

Salt Lake City Land Use Appeals Hearing Officer
Non-Conforming Use Change Decision
Odyssey House – Nonconforming Use Change
PLNZAD2020-00504
August 24, 2020

This is a request for a determination by the Appeals Hearing Officer as to whether a proposed use of “Large Group Home” is sufficiently similar to an existing conforming use of “Large Assisted Living Facility” to allow the change of use on the subject property located at 645 South 1300 East in the Salt Lake City (the “City”). Changing from one nonconforming use to another nonconforming use is a decision that is made by the Appeals Hearing Officer per ordinance section 21A.38.040.H.1.

A hearing on this matter was held before the Appeals Hearing Office on Thursday, August 13, 2020. Kali Mower and Adam Cohen appeared on behalf of the Applicant, Odyssey House. Representing the City was Mayara Lima, Principal Planner.

The documentation in the seventeen (17) page Staff Report, including the Application and other materials provided by the Applicant in this matter, along with testimony at the hearing, provide substantial evidence to support the conclusion reached and are incorporated herein by this reference. There was little evidence presented to the contrary.

Discussion

The language of the ordinance on changing one nonconforming use to another requires essentially that two standards to be met: (1) that the proposed land use is a “similar land use type” as the existing use; and (2) that the site meets the required off-street parking requirements.

The city ordinance specifies very clearly that “[I]and uses shall be considered to be similar land use types, if the uses are listed as a permitted or conditional use in the same land use tables within chapter 21A.33 of this title and the uses have similar off street parking requirements as defined in chapter 21A.44, “Off Street Parking, Mobility And Loading”, of this title.” (See definition of *Similar Land Use Type* in the Definitions section of the Salt Lake City zoning ordinance, Chapter 21A.62). In this case, both the existing and proposed uses are listed as permitted or conditional uses in the same land use table, and have similar parking requirements. In fact, residential districts that allow large assisted living facilities also allow large group homes, suggesting that they uses may be similar.

Furthermore, while the current legal non-conforming use as an assisted living facility served clients in need of “healthcare and assistance with activities of daily living and social care, including hospice and respite care” (see definition of “Dwelling, Assisted Living Facility (Large) in SLC Code), the proposed use would provide a mental health facility providing daily services to adults with mental illness and intellectual disabilities, assisting them with daily living needs and support. The evidence provided by the Applicant and the City are very convincing that the use types are very similar. Additionally, the number of people being served at the property would not increase, thus not intensifying the use. Thus, the existing and the proposed land use

meet the requirement that they be similar land use types. While some public comments focused on the specific differences between the uses, the differences did not erase the overwhelming similarity of the two uses.

The Staff Report confirmed that they proposed use does meet the required off-street parking in accordance with the requirements in Section 21A.44 of the city code, within the limits of existing legal hard surfaced parking areas on the site. The Applicant confirmed that the current parking is adequate for their needs and the new related use. Again, while public comments raised the concern of greater parking, there was no evidence to support any of the claims that parking would increase. The Applicant also confirmed that residents would not have their own vehicles. Thus, this second requirement is also met.

Conclusion

Therefore, the proposed use in this instance (“Large Group Home”) is sufficiently similar to the existing nonconforming use (“Large Assisted Living Facility”) that the change of use is deemed to be legal and appropriate, qualifying the new proposed use to be considered as a legal nonconforming use as was the previous use.

Dated this 24th day of August, 2020



Matthew T. Wirthlin, Appeals Hearing Officer

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