



February 4, 2021

Community Planning and Development | City and County of Denver
201 W Colfax Avenue
Denver, CO 80202

Re: BRUN Comments on Proposed Group Living Text Amendment - REVISED

To: Denver City Councilwoman District 1, Amanda Sandoval
Denver City Councilwoman At-Large, Deborah Ortega
Denver City Councilwoman At-Large, Robin Kniech

Berkeley Regis United Neighbors (BRUN) is a registered neighborhood organization with the City of Denver located in Council District 1. The RNO's boundaries are Federal Blvd to the east, Sheridan Blvd to the west, 38th Ave to the south, and 52nd Ave to the north. Membership is available to households and businesses within BRUN's boundary. Information is shared with the neighborhood regularly through email blasts and postings on various forms of social media as well as on our website, berkeleyregisneighbors.org. Broadcasts include notices of upcoming meetings and summaries of those past. General meetings with the BRUN Board are held monthly and are open to the public.

On July 21, 2020, BRUN's monthly public meeting was convened virtually by the BRUN Board of Directors. On the agenda for this meeting was discussion on the proposed Group Living Rules Amendment. This discussion was based upon the description of changes outlined in the proposed Group Living Draft Text Amendment issued 07/17/2020. Following a thorough analysis of the information and a unanimous vote of the BRUN Board of Directors, BRUN issued a position letter to Community Planning and Development (CPD) on 08/10/2020 that in short did not support the text amendment in its then current form.

In response to the outcomes from meetings of the Denver Planning Board (DPB) and preliminary meetings held by Denver City Council's Land Use, Transportation, and Infrastructure Committee (LUTI), BRUN initiated an online survey designed to solicit feedback on the Group Living (GL) Proposal from our membership. BRUN's 'Survey on Proposed Changes to Denver Group Living Rules' was conducted 12/02/2020 through 01/11/2021. An invitation to participate was sent to all of BRUN's membership with encouragement to be shared broadly to residents of Denver Council District 1. BRUN'S prior letter of opposition dated 08/10/2020 was circulated along with the survey questions. There were 182 respondents to this survey. A summary of the survey results can be found attached, (see BRUN GL Survey Summary: 02/01/2021). After thorough review of the GL Survey results and further analysis of final revisions to the GL Proposal by Denver's LUTI Committee, BRUN's Board of Directors conducted an online vote 02/01/2021 thru 02/03/2021 where, by a vote of 12 in support and 0 opposed, the following position statement was confirmed:

Although recognizing the City-wide need for affordable housing, BRUN remains concerned with a number of passages within the proposed 'Group Living Text Amendment' that will have negative planning and economic impacts on Berkeley Regis neighborhoods, and is overall bad planning policy. BRUN's concerns range from the general, including the proposed revisions to both Household and Residential Care Regulations to the specific revisions of building forms.

OVERVIEW SUMMARY

Household Regulations

- Defining the maximum number of people (adults and minors) in an SU or TU structure cannot solely be determined by the square footage of a structure. There must be consideration of inhabitable and uninhabitable space. Otherwise Dining Rooms, Living Rooms, and unfinished Basements will be used as sleeping accommodations. BRUN recommends more of an alignment with US HUD and United Nations standards.
- The increase in the Household density, although reduced from the original amendment text, would foster an unpredictable environment within the Community. This is contrary to one of the basic purposes of a zoning code – establishing a level of future development predictability for both existing residents and developers.
- The increase in density over time in SU and TU districts, and their neighborhoods, would result in the impacts to services and infrastructure:
 - Utility Services – Water, Sewer, Power;
 - Trash Service
 - On-street Parking
- There are many opportunities throughout the City, and within the BRUN district, to increase density along appropriate corridors with proper utilities, transportation, and support services, that would also preserve the quality of its SU and TU neighborhoods that so many in Denver have come to enjoy.
- With the vast majority of properties being offered for this group living scenario being rental, by either private or commercial users, there continues to be no defined mechanism for regulation. Denver INC has proposed, and BRUN supports, a registry of SU and TU properties that would be offered as this group living type, along with defined regulation, so that these properties do not become a burden to their neighbors. Responding to such issues cannot be left to a reactive approach of reporting bad behavior after the fact. BRUN further supports the City's direct involvement, along with other appropriate stakeholders, in development of specific "non-profit housekeeping unit" lease language.
- BRUN recommends development of guidelines and standards for Neighborhood Inspection to proactively address possible code issues and to verify occupant count.

BRUN feels that the opportunities and constraints of this part of the Group Living proposal are not being fully analyzed. Although there have been a number options for calculation discussed and recommendations brought forward in the LUTI meeting, there is no assurance at this time as to what the final proposed text amendment language will be that the Council will be considering. BRUN still feels that the underlying reasons for the definition change is to promote a certain agenda that, however noble to the cause, is detrimental to the Denver community as a whole. Without a more logical revision to the proposed Household Regulation formula BRUN cannot support the current proposed revised language change to the definition of Household.

Congregate Living Uses:

In the Summary Overview placement of this use within SU and TU zone districts is not noted, but in DZC Section 5.4.4 this use is allowed in RH -3A zone districts. The specific uses under the heading of Congregate Care constitutes allowing a business to be established within a residentially zoned neighborhood. Regardless of the size of the dwelling, or size of lot, these facilities will require a staff, as well as regulatory improvements, that will be in conflict with the neighborhood environment. Imbedding this use within a residential neighborhood also brings a level of uncertainty to adjoining neighbors, similar to the uncertainty created by increasing the definition of Household. Over time, as imbedding increases, this unpredictability will have a negative effect on property values for existing residents – many of whom their home is their greatest asset.

Other Congregate Living considerations:

- Neighborhood service and infrastructure impacts noted in “Household Regulations” above.
- Will Residents be prohibited from owning cars? If not, this is an added burden to the Neighborhood.
- Have Common Interest Community (CIC) covenants been considered?

Residential Care Uses:

The specific uses under the heading of Residential Care, whether Type 1 or 2 uses, again still constitutes allowing a business to be established within a residentially zoned neighborhood. With the allowance of these facilities in all SU and TU zone districts, and regardless of the size of the dwelling, or size of lot, these facilities will require a staff, as well as regulatory improvements, that will be in conflict with the neighborhood environment. Imbedding this use within a residential neighborhood also brings a level of uncertainty to adjoining neighbors, similar to the uncertainty created by increasing the definition of Household. Over time, as imbedding increases, this unpredictability will have a negative effect on property values for existing residents – many of whom their home is their greatest asset. Other considerations:

- Neighborhood service and infrastructure impacts noted in “Household Regulations” above.
- Will Residents be prohibited from owning cars? If not, this is an added burden to the Neighborhood.
- Have Common Interest Community (CIC) covenants been considered?
- The “up to 100 Guests” for Type 1 facilities, regardless of length of stay, is unacceptable.

Allowing Type 1 and 2 Residential Care uses within SU and TU zone districts in many parts of Denver will be contrary to CPD’s own statements of placing these facilities proximate to transportation, shopping, medical and social services, and employment. Given the pressure being placed on CPD by Residential Care stakeholders, BRUN sees little chance that the stated public meeting and Staff review (ZPCIM) will prevent development of this use type from moving forward throughout Denver.

For Type 1 and 2 development within SU and TU zone districts, BRUN would like to see a more robust criteria established for site location. Yes, this criteria would be limiting in allowable site areas, but the end result would be more beneficial to the Residential Care residents. Without such criteria written into the zoning language, as well as other recommendations noted above, BRUN cannot support the current proposal.

Denver Zoning Code

Since there has been no revision to the original text amendment based on (DPB) and (LUTI) recommendations, the following still remain a concern of BRUN:

Article 5 – Urban (U-) Neighbor Context

Page 5.3-7 / Page 5.3-9 / 5.3-17 – Proposed to allow Residential Care Uses in SU, TU, and RH zone districts. How is this development envisioned – new vs. existing structures; single lot vs. assembly? For the overall reasons stated above BRUN would prefer that this use not be allowed in all SU, TU and RH zone districts, but rather in defined geographic areas throughout the City based on proximity criteria noted above. Likewise, Congregate Care facilities should not be allowed in RH-3A districts for similar reasons.

Page 5.4-3 – Parking requirements should reflect the number of units, not the total structure square footage, if Residents/Guests are allowed to have cars. If Residents/Guests cars are prohibited, then parking minimum should be based on number of staff or current language, whichever is greater.

Page 5.4-5 – For clarity the defined sub-uses should be carried forward in the proposed language.

Article 10 – General Design Standards

Page 10.4-9 – The Alternative Minimum Vehicle Parking Ratio chart, for “Shelters”, under “Applicable Zone Districts”, notes the section applies to “All Zone Districts”. This implies, indirectly, that Shelters are allowed in SU, TU, and RH districts. This language should be revised to reflect only the districts that Shelters are allowed – not SU, TU, and RH districts.

Page 10.9-1 – Does section 10.9.3.1 speak to off-street parking? If not, it should.

Article 11 – Use Limitations and Definitions

Page 11.2-6 – Section 11.2.7.1 – Limitations Applicable To..., B-2 – Non-paroled Correctional Care facilities should not be embedded in SU, TU, and RH zone districts. Site location would be based on geographical criteria noted under “Residential Care” above.

Page 11.2-6 – Section 11.2.7.1 – Limitations Applicable To..., B-3 – The Residential Care facilities, less-than-24 hours, should not be embedded in SU, TU, and RH zone districts. Site location would be based on geographical criteria noted under “Residential Care” above.

Pages 11.2-9 thru 11.2-12, and 11.3-1 thru 11.3-4 – In overview of these sections there is language in these proposed deletions that should be carried forward in the proposed language. It is naïve to think that all the aspects of these sub-uses have been covered in the proposed language.

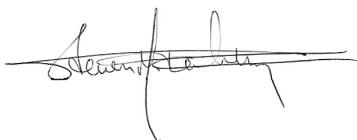
Page 11.12-8 – Section 11.12.2.1 – Definition of Household Living Use Category, B-2c – As per comments above under “Household Regulations”, the word “any” relating to “number of persons related to each unrelated adult” creates a mechanism for technically unlimited number of people living in any one Structure. Without a specific limiting definition this will be an untenable situation for SU, TU, and RH neighborhoods. BRUN recommends “any” be replaced with a numerical cap based on the size of the structure and number of “units” within the structure.

SUMMARY

In summary, BRUN supports the cause of increasing affordable housing and density throughout Denver. However, these goals should be achieved in a measured way, with proper oversight, and not be achieved at the sacrifice of viable, established neighborhoods. Policy and zoning regulation cannot be established that are in conflict with basic tenets of Blueprint. The proposed Group Living Text Amendment does not meet BRUN’s expectations on a number of levels, and unfortunately cannot be supported.

Furthermore, it is BRUN’s request that passage of any Group Living zoning change be preceded by a minimum 18-month testing period. Application for the various uses could be taken during such a testing period, but they should not be processed until after the testing period is complete and any unintended consequences have been addressed through applicable revisions to a final text amendment.

Sincerely,



Steven Teitelbaum, President

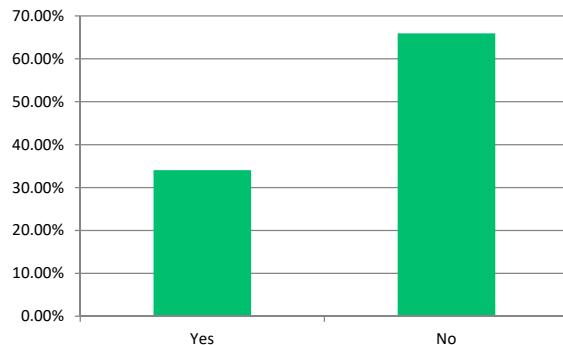
Jeffrey Stine, Chair of Zoning and Planning Committee
Berkeley Regis United Neighbors

Cc: Andrew Webb, Senior City Planner

Denver INC, President, Loretta Koehler
BRUN Board of Directors

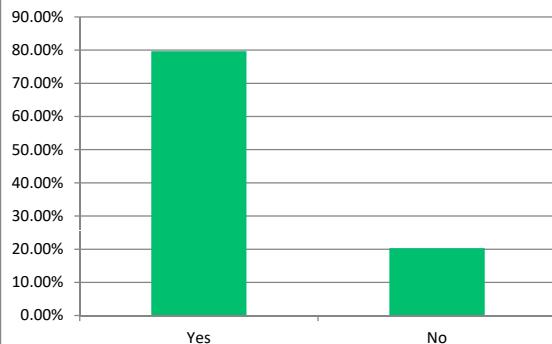
SURVEY RESULTS

1. Are you a member of BRUN?



Response	Percent	Total
Yes	34.07%	62
No	65.93%	120
Total	100%	182

2. Do you reside within the boundaries of BRUN?



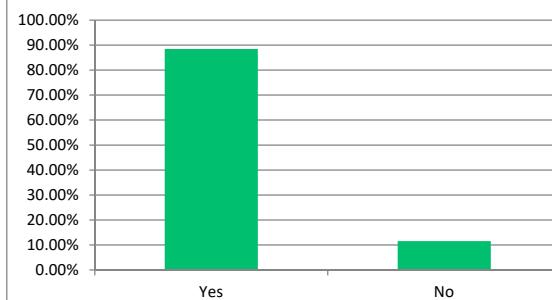
Response	Percent	Total
Yes	79.67%	145
No	20.33%	37
Total	182	

NOTES:

BRUN boundaries are Federal Blvd to the east, Sheridan Blvd to the west, W 38th Ave to the south and W 52nd Ave to the north.

Locations of respondents outside BRUN boundary is unknown.

3. Do you live within the boundaries of Denver Council District 1?



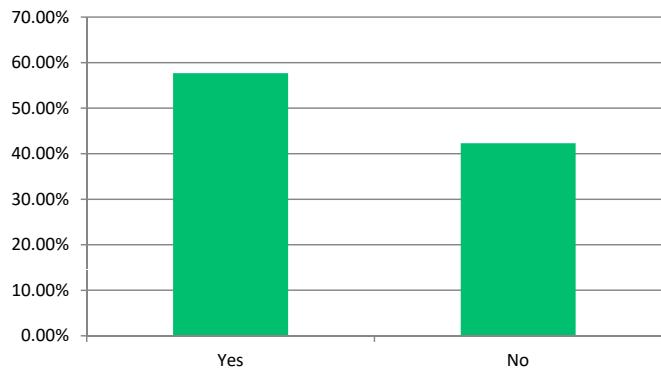
Response	Percent	Total
Yes	88.46%	161
No	11.54%	21
TOTAL	182	

NOTES:

Locations of respondents outside BRUN boundary is unknown.

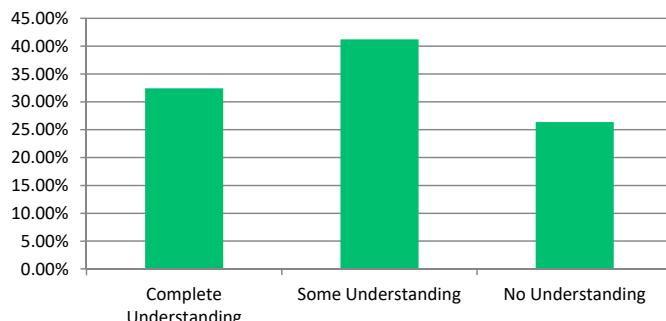
SURVEY RESULTS

4. Are you familiar with the General Living (GL) Proposal?



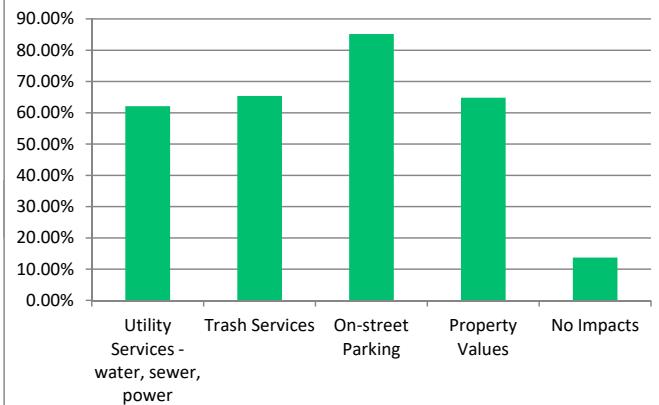
Response	Percent	Total
Yes	57.69%	105
No	42.31%	77
Total		182

5. Do you feel that you understand the benefits / consequences of the GL proposal if approved?



Response	Percent	Total
Complete Understanding	32.42%	59
Some Understanding	41.21%	75
No Understanding	26.37%	48
Total		182

6. Opinion of anticipated impacts resulting from GL Proposal passage.



Response	Percent	Total
Utility Services - water, sewer, power	62.09%	113 of 182
Trash Services	65.38%	119 of 182
On-street Parking	85.16%	155 of 182
Property Values	64.84%	118 of 182
No Impacts	13.74%	25 of 182

NOTES:

New regulations allow a substantial increase in population density in established neighborhoods. Household size would increase from 2 to 5 unrelated adults plus extended family for SU & TU zone districts where the home area is less than or equal to 1800 sf.

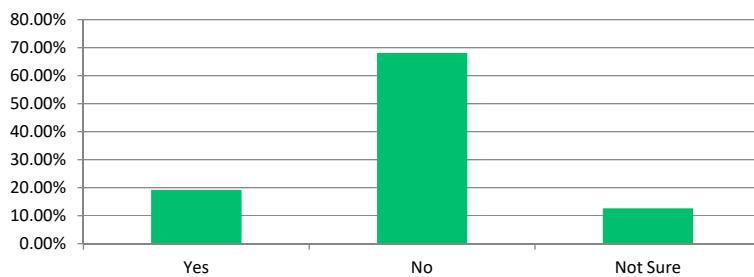
ACTUAL QUESTION:

Do you feel there would be negative impacts on neighborhood infrastructure?

ALL answers picked from a list of options.

SURVEY RESULTS

7. Are you in favor of the gross area of a house being the only limiting factor for the number of people allowed to live there?



Response	Percent	Total
Yes	19.23%	35
No	68.13%	124
Not Sure	12.64%	23
Total	182	

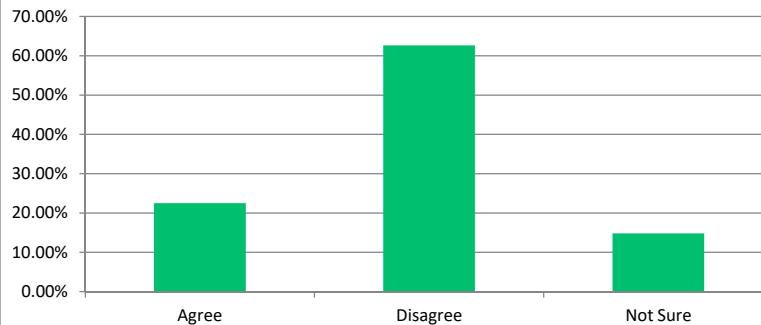
NOTES:

A 2,800 sq ft house = max 10 adults plus family

UPDATE:

Proposed GL Amendments have been changed since this survey was taken. Please see revised Denver Zoning Code Text Amendment #8.

8. Do you agree or disagree with the GL proposal to allow Residential Care Facilities (RCF) in SU, TU and RH zone districts with no permit?



Response	Percent	Total
Agree	22.53%	41
Disagree	62.64%	114
Not Sure	14.84%	27
Total	182	

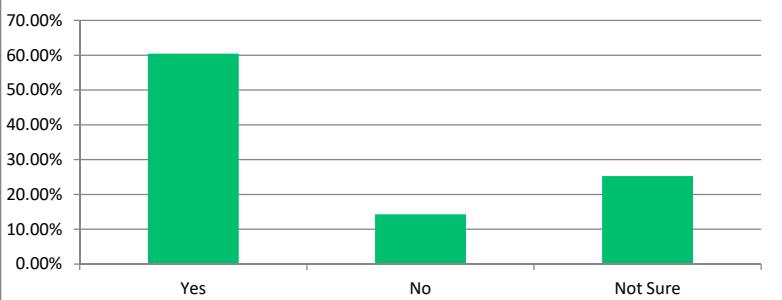
NOTES:

Type 1 & 2: 1-10 guests or <100 guests for no more than 130 days/yr in SU, TU & RH.

Examples of RCF:

Shelters, Halfway houses, Sober living facilities, Rehab facilities, Assisted living, Nursing homes.

9. Would you support requiring ALL Residential Care Facilities (RCF) to have special use permits with regular renewals?

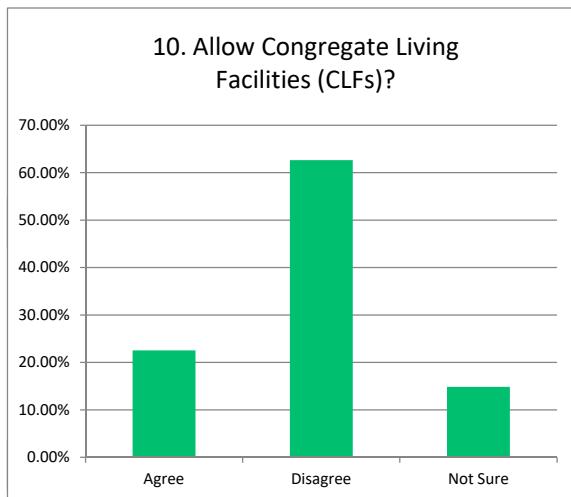


Response	Percent	Total
Yes	60.44%	110
No	14.29%	26
Not Sure	25.27%	46
Total	182	

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SURVEY RESULTS



Response	Percent	Total
Agree	25.27%	46
Disagree	62.09%	113
Not Sure	12.64%	23
Total	182	

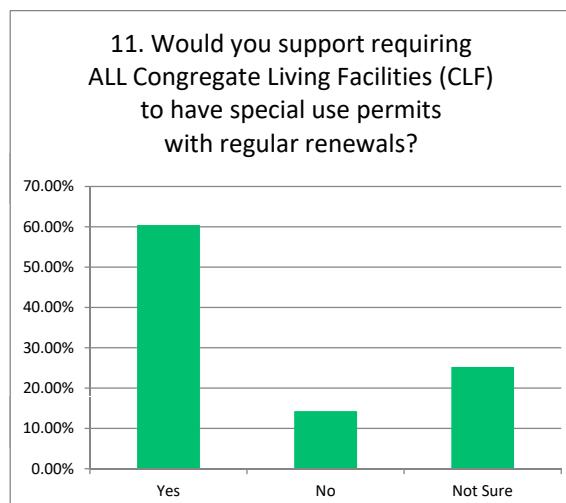
Examples of CLFs:

Room and Board, Dorms and other student housing, & Tiny homes

NOTES:

Allowed only in MX, MS, MU, CMP zone districts, not in SU, TU, & RH.

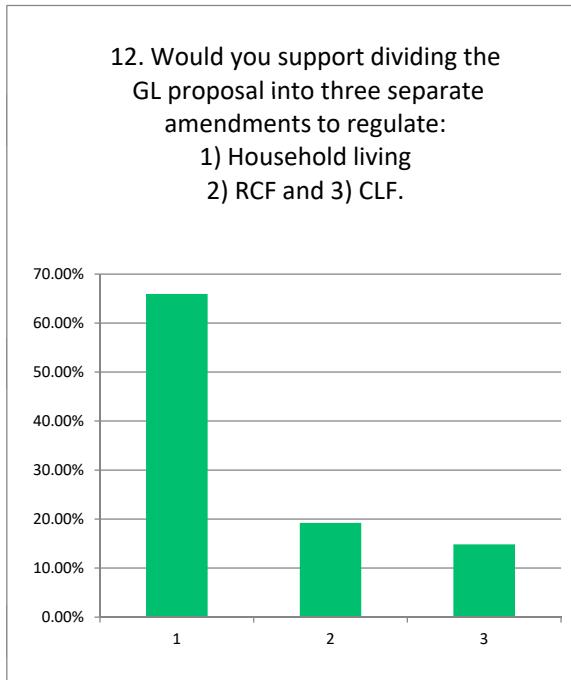
No special zoning or variance review required.



Response	Percent	Total
Yes	65.93%	120
No	15.38%	28
Not Sure	12.64%	23
Total	182	

UPDATE:

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Response	Percent	Total
Yes	65.93%	120
No	19.23%	35
Not Sure	14.84%	27
Total	182	

Notes

BRUN opposes the GL proposal as currently written and issued an opposition statement 08/10/2020.

Summary of opposition:

Revising the definition of Household based only on the overall square footage of a particular dwelling. We strongly encourage the city to consider other factors, such as the potential impacts on utilities and parking within residential neighborhoods (SU, TU, RH). BRUN opposes, as proposed, imbedding RCF within all residential neighborhoods throughout Denver since such placement will NOT address the three main goals of the GL proposal: 1) close proximity to mass transit, 2) close proximity to employment, and 3) close proximity to support services.

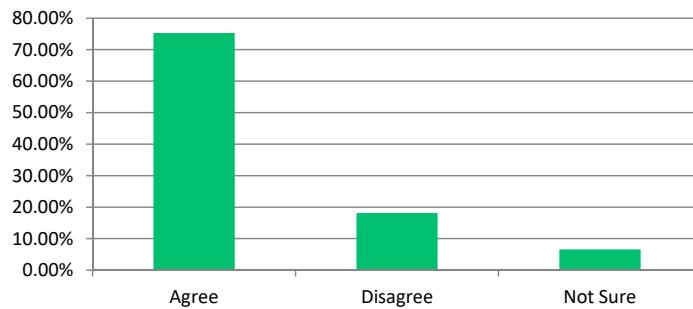
Actual Question:

Would you support dividing the GL proposal into three (3) separate amendments that outline regulations for:

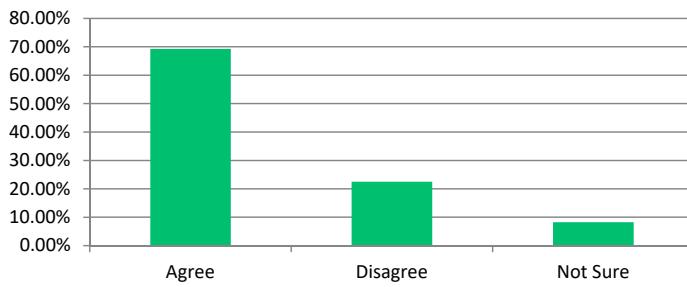
- 1) Household regulations, 2) Residential Care regulations and 3) Congregate Living regulations.

SURVEY RESULTS

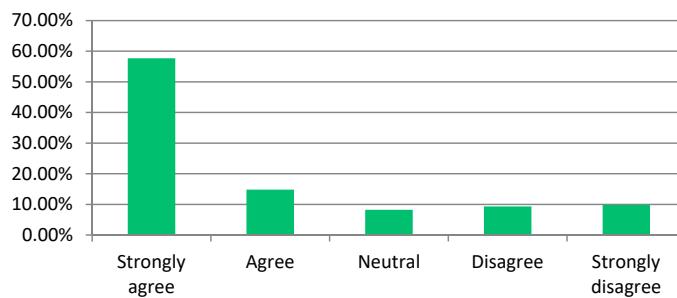
13. Do you agree or disagree with the BRUN Board's position that maximum occupancy should not be defined solely by the square footage of a structure?



14. Do you agree or disagree with the BRUN Board's position opposing the imbedding of Residential Care Facilities (RCF) in all residential neighborhoods?



15. Do you agree or disagree that BRUN should continue to oppose the proposed Text Amendments, as outlined in BRUN's August 2020 letter?



Response	Percent	Total
Agree	75.27%	137
Disagree	18.13%	33
Not Sure	6.59%	12
Total		182

Response	Percent	Total
Agree	69.23%	126
Disagree	22.53%	41
Not Sure	8.24%	15
Total		182

UPDATE:

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