Patrick Zenner <patrick.zenner@como.gov>

Fwd: Columbia College - M-DT District Regulating Plan

Timothy Teddy <timothy.teddy@como.gov> Fri, Oct 14, 2016 at 5:01 PM
To: "Zenner, Patrick" <Patrick.Zenner@como.gov>

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---------- Forwarded message ----------
From: **Jarvis, Clifford S.** <csjarvis@ccis.edu>
Date: Wed, Oct 5, 2016 at 7:18 AM
Subject: Columbia College - M-DT District Regulating Plan
To: "ttteddy@gocolumbiamo.com" <ttteddy@gocolumbiamo.com>

Columbia College owns property that is used for educational purposes within the area highlighted on the M-DT District Regulating Plan yet it is not blacked out as the other Civic Structures. The property is the old post office at 6th & Cherry. The address is 608 Cherry St. I can provide proof of ownership if necessary. Hopefully there's still time to get this corrected. Please let me know if you need documentation.

Thank you for your time and consideration.

Cliff

Cliff Jarvis, PE

Executive Director, Plant and Facilities Operations

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION

Washington, D.C.
November 10, 2016

JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF JUSTICE

STATE AND LOCAL LAND USE LAWS AND PRACTICES AND THE APPLICATION OF THE FAIR HOUSING ACT

INTRODUCTION

The Department of Justice ("DOJ") and the Department of Housing and Urban Development ("HUD") are jointly responsible for enforcing the Federal Fair Housing Act ("the Act"),[1] which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status (children under 18 living with a parent or guardian), or national origin.[2] The Act prohibits housing-related policies and practices that exclude or otherwise discriminate against individuals because of protected characteristics.

The regulation of land use and zoning is traditionally reserved to state and local governments, except to the extent that it conflicts with requirements imposed by the Fair Housing Act or other federal laws. This Joint Statement provides an overview of the Fair Housing Act's requirements relating to state and local land use practices and zoning laws, including conduct related to group homes. It updates and expands upon DOJ's and HUD's Joint

[1] The Fair Housing Act is codified at 42 U.S.C. §§ 3601–19.

[2] The Act uses the term "handicap" instead of "disability." Both terms have the same legal meaning. *See Bragdon v. Abbott*, 524 U.S. 624, 631 (1998) (noting that the definition of "disability" in the Americans with Disabilities Act

Statement on Group Homes, Local Land Use, and the Fair Housing Act, issued on August 18, 1999. The first section of the Joint Statement, Questions 1–6, describes generally the Act's requirements as they pertain to land use and zoning. The second and third sections, Questions 7–25, discuss more specifically how the Act applies to land use and zoning laws affecting housing for persons with disabilities, including guidance on regulating group homes and the requirement to provide reasonable accommodations. The fourth section, Questions 26–27, addresses HUD's and DOJ's enforcement of the Act in the land use and zoning context.

This Joint Statement focuses on the Fair Housing Act, not on other federal civil rights laws that prohibit state and local governments from adopting or implementing land use and zoning practices that discriminate based on a protected characteristic, such as Title II of the Americans with Disabilities Act ("ADA"),[3] Section 504 of the Rehabilitation Act of 1973 ("Section 504"),[4] and Title VI of the Civil Rights Act of 1964.[5] In addition, the Joint Statement does not address a state or local government's duty to affirmatively further fair housing, even though state and local governments that receive HUD assistance are subject to this duty. For additional information provided by DOJ and HUD regarding these issues, see the list of resources provided in the answer to Question 27.

Questions and Answers on the Fair Housing Act and State and Local Land Use Laws and Zoning

1. How does the Fair Housing Act apply to state and local land use and zoning?

The Fair Housing Act prohibits a broad range of housing practices that discriminate against individuals on the basis of race, color, religion, sex, disability, familial status, or national origin (commonly referred to as protected characteristics). As established by the Supremacy Clause of the U.S. Constitution, federal laws such as the Fair Housing Act take precedence over conflicting state and local laws. The Fair Housing Act thus prohibits state and local land use and zoning laws, policies, and practices that discriminate based on a characteristic protected under the Act. Prohibited practices as defined in the Act include making unavailable or denying housing because of a protected characteristic. Housing includes not only buildings intended for occupancy as residences, but also vacant land that may be developed into residences.

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is drawn almost verbatim "from the definition of 'handicap' contained in the Fair Housing Amendments Act of 1988"). This document uses the term "disability," which is more generally accepted.

[3] 42 U.S.C. §12132.

[4] 29 U.S.C. § 794.

[5] 42 U.S.C. § 2000d.

2. What types of land use and zoning laws or practices violate the Fair Housing Act?

Examples of state and local land use and zoning laws or practices that may violate the Act include:

- Prohibiting or restricting the development of housing based on the belief that the residents will be members of a particular protected class, such as race, disability, or familial status, by, for example, placing a moratorium on the development of multifamily housing because of concerns that the residents will include members of a particular protected class.
- Imposing restrictions or additional conditions on group housing for persons with disabilities that are not imposed on families or other groups of unrelated individuals, by, for example, requiring an occupancy permit for persons with disabilities to live in a single-family home while not requiring a permit for other residents of single-family homes.
- Imposing restrictions on housing because of alleged public safety concerns that are based on stereotypes about the residents' or anticipated residents' membership in a protected class, by, for example, requiring a proposed development to provide additional security measures based on a belief that persons of a particular protected class are more likely to engage in criminal activity.
- Enforcing otherwise neutral laws or policies differently because of the residents' protected characteristics, by, for example, citing individuals who are members of a particular protected class for violating code requirements for property upkeep while not citing other residents for similar violations.
- Refusing to provide reasonable accommodations to land use or zoning policies when such accommodations may be necessary to allow persons with disabilities to have an equal opportunity to use and enjoy the housing, by, for example, denying a request to modify a setback requirement so an accessible sidewalk or ramp can be provided for one or more persons with mobility disabilities.

3. When does a land use or zoning practice constitute intentional discrimination in violation of the Fair Housing Act?

Intentional discrimination is also referred to as disparate treatment, meaning that the action treats a person or group of persons differently because of race, color, religion, sex, disability, familial status, or national origin. A land use or zoning practice may be intentionally discriminatory even if there is no personal bias or animus on the part of individual government officials. For example, municipal zoning practices or decisions that reflect acquiescence to community bias may be intentionally discriminatory, even if the officials themselves do not personally share such bias. (See Q&A 5.) Intentional discrimination does not require that the

decision-makers were hostile toward members of a particular protected class. Decisions motivated by a purported desire to benefit a particular group can also violate the Act if they result in differential treatment because of a protected characteristic.

A land use or zoning practice may be discriminatory on its face. For example, a law that requires persons with disabilities to request permits to live in single-family zones while not requiring persons without disabilities to request such permits violates the Act because it treats persons with disabilities differently based on their disability. Even a law that is seemingly neutral will still violate the Act if enacted with discriminatory intent. In that instance, the analysis of whether there is intentional discrimination will be based on a variety of factors, all of which need not be satisfied. These factors include, but are not limited to: (1) the "impact" of the municipal practice, such as whether an ordinance disproportionately impacts minority residents compared to white residents or whether the practice perpetuates segregation in a neighborhood or particular geographic area; (2) the "historical background" of the action, such as whether there is a history of segregation or discriminatory conduct by the municipality; (3) the "specific sequence of events," such as whether the city adopted an ordinance or took action only after significant, racially-motivated community opposition to a housing development or changed course after learning that a development would include non-white residents; (4) departures from the "normal procedural sequence," such as whether a municipality deviated from normal application or zoning requirements; (5) "substantive departures," such as whether the factors usually considered important suggest that a state or local government should have reached a different result; and (6) the "legislative or administrative history," such as any statements by members of the state or local decision-making body.[6]

4. Can state and local land use and zoning laws or practices violate the Fair Housing Act if the state or locality did not intend to discriminate against persons on a prohibited basis?

Yes. Even absent a discriminatory intent, state or local governments may be liable under the Act for any land use or zoning law or practice that has an unjustified discriminatory effect because of a protected characteristic. In 2015, the United States Supreme Court affirmed this interpretation of the Act in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*[7] The Court stated that "[t]hese unlawful practices include zoning laws and other housing restrictions that function unfairly to exclude minorities from certain neighborhoods without any sufficient justification."[8]

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[6] *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265–68 (1977).
[7] ___ U.S. ___, 135 S. Ct. 2507 (2015).
[8] *Id.* at 2521–22.

A land use or zoning practice results in a discriminatory effect if it caused or predictably will cause a disparate impact on a group of persons or if it creates, increases, reinforces, or perpetuates segregated housing patterns because of a protected characteristic. A state or local government still has the opportunity to show that the practice is necessary to achieve one or more of its substantial, legitimate, nondiscriminatory interests. These interests must be supported by evidence and may not be hypothetical or speculative. If these interests could not be served by another practice that has a less discriminatory effect, then the practice does not violate the Act. The standard for evaluating housing-related practices with a discriminatory effect are set forth in HUD's Discriminatory Effects Rule, 24 C.F.R § 100.500.

Examples of land use practices that violate the Fair Housing Act under a discriminatory effects standard include minimum floor space or lot size requirements that increase the size and cost of housing if such an increase has the effect of excluding persons from a locality or neighborhood because of their membership in a protected class, without a legally sufficient justification. Similarly, prohibiting low-income or multifamily housing may have a discriminatory effect on persons because of their membership in a protected class and, if so, would violate the Act absent a legally sufficient justification.

5. Does a state or local government violate the Fair Housing Act if it considers the fears or prejudices of community members when enacting or applying its zoning or land use laws respecting housing?

When enacting or applying zoning or land use laws, state and local governments may not act because of the fears, prejudices, stereotypes, or unsubstantiated assumptions that community members may have about current or prospective residents because of the residents' protected characteristics. Doing so violates the Act, even if the officials themselves do not personally share such bias. For example, a city may not deny zoning approval for a low-income housing development that meets all zoning and land use requirements because the development may house residents of a particular protected class or classes whose presence, the community fears, will increase crime and lower property values in the surrounding neighborhood. Similarly, a local government may not block a group home or deny a requested reasonable accommodation in response to neighbors' stereotypical fears or prejudices about persons with disabilities or a particular type of disability. Of course, a city council or zoning board is not bound by everything that is said by every person who speaks at a public hearing. It is the record as a whole that will be determinative.

6. Can state and local governments violate the Fair Housing Act if they adopt or implement restrictions against children?

Yes. State and local governments may not impose restrictions on where families with children may reside unless the restrictions are consistent with the "housing for older persons" exemption of the Act. The most common types of housing for older persons that may qualify for this exemption are: (1) housing intended for, and solely occupied by, persons 62 years of age or older; and (2) housing in which 80% of the occupied units have at least one person who is 55 years of age or older that publishes and adheres to policies and procedures demonstrating the intent to house older persons. These types of housing must meet all requirements of the exemption, including complying with HUD regulations applicable to such housing, such as verification procedures regarding the age of the occupants. A state or local government that zones an area to exclude families with children under 18 years of age must continually ensure that housing in that zone meets all requirements of the exemption. If all of the housing in that zone does not continue to meet all such requirements, that state or local government violates the Act.

Questions and Answers on the Fair Housing Act and Local Land Use and Zoning Regulation of Group Homes

7. Who qualifies as a person with a disability under the Fair Housing Act?

The Fair Housing Act defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

The term "physical or mental impairment" includes, but is not limited to, diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV infection, developmental disabilities, mental illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance), and alcoholism.

The term "major life activity" includes activities such as seeing, hearing, walking breathing, performing manual tasks, caring for one's self, learning, speaking, and working. This list of major life activities is not exhaustive.

Being regarded as having a disability means that the individual is treated as if he or she has a disability even though the individual may not have an impairment or may not have an impairment that substantially limits one or more major life activities. For example, if a landlord

refuses to rent to a person because the landlord believes the prospective tenant has a disability, then the landlord violates the Act's prohibition on discrimination on the basis of disability, even if the prospective tenant does not actually have a physical or mental impairment that substantially limits one or more major life activities.

Having a record of a disability means the individual has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

8. What is a group home within the meaning of the Fair Housing Act?

The term "group home" does not have a specific legal meaning; land use and zoning officials and the courts, however, have referred to some residences for persons with disabilities as group homes. The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. A household where two or more persons with disabilities choose to live together, as a matter of association, may not be subjected to requirements or conditions that are not imposed on households consisting of persons without disabilities.

In this Statement, the term "group home" refers to a dwelling that is or will be occupied by unrelated persons with disabilities. Sometimes group homes serve individuals with a particular type of disability, and sometimes they serve individuals with a variety of disabilities. Some group homes provide residents with in-home support services of varying types, while others do not. The provision of support services is not required for a group home to be protected under the Fair Housing Act. Group homes, as discussed in this Statement, may be opened by individuals or by organizations, both for-profit and not-for-profit. Sometimes it is the group home operator or developer, rather than the individuals who live or are expected to live in the home, who interacts with a state or local government agency about developing or operating the group home, and sometimes there is no interaction among residents or operators and state or local governments.

In this Statement, the term "group home" includes homes occupied by persons in recovery from alcohol or substance abuse, who are persons with disabilities under the Act. Although a group home for persons in recovery may commonly be called a "sober home," the term does not have a specific legal meaning, and the Act treats persons with disabilities who reside in such homes no differently than persons with disabilities who reside in other types of group homes. Like other group homes, homes for persons in recovery are sometimes operated by individuals or organizations, both for-profit and not-for-profit, and support services or supervision are sometimes, but not always, provided. The Act does not require a person who resides in a home for persons in recovery to have participated in or be currently participating in a

substance abuse treatment program to be considered a person with a disability. The fact that a resident of a group home may currently be illegally using a controlled substance does not deprive the other residents of the protection of the Fair Housing Act.

9. In what ways does the Fair Housing Act apply to group homes?

The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. State and local governments may not discriminate against persons with disabilities who live in group homes. Persons with disabilities who live in or seek to live in group homes are sometimes subjected to unlawful discrimination in a number of ways, including those discussed in the preceding Section of this Joint Statement. Discrimination may be intentional; for example, a locality might pass an ordinance prohibiting group homes in single-family neighborhoods or prohibiting group homes for persons with certain disabilities. These ordinances are facially discriminatory, in violation of the Act. In addition, as discussed more fully in Q&A 10 below, a state or local government may violate the Act by refusing to grant a reasonable accommodation to its zoning or land use ordinance when the requested accommodation may be necessary for persons with disabilities to have an equal opportunity to use and enjoy a dwelling. For example, if a locality refuses to waive an ordinance that limits the number of unrelated persons who may live in a single-family home where such a waiver may be necessary for persons with disabilities to have an equal opportunity to use and enjoy a dwelling, the locality violates the Act unless the locality can prove that the waiver would impose an undue financial and administrative burden on the local government or fundamentally alter the essential nature of the locality's zoning scheme. Furthermore, a state or local government may violate the Act by enacting an ordinance that has an unjustified discriminatory effect on persons with disabilities who seek to live in a group home in the community. Unlawful actions concerning group homes are discussed in more detail throughout this Statement.

10. What is a reasonable accommodation under the Fair Housing Act?

The Fair Housing Act makes it unlawful to refuse to make "reasonable accommodations" to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling. A "reasonable accommodation" is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others may sometimes deny them an equal opportunity to use and enjoy a dwelling.

Even if a zoning ordinance imposes on group homes the same restrictions that it imposes on housing for other groups of unrelated persons, a local government may be required, in individual cases and when requested to do so, to grant a reasonable accommodation to a group home for persons with disabilities. What constitutes a reasonable accommodation is a case-by-case determination based on an individualized assessment. This topic is discussed in detail in Q&As 20–25 and in the HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act.

11. Does the Fair Housing Act protect persons with disabilities who pose a "direct threat" to others?

The Act does not allow for the exclusion of individuals based upon fear, speculation, or stereotype about a particular disability or persons with disabilities in general. Nevertheless, the Act does not protect an individual whose tenancy would constitute a "direct threat" to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others unless the threat or risk to property can be eliminated or significantly reduced by reasonable accommodation. A determination that an individual poses a direct threat must rely on an individualized assessment that is based on reliable objective evidence (for example, current conduct or a recent history of overt acts). The assessment must consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate or significantly reduce the direct threat. See Q&A 10 for a general discussion of reasonable accommodations. Consequently, in evaluating an individual's recent history of overt acts, a state or local government must take into account whether the individual has received intervening treatment or medication that has eliminated or significantly reduced the direct threat (in other words, significant risk of substantial harm). In such a situation, the state or local government may request that the individual show how the circumstances have changed so that he or she no longer poses a direct threat. Any such request must be reasonable and limited to information necessary to assess whether circumstances have changed. Additionally, in such a situation, a state or local government may obtain satisfactory and reasonable assurances that the individual will not pose a direct threat during the tenancy. The state or local government must have reliable, objective evidence that the tenancy of a person with a disability poses a direct threat before excluding him or her from housing on that basis, and, in making that assessment, the state or local government may not ignore evidence showing that the individual's tenancy would no longer pose a direct threat. Moreover, the fact that one individual may pose a direct threat does not mean that another individual with the same disability or other individuals in a group home may be denied housing.

12. Can a state or local government enact laws that specifically limit group homes for individuals with specific types of disabilities?

No. Just as it would be illegal to enact a law for the purpose of excluding or limiting group homes for individuals with disabilities, it is illegal under the Act for local land use and zoning laws to exclude or limit group homes for individuals with specific types of disabilities. For example, a government may not limit group homes for persons with mental illness to certain neighborhoods. The fact that the state or local government complies with the Act with regard to group homes for persons with some types of disabilities will not justify discrimination against individuals with another type of disability, such as mental illness.

13. Can a state or local government limit the number of individuals who reside in a group home in a residential neighborhood?

Neutral laws that govern groups of unrelated persons who live together do not violate the Act so long as (1) those laws do not intentionally discriminate against persons on the basis of disability (or other protected class), (2) those laws do not have an unjustified discriminatory effect on the basis of disability (or other protected class), and (3) state and local governments make reasonable accommodations when such accommodations may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling.

Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city's zoning ordinance defines a "family" to include up to a certain number of unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission from the city. If that ordinance also prohibits a group home having the same number of persons with disabilities in a certain district or requires it to seek a use permit, the ordinance would violate the Fair Housing Act. The ordinance violates the Act because it treats persons with disabilities less favorably than families and unrelated persons without disabilities.

A local government may generally restrict the ability of groups of unrelated persons to live together without violating the Act as long as the restrictions are imposed on all such groups, including a group defined as a family. Thus, if the definition of a family includes up to a certain number of unrelated individuals, an ordinance would not, on its face, violate the Act if a group home for persons with disabilities with more than the permitted number for a family were not allowed to locate in a single-family-zoned neighborhood because any group of unrelated people without disabilities of that number would also be disallowed. A facially neutral ordinance, however, still may violate the Act if it is intentionally discriminatory (that is, enacted with discriminatory intent or applied in a discriminatory manner), or if it has an unjustified

discriminatory effect on persons with disabilities. For example, an ordinance that limits the number of unrelated persons who may constitute a family may violate the Act if it is enacted for the purpose of limiting the number of persons with disabilities who may live in a group home, or if it has the unjustified discriminatory effect of excluding or limiting group homes in the jurisdiction. Governments may also violate the Act if they enforce such restrictions more strictly against group homes than against groups of the same number of unrelated persons without disabilities who live together in housing. In addition, as discussed in detail below, because the Act prohibits the denial of reasonable accommodations to rules and policies for persons with disabilities, a group home that provides housing for a number of persons with disabilities that exceeds the number allowed under the family definition has the right to seek an exception or waiver. If the criteria for a reasonable accommodation are met, the permit must be given in that instance, but the ordinance would not be invalid.[9]

14. How does the Supreme Court's ruling in *Olmstead* apply to the Fair Housing Act?

In *Olmstead v. L.C.*,[10] the Supreme Court ruled that the Americans with Disabilities Act (ADA) prohibits the unjustified segregation of persons with disabilities in institutional settings where necessary services could reasonably be provided in integrated, community-based settings. An integrated setting is one that enables individuals with disabilities to live and interact with individuals without disabilities to the fullest extent possible. By contrast, a segregated setting includes congregate settings populated exclusively or primarily by individuals with disabilities. Although *Olmstead* did not interpret the Fair Housing Act, the objectives of the Fair Housing Act and the ADA, as interpreted in *Olmstead*, are consistent. The Fair Housing Act ensures that persons with disabilities have an equal opportunity to choose the housing where they wish to live. The ADA and *Olmstead* ensure that persons with disabilities also have the option to live and receive services in the most integrated setting appropriate to their needs. The integration mandate of the ADA and *Olmstead* can be implemented without impairing the rights protected by the Fair Housing Act. For example, state and local governments that provide or fund housing, health care, or support services must comply with the integration mandate by providing these programs, services, and activities in the most integrated setting appropriate to the needs of individuals with disabilities. State and local governments may comply with this requirement by adopting standards for the housing, health care, or support services they provide or fund that are reasonable, individualized, and specifically tailored to enable individuals with disabilities to live and interact with individuals without disabilities to the fullest extent possible. Local governments should be aware that ordinances and policies that impose additional restrictions on housing or residential services for persons with disabilities that are not imposed on housing or

[9] Laws that limit the number of occupants per unit do not violate the Act as long as they are reasonable, are applied to all occupants, and do not operate to discriminate on the basis of disability, familial status, or other characteristics protected by the Act.

[10] 527 U.S. 581 (1999).

residential services for persons without disabilities are likely to violate the Act. In addition, a locality would violate the Act and the integration mandate of the ADA and *Olmstead* if it required group homes to be concentrated in certain areas of the jurisdiction by, for example, restricting them from being located in other areas.

15. Can a state or local government impose spacing requirements on the location of group homes for persons with disabilities?

A "spacing" or "dispersal" requirement generally refers to a requirement that a group home for persons with disabilities must not be located within a specific distance of another group home. Sometimes a spacing requirement is designed so it applies only to group homes and sometimes a spacing requirement is framed more generally and applies to group homes and other types of uses such as boarding houses, student housing, or even certain types of businesses. In a community where a certain number of unrelated persons are permitted by local ordinance to reside together in a home, it would violate the Act for the local ordinance to impose a spacing requirement on group homes that do not exceed that permitted number of residents because the spacing requirement would be a condition imposed on persons with disabilities that is not imposed on persons without disabilities. In situations where a group home seeks a reasonable accommodation to exceed the number of unrelated persons who are permitted by local ordinance to reside together, the Fair Housing Act does not prevent state or local governments from taking into account concerns about the over-concentration of group homes that are located in close proximity to each other. Sometimes compliance with the integration mandate of the ADA and *Olmstead* requires government agencies responsible for licensing or providing housing for persons with disabilities to consider the location of other group homes when determining what housing will best meet the needs of the persons being served. Some courts, however, have found that spacing requirements violate the Fair Housing Act because they deny persons with disabilities an equal opportunity to choose where they will live. Because an across-the-board spacing requirement may discriminate against persons with disabilities in some residential areas, any standards that state or local governments adopt should evaluate the location of group homes for persons with disabilities on a case-by-case basis.

Where a jurisdiction has imposed a spacing requirement on the location of group homes for persons with disabilities, courts may analyze whether the requirement violates the Act under an intent, effects, or reasonable accommodation theory. In cases alleging intentional discrimination, courts look to a number of factors, including the effect of the requirement on housing for persons with disabilities; the jurisdiction's intent behind the spacing requirement; the existence, size, and location of group homes in a given area; and whether there are methods other than a spacing requirement for accomplishing the jurisdiction's stated purpose. A spacing requirement enacted with discriminatory intent, such as for the purpose of appeasing neighbors' stereotypical fears about living near persons with disabilities, violates the Act. Further, a neutral

spacing requirement that applies to all housing for groups of unrelated persons may have an unjustified discriminatory effect on persons with disabilities, thus violating the Act. Jurisdictions must also consider, in compliance with the Act, requests for reasonable accommodations to any spacing requirements.

16. Can a state or local government impose health and safety regulations on group home operators?

Operators of group homes for persons with disabilities are subject to applicable state and local regulations addressing health and safety concerns unless those regulations are inconsistent with the Fair Housing Act or other federal law. Licensing and other regulatory requirements that may apply to some group homes must also be consistent with the Fair Housing Act. Such regulations must not be based on stereotypes about persons with disabilities or specific types of disabilities. State or local zoning and land use ordinances may not, consistent with the Fair Housing Act, require individuals with disabilities to receive medical, support, or other services or supervision that they do not need or want as a condition for allowing a group home to operate. State and local governments' enforcement of neutral requirements regarding safety, licensing, and other regulatory requirements governing group homes do not violate the Fair Housing Act so long as the ordinances are enforced in a neutral manner, they do not specifically target group homes, and they do not have an unjustified discriminatory effect on persons with disabilities who wish to reside in group homes.

Governments must also consider requests for reasonable accommodations to licensing and regulatory requirements and procedures, and grant them where they may be necessary to afford individuals with disabilities an equal opportunity to use and enjoy a dwelling, as required by the Act.

17. Can a state or local government address suspected criminal activity or fraud and abuse at group homes for persons with disabilities?

The Fair Housing Act does not prevent state and local governments from taking nondiscriminatory action in response to criminal activity, insurance fraud, Medicaid fraud, neglect or abuse of residents, or other illegal conduct occurring at group homes, including reporting complaints to the appropriate state or federal regulatory agency. States and localities must ensure that actions to enforce criminal or other laws are not taken to target group homes and are applied equally, regardless of whether the residents of housing are persons with disabilities. For example, persons with disabilities residing in group homes are entitled to the same constitutional protections against unreasonable search and seizure as those without disabilities.

18. Does the Fair Housing Act permit a state or local government to implement strategies to integrate group homes for persons with disabilities in particular neighborhoods where they are not currently located?

Yes. Some strategies a state or local government could use to further the integration of group housing for persons with disabilities, consistent with the Act, include affirmative marketing or offering incentives. For example, jurisdictions may engage in affirmative marketing or offer variances to providers of housing for persons with disabilities to locate future homes in neighborhoods where group homes for persons with disabilities are not currently located. But jurisdictions may not offer incentives for a discriminatory purpose or that have an unjustified discriminatory effect because of a protected characteristic.

19. Can a local government consider the fears or prejudices of neighbors in deciding whether a group home can be located in a particular neighborhood?

In the same way a local government would violate the law if it rejected low-income housing in a community because of neighbors' fears that such housing would be occupied by racial minorities (see Q&A 5), a local government violates the law if it blocks a group home or denies a reasonable accommodation request because of neighbors' stereotypical fears or prejudices about persons with disabilities. This is so even if the individual government decision-makers themselves do not have biases against persons with disabilities.

Not all community opposition to requests by group homes is necessarily discriminatory. For example, when a group home seeks a reasonable accommodation to operate in an area and the area has limited on-street parking to serve existing residents, it is not a violation of the Fair Housing Act for neighbors and local government officials to raise concerns that the group home may create more demand for on-street parking than would a typical family and to ask the provider to respond. A valid unaddressed concern about inadequate parking facilities could justify denying the requested accommodation, if a similar dwelling that is not a group home or similarly situated use would ordinarily be denied a permit because of such parking concerns. If, however, the group home shows that the home will not create a need for more parking spaces than other dwellings or similarly-situated uses located nearby, or submits a plan to provide any needed off-street parking, then parking concerns would not support a decision to deny the home a permit.

Questions and Answers on the Fair Housing Act and Reasonable Accommodation Requests to Local Zoning and Land Use Laws

20. When does a state or local government violate the Fair Housing Act by failing to grant a request for a reasonable accommodation?

A state or local government violates the Fair Housing Act by failing to grant a reasonable accommodation request if (1) the persons requesting the accommodation or, in the case of a group home, persons residing in or expected to reside in the group home are persons with a disability under the Act; (2) the state or local government knows or should reasonably be expected to know of their disabilities; (3) an accommodation in the land use or zoning ordinance or other rules, policies, practices, or services of the state or locality was requested by or on behalf of persons with disabilities; (4) the requested accommodation may be necessary to afford one or more persons with a disability an equal opportunity to use and enjoy the dwelling; (5) the state or local government refused to grant, failed to act on, or unreasonably delayed the accommodation request; and (6) the state or local government cannot show that granting the accommodation would impose an undue financial and administrative burden on the local government or that it would fundamentally alter the local government's zoning scheme. A requested accommodation may be necessary if there is an identifiable relationship between the requested accommodation and the group home residents' disability. Further information is provided in Q&A 10 above and the HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act.

21. Can a local government deny a group home's request for a reasonable accommodation without violating the Fair Housing Act?

Yes, a local government may deny a group home's request for a reasonable accommodation if the request was not made by or on behalf of persons with disabilities (by, for example, the group home developer or operator) or if there is no disability-related need for the requested accommodation because there is no relationship between the requested accommodation and the disabilities of the residents or proposed residents.

In addition, a group home's request for a reasonable accommodation may be denied by a local government if providing the accommodation is not reasonable—in other words, if it would impose an undue financial and administrative burden on the local government or it would fundamentally alter the local government's zoning scheme. The determination of undue financial and administrative burden must be decided on a case-by-case basis involving various factors, such as the nature and extent of the administrative burden and the cost of the requested accommodation to the local government, the financial resources of the local government, and the benefits that the accommodation would provide to the persons with disabilities who will reside in the group home.

When a local government refuses an accommodation request because it would pose an undue financial and administrative burden, the local government should discuss with the requester whether there is an alternative accommodation that would effectively address the disability-related needs of the group home's residents without imposing an undue financial and administrative burden. This discussion is called an "interactive process." If an alternative accommodation would effectively meet the disability-related needs of the residents of the group home and is reasonable (that is, it would not impose an undue financial and administrative burden or fundamentally alter the local government's zoning scheme), the local government must grant the alternative accommodation. An interactive process in which the group home and the local government discuss the disability-related need for the requested accommodation and possible alternative accommodations is both required under the Act and helpful to all concerned, because it often results in an effective accommodation for the group home that does not pose an undue financial and administrative burden or fundamental alteration for the local government.

22. What is the procedure for requesting a reasonable accommodation?

The reasonable accommodation must actually be requested by or on behalf of the individuals with disabilities who reside or are expected to reside in the group home. When the request is made, it is not necessary for the specific individuals who would be expected to live in the group home to be identified. The Act does not require that a request be made in a particular manner or at a particular time. The group home does not need to mention the Fair Housing Act or use the words "reasonable accommodation" when making a reasonable accommodation request. The group home must, however, make the request in a manner that a reasonable person would understand to be a disability-related request for an exception, change, or adjustment to a rule, policy, practice, or service. When making a request for an exception, change, or adjustment to a local land use or zoning regulation or policy, the group home should explain what type of accommodation is being requested and, if the need for the accommodation is not readily apparent or known by the local government, explain the relationship between the accommodation and the disabilities of the group home residents.

A request for a reasonable accommodation can be made either orally or in writing. It is often helpful for both the group home and the local government if the reasonable accommodation request is made in writing. This will help prevent misunderstandings regarding what is being requested or whether or when the request was made.

Where a local land use or zoning code contains specific procedures for seeking a departure from the general rule, courts have decided that these procedures should ordinarily be followed. If no procedure is specified, or if the procedure is unreasonably burdensome or intrusive or involves significant delays, a request for a reasonable accommodation may,

nevertheless, be made in some other way, and a local government is obligated to grant it if the requested accommodation meets the criteria discussed in Q&A 20, above.

Whether or not the local land use or zoning code contains a specific procedure for requesting a reasonable accommodation or other exception to a zoning regulation, if local government officials have previously made statements or otherwise indicated that an application for a reasonable accommodation would not receive fair consideration, or if the procedure itself is discriminatory, then persons with disabilities living in a group home, and/or its operator, have the right to file a Fair Housing Act complaint in court to request an order for a reasonable accommodation to the local zoning regulations.

23. Does the Fair Housing Act require local governments to adopt formal reasonable accommodation procedures?

The Act does not require a local government to adopt formal procedures for processing requests for reasonable accommodations to local land use or zoning codes. DOJ and HUD nevertheless strongly encourage local governments to adopt formal procedures for identifying and processing reasonable accommodation requests and provide training for government officials and staff as to application of the procedures. Procedures for reviewing and acting on reasonable accommodation requests will help state and local governments meet their obligations under the Act to respond to reasonable accommodation requests and implement reasonable accommodations promptly. Local governments are also encouraged to ensure that the procedures to request a reasonable accommodation or other exception to local zoning regulations are well known throughout the community by, for example, posting them at a readily accessible location and in a digital format accessible to persons with disabilities on the government's website. If a jurisdiction chooses to adopt formal procedures for reasonable accommodation requests, the procedures cannot be onerous or require information beyond what is necessary to show that the individual has a disability and that the requested accommodation is related to that disability. For example, in most cases, an individual's medical record or detailed information about the nature of a person's disability is not necessary for this inquiry. In addition, officials and staff must be aware that any procedures for requesting a reasonable accommodation must also be flexible to accommodate the needs of the individual making a request, including accepting and considering requests that are not made through the official procedure. The adoption of a reasonable accommodation procedure, however, will not cure a zoning ordinance that treats group homes differently than other residential housing with the same number of unrelated persons.

24. What if a local government fails to act promptly on a reasonable accommodation request?

A local government has an obligation to provide prompt responses to reasonable accommodation requests, whether or not a formal reasonable accommodation procedure exists. A local government's undue delay in responding to a reasonable accommodation request may be deemed a failure to provide a reasonable accommodation.

25. Can a local government enforce its zoning code against a group home that violates the zoning code but has not requested a reasonable accommodation?

The Fair Housing Act does not prohibit a local government from enforcing its zoning code against a group home that has violated the local zoning code, as long as that code is not discriminatory or enforced in a discriminatory manner. If, however, the group home requests a reasonable accommodation when faced with enforcement by the locality, the locality still must consider the reasonable accommodation request. A request for a reasonable accommodation may be made at any time, so at that point, the local government must consider whether there is a relationship between the disabilities of the residents of the group home and the need for the requested accommodation. If so, the locality must grant the requested accommodation unless doing so would pose a fundamental alteration to the local government's zoning scheme or an undue financial and administrative burden to the local government.

Questions and Answers on Fair Housing Act Enforcement of Complaints Involving Land Use and Zoning

26. How are Fair Housing Act complaints involving state and local land use laws and practices handled by HUD and DOJ?

The Act gives HUD the power to receive, investigate, and conciliate complaints of discrimination, including complaints that a state or local government has discriminated in exercising its land use and zoning powers. HUD may not issue a charge of discrimination pertaining to "the legality of any State or local zoning or other land use law or ordinance." Rather, after investigating, HUD refers matters it believes may be meritorious to DOJ, which, in its discretion, may decide to bring suit against the state or locality within 18 months after the practice at issue occurred or terminated. DOJ may also bring suit by exercising its authority to initiate litigation alleging a pattern or practice of discrimination or a denial of rights to a group of persons which raises an issue of general public importance.

If HUD determines that there is no reasonable cause to believe that there may be a violation, it will close an investigation without referring the matter to DOJ. But a HUD or DOJ

decision not to proceed with a land use or zoning matter does not foreclose private plaintiffs from pursuing a claim.

Litigation can be an expensive, time-consuming, and uncertain process for all parties. HUD and DOJ encourage parties to land use disputes to explore reasonable alternatives to litigation, including alternative dispute resolution procedures, like mediation or conciliation of the HUD complaint. HUD attempts to conciliate all complaints under the Act that it receives, including those involving land use or zoning laws. In addition, it is DOJ's policy to offer prospective state or local governments the opportunity to engage in pre-suit settlement negotiations, except in the most unusual circumstances.

27. How can I find more information?

For more information on reasonable accommodations and reasonable modifications under the Fair Housing Act:

- HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act, *available at* https://www.justice.gov/crt/fair-housing-policy-statements-and-guidance-0 or http://www.hud.gov/offices/fheo/library/huddojstatement.pdf.

- HUD/DOJ Joint Statement on Reasonable Modifications under the Fair Housing Act, *available at* https://www.justice.gov/crt/fair-housing-policy-statements-and-guidance-0 or http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf.

For more information on state and local governments' obligations under Section 504:

- HUD website at http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504.

For more information on state and local governments' obligations under the ADA and *Olmstead*:

- U.S. Department of Justice website, www.ADA.gov, or call the ADA information line at (800) 514-0301 (voice) or (800) 514-0383 (TTY).
- Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead v. L.C.*, *available at* http://www.ada.gov./olmstead/q&a_olmstead.htm.
- Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of *Olmstead*, *available at* http://portal.hud.gov/hudportal/documents/huddoc?id=OlmsteadGuidnc060413.pdf.

For more information on the requirement to affirmatively further fair housing:

- Affirmatively Furthering Fair Housing, 80 Fed. Reg. 42,272 (July 16, 2015) (to be codified at 24 C.F.R. pts. 5, 91, 92, 570, 574, 576, and 903).
- U.S. Department of Housing and Urban Development, Version 1, Affirmatively Furthering Fair Housing Rule Guidebook (2015), *available at* https://www.hudexchange.info/resources/documents/AFFH-Rule-Guidebook.pdf.
- Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Vol. 1, Fair Housing Planning Guide (1996), *available at* http://www.hud.gov/offices/fheo/images/fhpg.pdf.

For more information on nuisance and crime-free ordinances:

- Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services (Sept. 13, 2016), *available at* http://portal.hud.gov/hudportal/documents/huddoc?id=FinalNuisanceOrdGdnce.pdf.

CITY OF COLUMBIA, MISSOURI

Disabilities Commission

November 18, 2016

To: Planning and Zoning Commission
From: Columbia Disabilities Commission

Re: Group Homes & Zoning Ordinances

Dear Planning & Zoning Commission:

The Columbia Disabilities Commission has recently reviewed and discussed the City's Zoning Code with respect to group homes for people with disabilities. Tim Teddy, Director of Community Development, provided more information and answered a lot of our questions when he spoke at our meeting on Tuesday, October 13, 2016.

The Disabilities Commission has three (3) concerns with the current zoning ordinances that we wish to call to your attention while you are in the process of making changes. The concerns listed below have a personal impact on people with disabilities, local service agencies, and all people interested in continuing to improve the accessibility of Columbia. We are hopeful that a solution exists to these concerns and are happy to provide additional information as needed.

1. Definition of "Group Home for mentally or physically handicapped"

The current definition for group homes is "any home in which eight (8) or fewer mentally or physically handicapped persons reside" according to City Code § 29-2. We believe this definition to be too broad and could be interpreted to require all people with disabilities to register a personal residence as a group home. This issue was brought to the attention of a member of the Disabilities Commission after a state official mistakenly told her that her agency needed to register an independent residential living home with the City, when in fact it was just a single person with a disability living in a home.

One suggested solution is to change the definition for group homes to the following (or something similar thereto):

> "*Group home for people with disabilities*. Any home in which four (4) to eight (8) persons with mental or physical disabilities reside, and may include two (2) additional persons acting as houseparents or guardians who need not be related to each other or to any of the persons with mental or physical disabilities residing in the home."

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Phone: (573) 817-5024 ◆ Fax: (573) 442-8828 ◆ E-Mail: DisabilityServices@CoMo.gov
Web Page: www.CoMo.gov

2. 1,000 ft minimum distance requirement for group homes for people with disabilities

City Code § 29-6(b) prohibits group homes for people with disabilities to be within 1,000 foot radius of another such group home. The purpose behind this requirement is to promote integration of such homes throughout the community and to avoid oversaturation of group homes. These are important goals for any fair housing issue, however the fixed minimum distance requirement can also have the effect of limiting housing opportunities in areas where it may be entirely reasonable to have a group home. The Disabilities Commission requests that we get rid of this 1,000 foot minimum distance requirement, and instead adopt something more flexible where the City can make exceptions and evaluate the proposed locations on a case-by-case basis.

Enclosed with this letter is recent guidance in a joint statement from the Department of Housing and Urban Development (HUD) and the Department of Justice (DOJ) on state and local land use laws, published November 10, 2016. The Disabilities' Commission's concern is consistent with HUD and DOJ's position on fixed minimum distance requirements for group homes, as stated in their joint statement:

> "Because an across-the-board spacing requirement may discriminate against persons with disabilities in some residential areas, any standards that state or local governments adopt should evaluate the location of group homes for persons with disabilities on a case-by-case basis." See HUD DOJ Joint Statement on State and Local Land Use, Question 15, P. 12 (November 2016).

3. Antiquated Language

Some of the language in the City's zoning code is antiquated and should be removed. In particular, the words "retarded" and "handicapped". The Disabilities Commission feels that these words are not appropriate to be used in the City's laws to describe people in our community with disabilities, and requests that they be replaced. One suggested solution would be to **change** "Group care home for mentally retarded children" to "Group care home for children with intellectual or developmental disabilities" and to **change** "Group home for mentally or physically handicapped" to "Group home for people with disabilities" or "Group home for people with mental or physical disabilities".

The Commission is happy to discuss these concerns at any time.

Respectfully Submitted,

Julie Walden, Vice-Chair
Columbia Disabilities Commission

Encl: Joint Statement of HUD and DoJ: State and Local Land Use

From: The Downtown Leadership Council (DLC)

To: The Planning & Zoning Commission

Date: October 12, 2016

Re: Draft of the Unified Development Code/Ordinance (UDO)

Dear Members of the Commission:

The Downtown Leadership Council discussed the public hearing draft of the Unified Development Ordinance (UDO), and want to commend the City staff and the Planning & Zoning Commission on your incredibly hard work, and to register our strong support for the adoption of the new Code.

The DLC has focused on two issues we believe need to be addressed:

First, we believe the Urban Storefront overlay should be vastly increased from its current narrow scope. While we did not vote on specific streets to include, we did discuss including Walnut, Cherry, Eighth and Tenth streets, at least.

Secondly, we've discussed at length the ongoing and increasing parking problem downtown. The DLC recommends the parking ration be increased in the M-DT from the current ratio of just one parking spot for every four beds. In addition to increasing the parking requirements, we also strongly recommend the City adopt a comprehensive regulatory enforcement for downtown and the surrounding neighborhoods.

Thank you for your consideration, and for your continued hard work.

Yours very truly,

Scott A. Wilson
DLC Chair

1 December 2016

Historic Preservation Commission
City of Columbia, MO
Patrick Earney, Chair

Planning and Zoning Commission
City of Columbia, MO
Mr. Rusty Strodtman, Chair

Dear Mr. Strodtman and the commissioners of Planning and Zoning,

The Historic Preservation Commission has reviewed the proposed Unified Development Code as currently drafted, including the public comments and related discussion by your commission and others. We respectfully offer the following suggestions and comments to help ensure that the new code better reflects and supports the goals for preservation that our commission is enabled to strive to maintain.

UC and HP Overlay Districts

The Historic Preservation Commission is aware that some members of the community have expressed a desire to alter sections 29-2.3(a) and 29-2.3(c)(5) of the proposed Unified Development Code regarding the establishment of urban conservation and historic preservation overlay districts.

Currently, Section 29.21.1(d)(2)b.1. of the City Code of Ordinances specifies that 50% or more of the property owners within a proposed district may petition to initiate a proposal for designation of an Urban Conservation overlay district. Section 29.21.1(d)(2)a. also allows that the City Council may initiate the proposal for designation independently of the property owners. Section 29-2.3(a) of the proposed Unified Development Code currently does not change either of these requirements.

Section 29-21.4(e)(1) of the City Code of Ordinances (29-2.3(c)(5) of the proposed Unified Development Code) specifies – similarly – a threshold of 60% of the parcel owners within a proposed district shall sign a petition for designation of an historic preservation overlay district.

Some residents have proposed increasing the thresholds for a petition to propose an overlay or historic preservation district. The Historic Preservation Commission believes that the current requirements are sufficiently stringent to allow neighborhoods to successfully petition, while also preventing frivolous proposals from being submitted to the Planning and Zoning Commission for review.

As the ordinance clearly designates, submission of a proposal for an urban conservation or historic preservation overlay district does not guarantee the establishment of the same. The Planning and Zoning Commission must hold a public hearing on the proposed ordinance revision and make a recommendation to the City Council who then ultimately determines the fate of the proposed district.

If the threshold required to submit an application were increased, this would serve only to limit the property owners within a district from expressing their desire to protect the historic character of their neighborhood. It would not change the process by which their application would be reviewed, vetted, and ultimately approved or denied.

Because increasing the threshold would only create an additional barrier to the process for submitting an application, while not affecting the process to designate at all, the Historic Preservation Commission believes that it would only serve to stifle the voice of neighborhoods and provide an unnecessary additional barrier to attempts to establish urban conservation or historic preservation overlay districts. We thus, respectfully, request that the Planning and Zoning Commission not alter sections 29.2.3(a) and 29-2.3(c)(5) of the proposed Unified Development Code from its current form.

M-DT Regulating Plan – Urban Storefront

The proposed Unified Development Code section 29-4.2: M-DT Form-Based zoning designation includes a designation for Urban Storefront which – among other things – prohibits residential uses at the street. Based on the currently proposed expanded permissible uses (§29-4.2(1)(i)) to properties designated as Urban Storefront including law offices, insurance sales, etc, the HPC has reviewed the current and potential use of buildings downtown, and we propose increasing the regions designated as Urban Storefront. The properties that we feel meet the intent of the designation and have the appropriate street character are listed in the included attachment.

We have expanded the region to reflect all properties that currently meet the requirements of the designation, thus no further restrictions will be placed on the owners of those properties. We believe that expanding the region as we have suggested will ensure that the current character of these downtown urban storefront areas is maintained. The urban storefront character is attractive and beneficial to the community by encouraging pedestrian traffic that promotes commerce downtown and ensures that our downtown remains vibrant and active.

We will have a representative at the next scheduled public PZC meeting to discuss this, but please feel free to contact us via Rusty Palmer (rusty.palmer@como.gov) if you have any questions in the meantime.

Sincerely,



T. Patrick Earney, Chair
On behalf of the City of Columbia Historic Preservation Commission

T. Patrick Earney - chair
Mark Wahrenbrock – vice chair
Robert Tucker
Paul Prevo
Mary Kaye Doyle
Pat Fowler
DeAnna Walkenbach

Proposed Urban Store Front
North-South Streets

5th Street from Walnut (Tony's Pizza 17 N 5th St) to Cherry Street on both sides; West side from Cherry to Locust (Callahan & Galloway, Inc Property Management 415 Locust)

6th Street from Walnut (Police Station 600 E Walnut) to Cherry (FedEx Kinkos 25 S 6th St)

7th Street from Law Office (Holder Susan Slusher Oxenhandler, LLC 107 N 7th St) to Locust Street)

8th Street from Elm Street to Walnut, and from Ash Street to Park Ave)

9th Street from E Ash Street to Domino's Pizza (416 S 9th St) University Ave/East side of street – per UDO M-DT map page 180 of September Public Hearing Draft)

10th Street from Focus on Learning & Dancearts of Columbia (110 North 10Th Street) to Elm Street

Hitt Street from Broadway to Locust, Hitt Mini Mart (111 Hitt St)

East-West Streets

Cherry Street from 5th Street to 10th Street

Broadway from Ice House, Poe Golf (2 S 4th Street) to My Sister's Circus (1110E E Broadway) on the south side of Broadway and from Rother Physical Therapy (411 E Broadway) to Papa John's Pizza (1205 E Broadway) on the north side of Broadway

Walnut Street from 5th Street, Tony's Pizza (17 N 5th St) to Perlow-Stevens Gallery & Studio Home (1037 E Walnut) on the north side of Walnut; and to Short Street on the south side of Walnut

Ash Street from 9th Street Hines Law Firm (901 E Ash Street) to 10th Street Wolf's Head Tavern (915 E Ash

Revised Parking and Traffic Management Taskforce Recommendations Concerning M-DT Parking Requirements in the Unified Development Code

Per additional discussion at the October 26th Parking and Traffic Management Taskforce meeting, the Taskforce wishes to submit the below revised recommendations concerning the M-DT residential parking requirements in the UDC:

Residential development and redevelopment in the M-DT district shall provide one-quarter (.25) parking space per bedroom.

In addition, the taskforce recommends that the one-quarter (.25) parking space per bedroom requirement be reviewed periodically as conditions continue to evolve and as we increase our understanding of parking supply and demand.

The Taskforce also voted to revise the additional recommendation to prohibit new residential developments from meeting their required parking off-site through the provision of publicly funded parking spaces (i.e., in City garages or lots). The taskforce acknowledges that new residential development has impacted the parking supply in the Downtown, and plans to pursue policies to better manage the varied uses related to long-term parking leases. The revised policy recommendation will be submitted to the City Council at a later date.

In addition, the taskforce has revised its recommendation concerning the provision of on-site accessible parking spaces to better fit into the current regulation of accessible parking spaces, per the International Building Code, which staff uses to regulate building and development. Accessible parking space requirements are based on the number of total parking spaces that are required by the UDC. A table showing the accessible parking space requirement is attached. The revised recommendation is as follows:

All accessible parking spaces that are required by the City's current adopted Building Code shall be built on-site. All other parking requirements can be satisfied on-site or within one-quarter (.25) mile of the site.

The Taskforce also considered the option of allowing new residential development in M-DT to pay a fee-in-lieu of building new or leasing existing parking spaces to meet their parking requirements. After consideration, the Taskforce determined that additional information and consideration was required prior to offering a recommendation for or against a fee-in-lieu provision. The principal objective of additional information was to better understand the current supply of parking spaces, and to develop an objective

1106.4. Where more than one parking facility is provided on a *site*, the number of parking spaces required to be *accessible* shall be calculated separately for each parking facility.

Exception: This section does not apply to parking spaces used exclusively for buses, trucks, other delivery vehicles, law enforcement vehicles or vehicular impound and motor pools where lots accessed by the public are provided with an *accessible* passenger loading zone.

TABLE 1106.1
ACCESSIBLE PARKING SPACES

TOTAL PARKING SPACES PROVIDED IN PARKING FACILITIES	REQUIRED MINIMUM NUMBER OF ACCESSIBLE SPACES
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20, plus one for each 100, or fraction thereof, over 1,000

1106.2 Groups I-1, R-1, R-2, R-3 and R-4. *Accessible* parking spaces shall be provided in Group I-1, R-1, R-2, R-3 and R-4 occupancies in accordance with Items 1 through 4 as applicable.

1. In Group R-2, R-3 and R-4 occupancies that are required to have *Accessible*, *Type A* or *Type B dwelling units* or *sleeping units*, at least 2 percent, but not less than one, of each type of parking space provided shall be *accessible*.
2. In Group I-1 and R-1 occupancies, *accessible* parking shall be provided in accordance with Table 1106.1.
3. Where at least one parking space is provided for each *dwelling unit* or *sleeping unit*, at least one *accessible* parking space shall be provided for each *Accessible* and *Type A unit*.
4. Where parking is provided within or beneath a building, *accessible* parking spaces shall also be provided within or beneath the building.

1106.3 Hospital outpatient facilities. At least 10 percent, but not less than one, of care recipient and visitor parking spaces provided to serve hospital outpatient facilities shall be *accessible*.

1106.4 Rehabilitation facilities and outpatient physical therapy facilities. At least 20 percent, but not less than one, of the portion of care recipient and visitor parking spaces serving rehabilitation facilities specializing in treating conditions that affect mobility and outpatient physical therapy facilities shall be *accessible*.

1106.5 Van spaces. For every six or fraction of six accessible parking spaces, at least one shall be a van-accessible parking space.

Exception: In Group R-2 and R-3 occupancies, vehicular accessible spaces located within private garages shall be permitted to have vehicular routes, entrances, parking spaces and access aisles with a minimum vertical clearance of 7 feet (2134 mm).

1106.6 Location. *Accessible* parking spaces shall be located on the shortest *accessible route* of travel from adjacent parking to an *accessible* building entrance. In parking facilities that do not serve a particular building, *accessible* parking spaces shall be located on the shortest route to an *accessible* pedestrian entrance to the parking facility. Where buildings have multiple *accessible* entrances with adjacent parking, *accessible* parking spaces shall be dispersed and located near the *accessible* entrances.

Exceptions:

1. In multilevel parking structures, van-accessible parking spaces are permitted on one level.
2. *Accessible* parking spaces shall be permitted to be located in different parking facilities if substantially equivalent or greater accessibility is provided in terms of distance from an *accessible* entrance or entrances, parking fee and user convenience.

1106.7 Passenger loading zones. Passenger loading zones shall be *accessible*.

1106.7.1 Continuous loading zones. Where passenger loading zones are provided, one passenger loading zone in every continuous 100 linear feet (30.4 m) maximum of loading zone space shall be *accessible*.

1106.7.2 Medical facilities. A passenger loading zone shall be provided at an *accessible* entrance to licensed medical and long-term care facilities where people receive physical or medical treatment or care and where the period of stay exceeds 24 hours.

1106.7.3 Valet parking. A passenger loading zone shall be provided at valet parking services.

1106.7.4 Mechanical access parking garages. Mechanical access parking garages shall provide at least one passenger loading zone at vehicle drop-off and vehicle pick-up areas.

SECTION 1107
DWELLING UNITS AND SLEEPING UNITS

1107.1 General. In addition to the other requirements of this chapter, occupancies having *dwelling units* or *sleeping units* shall be provided with *accessible* features in accordance with this section.

1107.2 Design. *Dwelling units* and *sleeping units* that are required to be *Accessible units*, *Type A units* and *Type B units* shall comply with the applicable portions of Chapter 10 of ICC A117.1. Units required to be *Type A units* are permitted to be designed and constructed as *Accessible units*. Units

Patrick Zenner <patrick.zenner@como.gov>

FW: tree ordinance

Ann Koenig <Ann.Koenig@mdc.mo.gov> Thu, Oct 20, 2016 at 11:38 AM
To: "patrick.zenner@como.gov" <patrick.zenner@como.gov>
Cc: "Chad Herwald (chad.herwald@como.gov)" <chad.herwald@como.gov>, "Jbehounek@davey.com" <Jbehounek@davey.com>

Hi, Pat. Great to have you at the Columbia Tree Task Force meeting this week. That was very helpful and I appreciate you taking the time, in what much be an unbelievably busy week, to meet with us.

I have been looking at the draft unified code and comparing it to the revisions the Tree Task Force voted on and submitted through Chad back when the Tree Task Force first sent our revisions to the city. Mostly our revisions are included. Fantastic job and I appreciate your attention to detail.

There are a couple revisions see that aren't in the draft unified code that look to have been simple errors in omission. These are not major changes but the Tree Task Force is on the record as including them so I bring them to your attention to add to the draft unified code. They are as follows:

PAGE 262: under d. item (iii) our revision included excluding **utility easements** as well as stream buffers in the 25% of climax forest to be preserved. (You might also want to mention utility easements on PAGE 264 under d. as well)

PAGE 272: under (2) Landscape Buffer and Design (iii) c. the Tree Task Force revised the first 25% to increase to 50%. *So, it should read Shrubs and flowering plants that cover a minimum of fifty **(50%) percent** of the remaining area . . .*

PAGE 275: under (2) Credit for Preserving Existing Mature/Significant Trees: The Tree Task Force included the following sentence as the end of this section (just before Table 4.5-5) **Trees contained in an existing or purposed utility or other easement cannot be credited towards a required tree preservation, screening and landscaping requirements.**

PAGE 276: under Significant Trees (i) the Tree Task Force also listed **utility easements** in the last sentence for areas that the 25% of saved significant tree could not be located in.

PAGE 276 under Significant Trees (ii) a. the Tree Task Force revisions included defining the trees to be replaced as 3 **Large to Medium** deciduous trees.

That's it, Pat. The Tree Task Force would appreciate if the city would make these revisions available to Planning and Zoning so that all our revisions are included tonight. If you have any questions or concerns at all, I am available by email or you can call my cell phone at 573-356-2708.

Ann Koenig

Missouri Department of Conservation

