

March 16, 2021

Egg Harbor City Land Use Board
500 London Ave
Egg Harbor City, New Jersey 08215

Memorandum to the Egg Harbor City Land Use Board

**Review and Recommendation for
Cooperative Sober Living Facility Land Use Regulations**

The City of Egg Harbor has recently observed a significant increase in interest from developers in the establishment of Cooperative Sober Living Residences (CSLR) facilities within the City. In response to this recent increase in interest, the City believes it is their responsibility to develop applicable regulations and require appropriate development patterns for these facilities. While there do not appear to be many these facilities in the City currently, the best time to establish land use regulations is prior to the development of potentially negative patterns. Once negative development patterns of any kind emerge, they are very difficult to correct retroactively. The City believes that this makes the current time the right moment to research, develop, and adopt regulations to ensure appropriate development patterns.

The City recognizes that there is a growing need for CSLR and other community-based rehabilitation facilities. These facilities provide a unique and potentially beneficial treatment option for the populations they serve. The City also recognizes that inappropriate development patterns and densities of these facilities can have a detrimental impact on the facility's residents and the surrounding community. The City's goal is to develop and implement land use regulations which will ensure that the development patterns of these facilities maximize the benefits for facility residents and minimize the impact to the surrounding neighborhoods.

When starting to investigate this topic, the City reached out to the New Jersey Department of Community Affairs (NJDCA) to seek guidance on the types of facilities that could be regulated and inquire if a model ordinance was available. NJDCA provided a report prepared for the City of Woodbury and an ordinance to effectuate the recommendations of the report. The report is unsigned but is titled "Community Residences Report & Recommendations" and was prepared by Group Melvin Design. It is a thorough literature review of the topic which cites over 50 sources to bolster the arguments made and facts presented in the report. This memorandum relies on findings and conclusions from that report without revisiting the extensive literature review.

Egg Harbor City finds itself, much like the City of Woodbury, with an aging housing stock of large single-family homes. Depressed property values and large homes built with a relatively high number of bedrooms (relics from an era when the average family size was much larger than it is today) make for an attractive housing stock for CSLR facilities. The City also has bus and rail mass transit options combined with a walkable downtown. These are all resources that

make it easier for organizations to care for those in recovery who rely on walking and transit options for their transportation needs. Given these and other factors, it is anticipated that the number of these facilities in the City will increase going forward.

Taking the proactive approach of regulating CSLR type facilities starts with an understanding of what type of facilities can be regulated. Regulation of “oxford model” homes that establish and operate under the definition of a “family” in single-family zones is not something that the City has the authority to do. However, the facilities regulated by the New Jersey Department of Community Affairs as Class “F” Community Sober Living Residences do not meet the definition of a family and do not qualify as a single-family use. These facilities are not fully controlled by the residents and are managed and operated either as non-profit or for-profit businesses. These Class “F” Licensed facilities effectively operate as rooming or boarding houses and are regulated under the New Jersey Rooming and Boarding House Act of 1979. These facilities are, therefore, able to be regulated by the City as something other than a standard single-family residential use. While regulation of these facilities is permitted, the City must permit them in all residential zones and is required to take the least restrictive approach possible to effectuate the intended regulations. Given these parameters, the best approach to regulating CSLR facilities appears to be to treat them as a conditional use in all single-family residential zones.

Having established that CSLR facilities can be regulated as conditional uses by the City, the next critical step is to develop and adopt minimally restrictive regulations that seek to protect facility residents and neighboring communities from adverse conditions. A key element to the success of CSLR type facilities is immersion into an existing neighborhood and community. The success of these facilities relies on “normalization” for the residents. This is achieved by locating the facility in an established neighborhood. The CSLR phase of treatment relies on immersion into a community to reestablish sober living habits and encourage the resident to become part of a supportive community.

Given that the success of CSLR type facilities relies on the strength of the surrounding neighborhood, it can also be understood that concentrating these facilities in a small area is detrimental to their success and the surrounding neighborhood. To avoid the deleterious effects of clustered CSLR facilities, the establishment of a separation distance between facilities has become a common practice. This allows for the establishment of a facility in any residential zone but prevents more from concentrating around it. What has been the subject of much debate has been the appropriate spacing distance between facilities. While recommended distance varies by study, generally, allowing no more than 1 facility per City block seems to be the most consistently recommended approach.

For the City of Egg Harbor, the City’s traditional Avenue, Street, and Terrace layout with standard and consistent block lengths simplifies the determination of appropriate spacing distances. Each standard block in the City is 600’ long and is separated from the next block by a 48.33’ Street. Establishing a 600’ separation distance along Street and Terrace frontages would, therefore, ensure one facility would be permitted per block. For dwellings that face or have a secondary frontage along one of the city’s Streets, a minimum separation of 300’ along the Street block face would provide for separation of facilities by a shorter physical distance but at least two intersecting streets. In addition to those distances along any frontage block faces, 300’ separation should be required from any intersection which is within 300’ of another facility. This extra separation requirement would prevent placement of a second facility just around the

corner from another facility in the event that they do not share a common frontage. Adopting a conditional use standard that requires a 600' separation distance between CSLR facilities along Avenue and Terrace frontages, 300' separation distance along Street frontages, and 300' separation distance from any intersection that has another facility within 300' of it would provide the recommended separation without being arbitrary or overly restrictive.

In addition to separation from similar facilities, another separation distance regulation that was reviewed was separation from certain community facilities. Pursuant to the State of New Jersey's Drug-Free School Zone Act and subsequent guidance from various offices of the State, the City's Drug Free School Zone Map lists and depicts facilities that have been identified as special resources, particularly for children and adolescents, in the community. These facilities have been identified as being deserving of special protections from the presence of illicit substances. Given the elevated protections afforded to these facilities, a thorough review of the appropriateness of separation from them is consistent the goals of the Drug-Free School Zone Act.

A CSLR is, by definition, a facility that houses individuals who are recovering from drug and/or alcohol addiction. Studies have shown that the rate at which recovering individuals relapse within the first year after treatment is significantly higher than the rate of drug and alcohol abuse by the general population. This corresponds with the same timeframe during which recovering individuals would most likely be a resident at a CLSR facility. Evaluating this information with respect to the Drug-Free School Zone Map raises some concerns about the placement of CSLR facilities within the restricted areas.

If a CSLR resident has an elevated potential to relapse during their residency, it would be to their benefit to be located outside of areas that could cause major setbacks to their recovery. Drug-Free School Zone areas are designed with harsher penalties, such as a minimum 3-year prison sentence that would be a major setback to anyone in recovery. Instead of benefiting from treatment options and staying on the path to recovery, an individual apprehended in this area may be incarcerated and ineligible for parole for an extended period of time. It would stand to reason that the best locations for CSLR facilities would be outside of these areas unless there was a competing reason why proximity to such a facility would be beneficial to CSLR residents.

Given that the goal of any regulation of CSLR facilities should be to provide the minimum restriction necessary to achieve the desired goal, it was necessary to conduct an individual review of each facility type listed and depicted on the Drug-Free School Zone Map. This was done to determine whether separation from each facility type was in the best interest of both the City and future CSLR residents. There are three different types of facilities listed and depicted on the Drug-Free School Zone Map and they are afforded unequal levels of protection. Two facility types listed on the map are Public Park/Playground Recreation Sites and Public Buildings. Both of these facility types deserve protection from the presence of illicit drugs but they are not singularly focused resources for children in the same way that schools are. Many of these facilities offer resources and public services to adults and children alike. These are, therefore, assets to prospective CSLR facility residents and limiting proximity to them could unfairly limit access to the benefits these facilities offer.

In contrast to these types of public facilities, schools are singularly focused on providing resources for children in a highly regulated and safe environment. The larger perimeter afforded

to school properties on the Drug-Free School Zone Map is indicative of the importance of these facilities to the community's youth and adolescents. School facilities are uniquely child focused and should always offer a safe space for children in the community. Schools also generally do not offer services for adults so proximity to them does not present any specific value to the residents of a CSLR facility. It is, therefore, reasonable and justifiable to provide unique protection to school facilities and CSLR residents in the form of separation between the two. The most effective way to ensure this unique protection would be to maintain a 1000' buffer, consistent with the Drug-Free School Zone Map, between schools and CSLR facilities.

In summary, the following provisions are recommended to be considered for inclusion in the City's Land Use Ordinance:

1. Listing CSLR facilities with up to 10 residents as conditional uses in all residential zones.
 2. Requiring a minimum separation distance from any other existing or proposed CSLR facility in accordance with the following;
 - a. 600' along the frontage of any Avenue or Terrace
 - b. 300' along the frontage of any Street
 - c. 300' from any intersection which is within 300' of another facility
 3. Requiring a minimum separation of 1,000 feet from any school, in accordance with the most recent Drug-Free School Zone Map
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