




CITY OF SAINT PAUL
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DATE: May 17, 2012
TO: Zoning Committee
FROM: Patricia James 
RE: ZF # 12-048-442 Volunteers of America – MN

On May 10, 2012, the Zoning Committee held a public hearing on the above-referenced zoning application. At the close of the hearing, the Committee voted to lay over the matter and requested additional information from staff.

The information requested can be classified into three broad areas: the history of the site at 1394 Jackson; the regulation of community residential facilities in the zoning code; and the relationship between comprehensive plans and zoning.

History of 1394 Jackson

As stated in the staff report, the property was constructed in 1967 as a board and care home for women with mental disabilities. The 1968 Certificate of Occupancy lists the building as two stories with no elevator. (During a 2002 review of proposed new uses, the property was described as 2 ½ stories, with walk-out access to the lower level in the rear.) The building was expanded in 1969, with the addition of 33 independent living units. A phone conversation with the son of the owner of the facility provided information that, at its peak, the facility housed 114 women. That number that was later reduced to 108. A 1981 letter in the property file in the Department of Safety and Inspections states that 108 women lived at the facility. A 1994 internal zoning memo, done as part of a Certificate of Occupancy review, states that the property had 30 rooming units and 86 residents. The owner's son confirmed that the population was gradually reduced as residents were placed in smaller, neighborhood-based facilities. In 2002, the property file notes that the building had been vacant for at least one year. After that, a number of uses were proposed for the site, including funeral home and mixed commercial-residential uses, a banquet hall, and office/retail. In 2003, a site plan was approved for an expanded parking lot. Since then, a number of building permits have been taken out for remodeling, electrical, and plumbing work. An elevator was added in 2003. In 2004, a restaurant opened in the building, as did an herbal shop. In 2010, records indicate that adult day care was added to the uses in the building

Regulation of community residential facilities

Background. Saint Paul's existing regulations for community residential facilities were initially adopted in 1991 after three years of study. The regulations provided more specific definitions for various types of congregate living arrangements, and regulated them in a way that would

comply with the Federal Fair Housing Act (FFHA) as well as state laws. For this reason, facilities housing persons with disabilities (generally identified as protected classes under the FFHA and living in facilities licensed by the Department of Human Services) were regulated differently than other types of facilities.

Facilities that are considered community residential facilities or are regulated as such, besides those licensed by the Department of Human Services, include facilities licensed by the Department of Corrections or the Department of Health, emergency housing, overnight shelters, shelters for battered persons, and transitional housing. These facilities are subject to lot area requirements and the 1 % population cap within a planning district.

Other types of congregate living, such as sober houses, boarding and roominghouses, foster care, assisted living, boarding care homes, nursing homes, and hospices are not considered community residential facilities and are regulated without references to separation or population cap requirements.

Issue. The application at 1394 Jackson is for a facility licensed by the Department of Corrections. Therefore, it is subject to a conditional use permit, including standards for distance from “any other licensed community residential facility, emergency housing facility, shelter for battered persons with more than four (4) adult facility residents, overnight shelter, or transitional housing facility with more than four (4) adult facility residents” (Sec. 65.154(b) and the 1% population cap.

Multiple-family housing for low income persons is not one of the uses included in this distance requirement. Therefore, no separation from McDonough Homes is required. Jackson Street Village does not meet the definition of congregate housing; it is also considered a multiple family use. A phone conversation with Lois Mueller, the housing manager for RS Eden, who owns the site, confirmed that Jackson Village is project-based Sec. 8 housing. There are no limits on the duration of stay, every household has a lease; and, while the supportive services provided by Wilder are available, participation is voluntary.

A spreadsheet listing the facilities that are regulated under the community residential facility provisions of the code is attached to this memo. It also provides the population of District 6 according to the 2010 census and calculates the concentration of District 6 residents living in community residential facilities, transitional housing, etc.

The regulations for Dept. of Corrections-licensed facilities limit the number of residents that can be placed in the facility to 16. Background information for the community residential facility amendments notes that these types of facilities are not subject to FFHA requirements. The capacity limit of 16 is apparently based on the state statute for facilities licensed by the Department of Human Services: 6 or fewer are permitted single family uses and up to 16 are permitted multiple family uses. (This type of facility is not permitted in single family zoning districts.) The applicant has requested that this standard be modified to permit up to 74 residents, based on their need for a high level of around the clock staffing to provide adequate supervision and services for the residents. The Planning Commission needs to evaluate the justification for the modification and determine whether it satisfies the findings for a modification. The Commission may also want to consider whether one larger facility is more consistent with plans

and policies for the city as a whole and this area than a series of smaller facilities on scattered sites throughout the city.

Comprehensive Plan and Zoning

Background. The Metropolitan Land Planning Act requires that communities in the metro area develop comprehensive plans and also includes a requirement that these plans be updated every ten years. Saint Paul's most recent comprehensive plan update was approved by the Metropolitan Council and adopted on February 4, 2010. The Saint Paul comprehensive plan also includes area plans. The city has established a template for area plans that provides a format for them. Plans that conform to this template are reviewed by city departments for conformance with city policy and by the Planning Commission for conformance with the citywide comprehensive plan prior to adoption by the City Council. These plans are also reviewed by the Metropolitan Council, just as citywide comprehensive plans are. At their option, neighborhoods can add elements to this template for their own purposes, but these added elements are not adopted by the City Council and do not become part of the comprehensive plan.

The plans most relevant to the application at 1394 Jackson St. are the Land Use chapter of the comprehensive plan and the recently-adopted North End-South Como District 6 Plan.

Plan Context.

The Land Use Plan identifies Arlington/Jackson West as an opportunity site in **Policy 1.54:** *Identify opportunity sites for future development consistent with the Saint Paul Comprehensive Plan, either as mixed-use development or as employment centers, including, but not limited to (see Figure LU-B):*

- *Arlington/Jackson West;*

This policy includes a broad range of potential uses for these opportunity sites, 16 of which are specifically named in the plan. Land Use Plan Strategy 2, "Provide Land for Jobs," includes policies to provide "job-rich employment centers at strategic locations." The term "employment centers" includes mixed use, commercial, and industrial areas. (The proposed use would employ 20 full time staff, or 14 jobs per acre.)

The following are policies are also relevant to this application:

Policy 2.4 *Focus the growth of employment centers in Downtown, the Central Corridor, industrial corridors, and on larger tracts of land, where there is infrastructure capacity and where redevelopment as employment centers, or as mixed-use development that includes employment centers, could occur.*

Policy 2.7 *Develop opportunity sites consistent with the Saint Paul Comprehensive Plan with mixed-use development that incorporates employment centers (see Policy LU-1.54).*

Policy 2.21 *Prepare regulations for conditional use review of specified uses (to be identified in a study of principal uses permitted in industrial districts) for the purposes of ensuring compatibility of non-industrial uses with the primary industrial function of the district and of protecting the employment base.*

Some non-industrial uses are compatible with industrial uses, while other permitted uses may weaken the industrial character of the district and its employment base. The study is intended to determine how conditional use review for specified uses will be used to protect the industrial character of these districts. It will address the following issues:

- Maintenance of the city's industrial employment base;

- Benefits to existing and future industrial uses;
- Significant adverse impacts on nearby industrial uses; and
- Significant alterations to the overall industrial character of the area, based on the existing proportion of industrial and nonindustrial uses and on the effects of incremental change.

Policy 2.22 *Revise the list of principal uses permitted in industrial districts to ensure compatibility with the primary industrial function of the district for the purpose of protecting the employment base.*

The Saint Paul Zoning Code permits a wide range of non-industrial uses in industrial districts. Non-industrial uses undermine the viability of the industrial sector and the city's employment base. The study will determine how the list of principal uses can be revised to strengthen the industrial sector.

Both land use policy 1.54 and Land Use Strategy 2 and its policies are consistent with the 1993 Port Authority creation of an "Industrial and Economic Development District" in the Arlington-Jackson area. These districts are authorized by Minnesota Statutes 469.058-9 and are set up to give port authorities the power to acquire property by a number of means, make contracts, or acquire rights or easements, etc. (In their testimony, the Port Authority did not indicate whether they had attempted any of these powers in relation to this property.)

The statement following Policy 2.22 that "[n]on-industrial uses undermine the viability of the industrial sector" is clearly a proofreading error, since the previous policy, 2.21, and other policy statements in the plan state that some non-industrial uses are incompatible, and distinguishing among these is the reason policies 2.21 and 2.22 call for review of non-industrial uses in industrial zoning districts.

A draft of the industrial zoning study has been released for public review, and a public hearing before the Planning Commission is scheduled for June 1, 2012. The draft does not include a recommendation to delete either "correctional facility" or "community residential facility – licensed correctional" from the use tables, in part due to recognition that correctional facilities may be more appropriately located in these districts. The new Ramsey County Detention Center is located in an I1 zoning district, for example. This building is located within a successful office-industrial area and is across the street from the Williams Hill industrial park, also developed by the Port Authority. Similarly, the study does not recommend deleting office uses from the permitted use list, even though offices are a permitted use in any business district and do not require an industrial location, because they are generally compatible with industrial uses.

The North End-South Como District 6 Plan, adopted by the City Council in April, 2012, also applies to this property. The purposes of this plan that are relative to this application are to confirm the direction and policies in previously adopted plans for the District 6 area and to establish a framework for strengthening the industrial areas, primarily by reducing the conflict between industrial and residential uses where they are in proximity. The plan achieves the first objective in part by updating and incorporating relevant principles and policies from the older Arlington-Jackson Plan (1991) into land use policy LU3 – Redevelopment of the Jackson-Arlington industrial area. The plan achieves the second objective by studying three areas. The first area is generally found south of Lawson and northeast of Como, where the plan recommends eventual acquisition of some residential uses located in industrial districts for

industrial development and rezoning of other properties to create clearer boundaries and reflect existing uses. The second area is found south and east of Oakland Cemetery, where the plan proposes a land use study to “analyze and assess the suitability and feasibility of the area for industrial and residential uses and may recommend redevelopment that includes all residential, all industrial, or a combination of both uses.” The third area is Arlington-Jackson West, mentioned previously. No additional studies or zoning changes are proposed; the plan recommends light industrial and office-service uses. It does not recommend changes to the zoning code that would eliminate any non-industrial uses from the I1 zoning district.

The objection, in part, to the location of the VOA facility in this area is that this would reestablish a residential use in an industrial area. The previous community residential facility, Norhaven, offered permanent housing to disabled women. The current proposal would house men and women readying themselves to come out of incarceration, whose typical stay is 3-6 months. One question for the Planning Commission to consider is whether this use has a residential character similar to the previous use, the multi-family dwellings north of Arlington or the individual, privately-owned homes in the Lawson-Como area, or if it has an institutional character due to the rapid turnover of residents.

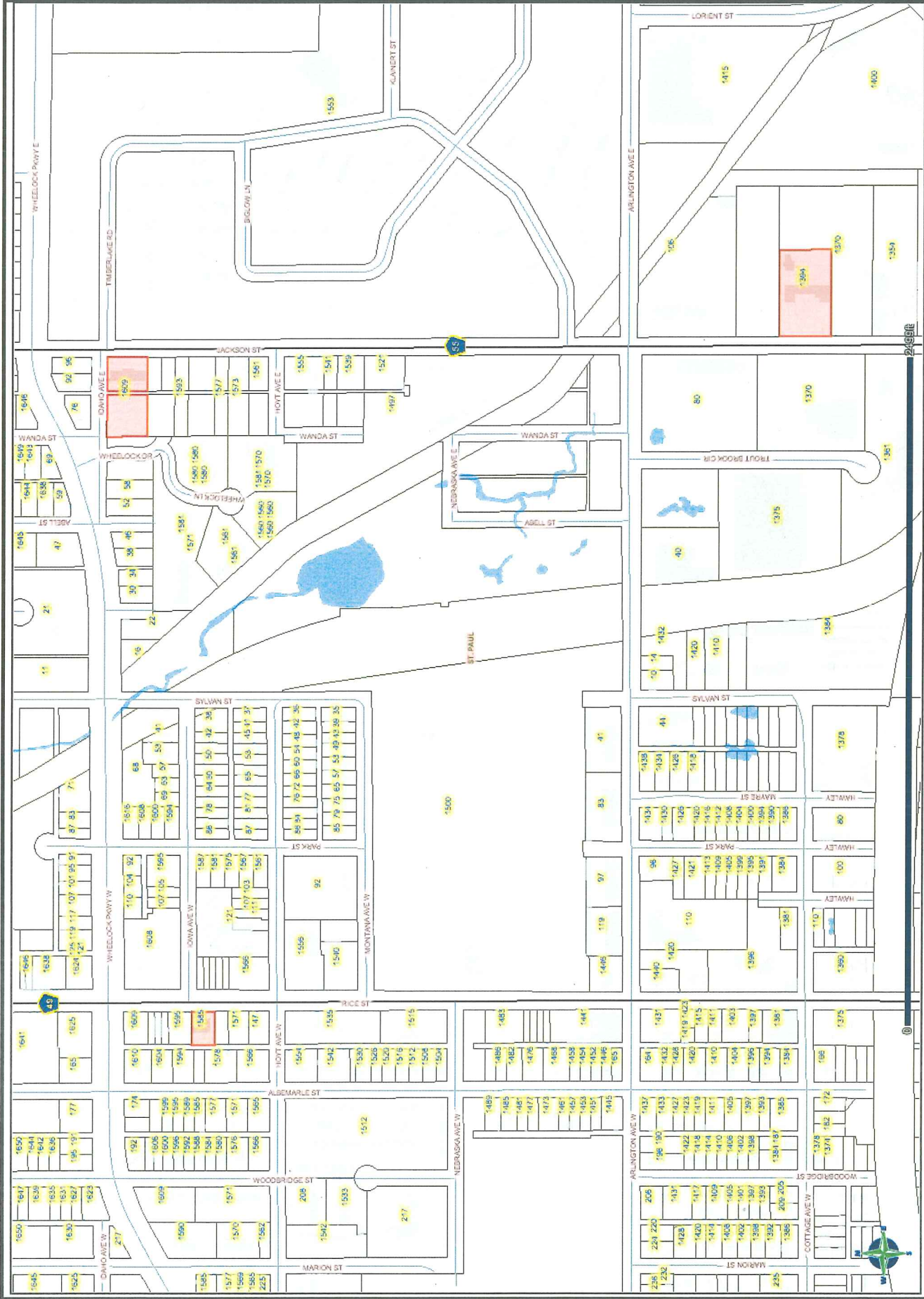
Conclusions

1. The history of the site and the building configuration support the use of the existing structure for some kind of congregate housing.
2. The property meets the separation requirement from other types of community residential facilities and meets the 1% of population standard for the planning district.
3. Comprehensive plans and zoning need to be consistent. Courts have consistently ruled that when the comprehensive plan or the zoning ordinance is unclear, the language should be interpreted in a way most favorable to the applicant. In this case, both the citywide land use plan and the new district plan support maintaining the city’s supply of industrial land and reducing conflicts between residential and industrial uses where these occur or may occur, but neither plan calls for eliminating community residential facilities as a permitted use subject to special conditions in the I1 zone.
4. The zoning code clearly permits this use, but limits the number of residents to 16. The planning commission may modify this requirement and permit a larger number of residents if the findings for a modification are met.

Facility Name	Address	License	Licensed Capacity	Zoning	District	District Totals
New Directions (owned- Churchill Street Properties LLC)	1143 Churchill	DHS-34	4	R4	6	Total Beds: 69
Transition Homes (Ahrens Residence)	1609 Jackson	Trans Hsg	21	RM1	6	2010 Population: 25447
Church of St. Bernard Refugee Program	197 Geranium	Trans Hsg	12	R4	6	Concentration: 0.27%
Community Options (Rice Street Villas; Gedi Demani Family)	1585 Rice	DHS-36	14	RM2	6	Capacity: 254
Anoka Regional Treatment Center	690 Como	DHS-36	10	RM2	6	Balance: 185
The Vintage Place, Inc.	984 Albemarle	DHS-8	8	RT1	6	

Sec. 65.154(c)

Except in B4—B5 business districts, the facility shall not be located in a planning district in which one (1) percent or more of the population lives in licensed community residential facilities, emergency housing facilities with more than four (4) adult facility residents, shelters for battered persons, overnight shelters, and/or transitional housing facilities with more than four (4) adult facility residents.



DISCLAIMER: This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only.

SOURCES: Ramsey County (April 30, 2012), The Lawrence Group (April 30, 2012) for County parcel and property records data; April 2012 for commercial and residential data; April 2009 for color aerial imagery; All other