



CPED STAFF REPORT

Prepared for the Board of Adjustment

BOA Agenda Item #1
 August 7, 2014
 BZZ-6671

LAND USE APPLICATION SUMMARY

Property Location: 2118 Blaisdell Avenue
Prepared By: [Andrew Liska](#), City Planner, 612.673.2264
Applicant: NuWay House, Inc.
Project Contact: David Vennes
Required Applications:

Appeal of Zoning Administrator	<ul style="list-style-type: none"> Appeal of decision of the Zoning Administrator that the proposed project at 2118 Blaisdell Avenue is substantially similar to and classified as supportive housing under the definition in MCO §520.160.
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SITE DATA

Existing Zoning	OR2 High Density Office Residence District
Lot Area	27,477 square feet
Ward(s)	10
Neighborhood(s)	Whittier
Designated Future Land Use	Urban Neighborhood
Land Use Features	NA
Small Area Plan(s)	NA

BACKGROUND

REASON FOR APPEAL. The Appellant, David Vennes, on behalf of NuWay House, Inc., has appealed the decision of the Zoning Administrator that the proposed project at 2118 Blaisdell Avenue is substantially similar to and classified as supportive housing under the definition in MCO §520.160.

The Appellant disagrees with the determination that the project is substantially similar to supportive housing and feels the proposed use is multi-family apartment.

CONTINUANCE

BACKGROUND. The City received an application for the “conversion of an existing building from a business to 22 apartment units.” The Zoning Administrator ruled on the proposed project and concluded that the proposed project was substantially similar to supportive housing.

Date Application Deemed Complete	July 10, 2014	Date Extension Letter Sent	NA
End of 60-Day Decision Period	September 8, 2014	End of 120-Day Decision Period	NA

On July 16, 2014, Robert Nardi, the attorney representing NuWay House, Inc., requested a meeting with staff regarding a Reasonable Accommodation Application. Staff met with Mr. Nardi on July 24, 2014, and advised applicant that formal withdrawal of both the Appeal of the Zoning Administrator and the site plan review application must be submitted before the Reasonable Accommodation Application will be accepted.

Staff received a formal withdrawal of the Appeal of the Zoning Administrator on July 30, 2014.

RECOMMENDATIONS

Recommendation of the Department of Community Planning and Economic Development for the Variance:

The Department of Community Planning and Economic Development recommends that the Board of Adjustment accepts the **withdrawal** of the application to appeal the decision of the Zoning Administrator regarding the proposed project at 2118 Blaisdell Avenue.

ATTACHMENTS

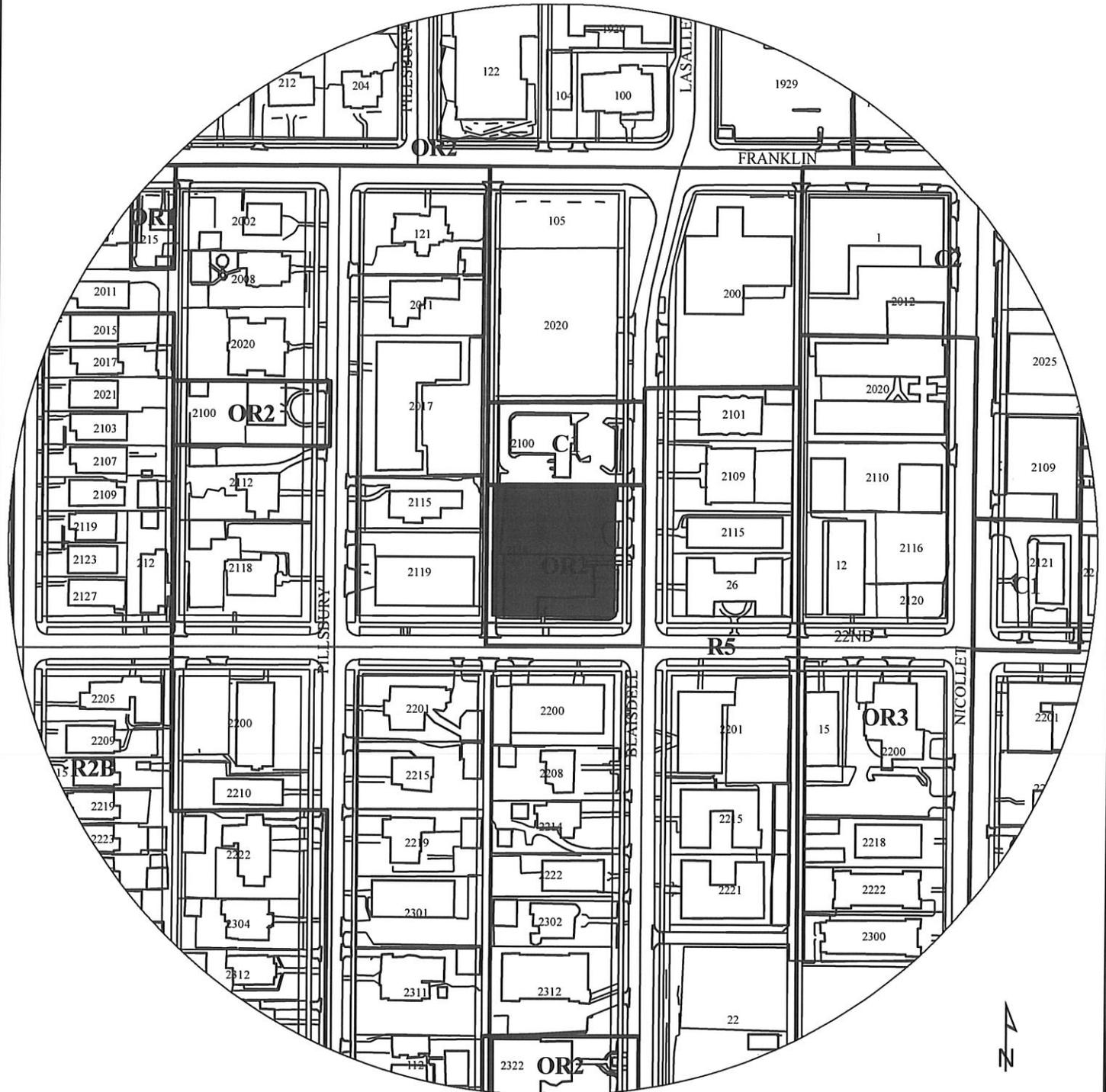
1. Zoning map
2. Determination of the Zoning Administrator
3. Correspondence
4. Withdrawal

NuWay House, Inc.

10th

NAME OF APPLICANT

WARD



PROPERTY ADDRESS

2118 Blaisdell Avenue

FILE NUMBER

BZZ-6671

DETERMINATION OF THE ZONING ADMINISTRATOR

Date: June 25, 2014

Subject: NuWay Residence

2118 Blaisdell Avenue - BZZ- 6553

Statement of Clarification - Substantially similar use analysis – Ch. 525.80

I have been asked to make a determination as to whether the proposed project located at 2118 Blaisdell Avenue is an allowed multiple family dwelling (apartment building) use or a type of supportive housing.

The Zoning Code vests the Zoning Administrator with the power and duty “to interpret and administer the provisions of this zoning ordinance and maintain records of such interpretations.” Minneapolis Code of Ordinances (“MCO”) § 525.90(b) (1). MCO § 525.80 correspondingly states:

Whenever an application contains a use not included in the zoning ordinance, the zoning administrator shall issue a statement of clarification, finding that the use either is substantially similar in character and impact to a use regulated herein or that the use is not sufficiently similar to any other use regulated in the zoning ordinance. Such statement of clarification shall include the findings that led to such conclusion and shall be filed in the office of the zoning administrator. If said use is not sufficiently similar to any other use regulated in the zoning ordinance, the use shall be prohibited.

The property owner submitted a site plan review application contending that the proposed use is an apartment building. Questions subsequently arose from the community and staff regarding whether the proposed use is more appropriately categorized as supportive housing.

Background

On April 3, 2014, Brad Ellis, Senior Planner in Zoning Administration sent a message via e-mail to Terri Cermak, Rhodes Cermak Architects informing her that there were issues relating to the proposed use of the property. Specifically, that NuWay has a Department of Human Services license and that a Community Residential Facility would not be allowed at this location due to spacing requirements. In a subsequent message on April 3, 2014, regarding the proposed use, Mr. Ellis states, “[a]ssuming there are no issues with services and NuWay pursuing licensure for this location, then it might be considered a multiple family dwelling.”

My office has no record of a request for a zoning certificate pursuant to MCO § 525.190 prior to or in conjunction with the purchase of the subject property by the applicant.

Analysis

In a letter addressed to staff, dated June 9, 2014, the attorney representing NuWay, Mr. Robert R. Nardi of Willeke & Daniels, states that the intended use of the property is an apartment building with twenty-two (22) dwelling units. However, the project description also states that the residents of the apartments will not have leases because they will not be paying rent. Instead, patients in NuWay's outpatient treatment program will be offered to reside at the building while they are enrolled in the outpatient program.

The letter states that the average length of time a resident would reside in a dwelling unit would be about ten (10) weeks, presumably corresponding with the length of the outpatient program.

Under the Minneapolis Code of Ordinances ("MCO") Chapter 520.160 – *supportive housing*, residents are required to participate in programs and services designed to assist residents with improving their daily lives. Clearly, NuWay's treatment programs are at a minimum designed and intended to improve patient's lives. The requirement of participation in a treatment program, as a condition of residency is consistent with the definition and intent of a supportive housing facility:

Minneapolis Code of Ordinances ("MCO") § 520.160 – *supportive housing*:

Supportive housing. A facility that provides housing for twenty-four (24) hours per day and requires participation by residents in programs or services designed to assist residents with improving daily living skills, (underlined emphasis added) securing employment or obtaining permanent housing. It does not include:

- (1) Senior housing with services designed specifically to serve the needs associated with the aging of the residents.
- (2) Inebriate housing.
- (3) Any facility licensed by the Minnesota Department of Human Services (DHS), Department of Health (DOH) or Minnesota Department of Corrections (DOC).
- (4) Any other county, state or federal community correctional facility.
- (5) Fraternities, sororities or other student housing.
- (6) Any facility owned, leased or operated by the Minneapolis Public Housing Authority (MPHA).
- (7) The use of one (1) dwelling unit on one (1) zoning lot which meets the occupancy requirements of the zoning district in which it is located.

The Zoning Code defines *dwelling* as "[a] building, or portion thereof, containing one (1) or more dwelling units, designed or used exclusively for human habitation." (emphasis added). MCO § 520.160. The proposal at issue will not be used exclusively for habitation. The building will function only as a temporary transitional residence for participants in an outpatient treatment program.

It is clear that the proposed use of 2118 Blaisdell Avenue is substantially similar to supportive housing and not merely a multiple family dwelling. Every resident of the building will be receiving outpatient treatment at a NuWay facility (required participation in programs or services), there are no leases, the residents do not pay rent, and the average residency of ten weeks corresponds with the duration of the outpatient treatment services. There is no ability for an individual who is not receiving treatment from NuWay to rent or occupy a unit in the building.

In addition, based on the responses provided, it appears the intent is that the statutes governing the landlord/tenant relationship would not apply and that a resident can simply be "removed" for failure to comply with house rules, rather than through a legal eviction process (unlawful detainer).

Findings

The proposed facility is intended for use by residents who are required to be enrolled, or participate in NuWay treatment programs while maintaining residency.

The proposed facility's operational description is consistent with the definition of supportive housing, as defined in Ch. 525.160 of the Minneapolis Code of Ordinances.

Conclusion

Based on the aforementioned findings, I have determined that the proposed NuWay facility located at 2118 Blaisdell Avenue is determined to be substantially similar to and classified as supportive housing under the definition in MCO §520.160.

You have the right to appeal this decision to the Board of Adjustment within ten calendar days of the date of this decision pursuant to MCO § 525.170. If you wish to file an appeal please contact me at 612-673-5837, or at steve.poor@minneapolismn.gov, to schedule a pre-application meeting.

In addition, there is a process to apply for reasonable accommodation from applicable zoning regulations pursuant to the Federal Fair Housing Amendments Act of 1988 should the requisite qualifications be met. That process is outlined in Article XI of MCO Chapter 525.

Sincerely,



Steve Poor
Manager, Zoning Administrator - CPED – Development Services

Cc: Jason Wittenberg, Manager, CPED - Development Services
Rebecca Farrar, Senior Planner, CPED - Development Services

Liska, Andrew

From: Farrar, Rebecca D.
Sent: Tuesday, July 29, 2014 2:04 PM
To: Liska, Andrew
Subject: FW: NuWay

FYI ☺ - formal letter is coming.

Becca Farrar-Hughes
Senior City Planner
Development Services Division

City of Minneapolis – Community Planning and Economic Development
250 S. Fourth Street – Room 300
Minneapolis, MN 55415

Office: 612-673-3594
rebecca.farrar@minneapolismn.gov
www.minneapolismn.gov/cped



From: Robert R. Nardi [<mailto:rnardi@infionline.net>]
Sent: Tuesday, July 29, 2014 1:24 PM
To: Poor, Steve
Cc: Farrar, Rebecca D.; Nilsson, Erik A.; 'David Vennes'; Terri Cermak
Subject: RE: NuWay

Steve:

NuWay House, Inc. has decided to withdraw the appeal and proceed with an application for reasonable accommodation. I should be able to email you tomorrow a letter from David Vennes, NuWay House, Inc.'s Executive Director withdrawing the appeal if you need such a letter.

Robert R. Nardi
Willeke & Daniels
201 Ridgewood Avenue
Minneapolis, MN 55403
Telephone: 612.252.0833
Facsimile: 612.874.9585

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From: Poor, Steve [<mailto:Steve.Poor@minneapolismn.gov>]
Sent: Tuesday, July 29, 2014 12:46 PM
To: rnardi@infionline.net
Cc: Farrar, Rebecca D.; Nilsson, Erik A.
Subject: NuWay

Dear Mr. Nardi,

I am wondering if there has been a decision by the NuWay Board of Directors regarding 2118 Blaisdell Avenue?

Sincerely,

Steve Poor
*Manager - Zoning Administration
Development Services Division*

City of Minneapolis – Community Planning and Economic Development
250 S. Fourth Street – Room 300
Minneapolis, MN 55414

Office: 612-673-5837
faxl: 612-673-2526
steve.poor@minneapolismn.gov
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Liska, Andrew

From: Farrar, Rebecca D.
Sent: Wednesday, July 30, 2014 9:07 AM
To: Liska, Andrew
Subject: FW: NuWay

Not sure if you guys need more specific wording, but here it is!

Becca Farrar-Hughes
Senior City Planner
Development Services Division

City of Minneapolis – Community Planning and Economic Development
250 S. Fourth Street – Room 300
Minneapolis, MN 55415

Office: 612-673-3594
rebecca.farrar@minneapolismn.gov
www.minneapolismn.gov/cped



From: David Vennes [<mailto:David.Vennes@nuwayhouse.org>]
Sent: Wednesday, July 30, 2014 8:45 AM
To: Robert R. Nardi; Poor, Steve
Cc: Farrar, Rebecca D.; Nilsson, Erik A.; Terri Cermak
Subject: RE: NuWay

Hi Steve,

On behalf of NuWay House, Inc. I'd like to withdraw our appeal. Please let me know if you need anything else.

Thx!

David J. Vennes, MPNA
Executive Director



Nu-Way, Inc.
2217 Nicollet Ave South
Minneapolis, MN 55404
Office: 612-872-0506 ext. 10

Fax: 612-870-3796

www.nuwayhouse.org

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