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Title: Memorializing decisions of the Council to: (1) grant the appeal by District 6 of a decision of the Planning Commission approving a conditional use permit to operate a department of corrections-licensed community residential facility at 1394 Jackson Street, and (2) deny the appeal by the Volunteers of America regarding conditions imposed by the Planning Commission on the conditional use permit to operate a department of corrections-licensed community residential facility at 1394 Jackson Street.

Sponsors: Amy Brendmoen

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Date	Ver.	Action By	Action	Result
8/8/2012	1	Mayor's Office	Signed	
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Memorializing decisions of the Council to: (1) grant the appeal by District 6 of a decision of the Planning Commission approving a conditional use permit to operate a department of corrections-licensed community residential facility at 1394 Jackson Street, and (2) deny the appeal by the Volunteers of America regarding conditions imposed by the Planning Commission on the conditional use permit to operate a department of corrections-licensed community residential facility at 1394 Jackson Street.

WHEREAS, Volunteers of America - Minnesota ("VOA"), in PED Zoning File No. [12-048-442 <tel:12-048-442>](tel:12-048-442), duly applied to the Saint Paul Planning Commission ("Commission") for a Conditional Use Permit ("CUP") to operate a Department of Corrections Licensed Community Residential Facility at property commonly known as 1394 Jackson Street [Parcel Identification Number 192922420025] and legally described as J W Bass Garden Lots Ex The S 65 Ft and Ex The E 300 Ft; Lot 9; and

WHEREAS, in its CUP application, VOA also requested the Commission to modify zoning standards under Leg. Code § 65.154(d) which limits the number of residents permitted in Department of Corrections Licensed Community Residential Facilities to sixteen: under its CUP application, VOA sought approval for "up to 74" residents; and

WHEREAS, on May 10, 2012, the Commission's Zoning Committee ("Committee") duly conducted a public hearing at which all persons present were afforded the opportunity to be heard and having received a staff report recommending approval of the said application, and upon hearing testimony both from those in favor of the application and those opposed to it, the Committee duly closed the public hearing and, rather than making a recommendation to the full Commission regarding VOA's application, the Committee moved to lay the matter over to May 24, 2012 for the express purpose of having staff provide clarification regarding: the history of uses at the subject site, the overall percentage of District 6 residents residing in community residential facilities, and how the proposed site fit within the City's Comprehensive and District 6 plans; and

WHEREAS, on May 24, 2012, the Committee again considered VOA's application and having been provided

with a written report by staff addressing the questions noted in the previous paragraph and following further deliberation on the matter, the Committee duly moved to recommend approval of the CUP application subject to certain specified conditions as set forth in the Committee's minutes which are incorporated herein by reference; and

WHEREAS, on June 1, 2012, the full Commission took up the recommendation of its Committee on the VOA application and, following a discussion of the matter, the Commission, based on the evidence presented to its Zoning Committee at the public hearing, as substantially reflected in the Commission's minutes moved, under Commission Resolution No.12-36, to approve VOA's application based upon the following findings of fact:

1. Volunteers of America (VOA), is a faith-based, nonprofit health and human services provider that provides support to adults in need of residential re-entry services at residential facilities. The organization currently operates a licensed residential re-entry facility at 1771 Kent Street in Roseville, but must re-locate due to the expiration of a lease. They seek to re-locate the Roseville Center program to the property at 1394 Jackson Street. The building is 26,470 finished square feet; there are 70 parking stalls on site, as well as a storage shed to the rear of the property. Adult residents include men and women from the federal prison system; the majority of the residents are predominantly non-violent offenders, with approximately 80% having been convicted in the past of a drug-related crime or white collar fraud. No sex offenders are proposed to be housed at this property. VOA also indicates that it has a State of Minnesota contract to house residents awaiting pre-trial services; unlike the federal resident population, the pre-trial residents will not be leaving the facility on a daily basis for employment.

2. Leg. Code § 65.154 lists the standards and conditions for a community residential facility licensed by the Department of Corrections:

(a) Preliminary licensing review by the state department of corrections. This condition is met. The Roseville Center, the program that is proposed to move to this site, is currently licensed by the State of Minnesota; the applicant has submitted a letter from the State showing 100% compliance with its licensure requirements. This center has the same number of residents and program scope as proposed at the facility at 1394 Jackson Street.

(b) The facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from any other licensed community residential facility, emergency housing facility, shelter for battered persons with more than four (4) adult facility residents, overnight shelter, or transitional housing facility with more than four (4) adult facility residents, except in B4-B5 business districts where it shall be at least six hundred (600) feet from any other such facility. This condition is met. There are no such facilities within 1,320 feet of the 1394 Jackson Street property.

(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. This condition is met. The current percentage of the population living in these facilities is 0.26%, with capacity for an additional 188 residents, based on the 2010 Census and the recent approval of a transitional housing facility for 12 adults at 197 Geranium. The addition of 74 residents at this property would bring the balance of residents that could be added in these types of congregate residential facilities to 114 and the percentage of the District 6 residents living in these facilities to 0.55%.

(d) The facility serves no more than sixteen (16) facility residents, except in B4-B5 business districts where it shall serve no more than thirty-two (32) facility residents. The applicant has applied for a modification of this condition to allow up to 74 residents on site.

(e) It shall occupy the entire structure. This condition is met.

(f) Except in B4-B5 business districts, the facility shall have a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of two (2) guest rooms. This condition is met. The lot area of 62,726 square feet permits up to 59 rooms (57,726 square feet divided by 1,000 square feet allows 57 rooms in addition to the base two rooms). The proposed use would have 38 resident rooms (36 double occupancy and 2 single occupancy rooms).

3. Leg. Code § 61.501 lists five standards that all conditional uses must satisfy:

(a) The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council. This condition is met. The recently-adopted North End-South Como District 6 Plan has a policy that recommends the western portion of the Jackson-Arlington area to be redeveloped as a "business center with light industrial and office-service uses" (LU3.1). The plan does not address reuse of existing structures, such as is the case with the current application. Since the plan is silent on the proposed congregate residential use in the existing structure at 1394 Jackson Street, the proposed use is not inconsistent with this plan. Further, the proposal is consistent with goal three, objective three of the North End-South Como District 6 Plan, which encourages property owners to improve and maintain their houses and businesses. The proposed community residential facility is also consistent with the I1 Light Industrial zoning of the site, and the zoning is consistent with the North End-South Como District 6 Plan.

The Generalized Future Land Use Map in the Land Use Chapter of the Comprehensive Plan designates this area as "Industrial," which is defined as "primarily manufacturing and/or the processing of products; could include light or heavy industrial uses, large warehouse facilities, and/or utilities" (emphasis added). While this use is not industrial, it is an institutional-residential use permitted in the I1 Light Industrial District that contains an employment component, including 20 full time staff. This area is also identified as an opportunity site (Police 1.54), appropriate for mixed-use development or as an employment center.

b) The use will provide adequate ingress and egress to minimize traffic congestion in the public streets. This condition is met, as the property is currently accessible from Jackson Street via a driveway at the northwest corner of the lot. In addition, there is over 100 feet of frontage between this driveway's access and the access of each of the neighboring properties access driveways. The applicant states that an estimated 50 vehicles will enter and leave the proposed facility over a 24-hour period. The proposed use requires 28 parking spaces (1.5 spaces for every 4 adult facility residents). The seventy surface parking spaces currently on the site will remain.

(c) The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare. This condition is met. The site is self-contained, surrounded by industrial uses, and has a history of large institutional residential uses. The property was constructed as a nursing board and care home in 1967, and housed up to 114 women at one point. More recently, the property has had a range of commercial uses, including an office in the early 2000s, the establishment of a restaurant in 2003, an herbs shop, and an adult day care center in 2010. The proposed institutional residential use will not be detrimental to the immediate neighborhood. The applicant's experience at existing facilities in Roseville and along Lake Street in Minneapolis show a successful track record and positive feedback from neighbors. The building was originally constructed for a very similar use, and the proposed level of staffing and services onsite will ensure public safety and the general welfare of the immediate neighborhood.

Residents of this proposed facility may choose to take the bus to access employment opportunities. While this portion of Jackson Street does not have transit service, Arlington Avenue, just north of this property, does. To provide for public safety and general welfare, the addition of a sidewalk along the frontage of this property and the two neighboring properties to the north (622 feet of sidewalk) is needed to make this connection. This

investment is consistent with established City practice of Complete Streets, to provide a sidewalk on at least one side of any arterial street where they do not currently exist.

(d) The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. This condition is met. The use is self-contained, would have little impact on the surrounding industrial uses, and will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the I1 Light Industrial district.

(e) The use shall, in all other respects, conform to the applicable regulations of the district in which it is located. This condition is met provided the Planning Commission approves the requested modification.

4. The planning commission may approve modifications of special conditions when specific criteria of Leg. Code § 61.502 are met: strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare of the community and is consistent with reasonable enjoyment of adjacent property.

This finding is met for modification of the standard pertaining to maximum number of residents to permit up to 32 adult residents. Limiting use of the existing structure - built as a large nursing board and care facility - to less than 32 residents would unreasonably limit use of the structure and result in undue hardship. While VOA is proposing a \$750,000 renovation to the building, the existing structure will essentially remain as it is with no major remodeling - as an institutional residential facility that includes many bedrooms, common bathrooms and other living spaces, and offices. Bedrooms will remain with the current layout, with a small number being altered slightly to accommodate two residents; the total proposed bedroom count is 38. In addition, the bathrooms will be renovated. While previous congregate residential uses were different in terms of the populations served, they are similar in terms of the scale of the occupancy of this building. These included an adult day care in the recent past, and a nursing board and care facility that historically housed up to 108 residents. The code recognizes that facilities larger than 16 may be appropriate in some areas, and allows up to 32 residents in the downtown districts (B4 and B5). This industrial district can also reasonably accommodate a facility of 32 due to the characteristics of the existing large structure and the size of the site.

Second, limiting use of the existing structure to less than 32 residents would prohibit VOA from utilizing the property consistent with their existing State of Minnesota license. The federal contract associated with this facility legally requires a large, on-site staff to provide 24/7 coverage and services for residents. The client reimbursement funds that VOA would receive for a small number of residents would not cover the costs of the required staffing, representing an undue hardship to the applicant. Permitting up to 32 residents would help the applicant recoup these costs.

Third, if developed to its full capacity, the large size of this parcel would allow up to 59 bedrooms for the proposed use.

Fourth, the intent of the special condition is to disperse at-risk residents throughout a community, reducing potential impact at a particular location and avoiding an "institutional" environment, thereby positively impacting the safety and welfare of the residents themselves. The modification will also provide for the high level of 24/7 on-site staffing for the residents. The proposed use is largely self-contained, and would have little impact on the surrounding industrial uses. The residents will typically stay at the facility for 3 to 6 months. The modification will not impair the intent and purpose of the special condition, provided the number of residents is limited to that permitted in the B4 and B5 districts, and there is no evidence that the modification of this size would be inconsistent with the health, morals, and general welfare of the community or reasonable enjoyment of adjacent property.

AND, WHEREAS, based upon the findings noted above, the Commission, in approving the VOA's application pursuant to Leg. Code § 61.107, imposed the following conditions on the CUP:

1. The facility is limited to no more than 32 adult facility residents for the Volunteers of America Residential Re-entry Center program and the pretrial services program.
2. The Federal Department of Corrections approves the transfer of the Roseville Center facility license to this property at 1394 Jackson Street.
3. The applicant submits to the City of Saint Paul Department of Safety and Inspections the revised Certificate to Operate from the Minnesota Department of Corrections to the City of Saint Paul for the two year period that ends January 31, 2014.
4. A sidewalk shall be constructed by the applicant along the Jackson Street frontage of this property and along the Jackson Street frontage of the two neighboring properties to the north to connect to the existing dead-end sidewalk on Jackson near Arlington Avenue.
5. A certificate of occupancy is received for the use and any necessary licenses are received as required from the City of Saint Paul Department of Safety and Inspections.
6. The applicant shall submit a copy of the federal contract for this property to the Department of Safety and Inspections.

WHEREAS, on June 11, 2012 and pursuant to Leg. Code § 61.702(a), the VOA, under PED Zoning File No. [12-068368 <tel:12-068368>](tel:12-068368) and the District 6 Planning Council under PED Zoning File No. [12-067225 <tel:12-067225>](tel:12-067225), each duly filed an appeal from the Commission's determination and each requested a hearing before the City Council for the purpose of considering the actions taken by the Commission; and

WHEREAS, pursuant to Leg. Code § 61.702(b) and upon notice to affected parties, the Council combined the said appeals into one public hearing which was duly conducted on by the City Council on July 3, 2012, where all interested parties were given an opportunity to be heard; and

WHEREAS, The Council, having heard the statements made, and having considered the application, the report of staff, the record, minutes, the recommendation of the Zoning Committee and the Commission's resolution; does hereby

RESOLVE, That the Council of the City of Saint Paul pursuant to Leg. Code § 61.704 does hereby reverse the decision of the Commission in this matter [PED Zoning File No. [12-048-442 <tel:12-048-442>](tel:12-048-442), Commission Resolution No.12-36] finding that the Commission erred in approving the VOA's CUP application for the following reasons:

The planning commission erred in finding that the application met the standards under Leg. Code § 61.501(a) and 61.501(d) for approving a conditional use permit.

Based upon Leg. Code § 61.501(a), the location for this proposed residential use does not comply with specific aspects of the Land Use chapter of the Comprehensive Plan and the recently adopted North End-South Como District 6 Plan.

The City's Land Use Plan and its Development Guidelines at section 2.1, intend that there is sufficient industrial zoned land available for industrial and commercial uses. At section 2.2, the Guidelines call for the redevelopment of outmoded and non-productive sites so that they can either sustain existing industrial uses or attract new industrial uses to the City. At section 2.4, the Guidelines call for focusing industrial employment throughout the City in existing industrial corridors where infrastructure capacity exists for creating employment

centers at strategic locations. Section 1.54 of the Comprehensive Plan specifically identifies the area in and around the proposed residential facility as an "Opportunity Site." There are references throughout the Land Use Plan stating that development within Opportunity Sites should focus either on the creation of mixed use developments or employment centers.

The site of this proposed residential use has been zoned for industrial uses for decades. The recently decertified Jackson Arlington Small Area Plan states that as far back as 1979, District 6 was concerned about the use of underutilized industrial land in this area. In 1987, a District 6 task force determined that industrial development of the area in question would best meet the needs of the District and the City. Following a study of the area, the Jackson Arlington Small Area Plan was adopted in 1991. The adopted plan recommended that the entire study area, including the site of the proposed residential use, be developed with light industrial and office-service uses. It is interesting that the 1991 Plan specifically noted that the congregate residential use then existing on the same site now proposed for a new residential use by VOA, was inconsistent with the general character of development in the surrounding area. Thirty-three years later, this same site and the areas around it, have not developed in the manner desired as identified as far back as 1979.

The general area around the proposed residential development is now identified in the City's updated Comprehensive Plan as an "Opportunity Site." According to the Plan, development within Opportunity Sites should create either a Mixed Use Development or an Employment Center. Under the Plan, a Mixed Use Development is an area where two or more of the following uses are or could be located within the same building or in close proximity to each other: residential, commercial, retail, office, small scale industry, institutional or open space. Industrial Development is said to be primarily manufacturing and/or processing of products and warehousing. While the Plan does not specifically define "Employment Centers," it is interesting to note that the Plan, at section 1.23 regarding Mixed Use development, states that "the City should recognize that community circumstances and preferences stated in City Adopted summaries of Small Area Plans."

The North End-South Como District 6 Plan, at LU3, states that the area for the proposed residential use should be part of a business center with light industrial and office service uses. The North End Plan states that this will fulfill the development envisioned in the 1991 Plan which was adopted in recognition of the underdeveloped nature of this area first identified in 1979.

Accordingly, relocating a residential use into an area that for 33 years has been identified for industrial uses is simply not in substantial compliance with the updated Comprehensive Plan or the recently adopted North End Plan. With the reconstruction of 35E and the realignment of the Maryland Avenue about to begin, the area in question is poised for development consistent with the type envisioned by the Comp Plan and the North End Plan. Relocating another residential land use to this site, where for at least 33 years it has been recognized that residential uses are incompatible with the existing character of the surrounding development, will impede any new industrial or office park development that is likely to come to the area based upon the pending improvements to 35E and Maryland Avenue, as contemplated by the City's Comprehensive Plan and the North End-South Como District 6 Plan.

AND, BE IT FURTHER RESOLVED, for the reasons set forth above, the appeal of the District 6 Planning Council is hereby granted; and, be it

FURTHER RESOLVED, with the Council's decision regarding the appeal by the District that the appeal by the VOA [PED Zoning File No. [12-068368](#) <tel:12-068368>] from the Planning Commission's decision set forth in Commission Resolution No.12-36, is hereby denied; and

BE IT FINALLY RESOLVED, that the City Clerk shall immediately mail a copy of this resolution to Volunteers of America - Minnesota, the District 6 Planning Council, the Zoning Administrator and the Planning Commission.