



STRENGTH IN PEERS

Mailing Addresses:

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December 14, 2022

Department of Community Development
c/o Thanh Dang, Assistant Director
409 S Main St
Harrisonburg, VA 22801
Thanh.Dang@harrisonburgva.gov

RE: Public Comment regarding Cooperative Sober Living Residences

Dear Assistant Director Dang:

Strength In Peers wishes to submit a public comment on zoning ordinance amendment to add “Cooperative Sober Living Residence” as a new use that would be allowed by special use permit. We would like to indicate our support for the amendment.

Since 2019, Strength In Peers has been advocating for the development of recovery houses, or sober living residences, for individuals in recovery from substance use challenges. The current zoning ordinance does not have an adequate definition for a recovery house. The closest definition is that of a “boarding house”, which is limited to R3 and M1 zones with a special use permit. The low stock of affordable housing and limited zones has made it almost impossible to purchase or lease a house for the purpose of a sober living residence, in a zone that allows for a special use permit, and with a seller/landlord who is willing to undergo the special use permit process before selling/leasing the house. The R3 and M1 zones also exclude individuals in recovery from living together in most residential neighborhoods in the City of Harrisonburg.

The Americans with Disabilities Act includes individuals in recovery from substance use challenges. Laws require localities to make "reasonable accommodations" to rules and practices to protect the right of individuals with disabilities to participate in group recovery homes under the federal Fair Housing Amendments Act of 1988 (FHAA). The FHAA protects persons with disabilities and organizations that provide those individuals with housing, including group homes.

Recovery houses for individuals in recovery from substance use challenges are similar to group residences for individual with other disabilities regardless of whether they fall under state laws that require certain facilities to be licensed or certified. Recovery houses are backed by extensive evidence showing that shared living arrangements located in residential neighborhoods—particularly in single-family areas—are highly effective because they provide individuals in substance use recovery, affordable housing with structure and recovery support. The magnitude of the drug and alcohol problem in the City of Harrisonburg and the connection between addiction and homelessness in an area with very few affordable housing options makes the development of recovery houses imperative.

Zoning rules and procedures that prohibit recovery houses, limit them to certain zoning districts, limit the number of persons, or require a public hearing process have a discriminatory effect. These practice have a more detrimental impact on the housing rights of persons with disabilities than they

Your recovery. Your path.

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Strength In Peers Community Resource Center:

917 N. Main St. Unit 1 Harrisonburg, VA 22802 | **Phone:** 540-208-2941

have on the rights of persons without similar challenges. The FHAA clearly establishes that localities must make "reasonable accommodations" to their rules, policies, practices, and services to meet the residential needs of individuals with disabilities. This obligation can only be limited if doing so imposes undue financial or administrative burdens to the city.

Recovery homes should be allowed to locate across residential zoning districts and without limitations on the number of persons in the dwelling. Ordinances that place restrictions on the number of unrelated persons, as opposed to "families" (i.e. individuals related by blood or marriage), pose a clear disadvantage for people with disabilities who seek to live in a group home. A recovery home is a land-use regulation not an occupancy restriction, and is therefore not exempt from the protection afforded under the FHAA and the need to afford reasonable accommodations. Member of a group home for individuals in recovery should be permitted to label themselves as a family. Recovery homes are modeled around the concept of "family" in that residents share responsibilities, support one another, set expectations, and live together in a communal environment. They also afford individuals in recovery a family structure when it is often not possible for many of these individuals to live with relatives.

When local policies prevent recovery houses from being established, people are kept from participating in one of the most effective, least expensive opportunities to succeed in substance abuse recovery. It is imperative that the City of Harrisonburg provide a reasonable accommodation to allow the establishment of recovery houses in any zoning district.

Thank you for your consideration of our support for the proposed zoning ordinance amendment. Please feel free to contact me directly should you have any questions at 540-217-0869 or nicky@strengthenpeers.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Fadley', with a stylized flourish at the end.

Nicky Fadley
Executive Director

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December 14, 2022

SENT VIA ELECTRONIC MEANS AND FIRST CLASS MAIL

Planning Commission
City of Harrisonburg
409 S Main St
Harrisonburg, VA 22801

Re: Zoning Ordinance Amendments – To Add New
Cooperative Sober Living

Dear Members of the Planning Commission:

I am General Counsel for Oxford House, Inc. (“OHI”). As stated in the July, 2022, letter I sent to the City regarding alleged zoning violations concerning the use of three (3) separate single family dwellings as Oxford Houses, OHI acts as the umbrella organization for these houses and assists in the establishment of the houses. In that letter I requested that the make a reasonable accommodation pursuant to the federal Fair Housing Act, 42 U.S.C. 3604(f)(B)(3), and waive the number of unrelated persons who can reside together as a family, and treat the use of the dwellings as single family uses.

According to the Staff Memorandum submitted in support of passage of the text amendments to the City’s zoning code, the City does not have a mechanism for processing reasonable accommodation request. In addition, though the Planning Staff recognizes that the Commonwealth requires local governments to treat state licensed with staff, housing for persons with disabilities as single family uses for zoning purposes, it will not grant the same treatment to Oxford House because Oxford House does not have staff. The reasonable accommodation request made was to treat the Oxford Houses in the same manner as state licensed housing and waive the staffing requirement. Other local governments in the State have granted Oxford Houses these accommodations, as long as the maximum number is eight (8): Fairfax County, Arlington County, Fredericksburg, Winchester, Hampton, and Virginia Beach to name a few. Each of these accommodations was addressed administratively either by the zoning administrator or the City Attorney.

The Planning Staff’s proposal to create a new category of “Cooperative Sober Living” is laudable, and perhaps it is a step in the right direction. However, Oxford House opposes the proposal to require obtaining a special use permit for several reasons.

First, such a requirement constitute unequal treatment between homes licensed by the state

and those not requiring licensing such as Oxford House. It is our position, that such differential treatment violates the Fair Housing Act, 42 U.S.C. §3604(f):

(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

(A) that buyer or renter, [;]

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that buyer or renter.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of—

(A) that person; or

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that person.

Second, the requirement of a special use permit is not a reasonable accommodation for several reasons:

1. It requires the payment of fee of \$425 per application plus an additional \$30 per acre
2. Requires the submission of a site plan, which is an additional cost.
3. Sec. 10-3-126 allows for the imposition of special conditions to be placed on an approved special use permit application.
4. Public notices, notices of hearing placed in the yard, and notices sent to neighbors are required.

None of the conditions are imposed upon state licensed housing for persons with disabilities. The Staff Report does not explain why it is necessary to require "Cooperative Sober Living" for eight or fewer residents to apply for a special use permit. The classification is discriminatory on its face, and the special use permit requirements based solely on the classification has the effect of placing persons in recovery, who seek to recover in the privacy of a single family home, to have a public spotlight shine on them.

For these reasons, OHI opposes the proposed amendment.

Sincerely yours,



Steven G. Polin