



**CITY OF SAINT PAUL**  
*Christopher B. Coleman, Mayor*

*25 West Fourth Street  
Saint Paul, MN 55102*

*Telephone: 651-266-6700  
Facsimile: 651-228-3220*

**DATE:** February 18, 2016

**TO:** Comprehensive Planning Committee

**FROM:** Bill Dermody, City Planner

**RE:** Congregate Living Zoning Study – a review of proposed text amendment initiated by Planning Commission Resolution 12-55, amending the zoning code text regarding congregate living facilities (Sec. 60.207.F., 60.217.P., 61.503, 63.207, 65.132, 65.143, 65.150 – 65.191, 65.662, 65.922, 66.221, 66.321, 66.421, 66.521)

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## **ISSUE**

On August 24, 2012, Planning Commission passed Resolution 12-55, initiating a zoning study to consider amendments to the Zoning Code regarding congregate living facilities. A need was identified for clearer definitions, improved consistency in standards among different types of facilities, and more timelessly accurate reflections of associated state programs that frequently change. Questions regarding definitions and regulations for congregate living facilities have continued to arise through more recent zoning applications, including how to define uses that appear to fall under multiple definitions, how to address proximity to schools, and how to address traffic/parking.

## **BACKGROUND**

The congregate living portion of the Zoning Code was originally drafted in 1980 during a time widespread de-institutionalization of persons being treated for mental illness, mental handicaps, and substance abuse. The code received a major update in 1991, informed by a report from a 15-member task force that spent 11 months discussing and analyzing numerous additions and revisions. Additionally, sober houses were the subject of an in-depth, more focused, amendment in 2008. The subject zoning study is the first to address multiple types of congregate living in 24 years.

Due to the length and complexity of the background section, it is broken down into several subsections addressing the following questions:

- What are “Congregate Living Facilities”?
- Where are “Congregate Living Facilities”?
- What is the legal context for congregate living facilities regulation?
- How does the City Code currently regulate congregate living facilities?

### **What are “Congregate Living Facilities”?**

Congregate living facilities are a category of residential uses that generally do not fit within the definition of a “family” because of the number of unrelated residents. They are commonly recognized as important components of a healthy community that must be accommodated, but can have external impacts related to their size and outside services provided. The Saint Paul Zoning Code defines 18 categories of congregate living, including sober houses, rooming houses, nursing homes, dormitories, 3 types of community residential facilities, and others.

There is no complete inventory of all categories of congregate living in the city. The Department of Safety and Inspections (DSI) tracks certain categories in order to enforce separation requirements and maximum concentrations. Also, facilities information was recently obtained on a one time basis from the State of Minnesota Department of Human Services (DHS) for sites they license, though consistent future access to that data is not guaranteed. Other categories’ facilities can be discovered via the Internet. There is also the issue that many facilities could fit under multiple definitions. Overall, we have a partial understanding of what congregate living facilities are like in Saint Paul today. The following paragraphs summarize our understanding of the various congregate living facilities, as categorized by our Zoning Code.

#### *Foster home (Sec. 65.151) and Freestanding foster care home (Sec. 65.152)*

By Zoning Code definition, a “freestanding foster care home” involves a license-holder who does not live on-site. According to DHS data, there are 4 freestanding foster care homes in Saint Paul, including 2 single-family homes with 5 or fewer adult residents, 1 single-family home with 4 youth residents, and 1 duplex with 10 adult residents with Alzheimer’s disease (5 in each unit). There are also approximately 200 (not freestanding) foster care homes in Saint Paul, each with between 1 and 6 residents, mostly for youth but several for adults, and nearly all in single-family homes.

#### *Community residential facility, licensed human service (Sec. 65.153)*

There are 36 licensed human service community residential facilities in Saint Paul in a variety of settings, including converted single-family homes, apartment buildings, and converted convents. Seventeen (17) of the facilities have 6 or fewer residents, 13 have between 7 and 16 residents, and 6 have more (up to 64 residents). Below are representative photographs of these facilities.



*Community residential facility, licensed correctional (Sec. 65.154)*

There are 5 licensed correctional community residential facilities in Saint Paul, with capacities ranging from 26 (Re-Entry Metro) to 65 (Totem Town). The facilities' campus sizes vary widely with Totem Town at 71 acres, two facilities at approximately 1 acre (one in Downtown collocated in a government building), and two facilities at less than 7,000 square feet. The facilities on smaller campuses are in converted single-family homes.

*Community residential facility, health department licensed (Sec. 65.155)*

There are 8 health department licensed community residential facilities in Saint Paul. Four (4) of the facilities have 16 or fewer residents, 2 have between 17 and 32 residents, and 2 have more (up to 60 residents). The facilities provide services to mentally ill and/or chemically dependent populations in accordance with the Zoning Code definition, and several focus on homeless populations who are also mentally ill and/or chemically dependent. One of the 8 facilities also possesses a license from DHS. Below are photographs of all 8 facilities.



*Emergency housing facility (Sec. 65.156)*

There are 5 facilities in Saint Paul that provide emergency housing under this definition, including the Dorothy Day Center, 2 facilities that combine emergency housing with transitional housing (Naomi Family Shelter and Booth Brown House), and 2 smaller, 10-bed facilities for teenagers on Larpentour Avenue.

*Overnight shelter (Sec. 65.157)*

Only the Union Gospel Mission facility and the Catholic Charities Women's Shelter are currently categorized as overnight shelters.

*Shelter for battered persons (Sec. 65.158)*

There are 5 shelters for battered persons in Saint Paul with capacities ranging from 6 to 46 residents. Three (3) are in converted single-family homes, and 2 are in multi-family or institutional buildings. Photographs are not shown here in order to protect the occupants.

*Transitional housing facility (Sec. 65.159)*

There are 15 transitional housing facilities in Saint Paul, including 3 in converted single-family homes and the others in apartment buildings or a custom-built campus. Two (2) of the facilities have 6 or fewer residents, 9 have between 7 and 16 residents, and 4 have more (up to 39 residents). Transitional housing facilities, by Zoning Code definition, provide program activities to facilitate independent living – in practice, many of these programs are oriented to chemical dependency recovery and mental health. One program, notably, serves single mothers in poverty pursuing educational goals, none of whom necessarily have chemical dependence or mental health issues. Below are representative photographs of these facilities.



*Sober house (Sec. 65.160)*

There are 59 sober houses in Saint Paul, mostly located in converted single-family homes. In part due to clustering of sober houses in the Summit-University, Fort Road, and Union Park planning districts, a zoning study was launched in 2005 that created a definition and standards for sober houses to limit clustering and to abide by federal laws.

*Boardinghouse (Sec. 65.170) and Roominghouse (Sec. 65.171)*

These categories of congregate living facilities are generally not tracked. There was a notable conditional use permit granted in 2002 for a roominghouse with 71 units at 286 Marshall Avenue that had characteristics in common with a transitional housing facility, namely that it provided support services intended to facilitate independent living. However, its status as a roominghouse was confirmed through the conditional use permit approval process.

*Assisted living (Sec. 65.180), Boarding care home (Sec. 65.181), and Nursing home (Sec. 65.182)*

These categories are not tracked by the City, though they include large facilities like Cerenity and Sholom Home. The 3 categories are regulated the same by the Zoning Code. In modern

developments, assisted living is often co-located with “independent living”, i.e. apartments for seniors who do not (yet) need ongoing health care services.

*Hospice (Sec. 65.183)*

Hospices are not tracked by the City, but they include Our Lady of Peace on St. Anthony Avenue and Sholom Home (co-located with assisted living). See photographs below.

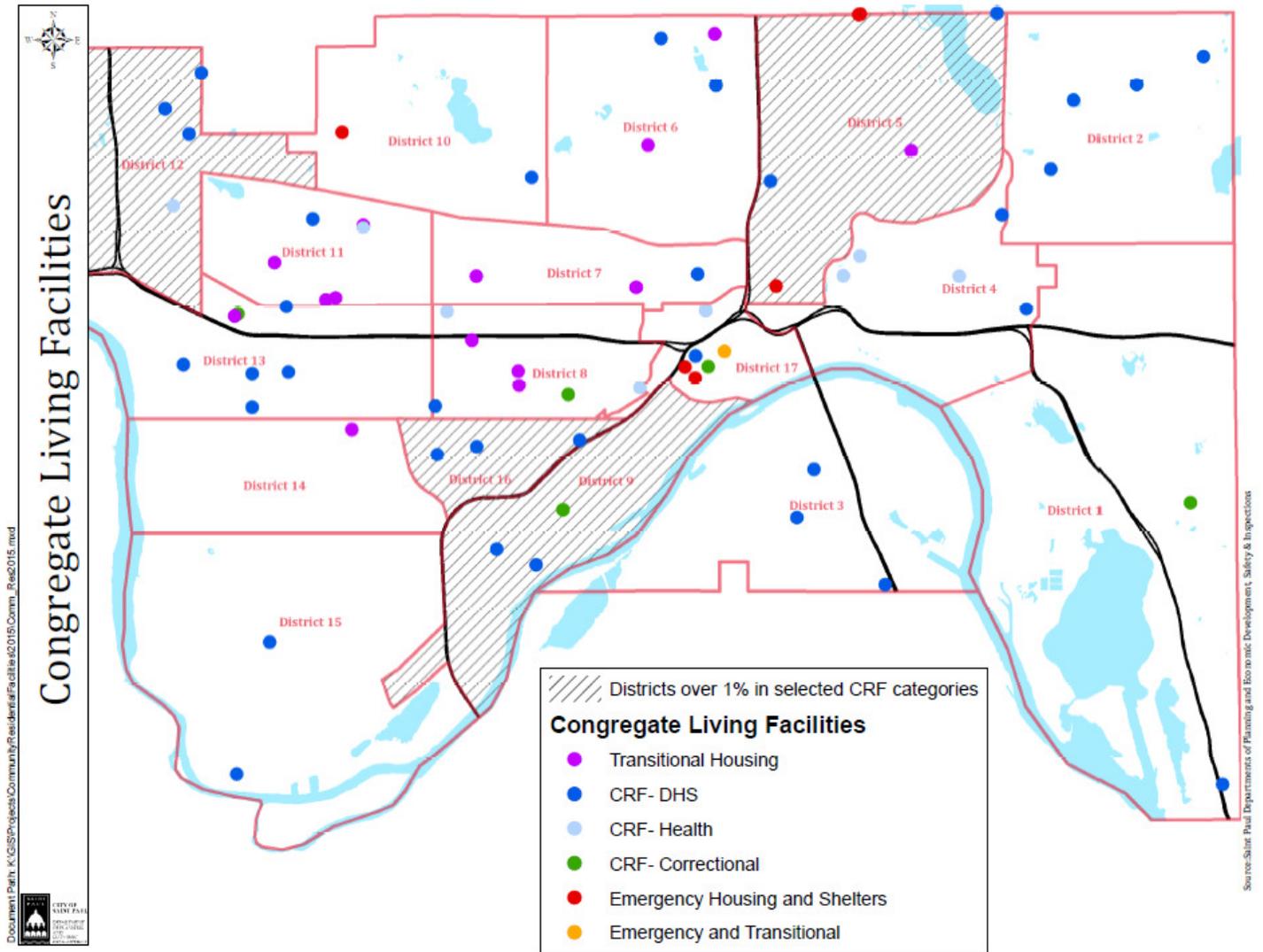


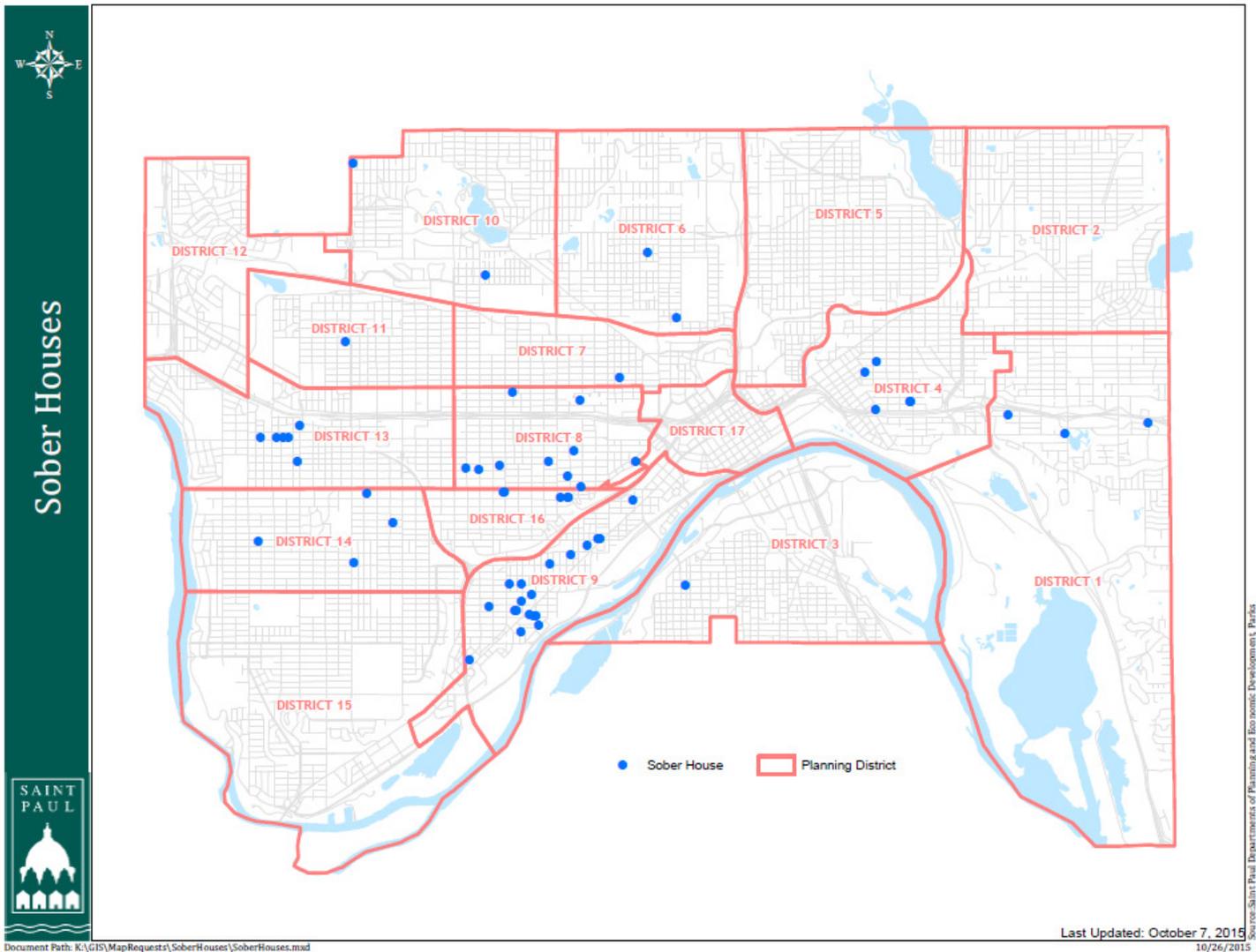
*Dormitory (Sec. 65.190) and Fraternity, sorority (Sec. 65.191)*

These categories are not tracked by the City.

**Where are Congregate Living Facilities?**

The City tracks certain categories of congregate living facilities in order to determine compliance with separation and concentration requirements in the Zoning Code. The following maps show the distribution of those facilities. Besides the information on the maps, there are 5 shelters for battered persons that are not shown for safety purposes, but can generally be described as being located in Districts 3, 4, 9, 10, and 16.





### **What is the legal context for congregate living facilities regulation?**

There are federal and state regulations that affect congregate living facilities and provide parameters for local regulation. A review of the most significant legal issues to this zoning study is below. Also, it is important to recognize that many congregate living facilities are licensed by the State of Minnesota Department of Human Services, the Department of Health, the Department of Corrections, or a combination of the three, and thereby must abide by those departments' regulations. If a facility were to become noncompliant with state regulations, the controlling department could require corrective action potentially including revocation of funding or the license itself.

#### **Federal Law**

The *Fair Housing Amendments Act* (1988) prohibits local land use regulation that discriminates against individuals on the basis of disability. Several categories of congregate living facilities in Saint Paul provide housing, or could provide housing, to disabled persons. A disability, or handicap, is defined as "a physical or mental impairment which substantially limits one or more of such person's major life activities," not including sex offenders, current illegal drug users,

people who have been convicted of illegal drug use/sale/manufacturing, or persons who present a direct threat to the persons or property of others. A local government must allow for “reasonable accommodations” to allow persons or groups of persons with disabilities an equal opportunity to enjoy and use housing. The City of Saint Paul allows for such “reasonable accommodations” via Sec. 60.110, as applied through review by DSI.

The *Americans with Disabilities Act* (1990, amended 2010) similarly prohibits discrimination by public entities on the basis of disability, which is defined as “a physical or mental impairment that substantially limits one or more of the major life activities of (an) individual; a record of such an impairment; or being regarded as having such an impairment.” Such impairment includes “mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities” and diseases or conditions such as “orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.”

#### Minnesota State Law

The Minnesota Revised Statutes address licensing and regulation of congregate living facilities via three departments: the Department of Corrections (DOC), the Department of Health (DOH), and the Department of Human Services (DHS). The most relevant state laws to our zoning study address local regulation of DHS facilities, as follows. Residential facilities licensed by DHS for six (6) or fewer persons are permitted in single-family housing, regardless of local restrictions based on the definition of “family,” excepting only facilities for juvenile sex offenders. (The Saint Paul Zoning Code defines four (4) or fewer unrelated persons living together as a “family”.) Residential facilities licensed for seven (7) to 16 persons are permitted in multi-family housing, though local governments are allowed to require a conditional use permit (CUP) that is no more restrictive than CUPs for other uses. DHS requires residential facilities to be separated by 1,320 feet from other such facilities under normal circumstances.

#### Court Case

*FamilyStyle v. City of Saint Paul* is a 1990 US Court of Appeals decision that affirmed our separation requirements for mentally ill group homes on the basis that they ensure patients will actually live in a community environment rather than one that recreates an institutional environment through clustering of facilities.

#### **How does the City Code currently regulate congregate living facilities?**

The Zoning Code currently contains 18 categories of congregate living as defined in Chapter 65, Division III: Congregate Living (Sec. 65.151-191). The table below summarizes in which districts the uses are permitted:



The Zoning Code definitions and standards establish separation requirements and maximum populations per planning district for certain categories of congregate living, as summarized in the table below. The table also notes which categories (as currently defined) are protected by the *FHAA*.

	<u>Separation Requirement</u>	<u>Subject to 1% Maximum<sup>1</sup></u>	<u>Count Toward 1% Maximum</u>	<u>Protected Class<sup>2</sup></u>
<b>Foster home</b>	No	No	No	No
<b>Freestanding foster home</b>	No	No	No	No
<b>CRF - human service</b>	Yes <sup>3</sup>	No	Yes	Yes
<b>CRF - correctional</b>	Yes <sup>3</sup>	Yes	Yes	No
<b>CRF - health department</b>	Yes <sup>3</sup>	Yes	Yes	Yes
<b>Emergency housing</b>	Yes <sup>3</sup>	Yes	Yes	No
<b>Overnight shelter</b>	Yes <sup>4</sup>	No	Yes	No
<b>Shelter for battered persons</b>	Yes <sup>5</sup>	Yes	Yes	No
<b>Transitional housing</b>	Yes <sup>6</sup>	Yes	Yes	No
<b>Sober house</b>	Yes <sup>7</sup>	No	No	Yes
<b>Boardinghouse</b>	No	No	No	No
<b>Roominghouse</b>	No	No	No	No
<b>Assisted living</b>	No	No	No	No
<b>Boarding care home</b>	No	No	No	No
<b>Nursing home</b>	No	No	No	No
<b>Hospice</b>	No	No	No	No

<sup>1</sup> Certain facilities' population in a planning district can be a maximum 1% of total district population.

<sup>2</sup> Those in a legally protected class can request "reasonable accommodations" to waive separation and 1% requirements. It is possible that other types of congregate living could also contain protected classes (e.g. an overnight shelter with high rates of mental illness). See Legal Context section above.

<sup>3</sup> 600' from certain other facilities in B4-B5, or 1,320' from such facilities in other districts

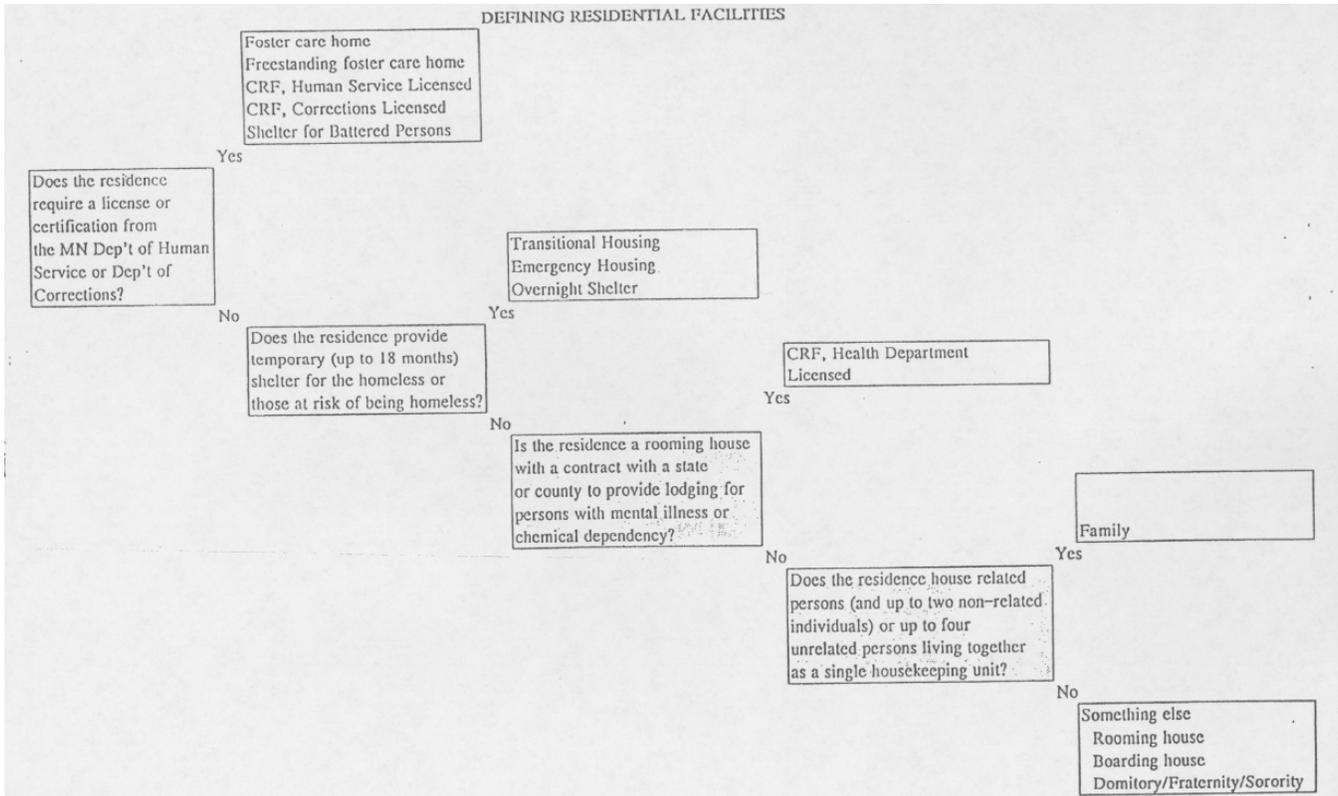
<sup>4</sup> 600' from certain other facilities in all districts

<sup>5</sup> 1,320' from certain other facilities in all districts

<sup>6</sup> 1,320' from certain other facilities in RL-RT2 districts

<sup>7</sup> 330' from other sober house properties

There is often uncertainty regarding which Zoning Code definition should apply to a proposed facility. The following decision tree came into use in about 2007, but is not formalized in the Zoning Code. It illustrates the complexity of the existing regulations.



**PROPOSED AMENDMENTS & ANALYSIS**

The full proposed amendments to the Zoning Code text and tables of permitted principal uses are among the memo attachments. A summary and analysis of the proposed amendments is below

Consolidate DHS CRFs, DOH CRFs, and Transitional Housing into a new definition: Supportive Housing Facility

These 3 existing categories primarily work with the same types of populations (often the same people with multiple problems) with the goal of re-entry into society, and in fact many existing sites could conceivably fall under more than one of these current definitions. Consolidation requires severing definitions tied to funding or licensing and instead focusing on what actually occurs at the facility. Separation requirements continue to be appropriate in order to ensure they are placed in normal neighborhood environments, and not placed in clusters that replicate an institutional environment (see *FamilyStyle v City of Saint Paul* court decision). DHS- and Health Department-Licensed Community Residential Facilities by definition serve handicapped clients under the *Fair Housing Amendments Act of 1988*, though Transitional Housing may or may not. The new category generally follows existing standards and districts for DHS-Licensed Community Residential Facilities, which represents looser regulations for Health Department-Licensed Facilities and Transitional Housing.

### Consolidate Assisted Living, Boarding Care Home, Nursing Home, and Hospice into Adult Care Home

Assisted Living, Boarding Care Home, and Nursing Home use the same standards and are allowed in the same districts. It appears the main reason to have separate definitions was to replicate State agency definitions. It is proposed to further consolidate these three (3) categories with Hospice, given the similar land use effects. The new category is proposed to be permitted mostly in the same zoning districts as the current category of Hospice, which is the least restricted of the four (4).

### Eliminate the 1% Maximum

The Zoning Code regulation limiting the population of certain categories of congregate living to 1% or less of the planning district's total population (the "1% maximum" clause) is intended to counter overconcentration, much like the spacing requirements (e.g. 1,320' or 600' between certain facilities). Notably, the regulation applies to only five (5) categories of congregate living, but uses seven (7) categories in calculating the 1% population. Particularly troublesome is that one of the most common categories of congregate living, DHS-licensed community residential facilities, contributes to the 1% but does not need to abide by it. The 1% maximum clause also has other drawbacks, including that it requires substantial staff time to track, does not account for barriers like highways or railroad tracks, and its application to planning district geographies is overall not as effective as numerical separation requirements in avoiding "institutional environments" and promoting integration into the community.

### Consolidate Foster Home and Freestanding Foster Home

Both categories are regulated the same except for parking, and there is no known reason to repeat the State definitions here. A Freestanding Foster Home requires 1.5 off-street parking spaces per 4 residents, while a Foster Home has no special requirement and is thus treated as its primary use (generally a one-family dwelling unit, which requires 1.5 spaces). In practice, the 4 existing Freestanding Foster Homes in Saint Paul would have the same parking requirement whether regulated under the current parking requirements, or simply as single-family or two-family dwellings (as applicable). Elimination of the explicit parking requirement for Freestanding Foster Home would have no effect if future facilities are similar in size to existing.

### Consolidate Roominghouse and Boardinghouse

Like the above issue, both Roominghouse and Boardinghouse are regulated the same, and there is no known reason to repeat the State definitions here.

### Reduce Minimum Lot Size Requirements

A minimum lot size should continue to be specified for congregate living uses in certain zoning districts in order to meet the intent of minimum lot size regulations, which for other residential uses are based on number of units, not number of residents or number of rooms. That is, for example, a congregate living facility has only 1 living unit according to the Zoning Code regardless of the number of residents, and therefore would have an excessively small minimum lot size if relying only on the district standards. However, the existing minimum lot size requirements (generally 5,000 square feet plus 1,000 square feet for each guest room in excess of 2 guest rooms) for certain categories of congregate living seem to exceed actual need. The proposed amendments bring congregate living lot size more in line with similar residential uses in residential and T1 zoning districts. Meanwhile, minimum lot sizes are proposed to be

eliminated for congregate living uses in zoning districts that do not regulate multi-family uses that way, but instead rely on floor-to-area ratio (F.A.R.) to control density: T2-T4, business, and industrial districts.

Eliminate Petition Requirement Under Reuse of Large Structures for “Handicapped” Users

Given: (1) the general City policy to accommodate facilities supporting the reintegration of mentally ill and former substance abusers into mainstream society; (2) the reliable neighbor opposition to “those people” who are perceived to be likely to harm a child walking to a nearby school, etc.; (3) the protections afforded to mentally ill and other handicapped by the *FHAA*; and (4) the plethora of large structures in need of productive reuse; it would seem to be a reasonable accommodation to allow uses serving mentally ill and other handicapped persons to avoid the petition requirement for reuse of large structures. The public hearing notification requirements would remain.

**PUBLIC HEARING TESTIMONY**

The Planning Commission held a public hearing on January 22, 2016 and left the record open for written comments through January 25, 2016. At the hearing, representatives from the Merriam Park Housing Mix Working Group delivered a presentation raising concerns with the concentration of sober houses in their neighborhood and the cumulative impact of residences other than single-family residences – such as sober houses, other congregate living, and student housing – on the neighborhood’s character. The Working Group’s recommendations include: change the sober house separation requirement from 330 to 1,320 feet; study sober houses’ neighborhood impact, using Merriam Park as a case study; register, track, and forecast all housing types; consider instituting licenses and fees to sustain tracking and oversight of sober houses; and institute a notification system for citizens when a sober house comes in. The Working Group provided two versions of their PowerPoint presentation: the version delivered at Planning Commission, and a follow-up revised version provided a couple days later.

The Union Park District Council (UPDC) provided a letter endorsing some of the Working Group’s recommendations, including that: all housing types be registered, tracked, and forecasted; a citizen notification system be instituted for incoming sober houses; and tax implications be studied and addressed. The UPDC did not endorse the Working Group’s recommendation that sober houses be added to the collection of congregate living facilities that must generally be separated by 1,320 feet.

People Incorporated, a congregate living provider specializing in mental health, provided a letter asking the Planning Commission to closely scrutinize, discuss, and disclose to the public the reasons for any of the differences in restrictions placed upon supportive housing facilities and adult care homes.

**ANALYSIS OF TESTIMONY**

The section below analyzes the main issues raised by public testimony.

1. Issue: Sober Houses should be separated from each other by 1,320 feet instead of the current regulation of 330 feet.

Response: Sober Houses are a litigiously sensitive land use that became regulated in

Saint Paul well after other categories of congregate living. Sober Houses were the subject of an intense public process and zoning study from 2005 to 2008, including City Council initiation in response to constituent concerns, public hearings, discussions with sober house operators, and four meetings of the Neighborhood Planning Committee to analyze the issues. Sober Houses are different than other congregate living facilities in two important ways: (1) Sober Houses, by Zoning Code definition, do not provide on-site supportive services to residents such as mental health or social services; and (2) as noted in the 2008 study, Sober Houses are generally intended to function like a single family, with shared kitchens, bathrooms, living rooms, and other common areas. Therefore, Sober Houses should not be treated the same as other Congregate Living Facilities. Also, testimony in 2008 indicated that “bona fide” Sober Houses were not causing negative neighborhood impacts, but rather these were caused by groups masquerading as Sober Houses in order to evade regulations – a problem addressed by the establishment of the Sober House zoning regulations. There is no evidence in the record that the nature of Sober Houses has changed appreciably since 2008. Also, no evidence has been identified that an increase in the separation between sober houses is necessary to establish or maintain a “community” setting. Lacking such evidence, no change to the 330 foot separation is recommended.

2. Issue: Sober Houses’ neighborhood impact should be studied, using Merriam Park as a case study. Sober Houses have a presumed negative impact on neighborhoods.

Response: Such a study would need parameters defining the exact impacts to be studied and would need to have measurable, defensible results. Studies have been completed on property impacts in the past: according to the American Planning Association’s Policy Guide on Community Residences, more than 50 studies of community residences such as sober houses or other group homes have found that such facilities have no effect on the value of neighboring properties. No such study is recommended.

It should also be noted that characteristics of Congregate Living Facilities cited in the Working Group’s presentation, such as frequent turnover and lack of linkages to community, are not supported by any known existing study (the presentation cites Alene Taber’s work, which simply states those assumptions without measurable support). Merriam Park neighbor logs on Slide 8 of the Working Group’s presentation reflect conjecture (e.g. single-family residential = same family for 20 years, no smokers) and are not measurable and defensible.

3. Issue: The City should holistically register, track, and forecast all housing types.

Response: Congregate Living Facilities that have separation distance requirements, such as sober houses and Community Residential Facilities, are already tracked by the City. Sober houses must file a “request for reasonable accommodation” application with the City, which aids in tracking. Student housing is also already tracked by the City. Apartments, duplexes, and any other multi-unit residences can be identified through Ramsey County property records. The main category of housing that has not been tracked is rental versus owner-occupied housing. The question of whether to regulate rental housing, in general, is beyond the scope of this zoning study.

4. Issue: The City should notify neighbors of incoming sober houses.

Response: In the 2008 Sober Houses Zoning Study, the City Attorney's Office advised against implementing neighborhood notification of incoming Sober Houses because it would violate the *Fair Housing Amendments Act of 1988* if the City denied a reasonable accommodation request in response to neighbors' fears or discriminatory concerns about people with disabilities. The legal issue cited in 2008 remains valid. No notification is recommended.

5. Issue: The City should consider instituting licenses and fees that sustain tracking and oversight of Sober Houses.

Response: This is already being done. The City requires Sober Houses to submit a request for reasonable accommodation, including a fee currently set at \$355.

6. Issue: The City should create a plan to study tax implications of Congregate Living Facilities.

Response: In order to avoid policies that are discriminatory against Congregate Living Facilities containing residents protected by federal law, any such study should address the tax implications of all types of land use (e.g. public housing, nonprofit colleges, government facilities, K-12 charter schools). Such study would be beyond the scope of this zoning study.

7. Issue: Supportive Housing facilities and Adult Care Homes are proposed to be regulated differently. For example, Supportive Housing Facilities with 7 to 16 residents would require a conditional use permit in the RT2 through T1 zoning districts, while similarly sized Adult Care Homes would not. Second, Adult Care Homes of any size require a conditional use permit in the business and industrial zoning districts other than B4-B5, while Supportive Housing Facilities do not. Third, Supportive Housing Facilities must be separated by 1,320 feet (or 600 feet in the B4-B5 districts) from certain other Congregate Living Facilities, while Adult Care Homes have no such separation requirements.

Response: Supportive Housing Facilities and Adult Care Homes have some similarities, including that they are residential uses where, by definition, services are regularly provided to the residents. They also each contain groups of people who have certain specific characteristics (e.g. age, infirmity, mental illness, former alcohol/substance addiction) not representative of the broader population as a whole. The purpose of separation requirements for Supportive Housing Facilities is to ensure their residents are located in mainstream community settings, and not placed in clusters that replicate an institutional environment. This is not a factor for Adult Care Homes, which have not traditionally used neighborhood integration as a treatment model. Therefore, separation requirements continue to be appropriate for Supportive Housing Facilities, but not for Adult Care Homes.

There are two purposes for regulating the number of residents for Supportive Housing

Facilities through establishment of maximum numbers of residents and requirement for a conditional use permit: (1) to encourage facilities that are less institutional in nature due to their size; and (2) to fit with the zoning district's general character. Only the second purpose for regulating the number of residents is relevant to Adult Care Homes.

Therefore, the size regulations for Supportive Housing Facilities and Adult Care Homes should align with each other only in the zoning districts where larger facilities would not fit with the district's smaller-scale character: RL-RM1 residential, T1 traditional neighborhood, and OS-B2 business. Accordingly, additional revisions to the Adult Care Homes regulations are now proposed as incorporated in the attachments.

Also, for consistency with other I2 general industrial district regulations, which do not permit single-family residences, but allow mixed residential and commercial uses of 6+ units with a conditional use permit, both categories should require a conditional use permit in the I2 district, but not in the IT or I1 districts.

### **COMPREHENSIVE PLAN ANALYSIS**

The Housing Chapter of the Comprehensive Plan applies to the proposed Zoning Code amendments in several ways. First and foremost, Strategy H-3.4.c calls for the City to examine and update the Zoning Code to correspond with the current state and county licensing and registration requirements and group housing programs, which is an issue explicitly addressed by this study. Strategy H-1.1 calls for increasing housing choices across the city. Strategy H-2.18 supports the expansion of housing choices for seniors, which is furthered by the expanded number of zoning districts that permit Assisted Living, Boarding Care Homes, and Nursing Homes (proposed to be combined as Adult Care Homes). Strategy H-3.4.a calls for siting permanent supportive and homeless housing to increase locational choices in an area, and increasing the distribution across the city, supported in the proposed regulation by continuation of separation requirements.

### **STAFF RECOMMENDATION**

Staff recommends that the Comprehensive Planning Committee recommends that the Planning Commission approve the attached Draft Resolution recommending Zoning Code amendments to the Mayor and City Council.

### **Attachments**

1. Draft Planning Commission Resolution
2. Existing and Proposed Tables of Permitted Principal Uses (consolidated and clean)
3. Written Testimony
4. Draft Planning Commission Minutes of 1/22/16 (excerpt)
5. 2008 Sober House Ordinance (#08-640) and Zoning Study

city of saint paul  
planning commission resolution  
file number \_\_\_\_\_  
date \_\_\_\_\_

WHEREAS, the Saint Paul Zoning Code, found in chapters 60 through 69 of the Saint Paul Legislative Code, is established to provide housing choice and housing affordability, to implement the policies of the comprehensive plan, and to promote and to protect the public health, safety, morals, aesthetics, economic viability and general welfare of the community; and

WHEREAS, Section 61.801(a) of the Zoning Code calls for periodic review of said code to reflect current city policies and to bring the Zoning Code up-to-date; and

WHEREAS, on August 24, 2012, the Planning Commission passed Resolution 12-55 that initiated a zoning study to consider amendments regarding congregate living due to a recognized need for clearer definitions, improved consistency in standards among different types of facilities, and more timelessly accurate reflections of associated state programs that frequently change; and

WHEREAS, the Saint Paul Planning Commission held a duly noticed public hearing on January 22, 2016 regarding potential amendments to congregate living zoning regulations; and

WHEREAS, the Comprehensive Planning Committee of the Saint Paul Planning Commission, having reviewed the public hearing testimony and a memorandum containing analysis provided by staff, provided a recommendation for consideration by the Saint Paul Planning Commission; and

WHEREAS, the Saint Paul Planning Commission, having reviewed the public hearing testimony and the Comprehensive Planning Committee's recommendation, finds the proposed text amendments to be supported by the policies of the Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the following proposed amendments to the Legislative Code be recommended for approval by the Mayor and Council of the City of Saint Paul:

moved by \_\_\_\_\_  
seconded by \_\_\_\_\_  
in favor \_\_\_\_\_  
against \_\_\_\_\_

**Sec. 60.207. F.**

~~Facility resident. A person who resides in a community residential facility and contributes toward meeting the facility's licensed capacity.~~

**Sec. 60.217. P.**

*Planning district.* One (1) of seventeen (17) geographic areas delineated, and from time to time amended, by the city council to facilitate citizen participation, and early notification of proposed city actions, ~~and planning for the purpose of determining concentration of community residential facilities. Planning district thirteen is divided into three (3) separate planning districts: Merriam Park, Snelling-Hamline and Lexington-Hamline.~~ An official map of the designateddelineated areas is maintained by the department of planning and economic development.

**Sec. 61.503. Conditional use permit, change requiring new permit.**

A change to a conditional use requires a new permit when one (1) of the following conditions occurs:

- (f) The number of residents in a ~~community residential facility increases, or the number of rooming units in a rooming or boarding house~~congregate living facility increases.

**Table 63.207 Minimum Required Off-Street Parking By Use**

Land Use	Minimum Number of Parking Spaces
<i>Residential Uses</i>	
<del>Community residential facility, emergency</del> Emergency housing facility, <del>free-standing foster care home</del> <u>licensed correctional community residential facility</u> , overnight shelter, shelter for battered persons, <u>sober house</u> , <u>supportive housing facility</u> <del>transitional housing facility</del>	1.5 spaces per every 4 adult facility residents
<del>Sober house</del>	<del>1.5 spaces per every 4 adult residents</del>
Roominghouse, <del>boardinghouse</del>	1 space per 3 occupancy units
<del>Nursing home, boarding care home, assisted living, hospice</del> <u>Adult care home</u>	1 space per every 3 residents
Dormitory, fraternity, sorority	1 space per every 3 residents

**Sec. 65.132. Reuse of large structures.**

Conversion or reuse of residential structures of over nine thousand (9,000) square feet gross floor area and permitted nonresidential structures such as churches and schools.

*Standards and conditions in residential districts:*

- (a) The planning commission shall find that the structure cannot reasonably be used for a conforming use.
- (b) The planning commission shall find that the proposed use and plans are consistent with the comprehensive plan.
- (c) The planning commission shall find that the proposed use and structural alterations or additions are compatible with the surrounding neighborhood and land uses.
- (d) Parking for the new use shall be provided in accordance with the requirements of section 63.200 for new structures.
- (e) Applications for conversion or reuse shall include a notarized petition of two-thirds (2/3) of the property owners within one hundred (100) feet of the property proposed for the reuse, site plans, building elevations, and landscaping plans, and other information which the planning commission may request. The notarized petition requirement shall be waived for a proposed conversion or reuse to serve residents who are all considered handicapped under the Federal Fair Housing Act Amendments of 1988.

### **Sec. 65.143. Mixed residential and commercial use.**

*Standards and conditions in B1—B3 business and industrial districts:*

- (a) In B1—B3 business and IT industrial districts, ~~dwelling units~~residential uses shall be limited to no more than fifty (50) percent of the first floor and fifty (50) percent of a basement. Entire upper floors may be for residential use. At least fifty (50) percent of the first floor shall be devoted to principal uses permitted in the district, other than residential uses.
- (b) In I1—I2 industrial districts, ~~dwelling units~~residential uses shall not be located in the basement or first floor and at least eighty (80) percent of the first floor shall be devoted to principal uses permitted in the district, other than residential uses. In the I2 district, a conditional use permit is required for a mixed residential and commercial use with more than six (6) dwelling units.

### **Division 3. 65.150. Congregate Living**

Sec. 65.151. Foster home.

Sec. 65.152. ~~Freestanding foster care home.~~Reserved

Sec. 65.153. ~~Community residential facility, licensed human service.~~Supportive housing facility.

Sec. 65.154. Community residential facility, licensed correctional.

Sec. 65.155. ~~Community residential facility, health department licensed.~~Reserved.

Sec. 65.156. Emergency housing facility.

Sec. 65.157. Overnight shelter.

Sec. 65.158. Shelter for battered persons.

Sec. 65.159. ~~Transitional housing facility.~~Reserved.

Sec. 65.160. Sober house.

Secs. 65.161—65.169~~170~~. Reserved.

~~Sec. 65.170. Boardinghouse.~~

Sec. 65.171. Roominghouse.

Secs. 65.172—65.179. Reserved.

~~Sec. 65.180. Assisted living-Adult care home.~~

~~Sec. 65.181. Boarding care home.~~

~~Sec. 65.182. Nursing home.~~

~~Sec. 65.183. Hospice.~~

~~Secs. 65.184-181—65.189. Reserved.~~

~~Sec. 65.190. Dormitory.~~

~~Sec. 65.191. Fraternity, sorority.~~

### **Sec. 65.151. Foster home.**

A dwelling unit in which a foster care program licensed by the commissioner of human services or the commissioner of corrections is operated, whether located in the principle residence of the license holder or not.

*Development standards:*

In B1, B2—B3 business, and ~~IRI~~—I2 industrial districts, the use shall be within a mixed-use building. In B4 and B5 business districts, the use shall be within a multiple-family building.

### **Sec. 65.152. ~~Freestanding foster care home.~~Reserved.**

~~A dwelling unit in which a foster care program that is licensed by the commissioner of human services is operated in other than the principle residence of the license holder.~~

~~*Development standards:*~~

~~See Sec. 65.151. Foster home.~~

### **Sec. 65.153. ~~Community residential facility, licensed human service.~~Supportive housing facility.**

One (1) main building, or portion thereof, on one (1) zoning lot where ~~one (1) or more children or persons with mental retardation or related conditions, mental illness, chemical dependency, or physical or mental handicaps, and/or persons who have experienced homelessness~~ reside on a 24-hour-per-day basis under the auspices of a program licensed by the state department of human services to provide lodging in conjunction with monitoring, supervision, treatment, rehabilitation, habilitation, education or training of the residents of the facility and wherein counseling, training, support groups, and/or similar services are provided to the residents.

This definition does not include:

- (1) Foster homes ~~or freestanding foster homes~~ as defined in this code;
- (2) Residential treatment programs physically located on hospital grounds;
- (3) Regional treatment centers operated by the commissioner of human services;
- (4) Licensed semi-independent living services for persons with mental retardation or related conditions or mental illness, if the license holder is not providing, in any manner, direct or indirect, the housing used by persons receiving the service.

(5) Community residential facilities, licensed correctional, as defined in this code.

*Standards and conditions:*

- (a) The facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from any other of the following congregate living facilities with more than four (4) adult residents, except in B5—B5 business districts where it shall be at least six hundred (600) feet from any other such facility: supportive housing facility, licensed correctional community residential facility, emergency housing facility, shelter for battered persons ~~with more than four (4) adult facility residents, or~~ overnight shelter, ~~or transitional housing facility with more than four (4) adult facility residents, except in B4—B5 business districts where it shall be at least six hundred (600) feet from any other such facility.~~
- (b) In RL—RT1 residential districts, the facility shall serve six (6) or fewer facility residents. In RT2 residential, traditional neighborhood, OS—B3 business and ~~RII~~—I2 industrial districts, the facility shall serve sixteen (16) or fewer facility residents.
- (c) In residential and T1 traditional neighborhood districts, a conditional use permit is required for facilities serving seven (7) or more facility residents.
- ~~(d) In B4—B5 business districts, the facility shall be located in a multiple-family structure.~~
- ~~(e) In residential and T1 traditional neighborhood districts~~Except in B4—B5 business districts, facilities serving seventeen (17) or more facility residents shall have a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of ~~two (2)~~six (6) guest rooms. In T2—T4 traditional neighborhood districts, the density shall be regulated as for multifamily uses.

(C.F. No. 05-441, § 3, 8-24-05; Ord. No. 11-27, § 1, 4-20-11)

### **Sec. 65.154. Community residential facility, licensed correctional.**

One (1) main building, or portion thereof, on one (1) zoning lot where one (1) or more persons who are placed there by a court, court services department, parole authority or other correctional agency having dispositional power over persons charged with or convicted of a crime or adjudicated delinquent reside ~~on a 24-hour-per-day basis~~ under the care and supervision of a residential program licensed by the state department of corrections.

This definition does not include:

- (1) Licensed foster care homes serving persons under eighteen (18) years of age in the principal residence of the license holder;
- (2) Municipal, county or regional jails, workhouses, juvenile detention facilities, or state correctional facilities operated by the commissioner of corrections.

*Standards and conditions:*

- (a) Preliminary licensing review by the state department of corrections.
- (b) The facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from any other of the following congregate living facilities with more than four (4) adult residents, except in B4—B5 business districts where it shall be at least six hundred (600) feet from any other such facility: supportive housing facility, licensed correctional community residential facility, emergency housing facility, shelter for battered persons ~~with more than four (4) adult facility residents, or~~ overnight shelter, ~~or transitional housing facility with more than four (4) adult facility residents, except in B4—B5 business districts where it shall be at least six hundred (600) feet from any other such facility.~~
- ~~(c) Except in B4—B5 business districts, the facility shall not be located in a planning district in which one (1) percent or more of the population lives in licensed community residential facilities, emergency housing facilities with more than four (4) adult facility residents, shelters for battered persons, overnight shelters, and/or transitional housing facilities with more than four (4) adult facility residents.~~

- (~~dc~~) The facility serves no more than sixteen (16) facility residents, except in B4—B5 business districts where it shall serve no more than thirty-two (32) facility residents.
- (~~ed~~) It shall occupy the entire structure.
- (~~fe~~) In residential and T1 traditional neighborhood districts~~Except in B4—B5 business districts,~~ the facility shall have a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of ~~two (2)~~four (4) guest rooms. In T2—T4 traditional neighborhood districts, the density shall be regulated as for multifamily uses.

(C.F. No. 05-441, § 3, 8-24-05)

**Sec. 65.155. ~~Reserved. Community residential facility, health department licensed.~~**

~~One (1) main building, or portion thereof, on one (1) zoning lot which is licensed by the commissioner of health as a rooming and/or boardinghouse and receives fifty (50) percent or more of its residents under a contract or other arrangement with the state or a local government human services agency to provide lodging for people who are mentally ill or chemically dependent.~~

*~~Standards and conditions:~~*

- ~~(a) The facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from any other licensed community residential facility, emergency housing facility, shelter for battered persons with more than four (4) adult facility residents, overnight shelter, or transitional housing facility with more than four (4) adult facility residents, except in B4—B5 business districts where it shall be at least six hundred (600) feet from any other such facility.~~
- ~~(b) Except in B4—B5 business districts, the facility shall not be located in a planning district in which one (1) percent or more of the population lives in licensed community residential facilities, emergency housing facilities, shelters for battered persons with more than four (4) adult facility residents, overnight shelters, and/or transitional housing facilities with more than four (4) adult facility residents.~~
- ~~(c) The facility shall serve no more than sixteen (16) adult facility residents and minor children in their care, except in B4—B5 business districts where it shall serve no more than thirty-two (32) total facility residents.~~
- ~~(d) The facility shall not be located in a two-family or multifamily dwelling unless it occupies the entire structure.~~
- ~~(e) Except in B4—B5 business districts, the facility shall have a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of two (2) guest rooms.~~

~~(C.F. No. 05-441, § 3, 8-24-05)~~

**Sec. 65.156. Emergency housing facility.**

One (1) main building, or portion thereof, on one (1) zoning lot where persons who do not have housing live on a 24-hour-per-day basis until more permanent arrangements can be made, but generally for no longer than thirty (30) days.

*Standards and conditions:*

See section 65.155153, ~~community residential facility, health department licensed~~ supportive housing facility, standards and conditions (a)—(ed).

### Sec. 65.157. Overnight shelter.

One (1) main building, or portions thereof, on one (1) zoning lot where persons receive overnight shelter, but are not expected or permitted to remain on a 24-hour-per-day basis.

*Condition:*

The facility shall be a minimum distance of six hundred (600) feet from any other of the following congregate living facilities with more than four (4) adult residents: overnight shelter, supportive housing facility, licensed correctional community residential facility, emergency housing facility, or shelter for battered persons ~~with more than four (4) adult facility residents, or transitional housing facility with more than four (4) adult facility residents.~~

### Sec. 65.158. Shelter for battered persons.

One (1) main building, or portion thereof, on one (1) zoning lot where adults and children who have suffered assault or battery live on a 24-hour-per-day basis for a period of time generally not to exceed thirty (30) days and are served by a program certified by the state department of corrections.

*Standards and conditions for shelters for battered persons serving more than four (4) adult facility residents and minor children in their care:*

- (a) In residential, traditional neighborhood and OS—B2 business districts, a conditional use permit is required for facilities serving more than four (4) adult facility residents and minor children in their care.
- (b) ~~In residential districts,~~ the facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from any other of the following congregate living facilities with more than four (4) adult residents: shelter for battered persons ~~with more than four (4) adult facility residents,~~ supportive housing facility, licensed correctional community residential facility, emergency housing facility, or overnight shelter, ~~or transitional housing facility with more than four (4) adult facility residents.~~
- ~~(c) Except in B4—B5 business districts, the facility shall not be located in a planning district in which one (1) percent or more of the population lives in licensed community residential facilities, emergency housing facilities, shelters for battered persons with more than four (4) adult facility residents, overnight shelters, and/or transitional housing facilities with more than four (4) adult facility residents.~~
- (~~dc~~) In RL—RT2 residential, traditional neighborhood, OS—B3 business and ~~IRIT~~—I2 industrial districts, the facility shall serve sixteen (16) or fewer adult facility residents and minor children in their care.
- (~~ed~~) The facility shall not be located in a two-family or multifamily dwelling unless it occupies the entire structure.
- (~~fe~~) In residential and T1 traditional neighborhood districts, facilities serving seventeen (17) or more facility residents shall have a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of ~~two (2)~~ four (4) guest rooms. In T2—T4 traditional neighborhood districts, the density shall be regulated as for multifamily uses.

(C.F. No. 05-441, § 3, 8-24-05; Ord. No. 11-27, § 1, 4-20-11)

### Sec. 65.159. Reserved Transitional housing facility.

~~One (1) main building, or portion thereof, on one (1) zoning lot where persons who may or may not have access to traditional or permanent housing but are capable of living independently within a reasonable period of time, generally about eighteen (18) months, reside on a 24-hour-per-day basis for at~~

~~least thirty (30) days and participate in appropriate program activities designed to facilitate independent living.~~

~~Standards and conditions for transitional housing facilities serving more than four (4) adult facility residents and minor children in their care:~~

- ~~(a) In residential, traditional neighborhood and OS B2 business districts, a conditional use permit is required for facilities serving more than four (4) adult facility residents and minor children in their care.~~
  - ~~(b) In RL RT2 residential districts, the facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from any other transitional housing facility with more than four (4) adult facility residents, licensed community residential facility, emergency housing facility, shelter for battered persons with more than four (4) adult facility residents, or overnight shelter.~~
  - ~~(c) Except in B4 B5 business districts, the facility shall not be located in a planning district in which one (1) percent or more of the population lives in licensed community residential facilities, emergency housing facilities, shelters for battered persons with more than four (4) adult facility residents, overnight shelters, and/or transitional housing facilities with more than four (4) adult facility residents.~~
  - ~~(d) In RL RT1 residential districts, the facility shall serve six (6) or fewer adult facility residents and minor children in their care. In RT2 residential, traditional neighborhood, OS B3 business and IR I2 industrial districts, the facility shall serve sixteen (16) or fewer adult facility residents and minor children in their care.~~
  - ~~(e) In RL RT2 residential districts, the facility shall not be located in a two-family or multifamily dwelling unless it occupies the entire structure.~~
  - ~~(f) In residential districts, facilities serving seventeen (17) or more facility residents shall have a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of two (2) guest rooms.~~
- ~~(C.F. No. 05-441, § 3, 8-24-05; Ord. No. 11-27, § 1, 4-20-11)~~

### **Sec. 65.160. Sober house.**

A dwelling unit occupied by more than four (4) persons, all of whom are in recovery from chemical dependency and considered handicapped under the Federal Fair Housing Act Amendments of 1988, that provides a non-institutional residential environment in which the residents willingly subject themselves to written rules and conditions, including prohibition of alcohol and drug use (except for prescription medications obtained and used under medical supervision), intended to encourage and sustain their recovery. The residents of a sober house are similar to a family unit, and share kitchen and bathroom facilities and other common areas of the unit. Sober houses are financially self-supporting. This definition does not include facilities that receive operating revenue from governmental sources. Sober houses do not provide on-site supportive services to residents, including the following: mental health services; clinical rehabilitation services; social services; medical, dental, nutritional and other health care services; financial management services; legal services; vocational services; and other similar supportive services.

*Standards and conditions:*

A request for reasonable accommodation for this use as required under the Federal Fair Housing Act Amendments of 1988 by providing an exception to the maximum number of unrelated persons living together in a dwelling unit shall automatically be granted if the following standards and conditions are met. This does not limit the city from granting additional reasonable accommodation for this use under the general provisions of this code.

- (a) The operator shall submit a request for reasonable accommodation to the zoning administrator on a form provided by the city, specify the number of residents, and provide information

necessary to assure the use meets applicable zoning standards. The maximum total number of residents permitted in the sober house shall be specified by the fire certificate of occupancy.

- (b) For a sober house that does not meet the parking requirement in section 63.207, the operator shall submit a written parking plan that demonstrates sufficient parking for the use.
- (c) In RL-R4 Residential Districts, the sober house shall serve ten (10) or fewer residents.
- (d) For a structure serving seventeen (17) or more sober house residents, a conditional use permit is required. This use shall be exempt from section 61.501 conditional use permit general standards (a), (c), and (d).
- (e) Property containing one or more sober house units shall be a minimum distance of three hundred thirty (330) feet from any other property containing a sober house.

(C.F. No. 08-640, § 1, 7-9-08)

**Secs. 65.161—65.169-170. Reserved.**

**~~Sec. 65.170. Boardinghouse.~~**

~~Any roominghouse which provides meals to its roomers.~~

**Sec. 65.171. Roominghouse.**

- (1) Any residential structure or dwelling unit, supervised or not, which provides living and sleeping arrangements for more than four (4) unrelated individuals for periods of one (1) week or longer; or
- (2) Any residential structure or dwelling unit which provides single room occupancy (SRO) housing as defined in CFR section 882.102 to more than four (4) unrelated individuals; or
- (3) Any building housing more than four (4) unrelated individuals which has any of the following characteristics shall be considered and regulated as a roominghouse:
  - a. Rental arrangements are by the rooming unit rather than the dwelling unit.
  - b. Rooming unit doors are equipped with outer door locks or chains which require different keys to gain entrance.
  - c. Kitchen facilities may be provided for joint or common use by the occupants of more than one (1) rooming unit.
  - d. Rooming units are equipped with telephones having exclusive phone numbers.
  - e. Rooming units are equipped with individual intercom security devices.
  - f. Each rooming unit has a separate assigned mailbox or mailbox compartment for receipt of U.S. mail.

This definition does not include:

- (1) Supportive housing facilities as defined in this code.
- (2) Licensed correctional community residential facilities as defined in this code.
- (3) Sober houses as defined in this code.

*Standards and conditions, ~~except in B4—B5 business districts:~~*

- (a) In residential and T1 traditional neighborhood districts, aA minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in

excess of ~~two (2)~~four (4) guest rooms. In T2—T4 traditional neighborhood, BC community business (converted), and industrial districts the density shall be regulated as for multifamily uses.

- ~~(b) In the I2 general industrial district, a roominghouse must be co-located with a health department licensed community residential facility as defined and regulated in section 65.155. This condition may not be modified.~~

(C.F. No. 05-441, § 1, 8-24-05)

## **Secs. 65.172—65.179. Reserved.**

### **Sec. 65.180. Adult care home.~~Assisted living.~~**

~~A facility licensed by the state department of health where individualized home care aide services or home management services are provided to residents either by the management or by providers under contract with the management where aged, infirm, or terminally ill persons reside in order to receive nursing care, custodial care, memory care, Medicare-certified hospice services, or individualized home care aide services either by the management or by providers under contract with the management.~~

*Standards and conditions:*

~~See section 65.182. Nursing home.~~

### **Sec. 65.181. Boarding care home.**

~~A building or structure where aged or infirm persons reside on a twenty-four-hour basis in order to receive custodial care and related personal services; for purposes of this code, the same as a nursing home.~~

### **Sec. 65.182. Nursing home.**

~~A building or structure where aged or infirm persons reside on a twenty-four-hour basis in order to receive nursing care and related services.~~

*Standards and conditions:*

- (a) ~~The yard requirements for multiple family use in the district apply. In residential and T1 traditional neighborhood districts, the facility shall have a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of four (4) guest rooms. In T2—T4 traditional neighborhood districts, the density shall be regulated as for multifamily uses.~~
- (b) In traditional neighborhood development districts, a facility located within a predominantly residential or mixed-use area shall have direct access to a collector or higher classification street.
- (c) In traditional neighborhood development districts, the site shall contain a minimum of one hundred fifty (150) square feet of ~~green~~outdoor community space per resident, consisting of ~~outdoor~~ seating areas, yards and/or gardens ~~and/or recreational facilities~~. Public parks or plazas within three hundred (300) feet of the site may be used to meet this requirement.
- ~~(d) In RL—RT1 residential districts, the facility shall serve six (6) or fewer facility residents. In RT2—RM1 residential, T1 traditional neighborhood and OS—B2 business districts, the facility shall serve sixteen (16) or fewer facility residents.~~

(e) In residential and T1 traditional neighborhood districts, a conditional use permit is required for facilities serving seven (7) or more facility residents.

### **Sec. 65.183. Hospice.**

~~One (1) main building, or portion thereof, on one (1) zoning lot in which terminally ill persons live in order to receive appropriate Medicare-certified hospice services.~~

~~Standards and conditions:~~

~~(a) A conditional use permit is required for hospices serving seventeen (17) or more facility residents.~~

~~(b) In RL—RT1 residential districts, the facility shall serve six (6) or fewer facility residents. In RT2—RM1 residential and OS—B3 business districts, the facility shall serve sixteen (16) or fewer facility residents.~~

~~(c) The yard requirements for multiple-family use in the district apply.~~

### **Secs. 65.184181—65.189. Reserved.**

### **Sec. 65.190. Dormitory.**

A building designed for or used as group living quarters for students of a high school, college, university or seminary, organized and owned by a high school, college, university or seminary.

*Standards and conditions:*

(a) In residential, ~~and TN1 traditional neighborhood,~~ and BC community business (converted) districts, a conditional use permit is required for off-campus dormitories.

(b) The use must be within two hundred fifty (250) feet of the campus of the institution it serves, for a college, university, seminary or other such institution of higher learning as established in a conditional use permit. In RL—R4 residential districts, the use shall be on the campus.

(c) The yard requirements for multiple-family use in the district apply when the use is not located on a campus established in a conditional use permit.

### **Sec. 65.191. Fraternity, sorority.**

A building used as group living quarters for students of a college, university or seminary, who are members of a fraternity or sorority that has been officially recognized by the college, university or seminary.

*Standards and conditions:*

(a) In residential, ~~and TN1 traditional neighborhood,~~ and BC community business (converted) districts, a conditional use permit is required for off-campus fraternities and sororities.

(b) The use must be within two hundred fifty (250) feet of the campus boundary as established in the conditional use permit for the institution it serves. In RL—R4 residential districts, the use shall be on the campus.

(c) If it is outside of the campus boundary, the use must be located in an existing structure designed and built as a one- or two-family dwelling or new structure that meets the height, density and setback requirements for a two-family dwelling.

**Sec. 65.662. Adult bookstore.**

*Standards and conditions:*

- (c) In B3 business and I1—I2 industrial districts the adult bookstore shall be located at least five hundred (500) feet from any protected use. In B4—B5 business districts the adult bookstore shall be located at least two hundred fifty (250) feet from any protected use. "Protected use" shall be defined as residential buildings in nonresidential zoning districts, mixed commercial residential buildings, a day care center, where such day care center is a principal use; a house of worship; a public library; a school (public, parochial or private elementary, junior high or high school); a public regional park or parkway, public park, public recreation center or public specialized recreation facility as identified in the parks and recreation element of the Saint Paul Comprehensive Plan; a fire station; a supportive housing facility; a licensed correctional community residential facility; an emergency housing facility or a hotel/motel. The distance shall be measured in a straight line from the closest point of the property line of the building in which the adult bookstore is located to the closest point of the property line of the building in which is located an aforementioned protected use.

**Sec. 65.922. Support services in housing for the elderly.**

Support services within elderly housing as defined in section 65.123 including limited food service, beauty salon and retail goods sales areas.

*Development standard:*

Support service areas shall ~~not~~ exceed five (5) percent of designated community room area.

**Sec. 66.221. Principal uses.**

Table 66.221, principal uses in residential districts, lists all permitted and conditional uses in the RL—RM3 residential districts, and notes applicable development standards and conditions.

Table 66.221. Principal Uses in Residential Districts

Use	RL	R1— R4	RT1	RT2	RM1	RM2	RM3	Definition (d) Standards (s)
<i>Residential Uses</i>								
Congregate Living								
Foster home, <del>freestanding foster care home</del>	P	P	P	P	P	P	P	(d)
<del>Community residential facility, licensed human service</del> <u>Supportive housing facility</u>	P	P	P	P/C	P/C	P/C	P/C	(d), (s)
Community residential facility, licensed correctional					C	C	C	(d), (s)
<del>Community residential facility, health department licensed</del>					<del>C</del>	<del>C</del>	<del>C</del>	<del>(d), (s)</del>
Emergency housing facility					C	C	C	(d), (s)

Shelter for battered persons	P/C	(d), (s)						
Sober house	P	P	P/C	P/C	P/C	P/C	P/C	(d), (s)
<del>Transitional housing facility</del>	<del>P/C</del>	<del>(d), (s)</del>						
Roominghouse, <del>boarding house</del>					C	C	C	(d), (s)
<del>Nursing home, boarding care home, assisted living</del>						<del>C</del>	<del>P</del>	<del>(d), (s)</del>
<u>Hospice Adult care home</u>	P	P	P	<u>P/C</u>	<u>P/C</u>	P/C	<u>P/C</u>	(d), (s)
Dormitory	P	P	P/C	P/C	P/C	P/C	P/C	(d), (s)
Fraternity, sorority	P	P	P/C	P/C	P/C	P/C	P/C	(d), (s)

**Sec. 66.321. Principal uses.**

Table 66.321, principal uses in traditional neighborhood districts, lists all permitted and conditional uses in the T1—T4 traditional neighborhood districts, and notes applicable development standards and conditions.

Table 66.321. Principal Uses in Traditional Neighborhood Districts

Use	T1	T2	T3	T4	Development Standards
<i>Residential Uses</i>					
Congregate Living					
Foster home, <del>freestanding foster care home</del>	P	P	P	P	<del>(s)</del> , <u>(d)</u>
<del>Community residential facility, licensed human service</del> <u>Supportive housing facility</u>	<u>P/C</u>	P	P	P	(d), (s)
Community residential facility, licensed correctional	C	C	C	C	(d), (s)
<del>Community residential facility, health department licensed</del>	<del>C</del>	<del>C</del>	<del>C</del>	<del>C</del>	<del>(d), (s)</del>
Emergency housing facility	C	C	C	C	(d), (s)
Shelter for battered persons	P/C	P/C	P/C	P/C	(d), (s)
<del>Transitional housing facility</del>	<del>P/C</del>	<del>P/C</del>	<del>P/C</del>	<del>P/C</del>	<del>(d), (s)</del>
Sober house	P/C	P/C	P/C	P/C	(d), (s)
Roominghouse	C	<u>P/C</u>	C	C	(d), (s)
<del>Nursing home, boarding care home, assisted living</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>(d), (s)</del>
<del>Hospice Adult care home</del>	<u>P/C</u>	P	P	P	(d), (s)
Dormitory	P/C	P	P	P	(d), (s)
Fraternity, sorority	P/C	P	P	P	(d), (s)

**Sec. 66.421. Principal uses.**

Table 66.421, principal uses in business districts, lists all permitted and conditional uses in the OS—B5 business districts, and notes applicable development standards and conditions.

Table 66.421. Principal Uses in Business Districts

Use	OS	B1	BC	B2	B3	B4	B5	Development standards
<i>Residential Uses</i>								
Congregate Living								
Foster home, <del>freestanding foster care home</del>	P	P	P	P	P	P	P	(d), (s)
<del>Community residential facility, licensed human service</del> <u>Supportive housing facility</u>	P	P	P	P	P	P	P	(d), (s)
Community residential facility, licensed correctional			C	C	C	C	C	(d), (s)
<del>Community residential facility, health department licensed</del>			<del>C</del>	<del>C</del>	<del>C</del>	<del>C</del>	<del>C</del>	<del>(d), (s)</del>
Emergency housing facility			C	C	C	C	C	(d), (s)
Overnight shelter							C	(d), (s)
Shelter for battered persons	P/C	P/C	P/C	P/C	P	P	P	(d), (s)
<del>Transitional housing facility</del>	<del>P/C</del>	<del>P/C</del>	<del>P/C</del>	<del>P/C</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>(d), (s)</del>
Sober house	P/C	P/C	P/C	P/C	P/C	P/C	P/C	(d), (s)
Roominghouse, <del>boarding house</del>			C			P	P	(d), (s)
<del>Nursing home, boarding care home, assisted living</del>			<del>C</del>			<del>P</del>	<del>P</del>	<del>(d), (s)</del>
<del>Hospice</del> <u>Adult care home</u>	<del>CP</del>	<del>CP</del>	<del>P/C</del>	<del>CP</del>	P	P	P	(d), (s)
Dormitory			P/C			P	P	(d), (s)
Fraternity, sorority			P/C					(d), (s)

**Sec. 66.521. Principal uses.**

Table 66.521, principal uses in industrial districts, lists all permitted and conditional uses in the IT—I3 industrial districts, and notes applicable development standards and conditions.

Table 66.521. Principal Uses in Industrial Districts

Use	IT	I1	I2	I3	Definition (d) Standards (s)

Residential Uses					
<i>Congregate Living</i>					
<del>Community residential facility, licensed human service</del> <u>Supportive housing facility</u>	P	P	<u>PC</u>		(d), (s)
Community residential facility, licensed correctional		C	C		(d), (s)
<del>Community residential facility, health department licensed</del>		<del>C</del>	<del>C</del>		<del>(d), (s)</del>
Correctional facility		C	P		
Emergency housing facility		C	C		(d), (s)
Overnight shelter		C	C		(d), (s)
Shelter for battered persons	P	P	P		(d), (s)
<del>Transitional housing facility</del>	<del>P</del>	<del>P</del>	<del>P</del>		<del>(d), (s)</del>
Sober house	P/C	P/C	P/C		(d), (s)
Roominghouse, <del>boarding house</del>	<u>P</u>	<u>P</u>	C		(d), (s)
<del>Hospice</del> <u>Adult care home</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>		(d), (s)





# Merriam Park Housing Mix Working Group

Draft Report for City of Saint Paul  
Planning Commission

January 22, 2016

\*As delivered January 22, 2016 at the  
Planning Commission public hearing

# Merriam Park

## Housing Mix Working Group - Agenda

- Background, Findings
  - Kevin Anderson [Slides 3 – 12]
- Best Practices Data/Sources
  - Margaret Ryther [Slide 13]
- Our Data (Maps)
  - Gretchen Robertson [Slides 14 – 18]
- Recommendations
  - Gene Pelszynski [Slides 19 – 21]
- Next Steps and Q&A
  - John Syverud [Slides 22 – 23]

# Primary Recommendation: 1,320 Feet Between Sober Houses

- We request a change in the distance requirement of Sober Houses from 330 feet to 1,320 feet.
- The impact and pressure of various mixed housing on Merriam Park is cumulative (Sober Houses, Congregate Living Facilities and 'College Town')
- As a result, we are nearing a tipping point of overconcentration and need a stabilizing factor to ensure a balance of all types of housing.

# Background

- Merriam Park neighbors<sup>[1]</sup> interested in housing density began to meet in fall 2015.
- Union Park District Council (UPDC) established our Merriam Park Housing-Mix Working Group in November under the authority of its Land Use Committee.<sup>[2]</sup>
- Our focus: Cumulative impact of mixed housing
- Our recommendations today are regarding Sober Houses

[See our Mission on Appendix A]

# Working Group Principles

- The quality of life for all in Merriam Park is about maintaining the residential character through balance
  - Group members welcome the changes coming to Merriam Park. We are not objecting to density; we are concerned, however, with overconcentration.
  - Mixed housing helps ensure options for people of various needs and at various stages of life.
  - We aim to create a palatable situation for all housing types. The key is to find a balance between single-family and sober houses.



# Working Group Findings: Residential Has Value

- Characteristics of a Great Residential Neighborhood<sup>[17]</sup>
  - Has a variety of functional attributes that contribute to a resident's day-to-day living
  - Accommodates multi-modal transportation (e.g., pedestrians, bicyclists, drivers)
  - Has visually interesting design and architectural features
  - Encourages human contact and social activities
  - Promotes community involvement and maintains a secure environment
  - Promotes sustainability and responds to climatic demands
  - Has a memorable character

# Adverse Impacts Affecting Residential Character of Neighborhoods

- Over-concentration
  - “...the character of the neighborhood is transformed into a ‘group home neighborhood’ with residents within it.”
- Incompatibility
  - “...Conflicts with the purpose of traditional, established neighborhoods – permanence, stability, and linkages to community.”
- Frequent Turnover
  - “...tend to house occupants that are transient in nature, whereas a family residing in a traditional home may be there for decades.”
- Linkages to Community
  - “...limits their linkages and bonds with the community, thus minimizing the ‘sense of community’ in a particular neighborhood.” [3]

# How Sober Houses versus SFRs Affect Neighborhood Character/Continuity\*

Daily Life Activities/Factors	Sober House – Data and Observation	SFR – Data and Observation
Purpose of the house	Mission to provide supportive living	Provides day-to-day living activities and community
Financial Aspect	Moneymaker for owner: Gross income of \$10,000+ per month	Cost to owner: Pay mortgage of \$1,500 per month
Numbers	Range anywhere from 7 to 14 customers, 1 manager	4 residents
Turnover of residents	New residents each week	Same family for 20 years
Linkage to community	Due to frequent turnover, hard to know whether someone is a neighbor, a visitor or other	Have known these neighbors for years
Traffic	3- 5 cars	2 cars
Parking	Mostly on street	Garage or off-street space
House/backyard activity and noise	7 - 14 customers + 1 manager results in high usage and volume; Tours for prospective customers often weekly	Use backyard average of 1 hour each Saturday and Sunday
Level of smoke	4 to 8 customers * 5 smoke breaks daily = 20 to 45 cigarettes within 30 feet of SFR's back door	No smokers
Services: City inspections, construction workers, etc.	Once a week minimum	Once every six month at most
House maintenance	Changes to accommodate the organization:	No changes to house to accommodate usage

\*Based on Merriam Park neighbors logs [Appendix D - For Profit Sober House Marketing example]

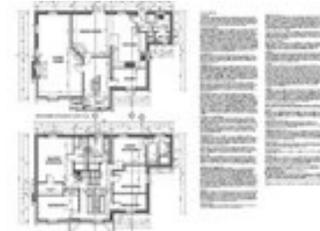
# Impact Continuity and Character

Sober Houses affect neighborhood continuity and character  
Merriam Park is a prime location for Sober Houses

Issues around size,  
services and resident  
turnover



Sober Houses require  
more City regulation  
and oversight than  
SFRs



Sober  
Houses are  
driven by  
Mission and  
Revenue



SFR



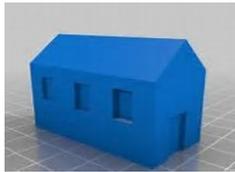
Merriam Park has  
large homes at  
reasonable prices



# From a Resident's Perspective: Overconcentration of CLFs

We risk hitting a "tipping point" of overconcentration

MN Dept. of Health and  
MN Dept. of Human  
Services



Sober House



Correctional; DHS  
Foster Care



Student  
Rental



SFR



Other: AirBnB, sleeping  
rooms, accessory  
dwellings, etc.



Supportive Living Not  
Requiring City Approval



# Working Group Findings – Summary

- Sober Houses affect neighborhood continuity and character
  - Sober Houses are driven by mission and revenue<sup>[4]</sup>
  - Issues around size, services and residents' turnover<sup>[5]</sup>
  - Once converted, single-family houses rarely switch back<sup>[6]</sup>
  - Nonprofit Sober Houses pay no property taxes<sup>[7]</sup>
  - Sober Houses require more City regulation/oversight than single-family homes<sup>[8]</sup>
- Merriam Park is a prime location for Sober Houses
  - Large homes at reasonable prices<sup>[9]</sup>
  - St. Thomas and other colleges add student rentals to the mix<sup>[10]</sup>
  - Other types (AirBnB's, sleeping rooms, accessory dwellings) add density<sup>[11]</sup>
- We risk hitting a “tipping point” of overconcentration
  - The effects are cumulative, but the city is not regulating quantity<sup>[12]</sup>
  - Attractive financial incentives and few regulatory mechanisms mean no “upper end” of Sober House numbers in sight<sup>[13]</sup>

# Best Practices Research

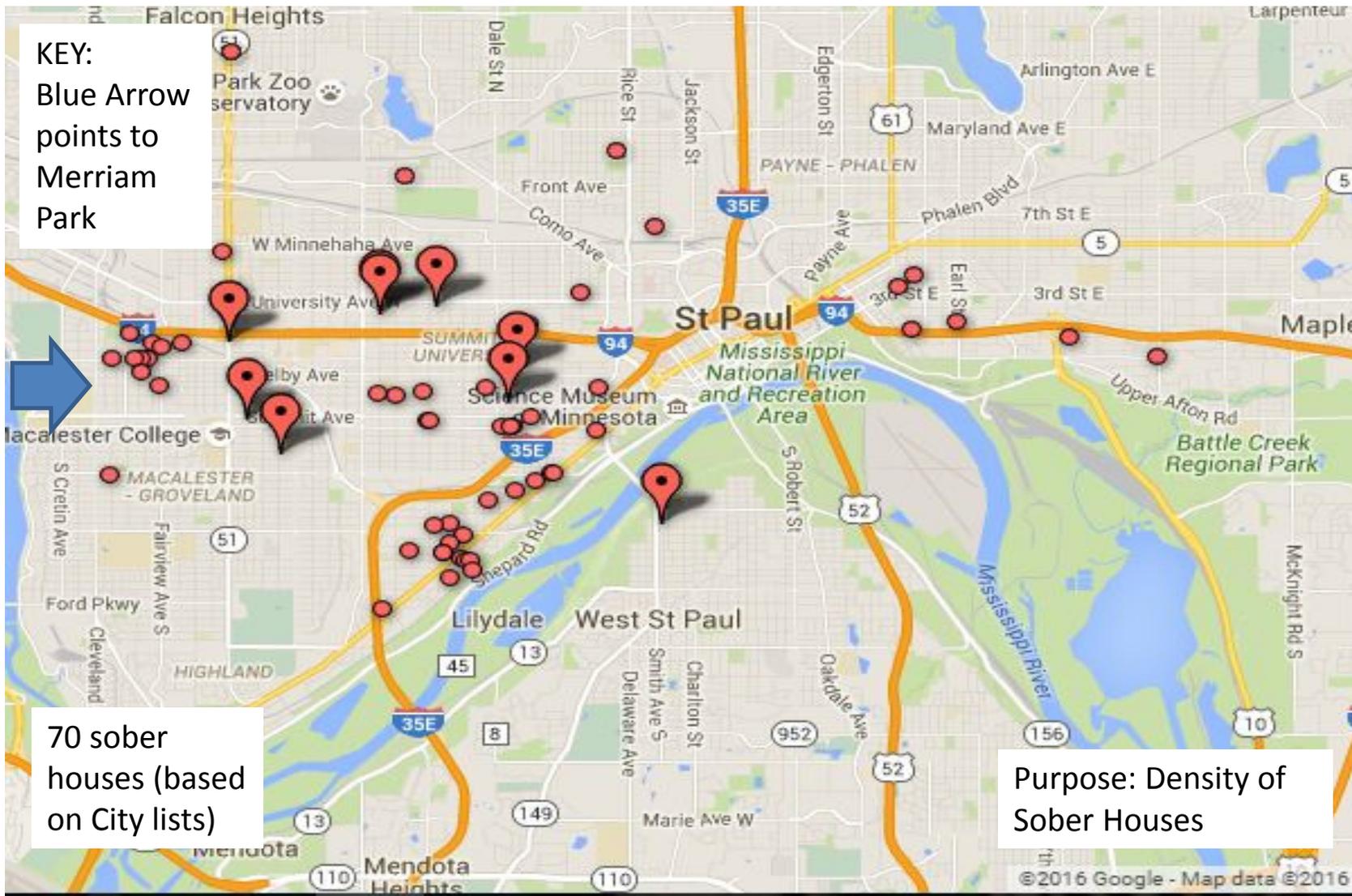
- Family-Style Homes vs City of St. Paul
  - Separation requirements continue to be appropriate in order to ensure that residents are placed in neighborhood environments. [14]
- “Judge sides with city and dismisses sober living home lawsuit”
  - Costa Mesa, Calif., has a distance requirement of 650 feet between sober houses. The federal judge ruled in late 2015 in the city’s favor on the first case to be adjudicated. The second case is currently in the courts.
  - “The city’s ordinance provided ... regulations designed to have sober living homes be ‘good neighbors’ while also benefiting persons in recovery by allowing them to live in local neighborhoods ... and by preventing over-concentration of sober living homes.”
  - “... this ruling by Federal Court Judge James V. Selna is an important milestone in the city’s ongoing efforts to implement a balanced policy of positive integration of sober living facilities in local neighborhoods.”<sup>[15]</sup>
- Other City Examples
  - Arizona: In towns like Mesa, Tempe and Surprise distance requirements range from 1,200 feet to 1,320 feet between sober houses <sup>[16]</sup>

\*See Appendix B1 for additional research

# Our Data (Maps)

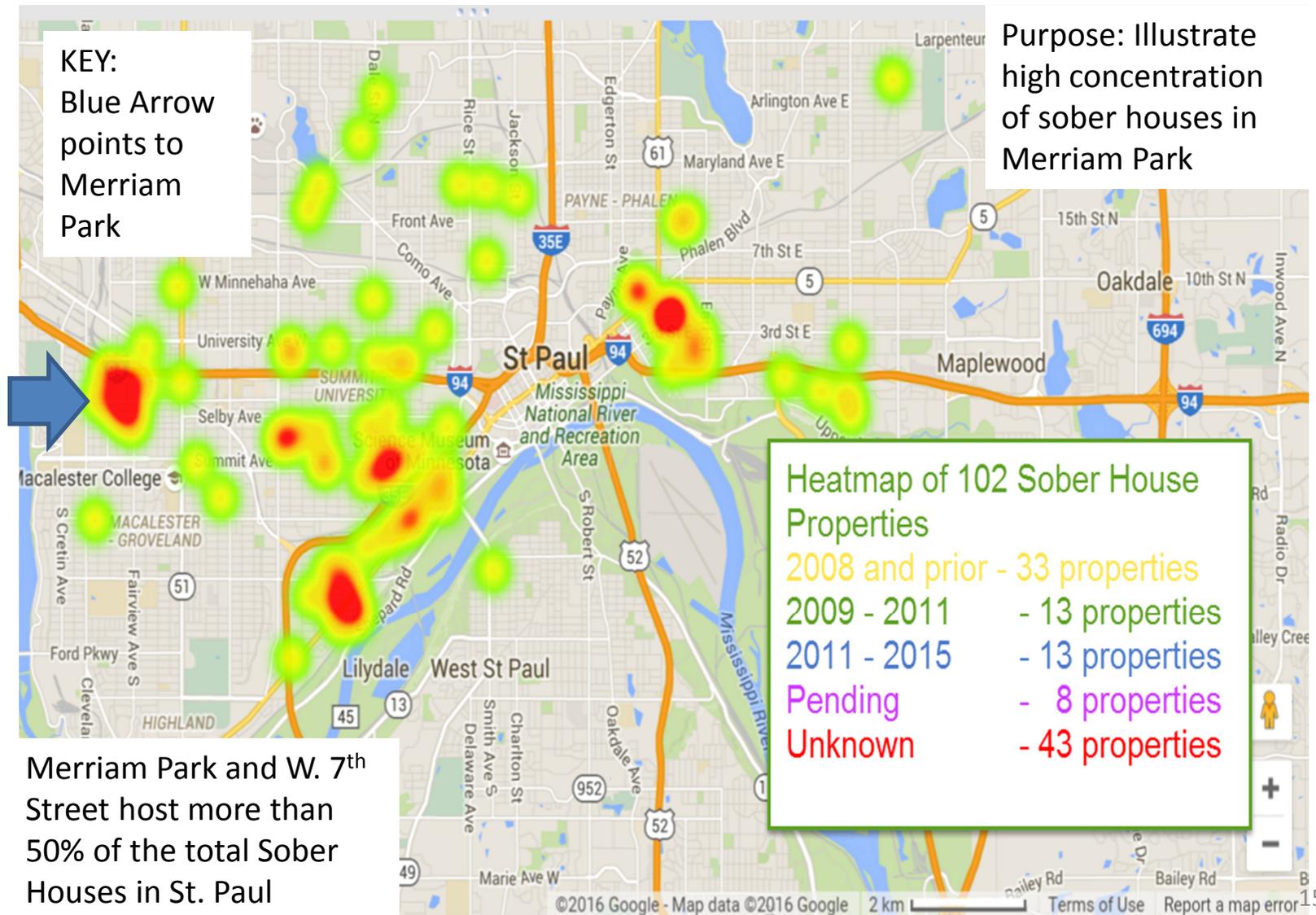
- We developed maps to illustrate our findings and support our recommendations
  - Data sources include:
    - City of St. Paul
    - Minnesota Department of Human Services
    - Ramsey County
    - University of St. Thomas
  - Our web-based research turned up additional Sober Houses not currently tracked by the City [Appendix D]

# Sober Houses Today – 70\*



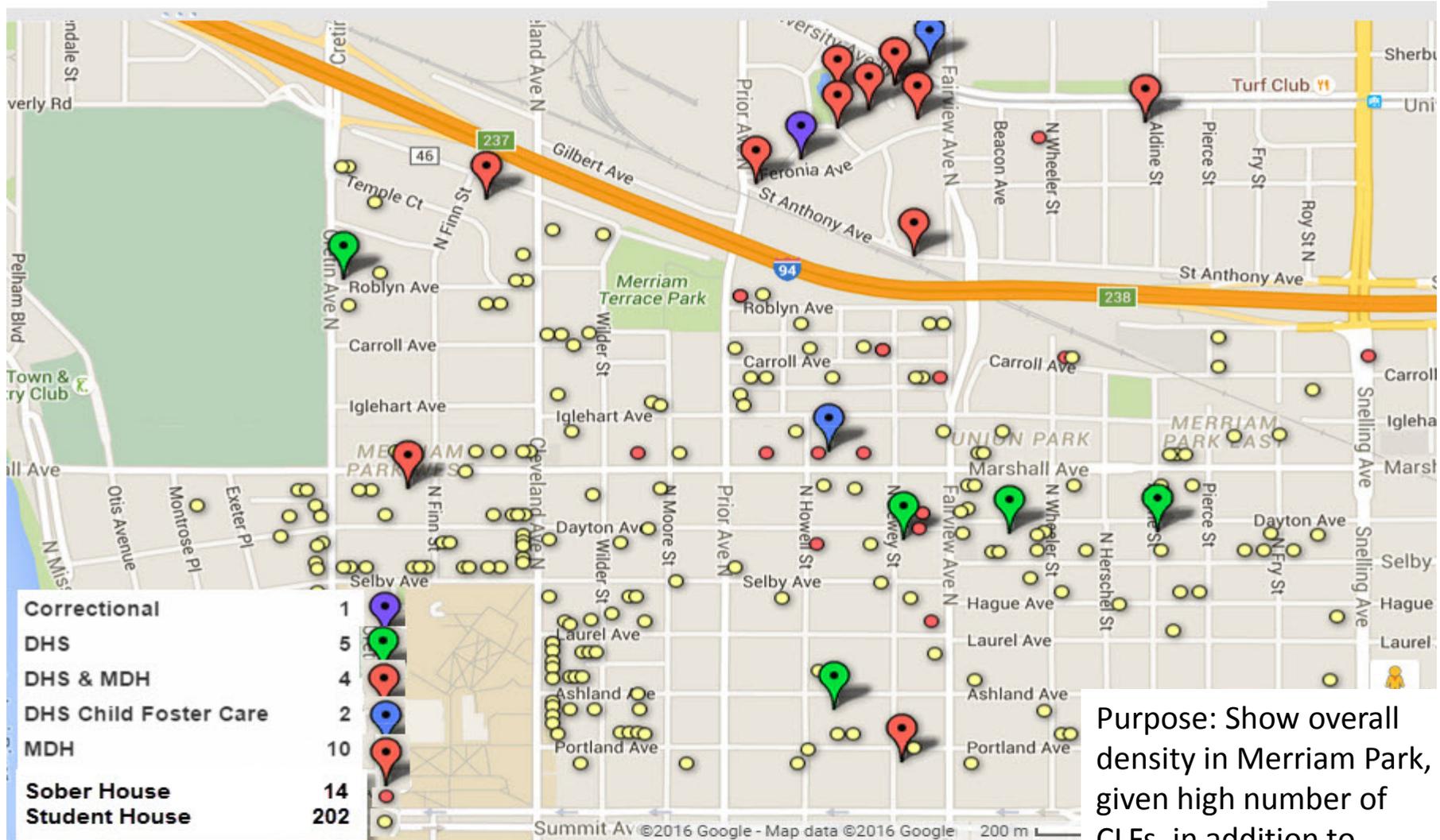
\*City of Saint Paul list of Sober Houses based on City data; 6 more approved since dots were placed

# Sober Houses – Heat Map





# On Top of That: Student Rental Overlay



Purpose: Show overall density in Merriam Park, given high number of CLFs, in addition to student rentals

# Primary Recommendation: Mandate Distance of 1,320 Feet Between Sober Houses

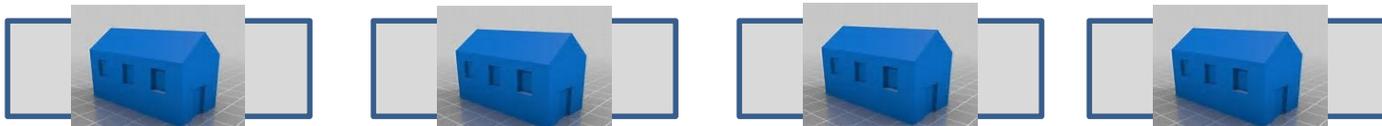
- We are asking for a change in the distance requirement of Sober Houses from 330 feet to 1,320 feet.
- The impact and pressure of various mixed housing on Merriam Park is cumulative.
  - We have a unique neighborhood footprint with more Sober Houses, congregate living facilities and student rentals than any other City area.
- As a result, we are nearing a tipping point of overconcentration and need a stabilizing factor to ensure a balance of all types of housing.

\*Consider grandfathering in current Sober Houses; See Appendix B1 and B2 for current distance requirements in St. Paul.

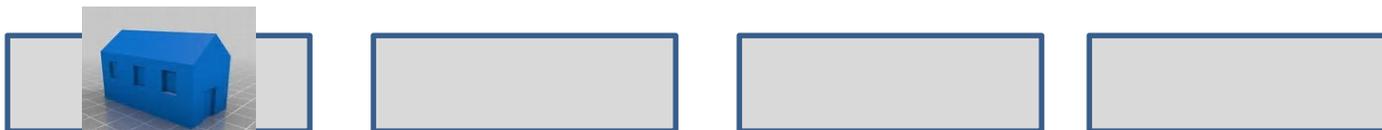
# Advantages to 1,320 Feet Distance Requirement

- How 1,320 feet maintains the residential character for all and ensures balance of all types of housing:
  - Today 330 feet – Upper Limit: One Sober House every block [up to 173; a 12X increase from today]
  - Recommendation of 1,320 feet – Upper Limit: One Sober House every four blocks [Up to 43; a 3X increase from today]

TODAY : 330 feet Separation Distance - Upper Limit [4 Block Area]



RECOMMENDED: 1,320 feet Separation Distance – Upper Limit [4 Block Area]



\*See Appendix A for detailed data

# Working Group

## Sub-Recommendations

### **We request that the City of Saint Paul:**

- Study Sober Houses' neighborhood impact, using Merriam Park as a case study:
  - Study impact to neighborhood and Sober House residents
  - Consider the holistic impact of all types of mixed housing – e.g., other CLFs, student rentals, etc.
  - Study tax implications\*
- Holistically register, track and forecast all housing types [Today the City does not have a comprehensive list – See Appendix D]\*
- Institute a notification requirement, so citizens are aware of incoming Sober Houses\*
- Consider instituting licenses and fees that sustain tracking and oversight of Sober Houses

\*Endorsed by Union Park Land Use Committee; additional recommendations were added following the Union Park committee meeting

# Working Group Next Steps

- Request that the City Planning Commission (CPC) institute our recommendations and include them in the Zoning study
- Promote our recommendations for adoption to the Saint Paul City Council and the Mayor's office
- Solicit additional input from the community and partner with groups wanting to further explore these issues
- Replicate this study as a “best practice.”

# Conclusion

- Primary Recommendation: We are asking for a change in the distance requirement of Sober Houses from 330 feet to 1,320 feet.
- Sub-recommendations:
  - Study Sober Houses' neighborhood impact, using Merriam Park as a case study
  - Holistically register, track and forecast all housing types
  - Institute a notification requirement, so citizens are aware of incoming Sober Houses
  - Consider instituting licenses and fees that sustain tracking and oversight of Sober Houses
- Avoids overconcentration, ensures balance while allowing ample opportunity for additional Sober Houses to move into Merriam Park (3X increase vs. a 12X increase)
- The quality of life for all in Merriam Park is about maintaining a balance of mixed housing types

# Appendix A: Working Group Mission

- Achieve a balance of single-family residential (SFR) and mixed housing in Merriam Park:
  - Develop a residential land type and usage map
  - Review existing studies and literature
  - Engage community stakeholders
  - Study property tax implications
  - Craft recommendations for the City and UPDC board
  - Leverage the model across City neighborhoods

# Appendix B1: Additional Research

- City of Saint Paul current regulation
  - Zoning study 2005<sup>[12]</sup>; a zoning code regulation limits the population of certain categories of congregate living to  $\leq 1\%$  of the planning district's total population<sup>[18]</sup>  
[Cite 330 feet]
- Minnesota college town models
  - Northfield and Winona both require that only 20% of a given block can be rental housing<sup>[19]</sup>

# Appendix B2: Separation Requirement

Below are the 8 categories of Congregate Living Facilities that have a distance requirement today<sup>[12\*]</sup>

- CRF: Human Service
- CRF: Correctional
- CRF: Health department
- Emergency housing
- Overnight shelter
- Shelter for battered persons
- Transitional housing
- Sober houses

\*Review of proposed text amendment initiated by Planning Commission Resolution 12-55, To: Planning Commission; from: Comprehensive Planning Committee; 10/28/15

# Appendix B3:

## Detailed Distance Requirements

#	CLF (Regulated Today)	Current Regulation*
1	CRF: Human Service	1,320 from certain other facilities
2	CRF: Correctional	1,320 from certain other facilities
3	CRF: health department	1,320 from certain other facilities
4	Emergency housing	1,320 from certain other facilities
5	Overnight shelter	600 from certain other facilities
6	Shelter for battered persons	1,320 from certain other facilities
7	Transitional housing	1,320 from certain other facilities in RL-RT2 districts
8	Sober houses	330 feet from other Sober Houses
		*12: Review of proposed text amendment initiated by Planning Commission Resolution 12-55, To: Planning Commission; From: Comprehensive Planning Committee; 10/28/15

# Appendix C: Example of For-profit Sober House Marketing

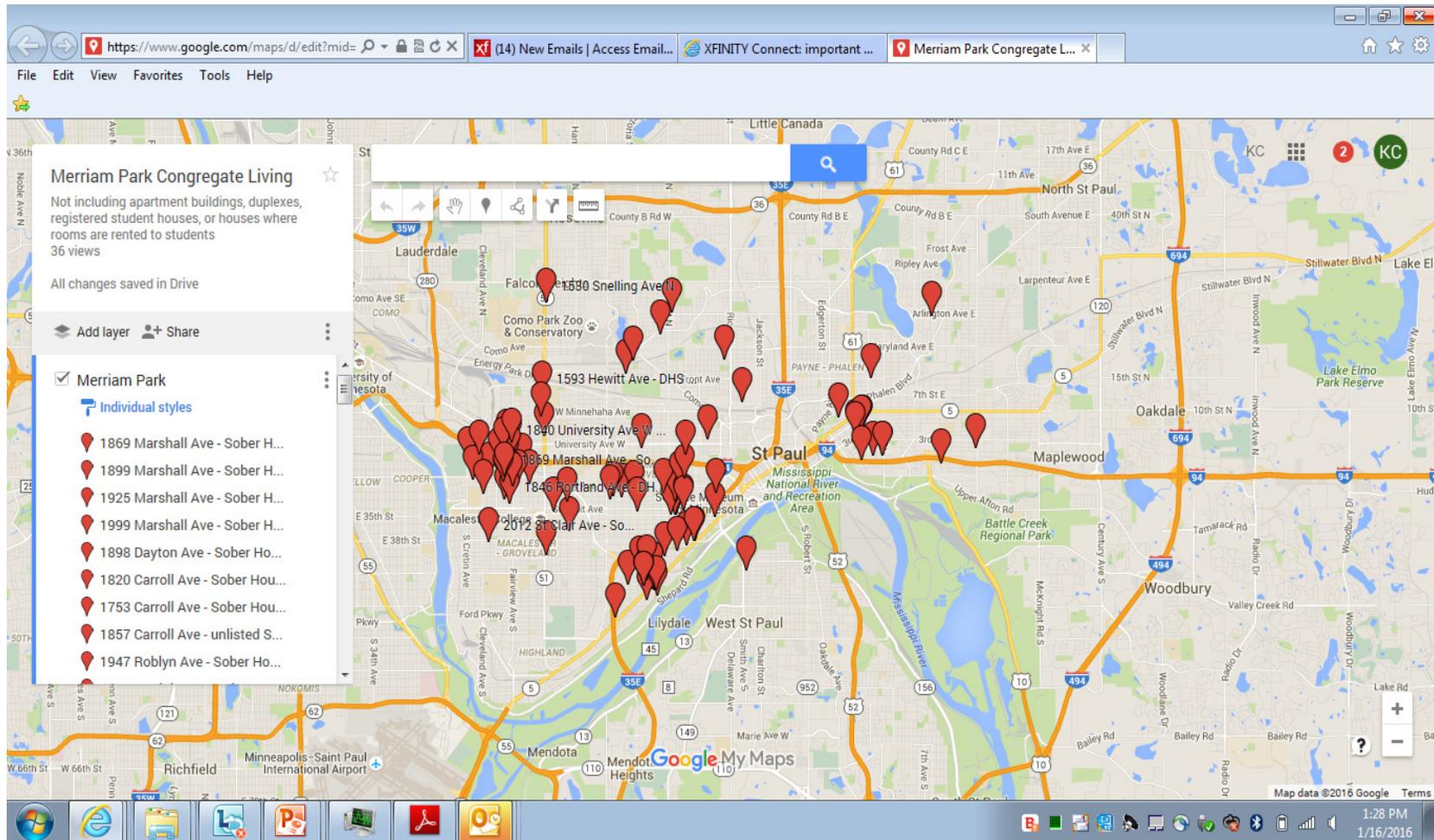
## Campus & Location

Transitions is uniquely set-up as a campus in the heart of one of the worlds' epicenters of recovery–The Twin Cities, Minnesota. Saint Paul in particular is home to a vast recovery community and is known to be one of the most supportive and nurturing environments for the recovering person. In fact, many refer to Saint Paul as the “Recovery Capital of the World.”

Transitions campus is nestled in the charming, quiet residential Merriam Park Neighborhood of Saint Paul where Cornerstone, outpatient offices, sober living residences and Arches are all within walking distance of each other– designed to promote a strong community based on frequent peer-to-peer interaction. Among the hundreds of twelve step meetings taking place each week in The Cities, dozens of them are within walking distance of Transitions.

Due to Transitions near proximity to the Saint Paul/Minneapolis border, clients have easy access to a diverse arena of various recreation and entertainment activities, numerous colleges and universities and an abundance of employment opportunities.

# Appendix D: 94 Sober Houses in St. Paul vs 70 Official City List\*



\*Found via Internet research; CLFs with 4 or more residents marketing themselves as sober houses

# Appendix E: Implications of a 1,320 foot Sober House Distance Requirement

Distance Requirements	Numbers Today	Upper Limit	% Increase
Current Rule: Sober Houses 330 feet	14 Sober Houses	173 Sober Houses [up to 1 every block]	12X Increase
Recommendation: 1,320 feet between Sober Houses	14 Sober Houses	43 Sober Houses [up to 1 every 4 blocks]	3X Increase

# Citations

- 1: Merriam Park Boundaries: University to the north, Snelling to the east, Summit to the south and the River to the West
- 2: Union Park District Council <http://unionparkdc.org/our-work/committees/land-use>
- 3: Residential Recovery Homes and Their Local Impacts, Group Homes ,Residential Recovery Facilities Conference, Alene Taber, March 2, 2007
- 4: Minnesota House of Representatives – Research Department, 2001: <http://www.house.leg.state.mn.us/hrd/pubs/asstlvlg.pdf>
- 5: Alene M. Taber, Esq., AICP Michael J. Alti, Esq. Jackson, DeMarco, Tidus & Peckenpaugh 2030 Main Street, Suite 1200 Irvine, CA 92614 ;  
[http://clkrep.lacity.org/onlinedocs/2007/07-3427\\_misc\\_5-15-2008.pdf](http://clkrep.lacity.org/onlinedocs/2007/07-3427_misc_5-15-2008.pdf);
- 6: HUD, 2015: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/mfh/progdesc/alcp](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/progdesc/alcp)
- 7: MN Department of Revenue, 2015: <http://www.revenue.state.mn.us/businesses/sut/factsheets/FS172.pdf>
- 8: Assisted Living.com, 2015: <http://www.assistedliving.com/laws-by-state/>
- 9: Zillo, 2015: [http://www.trulia.com/real\\_estate/Merriam\\_Park\\_West-Saint\\_Paul/10796/market-trends/](http://www.trulia.com/real_estate/Merriam_Park_West-Saint_Paul/10796/market-trends/)  
[Average price per square foot for Merriam Park West in 2015 is \$207; while average price per square foot for Macalester Groveland is \$234.]
- 10: City of St. Paul, 2015: <https://www.stpaul.gov/departments/city-council/ward-offices/ward-4-council-president-stark/student-housing-zoning-overlay>
- 11: Design center for American Urban Landscape, 2003: [http://www.corridordevelopment.org/pdfs/from\\_MDC\\_Website/db9.pdf](http://www.corridordevelopment.org/pdfs/from_MDC_Website/db9.pdf); Airbnb: [https://www.airbnb.com/?af=43888734&c=brdsearch\\_d\\_engus\\_na\\_na\\_p2\\_txt&dclid=CKDdoZuXlsoCFZBwMAodCO8FBw](https://www.airbnb.com/?af=43888734&c=brdsearch_d_engus_na_na_p2_txt&dclid=CKDdoZuXlsoCFZBwMAodCO8FBw); Sleeping rooms: <http://www.theguardian.com/commentisfree/2015/oct/26/overcrowding-sharing-bed-housing> ; Accessory Dwellings: <http://accessorydwellings.org/tag/crowding/>
- 12: Review of proposed text amendment initiated by Planning Commission Resolution 12-55, To: Planning Commission; From: Comprehensive Planning Committee; 10/28/15 [Each CLF is regulated separately]
- 13: Riverbank House Blog, 2015: <http://riverbankhouse.net/sober-houses-affordable-sober-living-meets-promise-profit/>
- 14: Family Style of St. Paul, Inc. v. City of St. Paul (8th Cir. 1991) 923 F.2d 91: <http://www.casebriefs.com/blog/law/property/property-law-keyed-to-singer/fair-housing-law/familystyle-of-st-paul-inc-v-city-of-st-paul/>
- 15: Costa Mesa Federal judge rules in favor distance requirement: <http://www.costamesaca.gov/index.aspx?page=40&recordid=2314>;  
<http://m.ocregister.com/articles/mesa-695675-costa-court.html>
- 16: Arizona City Examples of Distance Requirements: **The Republic (Metro Phoenix newspaper)** By Parker Leavitt **April 27, 2013**;  
<http://www.mesaaz.gov/home/showdocument?id=15964>
- 17 - Characteristics of Residential: <https://www.planning.org/greatplaces/neighborhoods/characteristics.htm>
- 18- Appendix B1 : Sober Thoughts on Fair Housing, Michael Mischke, 6/30/15: <http://forums.e-democracy.org/groups/stpaul-issues/messages/topic/2Agv11cp0Fem8oJIXNRF74> ;
- 19- Appendix B1: *Dean v. City of Winona*, 843 N.W.2d 249 (Minn. Ct. App. 2014). <http://www.cityofwinona.com/wp-content/uploads/2012/12/winona-rental-august-20151.pdf>
- 20 - Appendix C: Marketing Example: <http://www.transitions.pro/locations/>

# Merriam Park Housing Mix Working Group

For More Information Contact:  
John Syverud at [jbmcrud@q.com](mailto:jbmcrud@q.com)

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Draft Report for City of Saint Paul  
Planning Commission

January 22, 2016

\*Revised January 24, 2016 for written  
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Financial Aspect	Moneymaker for owner: Gross income of \$10,000+ per month	Cost to owner: Pay mortgage of \$1,500 per month
Numbers	Range anywhere from 7 to 14 customers, 1 manager	4 residents
Turnover of residents	New residents each week	Same family for 20 years
Linkage to community	Due to frequent turnover, hard to know whether someone is a neighbor, a visitor or other	Have known these neighbors for years
Traffic	3- 5 cars	2 cars
Parking	Mostly on street	Garage or off-street space
House/backyard activity and noise	7 - 14 customers + 1 manager results in high usage and volume; Tours for prospective customers often weekly	Use backyard average of 1 hour each Saturday and Sunday
Level of smoke	4 to 8 customers * 5 smoke breaks daily = 20 to 45 cigarettes within 30 feet of SFR's back door	No smokers
Services: City inspections, construction workers, etc.	Once a week minimum	Once every six month at most
House maintenance	Changes to accommodate the organization:	No changes to house to accommodate usage

\*Based on Merriam Park neighbors logs [Appendix D - For Profit Sober House Marketing example]

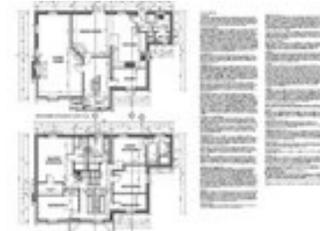
# Impact Continuity and Character

Sober Houses affect neighborhood continuity and character  
Merriam Park is a prime location for Sober Houses

Issues around size,  
services and resident  
turnover



Sober Houses require  
more City regulation  
and oversight than  
SFRs



Sober  
Houses are  
driven by  
Mission and  
Revenue



SFR



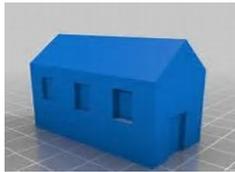
Merriam Park has  
large homes at  
reasonable prices



# From a Resident's Perspective: Overconcentration of CLFs

We risk hitting a "tipping point" of overconcentration

MN Dept. of Health and  
MN Dept. of Human Services



Sober House



Correctional; DHS  
Foster Care



Student  
Rental



SFR



Other: AirBnB, sleeping  
rooms, accessory  
dwellings, etc.



Supportive Living Not  
Requiring City Approval



# Working Group Findings – Summary

- Sober Houses affect neighborhood continuity and character
  - Sober Houses are driven by mission and revenue<sup>[4]</sup>
  - Issues around size, services and residents’ turnover<sup>[5]</sup>
  - Once converted, single-family houses rarely switch back<sup>[6]</sup>
  - Nonprofit Sober Houses pay no property taxes<sup>[7]</sup>
  - Sober Houses require more City regulation/oversight than single-family homes<sup>[8]</sup>
- Merriam Park is a prime location for Sober Houses
  - Large homes at reasonable prices<sup>[9]</sup>
  - St. Thomas and other colleges add student rentals to the mix<sup>[10]</sup>
  - Other types (AirBnB’s, sleeping rooms, accessory dwellings) add density<sup>[11]</sup>
- We risk hitting a “tipping point” of overconcentration
  - The effects are cumulative, but the city is not regulating quantity<sup>[12]</sup>
  - Attractive financial incentives and few regulatory mechanisms mean no “upper end” of Sober House numbers in sight<sup>[13]</sup>

# Best Practices Research

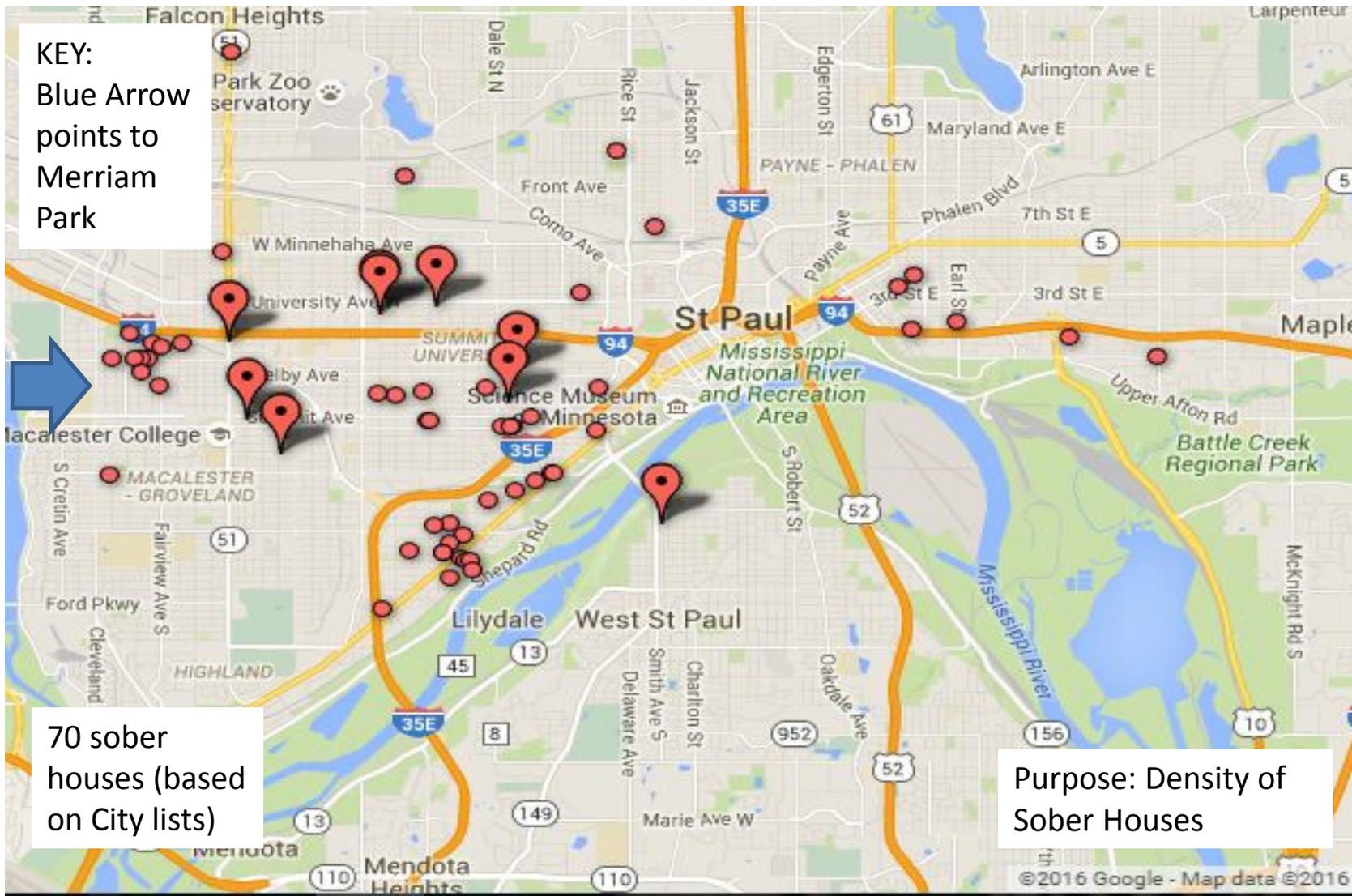
- Family-Style Homes vs City of St. Paul
  - Separation requirements continue to be appropriate in order to ensure that residents are placed in neighborhood environments. [14]
- “Judge sides with city and dismisses sober living home lawsuit”
  - Costa Mesa, Calif., has a distance requirement of 650 feet between sober houses. The federal judge ruled in late 2015 in the city’s favor on the first case to be adjudicated. The second case is currently in the courts.
  - “The city’s ordinance provided ... regulations designed to have sober living homes be ‘good neighbors’ while also benefiting persons in recovery by allowing them to live in local neighborhoods ... and by preventing over-concentration of sober living homes.”
  - “... this ruling by Federal Court Judge James V. Selna is an important milestone in the city’s ongoing efforts to implement a balanced policy of positive integration of sober living facilities in local neighborhoods.”<sup>[15]</sup>
- Other City Examples
  - Arizona: In towns like Mesa, Tempe and Surprise distance requirements range from 1,200 feet to 1,320 feet between sober houses <sup>[16]</sup>

\*See Appendix B1 for additional research

# Our Data (Maps)

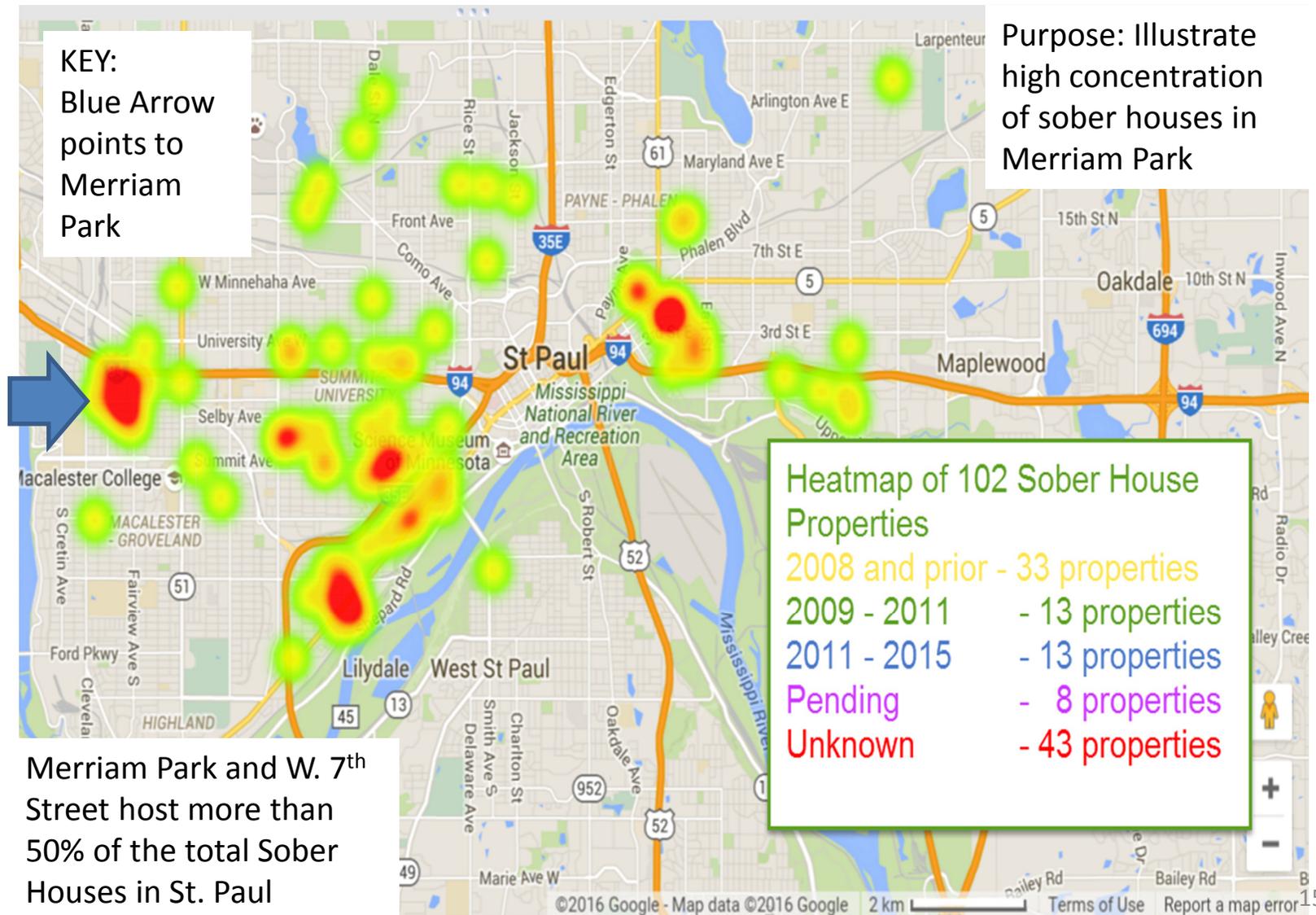
- We developed maps to illustrate our findings and support our recommendations
  - Data sources include:
    - City of St. Paul
    - Minnesota Department of Human Services
    - Ramsey County
    - University of St. Thomas
  - Our web-based research turned up additional Sober Houses not currently tracked by the City [Appendix D]

# Sober Houses Today – 70\*



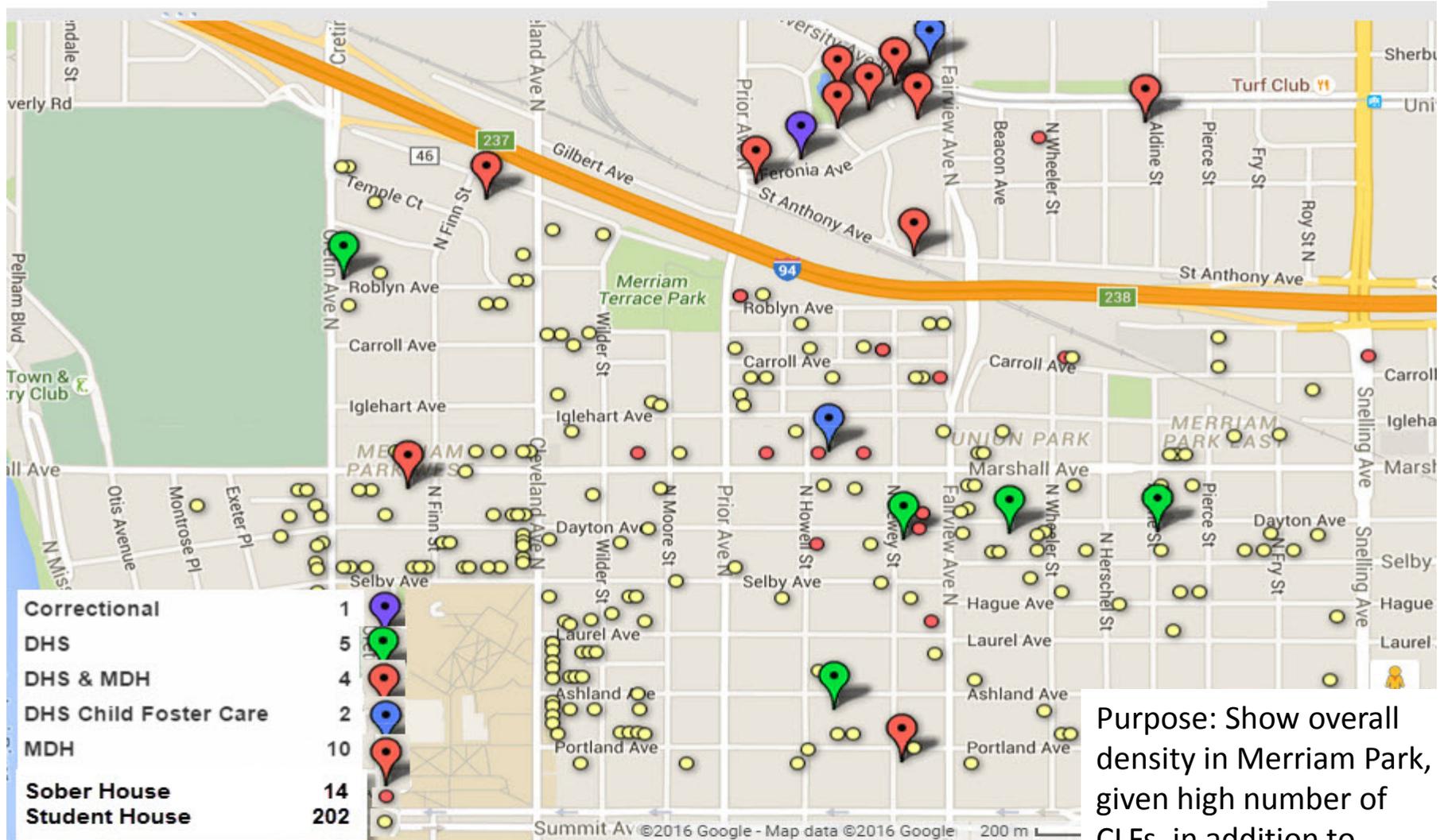
\*City of Saint Paul list of Sober Houses based on City data; 6 more approved since dots were placed

# Sober Houses – Heat Map





# On Top of That: Student Rental Overlay



Purpose: Show overall density in Merriam Park, given high number of CLFs, in addition to student rentals

# Primary Recommendation: Mandate Distance of 1,320 Feet Between Sober Houses

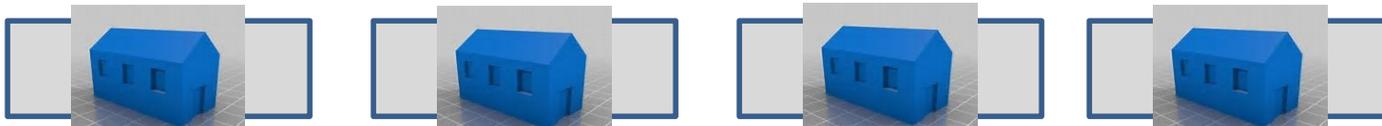
- We are asking for a change in the distance requirement of Sober Houses from 330 feet to 1,320 feet.
- The impact and pressure of various mixed housing on Merriam Park is cumulative.
  - We have a unique neighborhood footprint with more Sober Houses, congregate living facilities and student rentals than any other City area.
- As a result, we are nearing a tipping point of overconcentration and need a stabilizing factor to ensure a balance of all types of housing.

\*Consider grandfathering in current Sober Houses; See Appendix B1 and B2 for current distance requirements in St. Paul.

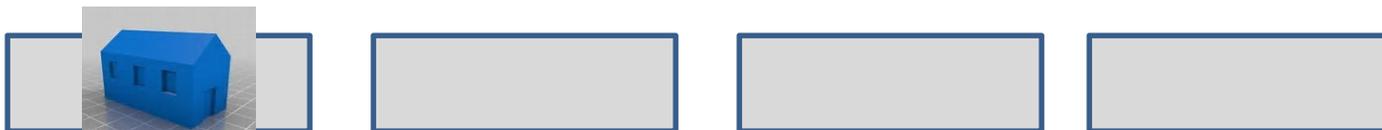
# Advantages to 1,320 Feet Distance Requirement

- How 1,320 feet maintains the residential character for all and ensures balance of all types of housing:
  - Today 330 feet – Upper Limit: One Sober House every block [up to 173; a 12X increase from today]
  - Recommendation of 1,320 feet – Upper Limit: One Sober House every four blocks [Up to 43; a 3X increase from today]

TODAY : 330 feet Separation Distance - Upper Limit [4 Block Area]



RECOMMENDED: 1,320 feet Separation Distance – Upper Limit [4 Block Area]



\*See Appendix A for detailed data

# Working Group

## Sub-Recommendations

### **We request that the City of Saint Paul:**

- Study Sober Houses' neighborhood impact, using Merriam Park as a case study:
  - Study impact to neighborhood and Sober House residents
  - Consider the holistic impact of all types of mixed housing – e.g., other CLFs, student rentals, etc.
  - Study tax implications\*
- Holistically register, track and forecast all housing types [Today the City does not have a comprehensive list – See Appendix D]\*
- Institute a notification requirement, so citizens are aware of incoming Sober Houses\*
- Consider instituting licenses and fees that sustain tracking and oversight of Sober Houses

\*Endorsed by Union Park Land Use Committee; additional recommendations were added following the Union Park committee meeting

# Working Group Next Steps

- Request that the City Planning Commission (CPC) institute our recommendations and include them in the Zoning study
- Promote our recommendations for adoption to the Saint Paul City Council and the Mayor's office
- Solicit additional input from the community and partner with groups wanting to further explore these issues
- Replicate this study as a “best practice.”

# Conclusion

- Primary Recommendation: We are asking for a change in the distance requirement of Sober Houses from 330 feet to 1,320 feet.
- Sub-recommendations:
  - Study Sober Houses' neighborhood impact, using Merriam Park as a case study
  - Holistically register, track and forecast all housing types
  - Institute a notification requirement, so citizens are aware of incoming Sober Houses
  - Consider instituting licenses and fees that sustain tracking and oversight of Sober Houses
- Avoids overconcentration, ensures balance while allowing ample opportunity for additional Sober Houses to move into Merriam Park (3X increase vs. a 12X increase)
- The quality of life for all in Merriam Park is about maintaining a balance of mixed housing types

# Appendix A: Working Group Mission

- Achieve a balance of single-family residential (SFR) and mixed housing in Merriam Park:
  - Develop a residential land type and usage map
  - Review existing studies and literature
  - Engage community stakeholders
  - Study property tax implications
  - Craft recommendations for the City and UPDC board
  - Leverage the model across City neighborhoods

# Appendix B1: Additional Research

- City of Saint Paul current regulation
  - Zoning study 2005<sup>[12]</sup>; a zoning code regulation limits the population of certain categories of congregate living to  $\leq 1\%$  of the planning district's total population<sup>[18]</sup>  
[Cite 330 feet]
- Minnesota college town models
  - Northfield and Winona both require that only 20% of a given block can be rental housing<sup>[19]</sup>

# Appendix B2: Separation Requirement

Below are the 8 categories of Congregate Living Facilities that have a distance requirement today<sup>[12\*]</sup>

- CRF: Human Service
- CRF: Correctional
- CRF: Health department
- Emergency housing
- Overnight shelter
- Shelter for battered persons
- Transitional housing
- Sober houses

\*Review of proposed text amendment initiated by Planning Commission Resolution 12-55, To: Planning Commission; from: Comprehensive Planning Committee; 10/28/15

# Appendix B3:

## Detailed Distance Requirements

#	CLF (Regulated Today)	Current Regulation*
1	CRF: Human Service	1,320 from certain other facilities
2	CRF: Correctional	1,320 from certain other facilities
3	CRF: health department	1,320 from certain other facilities
4	Emergency housing	1,320 from certain other facilities
5	Overnight shelter	600 from certain other facilities
6	Shelter for battered persons	1,320 from certain other facilities
7	Transitional housing	1,320 from certain other facilities in RL-RT2 districts
8	Sober houses	330 feet from other Sober Houses
		*12: Review of proposed text amendment initiated by Planning Commission Resolution 12-55, To: Planning Commission; From: Comprehensive Planning Committee; 10/28/15

# Appendix C: Example of For-profit Sober House Marketing

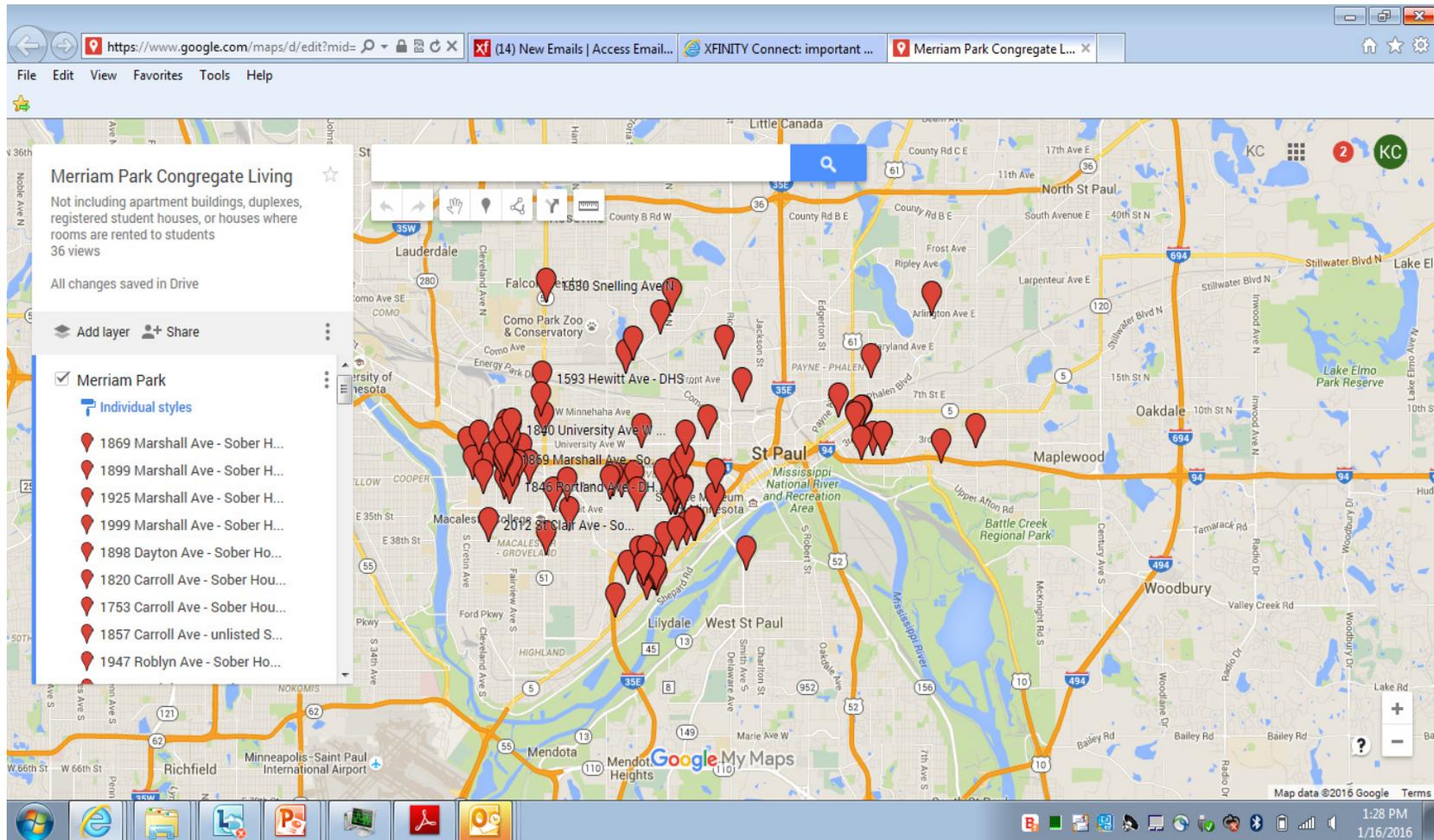
## Campus & Location

Transitions is uniquely set-up as a campus in the heart of one of the worlds' epicenters of recovery–The Twin Cities, Minnesota. Saint Paul in particular is home to a vast recovery community and is known to be one of the most supportive and nurturing environments for the recovering person. In fact, many refer to Saint Paul as the “Recovery Capital of the World.”

Transitions campus is nestled in the charming, quiet residential Merriam Park Neighborhood of Saint Paul where Cornerstone, outpatient offices, sober living residences and Arches are all within walking distance of each other– designed to promote a strong community based on frequent peer-to-peer interaction. Among the hundreds of twelve step meetings taking place each week in The Cities, dozens of them are within walking distance of Transitions.

Due to Transitions near proximity to the Saint Paul/Minneapolis border, clients have easy access to a diverse arena of various recreation and entertainment activities, numerous colleges and universities and an abundance of employment opportunities.

# Appendix D: 94 Sober Houses in St. Paul vs 70 Official City List\*



\*Found via Internet research; CLFs with 4 or more residents marketing themselves as sober houses

# Appendix E: Implications of a 1,320 foot Sober House Distance Requirement

Distance Requirements	Numbers Today	Upper Limit	% Increase
Current Rule: Sober Houses 330 feet	14 Sober Houses	173 Sober Houses [up to 1 every block]	12X Increase
Recommendation: 1,320 feet between Sober Houses	14 Sober Houses	43 Sober Houses [up to 1 every 4 blocks]	3X Increase

# Citations

- 1: Merriam Park Boundaries: University to the north, Snelling to the east, Summit to the south and the River to the West
- 2: Union Park District Council <http://unionparkdc.org/our-work/committees/land-use>
- 3: Residential Recovery Homes and Their Local Impacts, Group Homes ,Residential Recovery Facilities Conference, Alene Taber, March 2, 2007
- 4: Minnesota House of Representatives – Research Department, 2001: <http://www.house.leg.state.mn.us/hrd/pubs/asstlvlg.pdf>
- 5: Alene M. Taber, Esq., AICP Michael J. Alti, Esq. Jackson, DeMarco, Tidus & Peckenpaugh 2030 Main Street, Suite 1200 Irvine, CA 92614 ;  
[http://clkrep.lacity.org/onlinedocs/2007/07-3427\\_misc\\_5-15-2008.pdf](http://clkrep.lacity.org/onlinedocs/2007/07-3427_misc_5-15-2008.pdf);
- 6: HUD, 2015: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/mfh/progdesc/alcp](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/progdesc/alcp)
- 7: MN Department of Revenue, 2015: <http://www.revenue.state.mn.us/businesses/sut/factsheets/FS172.pdf>
- 8: Assisted Living.com, 2015: <http://www.assistedliving.com/laws-by-state/>
- 9: Zillo, 2015: [http://www.trulia.com/real\\_estate/Merriam\\_Park\\_West-Saint\\_Paul/10796/market-trends/](http://www.trulia.com/real_estate/Merriam_Park_West-Saint_Paul/10796/market-trends/)  
[Average price per square foot for Merriam Park West in 2015 is \$207; while average price per square foot for Macalester Groveland is \$234.]
- 10: City of St. Paul, 2015: <https://www.stpaul.gov/departments/city-council/ward-offices/ward-4-council-president-stark/student-housing-zoning-overlay>
- 11: Design center for American Urban Landscape, 2003: [http://www.corridordevelopment.org/pdfs/from\\_MDC\\_Website/db9.pdf](http://www.corridordevelopment.org/pdfs/from_MDC_Website/db9.pdf); Airbnb: [https://www.airbnb.com/?af=43888734&c=brdsearch\\_d\\_engus\\_na\\_na\\_p2\\_txt&dclid=CKDdoZuXlsoCFZBwMAodCO8FBw](https://www.airbnb.com/?af=43888734&c=brdsearch_d_engus_na_na_p2_txt&dclid=CKDdoZuXlsoCFZBwMAodCO8FBw); Sleeping rooms: <http://www.theguardian.com/commentisfree/2015/oct/26/overcrowding-sharing-bed-housing> ; Accessory Dwellings: <http://accessorydwellings.org/tag/crowding/>
- 12: Review of proposed text amendment initiated by Planning Commission Resolution 12-55, To: Planning Commission; From: Comprehensive Planning Committee; 10/28/15 [Each CLF is regulated separately]
- 13: Riverbank House Blog, 2015: <http://riverbankhouse.net/sober-houses-affordable-sober-living-meets-promise-profit/>
- 14: Family Style of St. Paul, Inc. v. City of St. Paul (8th Cir. 1991) 923 F.2d 91: <http://www.casebriefs.com/blog/law/property/property-law-keyed-to-singer/fair-housing-law/familystyle-of-st-paul-inc-v-city-of-st-paul/>
- 15: Costa Mesa Federal judge rules in favor distance requirement: <http://www.costamesaca.gov/index.aspx?page=40&recordid=2314>;  
<http://m.ocregister.com/articles/mesa-695675-costa-court.html>
- 16: Arizona City Examples of Distance Requirements: **The Republic (Metro Phoenix newspaper)** By Parker Leavitt **April 27, 2013**;  
<http://www.mesaaz.gov/home/showdocument?id=15964>
- 17 - Characteristics of Residential: <https://www.planning.org/greatplaces/neighborhoods/characteristics.htm>
- 18- Appendix B1 : Sober Thoughts on Fair Housing, Michael Mischke, 6/30/15: <http://forums.e-democracy.org/groups/stpaul-issues/messages/topic/2Agv11cp0Fem8oJIXNRF74> ;
- 19- Appendix B1: *Dean v. City of Winona*, 843 N.W.2d 249 (Minn. Ct. App. 2014). <http://www.cityofwinona.com/wp-content/uploads/2012/12/winona-rental-august-20151.pdf>
- 20 - Appendix C: Marketing Example: <http://www.transitions.pro/locations/>

# Merriam Park Housing Mix Working Group

For More Information Contact:  
John Syverud at [jbmcrud@q.com](mailto:jbmcrud@q.com)



**UNION PARK DISTRICT COUNCIL**

1602 Selby Avenue, Suite 10, Saint Paul, MN 55104

651.645.6887 | info@unionparkdc.org | www.unionparkdc.org

*An Affirmative Action, Equal Opportunity Employer*

January 13, 2016

Saint Paul Planning Commission  
25 West Fourth Street, Suite 1400  
Saint Paul, MN 55102

Dear Commissioners:

On January 11, 2016, the Union Park District Council Land Use Committee reviewed the report and recommendations of the Merriam Park Housing Mix Working Group, and discussed the recommendations with members of the Working Group with respect to proposed changes of Congregate Living Facility regulations.

The Committee voted unanimously to endorse the “sub-recommendations” of the Group, recommending that the City of Saint Paul take the following actions:

- Holistically register, track, and forecast all housing types.
- Institute a notification requirement, so citizens are aware of incoming Congregate Living Facilities.
- Study tax implications and create a plan to address those.

The Committee did not endorse the Working Group’s recommendation to mandate a distance of 1,320 feet between any instances of all eight named categories of Congregate Living Facilities.

If you have any questions, please feel free to contact me.

Sincerely,

Julie Reiter, Executive Director  
Union Park District Council



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February 16, 2016

Saint Paul Planning Commission  
25 West Fourth Street, Suite 1400  
Saint Paul, MN 55102

Dear Commissioners:

On February 15, 2016, the Union Park District Council Land Use Committee reviewed the modified report and recommendations of the Merriam Park Housing Mix Working Group, and discussed the recommendations with members of the Working Group. The Group's recommendations had been modified to address Committee concerns related to its previous proposal to mandate a distance of 1,320 feet between any instances of all eight named categories of Congregate Living Facilities (CLFs).

The Committee voted unanimously to endorse the updated report and recommendations of the Group, believing that the recommendations reflect the community's desire to better align sober housing regulation with the distance requirements imposed on other congregate living facilities.

Specifically, the Committee endorsed the Working Group's recommendations that the City take the following actions:

- Evaluate the current distance requirement between sober houses and increase it from 330 feet to 1,320 feet if feasible.
- Study sober houses' neighborhood impact, using Merriam Park as a case study.
- Holistically register, track, and forecast all housing types.
- Institute a resident notification requirement that is consistent with the notification given for the other seven types of CLFs.
- Consider instituting licenses and fees in a manner that is consistent among all eight types of CLFs.

Please note that the Committee did **not** endorse the Working Group's recommendation that the distance requirement might apply differently to arterial streets.

If you have any questions, please feel free to contact me.

Sincerely,

Julie Reiter, Executive Director  
Union Park District Council



January 25, 2016

St. Paul Planning Commission

Dear Chair Wencil and Planning Commissioners:

As you may be aware, People Incorporated Mental Health Services is a Minnesota non-profit organization with a nearly fifty year history of innovation in community-integrated programs in Twin Cities metropolitan area. Originally founded in 1969 to provide help and support for an underserved and stigmatized population, People Incorporated is recognized as a leader in initiating evidence-based mental health services. People Incorporated currently operates more than 60 programs in a variety of settings, including several programs and facilities within the City of St. Paul.

With this background, I would like to share with you People Incorporated's perspective on the draft zoning code amendments related to congregate living which were presented in a public hearing to the Planning Commission on January 22, 2016.

In reviewing the draft zoning code amendments, People Incorporated has identified that some of the programs or facilities it operates in St. Paul may fall under the definition of "supported housing facilities" as proposed in these amendments. Additionally, People Incorporated has identified several differences between the restrictions placed upon facilities defined as "supportive housing facilities" and the restrictions placed upon facilities defined as "adult care homes." For example, while both supportive housing facilities and adult care homes are permitted to serve the same number of facility residents in most residential, traditional neighborhood and business districts, only supportive housing facilities are required to obtain a conditional use permit in all residential districts for any facility serving seven or more facility residents. (Draft Zoning Code Amendments to Sec. 65-153(b)-(c) and Sec. 65-180(d)). Additionally, supportive housing facilities must comply with distance restrictions (i.e. minimum distances between a supportive housing facility and other types of congregate living facilities), whereas adult care homes have no such restrictions. (Draft Zoning Code Amendments to Sec. 65-153(a) and Sec. 65-180).

While there may be logical, good-faith reasons for differences in restrictions between these proposed categories, we also recognize that restrictions of this sort can sometimes serve to isolate and segregate certain populations, such as individuals with mental illness or individuals with disabilities – some of the very individuals served as residents of supported housing facilities. For this reason, we ask that the Commission closely scrutinize, discuss, and disclose to the public the reasons for any of the differences in restrictions placed upon supportive housing facilities and adult care homes. Only through this open analysis and disclosure can the public be reassured that any differences in the restrictions placed upon these two types facility are not based upon any stigmas or misperceptions about the individuals who may be served as residents of these newly-defined supportive housing facilities.

Thank you for the opportunity to share our perspective with you.

Regards,



Mike Turpin  
General Counsel

**IV. PUBLIC HEARING: Congregate Living Zoning Study** – Item from the Comprehensive Planning Committee. (*Bill Dermody, 651/266-6617*)

Chair Wencil announced that the Saint Paul Planning Commission was holding a public hearing on the Congregate Living Zoning Study. Notice of the public hearing was published in the Legal Ledger on November 19, 2015, and was sent to the citywide Early Notification System list and other interested parties.

Bill Dermody, PED staff gave a few introductory words. There was a need identified several years ago to address the congregated living section of the Zoning Code to provide better clarity and consistency. The zoning study was released in November and a longer time for review was scheduled to account for the holiday and to account for the complexity of the issues. Some of the major changes that are proposed are that 18 categories of congregated living in the zoning code are to be consolidated into 11 categories. Also, there is an elimination of the 1% maximum – that certain categories of congregated living may constitute a maximum 1% of the population in the planning district. There are also many smaller changes. In addition to the standard notice that goes out to the public in general and to the district councils, he reached out to Ramsey County, the State of Minnesota and to several major congregated living providers making sure that they were aware of what was going on.

Chair Wencil read the rules of procedure for the public hearing.

Chair Wencil announced that the five people signed up to speak are all part of the Merriam Park Housing Mixed Working Group. They will be giving a power point presentation and each person will have a section to speak about which can be viewed on the web page at:

<http://www.stpaul.gov/planningcommission>.

The following people spoke.

1. Kevin Anderson, 1892 Dayton Avenue, Saint Paul, MN. He is part of the Merriam Park Housing Mixed Working Group which developed recommendations for the zoning study. Five of them are neighborhood group members who will present today. Their primary recommendation for consideration is to change the distance requirement of sober houses from 330 feet to 1320 feet. Their presentation findings and recommendations will demonstrate how this will lead to a balance of mixed housing in Merriam Park and maintain quality for all. The impact and pressure of mixed housing is additive. Merriam Park is like no other neighborhood in Saint Paul. In addition to sober houses and congregated living facilities, they are the college neighborhood of Saint Paul. They have reached the tipping point of over-concentration and they need the stability factor to help ensure balance. In terms of background, they are interested neighbors who began meeting last fall and became a working group of the Union Park District Council Land Use Committee. Their main interest is mixed housing, but today they are talking about sober housing. They have some principles that the group lives by and first of all they welcome the changes in Merriam Park – that is the reason they live there. They are not objecting to density – they are objecting to over concentration. They believe in mixed housing. What they are trying to do is find a workable solution for all and find a balance between single family homes and sober houses. There are three areas where they have their findings: first of all, residential has value; second, sober houses have an adverse impact on residential neighborhood character; and third, they created a grid from

what it is like to live next to a sober house versus single family. There were some real different impacts, like when you live next to a sober house you live next to a business with 15 customers as opposed to a single family. In Merriam Park they have large homes that are reasonably priced, so they are a main place to put sober houses and they have hit a tipping point of over-concentration. They have all these types of mixed houses. They are a unique neighborhood with student houses and other types of mixed houses so they want the Planning Commission to consider their recommendations.

2. Margaret Ryther, 1878 Dayton Avenue, Saint Paul, MN. They have conducted a lot of research on sober houses over the past several months, which directly support their recommendations. There is a key case of Family-Style Homes Incorporated versus the City of Saint Paul - this is a foundational case which is referenced nationally. In 1991, the United States Eighth Circuit Court of Appeals ruled that separation requirements continue to be appropriate in order to ensure that residents of a type of supportive congregate living facility (group homes for the mentally ill) are placed in neighborhood environments. This rule establishes the importance of separation with the benefit of individuals with disabilities who are protected against discrimination by the American Disabilities Act and the Fair Housing Act. Headlined "Judge sides with city and dismisses sober living home lawsuit" that is a new ruling and doing a lot of research they found in Costa Mesa, CA. there is a distance requirement of 650 feet between sober houses. The federal judge ruled in late 2015 in the city's favor on the first case to be adjudicated. The courts are moving in a new direction and are now establishing that it is legally allowable for cities to regulate distance requirements between sober houses. In towns like Mesa, Tempe and Surprise Arizona distance requirements range from 1,200 feet to 1,320 feet between sober houses.
3. Gretchen Robertson, 1562 Laurel Avenue, Saint Paul, MN stated they have developed some maps to illustrate their findings. Today there are about 70 sober houses on Saint Paul's official list and 13 of them are in Merriam Park. Their heat Map shows the areas of highest concentration of sober houses in Saint Paul. Merriam Park and West 7<sup>th</sup> Street host more than 50% of the total number of sober houses in Saint Paul. Merriam Park has a high concentration of sober houses in addition to a number of other types of congregate living facilities. Their map shows some of those Minnesota Department of Health facilities, Minnesota Human Services, Correctional sites and child foster care. Merriam Park has a high overall density of non-single family homes, sober houses, congregate living facilities and student housing. So there is a high concentration of mixed housing like no other neighborhood.
4. Eugene Pelsynski, 1890 Dayton Avenue, Saint Paul, MN stated they are asking that the distance requirement between sober houses be changed from 330 feet to 1,320 feet. The impact and pressure of various mixed housing on Merriam Park is cumulative and it compounds. And their unique neighborhood is the home to the largest concentration of sober houses, congregate living facilities and student rentals. Over time all of these different types have been looked at separately. The 1320 separation would go a long way to helping avoid overconcentration. What is the advantage to a 1320 requirement? It does introduce the concept of balance as well as it avoids concentration, and it provides ample opportunity for additional sober houses to move into the neighborhood. Right now there are 173 blocks in Merriam Park - under City regulations they could have 173 sober houses. With their proposal the 1320 separation there would still be room for them to increase their ratio by 3 times, instead of the 12 times which is what they would see if they went to 173. And of course all of the existing sober houses would be grandfathered in and that the separation requirement would not be enforced for them. Also they came up with sub-recommendations, asking that the City study sober house impact on neighborhoods and use Merriam Park as a case study.

Next, they would like the city to comprehensively register, track and forecast all housing types. Another thing they ask is that the City institute a notification requirement. And, lastly, consider instituting licenses and fees that sustain tracking and oversight of Sober Houses. Their records show that there are many more sober houses than on current City records.

5. John Syverud, 1882 Dayton Avenue, Saint Paul, MN stated that their working groups' next steps are to request that the Planning Commission institute their recommendations and include them in the zoning study. They intend to promote their recommendations for adoption to the Saint Paul City Council and the Mayor's Office. They also intend on getting more input from the community and partner with groups wanting to further explore these issues and they hope to replicate this study as a "best practice" across the city. In conclusion their first recommendation is that the City of Saint Paul • require 1320 feet between sober houses.

Sub-recommendations: • Study sober houses' neighborhood impact, using Merriam Park as a case study; • Holistically register, track and forecast all housing types; • Institute a notification requirement, so citizens are aware of incoming sober houses; • Consider instituting licenses and fees that sustain tracking and oversight of sober houses. • Avoid overconcentration, ensuring balance while allowing ample opportunity for additional congregate living facilities to move into Merriam Park (3X increase vs. a 12X increase). This would maintain the residential character of Merriam Park as it relates to the quality of live for all neighbors.

Commissioner Ward said that there was a statement made that this particular concentration of student housing, congregate living, and sober houses has an impact on property values. He did not hear any substantial data or anything that supports that hypothesis. So how does a sober house or foster home or congregate living facility or anything mentioned in your report have a derogatory impact on property values?

Mr. Syverud said that they have not actually studied specifically in a quantitative manner. There are studies about property marketability and values – "if a neighborhood is viewed as less desirable for permanent residents because of the over-concentration of group homes, residential property values may decline." That is footnote [3] in the appendix, which came from Dinky Town in Minneapolis as an example.

Commissioner Ward said so this is all conjecture.

Mr. Syverud replied yes, he just said that they have not done that study; they have not looked at data specifically.

Commissioner Ward made a personal observation saying that usually when groups come and do a presentation it's like the little red hen saying the sky is falling, the sky is falling, property values are falling, property values are falling. They are not because property values are not set just by sober homes – property values are determined by appraisal and appraisers use three qualitative methods for coming up with value. And the value is based on what the market will support in that area. One of those approaches is what we call an income approach. In determining value by the income approach, if the house is considered a business and is generating income that's one form of appraisal that could be used to come up with value of a home. Income approach is typically more than market. If students are there, if there are tenants that are there and those tenants are generating an income in excess of what the mortgage is, the value is rising rather than the value going down.

Mr. Syverud asked if he was talking about that specific property.

Commissioner Ward replied for the whole area, because that particular property isn't by itself, its part of the whole.

Mr. Syverud said so you are saying that the adjacent properties are enhanced by businesses that are next door to them?

Commissioner Ward said absolutely.

Mr. Suverud said that he would like to study that further, because he does not know that.

Commissioner Wickiser commented that perception that is given with group homes can often times color the neighborhood and that can be negative. He does know that other parts of Saint Paul, the group homes and sober houses are really welcomed. As a Zoning Committee member, they hear a lot of instances where they are bumping up against distance requirements and they are dealing with people that are in abusive relationships that have children and things of that nature. He would like Mr. Syverud to consider that aspect, that they are being tugged in both directions as Planning Commission members and it is not all the same throughout Saint Paul. There are neighbors that come in that have elderly neighbors that have their walks shoveled as a result of sober houses and things of that nature that are asking us to keep the sober house in their neighborhood. In the process of this, try to keep an open mind that not all neighborhoods are the same and the issues in your neighborhood are not necessarily spread out.

Mr. Syverud said he understands that and one of the things that they are looking at is that it looked to him like the other 7 or 8 of the congregate living facilities already have a 1320 foot distance requirement on them so they are asking that maybe sober houses be considered in the same manner.

Commissioner Padilla said that they do hear a lot about the need and one of the things that she consistently struggle with is the fact that she does not want to leave community members behind or in a situation where they have no other housing options because we are being too restrictive in our boundaries and distance requirements. She asked them to comment on the Union Park District Council letter and why they did not endorse the working group's recommendation to mandate a distance of 1320 feet.

Mr. Syverud said there was a lot of discussion and the committee was split 50/50 and initially there was about an 80% endorsement and then the more discussion that came up about they were very concerned about the potential for lawsuits against the City because of the protected class nature of chemically dependent individuals. There was more discussion and there was a motion for that particular primary 1320 foot requirement, which was not accepted, but the other four were passed.

Mr. Anderson added that they had presented to them a larger proposal that involved congregate living facilities and so they were voting on something completely different. And through talking to them we realized that what really is being talked about is sober houses. Another thing is they did not include their research on the latest court cases where now across the country courts are ruling that you can have a distance requirement such as 1320 feet. So they are going back to the Union Park Committee in the next two months and they expect that the Union Park Committee will vote for this proposal seen today.

Commissioner Lindeke thanked everyone that came out and sharing this informative, well put together presentation.

Commissioner Oliver asked if they had looked into the reasons why sober houses in particular chose Merriam Park and West 7<sup>th</sup> versus other areas of the city. Beyond the marketing, have you reached out to the operators or discussed what they are looking for to see, whether what we are doing is going to have any impact on what they are looking for, or is it strictly the fact that there are older houses? Is there anything else that you found out about what the motivations are and why Merriam Park has drawn so many of these?

Mr. Syverud said they speculate based on primarily the marketing stuff that the housing stock in their neighborhood is desirable because it's relatively large and relatively inexpensive. But no, they have not reached out yet, but one of their plans is to reach out more to groups like Minnesota Association of Sober Housing (MASH). There is a member of MASH that sat in on the Union Park District Council and had some opinions about that, but they haven't really had extensive interaction with them yet.

Commissioner Wang would like to know about the history of the numbers, the distance numbers in City Code particularly why the 330, 600 and 1320. Also, boarding and rooming houses –which are not offering services, but in terms of the physical layout of a building – how are they different from sober houses?

Mr. Dermody said that back in the late 80's early 90's there was a major study of all congregate living by the City, and at that time there was a change in the Zoning Code to institute generally a 1320 separation requirement between certain categories, which is 600 in downtown. The sober house regulation did not occur at that time. We had sober house zoning study in 2008 through 2010 and they addressed that issue. Sober houses had fallen through the cracks and were not regulated in anyway in the City of Saint Paul. It is not clear from the record why 330 feet was chosen, but talking to people who were involved at that time it seems that it had something to do with a fear of lawsuits against the City and it was felt that 1320 feet was too restrictive and that would be difficult to uphold in court. But the 330 feet would be something that the sober house people could live with and they could probably stand legally behind that. Also there were many maps that featured Merriam Park at the time and looked at where sober houses were located. So maybe the existing situation might have influenced the number that they ended up with.

Commissioner Wang said that the 330, 600 and the 1320 are not linked to the average size of a city block or...

Mr. Dermody said the average size of a city block is 330 feet, so that's one per block.

Commissioner Wang asked how boarding and rooming houses are different from a sober house.

Mr. Dermody said in the code there is no reference provided for boarding houses or rooming houses. In practice they have had at least one, possibly more, rooming houses that operated very much like a congregate living facilities and did provide services on site, but because of where the services were funded they were treated differently. So this is actually the confusion of where to draw the line that is part of the reason they are doing this study. If this

study were approved as it is proposed right now, rooming and boarding houses would be combined into one and they would not have services like the other types of facilities.

Commissioner Wang asked if there was anything that said how long the minimum amount of time someone might be living in a boarding or rooming house?

Mr. Dermody replied that there is no information in the definition about how long they stay in a boarding or rooming house.

Commissioner Wang wonders why the working group did not look at the lack of distance requirement particularly with boarding and rooming houses.

Mr. Syverud said they are focused on sober houses.

Commissioner Edgerton asked about why the focus on sober houses. Within the congregate living category, there are supportive housing facilities where persons with mental illness, chemical dependency or physical handicap are allowed, and you're specifically focusing on sober houses among the group – he is wondering why.

Mr. Syverud said if he understands the rules at this point, there is one every approximately four block requirement for most of the other congregate living facilities, while sober houses is a quarter of that. So the density of sober houses could be considerably higher and there is a considerable growth in the Merriam Park neighborhoods, that's why they focused on sober houses.

Commissioner Ward said that sober homes do include those that are chemically dependent, alcohol is a chemical and it is labeled as an addictive disease. So those individuals that are staying in sober homes are also protected under the ADA. Also, sober homes could be someone that may or may not be on a chemical but suffering from a condition where they are being treated for something. There is no time limit, but if he recalls correctly there is a limit to the number of people that could reside in that particular unit and there was a number spoken of about 15 customers and as he remembers it was nowhere near 15, because when you get over 7 the requirements for the County kick in and those conditions change from a sober home to a facility that has to be regulated by the County because there is up to 7 people there. Under what he remembers there were some size limitations.

Mr. Syverud said that he's sure that's correct, the property that he is talking about on his block is a main family home and a mother-in-law apartment in the back where the garage might be and they are putting 8 people in the back and 7 people in the front – and this is a sober home.

Mr. Anderson said that the limit of 4 unrelated people in a structure does not apply to sober homes, so on his block for example the sober home has 14 customers and that includes 1 manager. And there is 15 individuals living in a home on his block a sober house.

Commissioner Ward said that this is one particular incidence that one is isolated but the other ones are different – they are not 15, 15, 15.

Mr. Anderson said no, there are 12, 9. The whole limit of 4 people per house does not apply when you get to sober houses.

Mr. Pelsynski said that you have to hit 17 before there is any County oversight in a sober house.

Commissioner Ward replied I knew there was a number. Also you talked about the structure of a fee based situation. You guys put a lot of work and effort into this and when we were going over this before there were a total of 34 sober homes in the city that the City could identify. 34 in Merriam Park and a few online that were not account for so now you're saying it's up to...

Mr. Syverud replied 70 on the records but then there's a delta between that and the actual number of homes that we have been able to identify doing internet research. Margaret Ryther has been very thorough in going through and looking for promotions and things like that so there appears to be another half dozen to three quarters of a dozen that the city is not aware of.

Commissioner Ward said let's say we're considering a fee base deal. What stops the rooming houses the other congregate living facilities to say hey, we cry foul, because that is somewhat discriminatory because it is singling out just sober homes and we didn't get charged a fee but the sober home owners are saying now we're being charged a fee and nobody else is. So why is that? And why not just charge a fee across the board if it is going to help the community with limiting the density as you discussed in those areas of overconcentration of these types of facilities?

Mr. Syverud said that is a great recommendation.

Commissioner Ward said because he would think that if it is a fee just for one type that is very similar to all the other ones, if it were him he would say that it was somewhat unfair.

**MOTION: Commissioner Thao moved to close the public hearing, leave the record open for written testimony until 4:30 p.m. on Monday, January 25, 2016, and to refer the matter back to the Comprehensive Planning Committee for review and recommendation. Commissioner Ward seconded the motion. The motion carried unanimously on a voice vote.**