 49.

Staff response: On August 21, 2014 the Planning Commission, sitting as the Board of Adjustment determined that "transitional housing for people coming out of prison" is of the same general character as uses listed in category 1.610, Miscellaneous Rooms for Rent, and that Haven House could apply for a Conditional Use permit to operate in this location.

TT presents a best case and worst case scenario for the potential number of residents that Haven House might house over a ten year period. Their best case scenario is 95 residents over ten years.

Staff response: If the maximum number of residents (9) were housed for the longest possible time (2 years) that would result in 45 residents over ten years. Information provided by the applicant, as well as testimony from a local probation officer indicates that Haven House will not likely have full occupancy immediately. Further, staff has proposed a condition of limiting occupancy based on the parking requirements. The "best case scenario" is likely to be quite a bit fewer residents in the first 10 years than 45. The worst case scenario is too speculative to articulate because there are so many variables but staff agrees that there could be significantly



more than 45 residents in the first ten years.

TT asserts that Haven House is an institutional use and out of character with the neighborhood. *Staff response:* The primary measure of neighborhood harmony is the look and feel of the exterior of the building and site. The look and feel of Haven House is and is proposed to remain as a residential house. The applicant has stated the desire to look like the other residential homes in the neighborhood. If this is the case, Haven House will not be any different in character than the surrounding neighborhood.

In regard to “residential” versus “institutional” Title 49 provides guidance. When reviewing the Table of Permissible Uses category 1.00 is “Residential”. Subcategories include miscellaneous rooms for rent, which is the use the Board of Adjustment found Haven House to be most similar to. Daycare homes for adults and children are also included. For these uses, care for eight or fewer is allowed with departmental approval. Care for 8 to 12 requires an approved Conditional Use permit. Care for more than nine is listed under use category 7.00, Institutional Day or Residential Care, Health Care Facilities, Correctional Facilities. This is also true for uses “Group Home” and “Halfway House”. Both these uses are listed as a subcategory in 1.00 Residential. The definition (CBJ 49.80.120) of Group Home indicates it is a residential use for at least six but not more than nine persons (emphasis added). The Halfway House definition also states it is a dwelling for not more than nine persons, and that uses with ten or more residents shall be regulated as institutional correctional facilities (emphasis added). Clearly Title 49 establishes a threshold between residential and institutional uses based on the number of residents or number of people being cared for. Haven House proposes to house up to nine women, which is the same number of people who can be housed in a residential group home.

Staff also notes that TT Exhibit 29 “Testing the Functions and Effect of the Parole Halfway House: One Case Study,” Journal of Criminal Law and Criminology is dated 1977. The thirty seven year old study evaluates one halfway house in Boston, Massachusetts. Haven House submitted Exhibit 11 in its application, which is the “Alaska Prisoner Reentry Task Force, Five-Year Prisoner Reentry Strategic Plan, 2011-2016.” That Plan is specific to Alaska and more current, than the article cited to by TT.

TT has asked the Planning Commission to deny the request for the Conditional Use permit and provided their suggested findings. TT has also provided a list of conditions they would like to see adopted, should the Commission choose to approve the permit. Staff has reviewed these proposed conditions and offers guidance on each of them below.

1. **Supervision** – Haven House proposes, and staff recommends as a condition of approval, there be a resident manager who lives on site. The request by TT includes licensing of supervisory personnel, certain requirements of the supervisor and reporting to CBJ of supervisory personnel and that these records be available to the public. TT’s request is outside the scope of CBJ 49.15.330(g) and therefore beyond the authority of the Commission to impose.

2. **Occupancy** – Although Title 49 does not directly limit occupancy, Title 19 (Building Code) does. Specifically, residential uses require 200 square feet per person per residence, and institutional uses require 120 square feet per sleeping area. (Attachment A) Haven House will not be able to exceed the occupancy limits of Title 19.
3. **Sunset Provision** in accordance with CBJ 49.15.330 (g)(8) – This section of Title 49 allows a use to operate in accordance with an approved Conditional Use permit so long as it is in compliance with the approved permit and any conditions. If an approved use is not operating in accordance with an approved permit and any required conditions CBJ will require them to come into compliance. If compliance is not obtained a permit can be revoked.
4. **Juneau Residency** – Individual's right to travel and Alaska's right to privacy prohibits CBJ from applying this condition. The proposed condition is also outside the scope of CBJ 49.15.330(g) and therefore beyond the authority of the Commission to impose.
5. **Substance Abuse** - The proposed condition is outside the scope of CBJ 49.15.330(g) and therefore beyond the authority of the Commission to impose.
6. **Eviction** – The proposed condition is outside the scope of CBJ 49.15.330(g) and therefore beyond the authority of the Commission to impose.
7. **Sex Offences and Violence** – Haven House has already stated that they will not house registered sex offenders. The proposed condition is outside the scope of CBJ 49.15.330(g) and therefore beyond the authority of the Commission to impose.
8. **Transport of Evicted Residents** - The proposed condition is outside the scope of CBJ 49.15.330(g) and therefore beyond the authority of the Commission to impose.
9. **Women only** – Haven House has applied for “transitional housing for up to nine women coming out of prison”. If the Conditional Use permit is approved that is the operation that can take place. If Haven House decided they wanted to provide transitional housing for men, instead of, or in addition to women, they would need to apply for a modification to their Conditional Use permit and receive approval from the Planning Commission after the required public notice and hearing.
10. **Background Checks** – The proposed condition is outside the scope of CBJ 49.15.330(g) and therefore beyond the authority of the Commission to impose.
11. **Bus Stop Travel** – The proposed condition is outside the scope of CBJ 49.15.330(g) and therefore beyond the authority of the Commission to impose.
12. **Fencing** – This condition could be required by the Commission. Staff notes that fences higher than six feet require an approved building permit. Staff further notes that CBJ

49.25.430(4)(L) restricts the height of sight obscuring fencing and screening to four feet within 20 feet of the traveled way. Staff observed that in the immediate neighborhood there are very few front yard fences, and they meet CBJ 9.25.430(4)(L).

13. Parking and Traffic Mitigation – Parking is addressed extensively in the staff report.

14. Courtesy- The proposed conditions are outside the scope of CBJ 49.15.330(g) and therefore beyond the authority of the Commission to impose.

If the Commission chooses to approve the Conditional Use permit for Haven House and apply conditions, whether those recommended by staff, the applicant, TT or other members of the public, CBJ 49.15(330)(g)(18) states that the Commission can impose conditions as may be reasonably necessary pursuant to the standards listed in subsection (f). This section addresses public health, safety, property value, neighborhood harmony and conformity with adopted plans. CBJ 49.330(a) states that conditions attached to a Conditional Use permit must mitigate external adverse impacts.

Beth McKibben

From: Charlie Ford
Sent: Wednesday, October 08, 2014 4:51 PM
To: Beth McKibben
Subject: RE: Occupancy Classification

The Code is a little vague on that. For I occupancies a minimum of 120 sqft per person in sleeping rooms is required. R occupancies don't mention sleeping rooms but require 200 sqft per person overall.

Charlie Ford, Building Official
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From: Beth McKibben
Sent: Wednesday, October 08, 2014 3:51 PM
To: Charlie Ford
Subject: RE: Occupancy Classification

So is there a limit on how many per bedroom? Or how many per sq ft of building?

Beth McKibben, AICP
Senior Planner, CDD
City & Borough of Juneau
907.586.0465



Please consider the environment before printing this email.

From: Charlie Ford
Sent: Wednesday, October 08, 2014 3:25 PM
To: Beth McKibben
Subject: Occupancy Classification

Here is the wording from the Code Book:

308.2 Group I-1. This occupancy shall include buildings, structures or parts thereof housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides *personal care services*. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following:

- Alcohol and drug centers
- Assisted living facilities
- Congregate care facilities
- Convalescent facilities
- Group homes

Halfway houses
Residential board and care facilities
Social rehabilitation facilities

A facility such as the above with five or fewer persons shall be classified as a Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2. A facility such as above, housing at least six and not more than 16 persons, shall be classified as Group R-4.

R-4 Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including more than five but not more than 16 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3, except as otherwise provided for in this code or shall comply with the *International Residential Code* provided the building is protected by an *automatic sprinkler system* installed in accordance with Section 903.2.8.

Let me know if you have questions.

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