



CPED STAFF REPORT

Prepared for the Board of Adjustment

BOA Agenda Item #2
February 19, 2015
BZZ-6915

LAND USE APPLICATION SUMMARY

Property Location: 2118 Blaisdell Ave
Prepared By: Joseph.Giant@minneapolismn.gov, City Planner, (612) 673-3489
Appellant: Ted Irgens
Project Contact: Ted Irgens
Required Applications:

Appeal of Zoning Administrator	<ul style="list-style-type: none"> Appeal of the decision of the Zoning Administrator to grant reasonable accommodation pursuant to the 1988 Federal Fair Housing Act to waive the spacing requirement for a proposed supportive housing facility in the existing structure at 2118 Blaisdell Ave.
---------------------------------------	---

SITE DATA

Existing Zoning	OR2 High-Density Office Residential
Lot Area	29,477 square feet
Ward(s)	10
Neighborhood(s)	Whittier
Designated Future Land Use	Urban Neighborhood
Land Use Features	NA
Small Area Plan(s)	NA

APPEAL OF THE ZONING ADMINISTRATOR

REASON FOR APPEAL. Ted Irgens has appealed the decision of the Zoning Administrator to grant reasonable accommodation pursuant to the 1988 Federal Fair Housing Act (FHA) to waive the quarter-mile spacing requirement for a proposed supportive housing facility in the existing structure at 2118 Blaisdell Ave.

The Zoning Administrator and City Attorney contest that the waiver of the quarter-mile spacing requirement constitutes a reasonable accommodation pursuant to Chapter 520.80 of the Minneapolis Code of Ordinances. This provision states that the zoning ordinance “shall not be applied so as to prevent the city from making reasonable accommodation as required by the Federal Fair Housing Amendments Act of 1988 pursuant to the procedure set forth in sections 525.590 to 525.650.”

Date Application Deemed Complete	October 5, 2014	Date Extension Letter Sent	December 1, 2014
End of 60-Day Decision Period	December 5, 2014	End of 120-Day Decision Period	February 5, 2015, extended by applicant to April 5, 2015

BACKGROUND. NuWay House, Inc. is a non-profit organization that has provided extended care and residential services in the Whittier neighborhood since 1966. In 2014, the organization purchased the property located at 2118 Blaisdell Ave in order to establish a housing facility for recovering alcoholics and addicts. The proposed use was classified as ‘supportive housing’ by the Zoning Administrator. Supportive housing is a conditional use in the OR2 zoning district. According to Chapter 536.20, supportive housing establishments must be located at least a quarter-mile from other supportive housing facilities and community residential facilities. Several uses that meet the definition of ‘supportive housing’ and ‘community residential facility’ are located within a quarter-mile of the proposed facility. The spacing requirement cannot be reduced by variance, so NuWay applied for reasonable accommodation to waive the spacing requirement.

On November 24, 2014, the request for Reasonable Accommodation was approved administratively by the Zoning Administrator and the City Attorney. Pursuant to 525.620, notice of the approval, the staff report, and information prepared by the applicant was mailed to the owners of all properties adjacent to the subject property. The staff report containing the findings for reasonable accommodation can be found immediately following this document.

Within the 10-day appeal period, Mr. Ted Irgens, the owner of 2115 Pillsbury Ave, appealed the decision to grant Reasonable Accommodation. His appeal statement contested several aspects of the approval. A copy of the appeal statement and supporting materials are available in the Additional Materials.

Minnesota Statutes Section 15.99 requires that the City approve or deny a zoning application within 60 days of the date that the City receives a complete application. The 60-day approval period may be extended an additional 60 days if written notice is provided to the applicant within the initial time frame. The City provided written notice to the applicant on December 1, 2014, extending the deadline to February 5, 2015. The decision period may be extended beyond the 120-day period if written intent is provided by the applicant. In a letter dated January 21, 2015, NuWay provided a letter consenting to an extension of the decision period for an additional 60 days. The decision period currently expires on April 5, 2015.

ANALYSIS. According to 525.590, it is the policy of the city, pursuant to the Federal Fair Housing Amendments Act of 1988, to provide reasonable accommodation for persons with disabilities seeking fair and equal access to housing in the application of its zoning regulations. Reasonable accommodation means providing an individual with a disability or developers of housing for an individual with a disability, flexibility in the application of land use and zoning regulations or policies (including the modification or waiver of certain requirements), when it is necessary to eliminate barriers to housing opportunities.

Evaluations of requests for reasonable accommodation are based on three areas of inquiry. This analysis briefly summarizes these areas of inquiry and applies them to the present situation. A substantially more detailed analysis can be found in the reasonable accommodation staff report, following this document.

First, the request must be made on behalf of a person or persons who are considered **disabled** under the Fair Housing Act. Persons recovering from drug or alcohol addiction are considered disabled under the Act. However, the current, illegal use of a controlled substance does not constitute a “disability”. The applicant has provided an affidavit stating that all residents will have been diagnosed and will be receiving treatment for a disability recognized by the Federal Fair Housing Act of 1988.

Second, the requested modification must be **necessary** to afford such persons equal opportunity to use and enjoy a dwelling. As part of NuWay’s treatment model, residents of the proposed facility are

required to attend frequent counseling sessions at an existing treatment center located approximately one block from the subject property. Further, the surrounding area contains many opportunities for additional treatment, access to employment, and amenities. Proximity to counseling and services while residing in a sober and supportive environment demonstrates necessity by directly contributing to the treatment of the disability.

Third, the request must be **reasonable**. Supportive housing is a conditional use in the OR2 district. Besides the spacing requirement, the use complies with all other aspects of the zoning ordinance. The proposed density is in keeping with the typical density of the OR2 district as well as the surrounding area. If the use were to cease operations, the structure could very easily be converted into traditional multifamily apartments.

Supportive housing is a conditional use in the OR2 district, so a conditional use permit (as well as Site Plan Review) must be approved by the City Planning Commission before the facility can commence operations. The present application would not authorize the facility. It would merely enable the applicant to apply for the necessary land use applications.

STAFF RECOMMENDATION

The Department of Community Planning and Economic Development recommends that the Board of Adjustment adopt staff findings and **deny** the appeal of the decision of the Zoning Administrator to grant reasonable accommodation to waive the spacing requirement for the property located at 2118 Blaisdell Ave.

ATTACHMENTS

1. Reasonable accommodation staff report
2. Zoning map of vicinity
3. Map – parcels eligible for supportive housing
4. Map – Minnesota Department of Human Services licenses within ¼ mile of property
5. Map – Number of dwelling units contained on nearby properties
6. Reasonable accommodation application materials submitted by NuWay
7. Statement of Appeal from Ted Irgens and supporting materials
8. NuWay statement of response to appeal
9. Whittier Alliance correspondence regarding the subject property



CPED STAFF REPORT

Prepared for the City Attorney and
Zoning Administrator

November 24, 2014
BZZ-6915

LAND USE APPLICATION SUMMARY

Property Location: 2118 Blaisdell Ave
Project Name: 2118 Blaisdell Apartments
Prepared By: Joseph.Giant@minneapolismn.gov, City Planner, (612) 673-3489
Applicant: NuWay House, Inc.
Project Contact: Robert Nardi, on behalf of David Vennes
Request: Waiver of the quarter-mile spacing requirement for a supportive housing facility
Required Applications:

Reasonable Accommodation	<ul style="list-style-type: none"> Reasonable Accommodation to waive the specific development standard requiring that the proposed supportive housing facility be located at least a quarter-mile from other supportive housing facilities and community residential facilities.
---------------------------------	---

SITE DATA

Existing Zoning	OR2 High-Density Office Residential
Lot Area	29,477 square feet
Ward(s)	10
Neighborhood(s)	Whittier
Designated Future Land Use	Urban Neighborhood
Land Use Features	NA
Small Area Plan(s)	NA

Date Application Deemed Complete	October 5, 2014	Date Extension Letter Sent	NA
End of 60-Day Decision Period	December 5, 2014	End of 120-Day Decision Period	NA

BACKGROUND

For background purposes information has been prepared by the City of Minneapolis' Attorney's Office documenting the history of the Federal Fair Housing Amendments Act.

The Federal Fair Housing Amendments Act of 1988 ("FHAA" or the "Act"), 42 U.S.C. § 3201 et seq. makes it illegal to "discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of . . . that buyer or renter . . . or any person associated with that buyer or renter . . ." 42 U.S.C. § 3604(f)(1). "For purposes of this subsection, discrimination includes . . . a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling . . ." 42 U.S.C. § 3604(f)(3)(B).

Requests for reasonable accommodation pursuant to the FHAA will be analyzed on a case-by-case basis and are highly fact specific. The evaluation process for determining whether federal law requires an accommodation in how the City's zoning regulations are applied or enforced is broken down into three areas of inquiry. First is a determination whether the request is being made on behalf of a person or persons who are considered disabled under the provisions of the Act. The current, illegal use of or addiction to a controlled substance does not constitute a "disability" under the Act.

The second issue is whether the requested accommodation is necessary to afford such persons equal opportunity to use and enjoy a dwelling. One court has stated that the test of "necessity" is that "but for the accommodation, [disabled persons] likely will be denied an equal opportunity to enjoy the housing of their choice." *Smith & Lee Associates, Inc. v. City of Taylor*, 102 F.3d 781, 795 (6th Cir. 1996).

Finally, it must be determined whether the requested accommodation is reasonable. With respect to accommodations of zoning requirements, an accommodation is not "reasonable" if it would: 1) impose an undue financial or administrative burden on a local government, or 2) if the requested modification to zoning requirements would create a fundamental alteration in a local government's land use and zoning scheme. Joint Statement of the Dept. of Justice and the Dept. of Housing and Urban Dev't, *Group Homes, Local Land Use, and the Fair Housing Act* (August 18, 1999).

SITE DESCRIPTION. The subject property, 2118 Blaisdell Ave, is located on a 29,477 square foot lot at the northwest corner of Blaisdell Ave and 22nd St W in the Whittier neighborhood of Minneapolis. Franklin St is one block to the north of the subject property and Nicollet Ave is one block to the east.

The subject property is zoned OR2-High Density Office Residence District. The surrounding properties are zoned R5 Multiple-family District, with the exception of the property to the north which is zoned C1 Neighborhood Commercial District.

The subject lot is adjacent to a 49-unit apartment building to the west, a bank to the north, 36- and 22 - unit apartment buildings across Blaisdell to the east, the Minneapolis Urban League Academy School to the southeast, and a 32-unit apartment building across 22nd St to the south.¹ Other properties in the vicinity contain large homes constructed in the early 20th Century and apartment buildings constructed in the mid-20th Century. Many of the large homes have been converted into multi-family housing, offices, and congregate living.

The existing structure on the subject property is composed of a 5-bedroom mansion constructed in 1913 and a 3-story addition constructed in 1962. The mansion was originally constructed for use as a single-family dwelling, and the addition was originally constructed for use as patient rooms when the structure contained a nursing home. The remainder of the property is comprised of landscaping, green space, and a surface parking lot containing 36 spaces. The current landscaping and screening is in excellent condition and would be retained.

PROJECT DESCRIPTION. The applicant, NuWay House, Inc., proposes to convert the existing building into 22 dwelling units for up to 47 residents. Twenty-one of the dwelling units would be one-bedroom or efficiency units located in the 3-story addition, and the remaining unit would be a five-bedroom apartment located in the original mansion. Each unit would have its own kitchen and bathroom facilities. No exterior changes would occur besides minor improvements required to bring the structure into compliance with the building code.

Residents of the facility would be limited to those persons receiving treatment for substance abuse at a nearby counseling center operated by NuWay. The facility would be staffed 24-hours per day, although staff would not reside at the facility. NuWay has operated as a non-profit organization in the Whittier neighborhood since 1966, and currently operates two similar facilities in the neighborhood. NuWay has provided a thorough description of the proposed facility as well as the rationale for its establishment which can be found in the Additional Materials accompanying this report.

The proposed use would be classified as supportive housing. According to Minneapolis Code of Ordinances (“MCO”) Chapter 536.20, supportive housing facilities must be located at least a quarter-mile from other supportive housing facilities and community residential facilities. This buffer is measured from the property line of the subject property. Several uses that meet the definition of “community residential facilities” are located within a quarter-mile of the subject property. Therefore, NuWay House Inc. is seeking reasonable accommodation to waive the quarter-mile spacing requirement. Supportive housing is a conditional use in the OR2 district, so conditional use permit must still be obtained from the City Planning Commission to establish the facility.

¹ Data obtained November 5, 2014 from records maintained by the City of Minneapolis.

ANALYSIS

REASONABLE ACCOMMODATION

In accordance with Chapter 520, Introductory Provisions, Chapter 525, Administration and Enforcement, and Chapter 536, and Specific Development Standards, the Department of Community Planning and Economic Development has analyzed the application for Reasonable Accommodation. Based on the criteria as stated above the following has been determined:

I. Documented Disability

An individual with a disability is defined by the Americans with Disabilities Act as a “person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such impairment.”

According to the Americans with Disabilities Act of 1990, alcoholism and chronic drug use are considered disabilities. “The Fair Housing Act prohibits discrimination on the basis of disability in all types of housing transactions” and “defines persons with a disability to mean those individuals with mental or physical impairments that substantially limit one or more major life activities. The term mental or physical impairment may include conditions such as blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness. The term major life activity may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working. The Fair Housing Act also protects persons who have a record of such impairment, or are regarded as having such impairment.”²

Current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders are not considered disabled under the Fair Housing Act, by virtue of that status.”

However, the Act does protect persons who are recovering from substance abuse. Without adequate treatment, serious and persistent mental illnesses will result in significant physical and psychological impairment and can substantially limit an individual's major life activities.³

² United States Department of Justice. http://www.justice.gov/crt/about/hce/housing_coverage.php

³ United States Department of Justice. http://www.usdoj.gov/crt/housing/housing_coverage.php#disability

2. Necessity of Request

In order to determine that the requested modification of the zoning code is necessary, the applicant must demonstrate that the City's established and permitted procedures are insufficient to remedy the need for modification.

The facility was initially proposed as a 22-unit multi-family dwelling. However, questions were raised as to whether the facility met the definition of that use. On June 24, 2014, the Zoning Administrator made a determination as to whether the project was an allowed multiple family dwelling (apartment building), or a type of supportive housing. The determination is summarized below:

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

In a letter addressed to staff, dated June 9, 2014, the attorney representing the applicant stated that the intended use of the property is a 22-unit apartment building. However, the project description also stated that the residents of the apartments will not have leases, because they will not be paying rent. Instead, patients in NuWay's outpatient program will be able 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 10 weeks.

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.

Correspondingly, 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).

Based on these use characteristics, the Zoning Administrator determined that the proposed facility is to be classified as **supportive housing** under the definition in MCO §520.160. This determination was not appealed.

Supportive housing is a **conditional use** in the OR2 zoning district. Thus, to commence operations, the facility must obtain a conditional use permit (CUP). The City Planning Commission evaluates CUPs based on the following findings:

- 1. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.*
- 2. The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.*
- 3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be*

provided.

4. *Adequate measures have been or will be taken to minimize traffic congestion in the public streets.*
5. *The conditional use is consistent with the applicable policies of the comprehensive plan.*
6. *The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.*

In addition to these findings, supportive housing facilities are required to meet specific development standards contained in MCO §536.20, copied below:

1. *Supportive housing shall be located at least one-fourth (1/4) mile from all existing supportive housing and from all of the following uses, except in the B4H Overlay District:*
 - a. *Community correctional facility.*
 - b. *Community residential facility.*
 - c. *Inebriate housing.*
 - d. *Motel.*
 - e. *Overnight shelter.*
2. *On-site services shall be for residents of the facility only, except where part of a regimen of scheduled post-residential treatment.*
3. *To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious with other buildings in the neighborhood.*
4. *An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening, and other site improvements consistent with the character of the neighborhood.*
5. *The operator shall submit a management plan for the facility and a floor plan showing sleeping areas, emergency exits and bathrooms.*

Due to the presence of several nearby uses that meet the definition of “community residential facilities,” the proposed facility is unable to meet the first specific development standard requiring that it be located at least a quarter-mile from other supportive housing facilities and community residential facilities. The spacing requirement can be reduced by variance only for the relocation of an existing use where the relocation will increase the spacing between such use and any use from which it is nonconforming as to spacing.⁴ Thus, a variance to establish a new facility within a quarter-mile of an existing facility cannot be granted. Because the use has been categorized as supportive housing, and because it cannot comply with the spacing requirement, there exists no mechanism in the zoning code to allow the proposed facility.

Therefore, the necessity of the request for reasonable accommodation stems from the combination of zoning and spacing restrictions imposed by the zoning code. Although the location restrictions affirmatively affect the subject property, this request is for reasonable accommodation is not solely warranted because the desired use doesn’t work with this particular parcel. The combination of spacing

⁴ Minneapolis Code of Ordinances Chapter 525.520[22]

and zoning restrictions makes establishing supportive housing impossible nearly **anywhere** in the city.

Supportive housing is not permitted in low-density zoning districts, and is allowed only as a conditional use in medium- and high-density districts. Thus, only 7.6% of land in Minneapolis meets zoning requirements. Eligible properties must also comply with the quarter-mile spacing requirement. This further limits eligible properties to 1.7% of land in the city.⁵ This measurement does not take into account the practical viability of the qualifying sites. For instance, the land value may be too high, or the likelihood that such a use could ever be established on this land could be extremely low (for example, much of the University of Minnesota campus meets spacing and zoning requirements).

By contrast, approximately 74% of the city is residentially zoned, and 85.6% of the city allows residences as a permitted use.⁶ Limiting the housing locations for certain handicapped persons to 1.7% of the City's land area violates the intent of the 1988 FHAA and illustrates the necessity of the request.

Locations for supportive housing are also limited due to the broad range of services that are considered "community residential facilities." A community residential facility is defined as "a facility where one (1) or more persons reside on a twenty-four-hour per day basis under the care and supervision of a program licensed by the Minnesota Department of Human Services (DHS)."⁷⁸ In addition to group homes, DHS licenses services such as adult and child foster care, children's residential facilities, and home and community based services. According to this definition, licensed services for a *single individual* constitute a community residential facility.

In most instances, no benefit is achieved by requiring separation between these uses. For example, no legitimate purpose is achieved by separating an immobile elderly person with a quarter-mile buffer from a home for mentally handicapped adults. However, the spacing requirement is technically applied regardless of the scope of services offered, the density of the area, or the size of the facility. For this reason, enforcement of the spacing requirement rarely occurs. However, enforcing the spacing requirement in some instances, but not in others, is tantamount to disparate treatment under the same law. Without reasonable accommodation, handicapped persons may lose equal access to housing.

⁵ The area of Minneapolis is 58.2 square miles (37,376 acres). Zoning districts in which supportive housing could potentially be located have an area of 4,917 acres, or 7.6% of the area. Of the 4,917 acres, only 628 acres meet both the zoning and quarter-mile spacing requirements.

⁶ 27,810 acres are residentially zoned (74% of the land area). Residential uses are permitted in all zoning districts except industrial. When considering the potential locations for residential uses, the total acreage available for residential uses is (32,001/37,376) 85.6%. This figure is a raw measurement of zoned area and does not take into account features such as rivers, lakes, infrastructure, and parks.

⁷ Minneapolis Code of Ordinances Chapter 520.160, *Community Residential Facility*.

⁸ Minnesota Department of Human Services – Licensed programs and services. <http://mn.gov/dhs/>

3. Reasonableness of Request

To meet the “reasonableness” standard of the Fair Housing Act Amendments, the request must not overburden the local government financially or administratively, and a nexus linking the treatment of the disability with the need for housing must be shown⁹. The proposed facility does not require any government funding, nor does it create an administrative burden. Thus, it satisfies the first prong of the “reasonableness” standard. The second prong requires demonstrating that a nexus exists between the treatment of the handicap and the proposed location.

The proposed facility would provide short-term housing for persons receiving outpatient treatment at a counseling center located approximately one block from the subject property at 2217 Nicollet Ave. The applicant describes the locational advantage of this site, stating “to help promote successful rehabilitation, barriers are removed by providing housing within walking distance to the source of a client’s outpatient services.” Persons recovering from substance abuse often are not able to drive, so walkability is especially important. In addition to the counseling center, the facility is located in close proximity to a large concentration of self-help facilities and several nearby organizations providing vocational training and/or the possibility of employment. The applicant states, “Isolation is a common relapse trigger for those in early recovery from substance addiction (and/or mental illness).” The supportive community setting eschews isolation and promotes community integration.

Nearby services and amenities make the location uniquely suited to accommodate the proposed facility. Due to the well-suited location, several group homes, including another facility operated by NuWay, are also located within a quarter-mile of the proposed facility. While a preponderance of group homes in a small geographic area could potentially lead to negative clustering effects, the density of the proposed location dampens the risk. The quarter-mile radius is in a dense urban neighborhood which encompasses a wide and intense array of land uses, greatly eliminating the risk of the proposed use overtaking the community.

In *Familystyle v. City of St. Paul*, the spacing requirement was found to advance the legitimate governmental purpose of the de-institutionalization of the mentally ill¹⁰. It is intended to discourage institutionalization, avoid clustering, and encourage community integration. However, it is not intended to put a limit on the number of handicapped persons that can live in a defined geographic area. Waiving the spacing requirement will not contribute to institutionalization or the effects of clustering because the location is well suited to accommodate the proposed use. The Whittier neighborhood is the most populous and has the second-highest population density of any neighborhood in Minneapolis. Congregate living arrangements are complemented by high-density apartments, a wide range of businesses, and many institutional uses. Waiving the requirement will contribute towards the treatment and recovery of handicapped persons by allowing them to live in a community setting close to amenities and services.

⁹ Harvard Law Review, ver. 126:1392. *Three Formulations Of The Nexus Requirement In Reasonable Accommodations Law* http://cdn.harvardlawreview.org/wp-content/uploads/pdfs/vol126_reasonable_accomodations_law.pdf

¹⁰ *Familystyle of St. Paul v. City of St. Paul*, 923 F.2d 91 (8th Cir.1991)

Reasonable Accommodation required findings.

The zoning administrator, or designee thereof, in consultation with the city attorney, shall have the authority to consider and act on requests for reasonable accommodation. In making the decision, the following factors have been considered:

1. Special need created by the disability.

Persons recovering from chemical dependency are considered disabled under the Federal Fair Housing Act Amendments of 1988. The special need created by the disability stems from the lack of non-institutional treatment options for recovering persons who have completed in-patient treatment but are not prepared for a more traditional housing arrangement.

Persons recovering from substance abuse often have a very poor rental and credit history, poor employment history, a high rate of other mental illnesses, lack of education, history of domestic violence, and lack of family support. Users who have recently completed treatment are often unemployed. These barriers can hinder recovering persons from finding housing that contributes toward their recovery.

2. Potential benefit that can be accomplished by the requested modification.

NuWay has been serving persons recovering from chemical dependency in the Whittier neighborhood since 1966. As an experienced care provider, they state, “without this combination of housing and outpatient services, history tells us our ability to help former addicts obtain and maintain long term recovery is greatly reduced.” The facility would ease the transition between institutional care and a more traditional living arrangement by giving residents an opportunity to get back on their feet while living in an affordable, sober, supportive, and positive environment. Waiving the quarter-mile spacing requirement would provide residents convenient access to treatment as well as amenities and employment opportunities. Most destinations, including the Nicollet Ave treatment center, are within walking distance, and the property is close to several bus lines providing metro-wide connectivity.

3. Need for the requested modification, including alternatives that may provide an equivalent level of benefit.

The Zoning Administrator has categorized the facility as supportive housing. However, it shares characteristics with multiple-family housing and community residential facilities. These uses are defined as follows:

520.160. Multiple-family dwelling. *A building, or portion thereof, containing three or more dwelling units.*

520.160. Community residential facility. *A facility where one or more persons reside on a 24 hour per day basis under the care and supervision of a program licensed by the Minnesota Department of Human Services (DHS). Community residential facilities shall not include facilities that are also eligible for licensure by the Minnesota Department of Corrections (DOC).*

520.160. Supportive housing. *A facility that provides housing for 24 hours per day and programs or services designed to assist residents with improving daily living skills, securing employment or obtaining permanent*

housing. It does not include:

1. *Elderly housing with congregate dining.*
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. *Fraternalities, sororities or other student housing.*
6. *Any facility owned, leased or operated by the Minneapolis Public Housing Authority (MPHA).*
7. *The use of one dwelling unit on one zoning lot which meets the occupancy requirements of the zoning district in which it is located.*

By definition, community residential facilities must be licensed by the Minnesota Department of Human Services. The proposed facility will not be licensed, so it does not meet the definition of a Community Residential Facility.

The proposed facility closely resembles a multi-family dwelling. However, the residency requirements of the facility limit potential habitants to those persons receiving treatment at the Nicollet Ave treatment center, which aligns with the MCO§520.160 definition of supportive housing. Therefore, the facility is considered supportive housing rather than multi-family housing.

4. Physical attributes of and any proposed changes to the subject property and structures.

The existing structure is well suited to accommodate the proposed use. No significant exterior alterations would be required to convert the existing structure into 22 apartments. In order to function as a supportive housing facility, the structure must comply with health and safety regulations such as building, housing, and fire codes. Most of the required changes would occur within the building, although a handful of minor changes would be required on the building's exterior. According to the applicant, the only exterior changes would be partially infilling windows at an inside corner to create the code-required separation of wall openings, conversion of the existing loading dock on the north (interior) side of the addition to a window, and conversion of a window into the new handicapped-accessible entrance.

If the proposed facility ceased to operate, the property would be well suited for use as multi-family housing. Building code requirements for the proposed use would be similar to the requirements for multi-family housing, so relatively few changes would have to occur. With 36 off-street parking spaces, the use would exceed the 22-space parking requirement of a 22-unit apartment building.

5. Potential impact on surrounding uses.

The City of Minneapolis has a legitimate interest to preserve the character of its neighborhoods through laws that regulate structures, land uses, number of persons occupying a dwelling unit, and off-street parking. The proposed use anticipates a maximum occupancy of 47 persons in 22 units on a 29,477 square foot lot. This density is typical in the OR2 zoning district and similar to the population density in the surrounding area. The per-unit occupancy levels would not exceed those established by the zoning code or the building code. If the proposed supportive housing facility is managed in accordance with the documentation supplied to Staff and in compliance with the conditions of approval required by the City, the proposed facility would likely have use characteristics and impacts similar to an apartment building of comparable size.

The parking area is well screened and the property is well landscaped. As a condition of approval, all landscaping must be maintained, and all repairs and general maintenance to the structure must be undertaken in a timely manner. Although few residents are expected to drive, 36 on-site parking spaces exist, which is 3 times the minimum parking requirement for a 47-bed facility.¹¹

Potential residents would be limited to individuals who have been diagnosed with a physical or mental handicap. Current users of alcohol or drugs are not considered disabled under the 1988 FHAA. Likewise, individuals with low income, homeless individuals, and individuals with a criminal history are not eligible for residency unless the condition is accompanied by a documented disability.

The facility would be staffed on a 24-hour basis, and would utilize a Resident Agreement that sets forth specific residency requirements. In addition, House Rules would establish a strict code of conduct for residents and visitors. A copy of the Resident Agreement and House Rules can be found in the Additional Materials. In order to prevent future adverse off-site impacts, the City of Minneapolis shall be notified if there are any changes in use or maximum occupancy, or any changes to the house rules that could increase the potential for adverse off-site impacts. These changes include but are not limited to occupancy, building alterations, residency requirements, and modifications to house rules.

Based on the characteristics of the proposed site and its surroundings, and the characteristics of the use itself, the proposed use will have an impact similar to an apartment building of comparable size.

6. Whether the requested modification would constitute a fundamental alteration of the zoning regulations, policies, and/or procedures of the city.

Eliminating the spacing requirements would not constitute a fundamental alteration of the land use and zoning scheme of the city. The supportive housing facility would be located in the OR2 High-Density Office Residence zoning district. This zoning district is intended to provide a mixed-use environment of moderate to high-density dwellings and large office uses, with additional small-scale retail sales and services uses designed to serve the immediate surroundings.¹² It is often used as a transitional district between commercial areas and less-dense residential districts.

Supportive housing is a conditional use in the OR2 district. Thus, the facility can be allowed if certain conditions and required findings are met. The proposed density of 22 dwelling units on a 29,477 square foot lot is typical in the OR2 zoning district, and less dense than surrounding properties.

7. Whether the requested modification would impose an undue financial or administrative burden on the city.

¹¹ Per MCO§541.170, supportive housing facilities must provide 1 parking space for every 4 beds. The facility proposes approximately 47 beds, so 12 parking spaces would be required. The existing lot contains 36 spaces.

¹² MCO §547.280

The facility does not require government funding nor does it seek any type of licensure. It will not impose an undue financial or administrative burden upon the City.

8. Any other factor that may have a bearing on the request.

Waiver of the spacing requirement has precedent in Minneapolis. In 2004, a supportive housing facility was approved in the Ventura Village neighborhood by the Planning Commission, and upheld by City Council upon appeal, even though the subject property was located within a quarter-mile of 9 existing supportive housing facilities. The City Council decision was challenged and upheld by the 8th Circuit Court of Appeals on the ground that waiver of the spacing requirement was a "reasonable accommodation" required by the Fair Housing Amendments Act of 1988.¹³ The City's waiver of its spacing requirement permitted the creation of additional supportive housing and thereby increased the housing available to eligible handicapped persons.

The City submitted evidence that, since the Zoning Code was amended in 1995 to include the term "supportive housing," the City has approved all eleven applications for supportive housing developments.¹⁴

RECOMMENDATIONS

The Department of Community Planning and Economic Development recommends that the City Attorney and the City of Minneapolis Zoning Administrator adopt the above findings and **approve** this request for Reasonable Accommodation to waive the specific development standard requiring that the proposed supportive housing facility located at 2118 Blaisdell Avenue maintain a distance of at least one-quarter mile from other supportive housing facilities and community residential facilities, subject to the following conditions:

1. The facility must comply with health and safety regulations such as building and fire codes. Should the facility create a public nuisance or fail to conform to health and safety regulations, local governments may cause such conditions to be abated;
2. All current and future occupants of the subject property must be diagnosed with a documented disability as described by the Americans with Disabilities Act;
3. The exterior of the home and the yard will be kept in excellent physical condition. Damaged or worn out materials will be promptly repaired or replaced;

¹³ http://caselaw.findlaw.com/us-8th-circuit/1244865.html#footnote_4

¹⁴ <http://openjurist.org/419/f3d/725/ventura-village-inc-v-city-of-minneapolis-minnesota>

4. The House Rules will be posted in a conspicuous location within the home. All residents, guests, and associated persons must comply with the House Rules and other applicable operational agreements at all times;
5. The City of Minneapolis shall be promptly notified in there are any changes in use or maximum occupancy, or any changes to the Residence Agreement or House Rules that could potentially increase the potential for adverse off-site impacts. These changes include but are not limited to occupancy, building alterations, and residency requirements.

Decision: _____ Date: _____

Signature of Zoning Administrator: _____ Date: _____

Signature of Planner or other Official: _____ Date: _____

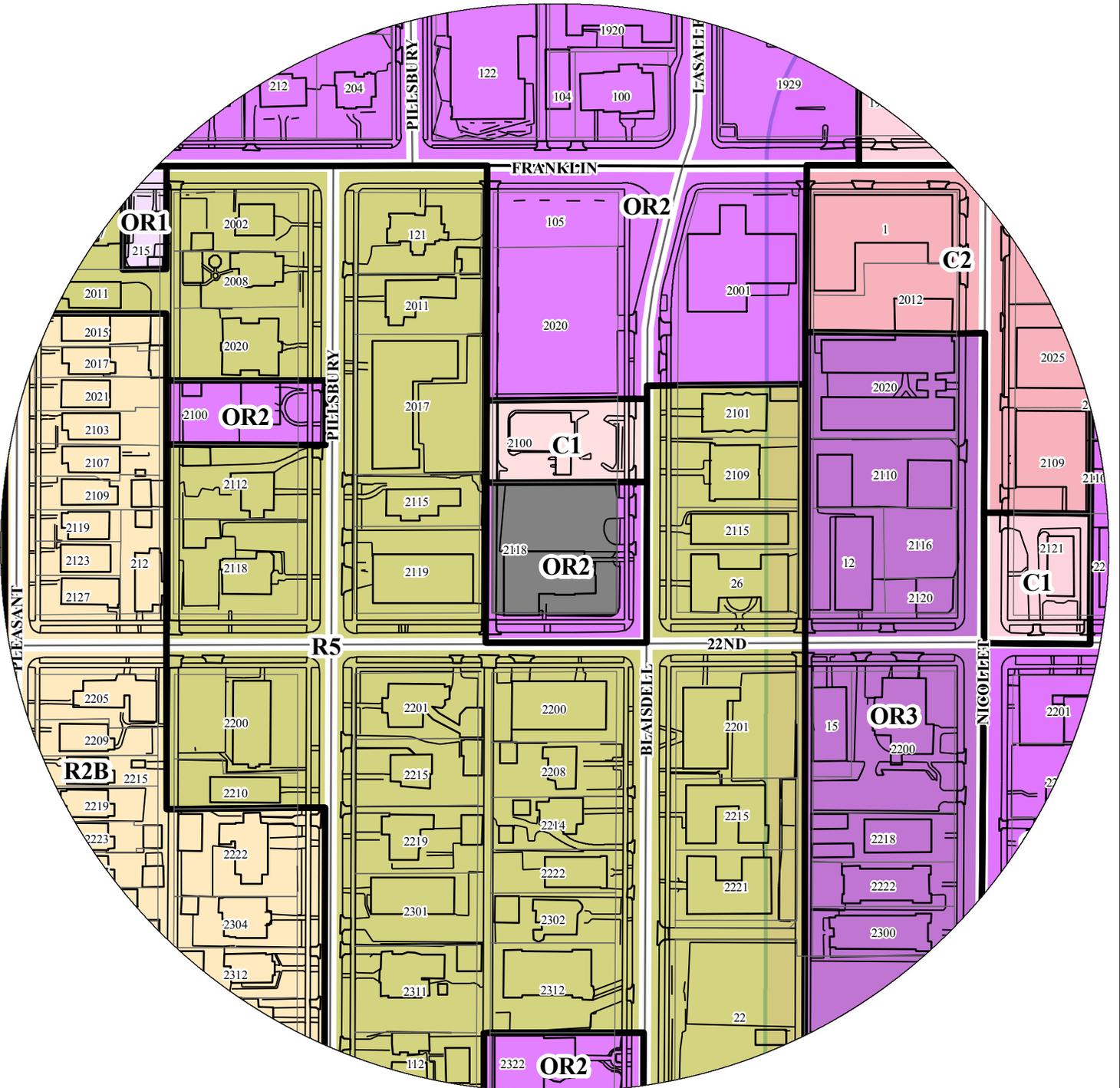
Signature of City Attorney: _____ Date: _____

NuWay House, Inc.

10th

NAME OF APPLICANT

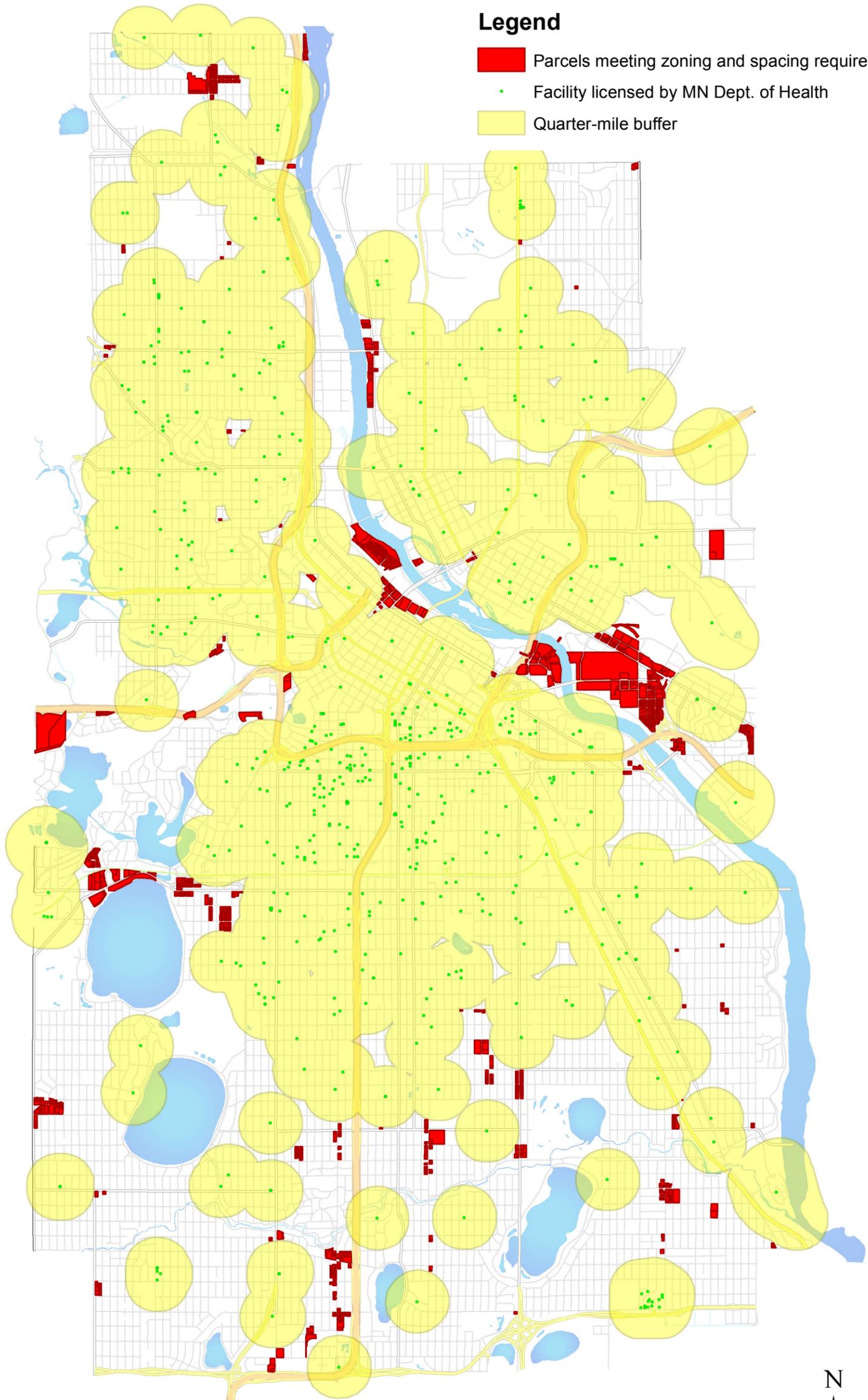
WARD



PROPERTY ADDRESS
2118 Blaisdell Ave

FILE NUMBER
BZZ-6915

Parcels Meeting Zoning and Spacing Requirement



Legend

- Parcels meeting zoning and spacing requirement
- Facility licensed by MN Dept. of Health
- Quarter-mile buffer



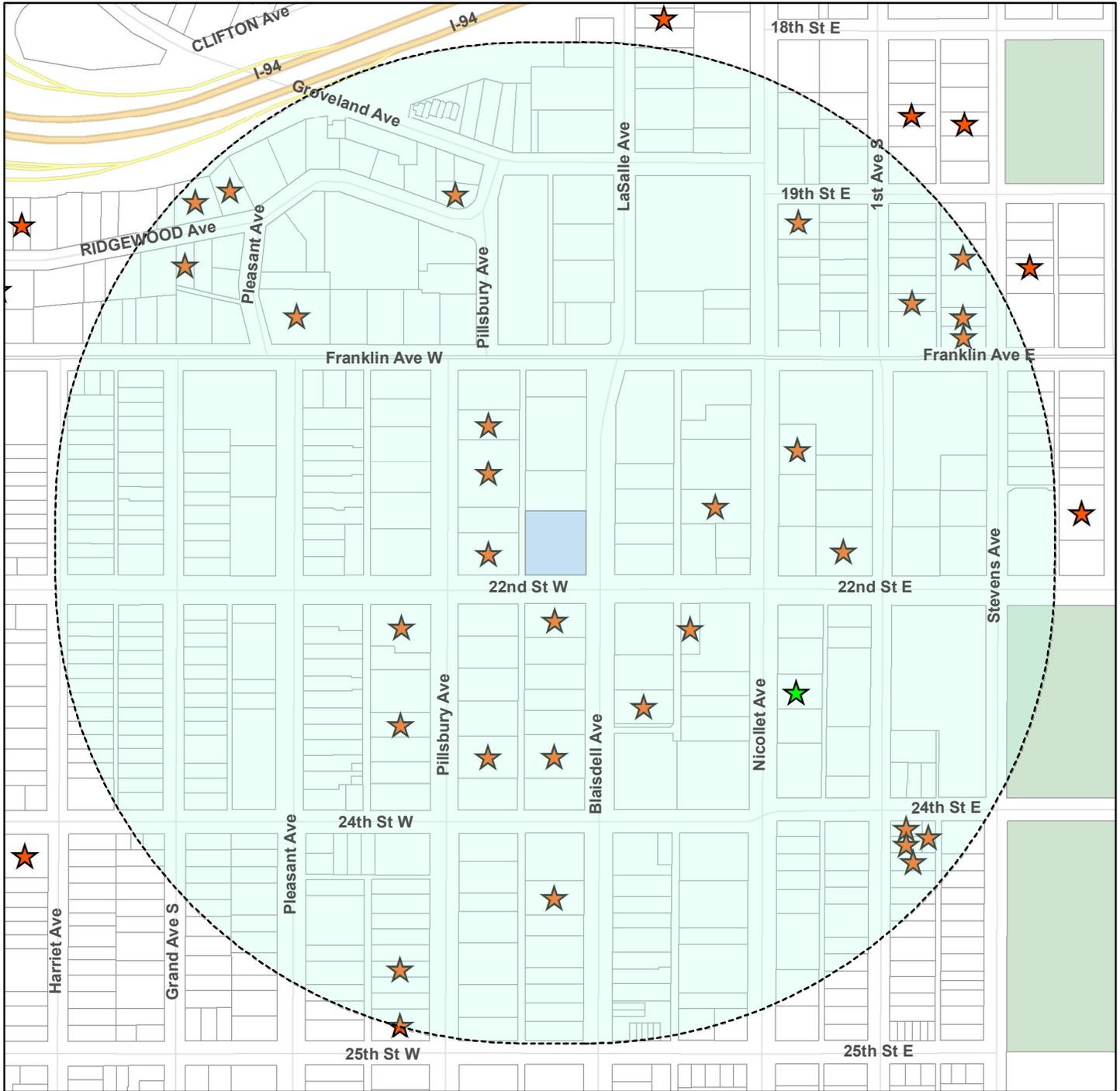
0 1 2 Miles

Updated October 20, 2014, for CPED



Data compiled from best available sources.
The City of Minneapolis assumes no legal
responsibility for the accuracy of this map.
For illustrative purposes only.

Facilities Licensed by the Minnesota Dept. of Health



0 0.125 0.25 Miles



Data compiled from best available sources.
The City of Minneapolis assumes no legal
responsibility for the accuracy of this map.
For illustrative purposes only.

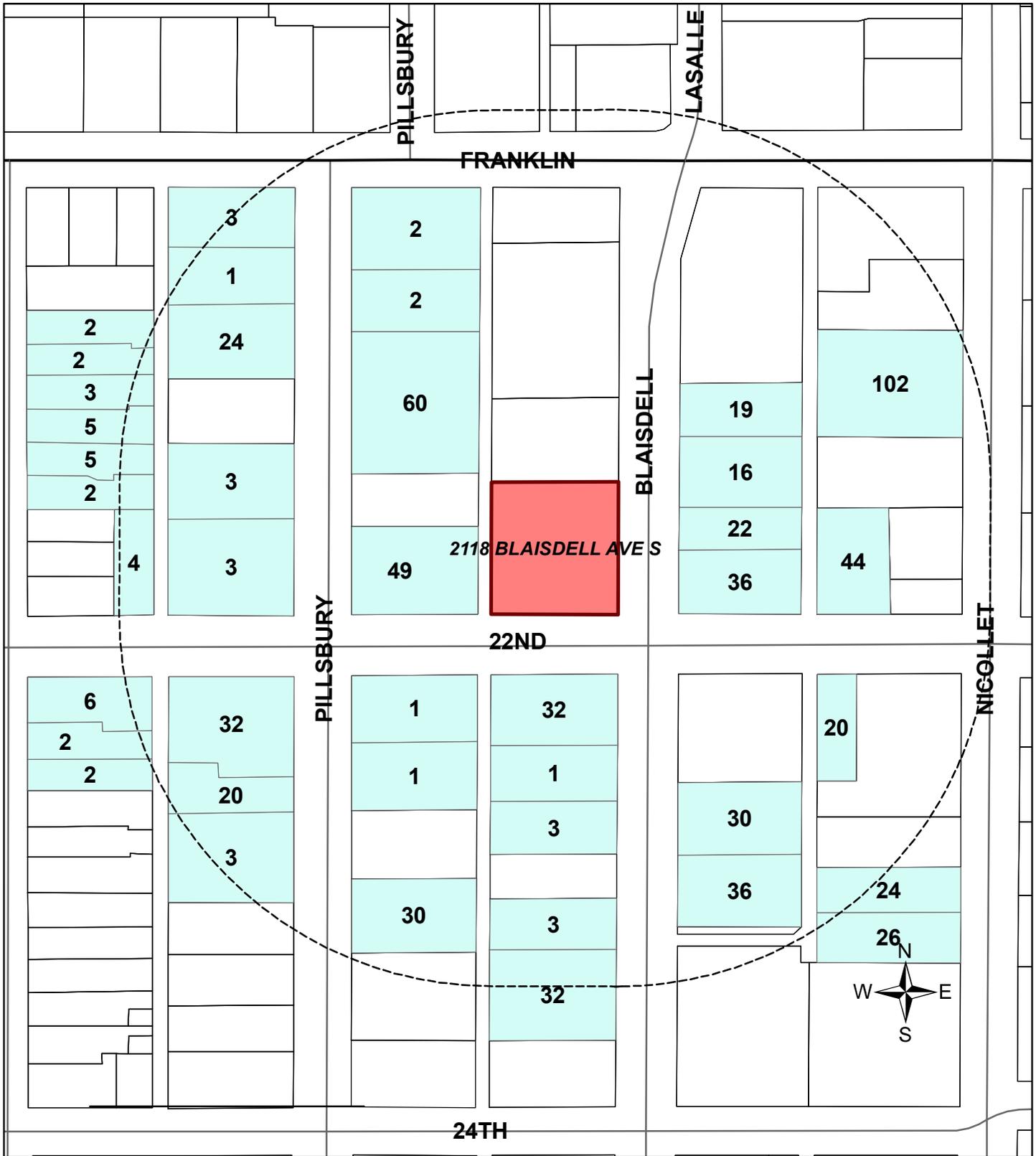
Updated November 5, 2014, for CPED

Legend

-  Treatment center
-  0.25-Mile Buffer
-  2118 Blaisdell Ave
-  Facility licensed by MN Dept. of Health



Dwelling Units within 500 feet



0 125 250 500

Feet



Data compiled from best available sources. The City of Minneapolis assumes no legal responsibility for the accuracy of this map. For illustrative purposes only.

Reasonable Accommodation Application

Background:

NuWay House, Inc. ("NuWay House") is located in the Whittier neighborhood and has been serving the neighborhood since incorporation in 1966 as a 501(c) non-profit corporation. NuWay House was created to provide extended care residential services. The organization began as a grass roots effort within the Whittier Neighborhood. The organizing committee and the first Board of Trustees were the same eleven men; the first president was Gordon C. Allen. It was conceived and grew from the vision and determination of Squad Six at 2218 First Avenue South, the "mother club" for A.A's and commonly known as "2218." The organizing committee recruited approximately 2,000 recovering individuals to donate \$10 dollars apiece and bought NuWay I in 1967 for \$20,000. During the first several years of NuWay House's existence all services were provided by the first Board of Trustees.¹

NuWay House has and continues to enjoy excellent relations with its Whittier neighbors. NuWay House operates three beautifully maintained properties in the Whittier neighborhood: 2200 1st Avenue South, 2518 1st Avenue South and 2217 Nicollet Avenue South. NuWay House is excited to enhance its mission through the development of 2118 Blaisdell Avenue South ("2118 Blaisdell Apartments") as a housing facility for recovering alcoholics and addicts. NuWay House believes it's critical to its mission to extend housing to individuals seeking outpatient services while residing in a safe, secure and stable environment.

Through this Application NuWay House is seeking reasonable accommodation from the Development Standard found in Section 536.20 of the Minneapolis Code of Ordinances which requires that supportive housing facilities be located at least one-quarter mile from other supportive housing facilities and certain other housing facilities.

1. Special need created by disability:

The 2118 Blaisdell Apartments will serve former alcoholics and addicts (who are no longer engaging in illegal drug use) and are receiving outpatient services at NuWay House's counseling center located at 2217 Nicollet Avenue South ("2217 Counseling Center"). The American Disabilities Act defines individuals diagnosed with alcohol or drug use disorders as a protected class (disabled) when engaged in treatment for their condition. All individuals residing at the 2118 Blaisdell Apartments will meet DSM-V (Diagnostic and Statistical Manual-Fifth Edition published by the American Psychiatric Association) criteria for alcohol or drug use disorder and will be enrolled in outpatient services at the 2217 Counseling Center.

Without this combination of housing and outpatient services, history tells us our ability to help former addicts and alcoholics obtain and maintain long term recovery is greatly reduced. It is reasonable for NuWay House to accommodate its clients, many of whom are from the surrounding area, with housing at the 2118 Blaisdell Apartments while they receive services for their disability because without proper housing their odds of remaining abstinent from substances (and/or mental illness) are greatly reduced.

"Individuals with these disabilities frequently face barriers that include unemployment, limited education and training, exposure to violence, lack of family support and comorbid mental health disorders that limit access to treatment. Treatment needs to be readily available. Because addicted individuals may be uncertain about treatment, ongoing access to services when individuals are ready for treatment is critical."²

2. Potential benefit that can be accomplished by the requested modification.

Housing at the 2118 Blaisdell Apartments will guarantee residents consistent access to outpatient services at the 2217 Counseling Center while residing in a safe, sober and secure environment. A person recovering from substance abuse may not have an equal opportunity to live in and enjoy adequate housing because their special needs can be overlooked.

Discrimination is sometimes subtle but the impact to the disabled individual and surrounding community can be significant. Many of the clients in NuWay House's treatment programs have lived in the Whittier neighborhood. Helping a client integrate into the neighborhood where he/she will be residing after treatment helps to ensure long term recovery. With positive supports these residents will be better equipped to return to independent living, in the Whittier neighborhood and elsewhere, as more productive, positive community members.

Studies show individuals accessing treatment achieve substantially higher remission rates than those who do not (43% v. 21%).³

Addiction treatment has been shown to reduce associated health and social costs. According to several conservative estimates, every dollar invested in addiction treatment programs yields a return of between \$4 and \$7 in reduced drug-related crime, criminal justice costs, and theft. When savings related to healthcare are included, total savings can exceed costs by a ratio of 12 to 1. Major savings to the individual and to society also stem from fewer interpersonal conflicts; greater workplace productivity; and fewer drug-related accidents, including overdoses and deaths.⁴

Treatment needs to be readily available. Because addicted individuals may be uncertain about entering treatment, taking advantage of available services the moment people are ready for treatment is critical. Potential patients can be lost if treatment is not immediately available or readily accessible. As with other chronic diseases, the earlier treatment is offered in the disease process, the greater the likelihood of positive outcomes.⁵

Remaining in treatment for an adequate period of time is critical. Research indicates that most addicted individuals need at least 3 months in treatment to significantly reduce or stop their drug use

and that the best outcomes occur with longer durations of treatment.⁶

3. Need for the requested modification, including alternatives that may provide an equivalent level of benefit:

A supervised supportive community environment will ensure consistent access to outpatient services. Without reliable housing individuals seeking to access outpatient services may have to reside in an unreliable, unsafe or non-sober environment. Those who do not reside in a sober environment will not receive the same level of accountability and access to outpatient services.

In either case, there is not an equivalent level of benefit available. Proximity of outpatient services is critical. To help promote successful rehabilitation, barriers are removed by providing housing within walking distance to the source of a client's outpatient services. The great majority of NuWay House's clients will otherwise not have the means necessary for reliable transportation to obtain consistent outpatient services that are needed for long term recovery. This supportive housing opportunity reduces a client's chances for isolation from others who are also choosing a healthy lifestyle of recovery. Isolation is a common relapse trigger for those in early recovery from substance addiction (and/or mental illness).

4. Physical attributes of and any proposed changes to the subject property and structures.

Using the 2118 Blaisdell Apartments as an apartment building with 22 dwelling units requires no significant alteration to the exterior of the building located on the property.

2118 Blaisdell Avenue is a property with an interesting past. In 1913, the original section of the building ("Mansion") was built as an ornate single family 5-bedroom residence with two full stories above grade, a full basement used as a ballroom and a large attic space that also had sleeping rooms for the housekeeping staff. At some point in the following 50 years, the Mansion became the home of the Northwest Baptist Home Society. In 1962, the Society constructed a 3-story-plus-basement addition ("Addition") on the west side of the Mansion, providing 28 nursing home bedrooms that could have been shared by two persons each. The Mansion was used as administrative and staff space, remaining largely intact.

Approximately 10-15 years ago the property was sold and converted to business occupancy type for the Pinecrest Door Company. The company had their administrative offices in the Mansion, with a showroom in the lower level. They used the first floor of the Addition as a shipping and receiving area leaving the remainder of the Addition largely intact and under-used.

Throughout these transformations, the ornate architectural character of the Mansion has remained mostly intact, while the Addition has also remained in its original, featureless state. The lot size is 29,535 square feet and the combined area of the Mansion and Addition is approximately 23,000 square feet (not including the attic in the Mansion), with an almost equal

split between Mansion and Addition. The property is not on the National Register, not in an historic district and not on the Minneapolis Landmarks list.

The proposed use for this property is to convert the Mansion and the Addition from their current business use back into residential use housing fewer residents than it did as a nursing home. The proposed residential configuration requires no exterior wall or window opening modification except for partially infilling windows at an inside corner to create the code required separation of wall openings. On the north side of the Addition, the existing loading dock will become a window and one window will become the new accessible main entrance. The existing parking lot, paving, fencing and site lighting will remain as is with the exception of adding a ramp on the Addition for accessible entrance to the first floor which is about 30 inches above grade. Landscaped areas of the property have already been significantly improved. Thus, viewed from the exterior, the property will remain almost entirely unchanged.

5. Potential impact on surrounding uses.

Critical to NuWay House's forty eight year mission is the value that is described in its policies of enforcing a zero tolerance for alcohol and drug use and criminal behavior among its staff and clientele. This core value is best evidenced in NuWay House's record and reputation among neighbors and the Minneapolis Fifth Precinct. NuWay House believes that an integral part of the recovery process for individuals suffering drug and alcohol addictions is to amend past wrongs done to individuals, families, institutions and communities through correct actions in the present. It is critical for individuals receiving treatment and in recovery to become productive members of their communities through demonstrations of positive community behaviors.

As of September 16th 2014, 5th Precinct Police Log Data from other human services organizations within a mile or so radius of NuWay I, NuWay II and 2217 NuWay Counseling Center indicate that calls ranged up to 146 calls for a single facility over the last 12 months. NuWay House's three Whittier facilities of NuWay I & II and NuWay Counseling Center had a combined total of 34 calls during the same time frame. NuWay House works very hard at being a good neighbor and has fostered a collegial relationship with law enforcement as well as adjacent homeowners. It is NuWay House's understanding from discussions with both Lt. Gross of the 5th Precinct and the precinct analyst that NuWay House's facilities are not considered a nuisance within the precinct.

Every resident of the 2118 Blaisdell Apartments will be subject to random drug and alcohol screens. In addition to random drug and alcohol screens all residents will be subject to drug and alcohol screening at staff discretion based on behavioral concerns. Instant urinalysis drug kits and an alcohol breathalyzer will be kept in the main office for this purpose. The only open entrance to the 2118 Blaisdell Apartments will be through the Northwest entrance in the Addition which is observable by the management office. While the residents will not have leases, they will be required to sign a Resident Agreement and strictly adhere to the house rules contained in the Resident Agreement, a copy which is included with this Application.

The 2118 Blaisdell Apartments will be staffed on a twenty-four hour basis using three shifts. Two house managers will be on site during 8:00 a.m. to 4:00 p.m. and 4:00 p.m. to 12:00

a.m. shifts. The 12:00 a.m. to 8:00 a.m. shift will have only one house manager on site. There will be a curfew at which time the main entrance will be locked. During the first two shifts one house manager will be required to stay in management office and the other will continuously conduct rounds in the Mansion and Addition as well as on the outside grounds. During the third shift the single house manager will stay in the management office.

The individuals making up the house management staff will collectively be knowledgeable in the field of chemical dependency as well as property management and maintenance.

Having individuals living at the 2118 Blaisdell Apartments actively engaged in recovery from their drug and alcohol addictions will benefit both the individuals in recovery and surrounding community. It is critical for individuals stepping down from one of NuWay House's residential treatment facilities, or for those less acute individuals not needing the benefit of first completing a residential treatment program before beginning services at 2217 Counseling Center to be in close vicinity to their services.

NuWay House has had a positive impact on drug and alcohol related behavior in the areas surrounding its facilities in Whittier east of Nicollet. It is reasonable to assume that NuWay House will have an equally positive impact in the area west of Nicollet Avenue—which some individuals in the community have described as a troubled area. Having a large number of positive individuals and staff in recovery will help reduce some of the problems these concerned individuals have expressed.

6. Whether the requested modification would constitute a fundamental alteration of the zoning regulations, policies, and/or procedures of the city.

In terms of physical space requirements and the appearance, operation and condition of the property and buildings, everything is the same as it would be for a typical multi-unit apartment building which would meet all of the existing zoning ordinance regulations. Using the city's established application process for reasonable accommodation to acknowledge that the residents have disabilities would not constitute a fundamental alteration of the zoning regulations, policies and/or procedures of the city.

7. Whether the requested modification would impose an undue financial or administrative burden on the city.

The proposed use of the 2118 Blaisdell Apartments as a supportive housing facility will not require any government funding. It will require obtaining a rental license as required by Minneapolis City Ordinance. Seeking and obtaining a rental license will not impose any more of a financial or administrative burden on the City than any other multiple dwelling that requires such a license.

8. Any other factor that may have a bearing on the request.

See Specific Land use Application Requirements Checklist included with Application.

¹ Courage to Change pps 233 and 234, Published 1978 by Forest Richeson).

² Intensive Outpatient Treatment and Continuum of Care of Center for Substance Abuse Treatment. Retrieved August 13, 2014, from <http://www.ncbi.nlm.nih.gov/books/NBK64088/>.

³ Weisner, C., Matzger, H., & Kaskutas, L. A. (2003). How important is treatment? One-year outcomes of treated and untreated alcohol-dependent individuals. *Addiction*, 98(7), 901-911.

⁴ Intensive Outpatient Treatment and Continuum of Care of Center for Substance Abuse Treatment. Retrieved August 13, 2014, from <http://www.ncbi.nlm.nih.gov/books/NBK64088/>.

⁵ *Id.*

⁶ *Id.*

SPECIFIC LAND USE APPLICATION REQUIREMENTS CHECKLIST

In addition to the General Application Requirements the following may also be required:

If the request for reasonable accommodation is to allow for occupancy beyond zoning district maximums, the applicant must submit the following information:

A copy of the house rules. (**See Attached Resident Agreement**)

A copy of the lease agreement(s). (**Not Applicable**)

A floor plan showing the layout of each floor. (**Attached**)

Written responses to the following questions with appropriate documentation:

- 1. What is the maximum number of residents that will be housed at the site at any given time, including any landlord(s), paid staff, or live-in house manager (please specify)?**

The maximum number of actual residents at any given time will be 47. There will be paid staff on site twenty four hours a day but they will not be residing there.

- 2. Does the resident rent the entire house as opposed to a single room? Does the resident have access to the entire house and all household facilities?**

The plans call for the 2118 Blaisdell Apartments to have 22 apartments consisting of 21 efficiency units and one 5-bedroom unit. Each apartment will have one or more rooms designed for occupancy as a separate living quarter, with a complete kitchen and bathroom(s) for the exclusive use of the occupant(s) of the apartment. Some apartments may house two or more occupants. There will be certain common areas of the building that all of the occupants can utilize, such as lounges and a laundry room.

Although there may be two or more occupants in an apartment, in any such apartment each occupant will have their own bedroom (in the 5BR unit) or a separate sleeping area (in the efficiency apartments).

- 3. Does the whole house function as a single housekeeping unit? Are all expenses paid out of a single house account? Does each resident share in the cost and duties of cooking meals, shopping, cleaning, and general household maintenance?**

The 2118 Blaisdell Apartments will not function as a single housekeeping unit. Residents will be responsible for providing their own meals, shopping cleaning and general household maintenance with respect to their apartment. Residents may also be assigned certain household duties with respect to the common areas of the building.

4. Is the house financially self-sustaining?

The 2118 Blaisdell Apartments will be financially self-sustaining. All operating expenses will be covered by NuWay House, Inc. The residents will not be paying rent.

5. Has the house ever received financial or other support from the government or other source? Could the house receive such support?

NuWay House, Inc. has never received government support and is not eligible for such support.

6. What percentage of residents has gone through alcohol, controlled substance, or treatment programs designed to treat the specified disability prior to arrival at the house? Please provide documentation (personal identifying information may be redacted).

All four of the NuWay House, Inc.'s MN-DHS Rule 31 facilities are licensed to provide treatment for individuals exclusively suffering from chemical dependency and mental illness as defined by DSM 5. 2118. The 2118 Blaisdell Apartments will be for the exclusive use of individuals who've been treated at NuWay House, Inc.'s facilities and who continue to receive outpatient treatment at the NuWay House's facility at 2217 Nicollet Avenue South (the "2217 Counseling Center").

7. Is the house located in proximity to places where AA, NA, or similar meetings intended to treat the specified disability, are regularly conducted (please specify)?

As stated in the response to Item No. 6, residents will be required to participate in outpatient treatment at the 2217 Counseling Center which is a short distance from the 2118 Blaisdell Apartments. However, it is important to note that the 2118 Blaisdell Apartments is located in the heart of the Minneapolis "recovering Community". The 2218 Alano Society located at 2218 First Avenue South is the oldest continuously operating AA Club in the world. Including the Twenty Four Hundred Blaisdell Alano Society there are over 200 hundred AA/NA meetings every week within a 4 block radius of the 2118 Blaisdell Apartments

8. Is the house located near commercial districts where residents may obtain basic necessities like groceries and household items (please specify)?

The 2118 Blaisdell Apartments are conveniently located within two blocks of a multiple major bus lines. In addition, there is an abundance of retail shopping within walking distance including grocery stores.

9. Is the house located near a range of employment sites and/or public transit opportunities (please specify)?

As stated in Number 8, The 2118 Blaisdell Apartments are located within two blocks of a multiple major bus lines.

The Whittier neighborhood has several organizations that provide vocational training and/or the possibility of employment such as the following:

- a. Nicollet and Franklin Avenues are a major Metro Transit Hub.
- b. Minneapolis Community and Technical College – 1501 Hennepin Avenue South
- c. AAA Labor – 1908 Chicago Avenue South
- d. Hennepin County Vocational Services Program – 1800 Chicago Avenue
- e. Lutheran Social Services – 2400 Park Avenue South
- f. Light House – 1825 Chicago Avenue South
- g. Catholic Charities Opportunities Center – 740 East 17th Street
- h. Minnesota Workforce Center – 777 East Lake Street
- i. Atlas Staffing – 102 East Lake Street
- j. Dignity Center -511 Groveland
- k. St. Stephens -2309 Nicollet Avenue
- l. Amicus – 3041 4th Avenue South
- m. PPL Learning Center 1925 Chicago Avenue South
- n. NuWay House, Inc.

10. Will any of the residents have cars? How many off-street parking spaces are available? (please submit a drawing that illustrates the location)

Because the residents of the 2118 Blaisdell Apartments are early in the recovery process it is not anticipated that more than 5 to 10 individuals will have automobiles at any one time. There are 46 parking spaces at the 2118 Blaisdell Apartments so there will be plenty of available parking spaces for those few residents that have cars.

11. How is the house advertised for occupancy? Who refers residents to the house?

Referrals will be made by NuWay House’s four treatment centers. There will be no advertising to the general public.



2118 Blaisdell Resident Agreement

This is not a standard landlord/tenant agreement; this is a sober housing contract. NuWay may at any time and for any reason ask any resident to immediately leave the property. Any resident that violates any of the following rules is subject to losing their housing at 2118 Blaisdell Apartments (the “House”).

- 1. All residents must participate in individually required programming at 2217 Counseling Center.**
- 2. No use of alcohol or any other mood altering substances on or off the premises.**
- 3. Threats or acts of violence will not be tolerated. No guns, knives or other weapons allowed on the premises.**
- 4. Whenever leaving the premises residents are required to sign in and out in the log book in the House Management Office.**
- 5. Residents must be up and dressed, with their apartments in order and ready for the day’s activities by 7:20 am Mon - Sat and 9 am Sun.**
- 6. All residents are expected to be involved in all programming.**
- 7. House Jobs:**
 - a. Residents are to complete assigned house duties daily and by 8:20am Mon-Sat and by 10 am Sun.**
 - b. Changing assigned house duties is allowed only when approved by House Managers and both residents see House Manager on duty.**
 - c. Cleaning & house supplies can be obtained from House Manager on duty.**
 - d. Linens are exchanged Monday mornings through House Manager on duty.**
 - e. Clean Apartment Award is awarded each Friday to the apartment with the most points.**
- 8. No pan handling or collecting unreported income is allowed.**
- 9. Curfew is at 10:30 pm Sunday – Thursday and Midnight Friday and Saturday. Quiet time in the house begins at 10:30 pm. Any resident returning after curfew must be allowed back in to house only by the House Manager.**
 - a. Your assigned house duties must be covered during anytime you are away on a pass.**
- 10. Visitors:**
 - a. Visitors must sign in and out at the Management Office.**
 - b. Visiting hours are from 2 pm – 10 pm.**
 - c. Residents are responsible for the conduct of their visitors.**
- 11. Phones:**

- a. Confidentiality – you must not give out another residents’ name over the phone nor confirm that a resident is living in at the House.
 - b. All phone calls are limited to no more than 5 minutes when more than one resident is waiting to use the phone.
 - c. No incoming or outgoing calls after 10:30 pm.
12. Dress:
- a. Shirts, pants, and footwear must be worn when out of your Apartment.
 - b. Street or drug-oriented clothing is not acceptable in or out of the House.
 - c. No sunglasses, hoodies, or headphones in the House except headphones may be used in individual apartments.
13. Meals:
- a. Residents will be supplied a \$75 weekly food stipend to purchase food.
 - b. All food will be prepared and consumed in residents’ apartment unit.
14. Smoking/Tobacco:
- a. All smoking (regular cigarettes or E-cigarettes) is prohibited except in designated (parking lot) area outside.
 - b. No congregating or smoking in front of the House.
 - c. No cigarettes (regular or E) are to be visible inside the House.
 - d. Chewing tobacco is not allowed inside the House.
15. TV:
- a. No TV watching (or lying in bed) from 8:30 am - 2:00 pm Mon-Fri.
16. Phones and Electronic Devices
- a. Use of cell phones and all other electronic devices is prohibited except in apartments or outside.
17. Do not lend or borrow money or personal belongings while at the House.
18. Residents are not to be in other residents’ apartment.
19. No gambling while you are a resident at the House.
20. No incense, candle burning, or smudging allowed in House, including individual apartments.
21. A breathalyzer and/or urinalysis may be requested at any time. Resident is to remain with the House Manager until a sample can be produced. If the resident is not able to produce a urine sample within 2 hours this will be noted as a refusal. A refusal may be grounds for discharge.
22. The House is not responsible for personal belongings. Post discharge personal effects will be stored for 60 days, after that time they will be disposed of. Apartment security is an individual responsibility. Apartments should be locked whenever you leave them.

Printed Name of Resident: _____ Date: _____
 Signature of Resident: _____ Date: _____
 Signature of Staff: _____ Date: _____

Statement of Appeal

I've submitted this appeal of the CPED Staff Report dated November 24, 2014 (the "CPED Report") regarding the application by NuWay House, Inc. for a Reasonable Accommodation waiving the quarter mile spacing requirement in the Minneapolis Zoning Code with respect to 2118 Blaisdell because I, residing at 2115 Pillsbury have standing to make the appeal under the Zoning Code. As a member of the Board of the Whittier neighborhood association, The Whittier Alliance, I can testify that the position set forth herein is shared by the Whittier Alliance, which has publicly stated its opposition to NuWay's intentions regarding 2118 Blaisdell and continues to oppose its proposed use of this property on behalf of the neighborhood. Certain information included in this appeal is derived from analysis and information with respect to the neighborhood provided by the Whittier Alliance.

Recent History with respect to 2118 Blaisdell

At the end of 2013, Nu-Way House, Inc. ("NuWay") a non-profit organization that provides drug and alcohol counseling services, purchased 2118 Blaisdell Avenue South with the intention of opening its fourth facility within a two block radius, in the Whittier neighborhood. At that time, Nu-Way's director, David Vennes, explained to me that Nu-Way had figured out how to tap into certain pockets of Medicaid and other insurance resources to greatly improve its finances so it is in a position to expand significantly. At the same time, Nu-Way sought but failed to purchase another home that sits directly between its counseling center at 2217 Nicollet and its Supportive Housing Facility at 2200 1st Ave South. It further sought to purchase an apartment building between Blaisell and Nicollet Avenues and has recently purchased the building owned by the Institute for Agricultural and Trade Policy on Stevens Avenue. All of these buildings are within 1-2 blocks of NuWay's 2217 Nicollet building and within 1-3 of each other. It now has five buildings all within one ¼ mile area.

At this time, the Whittier Alliance informed NuWay that it had grave concerns about its stated intent to cut up 2118 Blaisdell (a stunning turn of the century mansion with historic and architectural significance that is an important asset to the neighborhood, that developers are anxious to restore into an income and tax generating event space) into housing for potentially more than 200 men per year struggling with alcohol and drug addiction. (See the attached letter for a better understanding of the significance of this property.) The Whittier Alliance invited Nu-Way to present its plan at the Community Issues meeting. The opposition of the neighborhood to NuWay's plan voiced at this meeting was clear and, at the request of the CI, the Whittier Alliance passed a Board Motion opposing Nu-Way's intended use of 2118 Blaisdell. (See the attached Whittier Alliance Motion).

NuWay submitted a site plan to the City to break up 2118 Blaisdell into twenty-two 'apartments'; by converting the 1950s addition and the ballroom of the original mansion into twenty-one (21) studio apartments and by converting the remainder of the original mansion into one (1) 10,000 square foot 5 bedroom "apartment;" undoubtedly the largest apartment in

Minneapolis. NuWay claimed at the time that they would not need to apply for any Reasonable Accommodations with the City, or thereafter obtain a Conditional Use Permit to go through with their plans because all they intended to do was convert 2118 Blaisdell into 'apartments,' not create a group home/supportive housing/inebriate housing and that they would also not be seeking licensing from Minnesota for this facility. Neighbors and the Whittier Alliance mobilized and illustrated to the City that NuWay clearly did not intend to simply create apartments, but rather sought to create yet another Supportive Housing Facility/inebriate house, in violation of the Minneapolis Zoning Code's quarter mile spacing restrictions, because 2118 Blaisdell lies within a quarter mile area that is already vastly over-concentrated with such facilities. The CPED Report correctly concludes that NuWay's intended use of 2118 Blaisdell is in fact that of yet another Supportive Housing facility.

When NuWay learned that its site plan proposal would be denied, it withdrew its application. At that time, the Whittier Alliance was told by CPED staff that NuWay could submit a new site plan or apply for a Reasonable Accommodation and that the Whittier Alliance would be informed if and when NuWay submitted an application for a Reasonable Accommodation. According to the CPED Report, NuWay submitted an application on October 5, 2014. The Whittier Alliance was not informed that NuWay had submitted an application for a Reasonable Accommodation, so was not allowed the opportunity to provide the CPED Staff with additional information that would have aided staff in its analysis of the issue. Although the CPED Report is dated November 24th, 2014, neighbors of 2118 Blaisdell did not receive notice of the report until December 19th, in a letter dated December 15th. The Whittier Alliance was told that neighbors with standing to appeal the CEPD Report recommendations could do so by submitting an appeal by the end of the day on Tuesday, December 30th, 2014. Because the response period has fallen directly in the middle of the Christmas holidays and year-end business, neither the Whittier Alliance nor my wife and I have yet been able to secure professional legal counsel that would have undoubtedly helped provide even stronger evidence of the need for the City to deny NuWay's application.

Nevertheless, the arguments and evidence set forth below clearly show that the CPED Report has not accurately applied the applicable standards in evaluating NuWay's application and that doing so leads to the inevitable conclusion that NuWay's application for a reasonable accommodation eliminating the quarter mile zoning requirement should be denied.

The CPED Report Findings

The CPED Report outlines, on page 2, the criteria to be considered in determining whether or not to grant a reasonable accommodation should be granted under the FHAA. Unfortunately, the CPED Report misapplies the criteria to the information provided by NuWay, does not require evidence from NuWay that it meets the criteria outlined, and does not have the benefit of the evidence listed below which dictates denial of the application for an accommodation removing the quarter mile spacing.

The three criteria outlined by the CPED for evaluating NuWays request are:

- 1.) Whether the request is being made on behalf of a person or persons who are considered disabled under the provisions of the Act (i.e the FHAA);
- 2.) Whether or not the requested accommodation is necessary; and
- 3.) Whether the requested accommodation is reasonable.

Whether the request is being made on behalf of a person or persons who are considered disabled under the provisions of the Act.

NuWay's applications states that the "2118 Blaisdell Apartments will serve former alcoholics and addicts (who are no longer engaging in illegal drug use) and are receiving outpatient services at NuWay House's counseling center located at 2217 Nicollet," one block from 2118 Blaisdell. NuWay clearly understands that, as the CPED Report correctly states, "the current, illegal use of or addiction to a controlled substance does not constitute a "disability" under the Act." Accordingly, NuWay emphasizes in its application that this housing would be for "former alcoholics and addicts." However, when NuWay presented at the Whittier Community Issues meeting its Director, David Vennes, responded to an inquiry as to whether the apartment building they wanted to create wasn't really just a sober house because the residents would be trying to become/remain sober, he conceded that the residents would be in varying degrees of sobriety; some would be sober, some would not. Accordingly, by NuWay's own admission, the residents of the facility would not qualify under the any interpretation of the FHAA, because "the current, illegal use of or addiction to a controlled substance does not constitute a "disability"under the Act.

At the time, NuWay was trying to avoid having to follow the requirements of Supportive Housing and stated that it would not be applying for any licenses for this facility, unlike the facility one block away at 2200 Stevens. This position was a tactical one on the part of NuWay, because it was well aware that the quarter mile zoning restriction is intended to prohibit the clustering of supportive housing/inebriate housing in Minneapolis; hence its argument that they were really just creating an apartment building. The CPED correctly understood, from information and arguments submitted by the Whittier Alliance, that NuWay's argument that it was only creating apartments (not subject to code restrictions) was ridiculous. Allowing NuWay to pretend it was only creating apartments and approving its site plan would mean that NuWay could buy up all of the apartment buildings for several blocks, insert their fee for services clients (paid through Medicaid, etc.) in them and ignore the quarter mile restrictions in the code that were created to prevent clustering. The City rightly realized this and has accordingly concluded that NuWay's intended use of 2118 Blaisdell would amount to Supportive Housing. The City now needs to recognize that granting an accommodation removing the quarter mile spacing requirement based upon the logic in the CPED Report (in short that the City generally always does so) effectively removes the restriction altogether and would allow organizations like NuWay to do exactly what it is intending to do; create a cluster of supportive housing/inebriate

housing facilities in one small area in a manner that is inequitable, discriminatory and detrimental to the neighborhood in question.

Another factor the CPED staff who drafted the report (but who have not had the benefit of touring the interior of the property) need to appreciate is that NuWay's stated intent to use 2118 Blaisdell simply for apartments *housing* people who have been through treatment is likewise disingenuous. NuWay claims that the original 10,000 square foot mansion will be converted into one 5 bedroom apartment. It's no exaggeration to state that this would be the largest 'apartment' in Minneapolis. What NuWay is not addressing is what they will do with the massive reception rooms on the first floor of the mansion (the billiard's room, the library, the enormous living room, the grand dining room and the expansive breakfast room/salon). It defies logic to believe that NuWay will not be using these abundant reception spaces in this 'five bedroom apartment' to carry out counseling sessions and group meetings for all of the 47 residents of the apartments NuWay hopes to create in the building. The reality is that NuWay is seeking, through its application for a reasonable accommodation to vastly expand its counseling footprint in this one block radius, but without the bother of complying with licensing and code requirements. The facility they intend to create at 2118 Blaisdell would, it appears, be essentially no different than the facility one block away at 2200 Stevens. The point of this observation is to emphasize again that although NuWay suggests in their application that their residents would not be currently using alcohol or other drugs, their comments on the issue indicate otherwise, and if they chose this building because it provides space for active treatment facilities as its features suggest (not simply housing), for those who might just be entering treatment with NuWay, then these would persons not be "former alcoholics and drug addicts."

To support its position that its residents should qualify as disabled under the FHAA, NuWay states in its application that all residents would "meet DSM-V (Diagnostic and Statistical Manual-Fifth Edition published by the American Psychiatric Association) criteria for alcohol or drug use disorder." From this statement, the CPED Report somehow, erroneously concludes (see page 11) that "Potential residents would be limited to individuals who have been diagnosed with a physical or mental handicap." Nowhere in NuWay's application is this stated; rather they only state that they intend to house "former alcoholics and drug addicts."

The CPED Report also erroneously states on page 4 (without any evidence to support the conclusion), that "alcoholism and chronic drug use" are categorically "considered disabilities" under the Americans with Disabilities Act (and doesn't address the definition under the FHAA). CPED's Report accordingly concludes that NuWay's intended residents would all be disabled, and that the FHAA dictates that the City should issue an accommodation removing the quarter mile restriction in order to not discriminate against them. Both of these assumptions are incorrect.

The FHAA defines persons with a disability to mean "those individuals with mental or physical impairments which substantially limit one or more of their major life activities." "Major life activities include, but are not limited to, caring for one's self, walking, seeing, hearing, speaking, breathing, learning and working." (See 24 CFR Section 100.201) The U.S. Department of Justice and the U.S. Department of Housing and Urban Development are jointly responsible for

enforcing the Act. According to their Joint Statement (dated May 17, 2004) on Reasonable Accommodations Under the Fair Housing Act, “substantially limits” suggests that the limitation is “significant” or “to a large degree.” NuWay has provided no evidence or even stated that any of the proposed 200 annual residents would have an impairment which substantially limits one of more major life activity under the FHA and the CPED Report’s recommendation to grant the accommodation removing the quarter mile restrictions is based upon the assumption that all of the proposed residents would, rather, be diagnosed with a disability under the ADA. The CPED Report’s recommendations do not require NuWay to provide any evidence that the 200 plus residents/year of this facility would meet the definition of disabled persons under the FHAA, the Act upon which the CPED Report claims it is appropriate to grant such an accommodation. Given that NuWay sought to skirt the enforcement of applicable zoning codes on 2118 Blaisdell by claiming that it intended to create ‘apartments’ rather than another Supportive Housing facility, the City should require an exacting standard of evidence from NuWay with respect to its application to remove zoning restrictions, rather than assuming relevant facts in their favor without requiring further substantiation.

In fact, the information NuWay did provide in its application, that their proposed residents would be “*former alcoholics and addicts (who are no longer engaging in illegal drug use) and are receiving outpatient services at NuWay House’s counseling center located at 2217 Nicollet,*” suggests that these residents would *not* be persons who are considered disabled under the FHA; that is they would not be “those individuals with mental or physical impairments which substantially limit one or more of their major life activities.” According to NuWay, they would have already undergone treatment and no longer be using alcohol or drugs. If this is true, then they would not qualify as disabled under either the ADA or FHAA.

As noted above, NuWay has provided no evidence that the proposed inhabitants of 2118 Blaisdell would meet the definition of disabled persons under the Act and has been disingenuous in their previous applications with the City. Rather, the public comments of NuWay’s director indicate that inhabitants would not be sober, so would clearly not qualify as disabled under the FHA, which dictates that “*the current, illegal use of or addiction to a controlled substance does not constitute a “disability.”*” And NuWay’s statement in its application that these residents would be “*former alcoholics and addicts*” (who have already undergone intensive treatment through one of NuWay’s programs) indicates that they would *not* be disabled under the FHA. NuWay has not proven that the proposed residents of 2118 Blaisdell would be disabled under the Act, so its request for an accommodation should be denied.

Whether the request for accommodation is necessary under the Act.

In instances when an applicant has proven that the residents in question qualify as disabled under the Act, the City must next answer the question of whether the requested accommodation is necessary.

CPED Report erroneously looks at this issue in the extremely narrow focus of whether or not NuWay could put their facility in the location in question if a reasonable accommodation is not granted (i.e. whether an accommodation removing the zoning restriction is necessary in order for

them to put a Supportive Housing facility in 2118 Blaisdell). Obviously, anyone requesting a reasonable accommodation removing a spacing restriction under the FHAA is doing so because the restriction prevents them from putting their desired facility in that location. That issue is not the question that the FHAA demands be answered with respect to determining the necessity of such accommodations. The issue, as further described below, is whether the accommodation is necessary for disabled persons to enjoy an equal opportunity to enjoy the housing of his choice; which traditionally is intended to provide disabled persons the right to choose to live in single-family neighborhoods so as to end their exclusion from the American mainstream.

One-fourth Mile Spacing Requirement

The Minneapolis Code of Ordinances, Title 20 Zoning Code, Chapter 536 Specific Development Standards states that “supportive housing shall be located at least one-fourth mile from all existing supportive housing and from all of the following uses, except in the B4 Overlay District:

- a. Community correctional facility.
- b. Community residential facility.
- c. Inebriate housing.
- d. Motel.
- e. Overnight shelter.”

1. Number of Facilities

As the CPED Staff Report indicates, there are at least 30 facilities licensed by the Minnesota Department of Health, and many more facilities that are not so licensed, within one-fourth mile radius of 2118 Blaisdell, therefore the law is clearly implicated. In fact, there are at least 30 such facilities, 29 Supportive Housing and/or Community Residential Facilities, and 40 affordable housing facilities within Whittier. All of these housing facilities are within walking distance of NuWay’s other 3 facilities and at least 26 known to us within 1-3 blocks of 2118 Blaisdell Ave. S (See Exhibit 1) For immediate reference, such facilities (CCR, CRF, IH, etc.) include but are not limited to the following:

1. Nu-Way I, 2200 First Ave. So. SH (2 blocks from 2118 Blaisdell)
2. Nu-Way II, 2518 1st Ave. So. SH (3-4 blocks from 2118 Blaisdell)
3. Nu-Way House Counseling Center at 2217 Nicollet Ave. South (2 blocks from 2118 Blaisdell)
4. Norpol Residence 1921 First Ave. So. SH (2 blocks from 2118 Blaisdell)
5. Lydia House at 1920 LaSalle Ave. So. SH (1 block from 2118 Blaisdell)
6. Alliance Housing, 2011 Pillsbury Ave. So SH (1 block from 2118 Blaisdell)
7. Deputat 2304 Pillsbury Ave SH (1.5 blocks from 2118 Blaisdell)
8. Medallion Manor I, 2244 Pillsbury Ave So SH (1.5 blocks from 2118 Blaisdell)
9. Medallion Manor II, 2403 Pillsbury Ave. So SH (1 block from 2118 Blaisdell)
10. Pleasant House, 2215 Pleasant Ave. So SH (1 block from 2118 Blaisdell)

11. Chateau Healthcare Ctr. 2106 Second Ave So. SH/Nursing Home (3 blocks from 2118 Blaisdell)
12. City of Lakes Transitional CC 110 18th St. E. SH/Nursing Home (3 blocks from 2118 Blaisdell)
13. Children's Residential Trtmt 143 19th St. E. CRF (2.5 blocks from 2118 Blaisdell)
14. Bristol Place 209 Groveland Ave. CRF/Mentally Ill (2 blocks from 2118 Blaisdell)
15. REM – Pillsbury Inc. 2311 Pillsbury Ave CRF (1 block from 2118 Blaisdell)
16. Home Away for Girls 2119 Pleasant Ave CRF (1 block from 2118 Blaisdell)
17. Home Away for Boys 2219 Pleasant Ave CRF (1 block from 2118 Blaisdell)
18. Oak Grove Rest Trtmnt 131 Oak Grove St. CRF/Mentally Ill (3 blocks to 2118 Blaisdell)
19. Bristol Place 202 Ridgewood Ave CRF/Mentally Ill (3 blocks to 2118 Blaisdell)
20. Three Thirty Five Ridgewood 335 Ridgewood Ave CRF (3 blocks to 2118 Blaisdell)
21. Bristol Pl. 400 400 Ridgewood Ave CRF (3 blocks to 2118 Blaisdell)
22. Maria Home 420 Ridgewood Ave CRF (3 blocks to 2118 Blaisdell)
23. Steven's Home 1928 Stevens Ave SH (3 blocks to 2118 Blaisdell)
24. Women's Community Housing Passages Comty Housing 17 E 24th St (2 blocks to 2118 Blaisdell)
25. Supportive Living Solutions Whittier Place 2405 1st Ave S SH (3 blocks to 2118 Blaisdell)
26. Supportive Living Solutions Serenity Place 2409 1st Ave S SH (3 blocks to 2118 Blaisdell)

2. Enforceability of the ¼ mile spacing requirement

As explained in the past by Minneapolis Assistant City Attorney Carol Lansing, the City's one-fourth mile spacing requirement is valid and enforceable. That is to say, the law is not invalidated by the Federal Fair Housing Act or any other statute or constitutional provision.

The City Attorney's opinion is firmly rooted in 8th Circuit case law.¹ The 8th Circuit ruled on the issue in Familystyle of St. Paul v. City of St. Paul a case which involved a community residential facility where eighteen similar facilities existed within ¼ mile of the proposed site.² In that case, the 8th Circuit held that the Fair Housing Act (the "FHA" or the "Act") does not forbid spacing requirements so long as they are "rationally related to a legitimate governmental purpose." The 8th Circuit described the purpose of spacing requirements as such, "The dispersal requirements are designed to ensure that mentally handicapped persons needing residential treatment will not be forced into enclaves of treatment facilities that would replicate and thus perpetuate the isolation resulting from institutionalization." Obviously, another legitimate governmental purpose is the balancing of the apportionment of such facilities throughout the City's neighborhoods in order to protect a neighborhood from the adverse effects that accompany over-concentration.

¹ Minnesota is in the 8th Circuit.

² 923 F.2d 91 (8th Cir. 1991)

The Familystyle of St. Paul case is precisely on point both legal and factually. Legally, the Minneapolis ordinance is virtually identical to the St. Paul ordinance that was challenged by Familystyle. Factually, in the Familystyle case there were eighteen (18) facilities within one-fourth mile of the proposed site. By comparison, there are at least *thirty (30)* such facilities known to us with one-fourth mile of 2118 Blaisdell; *twenty-six (26)* of which are within 1-3 blocks of 2118 Blaisdell.

3. Reasonable Accommodation under the federal Fair Housing Act

The simple fact that a proposed housing project proposes to serve a “protected class” does not result in an automatic waiver of City zoning rules, such as the one-fourth mile spacing requirement. Instead, when an accommodation is requested, the Planning Commission should apply a two part test which was developed over the years numerous federal court decisions.³ The test asks two basic questions.

- First, is the accommodation necessary? The burden of proof is on the applicant.
- Second, is the request reasonable? Courts are divided about who has the burden of proof, but, generally, IF the applicant has proven necessity, then the municipality is to show that the requested accommodation is unreasonable.

Below, this appeal discusses the legal requirements of these tests and applies the tests to NuWay’s application.

To briefly summarize the salient points, the reality with respect to the NuWay application is that the accommodation is not necessary for two reasons (discussed below). Furthermore, it is clear that it would not be unreasonable for the city to deny the accommodation for two reasons (discussed below).

First Step: The applicant must show that the accommodation is necessary.

In order to satisfy this test, applicants must show that without the accommodations, a protected class would be denied the opportunity to enjoy housing of their choice in the community of their choice. NuWay has not made this showing and has failed this test in two ways.

In some circumstances, the FHA requires a municipality to change its rules or practices so as to allow persons with disabilities to live within a certain community. Under the FHA, unlawful

³ The two step process was also recommended by a joint task force of the National League of Cities and the Coalition to Preserve the Fair Housing Act. The document they prepared in 1999 is entitled, “Local Officials Guide, Fair Housing, The Siting of Group Homes for the Disabled and Children” p. 8-9. The report includes another step that only applies in litigation (an applicant must request an accommodation and exhaust administrative remedies before filing a lawsuit). The report is available on the web at: <http://www.bazelon.org/cpfha/grouphomes.html>

discrimination includes “a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.” 42 U.S.C. § 3604(f)(3)(B). The concept of “equal opportunity” under the FHAA generally means providing people with disabilities the right to choose to live in single-family neighborhoods so as to end their exclusion from the American mainstream. (See *Oconomowoc Residential Programs, Inc. v. City of Milwaukee*, 300 F. 3d. 775, 784 (7th Cir. 2002); *Lapid-Laurel, L.L.C. v. Bd of Adjustment*, 284 F.3d 442, 457 (3rd Cir. 2002); *Howard v. City of Beavercreek*, 276 F.3d 802, 806 (6th Cir. 2002); *Dr. Gertrude A. Barber Center, Inc. v. Peters Township*, 273 F. Supp. 2d 643, 653 (W.D. PA. 2003).) As the CPED Report notes, an accommodation is “necessary” if, but for the accommodation, the plaintiff is likely to be denied an equal opportunity to enjoy the housing of his choice.” (See *Oconomowoc Residential Programs, Inc. v. City of Milwaukee*, 300 F. 3d. 775, 784 (7th Cir. 2002); *Lapid-Laurel, L.L.C. v. Bd of Adjustment*, 284 F.3d 442, 457 (3rd Cir. 2002); *Howard v. City of Beavercreek*, 276 F.3d 802, 806 (6th Cir. 2002); *Dr. Gertrude A. Barber Center, Inc. v. Peters Township*, 273 F. Supp. 2d 643, 653 (W.D. PA. 2003).)

Neither of these two criteria are met in NuWay’s application. The denial of an accommodation to NuWay removing the quarter mile spacing would not deny persons with disabilities the right to choose to live in a single-family neighborhood. Such an accommodation is also not necessary in order to prevent persons with disabilities from being denied an equal opportunity to enjoy housing of his choice in Whittier. On the contrary, the Whittier neighborhood has become so heavily concentrated with housing options for persons who are “recovered alcoholics or drug addicts” (regardless of whether they meet the definition of disabled under the Act or not) that it is simply ridiculous to suggest that they would be denied equal access to housing in Whittier if the City enforced the quarter mile restriction with respect to 2118 Blaisdell.

“Former alcoholics and addicts” already have the right and the well exercised ability to live within the immediate vicinity surrounding 2118 Blaisdell. The Minneapolis zoning code allows one (1) supportive housing facilities in every neighborhood (i.e. two within a one-fourth mile radius) with a Conditional Use Permit. Further, in the area within one-quarter mile of 2118 Blaisdell, there are at least thirteen (13) supportive housing facilities, and at least twelve (12) other similar facilities (CFRs). (See above and Exhibit 1.) Furthermore, affordable rental housing is exhaustively available in the area without restrictions related to disability, family size, etc. As identified on Exhibit 1, there are at least forty (40) affordable housing properties in the Whittier neighborhood, all within walking distance of NuWay’s counseling center at 2217 Nicollet Avenue South, and its other two facilities. The very abundant affordable housing (Section 8, etc.) apartments throughout Whittier have a long history of accepting tenants who are former alcoholics and addicts and all such apartment buildings are required, under FHAA not to discriminate against any persons who are disabled pursuant to the Act.

As such, housing, both supportive and other, is readily available in the immediate area to the “former alcoholics and addicts” NuWay wishes to house at 2118 Blaisdell. No reasonable reading of the FHA suggests that municipalities must make available an infinite supply of supportive housing in any neighborhood. In fact, the Minneapolis City Council enacted the

spacing requirements in order to give the protected class the opportunity to live throughout the community. The law was enacted to end the discriminatory practice of concentrating all mentally ill persons in “residential treatment ghettos.” To quote the 8th Circuit Court of Appeals in Familystyle, “had the city intended to discriminate against the mentally ill, one sure way would be to situate all group homes in the same neighborhood.”

Unfortunately, that is precisely what has occurred over the years in Whittier, to the point that NuWay openly bragged on its websites about its facilities are located “in the heart of the recovery community.” The list of Supportive Housing, Community Residential Facilities, Inebriate Houses, etc. shown above and in Exhibit 1 clearly bears out the fact that Whittier has taken on so much of such housing that the neighborhood has basically become saturated with it. As neighbors have far too often heard from those in positions of power, the prevailing attitude in the past has been, ‘Well, these facilities have to go somewhere.’

But this gross over-concentration of such housing has been to the detriment of the neighborhood and it’s residents (home owners and renters alike) who continually struggle with livability issues and the unacceptable levels of crime that accompany the over concentration of alcoholics and addicts who are targeted by drug dealers in one area. Neighbors of mine have been threatened by residents of Alliance Housing’s 2011 Pillsbury facility (half a block from 2118 Blaisdell) carrying out drug deals in broad daylight, and the owner of The Bad Waitress at 26th and Nicollet can testify to recent problems with inebriated/high loiterers (intimidating patrons) who identified themselves as being “with NuWay.”

This reality has also severely dampened both the individual investment in homeownership in the area as well as the interest of many serious developers unwilling to take the risk of bringing thriving new businesses and developments to such an area. Before I purchased and restored my home at 2115 Pillsbury (a foreclosure which had been vacant for two years) it was slated to become yet another half-way house for alcoholics and drug addicts. Encouraging single family home ownership in Whittier is a stated goal of the Whittier Alliance, intended to help create greater equity in the neighborhood and improve living conditions for all of its inhabitants. However, home owners can attest the chilling effects that an ever increasing over concentration of supportive housing has had in the neighborhood. As the City contemplates the moving of K-Mart and reopening of Nicollet Avenue it must be conscious of the fact that allowing an even greater concentration of such housing in violation of zoning codes where there is no justification under the Act will also work to create prevent the desired development of this area of Nicollet avenue.

Sadly, gross overconcentration also has a terrible impact upon the very people organizations like NuWay aim to serve. The city’s drug dealers have long known that Whittier is a rich and ready market for their products and even a cursory look at the 911 calls on apartment buildings and supportive housing properties (including NuWays) illustrates this point sharply. Unfortunately, to make matters worse with respect to NuWay’s application for a reasonable accommodation, the property in question 2118 Blaisdell is located practically at ground zero of this problem in Whittier. In addition to problems with other Supportive Housing properties in the immediate area (2011 Pillsbury, less than a block away has been the subject of a drug investigation over the

past year), the apartment complexes directly across the alley and 22nd Avenue from 2118 Blaisdell have been targeted by drug dealers for years. The Whittier Alliance and the home owners and renters in the direct vicinity are not alone in being concerned about the adverse effects of adding more than 200 additional alcoholics and addicts to one of the worst corners in the neighborhood. An informal survey of the police who patrol this area will confirm that the neighborhood's concerns are shared by the men and women responsible for trying to police drug crimes. Larry Krueger, at the Fifth Precinct, who sends crime reports to the block captains and interested residents in the neighborhood can easily testify to the overabundance of drug related crime in this area of Whittier and provide the City with the reports that illustrate the reality of the situation. As I drafted this appeal this afternoon, I received two emails from Officer Krueger (who sends crime alerts to block captains) identifying two drug related arrests at the corner of 22nd and Blaisdell, where 2118 Blaisdell is located. The first, which occurred on December 26th, at 22 ST W Blaisdell AV S, at 6:37:00 PM was for a Narcotix Violation in which the "Arrested Party (AP1) was found in possession of suspected marijuana that was later determined to be a felony amount. AP1 also did not have insurance on the vehicle and it was towed to the impound lot. AP2 was cited for possession of drug paraphernalia". The second, which occurred yesterday at 2:55 AM at 22 St W Blaisdell AV S involved Assault With a Dangerous Weapon, ("AP/1 was booked HCJ for Assault 2 and AP/2 was booked HCJ for DWI".)

I have provided CPED staff with police records for 911 calls in the direct vicinity of 2118 Blaisdell and the surrounding two blocks, which should be included in the appeal information provided to you. If you review the reports provided you will see that this area has been plagued with problems for years, and the creation of a Housing Facility that would add 200 drug addicts per year to this struggling corner will clearly be bad for both the neighborhood and the proposed residents that NuWay intends to house.

The Pillsbury Mansion at 2118 Blaisdell is 1 block from **the intersection of Franklin and Nicollet**, one of if not the worst intersection in the Whittier neighborhood. This intersection had 511 calls for police service in the past month alone, which as an average **yields 3,577 calls for Police Service on this corner in the past year!** Police in the area are all too familiar with the drug related problems that plague this area and cause serious livability concerns for the residents and businesses in the surrounding blocks. The block between this intersection and 2118 Blaisdell (**the 2100 Block of Nicollet**) registered 488 calls for Police Service in the past seven years, for an average of **61 calls for Police Service per year**, and the next block down, **2200 block of Blaisdell**, registered a total of 1019 calls for Police Service in the past 7 years, and average of **145 per year**. The **intersection of Blaisdell and 22nd itself** (where 2118 Blaisdell is located) tallied 353 calls in the past seven years, an average of **51 per year**. Tallying just the calls that were reported for these intersections, the block of Nicollet leading to 2118 Blaisdell and the block of Blaisdell following it to the South, **yields 3,834 Calls for Police Service in the past year**, just for the two blocks just North and South of the Pillsbury Mansion (without looking further, East or West).

Now consider a few of the problem properties directly surrounding the Pillsbury Mansion. The property at **2011 Pillsbury** (1/2 a block away from the Pillsbury Mansion) operated by Alliance Housing had **27 calls for Police Service in the past year**. The apartment complex at **2200**

Pillsbury had 34 calls in the past year. 2200 Blaisdell (directly across the street from the Pillsbury Mansion had **48 Calls for Police Service per year. 2119 Pillsbury** (directly across the alley from the Pillsbury Mansion) had **108 Calls for Police Service in the past year. 2017 Pillsbury** (1/2 a block away from the Pillsbury Mansion) had **39 calls for Police Service in the past year.** And **2200 Pillsbury** registered **34 calls per year.** When you add together just these five buildings surrounding the Pillsbury Mansion you see that they add **another 290 calls in the area directly surrounding 2118 Blaisdell.** When added to the 3,834 calls for the intersections and surrounding blocks noted above, this area 2 block area directly surrounding 2118 Blaisdell had **4,124 calls for Police Service in the past year,** just from these buildings alone, without adding any of the many other housing facilities and struggling low-income complexes in the area.

While some of the managers of the buildings surrounding 2118 Blaisdell have been working hard to decrease the number of Police calls to their properties, others have not and problems persist. Not surprisingly, none of the owners/managers of these buildings support NuWay's proposed use of 2118 Blaisdell as they are greatly concerned that the work they've been doing to help chase our drug dealers will be undermined by the addition of 200/year addicts concentrated in one building on this troubled corner. As the managers of the five low-income apartment buildings surrounding 2118 Blaisdell have noted to me, they are further concerned that creating such a complex directly across the street from their buildings (and the overall cluster of 5 facilities NuWay is trying to create in this 2 block area) will put their low-income tenants, who have few other options and virtually no effective means of protest, at a significant risk.

Now consider Nuway's existing facilities. NuWay argued in their application that their properties are better than others so the addition of another one shouldn't be a problem, but their figures don't add up. The relatively small **NuWay I building at 2200 1st Ave S** has had 160 calls since 2007; 72 in the past three years, with **a high year of 38 Calls for Police Service.** **The NuWay II building at 2518 1st Ave S** had 153 calls since 2007; and **36 in the past year,** which was **a doubling of the calls in the previous year.** The NuWay office building itself at 2217 Nicollet has had an additional 9 Calls for Police Service since NuWay took possession of it. The point here is that NuWay's existing facilities have yielded 36 and 38 calls per year recently and they are much smaller than the proposed facility at 2118 Blaisdell. Given that NuWay intends to house up to 200 persons per year at 2118 Blaisdell (approximately 4 times more patients), it is not unreasonable to expect that Calls for Police Service at this property could be 4 times what they are at the other NuWay properties; or around 120 calls per year.

Now consider that the five buildings directly surrounding 2118 Blaisdell yielded 290 calls in the past year (this does not include the 4 other troubled properties on the 2200 block of Blaisdell, for which I don't have separate information). **Assuming** NuWay's proposed 200 person per year facility at 2118 Blaisdell is likely to yield **another 120 Calls for Police Service per year, the effect is a 41% increase in Police Calls to this one troubled corner.** For comparison, in the past six years, 2118 Blaisdell registred 9 calls for Police Service, 3 of which were false alarms; likely a security alarm going off accidently and one a traffic call. Accordingly, only 4 calls in the past 6 years were related to livability issues, an average of only 1 every year and a half under.

It is more than reasonable to assume that this rate was likely consistent for the past 40 years of the property's history under the previous owners.

The above numbers clearly show that the area directly surrounding 2118 Blaisdell is a troubled one, where concentration has created problems not experienced in other residential areas of the City where the gross over-concentration of such housing has not been allowed. Adding further to this extreme over-concentration is clearly a bad step in the wrong direction.

While the livability concerns related to NuWay's application are very real and significant, the reality for the City is that NuWay's application may and should be denied based solely upon its failure to prove necessity. NuWay's application states that being able to live near its outpatient treatment center will help former addicts in their long term recovery. This appears to be the only evidence they've submitted in support of the need to remove the quarter-mile spacing requirement. The CPED Report concludes (see page 9) that "Waiving the quarter-mile spacing requirement would provide residents convenient access to treatment as well as amenities and employment opportunities," and notes that "Most destinations, including the Nicollet Ave treatment center, are within walking distance, and the property is close to several bus lines providing metro-wide connectivity." This is all well and good, but neither statement addresses the issue of whether or not it is necessary to convert 2118 Blaisdell into housing for 200 plus alcoholics and drug addicts per year. The reality is that the absolute plethora of such available supportive and inebriate housing (not to mention affordable housing units) in the neighborhood and in the immediate vicinity of NuWay's treatment facility at 2217 Nicollet, prove that it is not necessary to do so; as those of NuWay's clients who wish to live nearby have ample opportunity to do so.

Because supportive housing/inebriate housing and affordable housing, as well a below market rate housing is readily available in the neighborhood, former alcoholics and addicts have an equal opportunity to enjoy the housing of their choice in the neighborhood surrounding 2118 Blaisdell. Thus, it is not necessary to grant an accommodation. If fact, further increasing the concentration of supportive housing in the neighborhood may be discriminatory. It certainly would not support the City's stated mission to create equity among its citizens and neighborhoods.

Second, an accommodation is not necessary because NuWay could build supportive housing elsewhere throughout Minneapolis. Guidance is found in a Seventh Circuit case, Brandt v. Village of Chebanse.⁴ In that case, the Seventh Circuit held that it was not "necessary" to grant an accommodation to a developer who wished to build four-unit housing for people with disabilities in a single-family zone because the developer could have built his four family unit elsewhere in the city. The holding in the Brandt case is directly applicable here.

The quarter mile spacing requirement was enacted to require developers to build throughout the community. As of 2001, there were thirty-eight neighborhoods in Minneapolis with no

⁴ 82 F.3d 172 (7th Cir. 1996).

supportive housing, and eighteen with only one facility. (The CPED should determine what the exact figures are today). There are many areas in Minneapolis where supportive housing could be sited without violating the spacing requirement. As such, it is clearly not necessary for NuWay to create another Supportive Housing facility for “former alcoholics and addicts” at 2118 Blaisdell. The Whittier Alliance urges NuWay to consider the ample areas within Minneapolis where it would be legal to site its supportive housing facility.

In sum, it is not necessary to grant NuWay an accommodation because both the zoning code, and the existing housing stock, gives former alcoholics and addicts the ample opportunity to live in the neighborhood. In addition, ample opportunity exists for NuWay to build its facility in any of the forty-six neighborhoods in the community where only zero or one supportive housing facilities are sited.

Second step: Is the accommodation reasonable?

In determining the reasonableness of a proposed accommodation, the CEPD should consider whether the accommodation would:

- Fundamentally alter the nature of the ordinance, neighborhood, or local zoning procedures;
- Undermine the legitimate purposes and effects of existing zoning regulations; or
- Impose undue financial and administrative burdens on the municipality.

Minneapolis could reject the accommodation with either of the first two considerations. The third consideration does not apply.

Fundamental alteration of the neighborhood.

Granting NuWay an accommodation would fundamentally alter the nature of the neighborhood. The Whittier Alliance’s findings are not based on myths, fears, and stereotypes of alcoholics and drug addicts. They are based on actual incidents and the widely accepted premise that extreme concentration of supportive housing creates an unhealthy environment for the clients themselves. Extreme clustering exists in south central Minneapolis, including the proposed project area.

Lobbying organizations for municipalities and alcoholics and drug addicts believe that when group homes are so densely clustered as to recreate an institutional environment in the community, spacing requirements are permissible.⁵ In fact, both interest groups agree that elected officials have an obligation to intervene when extreme clustering occurs. In this case, clustering is not haphazardly occurring; NuWay is actively seeking to create such a cluster. In the past couple of years, NuWay has been on a buying spree in Whittier. After selling some very poorly cared for and much troubled properties, it set about buying the old Mena building at 2217 Nicollet, directly across the alley from NuWay I, at 2200 Stevens. It then sought to buy the building next door (between its Nicollet treatment center and the 2200 Stevens supportive housing facility. Within the same year it bought 2118 Blaisdell (1 block away) with the intentions of creating a facility much larger than its existing facilities. It thereafter tried to buy an apartment building on 22nd Avenue, between Blaisdell and Nicollet (i.e. ½ block from its

⁵ See National League of Cities’ Local Officials Guide, p. 15.

treatment center at 2217 Nicollet). And it has recently purchased the large building on Stevens Avenue formerly owned by the Institute for Agricultural and Trade Policy. Beyond the telling fact that NuWay bragged on their website that their facilities are “located in the heart of the recovery community,” it is quite clear that NuWay is trying to create a cluster of its own facilities (not to mention any of the other 30+ facilities in the ¼ mile area) within a 2 block radius. And, given the size of NuWay’s proposed facility at 2118 Blaisdell, the CPED should recognize that NuWay is effectively trying to create a facility that is equivalent to the size of several other such facilities, all within a 2-3 block area, which already includes some 26 other such facilities.

The CPED Report claims that NuWay’s building at 2118 Pillsbury would likely have the same impact on the neighborhood as an apartment building of a similar size. But this conclusion completely ignores the fact that 100% of the intended residents of NuWay’s ‘apartments’ would (hopefully former) alcoholics and drug addicts actively targeted by drug dealers in one of the worst locations in the neighborhood. It also ignores the fact that normal apartment buildings generally have year-long leases with their tenants, while the average stay of NuWay’s residents would be 9 weeks, so they would in fact have four (4) times the number of residents that an apartment building of equal size would have over the course of just one year.

The CPED Report also completely ignores the fact that the area in question is in fact a residential one, and incorrectly states (see page 11) that it would be located “in the OR2 High-Density Office Residential zoning district,” thus concluding (see page 10) that the density proposed by NuWay “is typical in the OR2 zoning district. The Pillsbury Mansion at 2118 Blaisdell is currently zoned OR2 only because it has been a place of business for the past 40 years, and before that was a nursing home for perhaps 20 some elderly ladies for 10 years for 10 years, 20 years earlier (it was vacant for nearly 10 years).

However, the reality is that 2118 Blaisdell is just one OR2 property, which is virtually an island surrounded for six and a half blocks by residential properties, all classified as a Multiple-family district (see the map provided by NuWay in its application and the following larger attached map.)



Whittier Zoning Map
9-13.pdf



Zoning District
Descriptions.docx

The Pillsbury Mansion is not located in some massive OR2 *zoning district* (where other Supportive Housing Facilities, such as Lydia House, have been located), and the impact to the surrounding residential area of adding such a large facility to this overwhelmingly residential area must be taken into account and carefully considered.

It is impossible to empirically identify precisely when a neighborhood becomes “fundamentally altered.” However, given the findings of the National League of Cities, the Coalition to Preserve the Fair Housing Act, the Minneapolis City Council, and the 8th Circuit, common sense tells us it

is safe to say that, when thirty (30) some such facilities exist within ¼ mile of each other, the neighborhood has already been fundamentally altered.

While some like to argue that because the neighborhood surrounding 2118 Blaisdell has already been “fundamentally altered” by the extreme concentration of group homes, it would not hurt the neighborhood to add yet another (even though the size of NuWay’s proposed facility is four (4) times that of other such facilities). This argument is specious at best, discriminatory at worst. It would be contrary to the intent of the drafters of the Fair Housing Act to use its reasonable accommodation provisions to further intensify the isolation of the alcoholics and drug addicts within one problem-ridden neighborhood.

Undermining the legitimate purpose of existing zoning regulations.

In addition, granting NuWay an accommodation would undermine the legitimate purpose of the existing zoning regulations. The clustering in the ¼ mile area surrounding 2118 Blaisdell is as extreme as (if not moreso than) it is anywhere else in the city. The Minneapolis City Council passed the ordinance with this very circumstance in mind and NuWay’s recent expansion plans (within 1 block of its treatment facility) make clear its intent to create the sort of clustering that the code is intended to prevent. If an accommodation is granted in this case it is difficult to see how the quarter mile restriction could be enforced anywhere in the city in the future.

5. Summary: When should the City grant accommodations?

In certain circumstances the city of Minneapolis should grant accommodations to the one-fourth mile spacing requirement. For example, the City may consider granting an accommodation to the spacing requirement when two facilities consisting of disabled persons are within ¼ mile of each other but are separated by a river or freeway without nearby bridges. The City should also consider granting an accommodation when the spacing requirement is implicated only by two extremely small facilities.

In both circumstances, the accommodation could be considered necessary because there would not exist a true opportunity to live in supportive housing in the neighborhood in question. Further, the accommodation would be reasonable because enforcement of the letter of the law would not advance the purpose of avoiding an institution like setting.

There are cases where accommodations clearly should not be granted. For example, it is widely agreed that spacing requirements should be upheld where extreme clustering occurs. The Familystyle case is widely cited as a case of extreme clustering. In that case there were eighteen group homes in a one-and-a-half block area. In this case, there are vastly more such facilities; thirty (30) plus with a quarter mile of 2118 Blaisdell, according to the CPED Report.

In the present case, NuWay has not presented any evidence that the proposed residents of the facility they would like to create at 2118 Blaisdell would be disabled persons under the Act. Without such, the Act has no application and the City has no justification for granting an

accommodation. Furthermore, the case before us presents a clear example of extreme clustering, both in the present existence of Supportive Housing and inebriate housing throughout Whittier, in the quarter mile in question, and specifically within a 3 block radius of the subject property, and in the intentions expressed by NuWay through its recent acquisitions. The existence of an overabundance of such housing in Whittier (far more than its equitable share), and specifically in the immediate vicinity of NuWay's existing facilities and the property in question proves that, even if one assumed that the potential residents of 2118 Blaisdell would meet the definition of disabled persons under the FHAA (for which NuWay has presented and the CPED has required not evidence), no accommodation is necessary for such persons to enjoy housing in Whittier. As such the accommodation is neither necessary nor reasonable. Accordingly, I respectfully requests that the request for accommodation by NuWay be DENIED.

Any other factor that may have a bearing on the request.

While not specific to an analysis of the ¼ mile spacing issue, you should be made aware of the historic importance of the property at 2118 Blaisdell, which was neither mentioned in NuWay's application or the CPED Report. The property at 2118 Blaisdell is not simply some OR2 building that can/should be easily renovated into a supportive housing facility. It is an extremely important historical and architectural asset of the neighborhood that preservationists are anxious to protect and developers are anxious to further restore and turn into a tax paying asset that will receive broad public use. This is not a property that no one cares about, in some terrible area that is not slated for development and which is only likely to be made useful as some sort of supportive housing facility. It is a property that the neighborhood is passionate about preserving, which is slated to nomination for an historic designation and protection, and it is located in an area where people are working hard to bring good new development and a stop to the livability issues that have plagued the neighborhood for far too long.

By way of introduction, 2118 Blaisdell (known as the Pillsbury Snyder Mansion) was designed by the famous Minneapolis architect, Ernest Kennedy, and was built in 1913 for John Pillsbury Snyder and Nelle (Stevenson) Snyder, who moved into the mansion when they returned from their European honeymoon aboard the Titanic. The Pillsbury Snyders were the only couple from Minnesota aboard the Titanic to survive the disaster.

John Pillsbury Snyder was the grandson of Governor John Sargent Pillsbury (the co-founder of the Pillsbury Company, and the son of Governor Pillsbury's daughter, Susan Mary Pillsbury, and Fred Beal Snyder. According to Russ Underdahl, who owned the Mansion for 40 years (1973 – to 2013), and who gave Mrs. Pillsbury Snyder a tour of the Mansion following his restoration of it, the Mansion was a wedding gift to the young couple from Mr. Pillsbury Snyder's parents. Reportedly, the senior Mr. Snyder told his new daughter-in-law that he intended to build her "the finest home in all of Minneapolis."

The interiors of the Mansion (almost totally hidden from public view for the past 40 years) are, as correctly described by its recent realtor, "*breathtaking.*" The Mansion contains "*6 fireplaces, flame-grained walnut ceilings, Honduran mahogany dining room, quarter cut herringbone floors, marble floors imported from the same quarry used to supply the Vatican, built-in*

cabinetry, skylights and more!" <https://christiansonandco.wordpress.com/>It also contains stunning decorative plaster ceilings, a collection of beautiful crystal chandeliers and wall sconces imported from Czechoslovakia, and a double carved marble staircase unlike any other in the important historic homes in Minneapolis. The mansion feels more like an embassy or small palace than a home, and it's no wonder it was a preferred site for so many grand parties, weddings and the like. (See the interior photos attached below).

Unfortunately, NuWay's stated plans for the property include removing/selling the chandeliers, cutting up the ballroom into studio apartments, not installing a sprinkler system necessary to protect the mansion's historic interiors, and turning the bulk of the 10,000 square foot mansion into a '5 bedroom apartment.'

The Pillsbury Snyder Mansion is a unique oasis within the changing neighborhood that helps tell the story about the neighborhood's importance during one of the City's most important historic periods. Its incredible interiors tell the story of a time when craftsmanship in building was valued at an artistic level. For the past forty years, the Pillsbury Snyder Mansion's beautiful interiors have been all but completely hidden from public view. As the neighborhood continues to change and develop at a rapid pace, the Pillsbury Snyder Mansion needs to be protected and given broad public use so it can help tell this story for years and years to come.















Exhibit 1 – Available Whittier Housing

Whittier Housing Report

Emergency housing (3 EH within walking distance of NuWay)

2211 St. Stephen's Human Services Emergency Shelter Clinton Ave S, Minneapolis, MN 55408

Simpson Housing Services Simpson Overnight Shelter - Women 2740 1st Ave S, Minneapolis, MN 55404

Simpson Housing Services Simpson Overnight Shelter - Men 2740 1st Ave S, Minneapolis, MN 55408

CRF and Supportive Housing (28 CRF and SHF within walking distance of NuWay)

1. Nu-Way I, 2200 First Ave. So. SH (2 blocks from 2118 Blaisdell)
2. Nu-Way II, 2518 1st Ave. So. SH (3-4 blocks from 2118 Blaisdell)
3. Norpol Residence 1921 First Ave. So. SH (2 blocks from 2118 Blaisdell)
4. Lydia House at 1920 LaSalle Ave. So. SH (1 block from 2118 Blaisdell)
5. Alliance Housing, 2011 Pillsbury Ave. So SH (1 block from 2118 Blaisdell)
6. Deputat 2304 Pillsbury Ave SH (1.5 blocks from 2118 Blaisdell)
7. Medallion Manor I, 2244 Pillsbury Ave So (1.5 blocks from 2118 Blaisdell)
8. Medallion Manor II, 2403 Pillsbury Ave. So (1 block from 2118 Blaisdell)
9. Pleasant House, 2215 Pleasant Ave. So (1 block from 2118 Blaisdell)
10. Chateau Healthcare Ctr. 2106 Second Ave So. SH/Nursing Home (3 blocks from 2118 Blaisdell)
11. City of Lakes Transitional CC 110 18th St. E. SH/Nursing Home (3 blocks from 2118 Blaisdell)
12. Children's Residential Trtmt 143 19th St. E. CRF (2.5 blocks from 2118 Blaisdell)
13. Bristol Place 209 Groveland Ave. CRF/Mentally Ill (2 blocks from 2118 Blaisdell)
14. REM – Pillsbury Inc. 2311 Pillsbury Ave CRF (1 block from 2118 Blaisdell)
15. Home Away for Girls 2119 Pleasant Ave CRF (1 block from 2118 Blaisdell)
16. Home Away for Boys 2219 Pleasant Ave CRF (1 block from 2118 Blaisdell)
17. Oak Grove Rest Trtmnt 131 Oak Grove St. CRF/Mentally Ill (3 blocks to 2118 Blaisdell)
18. Bristol Place 202 Ridgewood Ave CRF/Mentally Ill (3 blocks to 2118 Blaisdell)
19. Three Thirty Five Ridgewood 335 Ridgewood Ave CRF (3 blocks to 2118 Blaisdell)
20. Bristol Pl. 400 400 Ridgewood Ave CRF (3 blocks to 2118 Blaisdell)
21. Maria Home 420 Ridgewood Ave CRF (3 blocks to 2118 Blaisdell)
22. Steven's Home 1928 Stevens Ave SH (3 blocks to 2118 Blaisdell)
23. Women's Community Housing Passages Comty Housing 17 E 24th St (2 blocks to 2118 Blaisdell)
24. Supportive Living Solutions Whittier Place 2405 1st Ave S (3 blocks to 2118 Blaisdell)
25. Supportive Living Solutions Serenity Place 2409 1st Ave S (3 blocks to 2118 Blaisdell)
26. St. Stephen's Human Services Kateri Residence 2408 4th Ave S
27. Wayside House Incarnation House 2120 Clinton Ave S
28. Source Ministries Annex Transitional Homes 2601 Stevens Ave

Affordable housing (40 AHF within Whittier, and walking distance of NuWay)

Alliance Housing Multi-Family 2011 Pillsbury, Minneapolis, MN 55404

2020 Vision Investments 2020 Nicollet Ave, Minneapolis, MN 55404

Project for Pride in Living (PPL) Southside Community LP 205 W 26th ST, Minneapolis, MN 55408

Alliance Housing Multi-Family 2103 2nd Ave S, Minneapolis, MN 55404

Franklin Commons Co-op 2109 Blaisdell Ave S, Minneapolis, MN 55404

Project for Pride in Living (PPL) Double Flats Apartments 211 W 28th St, Minneapolis, MN 55408
Cady Management Blaisdell Housing 2119 Blaisdell Ave, Minneapolis, MN 55404
Cady Management Blaisdell Housing 2200 Blaisdell Ave, Minneapolis, MN 55404
Jefferson Townhomes 2214 4th Ave S, Minneapolis, MN 55404
Cady Management Blaisdell Housing 2215 Blaisdell Ave, Minneapolis, MN 55404
Beacon Interfaith Housing North Haven I Apartments 2216 Clinton, Minneapolis, MN 55404
Jefferson Townhomes 2218 4th Ave S, Minneapolis, MN 55404
Beacon Interfaith Housing North Haven II Apartments 2220 Clinton Ave, Minneapolis, MN 55404
2221 Blaisdell Ave Cady Management Blaisdell Housing S, Minneapolis, MN 55408
Cady Management Blaisdell Housing 2312 Blaisdell Ave, Minneapolis, MN 55404
Frederick T Ventura Victorian Mansion 2429 1st Ave, Minneapolis, MN 55404
CommonBond Whittier Co-op 2609 Blaisdell Ave, Minneapolis, MN 55408
ECHO Flats Cooperative 2612 3rd Ave S, Minneapolis, MN 55408
ECHO Flats Cooperative 2616 3rd Ave S, Minneapolis, MN 55408
Urban Homeworks, Inc. Urban Homeworks 2616 Blaisdell Ave, Minneapolis, MN 55408
CommonBond City Flats Apartments 2620 Pillsbury Ave S, Minneapolis, MN 55408
Stevens House Co-op Stevens House Apartments 2625 Stevens Ave, Minneapolis, MN 55404
CommonBond City Flats Apartments 2626 Pillsbury Ave S, Minneapolis, MN 55408
CommonBond City Flats Apartments 2633 1st Ave S, Minneapolis, MN 55408
Good Choice Properties 2633 Pillsbury Ave S, Minneapolis, MN 55408
Stevens House Co-op Stevens House Apartments 2633 Stevens Ave, Minneapolis, MN 55408
ECHO Flats Cooperative 2636 Pillsbury Ave, Minneapolis, MN 55408
Project for Pride in Living (PPL) Armadillo Flats 2727 1st Ave S, Minneapolis, MN 55408
Individual Ownership Condominiums 2732 Grand Ave S, Minneapolis, MN 55408
Whittier Townhomes 2732 Stevens Ave, Minneapolis, MN 55408
Whittier Townhomes 2738 Stevens Ave, Minneapolis, MN 55408
Project for Pride in Living (PPL) 2743 1st Ave S, Minneapolis, MN 55408
Greenleaf Apartments 2743 Lyndale Ave, Minneapolis, MN 55408
Project for Pride in Living (PPL) Southside Community LP 2746 Pleasant Ave, Minneapolis, MN 55408
ECHO Flats Cooperative 2800 Pleasant Ave, Minneapolis, MN 55408
Project for Pride in Living (PPL) Double Flats Apartments 2813 Pillsbury Ave, Minneapolis, MN 55408
Karmel Village 2848 Pleasant Ave, Minneapolis, MN 55408
ECHO Flats Cooperative 319 W 25th St, Minneapolis, MN 55404
Whittier Townhomes 331 E 25th St, Minneapolis, MN 55404
Whittier Townhomes 333 E 25th St, Minneapolis, MN 55404

Zoning District Descriptions

A zoning district may be either a *primary district* or an *overlay district*. The current districts are outlined briefly below. For more information on the definitions and requirements associated with each district, see [Minneapolis Code of Ordinance, Title 20: Zoning Code](#).

Primary Zoning Districts

A primary district is any of several residence, office residence, commercial, downtown, or industrial districts. All property within the city is included within a primary zoning district. In the municipal code, these districts are described in chapters 546-550.

Residence Districts

- R1 – Single-family District (low density)
- R1A – Single-family District (low density)
- R2 – Two-family District (low density)
- R2B – Two-family District (low density)
- R3 – Multiple-family District (medium density)
- R4 – Multiple-family District (medium density)
- R5 – Multiple-family District (high density)
- R6 – Multiple-family District (high density)

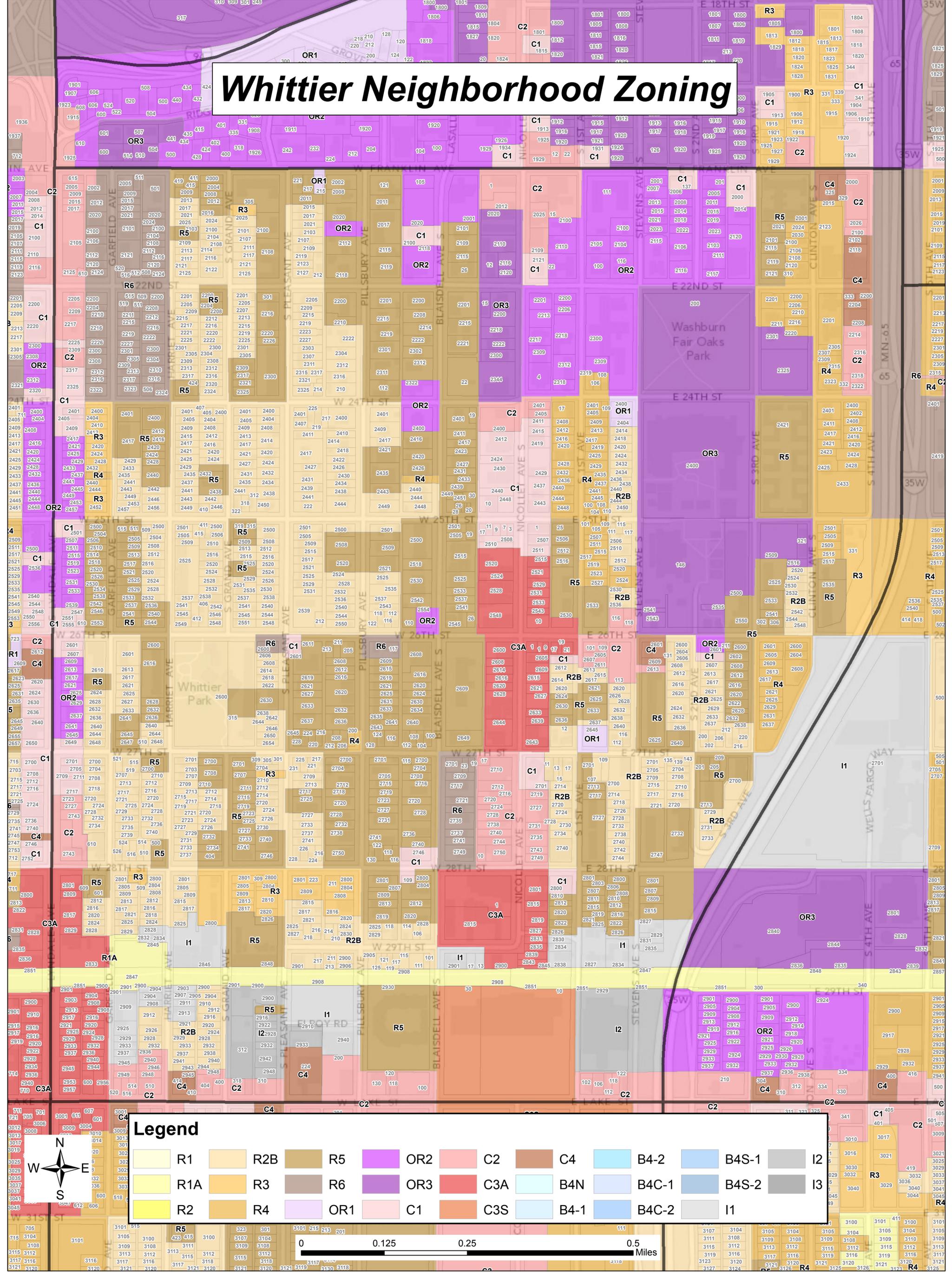
Office Residence Districts

- OR1 – Neighborhood Office Residence District
- OR2 – High Density Office Residence District
- OR3 – Institutional Office Residence District

Commercial Districts

- C1 – Neighborhood Commercial District
- C2 – Neighborhood Corridor Commercial District
- C3A – Community Activity Center District
- C3S – Community Shopping Center District
- C4 – General Commercial District

Whittier Neighborhood Zoning



Legend

R1	R2B	R5	OR2	C2	C4	B4-2	B4S-1	I2
R1A	R3	R6	OR3	C3A	B4N	B4C-1	B4S-2	I3
R2	R4	OR1	C1	C3S	B4-1	B4C-2	I1	

0 0.125 0.25 0.5 Miles

WILLEKE & DANIELS

ATTORNEYS AND COUNSELORS AT LAW
201 RIDGEWOOD AVENUE
MINNEAPOLIS, MINNESOTA 55403-3508
FAX (612) 874-9585
TELEPHONE (612) 870-4000

DONALD C. WILLEKE
JOHN H. DANIELS, JR.
ROBERT R. NARDI*

WRITER'S DIRECT DIAL NO. (612)-252-0833
WRITER'S E-MAIL ADDRESS: rnardi@infionline.net

* MSBA Board Certified
Real Property Specialist

February 11, 2015

Zoning Board of Adjustment
Community Planning & Economic Development
250 South 4th Street—Room 300
Minneapolis, MN 55415

Re: 2118 Blaisdell Avenue/Blaisdell Apartments
Appeal of Reasonable Accommodation Decision
Our File No. 7396-03

Dear Board Members:

This letter is written on behalf of NuWay House, Inc. ("NuWay") in response to certain matters referenced in Mr. Ted Irgens' submission in connection with his appeal of the Zoning Administrator's and City Attorney's approval of the reasonable accommodation request of NuWay. The reasonable accommodation request was to waive the one-quarter mile specific development standard for the proposed supportive housing facility to be located at 2118 Blaisdell Avenue.

The CPED Staff Report ("Staff Report") dated November 24, 2015 contains a detailed discussion of the reasons, both legal and factual, supporting the Zoning Administrator's and the City Attorney's decision to approve the granting of the requested reasonable accommodation. Accordingly, it is not my intent to restate the legal and factual arguments already made in the Staff Report. However, NuWay wishes to comment on certain matters raised by Mr. Irgens in his appeal submission.

1. Mr. Irgens contends that his position in opposition to NuWay's reasonable accommodation request is supported by the Whittier Alliance.

The reality is that on any given issue the Whittier Alliance does not necessarily represent the entire Whittier Community. In the present case it is questionable whether its opposition to the NuWay's reasonable accommodation request represents the position of the majority of the residents. Mr. Irgens contends that the opposition at the neighborhood meeting held last spring was clear. What Mr. Irgens fails to note is that the Whittier Alliance Community Issues Minutes for that meeting show that the vote for the motion denying support for NuWay's project was 13 in favor, 9 opposed and 3 abstentions. Thus, the motion denying support was only passed by a slim majority. If you consider that two of the representatives from NuWay who were present at the meeting but did not vote even though they were residents of the neighborhood, and that NuWay itself did not vote, it being a resident also, the slim majority would have been even slimmer.

2. Mr. Irgens contends that NuWay “sought to skirt the enforcement of applicable zoning codes” when it initially applied for site plan approval of its proposed use of 2118 Blaisdell Avenue as an apartment.

NuWay did not in any way attempt to skirt the existing zoning codes in its original application for site plan approval. Prior to purchasing the 2118 Blaisdell Avenue, representatives of NuWay met with a staff member in the Planning Department to discuss the project. Specifically, NuWay’s Executive Director along with NuWay’s architect and contractor met with the staff member on December 3, 2013 to discuss the zoning requirements that might apply to the proposed project. During that meeting it was made clear to the staff person that the project would entail converting the former multi-unit residence into a new multi-unit residence for individuals who were clients of NuWay and receiving outpatient services from one of NuWay’s other facilities. NuWay indicated that it did not believe the proposed use would constitute “supportive services” and thus would not require a conditional use permit. The staff person did not question or in any way dispute NuWay’s position. All other aspects of the zoning code requirements were reviewed and the staff person confirmed that the proposed use met all of the applicable Zoning Code requirements without the need for a conditional use permit. Based on these meetings, NuWay bought the Building.

It was not until after NuWay purchased 2118 Blaisdell Avenue and submitted full design and construction plans to the City that it received notice that its proposed project would have to undergo a site plan review before the Planning Commission because the proposed project called for the creation of 10 or more new dwelling units. Then, after submitting NuWay’s site plan review application, NuWay heard from the zoning staff that their preliminary determination was that the proposed use fell under the “supportive housing” definition and that the matter was being referred to the Zoning Administrator for his determination.

At the time NuWay felt strongly that its planned use of the 2118 Blaisdell Avenue was not “supportive housing.” While the Zoning Administrator ultimately found otherwise in his June 25, 2014 opinion it is important to note that he found the proposed use to be “substantially similar” to supportive housing. Section 525.80 of the City Code authorizes such a finding when the proposed use is not one that is included in the zoning ordinance. Thus, the proposed use was open to interpretation.

As the above demonstrates, NuWay was always transparent in its proposed use of the facility and certainly cannot be accused of trying to skirt the existing zoning codes when its proposed use was not clearly addressed by the zoning code.

3. Mr. Irgens states that NuWay intends to use the reception area in the building to carry out counseling sessions and group meetings for all of its residents.

NuWay does not plan on having counseling sessions or group meetings with the residents at 2118 Blaisdell Avenue. NuWay made this clear at the neighbor meeting and in all submissions with the City. It should be noted that NuWay cannot provide counseling at the site because NuWay does not have a license from the State of Minnesota to provide counseling at 2118 Blaisdell Avenue. NuWay

does have a licensed to provide counseling services at 2217 Nicollet Avenue South—which is where the residents of 2118 Blaisdell will receive their outpatient treatment. To provide counseling at 2118 Blaisdell without such a license would jeopardize NuWay’s existing license.

4. Mr. Irgens states that 2118 Blaisdell Avenue is an “important asset to the neighborhood, that developers are anxious to restore into an income and tax generating event space.”

NuWay’s proposed use of the 2118 Blaisdell Avenue will not jeopardize the uniqueness of the building. NuWay is working with its architect to preserve as much of the building’s uniqueness as possible. This can be seen from the plans presented to the City. As to the claim that developers are anxious to restore the building into an income and tax generating event space, to date no developer or party has submitted to NuWay any offer to purchase 2118 Blaisdell Avenue. Thus, it is questionable as to the alleged interest.

In summary, the Staff Report granting reasonable accommodation to NuWay by waiving the one-quarter mile spacing requirement should be upheld. Simply put, by waiving the spacing requirement the City is preventing the discrimination of persons who have been diagnosed with alcohol or drug use disorders by allowing them to live in the housing of their choice while they are on the road to recovery.

Very truly yours,

WILLEKE & DANIELS

A handwritten signature in black ink, appearing to read "Robert R. Nardi", written over the printed name below.

Robert R. Nardi

RRN:rrn
cc: NuWay House, Inc.



May 27, 2014

Mr. David Vennes, Executive Director
NuWay House
2217 Nicollet Ave. S
Minneapolis, MN 55404

Dear Mr. Vennes,

I am writing to inform you of the final action taken by the Whittier Alliance Board of Directors at their May 22, 2014 meeting on the motions forwarded from the May 12, 2014 Community Issues meeting regarding your request.

Motion: The Whittier Alliance Board of Directors denies support for NuWay's housing site plan and proposal at 2118 Blaisdell based on the already high concentration of supportive & transitional (sic. chemical dependency/mental health) services and housing and poverty in the Whittier neighborhood. **Motion Carried**

The board did not feel that your proposal for 22 apartment units at 2118 Blaisdell is an appropriate use of the site or structure. The site plan proposal is not for 22 regular apartments open to the public, with a standard lease at a monthly rent, operating under common rental real estate guidelines. The Pillsbury Mansion portion of the property, with its grand 1st floor, will be underutilized and, as a 5 bedroom apartment, resembles more of a rooming house with up to 5 residents rotating through based on a short term range of stay. Since your apartment site plan is not a traditional apartment, open to the public doing business under general market rate rental and operating practices and since it is focused on serving a transitional population at your selection, we cannot support your site plan.

Per NuWay's presentation at Whittier's public meeting, the housing will be available only to current NuWay clients or clients who have been through a treatment program and who continue to receive support and counselling at NuWay. They will be residents on a transitional basis for approximately 90 days with the payment being based on "fee for services." The housing will have 24 hour staff for behavior oversight for infractions of drug or alcohol use. Your presentation failed to explain how adding this housing doesn't add to overall capacity of your programs. However, you said that you wanted the property because it supports your mission.

Another influencing factor is that, unlike the for-profit owners of regular apartments, NuWay's purchase and use of 2118 Blaisdell takes the property off the City & County real estate tax roll, removing over \$75,000 in taxes per year and putting an additional burden on other tax paying properties. With approximately 9 other similar facilities within ¼ mile of 2118 Blaisdell (3 of which are owned and operated by NuWay) not only is there a concentration of supportive services, there is also substantial real estate tax drain within the Whittier neighborhood.

Finally, your proposed site plan for 22 apartments is an underutilization of a grand historic property that should be available for use and appreciation by the public. The Pillsbury Mansion and attached accessory building could be better utilized as multi-national consulate reception and office space or an event center or boutique hotel all of which would retain a tax base for the City and County.

Sincerely,

A handwritten signature in black ink, appearing to read "Marian Biehn". The signature is fluid and cursive, with a prominent initial "M".

Marian Biehn
Executive Director

Cc: Councilmember Lisa Bender
Rebecca Farrar, Sr. Planner



March 31, 2014

Mr. Tom Meier, Board Chair
Members of the NuWay Board
NuWay House, Inc.
2217 Nicollet Ave S
Minneapolis, MN 55404

Board of Directors: Tom Meier, George E. Antrim III, Alan Braun, Kirk Gryder, Linda Hedemark, Lee Jacobson, John Marston, Andrew Pearson

Dear Mr. Meier & Members of the Board:

We are writing to express the neighborhood's concern about NuWay's recent purchase of the historic "Pillsbury Mansion" at 2118 Blaisdell and its stated plan to convert it into 22 congregate living apartments for residents undergoing or transitioning from mental illness and drug addiction treatment at NuWay's other facilities.

While we appreciate the important work that you do, we strongly oppose NuWay's intended use of the Pillsbury Mansion for several reasons. We would like to work with you to help secure a buyer whose use of 2118 Blaisdell will meet neighborhood goals and help you locate another property for NuWay's expansion.

This letter summarizes the discussion of the Whittier Alliance Board of Directors based on a report provided by Whittier Board member Ted Irgens of his meeting with NuWay Board Chair Tom Meier and Executive Director David Vennes. It also expresses some of the broader preservation, commercial and housing goals of the Whittier Alliance as outlined in the neighborhood adopted Strategic Plan.

Historic and Architectural Community Asset

The Pillsbury Mansion has important family, social and cultural links to the Whittier neighborhood and City. It is an important historical and architectural asset of the neighborhood that should be historically designated, restored and given wide public use.

The Pillsbury Mansion was designed by one of the finest Minneapolis architects of the 20th Century, Ernest Kennedy, who designed, among other noted buildings, the entry building to Lakewood Cemetery, the historic Essex Building at Nicollet and 9th Street, which houses "The Local" and Perkins and Will Architects, a number of University of Minnesota buildings, and architecturally significant homes throughout the Kenwood, Harriet and Whittier neighborhoods. The mansion at 2118 Blaisdell is one of the most impressive and important of all of Kennedy's buildings. The Mansion was built by Alfred Pillsbury in 1913 as a wedding present for his grandson John Pillsbury Snyder and his wife Nelle, who moved in after returning from their honeymoon as survivors of the ill-fated Titanic. It was designed, according to what Nelle told the previous owners, to be the "finest home in all of Minneapolis." Its interiors contain stunning, old growth mahogany paneled walls, intricate plaster

moldings, a unique rounded and stained glass ceiling, numerous beautiful crystal chandeliers and wall sconces, a ballroom, and a double marble staircase made of the same marble used in the Vatican.

The Whittier Alliance and Neighborhood Strategic Plan has outlined Historic Preservation as one of its key priorities with the stated goal of supporting and fostering historic restoration and protection of architecturally and culturally significant historic assets in Whittier. The mansion at 2118 Blaisdell is a neighborhood historic asset whose interior treasures have been hidden from view for far too long, which should be made available for wide public use and appreciation. The building is ideal for use as an event space or boutique hotel that would bring more people to this international neighborhood. Other possible uses might be a multi-national consulate offices or an antique and arts gallery. Any of these uses would stimulate added commerce to the neighborhood while retaining the building's tax revenue for the city and county.

As we understand from NuWay's Director, David Vennes, other than the use of the 1st floor as potential lounge space for the residents of the apartments, NuWay does not intend to use the mansion's first, second and third floors. Further, the intended plan is to cut the lower level ballroom into efficiency apartments connected to the proposed apartment wing. Such a plan would compromise the original design and historic asset of the building while not allowing public enjoyment of this historic gem. We also understand that NuWay is planning to remove the building's crystal chandeliers and hopes to avoid installing a sprinkler system throughout the mansion, for fear that a tripped system it could potentially damage the interiors. The interiors of this exquisite property need to be appropriately protected, and not put at risk of damage from either water or fire.

Commercial Value

Aside from its important historic and architectural value to the neighborhood, 2118 Blaisdell has important commercial value. The Commercial Corridor segment of the Whittier Strategic Plan calls for "destination" businesses in strategic locations. As noted above, the property could be made into a destination spot within the Whittier neighborhood, just as the successful Semple Mansion at 100 Franklin Ave. has become. The OR 2 zoning allows for many permitted commercial and retail uses. It could and should be used to bring new people and commerce to the neighborhood in a way that further enhances Whittier's historic importance and its progressive commercial spirit. The Whittier Alliance is committed to bringing new businesses to the neighborhood that will continue to make Whittier a thriving first class international neighborhood, and this property provides an important opportunity for a commercial enterprise that will further this goal.

The building is also very significant in that it currently brings in over \$74,000 of annual property tax revenues to the city. As a non-profit, NuWay's use of the building would *take away* \$74,000 of annual property taxes and add further to tax burden on Whittier and other Minneapolis residents.

Wrong Building

As noted above, NuWay's director, David Vennes, has stated that NuWay does not intend to use three full floors of the historic Mansion, but only its basement and the attached 1960's addition. In our view, the non-use of this architecturally significant and historically important Pillsbury Mansion does not make sense for the reasons stated above. Such non-use of the original mansion space seems a wasted investment for NuWay and structurally unwise for this historic property. We don't want it to become an underutilized, underappreciated, burden which could deteriorate from benign neglect. This

Mansion deserves an owner who will maximize its potential and showcase its pedigree and architecture.

Respectfully, we also question the purpose and appropriateness of purchasing this building to create 22 apartments if NuWay only intends to convert and utilize the 1960's addition and the ballroom of the mansion. If that is the case, then it would appear that NuWay only needs an apartment building half the size of 2118 Blaisdell. It would seem that an appropriate building could be secured for far less money than it would cost to renovate the Pillsbury Mansion as intended. A quick check of recent real estate sales revealed that a 22 unit apartment building (in "ready to use" condition) sold for \$55,000 per unit or \$1.2 million. This is a parallel price to what you paid for the Blaisdell property without the necessity of extensive rehab.

If, however, NuWay hopes to use the historic Mansion space for counseling and/or supportive services, then NuWay would be in violation of the code restrictions on this building in this location. Without on sight supportive services, NuWay would still need to obtain a Conditional Use permit for congregate and transitional housing, which the Whittier Alliance & Stevens Square neighborhood organizations are not inclined to support based on the number of services currently operating in the two neighborhoods.

Supportive Housing / Congregate Living – Zoning & Ordinances

As you likely know, 2118 Blaisdell cannot be used for supportive housing because it is within ¼ mile of other supportive housing projects, including NuWay's building at 2200 1st Avenue South. If NuWay wishes to use the 2118 Blaisdell mansion as a transitional facility, it would need to obtain a Conditional Use Permit (Mpls Zoning ordinance 547) and comply with all other applicable zoning and regulatory guidelines.

The Whittier neighborhood is home to a number of supportive, transitional, care and congregate housing as well as organizations serving people with addictions, mental health issues and homelessness. NuWay itself currently operates two other facilities in the Whittier neighborhood. The concentration of institutional housing and services, along with the affordable housing properties, place a concentration and economic burden on both Whittier and Stevens Square. Some organizations similar to yours are recognizing that fact. Last summer the Whittier Alliance and Stevens Community Association were approached by a potential buyer of the 2118 Mansion who intended to use it for supportive housing. The buyer opted out after consulting with Whittier and Stevens Square and learning they would not support the use and that the zoning designation does not allow for it.

This is not a "not in my back yard" matter for the neighborhood. The Whittier Alliance recognizes the need and the value of the work organizations such as yours provide but we have to respect and give voice to the concerns of the residents and other business owners in the neighborhood who do not want Whittier to be labeled as a "recovery community." The neighborhood is host to a diverse number of supportive, transitional, congregate, care and emergency facilities and services. Whereas we are content to co-habitate with the current providers, we do not seek or feel additional facilities are in the neighborhood's best interest. The housing component of our Strategic Plan states a need to diversify housing choice and cites a study supporting deconcentration of affordable and housing services. The enclosed map shows the concentration of supportive, transitional, congregate, affordable, etc housing in Whittier.) The Stevens Square neighborhood has again as much such housing.

Furthermore, there is a real concern that, if NuWay were able to obtain the necessary Conditional Use Permits, it could renovate this property under the guise of creating a congregate living facility then silently expand its use to include supportive services, in violation of the city code and neighborhood trust.

We understand that NuWay's director, David Vennes, has stated that NuWay does not intend to use the 2118 Blaisdell Mansion as a supportive services site. This in turn creates a heightened concern for both the clients and the surrounding residents living in a situation that does not provide guidance and support for a transitioning population. In either case NuWay is placing a vulnerable population in a volatile location.

Troubled Location

Aside from the issues regarding the historic importance of this Mansion, its commercial value to the neighborhood and tax base, and the concentration of similar housing and services in the neighborhood, there is genuine concern about NuWay opening a recovery facility at 2118 Blaisdell because of its troubled location. The surrounding area of Nicollet and Franklin is under constant patrol by beat cops and neighborhood crime watch volunteers. Public consumption, panhandling and other livability issues are particularly troublesome and prevalent in that area. The mansion also sits directly across the street and directly across the alley from two rental properties that have been problem for years. The Whittier Alliance, neighbors and law enforcement have not been successful in their attempts to reduce the calls for service to the addresses.

Neighbors are very concerned about the effect that adding residents, who are working through drug addiction and mental illness would have on the area and the residents. Placing recovering residents in direct proximity to unhealthy activity could prove a great disservice to the very men NuWay is trying to help. The tenants could become targets and create a revolving door between these 'post-treatment apartments' and NuWay's treatment center at 2200 Stevens Avenue, as well as add to the livability crimes currently suffered by the residents in this area.

For all of the reasons stated above, the Whittier Alliance sees the stated plans of NuWay House, Inc. to use 2118 Blaisdell as an expansion of their congregate/supportive/transitional living facilities and services as inconsistent with the Whittier neighborhood Strategic Plan and neighborhood goals.

Help Securing a Buyer

We appreciate that the message communicated in this letter is likely not what the NuWay Board was hoping to hear, but we want to be as candid as possible in the effort to open communication with you about this important Whittier asset. We hope very much that you will carefully consider all of our comments and note in particular that, should your Board decide to consider all options, we will do everything we can to introduce you to serious buyers.

A few of our board members have already identified potential buyers who say they are interested in moving forward to purchase the 2118 Blaisdell Pillsbury Mansion very quickly. In particular, we have been authorized by Tony Scornavacco, the owner of H&B Gallery, to tell you that he is *very* interested in purchasing the Pillsbury Mansion to move H&B's antiques and art dealership business to Whittier and that he welcomes a discussion with NuWay about the building at any time. Please let us know if you would like us to introduce you to Mr. Scornavacco, as we will be very happy to do so.

Most importantly, as noted above, we hope we can continue an open discussion with you about this important Whittier asset going forward. Please respond directly to the Whittier Alliance to explain your present thoughts regarding 2118 Blaisdell at your earliest convenience. Thank you for giving this topic consideration from both the NuWay and Whittier Alliance and Neighborhood perspective. We look forward to hearing from you.

Sincerely,

Marian Biehn
Executive Director

Cc: David Vennes, NuWay Executive Director
Councilmember Lisa Bender
Kim Holein, Senior Planner
Brian Shaeffer, South Mpls. Planner
Supervisor, City of Mpls. Construction Services
Steve Gallagher, Executive Director Stevens Square Community Organization