



Michael Griffith <mgriffith@cityofevanston.org>

Public Comments and Exhibits for Proposed Development at 1801-1815 Church Street and 1708-1710 Darrow Avenue

1 message

brooke@jacksonllp.com <brooke@jacksonllp.com>

Tue, Feb 7, 2023 at 5:36 PM

To: Michael Griffith <mgriffith@cityofevanston.org>

Cc: kashbaugh@cityofevanston.org, mmjones@cityofevanston.org, mklotz@cityofevanston.org

Good Afternoon,

We write with regard to the proposed development at 1801-1815 Church Street and [1708-1710 Darrow Avenue](#), to submit our public comments as legal stakeholders.

Attached please find:

1. Our public comments, labeled within this email as “20230207 Materials for Land Use Commission (Submission Copy)”;
2. Exhibits to our public comments, labeled within this email as “20230207 Exhibits Collated (Submission Copy)”
3. Additional exhibits submitted in electronic form only, labeled within this email as:
 - “Exhibit O – Meeting Minutes 5-22-2006”;
 - “Exhibit P – Traffic 1”; “Exhibit P – Traffic 2”; “Exhibit P – Traffic 3”;
 - “Exhibit R – Habitat for Humanity Home Ownership Builds Wealth”; and
 - “Exhibit T – IL EPA No Further Remediation Letter.”

We request that you forward these as soon as possible to all members of the Land Use Commission to provide each member sufficient time to review all documents prior to the Land Use Commission hearing tomorrow evening, 2/8/2023.

We ask also that you:

1. Confirm receipt of this email and accompanying documents; and
2. Indicate to us when you have submitted our public comments and accompanying documents to the Land Use Commission.

Thank you.

Sincerely yours,

Brooke Devlin-Brown









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Our Offices & Team

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8 attachments

-  **20230207 Materials for Land Use Commission (Submission Copy).pdf**
584K
-  **20230207 Exhibits Collated (Submission Copy).pdf**
9375K
-  **Exhibit O - Meeting Minutes 5-22-2006.pdf**
218K
-  **Exhibit P - Traffic 1.MOV**
2139K
-  **Exhibit P - Traffic 2.MOV**
757K
-  **Exhibit P - Traffic 3.MOV**
2787K
-  **Exhibit R - Habitat for Humanity Home Ownership Builds Wealth.pdf**
2031K
-  **Exhibit T - IL EPA No Further Remediation Letter.pdf**
300K

Crosby Theodore LLC | 1817 Church Street, Evanston Ill. 60201

Sent via electronic mail to Meagan Jones and Michael Griffith for distribution to the LUC

City of Evanston Land Use Commission
Matt Rodgers, Chair
2100 Ridge Avenue
Evanston, IL 60201

CC: Michael Griffith, Lead Planner

February 7, 2023

Re: Legal Stakeholder Objections to Major Variation Requests by Housing Opportunity Development Corporation (HODC), 1801-1815 Church Street, Applications No. 22ZMJV-0092 and No. 22ZMJV-0089

Dear Chairperson Matt Rogers and Members of the Land Use Commission:

At issue before the City of Evanston Land Use Commission (“LUC”) are two distinct projects: one proposed by developer Housing Opportunity Development Commission (“HODC”), an organization which does not own or occupy any of the land parcels at issue, and Mt. Pisgah Ministry, Inc. (“Mt. Pisgah”), the current owner of the land and appurtenant church building occupying 1813 Church Street. While the two proposed projects are distinct in ownership, financing, and current and future land partitioning, the projects have been presented together to the LUC.

Crosby Theodore LLC (“Crosby Theodore,” “us,” “our,” “we”) owns the building at 1817 Church Street, the Historic Landmark building in which the American Veterinary Association was born. As owner of this storied and distinct property adjoining the proposed developments at 1801-1815 Church Street and 1708-1710 Darrow Avenue, Crosby Theodore is both a legal stakeholder and a 5th Ward constituent, with significant concerns about the scope and scale of the proposed requested major variations (“Major Variations”).

Crosby Theodore’s current tenant and sole occupant is an Evanston-based law firm, Jackson LLP, which has made the building its headquarters and home over the past few years. Collectively throughout these documents, the building’s owner and occupier are referred to as “our business,” us,” “our,” and “we”).

As a threshold matter, we seek to inform the LUC that the public meeting it instructed the Applicants to host prior to the upcoming meeting was never scheduled. This missed opportunity for public discourse on this development is both frustrating and demonstrative of the Applicants’ obfuscation and lack of transparency. While Councilmember Bobby Burns initiated a meeting

between one of our owners and Mr. Koenig, that did not provide the benefit of a community and stakeholder discussion of the proposed development. We are stakeholders, but we are not alone in that classification, and one of our principals is an inadequate audience for a “public meeting.” Indeed, our precursory examination of a map suggests that the stakeholders to be invited and involved in such a meeting include those in the following list:

Properties Within 500 ft. of the Proposed Construction:

- 1813-1815 Church St.- Mt. Pisgah Ministry
- 1805 Church St. and 1708-10 Darrow Ave- City Owned Lot
- 1817 Church St.- Jackson LLP
- 1819 Church St.- My Smiles Dental Center - Premier
- 1823 Church St.- Gibbs - Morrison Cultural Center
- 1901 Church St.- C&W Market and Ice Cream Parlor
- 1702 Dodge Ave.- Ebony Barber Shop
- 1706 Dodge Ave. Cutting Edge Hair Gallery
- 1903 Church St.- Chicago Wingz Around The World
- 1704 Dodge Ave.- Tom’s Beauty Supply
- 1708 Dodge Ave.- Unoccupied Business/Storefront
- 1905 Church St.- Church Street Barber Shop
- 1911 Church St.- Youth & Opportunity United
- 1713 Church St.- Strange Lofts
- 1715 Church St.- VYV-US Corporation
- 1711 Church St.- Evanston Transfer Station
- 1683, 1629, 1633, and 1639 Church St.- Residential Property
- 1806 Church St.-Democratic Party of Evanston
- 1630 Darrow Ave.- Anatomy Warehouse
- 1808 Church St. Gospel Chapel Church Of Evanston
- 1810 Church St.- Residential Property
- 1812 & 1814 Church St.- Residential Property
- 1720 & 1714 Church St.- Advanced Disposal
- 1624-1622 Darrow Ave.- Residential Property
- 1620 Darrow Ave.- Residential Property
- 1618 Darrow Ave.- Residential Property
- 1616 Darrow Ave.- Residential Property
- 1612 Darrow Ave.- Residential Property
- 1610 Darrow Ave.- Residential Property
- 1606 Darrow Ave.- Residential Property
- 1604 Darrow Ave.- Residential Property
- 1623 Dodge Ave.- Parking Lot
- 1621 Dodge Ave.- Residential Property
- 1617 Dodge Ave.- Residential Property
- 1615 Dodge Ave.- Residential Property
- 1611 Dodge Ave.- Residential Property
- 1710 & 1712 Dodge Ave.- Residential Property
- 1716 Dodge Ave.- Residential Property
- 1718 Dodge Ave.- Residential Property
- 1722 Dodge Ave.- Residential Property
- 1726 Dodge Ave.- Residential Property
- 1728 Dodge Ave.- Residential Property
- 1730 Dodge Ave.- Residential Property

- 1709 Dodge Ave.- Residential Property
- 1739 Dodge Ave.- Affordable Building and Remodeling, Inc.
- 1737 Dodge Ave.- Residential Property
- 1731 Dodge Ave.- Residential Property
- 1729 Dodge Ave.- Residential Property
- 1725 Dodge Ave.- Residential Property
- 1719 Dodge Ave.- Residential Property
- 1717 Dodge Ave.- Residential Property
- 1715 Dodge Ave.- Residential Property
- 1711 Dodge Ave.- Residential Property
- 1744 Darrow Ave.- Bethel African Methodist Episcopal Church
- 1738 Darrow Ave.- Residential Property
- 1736 Darrow Ave.- Residential Property
- 1730 Darrow Ave.- Residential Property
- 1728 Darrow Ave.- Residential Property
- 1726 Darrow Ave.- Residential Property
- 1722 Darrow Ave.- Residential Property
- 1720 Darrow Ave.- Residential Property
- 1716 Darrow Ave.- Residential Property
- 1714 Darrow Ave.- Residential Property
- 1717 Darrow Ave.- Residential Property
- 1721 Darrow Ave.- Residential Property
- 1725 Darrow Ave.- Residential Property
- 1729 Darrow Ave.- Residential Property
- 1733 Darrow Ave.- Residential Property
- 1735 Darrow Ave.- Residential Property

Many of these legal stakeholders have been in the community for decades and expressed similar sentiments of surprise and confusion at the LUC’s January meeting. Our principal expressed concern after attending the individualized meeting described above, feeling that it was an attempt to identify what *we* want or need to cease our opposition to this project – rather than a collaborative effort that involves the entire community. For example, a suggestion that we might be able to park in the HODC Proposal’s parking garage – compensating for our feared loss of parking access – felt as if it neglected the needs and concerns of local residents about the very same issue. She agreed to nothing and expressed discomfort in our discussions afterwards, whereby she expressed that it felt as if Mr. Koenig was trying to determine what he needed to “give” us for us to cease our opposition to his development. It is, in our view, the greater community and the residents of those properties listed above who are deserving of being heard, receiving concessions, and being empowered to impact the outcome of this hearing. We are but one of them.

We respectfully submit the enclosed for the LUC’s consideration.

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Summary

Applicant-developer HODC, and its principal, Richard Koenig (“Mr. Koenig”) would have one believe that any objections raised to Applicant’s proposal are objections to affordable housing. When asked to provide evidence related to the need for the significant Major Variations requested, Mr. Koenig repeatedly returns to the theme that this is about “affordable housing,” without addressing separate significant, relevant considerations.

We submit to the Land Use Commission that Mr. Koenig’s repeated redirections to the need for affordable housing entirely miss and fail to address the true considerations at issue *here*: the proposed Major Variations. As neighbors, 5th Ward constituents, and invested citizens of the City of Evanston (“City” or “Evanston”), we wholeheartedly agree that affordable housing is a critical issue that the City must address and prioritize throughout its many neighborhoods. Indeed, in the 2006 words of Mr. Carlis Sutton regarding a smaller but similar HODC proposal for the same plots of land: “The community surrounding Church and Darrow will welcome additional affordable housing projects that fit within the scale and character of the neighborhood....The [HODC Proposal] does not meet this criteria.”¹ This remains true today.

However, this is not a policy discussion on the merits and necessities of affordable housing. If it were, we would all come down on the same side. Rather, the issues for consideration by the Land Use Commission are actually the Major Variations proposed by Mr. Koenig’s development company, and the appropriateness of the scope and approval or denial of each. We respectfully request, therefore, that the LUC continue to remain laser-focused on the requested Major Variations and whether each such request meets the Standards for Approval under the relevant portions of the Municipal Code.

We assert that the Major Variations sought by the Applicant are inappropriate in scale and scope, especially where it pertains to the requests to substantially increase the height, footprint, and impermeability of the land comprising 1811-1815 Church Street. Such Major Variations fail to meet the Standards for Approval, instead falling far short of each Standard to be considered, for the reasons listed below within the ‘Analysis’ section of these materials.

1 *See* Minutes of May 22, 2006, Planning and Development Committee, attached hereto as Exhibit O, p.14.

Facts

I. Proposed Projects before the LUC and Legal Stakeholder Information

A. Properties at issue

1. Land parcels at issue

The Major Variations at issue concern the following five parcels of land:

- 10-13-220-031-0000
- 10-13-220-032-0000
- 10-13-220-040-0000
- 10-13-220-041-0000
- 10-13-220-035-0000

We hereafter reference these parcels as “Land Parcels” or “Parcels.”²

2. HODC Proposal

For the parcels proposed to comprise 1811-1815 Church Street, 22ZMJV-0092 (hereafter “HODC Proposal”), the Applicant and Owner information is as follows:

Applicant: Richard Koenig, Executive Director
Housing Opportunity Development Corporation (HODC)
5340 Lincoln Avenue, Skokie, IL 60077

Owners: (1) Mt. Pisgah Ministry, Inc.
1813 Church Street, Evanston, IL 60201

(2) City of Evanston
2100 Ridge Road, Evanston, IL 60201³

3. Mt. Pisgah Proposal

For the parcels proposed to comprise 1801-1805 Church Street, (hereafter “Mt. Pisgah Proposal”), the Applicant and Owner information is as follows:

Applicant: Pastor Clifford Wilson
Mt. Pisgah Ministry, Inc.
1813 Church Street, Evanston, IL 60201⁴

2 See Memorandum to Chair and Members of the Land Use Commission, Re: 22ZMJV-0092, Michael Griffith, 1/5/23, p. 2, *located at*: <https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000> (hereafter referred to as “HDOC Staff Memorandum of 1/5/23”).

3 *Id.*

4 *Id.*

Owner: City of Evanston
2100 Ridge Road, Evanston, IL 60201

Despite that the two proposals could be bifurcated and presented for approval as separate proposed projects with disparate applicants, financing, and proposed developments, they are presented in essence as a singular application in which the Applicants have claimed that one proposal cannot be considered without the other. The City of Evanston staff brings the proposals forward to the LUC in this same fashion.

B. History of land parcels

The Parcels of land at issue here have previously been the subject a proposed project by developer HODC, which was recommended for denial by the Plan Commission, the decision-making body later replaced by the Land Use Commission (hereafter “2006 Proposal”).⁵ Despite that the 2006 Proposal proposed a less dense, shorter, multi-family residential building, the Plan Commission recommended that City Council deny the affordable housing planned development. Specifically, the 2006 Proposal proposed 27 affordable housing units with 30 off-street parking spaces, and a proposed height of 4 stories.⁶

In relevant additional information, the Plan Commission discussed and considered the 2006 Proposal over a series of five meetings, providing significantly more time for consideration than the larger-scale project currently before the LUC.⁷ Constituents and community representatives then opposed to the project requested that HODC “reduce the size of the building so it does not dominate the residential neighborhood.”⁸

Carlis Sutton is a long-time 5th Ward constituent, and a former 5th Ward Alderman Candidate, Reparations Committee Member, and President of the Community Alliance Organization which led the opposition to the 2006 HODC Proposal (“Mr. Sutton”).⁹ His objections to the 2006 Proposal are even more relevant today, as the HODC Proposal before the current LUC is substantially larger in scale, scope, and sought-after Major Variations. We accordingly refer to Mr. Sutton’s arguments within our own below.

C. Zoning of properties at issue

Both the HODC Proposal and the Mt. Pisgah Proposal are within a B2 Business District, and the oWE West Evanston Overlay District.¹⁰ More specifically, the land falls within the WE7

5 See Minutes of May 22, 2006, Planning and Development Committee, attached hereto as Exhibit O, p.1-2 (Noting Items for Consideration as Planned Development for 1708-10 Darrow Avenue/1805 Church Street).

6 *Id.*

7 See *id.* (note however, that then-Alderman Holmes described six, rather than five, such meetings; p. 4).

8 *Id.* at p. 14.

9 See Minutes of May 22, 2006, Planning and Development Committee, attached hereto as Exhibit O, p.15 *et seq.*

10 Zoning Map, City of Evanston, *located at:*

Subdistrict of the oWE West Evanston Overlay District. To the north and south lay R4 General Residential Districts.

D. Our legal interest in the HODC and Mt. Pisgah proposals

Crosby Theodore LLC owns the property at 1817 Church Street, which directly adjoins the existing Mt. Pisgah Ministry building.¹¹ Its tenant is a locally and family-owned small business, which actively prioritizes the hiring of other Evanston residents and incentivizes employees to relocate near the office. As the owners and occupiers of an adjoining property, and one well within 500 feet of the proposed projects, Crosby Theodore LLC and Jackson LLP each have a legal interest in the HODC and Mt. Pisgah Proposals, and we raise our concerns together.

E. We are involved and invested members of the 5th Ward community and the City of Evanston

Jackson LLP's operations are nationally headquartered at the Church Street building in Evanston, Illinois. Established as a Historic Landmark by the City of Evanston more than a quarter-century ago, the firm chose to make its home within the Church Street building due to its storied and significant history, congruence with the business's values and ethos, and close proximity to many employees' homes.

Additionally, over the course of just the last year, we have spent significant time, resources, and assets to carry out a full renovation of our offices in a manner that both respects and reflects the historic nature of the building, while also harnessing "green" environmentally friendly design techniques to maximize energy efficiency and conserve resources. The newly-renovated offices can comfortably accommodate 30 employees, feature two kitchens, collaborative spaces for working, and even a lactation room. Outdoors, we maintain a large, landscaped courtyard in which we often work and hold community and team-building events. Within the courtyard, and at the initiative of our ETHS student fellow, we have constructed raised-bed gardens in which we grow greens and other vegetables for the sole purpose of donating to Evanston community fridges.

The courtyard's additional purpose is to maintain a maximized amount of permeable surface area to facilitate environmentally friendly building practices, drainage, and stormwater management. The "patio" of the courtyard was constructed, by the previous owner, using bricks repurposed from renovations, honoring the historic nature of the building, the values of reuse and sustainable building practices, and the goal of maximizing permeable spaces. Our raised garden beds were intentionally built atop some of the only impermeable surfaces within the courtyard to add to the total permeable square footage.

Despite our many attempts to facilitate stormwater management through our plantings, permeable surface areas, and raised garden beds, the 1817 Church building has sustained significant flooding over the past few years. Within the building courtyard, we maintain an ADA-accessible ramp, which leads into our first-floor accessible restrooms, offices, meeting space, and kitchen. Due to the building's Historic Landmark designation and the associated constraints on

11 See Certificate of Good Standing for Crosby Theodore LLC, attached as Exhibit Q.

modifications, no alternative ADA-accessible entry is possible. The ramp slopes from a higher grade at the property's rear alley-entrance, to a lower grade at the building's rear first-floor door. There is no reasonable alternative for the grading of the ramp absent digging out the entire rear courtyard. The result is that stormwater flows easily and consistently down the ADA ramp, directly into the first floor of the building where employees work. We must regularly implement the use of sandbags and other physical barriers to block the inflow of water through our back door. As a result, the previous wood floors experienced significant swelling, warping, and elevating, causing trip hazards, interfering with employee foot traffic, and preventing office doors from being able to function. As part of our renovations this past year, we replaced the warped and damaged wood on the ground floor.

Additionally, as part of our extensive renovations, we retained an architect to design the building's second floor to maximize energy efficiency by in part incorporating as much natural light as feasible, to minimize electricity use in the form of both heat and lighting. The east and west sides of the building lack windows of any kind. The building's Historic Landmark designation and our concern for the building's structural integrity necessitate that these east and west walls remain fully intact. As such, the renovations took advantage of existing skylights and entirely redesigned the second floor around those skylights. The effect is that all of our offices on the second floor have a source of natural light. This was a costly and integral part of the recent renovations.

The building's third floor features a residential apartment, which is being prepared for long-term/yearly rental. This apartment will be ready for residential lease imminently. Over the past few years, it has been used intermittently as temporary housing for members of the firm. It features a rooftop deck that is used by employees as an additional outdoor workspace, but we anticipate it will be used primarily by the apartment's future tenant(s).

In additional plans, we have for several years been working to create an innovative design for our rear parking pad area.¹² We intend to construct a garage or semi-enclosed carport on our rear parking pad, above which we plan to build several affordable housing dwelling units, topped with a "green roof," in which greenery and gardens are installed underneath solar panels. More specifically, the garage would be topped with one to two stories of affordable housing units, with floor-to-ceiling windows throughout, to ensure that the building's courtyard light is minimally impacted. The new structure would be stylistically congruent with the existing building, would leave the property's green space unimpacted, and if permitted by the City, would house one outdoor parking spot with an electric car charger.

The affordable dwelling units would be powered in large part by the solar panels slated to be placed on the new structure's roof, and additional power from solar panels would power the main 1817 Church building. Overflow would be returned to the power grid. As our extensive interior renovations were only recently completed, we have been working to rebuild our reserves prior to

12 See Exhibit A and B, including written attestation by Jackson LLP Managing Partners of the intended project.

embarking on our next building project. We intend to move forward with the instant plans as soon as financially feasible – in late 2023 or early 2024.

Analysis

II. Major Variations Requested

The Applicants have requested that the Land Use Commission consider a total of fourteen Major Variations, comprised as follows:

- Mt. Pisgah Proposal (parcels of land at 1801-1805 Church Street): 7 Major Variations
- HODC Proposal (parcels of land at 1811-1815 Church Street): 7 Major Variations.

A. HODC Proposal

While zoning requirements¹³ cap height limits at three stories, or 47 feet, within the oWE West Evanston Overlay District, the HODC Proposal depicts a five-story building consisting of 44 residential dwelling units and ground-floor retail units.¹⁴ Additionally in contravention of City Zoning Ordinances, the HODC Proposal intends a zero-foot setback on each of the building's four sides, and an increase of impervious surfaces to almost 100% – well outside the permissible limit. The HODC Proposal omits the required loading dock, and it seeks to instead remove two heavily-utilized on-street parking spots, replacing them with an on-street loading/drop-off zone.

The HODC-requested Major Variations are:

- 1) Increase the maximum permitted building height from 3 stories and 47' to 5 stories and 57.7';
- 2) Reduce the required front yard build to zone from 5'-10' to 0';
- 3) Reduce the required west and east interior side yard setbacks from 5' to 0';
- 4) Reduce the required rear yard setback from 5' to 0';
- 5) Increase the maximum permitted impervious surface coverage from 90% + 5% semi-pervious surface area to 99.7% of lot area;
- 6) Eliminate the required loading berth; and
- 7) Eliminate the required 8' ziggurat setback at the 3rd story.¹⁵

B. Mt. Pisgah Proposal

Because of the time constraints imposed upon our evaluation of this large-scale project, we do not address the Mt. Pisgah Proposal within these materials, but include them for the sake of thoroughness, since the two projects are being considered together by the Land Use Commission.

13 We note that the zoning requirements referenced here are imposed in part due to the property's location within the B2 Business District and in part due to the property's location within the oWE West Evanston Overlay District (*see, e.g.* Staff Memorandum of 1/5/23, at p. 10).

14 HDOC Staff Memorandum of 1/5/23, at p.3, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>.

15 HDOC Staff Memorandum of 1/5/23, at p.1, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>

The Mt. Pisgah-requested Major Variations are:

- (1) Increase the building height from 2 stories or 30' to 3 stories at 44.0' to parapet;
- (2) Reduce required front yard build to zone from 5'-25' to 0' at upper floors;
- (3) Reduce required west interior side yard setback from 5' to 0';
- (4) Increase impervious surface coverage from 60% + 20% semi-pervious surface material to 90.3%;
- (5) Provide occupied space behind building parapet cap type where occupied space is not permitted;
- (6) Eliminate the required building stoop base type and provide a storefront base type instead;
- (7) Eliminate the required 3'-4' tall steel or PVC picket fence around the parking area, in order to construct a 3-story building for a religious institution with both on-site and leased off-site parking in the B2 Business and oWE West Evanston Overlay Districts.

III. Relief Sought

As a legal stakeholder, we request that the Major Variations listed below within these submitted materials be Recommended for Denial to the City Council for failing to meet each of the seven Standards for Approval, per each of our arguments below. While we also have significant concerns and objections regarding the Major Variations *not* mentioned below, we were unable to prepare the full scope of our hoped-for response in just the one month since the last LUC meeting convened on this matter. However, we are happy to supplement this response if LUC would like us to do so.

A. *Legal Standards*

1. Procedure for Major Variation requests

An applicant for any project to include proposed Major Variations must include a “complete submission,” beginning with initial submissions to the Community Development Department for review by City staff, and consisting of a complete application with all necessary supporting documents and requests for all “zoning relief needed to allow the proposal[,] so that the case may be heard as a whole and in its entirety.”¹⁶

Anyone with a legal interest in the subject property, meaning those within 500 feet of a property requesting Major Variations, may present and submit evidence related to the proposed project to the Land Use Commission.¹⁷ Our property adjoins the Parcels on which HODC proposes its development and accordingly may submit evidence in this case.

16 Land Use Commission Rules and Procedures, City of Evanston, Art. IV, Sec. 2.

17 Land Use Commission Rules and Procedures, City of Evanston, Art. VII, Sec. 2.

2. Standards for fact-finding by the Land Use Commission

Where land falls within both a B2 Business District and an oWE Overlay District, oWE Overlay District regulations control proposed development and redevelopment.¹⁸ The oWE West Overlay District is governed by Municipal Code 6-3-8.

For the LUC to recommend any one Major Variation, it must evaluate a series of seven standards for approval (hereafter, “Standards” or “Standards for Approval”).¹⁹ In this case, accordingly, the LUC must employ the series of Standards as it relates to each of the seven requested Major Variations and make a finding of fact related to each.²⁰ In deliberating and making its findings of fact, the LUC must consider and base its findings upon: (i) testimony presented; (ii) evidence presented; (iii) the LUC’s knowledge of the community; and (iv) recommendations by City staff.²¹

Upon making a finding of fact related to each Major Variation request, the LUC makes one of three recommendations to City Council for: (1) Approval of the Major Variation; (2) Approval of the Major Variation with Conditions; or (3) Denial of the Major Variation, for City Council’s consideration.²²

B. Standards for Approval of Major Variations

For each Major Variation, the LUC must find and determine:

- (1) the requested variation will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties;
- (2) the requested variation is in keeping with the intent of the zoning ordinance;
- (3) the alleged hardship or practical difficulty is peculiar to the property;
- (4) the property owner would suffer a particular hardship or practical difficulty as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;
- (5)(a) the purpose of the variation is not based exclusively upon a desire to extract additional income from the property, or (b) while the grant of a variation will result in additional income to the applicant and while the applicant for the variation may not have demonstrated that the application is not based exclusively upon a desire to extract

18 HDOC Staff Memorandum of 1/5/23, at p.4, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>.

19 Municipal Code Section 6-3-8-12E.

20 Municipal Code Section 6-3-8-12E; Municipal Code Section 6-3-8-2.

21 Land Use Commission Rules and Procedures, City of Evanston, Article VII, Section 7, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/69573/637774143150370000>.

22 *Id.* (where City Council “may impose specific conditions and limitations upon the granting of a variation as are necessary to achieve the purposes and objectives of th[e] Ordinance. Such conditions and limitations may include, but are not limited to, those concerning use, construction, character location, landscaping, screening and other matters relating to the purposes and objectives of this Ordinance and shall be expressly set forth in the decision granting the variation”) (Municipal Code 6-3-8-14.)

additional income from the property, the Land Use Commission or the City Council, depending on the final jurisdiction under Section 6-3-8-2, has found that public benefits to the surrounding neighborhood and the City as a whole will be derived from approval of the variation, that include, but are not limited to, any of the standards of Section 6-3-6-3 – Public Benefits;

(6) the alleged difficulty or hardship has not been created by any person having an interest in the property; and

(7) the requested variation requires the least deviation from the applicable regulation among the feasible options identified before the Land Use Commission issues its decision or recommendation to the City Council regarding said variation.²³

In weighing the public benefits (“Public Benefits”) under Standard (5) of Section 6-3-8-12E of the Municipal Code, the LUC must consider and make a finding that – as a whole – each Major Variation requested will result in the following listed Public Benefits to the surrounding neighborhood and City:

(A) preservation and enhancement of desirable site characteristics and open space;

(B) a pattern of development which preserves natural vegetation, topographic and geologic features;

(C) preservation and enhancement of historic and natural resources that significantly contribute to the character of the City;

(D) use of design, landscape, or architectural features to create a pleasing environment or other special development features;

(E) provision of a variety of housing types in accordance with the City’s housing goals;

(F) elimination of blighted structures or incompatible uses through redevelopment or rehabilitation;

(G) business, commercial, and manufacturing development to enhance the local economy and strengthen the tax base;

(H) the efficient use of the land resulting in more economic networks of utilities, streets, schools, public grounds, buildings, and other facilities; or

(I) the substantial incorporation of generally recognized sustainable design practices and/or building materials to promote energy conservation and improve environmental quality, such as level silver or higher LEED (leadership in energy and environmental design) certification.²⁴

23 Municipal Code Section 6-3-8-12(E).

24 Municipal Code Section 6-3-6-3.

IV. Arguments

Below we list the HODC Proposal's requested Major Variations and apply the Standards for Approval as they appear in the Ordinance and as each relates to the specific request.

A. Major Variation #1: Increase the maximum permitted building height from 3 stories and 47' to 5 stories and 57.7'.

HODC proposes a structure that is two stories above the height permitted within the oWE Overlay District Zoning Code. Such a monolithic structure will have far-reaching and significant ramifications related not only to our use and enjoyment of our property and our property value, but to the density, fabric, character, and nature of the neighborhood as a whole.

1. "The requested variation will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties"

In order to meet the first Standard for Approval, the requested two-story height increase must not have a substantial adverse impact on the use, enjoyment, or property values of adjoining properties. It is clear that such a marked height Variation will indeed deeply and substantially adversely impact the adjoining property at 1817 Church Street.

a. *The HODC Proposal's extreme building height will block natural light and cause a substantial adverse impact on property value and use and enjoyment of our property.*

As an initial matter, the height of the proposed HODC building will substantially adversely impact our building's property value, by reducing light, increasing noise, rendering the rental apartment on the third floor of the building temporarily uninhabitable, and by restricting our ability to further develop the property we already own. In the words of former Alderman Bernstein regarding HODC's smaller-scale 2006 iteration of the instant proposal: "I think this project proposes to overbuild the lot no matter what's in it...It leaves no, no space of anything. No breathing space on the lot whatsoever."²⁵

i. The majority of natural light that reaches our second floor is provided via skylights, which were the focal point around which our recent renovations, completed in late 2022, were designed.

First, a two-story height increase beyond what is allowed by the Zoning Code will greatly reduce our workforce's access to natural light, creating a direct adverse impact on the building's property value. While we understand from the LUC's statements on January 11, 2023 that "no one owns light or air," the issue of light impact in this case differs distinctly from standard arguments on the topic.

As discussed within the 'Facts' Section of this document, we recently completed a second-floor gut renovation. In doing so, our architect worked thoughtfully within the confines of a Historic building without west- or east-facing windows, to design renovations that draw in natural light

25 Minutes of May 22, 2006, Planning and Development Committee, attached hereto as Exhibit O, p.55.

through all available means to minimize electricity usage.²⁶ The architect incorporated existing skylights throughout the second floor into more than ten different workspaces, as well as introduced transom windows on interior walls and glass partitions between offices, to pull in the fullest amount possible of natural light while distributing it as far as feasible within the floor. Indeed, our second-floor employees attest that they rarely use interior lights to light their offices, and that their offices remain much warmer in cold months, due in whole to the effect of the natural sunlight shining in from above. Those who have been working on the second floor post-renovation report being happier working with such exposure to natural light. This is not surprising and is borne out in studies on the topic, some of which have said that 72.0% to 85.8% of employees report an improvement in their health when exposed to daylight in their workspace. Further, about 84% to 88.6% of employees reported being happier in their workspace, and substantial majorities of those surveyed also reported that it improved their productivity, gave them more energy, improved the quality of their work, improved their visual comfort, and decreased headaches and eyestrain.²⁷ Our employees – Evanston residents who work for an Evanston family-owned small business – are benefitting considerably from a work environment that has invested in promoting and supporting their health and well-being. HODC is poised to directly jeopardize that.

As described above, the 1817 Church Street building lacks windows on the primary portion of both the west and east sides. In keeping with the character of the building as a Historic Landmark, and to ensure continued structural integrity over time, we had to inventively harness natural light, the cost of which was quite high. Our skylights are therefore critically important – both as environmentally-friendly solutions to electricity use, and as the *only* source of natural light in the majority of the building’s second floor offices. The raising of a building next door that is two stories higher than permitted (and two to three stories higher than any other buildings within the area), will directly impact the natural light received throughout the newly-renovated second floor. Had we been aware of the HODC Proposal, the entire renovation would have been re-thought and re-considered, and the possibility of windows on the east and west sides would have been further evaluated. Instead, just as our renovation project has concluded, we have learned that our designs to harness natural light will soon be nullified by a development that will dwarf our building.

While the property value of 1817 Church increased after its renovation, due much in part to its efficient and light-filled design that maximized usable office space, a building of the proposed height at the edge of our east property line will directly impact its property value. The height of the development will plunge our building back into darkness and patterns of high energy use.

In designing its renovations, we relied on the relevant Zoning Code, with the understanding that no potential building on the block would rise to a height of more than three stories. We understood

26 See Exhibit M, evidencing skylight design and usage of natural light.

27 Hedge, A. and Nou, D., Cornell University, *Worker Reactions to Electrochromic and Low e Glass Office Windows*, Ergonomics International Journal, Vol. 2, Issue 4 (2018), available at <https://medwinpublishers.com/EOIJ/EOIJ16000166.pdf>.

that no potential building could block our new design that focused so heavily on maximizing natural light. Indeed, should the height-related Major Variation be approved by the LUC, we will have relied to our great detriment on the relevant Zoning Code, and the City's upholding of the Code's standards, and will ultimately suffer the financial consequences of doing so.

- ii. Our plan to install solar panels will be frustrated by a five-story building immediately adjoining our property.

As described earlier within these materials, we have been actively working to finalize plans to build an accessory structure on our property's rear parking pad, on top of which are to be placed affordable dwelling units topped by solar panels.²⁸ The extreme Variation request by HODC here will directly impact our ability to build such a structure, and will certainly have a direct impact on the ability to utilize solar panels as part of any environmentally-conscious design.

As currently envisioned, the solar panels at issue would power the affordable dwelling units and an electric car charging station (to help incentivize employees to transition to greener vehicles), as well as the main 1817 Church building. Excess solar power would be returned to the grid. However, the height of the adjoining HDOC-proposed building will frustrate our ability to use and enjoy our own property and will inhibit our ability to increase our property value through further development.

The garage/dwelling structure is additionally intended to incorporate floor-to-ceiling glass walls to ensure residents enjoy natural light while residing there, and to allow natural light to continue to reach our courtyard. The Major Variation in height will nullify our efforts in this regard.

- iii. Our enjoyment of its extensive courtyard space will be diminished by the construction of an adjacent five-story building.

The courtyard will be another casualty of greatly reduced natural light if this Major Variation is recommended. We use the courtyard space to work, hold team-building and community events, and to incorporate plantings and an extensive vegetable garden to both absorb stormwater drainage, add to the greenscape of the area for environmental, water management, and aesthetic reasons, and to grow and donate fresh, local produce to community residents in need through the community fridge program.²⁹ This Major Variance would frustrate our ability to harness light in the courtyard for any of these purposes, again inhibiting our use and enjoyment of our property.

- iv. The residential rental unit on 1817 Church's third floor will be a less viable rental, further affecting the building's property value.

The third floor of our building consists of a residential apartment that we intend to ready for rental in the coming year.³⁰ Not only will the construction itself of a five-story building mere feet from the apartment windows deter potential renters due to construction noise, vibration, and the release of hazardous dust from an environmental remediation site; the resulting 5-story building will

28 See Exhibit A (with general garage and dwelling models).

29 See Exhibit J (incorporating photographs of Firm courtyard).

30 See Exhibit H.

reduce the apartment's internal natural light from above and from the sides, will increase noise at all hours of the day due to the property's proximity when combined with height, and will remove any semblance of privacy. Not only will these factors decrease the general habitability and desirability of the apartment as a rental property; it will also reduce the property value of the building by devaluing the apartment itself.

The same is true for the dwelling units that we intend to construct in an accessory structure on our existing parking pad. The impact of a five-story building on units intended to promote green living through floor-to-ceiling windows – envisioned to promote the flow of fresh air as the weather permits – and topped by gardens and solar panels is unquestionably negative and detrimental.

- b. *The proposed height of the HODC building will generate noise that will substantially adversely impact our property value, and our use and enjoyment of our property.*
- i. The chosen building materials are malabsorptive.

The proposed height variation will result in a marked increase in noise through malabsorptive materials that reach to 57' and reflect sound onto and into adjacent properties. The presence of a five-story building immediately adjoining ours will increase ambient sounds and noises.

HODC proposes the following exterior building materials: vinyl windows; fiber cement lap and panel siding; aluminum storefront system; and brick.³¹ While such materials incorporate those required by environmental standards, and we do not object to the materials in and of themselves for this reason, the use of such materials as part of the two proposed additional stories in the instant Variation will pose problems with noise for neighbors, especially those whose property directly adjoins the development.

- ii. Our indoor workspaces will lose some of their unique benefits because of the significant increase in noise that will result from HODC's building height.

We chose this building as our home because of its unique characteristics and combination of both indoor and outdoor space. It offers opportunities to “bring the outdoors inside” through its large windows, rear exterior stairwell, rooftop deck, and extensive courtyard. We *specifically* sought out a workplace that would advance our business's ethos of work-life balance, sustainability, appreciation of the outdoors, and the promotion of employee wellness.

We have multiple workstations that utilize the building's north-facing windows for natural light, and we replaced missing window screens as part of our renovation. This has allowed us to work with those north-facing windows open, and it has helped to promote a healthy work environment where fresh air is circulating. The opportunity to work beside an open window is, indeed,

31 Memorandum of 1/5/23, at p.6, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>

something that our employees have attested to be a rarity and a productivity, health- and mood-enhancing benefit. Studies have borne out the veracity of these experiences.³²

We are further working towards the rehabilitation or replacement of the building's south-facing windows. This process is more complex because of their historic significance. Once finalized and approved, however, our plans include screens in all south-facing windows so we can enjoy the similar benefits of fresh air on that side of our building.

- iii. The building height will create significant noise in our building courtyard that will be detrimental to our enjoyment of our outdoor spaces.

The height Variation with the listed non-absorptive materials will be further problematic for our use and enjoyment of its outdoor property, as noise will be reflected directly into our courtyard. Should that be coupled with a lack of light, leading to the death of the current courtyard greenscaping, noise will become even more problematic as sound-absorbing plants will no longer exist to mitigate echoing.

The increased density and the alley-facing entrance/exit to the subterranean parking garage will dramatically increase vehicle traffic in the alley behind the Land Parcels and our office. The noise of constant vehicles will echo off the new HDOC building at increased levels due to additional sound-reflective surface area, and will settle and reverberate within our rear courtyard. This will create an inhospitable environment for working, gathering, meditating, and gardening.

- iv. Until they are replaced or refurbished, most of the 1817 Church building's historically significant south-facing windows are nearly a century old and do not provide adequate noise insulation.

Our building's south-facing windows cannot be replaced without significant work, time, and expense. Windows in Historically designated buildings must be approved for replacement by the City's Historic Preservation Committee, and doing so is a lengthy, involved, and expensive process. While we have procured multiple bids over the past year for this project, and have been in contact with the Historic Preservation Committee about the requirements, we have been seeking additional information about window *preservation* rather than the easier and faster route of window *replacement*. The result is that any original windows in our building are thin, fragile, and do little to keep out noise or the elements. There are loose window components both inside and outside of our building. The building's previous occupants stuffed gaps around the windows with discarded mail, and we have attempted to caulk and seal those gaps. A five-story building at the property line of the two properties will reflect sound directly into our business's interior, resulting in a distracting work environment where our common activities -- calls with clients, meetings, and recording educational videos -- will become problematic or impossible.

32 Allen, Joseph G., et al., *Associations of Cognitive Function Scores with Carbon Dioxide, Ventilation, and Volatile Organic Compound Exposures in Office Workers: A Controlled Exposure Study of Green and Conventional Office Environments*, *Environmental Health Perspectives* 124 (6): 805-812 (2015), available at <http://nrs.harvard.edu/urn-3:HUL.InstRepos:27662232>.

- c. *Construction of a development two stories beyond Code allowances will very likely affect the integrity of our Historic Landmark building.*

Our building is a City of Evanston designated Historic Landmark, and accordingly is limited by the confines of its historic designation in reconstruction and renovation. The construction of a development that involves excavation of a subterranean parking garage, atop which will be placed five full stories (and which extends to the property line itself), will likely cause issues of subsidence for our Historic building. Post-construction, as the building settles, subsidence can begin or worsen, even if not already begun during construction. We anticipate structural issues resulting from the weight and height of the proposed development, and objects to the Major height Variation accordingly.

- d. *The increased density from such significant height variations will reduce our property value, and use and enjoyment of the property in the form of increased traffic; insufficient parking; alley noise, safety, and traffic; and pedestrian and bike safety issues.*
- i. The placement of a development that is two stories beyond the permissible height in the area will result in an irreversible increase in traffic and congestion. The degree to which traffic congestion exists – and will be exacerbated by the building’s size and height – is significantly understated in the HODC Proposal documents.

HODC included among their documents a traffic study performed by Kimley-Horn and Associates, Inc. (“Kimley-Horn”) indicating that the Church Street and Dodge Avenue intersection functions at Level of Service C or better.³³ We respectfully disagree with Kimley-Horn’s conclusion.

First, while the traffic study was conducted in January of 2022, it is unclear whether it was carried out when Evanston Township High School (“ETHS”) was in session or during the school’s winter break. City staff could not confirm this either. As Evanston residents who commute daily through the Dodge corridor along the ETHS campus, we regularly spend 15 to 20 minutes waiting to pass through the two blocks on Dodge between Lake Street and Church Street. While this remarkable delay is most often due to traffic at the school day’s beginning, senior lunchtime, and end times, the thoroughfare remains remarkably congested at other times of day as well. Delays are due to student bus drop-offs, pedestrian and bike traffic (related to ETHS students and otherwise), and the fact that Dodge Avenue serves as a critical corridor for moving between south and north Evanston.³⁴ Exiting the Y.O.U. parking lot to drive west on Church Street requires crossing the bike lane on the south side of Church Street, and navigating the westbound traffic on Church Street for an opportunity to enter the westbound flow can require a driver to wait through multiple rounds of the Dodge/Church light turning. It is similarly difficult to turn left (to drive east) from Darrow onto Church, or to exit the alley that runs parallel to Church Street onto Dodge during

33 Memorandum of 1/5/23, at p.9, *located at*: <https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>.
34 *See also* Exhibit F (showing average weekday traffic on Church Street, east of the Dodge/Church intersection).

periods of congestion. While perhaps anecdotal, we walk and drive these routes on a daily basis and are very familiar with their existing problems – ones which will only be exacerbated by the HODC Proposal.

Rush hour traffic also results in heavy congestion.³⁵ ETHS often holds evening events, such as sporting events, the hosting of visiting speakers to the community, and related events. During these times, this same corridor becomes impassable. We encourage the LUC members to drive through this area during ETHS drop off, lunch, pick up, and evening events to understand the extent of the congestion.

ii. The Variation thwarts the City’s bicycle and pedestrian planning.

Additionally, the City of Evanston has put forth a proposal entitled “Church Street Pedestrian and Bicycle Improvements,” in which it engages in an analysis of traffic patterns, issues, and problems in relation to pedestrian and bicycle safety.³⁶ We find the studies within the proposal particularly instructive. The proposal begins with the statement that “Church Street is a key route within Evanston, running east-west through the heart of the City and into downtown.”³⁷ Indeed: “[d]estinations accessible by walking, cycling, and transit abound within the corridor between Dodge Avenue and the North Shore Channel, including the North Shore Channel Trail, Evanston Township High School, and community-oriented retail at the northwest corner of Church Street and Dodge Street.”³⁸

The proposal includes a visual of Church Street crash history near and at the Dodge Avenue intersection between 2014 and 2018, attached here as Exhibit E. The greatest number of vehicle crashes in the area occurred during the four-year time period at the Church St./Dodge Ave. intersection. During the relevant period, 33 crashes with injuries occurred, 5 crashes included pedestrians, and 7 crashes included bicycles.³⁹

Finally, when public comment was given related to the Church Street Pedestrian and Bike Path Improvement Proposal, commenters from the community raised the following points: (1) “any measures to reduce traffic volumes and speeds on Church would be good”; (2) observations of “high vehicle speeds on Church,”; (3) requests that “bike facilities should be placed on another route with less car traffic); and (4) “there is congestion at the Dodge[/Church St.] intersection.”⁴⁰

35 See e.g., Exhibit F (photographs of typical 5pm weekday traffic at Church Street and Dodge Avenue, taken 1/24/23).

36 See Church Street Pedestrian and Bicycle Improvements, *located at*: <https://www.cityofevanston.org/government/departments/public-works/engineering-construction/capital-improvement-program-projects/street-resurfacing-water-main-and-sewer/church-street-canal-park-bike-infrastructure>; see also Exhibit E.

37 *Id.*

38 *Id.*

39 See Exhibit E.

40 Meeting Summary, Public Information Meeting, p. 2-3, *located at*: <https://www.cityofevanston.org/home/showpublisheddocument/66471/637686765243470000>.

- iii. The inappropriate density level due to the height Variation will result in pedestrian and bicycle safety issues from increased traffic and congestion.

An increase of density resulting in an increase of traffic – both vehicle and foot/bicycle – will create increasing safety concerns for pedestrian and bicycle commuters. In fact, the “City has now initiated a preliminary environmental and design study (a Phase I study) to fully evaluate [pedestrian/bicycle safety] improvements. The objectives of the study are to improve safety for people walking across Church Street within the project limits, fill a gap in the bicycle network on Church Street between Dodge Avenue and the west city limits, and fill the gap in the trail network along the east side of the North Shore Channel between Dempster Street and Church Street, with the goal of improving safety and mobility for people walking and riding bikes within these corridors.”⁴¹ In other words, this study, in its initial Phase, has already deemed pedestrian and bike safety a problem at the Church Street and Dodge Avenue intersection area.

We are concerned that the increased density will result in safety concerns related to increased traffic for students, residents, business patrons, and commuters – including our employees, many of whom regularly walk and bike to and from work. As described above, various public comments on the Church Street Pedestrian and Bike Safety Improvement Plan, indicate that the area is already particularly busy, enough so that commenters expressed: (1) pedestrian crossing areas should be shortened to reduce crossing distances; (2) bike facilities should be located on another street with less vehicle traffic; and (3) excitement that “work will be done to improve pedestrian and bicyclist mobility, access, and safety.”⁴²

- iv. A large, dense development well beyond zoning height requirements will cause alley congestion and pedestrian/vehicle safety issues.

Our employees, ETHS students, residents, and children participating in Y.O.U. all regularly travel by foot, bicycle, and car through the rear/north alley, especially when necessary to avoid busy sidewalks and crawling traffic. In the alley, it is common to see neighbors traversing to-and-from their garages, students biking to and from school or activities, residents walking dogs or pushing strollers. It is a convenient and less chaotic way to navigate our immediate neighborhood, and casual observation suggests that it is largely utilized by the same individuals and vehicles, many of whom likely reside on the streets that back up onto the T-shaped alley that forks near our courtyard. It is also the route by which trash and recycling trucks traverse the neighborhood, and a single such truck can block one’s access to the alley.⁴³ The increased density from the height Variation will result in increased alley traffic, especially when coupled with the proposed parking garage entry, resulting in greater likelihood of injuries sustained by pedestrians using the alley.

41 Church Street Pedestrian and Bicycle Improvements, City of Evanston, *located at*: <https://www.cityofevanston.org/government/departments/public-works/engineering-construction/capital-improvement-program-projects/street-resurfacing-water-main-and-sewer/church-street-canal-park-bike-infrastructure>.

42 Meeting Summary, Public Information Meeting, p. 2-3, *located at*: <https://www.cityofevanston.org/home/showpublisheddocument/66471/637686765243470000>.

43 *See Exhibit X.*

- v. A five-story development will result in a dearth of parking in an area where local businesses rely on its availability for employees and customers.

Currently, patrons and employees of local businesses can typically find free parking within reasonable proximity of their destination. The density of the proposed HODC development will irreparably alter this, to the detriment of business employees and patrons. While parking is generally accessible, the City of Evanston published a “Parking Survey” within its Church Street Pedestrian and Bike Path Improvement Proposal, in which it illustrates that – even at midday – parking occupancy at Church Street and Dodge Avenue is between 80% and 100%.⁴⁴ Such a substantial increase in density will markedly worsen this issue to the detriment of residents and local business owners, including us.

2. “The requested Variation is in keeping with the intent of the zoning ordinance”

The Major height Variation within the HODC Proposal falls far outside the intent of the zoning ordinance. Instead, a building of five stories and 57’ in a neighborhood in which the surrounding buildings are 1 to 2 ½ stories on average,⁴⁵ will irreversibly change the character, style, scope, and feel of the neighborhood, in contravention of the City of Evanston’s General Comprehensive Plan (“Comprehensive General Plan” or “General Plan”).

- a. *The goals of the Comprehensive General Plan include throughout the “sensitive consideration of scale and design” to “preserve the quality of surrounding neighborhoods.”⁴⁶*

According to Evanston’s Comprehensive General Plan, while “a neighborhood’s boundaries may vary with each resident’s personal sense of place, many of the values attached to a neighborhood are shared.”⁴⁷ Each of these “shared values,” “including safety, reasonable protection from disturbances such as traffic, noise and pollution, access to public amenities and conveniences, and preservation of desirable physical surroundings—can in many ways be supported through public policies, including those presented in the Comprehensive General Plan.”⁴⁸ The City acknowledges that “[p]olicies and programs, such as zoning, building and housing codes, community policing, recreation programs, and parking and traffic management, are ways to support a high quality of life in neighborhoods.”⁴⁹ We request that the City follow the spirit and intent of its own Comprehensive General Plan related to zoning, building codes, and parking and

44 See Public Meeting Presentation, Church Street Pedestrian and Bike Path Improvement Proposal, at p.22, located at: <https://www.cityofevanston.org/home/showpublisheddocument/65400/637630879706470000>.

45 HODC Memorandum of 1/5/23, at p.4, located at: <https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>.

46 Comprehensive General Plan, City of Evanston, p. 30, located at: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.

47 Comprehensive General Plan, City of Evanston, p. 29, located at: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.

48 Comprehensive General Plan, City of Evanston, p. 29, located at: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.

49 Comprehensive General Plan, City of Evanston, p. 29, located at: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.

traffic management, to preserve the “high quality of life” in the neighborhood by rejecting a height variation that will increase density – and the complications that accompany overcrowded areas – to an untenable point.

- i. The Comprehensive General Plan recommends Zoning Ordinances be followed to preserve neighborhood scale, design, character, style, and scope.

Throughout its Comprehensive General Plan, the City of Evanston returns to a theme of balancing two interests: (1) the necessity of development, especially related to residential properties; and (2) the preservation of the very fabric of a neighborhood in scale, design, character, style, scope, and similar considerations.⁵⁰ Indeed, “[f]uture development and redevelopment in any neighborhood business district should maintain and enhance the existing streetscape character at the same time that it promotes vibrant commercial activity.”⁵¹ The “value of Evanston property...is enhanced both by new development and by the preservation of the community’s desirability. In recognition of the combined benefit of growth and preservation, many of the policies found throughout the Comprehensive General Plan emphasize redevelopment (such as that considered above) *within the context of the physical character of surrounding neighborhoods.*”⁵²

In balancing the above interests, the City elucidates a specific “Objective” that development “[r]ecognize[s] and support[s] the strong role neighborhood business districts play in Evanston’s economy and its identity,” listing corresponding “Policies/Actions” related to this Objective as the need to “Protect and enhance the traditional character of neighborhood business districts; carefully examine proposed design changes using the Zoning and Sign Ordinances, and site plan and appearance review.”⁵³

In fact, the City addresses the unique nature of the Church Street/Dodge Avenue area, emphasizing the sensitivity that should be applied to any planning in the area:

“Follow-up studies of other corridors are encouraged to identify more specific priorities for potential redevelopment. Examples include portions of Dodge Avenue and Central Street. The potential for new multifamily residential, commercial or mixed-use development along these corridors should be given careful consideration. Scale and design should be compatible with surrounding neighborhoods, particularly low-density, single-family areas.”⁵⁴

50 See generally Comprehensive General Plan, City of Evanston, *located at*: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.
51 *Id.* at p.46, *located at*: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.
52 *Id.* at p. 23, *located at*: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000> (emphasis added).
53 *Id.* at p.42-3, *located at*: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.
54 *Id.* at p. 21, *located at*: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.

The General Plan recognizes that where Variations to the Zoning Code are considered, the neighborhood, community, and adjoining properties are directly affected. The General Plan explains:

“To be sure, whenever changes in the type or scale of land use are proposed, concerns can arise over compatibility with surrounding uses. Potential ‘spillover effects,’ such as parking and traffic congestion or aesthetic conflicts, can detract from the quality of any neighborhood....To evaluate and improve compatibility in the redevelopment planning process, the City’s Zoning Ordinance – which regulates land use, building height and bulk--and the Site Plan and Appearance Review Process [] must be combined with the general vision of this document to stimulate growth and preserve the quality ambience for which Evanston is known.”⁵⁵

It is clear from the above that the Comprehensive General Plan considers the preservation of a neighborhood’s character, scope, scale, and style to be a priority. HODC proposes a five-story development when no buildings in the area reach a height remotely that tall. Per City staff, “[e]xisting nearby buildings range between 1 – 2 ½ stories in height.”⁵⁶ ETHS is indeed designed with several distinct, taller, towered, and finial elements, but these are exceptions to the building’s overall height and are distinct outstanding architectural features rather than an uninterrupted horizontal height line as proposed by HODC. Any comparison of the height of ETHS to the HODC Proposal is therefore incongruous.

In all, a building that is at minimum 2 ½ stories taller than surrounding buildings qualifies as an egregious Variation in height that is distinctly out-of-character with the Church Street/Dodge Avenue area, and certainly with that of the R4 residential neighborhoods to the Parcel’s north and south. The City touts Evanston’s “urban/suburban mix, which makes Evanston distinct from other suburbs.”⁵⁷ The addition of a 57’ structure along the Church Street corridor here will undoubtedly shift this portion of the streetscape from one which is a blend of “urban/suburban,” to one that is instead distinctly-urban in nature.

Additionally, considerations for development of the West Evanston neighborhood appear to consider 3-story developments as the most amenable to the neighborhood’s character, as within the West TIF District Sub-Area #3 Final Report, which includes three neighborhood “Plan Alternatives” considered by the community, attached as Exhibit S to these materials.⁵⁸

Zoning codes exist for a reason: to ensure neighborhoods are not unilaterally adversely affected and transformed by new structures and developments that inalterable change their character,

55 *Id.* atp. 23-4, *located at:*
<https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.
56 HODC Memorandum of 1/5/23, at p.4, *located at:*
<https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>.
57 Comprehensive General Plan, City of Evanston, p. 23, *located at:*
<https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.
58 *See* Exhibit S.

appearance, and feel. To request a height Variation so far outside the scope of the Code makes superfluous the City's Code and its intended purpose. Why have a Code at all if the City is willing to essentially work outside of its scope altogether? Instead of proposing a development of a more appropriate scale – such as a three-story development – HODC brings forth a proposal that does nothing to retain the spirit, scope, and style of the neighborhood and instead coopts the neighborhood feel to one that is entirely different than what exists in the area today.

In 2006, Carlis Sutton stated the following in response to the 2006 HODC Proposal:

“The [streets of Darrow Avenue, Dodge Avenue, Church Street, Lyons Street, and Emerson Street comprise] a residential neighborhood made up primarily of single family homes, with some two flats, four flats and several town homes. Our area includes three single family houses built for affordable housing and we welcome more affordable housing projects that are in the same character and scale as our neighborhood. In contrast, the proposed project for Darrow and Church is a four story, residential building with 27 apartments. The residents and landowners in this area value the essential character of our neighborhood and one of our highest priorities is to preserve this character as we work to revitalize it. It represents the quality of life that brought us to this area and that we desire to maintain.

We oppose the planned development for Church and Darrow. One, because it is contrary to our vision of the area we call our home. Two, because it will have a negative impact on our neighborhood. And three, because there are viable alternatives both for commercial development and at that target site and for smaller scale affordable housing projects in our neighborhood.”⁵⁹

In sum, the extreme height Variation contradicts the City's own Comprehensive General Plan and Zoning Code by coopting the scale, scope, character, and style of the neighborhood and the relevant streetscape, and should be rejected by the Land Use Commission accordingly.

- ii. The Comprehensive General Plan prioritizes the preservation of Evanston Historic properties as an integral part of city planning.

As part of its intent to preserve each neighborhood's character, scale, scale and scope, Evanston incorporates the protection of unique and historic properties. The General Plan focuses on “[s]upport[ing] efforts that maintain the architectural integrity of Evanston's large historic properties,” and [e]ncourage creative adaptive reuse of properties available for redevelopment using zoning standards and the Site Plan and Appearance Review process to protect historic

59 Minutes of May 22, 2006, Planning and Development Committee, attached hereto as Exhibit O, p.15-16.

character.”⁶⁰ Indeed, the City has tasked itself with “[c]ontinu[ing] [to] assist[] neighborhoods to recognize and preserve their own historically significant assets.”⁶¹

Rather than respecting and aiding in the preservation of the historic character of the neighborhood, including the Historic Landmark adjoining the proposed development, the HODC Proposal hijacks it. It proposes an increase in height that is so substantial that the historic character of the streetscape will dramatically shift. Rather than appearing as a historically residential neighborhood with a small business corridor focused on serving area residents who can walk to access everyday needs, the neighborhood will inevitably appear commercial and dense in nature. The height Variation will result in a building that dwarfs all those surrounding and near it, resulting in a streetscape that no longer reflects its measured historic origins.

- iii. An objective of the Comprehensive General Plan is to ensure traffic does not worsen and parking remains accessible for residents.

The City’s Comprehensive General Plan states, as it relates to considerations of new developments, that “[p]arking requirements should be sufficient to meet the needs of new residents and to prevent a shortage of on-street parking.”⁶² Further, “[p]arking improvements should be considered to increase the supply of spaces and improve the quality of existing spaces where needed. Both parking and circulation [] should be the subject of further study and strategic planning in order to remedy traffic problems that may detract from the vitality of these business areas.”⁶³

Within neighborhoods, the City expresses its intent to “[m]inimize the adverse effects of such circumstances as traffic and parking congestion or incompatible hours of operation as part of City technical assistance or zoning/site plan review of businesses and institutions proposing expansion or relocation to sites adjacent to residential areas.”⁶⁴ Streets within Evanston are classified as one of four types: Major/Arterial Streets; Collector Streets; Distributor Streets; or Local Streets.⁶⁵ Both Church Street and Dodge Avenue are qualified as Major/Arterial Streets by the City.⁶⁶ However:

60 Comprehensive General Plan, City of Evanston, p. 33-4, 25, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/33310/6365013923980000001>.

61 *Id.* at p. 25-6, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/33310/6365013923980000001>.

62 *Id.* at p. 30, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/33310/6365013923980000001>.

63 *Id.* at p. 46, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/33310/6365013923980000001>.

64 *Id.* at p. 25, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/33310/6365013923980000001>.

65 *Id.* at p. 93, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/33310/6365013923980000001>
(emphasis added).

66 *Id.* at p. 93, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/33310/6365013923980000001>
(emphasis added).

“[a]t times, the distinctions as listed [] can become blurred. The reality tends to be that, as traffic congestion accumulates on major streets, drivers will attempt to circumnavigate and use the next closest street. This situation adds to the traffic pressure and is a cause for frustration and safety concerns.”⁶⁷

Former Alderman Bernstein stated of the Church Street/Dodge Avenue area: “parking is very important in that area,” explaining that the HODC 2006 Proposal required the City to “develop 30 additional spaces” to accommodate the development.⁶⁸ In other words, parking at the time of the 2006 Proposal was already overburdened to such an extent that the City had to alter parking regulations through “modification of allowing parking on both sides of the street, or allowing parking in places where parking was restricted previously.”⁶⁹ As the Church Street/Dodge Avenue area has become more dense over the intervening 17 years, parking has arguably become scarcer.

The HODC Proposal increases density through its requested height Variation so substantially that – even with on-site parking – parking will become more of a scarcity in the area, harming area businesses and residents, in contravention of the Zoning Code and General Comprehensive Plan. The HODC Proposal does not discuss whether its residents will be encouraged to obtain local resident parking permits for the neighborhood, or whether they intend to require residents to park on-site. If HODC residents do obtain residential parking permits, this will further exacerbate parking issues for existing residents and will require far more City services to monitor parking enforcement.⁷⁰ Such density will create more traffic chaos – rideshare drivers stopped with their hazard lights on in active lanes of traffic (as can often be seen on Ridge Avenue near the large apartment buildings), food delivery and grocery drop-offs blocking loading zones or alleys, and cars parked in no-parking zones as occupants run quick errands – to the detriment of the businesses that rely upon the availability of parking in the area.

- iv. The Comprehensive General Plan prioritizes the inclusion of neighborhood residents in reaching planning solutions.

The Comprehensive General Plan additionally emphasizes the importance of working with residents and businesses within neighborhoods in which significant development is proposed.⁷¹ We submit that – where multiple, significant Major Variations are at issue – the goal of collaboration becomes more critically important.

67 *Id.* at p. 23-4, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>
(emphasis added).

68 Minutes of May 22, 2006, Planning and Development Committee, attached hereto as Exhibit O, p. 55-57.

69 *Id.* at, p.6.

70 *See* Exhibit V.

71 Comprehensive General Plan, City of Evanston, p. 21, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/33310/6365013923980000001>
Plan, City of Evanston, p. 40, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.

As it relates to the Church Street/Dodge Avenue area specifically, the General Plan explains that the growth and redevelopment of the business, commercial, and industrial areas should include “[w]ork[ing] collaboratively with the neighborhood residents and businesses, representatives from the high school, lending institutions, and City staff to enhance the Church Street/Dodge Avenue business area.”⁷²

In this case, no task force or other community group was offered by the developer or the City to work collaboratively on mutually-agreeable scope and scale considerations for a new residential development in the area.⁷³ No consideration of area residents was offered regarding scale and design as compatible with the neighborhood. Instead, HODC submitted plans, documentation, and design proposals to the City without involving neighbors and constituents, leaving all such constituents in a position where we must work to understand and comment on the project within a very truncated amount of time, contrary to the spirit and intent of the General Plan.

Even so, Evanston’s past involvement with constituents of the West Evanston neighborhood have been instructive. Indeed, the West Evanston Neighborhood Plan “grew out of a vibrant community process that consisted of a series of stakeholder conversations and community meetings over just over a six-month period.”⁷⁴ During this community process a “number of specific themes evolved...[that] comprise what may be considered a consensus program for the planning and design for West Evanston,” including: “[m]aintaining elements of the traditional social, cultural and historical character of the neighborhood is important;” “[t]he Church & Dodge streetscape should be people-friendly, and should include curbside parking, widened sidewalks, and improved landscape and lighting;” “[t]he community desires well-lit people-friendly streetscapes that provide attractive arrivals and entries to the Church & Dodge intersection and the West Evanston neighborhood;” “[p]roviding generous greenways, trails, and landscaped buffers, and preserving existing & adding new open spaces are important to the community”; “The Dodge Avenue streetscape needs to provide adequate traffic flow, safe drop-off conditions at the front of ETHS, and improved pedestrian crossings;” “[t]here is a trade-off between density and residential sales prices – the higher the density, the lower the potential sales prices, and vice versa.”⁷⁵ None of these considerations were addressed by HODC here.

It is clear, upon reviewing documents related to the 2006 Proposal, that the developer takes a similar approach today as it did 17 years ago, in what appears to be a pattern of practice. Carlis Sutton described the developer’s approach in 2006, stating:

72 *Id.* at p. 40, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.

73 *See* Comprehensive General Plan, City of Evanston, p. 21, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.
(demonstrating previous work by the City to utilize task forces of area residents to address Church Street/Dodge Avenue planning).

74 West Evanston Final Report, City of Evanston TIF District Sub-Area #3, West Evanston, at p. 3, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/4022/636224209248000000>.

75 *Id.* at p. 4, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/4022/636224209248000000>

“The Zoning Ordinance and Adopted Plans makes protection of residential neighborhoods the top priority. We, as stakeholders, are mandated that any development conform to the Standards and the Tests. Is there something about my particular neighborhood that makes it ineligible for these protections? What excludes us?”

We have a sterling opportunity this evening to observe where the intent of the law and the concerns of the neighbors are in agreement. Don’t facilitate a political decision to move this development on without visualizing the harm that this message will send out. The citizens concerns don’t count. Zoning laws are not important. City plans and citizen participation are irrelevant.”

Virtually all the discussion that I’ve heard this evening and before the Task Force, has been about the occupants of the building and how to improve things for them. But the Developer expressed little or no interest in addressing the harm to the neighborhood, and did not agree to any corrections to reduce this harm.”⁷⁶

It is clear that – as before – this Proposal involves no collaboration as envisioned by the City; instead it is an effective means of pushing through a planned development contravening relevant ordinances with a unilateral viewpoint as its sole support.⁷⁷ Considering the approach taken in this Proposal, we request that the Land Use Commission reject the requested height Variation as contrary to the spirit and intent of the Zoning Code.

- b. *A development of this height and scale would be better implemented in a B3 district with buildings of similar height and footprint.*

The Parcels at issue are within the oWE West Overlay District within a B2 District. Our understanding is that the City is considering elimination of Overlay Districts in part due to the substantial cost of implementing the requirements of the Code in each Overlay area. While the City continues to consider the issue, the Overlay District regulations remain in effect.

The oWE West Evanston Overlay District includes zoning regulations that require that redevelopment include street extensions with “extensive” storm water retention, curbs, sidewalks, street lights, etc. and “dedication of that land back to the City.”⁷⁸ With regard to this, City staff explains “[w]hile the street extensions are ideal for linking existing blocks and fulfilling complete-streets with multimodal access, doing so is cost prohibitive, may increase vehicular traffic in existing neighborhoods, and removes private property from the property tax base once dedicated back to the City. Additionally, once constructed, the new streets, sidewalks, storm water, and

76 Minutes of May 22, 2006, Planning and Development Committee, attached hereto as Exhibit O, p.11-12.

77 See also The Village of Wilmette, Additional Agenda Material, dated Apr. 9, 2018, located at: https://www.wilmette.com/download/agendas_and_minutes/village_board/packets/archive/2018/additional_agenda_material/Additional-Agenda-Material-04-10-18.pdf (asserting pattern of practice by HODC that fails to involve residents).

78 Memorandum re: Discussion of the West Evanston Plan & Overlay Area and its impact on current and future development, Melissa Klotz, Oct. 24, 2022, p. 2.

other infrastructure requires life-long maintenance by the City.”⁷⁹ In other words, implementation of a project with such significant Major Variations, including as it relates to height, will necessitate infrastructure changes that in fact add significant costs to the City’s already-burdened coffers.

Considering that a residential development *without* Major Variations would add a financial burden to the City here, it follows that the addition of two additional stories (and a marked footprint increase related to setback Variation requests) resulting in significant increases in density, will add a significant financial burden to the City related to heightened, perpetual maintenance.

In distinct difference, Evanston B3 Commercial Districts provide for a significantly more appropriate location for a five-story building. B3 Districts “[p]rovide for higher density business development at compact locations adjacent to mass transit facilities that can support intense business uses and accommodate greater building heights than the B1 and B2 business districts.”⁸⁰ Specifically related to residential density, “increased residential density should be supported along major mixed use corridors such as Chicago Avenue or Central Street where it can also be oriented towards mass transit service.”⁸¹ Further “The current zoning regulations for certain segments of the Chicago Avenue corridor allow increased density of residential activity mixed with storefront uses at the ground floor. This increased density would take advantage of the excellent mass transit access by bus, three CTA stations, and one Metra station in the corridor.”⁸²

West Evanston “has a number of important community anchors, notably the many neighborhood churches and the small retail and service establishments centered at the Church [and] Dodge intersection.”⁸³ As was the case in the 2006 Proposal by HODC, “this project may well be suited for other areas,” but is not “appropriate for that particular area.”⁸⁴

3. “The alleged hardship or practical difficulty is peculiar to the property”

In response to this Standard for Approval, HODC submits: “The property consists of vacant lots on a developed block. Compliance would not allow the new building to fit into the neighborhood or provide amenities necessary to create an attractive structure.”⁸⁵ The developer admits directly that it will be building on a “nearly vacant lot.” Indeed, a “nearly vacant lot” is one with the

79 Memorandum re: Discussion of the West Evanston Plan & Overlay Area and its impact on current and future development, Melissa Klotz, Oct. 24, 2022, p. 2.

80 Comprehensive General Plan, City of Evanston, p. 39, *located at*: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.

81 *Id.* at p.39, *located at*: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.

82 *Id.* at p.47, *located at*: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.

83 See West Evanston Final Report, City of Evanston TIF District Sub-Area #3, West Evanston, at p. 1, *located at*:

<https://www.cityofevanston.org/home/showpublisheddocument/4022/636224209248000000>.

84 Minutes of May 22, 2006, Statements of Alderman Bernstein, Planning and Development Committee, attached hereto as Exhibit O, p. 55-57.

85 HODC Requested Variations Application, p.4, *located within Land Use Commission Packet, Jan. 11, 2023 at*: <https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>.

fewest restrictions possible. The “parcel” at issue is not limited. In fact, there are five Parcels at issue, rather than one to which HODC is confined. HODC and Mt. Pisgah Ministry intend to come to an agreement wherein they redraw the property lines and redivide the five parcels into two. Accordingly, the HODC-proposed parcel could be drawn to be wider so that it could have the same number of dwelling units without the height, or in myriad other ways that thoughtfully consider design related to the neighborhood and provide needed housing.

HODC provides a very narrow narrative in which it asserts that its proposed project must be five stories in height, and extend to the edges of the property lines without any setback, even though HODC is the one redrawing the property lines for itself. One cannot have it both ways. HODC has the flexibility to redraw the parcels and property lines in whatever fashion and scope it chooses and agrees upon with Mt. Pisgah. And yet, HODC has redrawn these property lines itself and *even then* has asked for Major Variations related to height, scope, and scale within the property lines that it *self-selected*. We submit that the requested scope of this project is not dictated by any peculiarity to the property, but rather is due to the manner in which HODC has itself redrawn the Parcel property lines for its future use.

In the words of Carlis Sutton regarding the HODC 2006 Proposal:

“The tragic fallacy of this disagreement is the notion that neighborhood values have to be compromised to achieve affordable housing goals. They do not! Affordable housing and neighborhood preservation can be achieved compatibly and harmoniously by planning affordable housing projects that fit the particular character of Evanston’s diverse neighborhoods. We, who embrace these values on both sides of this issue, should not have been forced into this avoidable and disheartening dilemma.”⁸⁶

Indeed, HODC is beginning with a space that can be designed in an expansive variety of ways while also meeting community goals of erecting affordable housing units. This is not an all-or-nothing puzzle to be solved, nor is there a single solution to designing such a property.

We ask the LUC to recognize that, instead of presenting a practical difficulty or hardship peculiar to the property, HODC has been presented with a blank slate upon which it could design “an attractive structure” that meets the Zoning Code, or at minimum, does not exceed the height requirements of the oWE West Evanston Overlay District.

4. “The property owner would suffer a particular hardship or practical difficulty as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out”

We raise first here a construct of statutory interpretation. The instant Standard for Approval requires that the “property owner” would suffer a particular hardship or practical difficulty.⁸⁷ We

86 Minutes of May 22, 2006, Planning and Development Committee, attached hereto as Exhibit O, p. 18.

87 Municipal Code, 6-3-8-12(E).

assert that as a company which is not the “property owner” of any of the Parcels at issue, HODC cannot meet this Standard for Approval.

Even should the Land Use Commission consider that this Standard for Approval may be met, despite that the Applicant and the property owners are definitively distinct, HODC cannot meet the elements of this Standard. In response to this Standard, HODC writes:

“It would not be feasible to construct the new building if the regulations were followed. The City’s Consolidated Plan describes the extensive need for affordable housing and compliance would reduce the number of units making the project infeasible and reducing the positive impact to reach the City’s goal of more affordable units. The proposed building includes new retail space to serve the community. The residential portion includes community space, storage, on-site management, laundry, a roof deck and other amenities for building residents. The building would not be able to function and serve its community if the building were to be constructed in strict conformance with Zoning Ordinance requirements since there would not be adequate space for these features.”⁸⁸

This answer does four things. First, it fails to answer with specificity what particular hardship or practical difficulty would exist, as opposed to a mere inconvenience. We struggle to understand what the actual substantive hardship demonstrated here is. We request that the LUC place the burden on the Applicant, as is appropriate with such requests, to demonstrate HODC’s particular hardships with respect to each particular variation.

Second, HODC’s assertion is an all-or-nothing statement wherein HODC essentially states that either all of the Major Variation requests be granted, or the project becomes “infeasible.” This is disingenuous at best, as HODC could rescind certain specific Major Variation requests, could scale back the scope of specific variation requests, and could alter its plans to include fewer amenities.

Third, the statement that “[t]he building would not be able to function and serve its community...since there would not be adequate space for these features” (*i.e.*, the amenities), offers a flawed narrative. Without each of the listed amenities, the development could still feasibly and concretely “function and serve its community.” The loss of one or several of these potential amenities rises to the level of a “mere inconvenience,” rather than a particular hardship or practical difficulty.

Amenities are not typically understood to be essentials. Indeed, that is why they are called ‘amenities,’⁸⁹ and vary in their nature. The amenities to be included in the new development include: a library, lounge space, office space, community space, laundry, storage, on-site

88 HODC Requested Variations Application, p.4, *located within Land Use Commission Packet, Jan. 11, 2023 at: <https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>.*

89 *See e.g., Merriam-Webster, located at: <https://www.merriam-webster.com/dictionary/amenity> (defining ‘amenity’ as “something that helps to provide comfort, convenience, or enjoyment”; “the attractiveness and value of real estate or of a residential structure”; “a feature conducive to such attractiveness and value”).*

management, roof deck, and a trash room.⁹⁰ Future residents might consider on-site laundry and trash room to be more important than – for example – a community space. The developer’s arguments here should allow for room to adjust these amenities to scale down the scope of the proposed project. These statements regarding the amenities provide value to subjective determinations of what future residents might find important to them, placing each on equal footing as essential elements of the development. Again, the developer, as the Applicant, must be able to adapt these optional building characteristics and features to – at minimum – compromise on the scope and scale of this proposed project, especially as it relates to height.

Fourth and finally, this argument makes the unilateral assumption that the City’s Consolidated Plan and the City of Evanston itself has one goal and one goal only: affordable housing. While affordable housing is – *and should be* – a priority goal of the City, it is not – and should not be – its *only* goal. The City must also consider neighborhood density and character, the intent of the zoning code, the historic character of existing neighborhood buildings, pedestrian and bike safety related to over-crowding of the area – especially as it relates to EHS students –, traffic and parking concerns in an area that is already problematic in both regards, the dangers of digging out a biohazard-heavy site and exposing neighbors and passing teenage students to potentially toxic dust and debris, stormwater and flooding concerns, and related issues.

We argue that – especially when taken together – these concerns should rise to the level of those that the City must consider and balance against other needs. Especially considering that the issue here is *not* affordable housing, but rather the scope and scale of the requested Major Variations put forth by HODC. HODC could build affordable housing – thereby meeting the City’s “extensive need for affordable housing” – while constructing a building less vast and monolithic in nature, and which requests no variations, fewer variations, or variations which are smaller in scope.

To once again incorporate the eloquent words of Carlis Sutton from 2006:

“Opposition to this project by the Council may be mis-construed as a lack of support for affordable housing efforts and there is pressure to quickly initiate development activities...Despite these great pressures, City Council should not accept this plan without major changes to conform to the character and needs of our area. The intention of this neighborhood, to preserve its character, should not be sacrificed to achieve another community goal no matter how invested the project is. Especially where there are compatible alternatives. We’re being asked, under the banner of affordable housing, to sacrifice our long-term best interests to benefit the short-term interests of an other invested party’s.”⁹¹

90 HODC Memorandum of 1/5/23, at p.4, *located at*:

<https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>.

91 Minutes of May 22, 2006, Planning and Development Committee, attached hereto as Exhibit O, p. 19.

We accordingly request that the LUC view the requested height Variation in light of the other considerations at issue and find that no particular hardship or practical difficulty exists with regard to this Major Variation.

5. “(a) The purpose of the variation is not based exclusively upon a desire to extract additional income from the property, or (b) while the grant of a variation will result in additional income to the applicant and while the applicant for the variation may not have demonstrated that the application is not based exclusively upon a desire to extract additional income from the property, the Land Use Commission or the City Council, depending on the final jurisdiction under Section 6-3-8-2, has found that public benefits to the surrounding neighborhood and the City as a whole will be derived from approval of the variation, that include, but are not limited to, any of the standards of Section 6-3-6-3 – Public Benefits”

HODC answers the above as follows: “The purpose of the variation is not based exclusively upon a desire to extract income from the property. The development will provide affordable housing for low-income households and neighborhood retail. The rents will be below-market so there will be no financial benefit to allowing the variances. The new building will create benefits to the community that will be realized if the variations are granted such as new retail space and sales taxes, real estate taxes, community space, management office, ADA-compliant units, adequate parking, and building security.”⁹² This argument falls flat for several reasons.

First, our understanding is that the City will donate this lot to HODC. The mechanics of the transaction are not entirely clear to us. As it stands, the City owns the lot at 1801-1805 Church Street. However, the Mt. Pisgah Proposal is slated to be located on this property. HODC’s development would be located where the Mt. Pisgah Church currently stands. The lot in and of itself has significant value that appears to result in an economic windfall to HODC. According to news sources, in February of 2012, the lot at 1801-05 Church Street was appraised at a value of \$340,000.⁹³ If the 1801-1805 lot was valued at \$340,000 in 2012, after the 2008 housing market crash, and we can extrapolate that the land comprising the 1811-1815 lot was worth a similar amount at that time, it would follow that each lot is worth significantly more today. HODC does indeed stand to gain a significant financial advantage from obtaining this land.

92 HODC Requested Variations Application, p. 4, *located within Land Use Commission Packet, Jan. 11, 2023 at: <https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>.*

93 *See, “City May Acquire Former Gas Station Site at Church and Darrow,” Jennifer Fisher, Jun. 13, 2012, located at: <https://patch.com/illinois/evanston/city-may-acquire-former-gas-station-site-at-church-and-darrow> (“In February, the lot at 1801-05 Church St. was appraised at \$340,000, according to [former economic development coordinator, Paul] Zalmezak. However, property owner Daniel Cheifetz owes some \$45,000 in back taxes, penalties and fees, and based on preliminary conversations with Cheifetz, the city believes it can acquire the property for \$127,000, Zalmezak said. Cheifetz is known locally for his role as director of Enterprise Development Foundation. ... Including environmental studies, remediation costs and purchase price, Zalmezak estimated that the total acquisition costs for 1801-05 Church St. would be about \$217,000, well below the site’s appraised value. ‘It’s kind of a rare opportunity to get a property that’s significantly below market,’ Zalmezak said”).*

Additionally, HODC will retain ownership of the property and will manage it themselves. Within the sector of residential real estate, it is typically understood that the best means of maximizing profit is through dual ownership-management relationships. HODC will also own and manage the four ground-floor commercial properties, which will result in a more significant income source. Between HODC's retention and management of the residential and commercial property, and the City's Parcel donation to the Applicant, HODC will profit considerably.

HODC will receive \$18,000,000 in various sources of funding as well as \$4,000,000 from the City of Evanston. Even absent any value conferred from the City's donation of the relevant Parcels, the dwelling units appear to require around \$500,000 per each of the 44 units. In 2006, when the City considered HODC's 2006 Proposal, City legislators took issue with the per-unit dwelling cost as follows:

“So when I look at a project from a zoning aspect and it calls upon me to extend variations, I then look to public benefit. And to me, the public benefits here are too remote. And too obscure, and too, too iffy. There are no guarantees in this plan....This is six million dollars that's going to be spent for affordable housing....to me, \$389,000 rental units are really expensive units....I was not excited about the project initially because I know the people who are objecting. And I know their commitment to the community. And I know they're good people....I just think that there's too much, too much fat in this particular budget for a couple not-for-profits and too little benefit for the public.”⁹⁴

The City previously took issue with units valued at \$389,000 each. It follows that, even with inflation, units valued at \$500,000 should be carefully considered by the LUC as it relates to the instant Standard for Approval, as per the reasoning above.

As such, to request a marked height Variation to add a large number of dwelling units to the development – resulting in remuneration through rent, and per-unit management fees, if HODC utilizes such a model – appears on its face to result from a desire to extract additional income from the proposed height Variation. HODC's assertion that “[t]he rents will be below-market so there will be no financial benefit to allowing the variances[,]” obfuscates the fact that much of HODC's financial benefit will come from the long-term management of the units. The more units they construct, the more management fees they will pay themselves; the below-market rents they intend to offer are a red herring.

a. Public Benefits will not result from a Major Height Variation of two stories.

Even if the Land Use Commission does not deem the financial windfall to HODC to be based upon the exclusive desire to extract additional income from the property, public benefits (“Public Benefit(s)”) to the neighborhood as a whole will not be derived from a Major Variation approval of two additional stories.

94 Minutes of May 22, 2006, Planning and Development Committee, attached hereto as Exhibit O, p. 58.

We list each Public Benefit for consideration below and respond to each in turn.

- “preservation and enhancement of desirable site characteristics and open space”;

As discussed at length above, and incorporated here by reference, height does not preserve and enhance characteristics of the site, but will instead dominate and dwarf the neighborhood’s characteristics and streetscape.

- “a pattern of development which preserves natural vegetation, topographic and geologic features”;

Rather than preserving natural vegetation and related features, the Variation in height will disturb natural vegetation and topographic features by blocking light.

- “preservation and enhancement of historic and natural resources that significantly contribute to the character of the City”;

Instead of preserving and enhancing historic and natural resources, such as the adjoining Historic Landmark property, the height Variation will cause potential damage to such historic and natural resources. The height Variation will detract from the appearance of surrounding properties in a manner that conflicts with the City’s goals of preservation and enhancement.

Indeed, “although a neighborhood's boundaries may vary with each resident's personal sense of place, many of the values attached to a neighborhood are shared. Shared values--including safety, reasonable protection from disturbances such as traffic, noise and pollution, access to public amenities and conveniences, and preservation of desirable physical surroundings--can in many ways be supported through public policies, including those presented in the Comprehensive General Plan. Policies and programs, such as zoning, building and housing codes, community policing, recreation programs, and parking and traffic management, are ways to support a high quality of life in neighborhoods.”⁹⁵

- “use of design, landscape, or architectural features to create a pleasing environment or other special development features”;

The height of the building will disrupt and detract from the environment and fabric of the area, rather than creating a pleasing environment.

We request that the City consider its own language stating:

“Those buying property adjacent to a different classification of land use should anticipate that the future could bring a change in the scale or nature of activity at that location. *Likewise, those intending to develop property adjacent to different zoning districts are encouraged to be sensitive to the impact of their*

95 Comprehensive General Plan, City of Evanston, p. 29, located at: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.

designs, particularly if they will adjoin single-family residential areas. As a policy, the City should work to offset adverse effects (such as traffic and parking congestion or incompatible hours of operation) as part of its technical assistance, zoning regulation, and site plan review for businesses and institutions proposing expansion or relocation to sites adjacent to residential areas.”⁹⁶

Despite City guidelines, HODC has not given sensitivity to the impacts of the design and architectural features on the neighborhood with the proposed height variation.

Further, HODC’s claims that it will contribute to surrounding greenscape are hollow and slap-dash. As an afterthought, HODC added planters to the front of its stark building – but having already planned development for almost every inch of its intended property, it “placed” those planters on the public sidewalk in front of its building. This is a demonstrative illustration of HODC’s lack of sensitivity for the manner in which its proposed building might impact the surrounding neighborhood, and it is addressed in greater detail below.

- “provision of a variety of housing types in accordance with the City’s housing goals”;

While the HODC Proposal provides housing, this sole factor is not outweighed by the above arguments. Additionally, as in 2006, none of the proposed dwelling units are rent-to-own, offer immediate home ownership, use a co-op model, or otherwise create an affordable home ownership option. Home ownership should be a large part of the focus in creating affordable housing. Studies indicate that the creation of generational wealth is a critical part of removing individuals and families from the cycle of poverty:

“Low-income households and households of color have limited access to home-ownership because of barriers such as limited supply of affordable housing, restricted access to credit, and systemic inequities. For those low-income households and households of color, homeownership can be a catalyst to wealth building....[H]omeownership promotes wealth building by acting as a forced savings mechanism and through home value appreciation....Home value appreciation also helps homeowners build wealth by enabling them to realize greater proceeds if they sell the home or borrow against the additional equity. In addition, owning a home promotes intergenerational homeownership and wealth building. Children of homeowners transition to homeownership earlier – lengthening the period over which they can accumulate wealth – and have homeownership rates 25 percentage points higher than the rate of children of renters.”⁹⁷

96 *Id.* at p. 30, located at: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000> (emphasis added.)

97 How Does Homeownership Contribute to Wealth Building, Habitat for Humanity, p. 1-2, located at: file:///C:/Users/premi/Downloads/Evidence-Brief_Wealth-building-for-homeowners_0.pdf (citing, Boehm, T.P., and Schlottmann, A.M. Housing and Wealth Accumulation: Intergenerational Impacts.

HODC's Proposal makes no room for home ownership. Were home ownership options available for units at the proposed development, the Public Benefit element related to housing would involve a different calculus and arguably hold more weight.

- “elimination of blighted structures or incompatible uses through redevelopment or rehabilitation”;

No blighted structures are being removed to accommodate the HODC Proposal. Instead a church which has been in Evanston for many years is being demolished to accommodate the development. Regardless, the height variation will not create any underlying difference related to this Public Benefit consideration.

- “business, commercial, and manufacturing development to enhance the local economy and strengthen the tax base”;

While a new property will add to Evanston's tax base, the development would do so absent any height Variations. Further, HODC is a 501(c)(3), and while they have stated that the Parcels will be returned to the property tax rolls, they have not made any commitment about how long they might remain there before HODC requests non-profit property tax relief.

- “the efficient use of the land resulting in more economic networks of utilities, streets, schools, public grounds, buildings, and other facilities”; or

Again, any use of the land – whether or not deemed efficient – would exist without the marked height variation.

- “the substantial incorporation of generally recognized sustainable design practices and/or building materials to promote energy conservation and improve environmental quality, such as level silver or higher LEED (leadership in energy and environmental design) certification.”

None of these goals are advanced by increasing the height in such a drastic manner.

In the words of former Alderman Bernstein, with regard to the 2006 Proposal by HODC, which we reiterate was significantly lower in height and smaller in scale: “when I look at a project from a zoning aspect and it calls upon me to extend variations, I then look to public benefit. And to me, the public benefits here are too remote. And too obscure, and too, too iffy. There are no guarantees in this plan....I think that this project may well be suited for other areas. But I just don't think it's appropriate for that particular area.”⁹⁸

Joint Center for Housing Studies of Harvard University; 2001:24, <https://www.jchs.harvard.edu/sites/default/files/media/imp/liho01-15.pdf>; Boehm, T.P., and Schlottmann, A.M. “Does Home Ownership by Parents Have an Economic Impact on Their Children?” *Journal of Housing Economics*. 1999;8(3):217-232, doi:10.1006/jhec.1999.0248).
98 Minutes of May 22, 2006, Planning and Development Committee, attached hereto as Exhibit O, p. 55-57

We seek to focus the LUC on the consideration of each *requested Variation* as a purported Public Benefit. HODC appears to focus on the Public Benefit of an affordable housing complex generally. This is not the consideration at issue here. Instead, the LUC is tasked with determining how each particular Variation request will act as a Public Benefit, rather than assessing the Public Benefits of the Proposal as a whole.

We accordingly submit that the height Variation will result in additional income to HODC, which is not outweighed by Public Benefits to the neighborhood derived from a two-story height increase beyond what is allowed in the City's Zoning Code. Instead, the requested Variation in height will offer few, if any, Public Benefits, while simultaneously providing additional income to HODC through a much greater number of dwelling units from which HODC can collect a variety of income streams.

6. “The alleged difficulty or hardship has not been created by any person having an interest in the property”

In response to this Standard for Approval, HODC explains: “Building new affordable housing with retail on a nearly vacant lot will enhance the overall community as well as this block. The hardship is created by the limitations of the parcel itself which is located in a built-out community and part of a larger redevelopment effort to improve the neighborhood.”⁹⁹ As discussed in depth above under Standard for Approval (3) above, HODC will be building on a “nearly vacant lot.” Again, HODC and Mt. Pisgah have carte blanche to design their division of the Parcels in the way that best suits each. To redraw the five Parcels according to their own preferences, and then assert that the developments will only work with seven Major Variations *per Applicant*, including a height increase of two stories, is arguably the very definition of self-creating a particular difficulty or hardship.

Instead of creating its own purported particular difficulty or hardship necessitating a substantial and disruptive height Variation, HODC could choose to divide the Parcels in a manner that better suits the number of desired dwelling units. It could also offer fewer dwelling units, fewer amenities, fewer or no ground floor commercial spaces, or a variety of other combinations of the above.

On its face, it appears that HODC proposes the current project in the same manner in which it proposed its 2006 project for the same site: with a “take it or leave it” approach. In 2006, Mr. Sutton made the following statement about the 2006 Proposal:

“We continue to refer to other major projects which were approved by the Plan Commission and the Developer still made major alterations in accordance with the neighbors and the Planning and Development Committee. Mr. Koenig, by

99 HODC Requested Variations Application, p.4, *located within Land Use Commission Packet, Jan. 11, 2023*
at: <https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>.

contrast, has been unwilling to make any significant improvements despite unanimous findings of fact requiring disapproval by the Plan Commission.”¹⁰⁰

We accordingly respectfully request that the LUC deem this purported difficulty or hardship one of self-creation by HODC in its unilateral planning. We reiterate that there is no “all-or-nothing” solution to the need for an affordable housing development on the Parcels at issue.

7. “The requested variation requires the least deviation from the applicable regulation among the feasible options identified before the Land Use Commission issues its decision or recommendation to the City Council regarding said variation.”

In its Application for Major Variations, in response to the question “Have other alternatives been considered, and if so, why would they not work?” HODC states “The design team has considered many alternatives and the variances requested create the best possible project for the area.”¹⁰¹ This is a non-response. We pose the following follow-up question: for whom, and to whose benefit, is this the “best project for the area”? HODC does not answer whether the “many alternatives” considered by HODC involved less deviation from the applicable height regulation.

We would like to understand what other alternatives HODC considered. In our view, some at least involved a four-story building proposal.¹⁰² It seems likely that the HODC alternative designs did involve options with fewer stories.

Did the alternate proposals leave the church – a smaller proposed building of three stories – in its current location, per the rendering on the Mt. Pisgah website? Why is that not a feasible alternative involving a significantly-smaller scale deviation from the code?

We request that the LUC place the burden on the Applicant, as is warranted with such a proposal, to demonstrate in what manner the requested height Variation involves the least feasible deviation from the Zoning Code. To do otherwise contravenes the City’s commitment within its own Comprehensive General Plan to ensure developers work with community members and neighbors to establish mutually-agreeable solutions to new development and redevelopment. While the opportunity to work together has long passed due to the stage of the project at this point, it is only reasonable for the LUC to request the Applicant operate transparently by sharing its “many alternatives” to the current design and to justify in what way this particular height proposal involves the least deviation from the Code.

We further request an understanding of whether HODC can in actuality make modifications to its Proposal, or whether the City truly has been presented with an “all-or-nothing” decision. In its 2006 Proposal, HODC was constrained in its ability to revise its plans due to financing and restrictions placed on it by the HODC Board:

100 Minutes of May 22, 2006, Planning and Development Committee, attached hereto as Exhibit O, p. 13.

101 HODC Requested Variations Application, p.4, *located within Land Use Commission Packet, Jan. 11, 2023 at: <https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>.*

102 *See Exhibit G, demonstrating 4-story renderings of the HODC Development on the Mt. Pisgah Ministry, Inc. website, located at:*

“It has become more apparent over the course of the past weeks...that HODC really didn’t have the ability to compromise much at all because of the application that has been submitted to IHDA for the LIHTC financing...While we appreciate that HODC has invested much time and money in bringing the proposal to this point, we feel very strongly that this dialogue with the stakeholders should have taken place before the application was submitted to IHDA. The neighborhood groups who oppose this project maintain that we should not bear the burden of the Developer’s inability to modify this project because they finalized financing for a planned development before presentation [to the] Plan Commission, before presentation to the Planning and Development Committee, and before presentation to the legal stakeholders.”¹⁰³

It appears that HODC did not alter its methodology with its current Proposal, instead repeating the same steps with which the community took issue in the past. Rather than working with stakeholders on the current Proposal, HODC has undertaken similar if not identical steps as in 2006. Why approach this Proposal the same way as in 2006, rather than working with stakeholders initially, unless HODC wants to present the project in an all-or-nothing manner? To propose the project again without initial stakeholder involvement allows HODC to argue that it has no room to modify its Variation requests, meaning the City must either accept or reject the project as a whole. As before, this is disingenuous at best, and at minimum, unfair to community members who are entitled to a voice in this process as within the spirit and intent of the City’s General Plan.

B. Major Variation #2: Reduce the required front yard build to zone from 5’-10’ to 0’; Reduce the required west and east interior side yard setbacks from 5’ to 0’; and Reduce the required rear yard setback from 5’ to 0’

For the sake of expediency, we couple together here our objections to the four Major Variation requests related to setbacks in the HODC Proposal.

HODC proposes a reduction in setbacks to 0’ at each of the east, west, north, and south property lines.¹⁰⁴ The development would thus directly abut our adjoining property to the east, the rear alley to the north, the Mt. Pisgah Proposal to the west, and the Church Street sidewalk to the south. In addition to requesting a Major Variation to provide zero setback at the sidewalk at Church Street, HODC proposes placing 1’ tall granite planters in front of the development, which are to extend 2’ into the pedestrian walkway.¹⁰⁵

The footprint of the HODC Proposal would extend the building foundation on each of the four sides by 5’, to each relevant property line, dramatically increasing the building’s proposed square footage, especially when considered in tandem with the proposed five stories to comprise the

103 See Minutes of May 22, 2006, Planning and Development Committee, attached hereto as Exhibit O, p. 24-5.

104 Memorandum of 1/5/23, at p. 1, *located at*: <https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>.

105 Verbal Statement by Richard Koenig, HODC, Land Use Commission Hearing, 1/11/2023.

development. Such a dramatic square footage increase due to *four* setback-related Major Variation requests will again markedly increase the density of the building's occupancy. Accordingly, we incorporate here by reference and reiterate each of our above arguments regarding the height-related Major Variation request as they relate to the setback-related Variation requests, including: Increased Traffic; Insufficient Parking; Alley Noise, Safety, and Traffic; and Pedestrian and Bike Safety Issues. We incorporate and reference these arguments as they relate to each of the seven Standards for Approval.

1. “The requested variation will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties”;
 - a. *The requested setback variations will have a substantial adverse impact on property value and use and enjoyment of our property.*

The erection of a building directly abutting our east property line will substantially impact our property value, and our use and enjoyment of our property through a significant reduction in light, and through an increase in noise due both to proximity of new neighbors and the noise-reflective materials that will directly adjoin our building and echo ambient and neighborhood noise into our property.

We request that the LUC carefully examine the photographs of our skylights and dearth of other natural light due to the absence of windows (attached here as Exhibit M). It is difficult – without viewing the photos or touring the space – to imagine an office space with no side windows, which instead receives natural light only through ceiling skylights which then disperse natural light through transom windows and glass partitions. Upon a careful examination of the Exhibit M photographs, we hope the LUC will see the difficulty with which we are faced in relation to a project that proposes to not only be five stories in height, but which also eliminates natural light that results from the typically-required space between buildings. The Variation in setback on the east side of our building will not simply *reduce* natural light, it will effectively *eliminate* it. We will truly be plunged into darkness that can only be resolved through extensive electric lighting, nullifying our attempts at energy efficiency and posing problems for employees who rely on receiving *some* natural light during their workday to remain alert, awake, and generally happy.

- i. In redesigning and renovating its offices in 2022, we relied on the Zoning Code's requirements pertaining to setback (and height).

Had we purchased this building as it is currently designed and simply moved in to our office as it is, perhaps our arguments on this issue would hold less weight. That, however, is not the case. Rather, we relied – *potentially to our extreme detriment* – on the oWE West Overlay District Zoning Code when renovating and rebuilding the entirety of its second floor. Had we known that the Zoning Code would be rendered toothless for the adjoining properties, we would have acted differently. Had we understood that a building would be erected at the edge of our east property line against Code, at the proposed height, against Code, we would have designed our entire second floor in a distinctly different manner. Perhaps we would have involved the City's Historic Preservation Commission, structural engineers, and a variety of contractors to evaluate potential

alternatives to the design that we implemented, and would have worked with our architect with different goals relating to the possibility of east and west side windows.

In making renovations and redeveloping property within the City, property owners are entitled to rely on the Zoning Code to understand how their improvements and changes could be affected by neighbors under the Code, including neighbors who are differently-zoned. We did just that. We reviewed the Zoning Code; we commissioned architectural plans in reliance on the Zoning Code; we sought permits based on the Zoning Code; we designed our entire renovation based on the Zoning Code. But for the Zoning Code, we would have designed our offices differently.

The Parcels at issue are Zoned identically to our property. Again, had the Parcels at issue been zoned differently than our property, we could – and should – have been placed on notice to anticipate a property which might dwarf it, substantially alter its light, and add to noise. The General Comprehensive Plans states as much and even informs those developing properties of their responsibility to design with sensitivity to neighboring properties which are differently-zoned:

“Those buying property adjacent to a different classification of land use should anticipate that the future could bring a change in the scale or nature of activity at that location. Likewise, those intending to develop property adjacent to different zoning districts are encouraged to be sensitive to the impact of their designs, particularly if they will adjoin single-family residential areas.”¹⁰⁶

Despite the fact that our property and the relevant Parcels are identically-zoned, HODC has not been sensitive to its design’s impact on neighbors, as evidenced by its setback and height variation requests that are contrary to the character of the neighborhood’s design, streetscape, and scope.

- ii. The setback removal at our east property line will alter the functionality of our building’s courtyard, the residential apartment, and the intended garage/dwelling building at the north end of our property.

The removal of any required setback from our east property line will disrupt natural light to our courtyard, the intended garage/dwelling and solar panels to be built and installed at the rear/north end of our property, and the residential apartment on our building’s third floor. We incorporate by reference here the arguments above related to blockage of light from the Variation in height.¹⁰⁷

Additionally related to the third floor residential apartment, a lack of light and increase in noise resulting in decreased desirability of the apartment as a rental, will be modified by the lack of privacy in that unit. Windows in that unit will now directly face neighboring dwelling units in the HODC development.

106 Comprehensive General Plan, City of Evanston, p. 30, *located at*:

<https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.

107 We refer the LUC again to Exhibits A, B, H, and J (photographs and renderings of each relevant area).

Additionally placing a structure comprised of surfaces that reflect – rather than absorb – sound immediately at the property line will further the enhancement and echoing of ambient noise and neighborhood noise, as well as bringing noise from new neighbors in the HODC development significantly closer to our property. Again, the result is a decrease in property value of our building and the residential apartment due to the proximity of the requested Variance. Indeed, while the HODC Proposal is being constructed, noise, vibration, dust, and the presence of workers will all exist immediately outside the apartment’s windows, making it uninhabitable for that period of time.

- iii. The east setback Variation is highly likely to impact the fragility of the Historic Landmark structure that we own and occupy.

A Major Variation, wherein the HODC building footprint reaches to the shared property line, will place significant strain upon our Historic Landmark building’s foundation and structural integrity. Evanston states as an “Objective,” the preservation of Evanston’s historic architecture, by “[c]ontinu[ing] to support and recognize private efforts to restore and preserve Evanston’s architectural heritage,” and “[s]upport[ing] efforts that maintain the architectural integrity” of Evanston’s Historic Properties.¹⁰⁸

Proposed excavation of a parking garage in such close proximity to our aged foundation will be likely to cause subsidence of our building’s foundation and supporting beams and walls both during and post-construction. This is especially problematic considering the building’s historic nature, as the remedying of structural issues must be approved by the Historic Preservation Commission where appropriate. Post-construction, as the building settles, subsidence often begins or worsens, even if not already begun during construction:

“There are numerous field conditions where construction activities in an urban setting can potentially damage neighboring structures. Deep excavation and/or construction related vibrations are primary culprits. *Careful planning and engineering, pre-construction surveys, vibration monitoring, neighboring building movement monitoring, project coordination with neighborhood properties, and overall due diligence all play a vital role in the successful completion of a new foundation system within an urban setting.*

....

New large scale mid-rise and high-rise buildings in urban neighborhoods often require foundation structures 1 to 5 stories deep to accommodate underground parking decks and building mechanical systems [such as underground stormwater retention tanks]. These new foundation systems are often much deeper than the foundations of previous structures as well as those of neighboring properties. As a result, construction activities require the excavation of deep pits, often with vertical faces. Damage to adjacent properties can result throughout this process from

108 Comprehensive General Plan, City of Evanston, p. 33-4, *located at:*
<https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.

inadequately shored excavation walls, or from vibrations due to demolition, excavation, or pile driving activities.

....

Construction in these circumstances requires a number of precautions to minimize or prevent damage to adjacent properties. These precautions should include:

- *Preconstruction surveys which include photographs, videos, and documentation;*
- *Coordination and permission with the adjacent property owners to install tiebacks below their foundations;*
- Careful planning and sequencing of the construction;
- Borings and a geotechnical report;
- A determination of water table and underground hydrology;
- Dewatering and monitoring of dewatering;
- Underground utility stakeouts;
- Frequent periodic monitoring and surveys of adjoining buildings during construction;
- Frequent vibration monitoring;
- Engineered shoring plans which consider:
 - Surcharge loads from adjacent structures, soil stockpiles or equipment;
 - Allowable/anticipated movement/serviceability of temporary wall systems;
 - Geotechnical assumptions from a geotechnical report;
 - Water table and dewatering;
 - *Temporary and permanent support of neighboring structures such as underpinning;*
 - Vibration risk assessment

Even with implementation of the above precautions, it is still possible that destabilization of the retained earth wall may occur due to unforeseen conditions.

....

There are several ways that harmful vibration levels due to construction activities can cause damage to neighboring properties and structures. The most common include: damage to a structure directly from the energy of the vibration source, resonant structure response (i.e. the natural frequency of the building and soil matches the frequency of the ground movement causing uncontrollable shaking) and/or the densification of soils supporting a building structure resulting in

settlement. All these vibrational effects can result in cosmetic damage and/or *irreparable structural damage*.¹⁰⁹

Considering the potential severity of damage to the structure of its designated Historic Landmark, including “irreparable structural damage,” we seek to understand what – if any – of the above steps HODC has undertaken to ensure that damage to our building does not occur. During a meeting with developer Richard Koenig, we requested information on boring soil samples pertaining to the structural integrity of the Parcels and adjoining land, about which he said he received additional information. Despite Mr. Koenig’s promises to provide copies of said boring samples, as of today’s date, he has not done so. Provision of these boring samples is the bare minimum that should be required of HODC related to demonstrating the ability of buildings surrounding the Parcels to absorb the vibration and excavation of construction and the weight of the building post-construction as it settles. Indeed, if:

“construction activities which include potential damaging vibration are scheduled to occur on a specific job site, it is imperative that one or all of the suggested measures below be implemented: (i) [a] well-planned due-diligence investigation *and project coordination of neighboring properties...*; (ii) *a pre-construction survey of all adjoining structures*; (iii) a geotechnical report that clearly identifies the underlying soil strata and geologic conditions; (iv) specifications for the control of construction vibrations; (v) pre-planning to avoid potential vibration damage by selection of alternate construction equipment; (vi) construction logs of equipment and approximate time frames of construction; (vii) vibration monitoring by a licensed testing agency; and (viii) building movement monitoring of neighboring structures by a licensed testing agency. Prior to construction activity, it can be desirable to establish a benchmark, especially if there is pre-existing damage such as settlement or structural deficiencies to neighboring structures. *This particularly holds true if the building is older and would have a tendency for a lower tolerance of vibration induced damage...* Direct energy from vibration which can damage structures is a function of the type of construction equipment or method used (i.e. blasting), *the distance away from the source*, along with the type of soil present.”¹¹⁰

Simply put, our concerns relating to the excavation of a five-story building directly at the property line, wherein there will be less “distance away from the source” of the vibrations that are highly likely to cause damage to a “building [that] is older and would have a tendency for a lower tolerance of vibration induced damage,” are myriad. We accordingly make several requests: (1) denial of the setback Variation request at our east property line, and (2) even with a denial of this

109 “Structural Damage from Adjacent Construction Projects,” Anthony Volonnino, Aug. 15, 2017, *located at*: <https://www.robsonforensic.com/articles/structural-damage-vibration-adjacent-construction-expert> (emphasis added).

110 *Id.*, *located at*: <https://www.robsonforensic.com/articles/structural-damage-vibration-adjacent-construction-expert> (emphasis added).

setback Variation request, implementation of the studies detailed above to ensure continuing structural integrity of our Historic building, to be shared with us.

We also raise again to the LUC, HODC's pattern of failing to work with neighbors, residents, and neighborhoods related to legitimate and critical concerns such as those related to structural integrity listed here. It is clear that "project coordination [with] neighboring properties" is critical for successful outcomes related to subsidence and structural integrity in these situations. However, HODC has – to our knowledge – taken no steps to facilitate project coordination with us regarding structural and damage potential related to the HODC Proposal.¹¹¹

Denying the increased footprint size would offer less potential for subsidence and foundation issues related to settling of our adjoining property.

- iv. The Variance in setback at our east property line will expose our employees to greater amounts of airborne hazardous waste during construction.

In permitting the area to be excavated for foundation supports and a subterranean garage directly at the east property line arguably exposes those on the adjoining property to greater amounts of airborne environmental hazards due to immediate proximity. During construction, environmental toxins that become airborne will essentially be pumped directly into our air vents, exposing all employees, some of whom have lung disease directly affected by environmental exposures and air quality, to health hazards. Our HVAC system is not equipped to adequately and thoroughly filter out these hazards.

Indeed, we would like to understand how HODC and Mt. Pisgah anticipate remediation of the site. In its November 6, 2017 Letter of No Further Remediation, the Illinois EPA states that the "Remediation Site is restricted to industrial/commercial use."¹¹² As part of the "preventative controls" listed by the Illinois EPA, the agency requires that:

"[a]t minimum, a safety plan should be developed to address possible worker exposure in the event that any future excavation and construction activities may occur within the contaminated soil. Any excavation within the contaminated soil will require implementation of a safety plan consistent with NIOSH Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities, OSH

111 *See, e.g.* The Village of Wilmette, Additional Agenda Material, dated Apr. 9, 2018, *located at:* https://www.wilmette.com/download/agendas_and_minutes/village_board/packets/archive/2018/additional_agenda_material/Additional-Agenda-Material-04-10-18.pdf (asserting pattern of practice by Mr. Koenig in which community members are not considered or involved in planning process, but rather are presented with all-or-nothing options related to HODC proposed projects); Minutes of May 22, 2006, Planning and Development Committee, attached hereto as Exhibit O (asserting same: "the Developer expressed little or no interest in addressing the harm to the neighborhood, and did not agree to any corrections to reduce this harm.... It is striking that the Developer still proceeded as if that was the only concern which deserved his attention and continued to ignore all the deficiencies regarding the impact on the neighborhood, which the Plan Commission found would result.... Why are the legitimate concerns and needs of this neighborhood so easily disregarded?")

112 *See* Illinois Environmental Protection Agency, No Further Remediation Letter to E-Town Community Ventures, LLC, at p. 2, dated Nov. 6, 2017, and attached hereto as Exhibit T.

regulations..., state and local regulations, and other USEPA guidance. Soil excavated below asphalt pavement must be returned to the same depth from which it was excavated or properly managed or disposed in accordance with applicable state and federal regulations.”¹¹³

These statements raise serious health concerns not only for workers, but for neighbors such as our employees, who will be directly exposed to hazardous waste and accompanying airborne hazards. Presumably, workers’ safety plans will include implementation of individual respirators with appropriate filtration attachments for particulates, chemicals, and other hazards, such as Self-Contained Breathing Apparati (“SCBA”).¹¹⁴ Adjoining neighbors breathing this same air will not be offered the same protections, nor would it be practicable to implement them in an office environment. No commercial HVAC system rises to the level of a SCBA in its filtration capacities. Thus we request that the LUC consider in its setback Variation calculus the safety of our employees as excavation takes place directly next to our offices.

- v. The rear/north setback Variation will effectively prevent construction of our intended rear garage/affordable dwelling building, due to increased alley congestion and an increased setback that allows for zero privacy.

A Major Variation in the rear/north setback of the HODC Proposal – when coupled with construction of a rear parking garage entry/exit – will unequivocally substantially increase alley traffic and pedestrian/bicycle usage of the alley, and related safety concerns from congestion, substantially increasing noise and decreasing privacy. The alley behind the Parcels and our building is often traversed by our employees and visitors, as well as ETHS students and those attending programming at the Y.O.U. building. To add to this mix a parking garage entrance for 44 units with zero feet of setback, accessed from the alley, will substantially burden the property owners who already share this alley, and neighboring residents who rely on the T-shaped alley as a cut-through to avoid common standstill traffic along both Dodge Avenue and Church Street.

Our use and enjoyment of our property will be substantially inhibited if – as it is likely – we cannot construct our accessory structure on the rear/north portion of our property. If HODC is permitted to construct its development up to the north property line, it will make our intended structure unlikely to appeal to any potential renters, due to proximity, traffic, noise, lack of soft surfaces to absorb noise, and lack of privacy. The inability to construct the garage/dwelling will result in an inability to provide affordable housing to Evanston residents as intended, to add further to the City tax base through the project, and to maximize property value for resale in this regard. Were HODC to construct the rear portion of its structure as zoned, it would offer: additional room for traffic, pedestrians, and cyclists; a decrease in alley congestion; decrease in wear and tear on an alley that must be maintained by the City at the City’s own cost; and a reduction in

113 *Id.* at p. 2, dated Nov. 6, 2017, and attached hereto as Exhibit T.

114 *See, e.g.* Centers for Disease Control, Respirator Fact Sheet, *located at*: <https://www.cdc.gov/niosh/npptl/topics/respirators/factsheets/respfact.html> (explaining “air-purifying respirators” to filter chemical gases, SCBAs, and other forms of respirators to combat extreme environmental hazards).

vehicle/pedestrian/bicycle crash safety concerns. It would also offer some semblance of privacy for future residents of the proposed dwelling units at the rear of our property.

2. “The requested Variation is in keeping with the intent of the zoning ordinance”;

- a. *The proposed density due to zero setbacks contravenes the intent of the Zoning Ordinance of the oWE West Evanston Overlay District and West Evanston Neighborhood Sub-Area #3.*

As with the height Variation request, an increased footprint on each of the east, west, north, and south sides of the building will add extreme density to the area, especially when coupled with the fact that the setback Variations will extend below ground and above ground. We incorporate and restate our arguments above regarding increased density related to height, as they mirror our concerns of increased density resulting from Major Variation requests that require no setbacks on any of the development’s four sides. The impact on density due to the requested setback Variations will be palpable and burdensome to the neighborhood and community in the form of traffic, congestion, parking, and pedestrian and bicycle safety due to increased traffic and congestion, all in contradiction of the General Comprehensive Plan and the spirit and intent of applicable Zoning regulations.

Within the City’s Final Report regarding its Preferred Plan for the West Evanston Neighborhood (Sub-Area #3), the listed goals include:

- “The streetscapes throughout the limits of Sub-Area #3 and beyond should incorporate typical cross sections that conform to City standards, incorporate substantial landscaping and other greening elements, and pedestrian-scaled street lighting and furniture;”
- “The streetscapes should incorporate and support the City’s overall trail and bicycle path networks;”
- “The streetscapes should be programmed with art, cultural and other elements that infuse them with the special character of the West Evanston community;”
- “*New buildings proposed for Sub-Area #3 should be designed and built in recognition of the important role that new buildings play in defining the future of their neighborhoods. West Evanston sees itself as a quality community of choice, and deserves such buildings;*”
- “*New buildings and related infrastructure improvements proposed for Sub-Area #3 should be designed and built subject to the series of development standards and sustainable design best practices that will accompany the Neighborhood Plan;*”
- “*All new development proposed for Sub-Area #3 should be designed and built in the spirit of sustainable development, and appropriate landscape, site design, materials, and energy and resource efficiency strategies should be investigated.*”¹¹⁵

115 West Evanston Final Report, City of Evanston TIF District Sub-Area #3, West Evanston, at p. 5-6, located at:

Again, the City’s Comprehensive General Plan prioritizes the protection and enhancement of the “traditional character of neighborhood business districts; carefully examine proposed design changes using the Zoning and Sign Ordinances, and site plan and appearance review.”¹¹⁶ HODC will entirely change the character of the neighborhood by adding such an extreme increase in footprint. The scope and scale of the development’s footprint will make the building stand out and will altogether make a primarily residential neighborhood visually appear to be a commercial one. It will dominate and overshadow surrounding buildings and make the neighborhood appear claustrophobic. Evanston appears more and more like an extension of Chicago. Rather than focusing on achieving Evanston’s goal of striking a balance of an urban-suburban blend, the proposed setback Variations will make the Church Street/Dodge Avenue area appear distinctly urban in contravention of the stated intent and spirit of the City.

It is clear that the City has contemplated development of the Church Street/Dodge Avenue corridor in a variety of contexts, and that the City has expressed support for developments that generally adhere to the parameters of the Zoning Code as it relates to scope and height. We request that the LUC reflect the City’s priorities in its application of the Standards for Approval at issue here.

- i. The front/south and rear/north setback Variation Requests will create pedestrian, bicyclist, and vehicle safety issues contrary to the intent of the Zoning Code.

In reviewing the HODC Proposal, DAPR stated that “[b]uilding foundations at zero lot line is a concern.”¹¹⁷ We agree.

The increased square footage proposed by HODC not only increases density, but also removes extra space used by pedestrians and cyclists to navigate the sidewalk and the alley. The increased front and rear/alley footprints will reduce the safe space in which pedestrians, especially students commuting to ETHS, will be able to safely navigate the Church Street sidewalk and especially the alley to the rear/north of the Parcels. Indeed,

“[u]nlike many other communities, a high percentage of [Evanston] residents are bicycle riders, public transit users, and walkers. This means [] that the street system is not used by cars alone. Evanston should support the safety and convenience of these alternate means of transportation when making street and sidewalk improvements.”¹¹⁸

116 <https://www.cityofevanston.org/home/showpublisheddocument/4022/636224209248000000> (emphasis added).
Comprehensive General Plan, City of Evanston, p. 42-3, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>.

117 Memorandum of 1/5/23, at p. 11, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>

118 Comprehensive General Plan, City of Evanston, p. 05, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000> (emphasis added).

HODC additionally proposes planters in front of its development, which will extend 2' into the sidewalk. To request a Variation of 0' setback while also adding permanent granite planters that encompass 2' of sidewalk space demonstrates a lack of respect for the safety of area pedestrians, especially those who require additional room to navigate due to mobility aids and wheelchairs. Imagine the proposed massive structure, at the Church Street sidewalk line, with two blockages impeding 2' of needed sidewalk: anyone with mobility issues, utilizing a stroller or walking cart – including mail carriers, students walking their bicycles, etc. – will encounter a bottleneck and safety hazards posed by either running into the planters or having to step into the road to avoid them. We raise this point to illustrate that it is as if HODC designed its proposed development in a vacuum, rather than working to find a way to creatively design a building that respects the character, feel, density, and navigability of the neighborhood and area while also providing needed housing.

Again, the Comprehensive General Plan lists its “Objective” to “[e]ncourage creative adaptive reuse of properties available for redevelopment using *zoning standards and the Site Plan and Appearance Review process to protect historic character.*”¹¹⁹ Among the “Policies/Actions” to achieve this Objective are:

- “Encourage new developments to complement existing street and sidewalk patterns”;
- “Encourage the preservation and creation of neighborhood open and green space”;
- “Minimize the adverse effects of such circumstances as traffic and parking congestion or incompatible hours of operation as part of City technical assistance or zoning/site plan review of businesses and institutions proposing expansion or relocation to sites adjacent to residential areas”; and
- “Continue assisting neighborhoods to recognize and preserve their own historically significant assets.”¹²⁰

The Major Variations related to setbacks, particularly the front/south setback Variation, fail to “complement existing street and sidewalk patterns,” to preserve any open or green space, to minimize the effects of congestion next to a residential area, or preserve historically significant assets. Instead, they alter the streetscape, interfere with street and sidewalk patterns, create congestion that increases pedestrian and bicyclist safety risks, and eliminate any potential for green space through room for landscaping or plantings. The lack of setback on all sides of the building uses every possible square inch of a property which would better fit the character of the neighborhood and General Plan if it incorporated green space and prioritized pedestrian and bicyclist safety.

119 *Id.* at p. 25, located at: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000> (emphasis added).

120 *Id.* at p. 25-7, located at: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000> (emphasis added).

3. “The alleged hardship or practical difficulty is peculiar to the property”

We restate by reference here our arguments relating to the requested height Variation above, as they apply equally to the four Major Variation requests related to setbacks. To briefly restate, HODC’s Proposal on a “nearly vacant lot” is one with the more possibilities than any other. The five Parcels at issue can be redrawn in any manner that HODC and Mt. Pisgah see fit. To redraw the Parcels as HODC desires and then attest that the only way to use these Parcels effectively is to implement *four* Major Variations in setback to develop every square inch of the redrawn Parcels is insincere at best. The HODC proposed parcel could be drawn to encompass more of the empty lot area at 1801-1805 Church Street, rather than needing to directly abut the east, north, and south property lines. HODC could also eliminate certain amenities or the number of dwelling units, as described above.

There is therefore nothing “peculiar” to the property that is causing any hardship or difficulty on the part of HODC. Rather HODC has created its own hardship or difficulty here.

4. “The property owner would suffer a particular hardship or practical difficulty as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out”

We again incorporate and restate by reference our arguments above regarding the height Variation. HODC will suffer mere inconvenience, as opposed to particular hardship or practical difficulty, if it follows the Zoning regulations. HODC states that the “building would not be able to function and serve its community if the building were to be constructed in strict conformance with Zoning Ordinance requirements since there would not be adequate space for [amenities].”¹²¹ We disagree. HODC had the ability and opportunity to design the proposed development in infinite ways, including with fewer dwelling units, fewer dwelling unit types (i.e., only 2- and 3-bedrooms), smaller dwelling units, fewer or different amenities, smaller commercial spaces, smaller amenity spaces, etc. We reference here our remaining arguments above, which apply to footprint and scope of setback Variations just as they do to the proposed height Variation.

5. “(a) The purpose of the variation is not based exclusively upon a desire to extract additional income from the property, or (b) while the grant of a variation will result in additional income to the applicant and while the applicant for the variation may not have demonstrated that the application is not based exclusively upon a desire to extract additional income from the property, the Land Use Commission or the City Council, depending on the final jurisdiction under Section 6-3-8-2, has found that public benefits to the surrounding neighborhood and the City as a whole will be derived from approval of the variation, that include, but are not limited to, any of the standards of Section 6-3-6-3 – Public Benefits”;

Each of our arguments above regarding HODC’s proposed height Variation apply to the four Major Variations requested for setbacks. By redrawing the Parcels as it desired to meet its own interests, HODC has ensured that it will extract the maximum amount of additional income

121 HODC Requested Variations Application, p. 4, *located within Land Use Commission Packet, Jan. 11, 2023* at: <https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>.

possible from the proposed development. While it is possible that the desire to extract additional income from the development – by using every inch of the Parcel it drew itself – may not be the sole motivator for HODC, it is not outweighed by Public Benefits that result directly from the requested setback Variations.

The Public Benefits to be considered are:

- a. *“Preservation and enhancement of desirable site characteristics and open space”*

The proposed dramatic increase in footprint does not preserve and enhance characteristics of the site, but will make what should naturally appear in the space feel congested, claustrophobic, and entirely urban (rather than suburban) in its spacing.

- b. *“A pattern of development which preserves natural vegetation, topographic and geologic features”*

Approval of the setback Variations will ensure no additional natural vegetation and topographic features have room to exist.

We additionally incorporate here our arguments regarding subsidence due to proximity of the proposed Variation on our east property line, including the failure of HODC to carry out sufficient studies to ensure that topographic and geologic features remain undisturbed during and post-construction.¹²²

- c. *“Preservation and enhancement of historic and natural resources that significantly contribute to the character of the City”*

Approval of the setback Variation requests will cause probable damage to historic and natural resources that significantly contribute to the City’s character, through a greater possibility of subsidence, and will overwhelm the appearance of surrounding properties in a manner that detracts from goals of preservation and enhancement.

- d. *“Use of design, landscape, or architectural features to create a pleasing environment or other special development features”*

The footprint of the building due to setback Variations will disrupt the environment and fabric of the area. The HODC Proposal implements almost no landscaping or green space, and incorporates no architectural features that are common to the neighborhood as it currently exists, especially as it relates to setbacks.

122 See Structural Damage from Adjacent Construction Projects,” Anthony Volonnino, Aug. 15, 2017, located at: <https://www.robsonforensic.com/articles/structural-damage-vibration-adjacent-construction-expert>.

- e. *“Provision of a variety of housing types in accordance with the City’s housing goals”*

While the HODC Proposal does provide housing, it can do so without the requested setback Variations. We reincorporate here additionally our arguments listed above, related to home ownership as an integral element of affordable housing.

- f. *“Elimination of blighted structures or incompatible uses through redevelopment or rehabilitation”*

No blighted structures are being removed in this scenario. Instead, a church which has been in Evanston for many years, is being demolished to accommodate this development.

- g. *“Business, commercial, and manufacturing development to enhance the local economy and strengthen the tax base”*

Any of these additions to the tax base would exist without the marked increase in footprint requested in the setback Variation requests.

- h. *“The efficient use of the land resulting in more economic networks of utilities, streets, schools, public grounds, buildings, and other facilities”*

Again, any use of the land – whether or not deemed efficient – would exist absent the marked setback Variations.

- i. *“The substantial incorporation of generally recognized sustainable design practices and/or building materials to promote energy conservation and improve environmental quality, such as level silver or higher LEED (leadership in energy and environmental design) certification”.*

Once again, none of these goals are moved forward by increasing the footprint in such a drastic manner through four extreme setback Variation requests.

- 6. “The alleged difficulty or hardship has not been created by any person having an interest in the property”

We again submit that HODC has indeed created its own alleged difficulty or hardship ‘necessitating’ the four Major Variations in setback. HODC has submitted that “[b]uilding new affordable housing with retail on a nearly vacant lot will enhance the overall community as well as this block. The hardship is created by the limitations of the parcel itself which is located in a built-out community and part of a larger redevelopment effort to improve the neighborhood.”¹²³

We assert instead that there are not limitations imposed by the “parcel itself,” as five parcels are at issue, which can be redrawn and divided in a wide variety of manners which would not necessitate the scope or scale of the setback Variation requests. HODC could additionally alter its amenities, dwelling units, dwelling sizes, etc. to offer alternative housing proposals that do not necessitate Variations in setbacks on all four sides of the proposed building. In fact, it appears that

123 HODC Requested Variations Application, p. 4, located within Land Use Commission Packet, Jan. 11, 2023 at: <https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>

HODC has entertained other versions of this project at a smaller scale, and indeed did so in 2006, when that smaller proposal was deemed too dense for the area.¹²⁴ We therefore restate and incorporate here our arguments related to this Standard for Approval as above regarding the Major height Variation request.

7. “The requested variation requires the least deviation from the applicable regulation among the feasible options identified before the Land Use Commission issues its decision or recommendation to the City Council regarding said variation.”

It is clear that the four requested Major Variations in setback do not require the least deviation among the feasible options identified by HODC. HODC asserts it has evaluated “many alternatives” and deemed this “the best possible project for the area.”¹²⁵ This singular determination by HODC that it understands what constitutes the “best project for the area” is presumptuous, while also failing to provide any substantive answer relating to the Standard that HODC has the burden to prove.

The burden is not on us, or other residents, constituents, business owners, or neighbors, to determine whether this project involves the least possible deviation from the applicable ordinances; the burden is on the developer to so prove. HODC has not done so. Its generic and presumptive statement that it has evaluated multiple alternatives and determined this to be the best project for the Parcels does nothing to demonstrate *why* or *how* the project involves the least possible deviation from the Code. It does not even prove *if* it involves the least possible deviation by describing or providing information on its “many alternatives.” We request, therefore, that the LUC place the burden on HODC to demonstrate the way in which its proposal deviates the minimal amount from the required Zoning Code.

C. Major Variation #3: Increase the maximum permitted impervious surface coverage from 90% + 5% semi-pervious surface area to 99.7% of lot area

As part of its Proposal, HODC seek to increase impervious surface area to almost 100% (hereafter “Permeability Variation”).

We have extreme concerns about a Major Variation that seeks to cover almost 100% of a property lot in impervious materials. Impervious coverage is part and parcel of the setback Variation requests also made by HODC, in that where setbacks are removed, impervious surfaces are added. Thus, by and through this objection to the Permeability Variation, we object again to the four Variations in setback requested by HODC.

124 See Exhibit G, showing renderings from the Mt. Pisgah Ministry website that are smaller in scale than those currently up for consideration before the LUC.
125 HODC Requested Variations Application, p. 4, located within Land Use Commission Packet, Jan. 11, 2023 at: <https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>.

1. “The requested variation will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties”;

The requested Permeability Variation would have a significant negative impact on our use and enjoyment and property value of our property. Over the years, including before we purchased 1817 Church Street and implemented a variety of water management solutions, our building experienced continued flooding and water issues.¹²⁶

In continuing efforts to mitigate the threat of water damage, we have relied on our exterior green space, lining and peppering it as fully as possible throughout with additional, absorptive plantings, to absorb excess water in an environmentally-friendly manner.¹²⁷ The large-capacity raised garden beds installed atop some of the only impervious surfaces were intended to serve two purposes: to absorb additional stormwater where the underlying cement could not, while also providing fresh local produce to those in Evanston who would otherwise be unable to access it. Where plantings are impracticable because the area requires use by our employees, the courtyard design utilizes permeable brick surfaces to ensure sufficient stormwater drainage.

Our water management techniques cannot, however, address our ADA-access ramp that runs along the courtyard’s west side wall from the parking pad to the building’s rear door.¹²⁸ The ramp initiates at the alley at a high grade, ending at our rear door at a low grade. The grading itself drops at least twelve inches from the north to the south ends of the courtyard.

No ADA ramp or other access may be placed at our front/south entrance facing Church Street, due to the restrictions on façade variation required by the City’s Historic Preservation Commission. Even were we to dig out our entire rear courtyard and regrade the area, ADA accessibility to our rear/north door would still necessitate a ramp that is graded from a higher point at the alley to a lower point at our ground floor. The entryway to the rear of the building is simply lower than that of the alley. This is the result and reality of a nearly century-old building constructed prior to the implementation of zoning codes, building permits, and standards for construction. Thus, we have worked within the confines of this grade differentiation. The result of the necessary ADA ramp grading is that water flows naturally and freely from the alley to the our rear door, which must be addressed with the use of sandbags and other physical blockage measures. Even with the use of sandbags, water periodically reaches over the low rear-door threshold.¹²⁹

Within its evaluation of the HODC Proposal, DAPR expresses concerns about the grade change proposed by HODC in its plans. DAPR states “[g]rade change between the front and rear of the parking is a concern. Applicant proposes addressing the grade change by the parking ramp and stairs/elevators....These details will be reviewed at the building permit stage.”¹³⁰ Clearly the

126 See Exhibit I, K, and L (photographs of water issues and first-floor floor replacement by Jackson LLP).

127 See Exhibit J.

128 See Exhibit N.

129 See Exhibit I (demonstrating low rear/north threshold entry); see also Exhibit N.

130 Memorandum of 1/5/23, at p. 11, located at: <https://www.cityofevanston.org/home/showpublisheddocument/87272/638086175893300000>

increase of impervious surfaces to almost 100% will be problematic especially when paired with the HODC grade change referenced by DAPR.

We would like to understand exactly how potential flooding will be mitigated with HODC's proposed permeability and grade changes. While HODC expresses plans for an underground stormwater vault/tank, we cannot imagine that flooding of our ground floor will not be exacerbated by the Permeability Variation to the point that our building will again experience regular water infiltration to its interior.

Indeed, the stormwater management details are slated to be reviewed at the building permit stage. It is problematic for adjoining properties that HODC requests approval of such an extreme Permeability Variation, while the solutions to mitigate such Permeability Variation are not to be addressed and evaluated until a later stage. We would like to understand now – not later after such a substantial Variation request has been allowed – how flooding to adjoining properties, including ours, will be adequately addressed. We would like to view HODC's impact studies related to stormwater management, the feasibility of successful stormwater management through the proposed underground stormwater vault, and other relevant materials.

We would also like to understand whether the City's stormwater sewer system can handle the overflow, even if water is released from the underground vault at non-peak hours. We are repeatedly being told that HODC has evaluated these issues and that we should accept that "we will be fine." We do not and will not. Instead, we respectfully request more information and documentation demonstrating the efficacy of the proposed stormwater management systems.

Despite our many mitigating strategies, we have faced property damage from flooding over the years. The ground floor of our building was refinished and remediated to address significant flooding damage by the prior owner of our building.¹³¹ After we purchased the building – and despite the previous building owner's attempts to control stormwater infiltration – we have continued to experience water infiltration through our rear/north entryway. As a result, post-purchase our floors experienced warping, separating, buckling, cupping, and peaking, necessitating a full replacement of the flooring on our ground floor.

While the replacement of 2,000 square feet of wood flooring, sub-flooring, and underlayment was a large financial undertaking for us, the additional cost of the floor replacement was less visible: all of our employees were required – for a period of months – to work remotely in order to accommodate the flooring replacement. We additionally had to invest in movers to empty offices for the work, to shuffle stored office furniture from room to room while the work took place, and to replace all office furniture after flooring completion.¹³²

To be clear, the second floor of the building was unusable at the time of the first-floor flooring replacement, so neither employees nor furniture could be relocated upstairs. While working remotely since the onset of the COVID-19 pandemic has become more commonplace and

131 See Exhibit I (demonstrating significant damage from flooding, including substantial mold growth requiring high-cost remediation).

132 See, e.g. Exhibit L (showing office furniture stored in office lobby).

possible in office situations, operating the headquarter office of a law firm in a fully-remote capacity is not an ideal endeavor, as many of our cases and projects require that multiple employees and attorneys are tasked on one matter, and ideally should be working together in person to address such projects effectively and efficiently.

We are thus extremely concerned about the high likelihood of increased water infiltration on our ground floor due to a remarkably high increase in proposed impervious surfaces extending up to the shared property line, especially when considered with the grading concerns raised by DAPR. Our use and enjoyment of the property has historically – and repeatedly – been affected by stormwater infiltration and flooding. We continue our practice of sandbagging the rear door during storms – an accessibility hazard on its own that requires diligent monitoring and vigilance – and operate dehumidifiers around-the-clock, and we are concerned that even these practices will not keep the increased water out of our ground floor. We cannot sustain increased stormwater management issues. The possibility of being faced with unusable ground floor offices a second time, as both floors of offices are needed to accommodate the number of employees who we now employ, is harrowing. We place before the LUC our concerns in hopes that it recognizes the direct effect the Permeability Variation will have on our use, enjoyment, and property value of our adjoining property.

2. “The requested Variation is in keeping with the intent of the zoning ordinance”

The Design and Project Review Committee (“DAPR”) was created to “establish a procedure for the review of proposed development by taking into account the relationship of the new development to its surroundings with review and discussion by members of city staff and community members from various disciplines.”¹³³ The “purpose of Design and Project Review (DAPR) is to go beyond the basic zoning requirements and to deal with the site details on which zoning and other codes are silent.”¹³⁴ We would like to understand more of DAPR’s considerations related to the Permeability Variation before the LUC here. However, having combed through DAPR agendas spanning between 01/2019 and 06/21/2022, we were unable to locate DAPR Agendas or Packets related to 1801-1815 Church Street and 1708-1710 Darrow Avenue. The DAPR Agendas and Packets inexplicably cease on June 21, 2022, and we presume that DAPR’s consideration of the HODC Proposal took place after this time.¹³⁵

The only DAPR comments to which we therefore have access are those included within the HODC Staff Memorandum, dated 1/5/2023. We raise again here DAPR’s concerns related to property grading when considered with the Permeability Variation.

133 City of Evanston, Design and Project Review Committee, *located at*: <https://www.cityofevanston.org/government/boards-commissions-and-committees/design-project-review-committee>.

134 *Id. located at*: <https://www.cityofevanston.org/government/boards-commissions-and-committees/design-project-review-committee>.

135 *Id. located at*: <https://www.cityofevanston.org/government/boards-commissions-and-committees/design-project-review-committee> (showing last date for a DAPR Agenda and Packet to be a Canceled DAPR Meeting on 6/21/2022).

Without further information from DAPR, we turn to other City guidelines, ordinances, and stated goals. An “Impervious Surface” is defined by the City as “[n]atural or manmade materials through which water, roots, or air cannot penetrate. This type of material prevents the movement of surface water down to the water table.”¹³⁶ Evanston acknowledges that:

“Today, in the face of more intense rainfalls and an uncertain future climate, the City’s stormwater challenges are changing. The City must be in a position to continue to provide its residents an acceptable level of protection against current and future stormwater events.”¹³⁷

Even absent continuing climate change, “[s]tormwater management has caused significant problems throughout Evanston’s history. Most of Evanston was originally marshy, and parts of current developed areas were underwater part of the year....stormwater continues to create challenges.”¹³⁸

In 2019, Evanston published its “Stormwater Management Guide.”¹³⁹ The City’s stated goals include “[m]itigat[ion of] stormwater-related safety issues and property damage under current and future conditions,” “[b]e a leader in stormwater management best practices,” and “[m]aintain compliance with stormwater regulations.”¹⁴⁰ The City publication highlights initially that “the population density of Evanston is far higher than Cook County’s average....Evanston is very urban and very densely populated.”¹⁴¹ Indeed, despite thorough, expensive, and forward-thinking stormwater management solutions implemented recently (and historically), stormwater management issues exist. Specifically, when the Tunnel and Reservoir Project (TARP) system is full and the North Shore Channel (into which the “excess flow of combined sewage and stormwater overflow”) is “approaching its high level,” Evanston and the Metropolitan Water Reclamation District (MWRD) “sewer outfalls are submerged.”¹⁴² “Under these conditions, Evanston’s and MWRD sewers become surcharged, increasing the risk of local flooding.”¹⁴³

As part of its intended action plan related to “stormwater best management practices,” the City seeks to implement “green infrastructure” throughout. The guidelines for evaluation of recommended green infrastructure include whether or not “streetscape projects,” street

136 Municipal Code Section 4-24-1.

137 See City of Evanston Stormwater Management Guide, *located at*:
<https://www.cityofevanston.org/government/departments/public-works/stormwater-management-guide>.

138 City of Evanston, Stormwater Detention, *located at*:
<https://www.cityofevanston.org/government/departments/public-works/public-outreach/evanston-water-sewer-service/stormwater-detention#:~:text=The%20Evanston%20Stormwater%20Control%20Ordinance,release%20into%20the%20sewer%20system.%E2%80%9D>.

139 “Stormwater Management Guide,” City of Evanston, 2019, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/57406/637251492610230000>.

140 *Id.* at p. 2, *located at*:
<https://www.cityofevanston.org/home/showpublisheddocument/57406/637251492610230000>.

141 *Id.*

142 *Id.* at p. 4-5.

143 *Id.* at p. 5.

resurfacing, parking lots, alleys, and parks utilize: (i) “porous pavement,” (ii) tree boxes/cells, (iii) rain gardens; (iv) bioswales, and (v) infiltration trenches.¹⁴⁴ As we know, green infrastructure does not resolve stormwater management in privately-owned plots. Within private properties, the City recommends green roofs, rain harvesting, downspout disconnection, green walls, and sustainable backyards.¹⁴⁵ Evanston also plans to “make every effort to effectively grow the urban canopy and maintain greenspace,” while also “eliminating infiltration and inflow (I/I),” which “contributes to both basement back-ups and combined sewer overflows.”¹⁴⁶ We highlight for the LUC the following language from the City:

“For infiltration, the City has been inspecting combined sewers and sewer structures to determine their structural and functional condition. When it is determined that the system is currently failing or at risk of failing, the City has been performing pipe and structure lining. Currently the City rehabilitates approximately two miles of combined sewer pipe and 50 structures per year.

To address inflow, the City of Evanston has been adding relief sewers throughout the City. This sewer removes roadway runoff from the majority of our combined sewer system and reduces risk of basement back-ups. Once the [new] hydraulic model is complete [] the City will be able to identify additional locations that are good candidates for relief sewer extensions. In addition the City recommends disconnecting downspouts from the combined sewer system.

....

Upon the completion of the stormwater modeling...*the City will have defined goals that will drive the development of policies and regulations.* At this time the City will seek public engagement opportunities to direct the discussion of policy in the following areas:

- *Impervious Area Restrictions (Commercial/Residential)*
- Detention and Volume Control
- Combined Sewer Overflows.¹⁴⁷

The requested increase in impervious surface coverage of the Parcels by HODC follows *none* of the above recommendations or guidelines.

Additionally relevant here is the City’s goal regarding best management practices and measurable goals regarding “Post-Construction Storm Water Management in New Development and Redevelopment,” wherein the City states that existing Evanston Stormwater Control Ordinances should be enforced to “address and minimize stormwater runoff from new development and redevelopment projects.”¹⁴⁸ While in theory HODC may be able to meet the specific technical

144 *Id.* at p. 9-10.

145 *Id.* at p. 10.

146 *Id.*

147 *Id.* at p. 11-12 (emphasis added).

148 *Id.* at p. 38.

requirements of the Evanston Stormwater Control Ordinances, its Permeability Variation request does not meet the Zoning Code, instead adding to the surface area for which the Stormwater Control Ordinance must be followed. In other words, an increase of impervious coverage on the lot to almost 100% requires compliance with the Stormwater Control Ordinance to a greater extent, raises the risk of backflow and overflow from any stormwater control system implemented by HODC, and most importantly, increases the amount of stormwater to be detained by the underground holding vaults. Thus, HODC will hold a larger amount of water within their underground tanks, and each time HODC releases the underground holding vaults into the City's fragile and overburdened sewers (as described above), they risk overburdening the sewer system causing local sewer failures and flooding.

We submit that – rather than operating in conformance with the intent of the zoning code – the Permeability Variation instead poses a burden and potential difficulty in relation to Evanston's Stormwater Control Ordinances and its Stormwater Management Guide.

3. “The alleged hardship or practical difficulty is peculiar to the property”

As stated earlier, a decrease in setbacks on all four sides results in a corresponding increase in impervious surface coverage. The property can be drawn or designed in any number of ways that comply with permeability requirements. Thus, for the reasons listed regarding the four Major Variations in setback, under this Standard for Approval (3), we assert that any alleged hardship or practical difficulty regarding the Permeability Variation is *not* peculiar to the Parcels at issue.

4. “The property owner would suffer a particular hardship or practical difficulty as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out”;

Once again, our arguments that HODC's Permeability Variation request does not meet this fourth Standard for Variation parallel those listed within the relevant section regarding Major Variations in setback.

5. “(a) The purpose of the variation is not based exclusively upon a desire to extract additional income from the property, or (b) while the grant of a variation will result in additional income to the applicant and while the applicant for the variation may not have demonstrated that the application is not based exclusively upon a desire to extract additional income from the property, the Land Use Commission or the City Council, depending on the final jurisdiction under Section 6-3-8-2, has found that public benefits to the surrounding neighborhood and the City as a whole will be derived from approval of the variation, that include, but are not limited to, any of the standards of Section 6-3-6-3 – Public Benefits”

As under our arguments related to the Major Variations in setback, HODC appears to be focused on developing every square inch of the Parcels it has itself redrawn, to maximize additional rental income and management fees. Public Benefits here will not result from a remarkable increase in impervious surface coverage. Rather, the reverse will occur. The HODC Proposal removes space for green infrastructure, drainage, rain gardens, and any stormwater overflow space. It will

arguably add undue burden to an aging municipal stormwater sewer system, which City sewer system HODC will not be tasked with maintaining. None of the Public Benefits for consideration here are moved forward by an increase in impermeability. Accordingly, the LUC should find this Standard for Approval related to the Permeability Variation request remains unsatisfied.

6. “The alleged difficulty or hardship has not been created by any person having an interest in the property”

Once again, we restate that the alleged difficulty or hardship here has indeed been created by the applicant HODC, which redrew Parcel property lines to its needed parameters and then argued that those parameters were insufficient.

7. “The requested variation requires the least deviation from the applicable regulation among the feasible options identified before the Land Use Commission issues its decision or recommendation to the City Council regarding said variation.”

Finally, and again for the reasons above under this Standard for Approval regarding setback Variations, the HODC Proposal fails to demonstrate how, why, and in what manner it provides the least deviation from the Zoning Code. We submit to the LUC that the HODC Proposal fails to so demonstrate because it simply *cannot* demonstrate that its deviation from the code related to the Permeability Variation (and the setback Variation) is the smallest possible deviation.

D. Major Variation #4: Eliminate the required loading berth.

The final Major Variation request we address within these materials is the HODC request that the loading berth requirement be eliminated (“Loading Berth Variation”).

1. “The requested variation will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties”

Elimination of a rear loading berth requirement will substantially affect our ability to use and enjoy our property. HODC proposes, instead of a rear/alley loading berth, a loading dock on Church Street, deemed a “Major Street” or “Arterial Street” under Evanston’s Street Classifications.¹⁴⁹ An Arterial or Major Street is a:

“primary traffic route carrying the largest volumes of traffic through the community. It is their length and connection with major traffic generators that distinguishes these from other streets. In Evanston, arterial streets are generally located every half mile and carry at least 10,000 vehicles a day.”¹⁵⁰

149 Comprehensive General Plan, City of Evanston, p. 93, *located at:*
<https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>
(emphasis added).

150 Comprehensive General Plan, City of Evanston, p. 93, *located at:*
<https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000>
(emphasis added).

HODC's Loading Berth Variation request proposes removing two much-needed parking spaces along Church Street, substituting instead a loading dock on this Major/Arterial Street.¹⁵¹

Accordingly, we ask that the Land Use Commission imagine this loading dock's use, wherein: a residential development consisting of 48 units – four of which are commercial units – receive deliveries directly from Church Street, an Arterial street. Among these 48 units, there are a number of two- and three-bedroom units, in which at least two to three individuals will reside. We ask the LUC to extrapolate and picture the number of daily deliveries and related stops that are likely to occur directly within this extremely busy thoroughfare.

Such loading dock use would likely include, for forty-four units (most of which are 2- to 3-bedroom) and four commercial units:

- Amazon deliveries, via USPS, FedEx, DHL, and UPS, as well as via Amazon contractors operating their own vehicles;
 - We remind the LUC that – even where one household might make a singular Amazon order of several disparate items – such items often show up in separate deliveries at widespread times throughout a single day;
- Door Dash, Uber Eats, and similar meal deliveries;
- Instacart and similar grocery delivery orders;
- Standard daily U.S. Postal Service drop-offs;
- Standard UPS, FedEx, and DHL drop-offs;
- Non-standard deliveries, such as floral deliveries, pharmacy deliveries, and gifts;
- Drop-offs/pick-ups of residents, visitors, and commercial business patrons;
- For the commercial tenants:
 - Incoming deliveries of office supplies, inventory, furnishings/storage (such as case goods); and
 - Outgoing deliveries of customer orders and inventory.

We note that commercial deliveries will be of significantly larger scale than those for residential deliveries, necessitating that drivers take time unloading the deliveries onto carts for transportation, then taking the time to deliver and unload such deliveries, before returning to their truck to secure the cart and their truck load. All of this will take more than several minutes, causing delivery vehicles to double and triple up in front of the loading dock. This will interfere with traffic, cause safety issues for (a) vehicles whose drivers cannot see around delivery trucks and (b) for pedestrians and bikers in the area who will not anticipate vehicles attempting to avoid and dart blindly around delivery trucks.

In addition to these issues of delivery congestion that will inevitably occur each day, many times a day, on other days, residential and commercial tenants will be moving in or out of the development. While we understand that move-ins/move-outs are not events occurring day in and day out, a residential or commercial move is not an insignificant event even for one-bedroom tenants. On days when moves take place, moving trucks will occupy the entirety of the two

151 *See Exhibit W.*

parking spots comprising the Church Street loading dock, meaning that deliveries will be bumped out into the west-bound traffic on Church Street, effectively creating one functioning lane on a Major Street meant to support 10,000 drivers per day. This will not go well for anyone. Our employees and clients – as well as neighborhood residents, commuters, students, business patrons, and visitors – will be unable to safely navigate through the likely chaos of a loading zone on Church Street which is extremely close to the Dodge Avenue intersection, directly affecting use and enjoyment of our property.

2. “The requested Variation is in keeping with the intent of the zoning ordinance”

As it relates to impact on thoroughfares, the City states:

“Such things as new development, street or sewer construction projects, or declining mass transit use can each affect street traffic. Some of these factors are short-term. Others may have long-term effects that can spread throughout neighborhoods. For this reason, proposed developments should be considered not only for the impact they might have on the immediate neighborhood, but also on other Evanston streets.”¹⁵²

The congestion and safety issues from the suggested front-facing loading dock will include an increase in vehicle crashes, pedestrian and bicycle injuries, avoidance by residents in patronizing local businesses in the congested area, interference with students’ ability to reach their school in a safe and timely manner, and general congestion, noise, and decrease in quality of life related to commuting. The front-facing loading block will alter the residential feel of the neighborhood, resulting in a distinctly over-crowded urban feel which is inconsistent with the intent of the Zoning Code for the area. This directly contradicts the intent of the Zoning Code by increasing traffic, congestion, risks to pedestrian and cyclist safety, and by creating inevitable delays.

3. “The alleged hardship or practical difficulty is peculiar to the property”

We submit to the LUC that, instead of requesting a rear/north setback Variation and a Loading Berth Variation, HODC could instead forego its rear setback and implement a loading dock off of the alley, as is custom for large developments. Again HODC is working within a blank slate, which it can design according to its custom needs. There is nothing about the property that prevents inclusion of a rear-facing loading berth. Indeed, implementation of a rear loading berth arguably involves less unconventional planning and reorganization of design (and City resources) than does implementation of a loading dock on an Arterial Street. HODC designs the Parcels as it desires, requests major Variations in setback and loading berth requirements, and then seeks from the City a solution to its self-created problem. In doing so, HODC requires the use of significant City resources such as evaluation and consideration by Planning/DAPR, Zoning, the Land Use Commission, Permitting and Building, Public Works, and myriad City staff. It requires

152 *Id.* at p.96, located at: <https://www.cityofevanston.org/home/showpublisheddocument/33310/636501392398000000> (emphasis added).

the reworking of parking spots and traffic flow considerations to alter a Major Street that acts as a necessary thoroughfare between Evanston’s east and west sides.¹⁵³

HODC has essentially shoehorned a development into a spot for which it both designed the property lines, and which exists even within those property lines as a blank slate in which a developer could design infinite versions of this proposed development. Yet HODC puts forth its design with such significant Variation requests that it will alter the resulting character and feel of the neighborhood by dwarfing the neighborhood’s scale and streetscape, and still it asks the City for more: a loading berth on a Major Street that will irreparably alter traffic and safety by markedly increasing congestion and delays. We submit that nothing about this Loading Berth Variation request is peculiar to the property.

4. “The property owner would suffer a particular hardship or practical difficulty as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out”

We incorporate and refer here to our arguments under the Standard for Variation (3) immediately above and request that – for the same reasons – the LUC deem that this Standard for the Loading Berth Variation remains unmet.

5. “(a) The purpose of the variation is not based exclusively upon a desire to extract additional income from the property, or (b) while the grant of a variation will result in additional income to the applicant and while the applicant for the variation may not have demonstrated that the application is not based exclusively upon a desire to extract additional income from the property, the Land Use Commission or the City Council, depending on the final jurisdiction under Section 6-3-8-2, has found that public benefits to the surrounding neighborhood and the City as a whole will be derived from approval of the variation, that include, but are not limited to, any of the standards of Section 6-3-6-3 – Public Benefits”

We again assert, as under each of the Major Variation requests discussed above, that a design which self-selects the property lines and then seeks to fit within these new lines a property which uses every square inch to add as many units as possible, should not then receive the advantage of arguing that such an increase in scope in scale is not solely for purposes of extracting additional income from the property. Even it were not for such sole purpose, the Public Benefits of adding a loading dock along an Arterial Street at a critical intersection, most certainly do not outweigh any desire to extract such additional income.

153 See, e.g. Church Street Crash History, attached as Exhibit E; see also Exhibit D (City of Evanston Bike Path Proposal Study Goal and Objectives); Church Street Pedestrian and Bicycle Improvements, located at: <https://www.cityofevanston.org/government/departments/public-works/engineering-construction/capital-improvement-program-projects/street-resurfacing-water-main-and-sewer/church-street-canal-park-bike-infrastructure>.

6. “The alleged difficulty or hardship has not been created by any person having an interest in the property”

We restate here our arguments under each Variation request addressed above, and under the Loading Berth Variation Standards for Approval addressed thus far.

7. “The requested variation requires the least deviation from the applicable regulation among the feasible options identified before the Land Use Commission issues its decision or recommendation to the City Council regarding said variation”

We again incorporate our arguments here related to the other requested Major Variations related to this Standard for Approval (7). We seek to understand how the Loading Berth Variation on an Arterial Street involves the least deviation among its feasible options in this regard.

Conclusion

In the words spoken in 2006, by Mr. Carlis Sutton, a 5th Ward stakeholder and community representative who has invested incredible and unceasing effort in the neighborhood for many years:

“[W]hen it comes to decisions, who should prevail? Citizens, laws and city plans, or Developers? It is the position of the Community Alliance to give Mr. Koenig of HODC an additional opportunity to respond in good faith to our concerns. If Mr. Koenig is interested in making any substantial changes to his planned development regarding his financing, the density of [the area where the Parcels are located], or addressing our concerns about parking and set-backs, we are prepared to discuss and assist him in implementing these plans. However, if he continues to present his development in the current form, we have reached an impasse. We continue to refer to other major projects which were approved by the Plan Commission and the Developer still made major alterations in accordance with the neighbors and the Planning and Development Committee. Mr. Koenig, by contrast, has been unwilling to make any significant improvements despite unanimous findings of fact requiring disapproval by the Plan Commission.”¹⁵⁴

We respectfully request that each of the listed requested Major Variations be *Recommended for Denial* by the Land Use Committee for the reasons stated above.

EXHIBIT A

Style Examples of Proposed Garage Topped by Affordable Housing Dwelling Units, Green Roof, EV Charging Station, and Solar Panels



EXHIBIT B

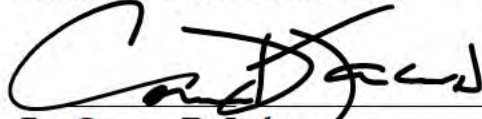
Attestation by Owner of 1817 Church Street of Intent to Construct the Accessory Dwelling Described Herein

I am the sole Member-Manager of Crosby Theodore LLC, owner of the building located at 1817 Church Street, Evanston, Illinois 60201. I attest that Crosby Theodore LLC intends to construct a garage or partially enclosed carport on the rear parking pad of the 1817 Church Street property. I attest further that, to the extent it is so permitted by the City of Evanston and the Historic Preservation Commission of the City of Evanston, I intend to construct a building that aligns with the description provided in the Materials to which this Exhibit is attached, and as described in Exhibit A.

02-07-2023

Date

CROSBY THEODORE LLC



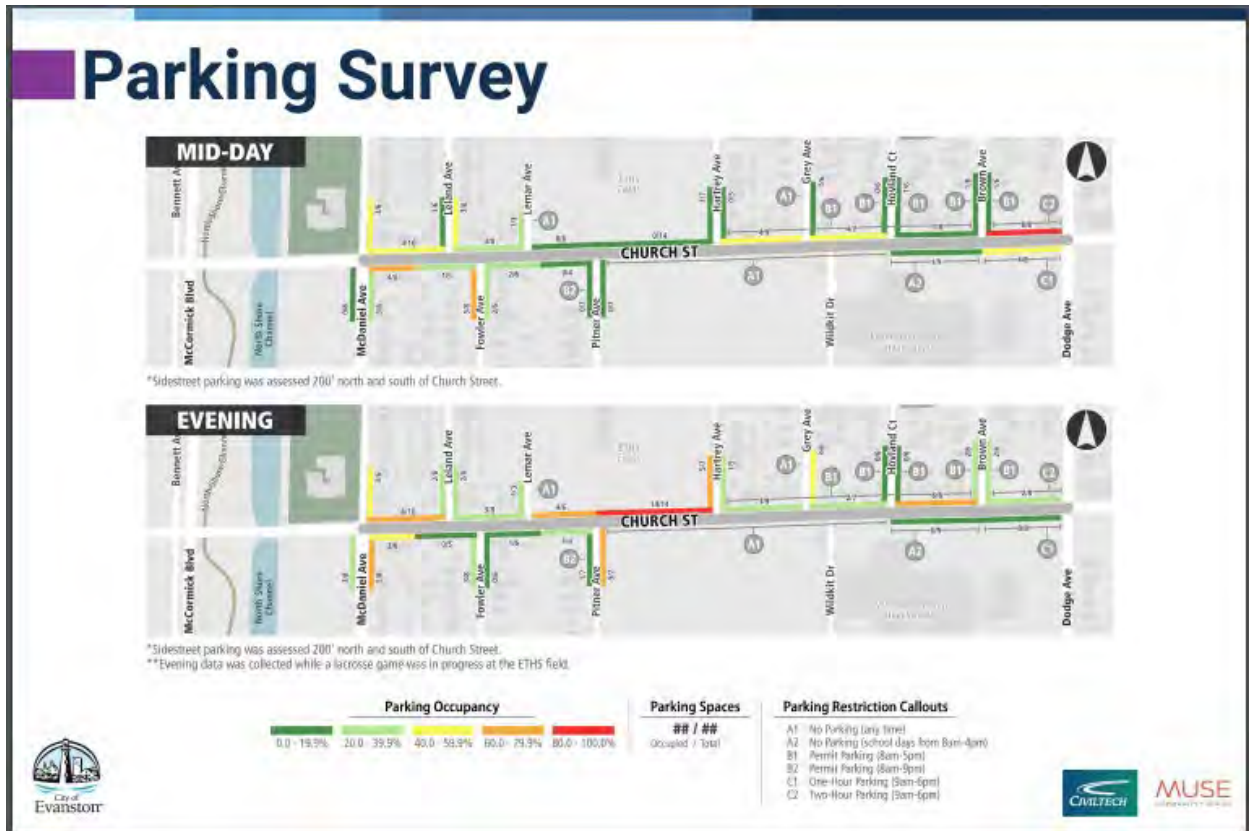
By: Connor D. Jackson

Its: Member and Manager

EXHIBIT C

City of Evanston Bike Path Proposal Parking Survey

Parking Survey for Church Street and Dodge Avenue is at 80 – 100% during daytime hours.



Source:

<https://www.cityofevanston.org/home/showpublisheddocument/65400/637630879706470000>
p. 21

EXHIBIT D

City of Evanston Bike Path Proposal Study Goal and Objectives

■ Study Goal and Objectives

Goal

Improve safety and mobility for people walking and riding bikes on Church from Dodge to west city limits and along the North Shore Channel between Church and Dempster.

Objectives

- Improve safety for people walking across Church Street between Dodge Avenue and the west city limits.
- Fill a gap in the bicycle network on Church Street between Dodge Avenue and the west city limits.
- Fill a gap in the trail network along the east side of the North Shore Channel between Dempster Street and Church Street.



■ Overall Engagement Themes



What improvements would encourage you to walk along Church Street?

- Reconstruct cracked/uneven sidewalks
- Additional marked crosswalks across Church Street
- Pedestrian islands or curb extensions to shorten the crossing distance across Church Street



What improvements would encourage you to bike along Church Street?

- Dedicated bike lanes
- Separation from moving traffic and parked cars
- Better connections to other bike routes



Source:

<https://www.cityofevanston.org/home/showpublisheddocument/65400/637630879706470000>

p.4, p. 8

EXHIBIT E

City of Evanston Bike Path Proposal Crash History



Source: p. 11

<https://www.cityofevanston.org/home/showpublisheddocument/65400/637630879706470000>

EXHIBIT F

Photographs of Traffic at Church Street and Dodge Avenue, 5pm, dated 1/24/23





EXHIBIT G

Renderings of the Proposed HDOC Development Consisting of 4 Stories



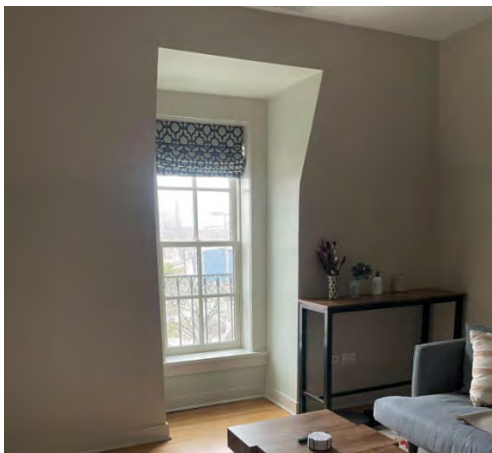
God's Promise



Source: <https://www.mtpisgahministry.org/content.cfm?id=9006>, last viewed 1/24/23.

EXHIBIT H

Residential Apartment on Third Floor of 1817 Church Street



The entry door to the third-floor apartment also takes advantage of natural light from a skylight.



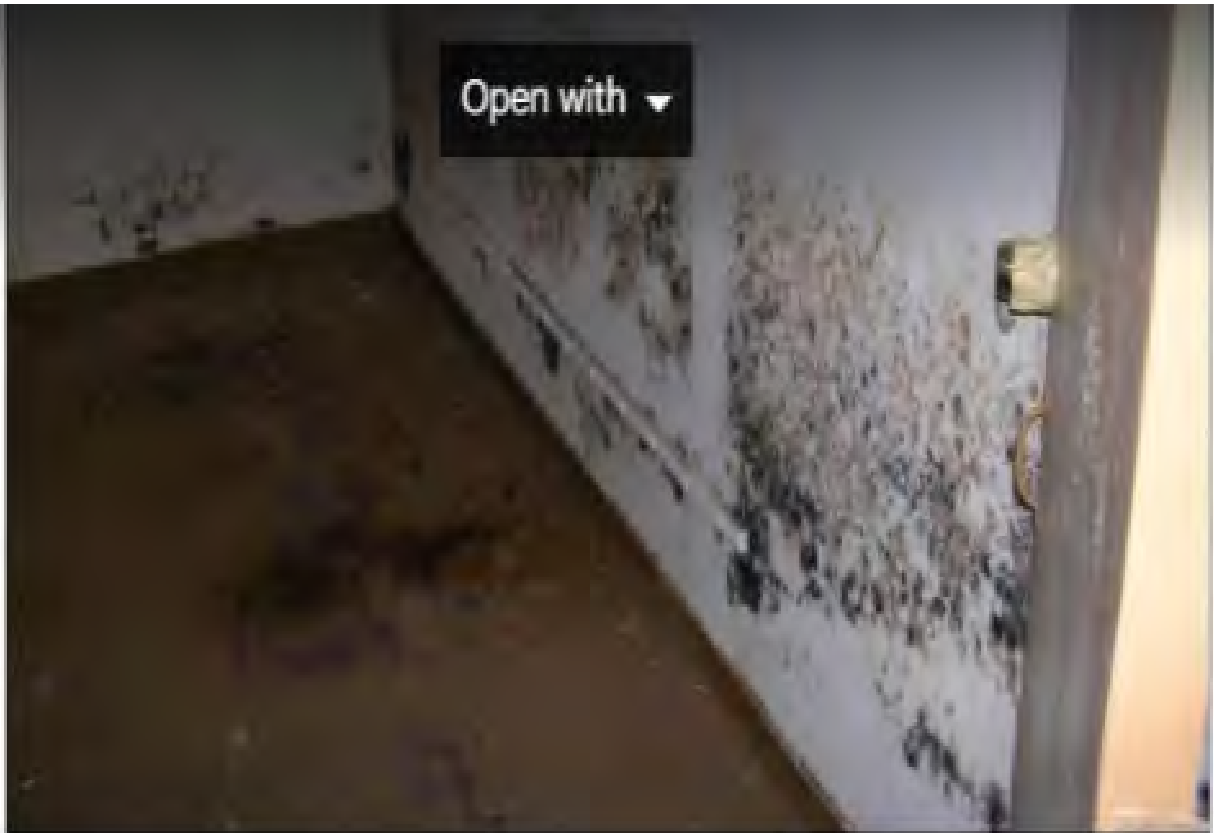
EXHIBIT I
Photographs of Flooding at 1817 Church Street



Photographs of Flooding Prior to Renovations of the First Floor



Photograph 5 – An interior view of the 1817 Church Street building.



Photograph 7 – A view of suspect mold located on the first floor of the building.



Photograph 8 – Another view of suspect mold located on the first floor of the building.

Photographs of Flooding After *Initial* Renovations of the First Floor, after which We Replaced First Floor Flooring



















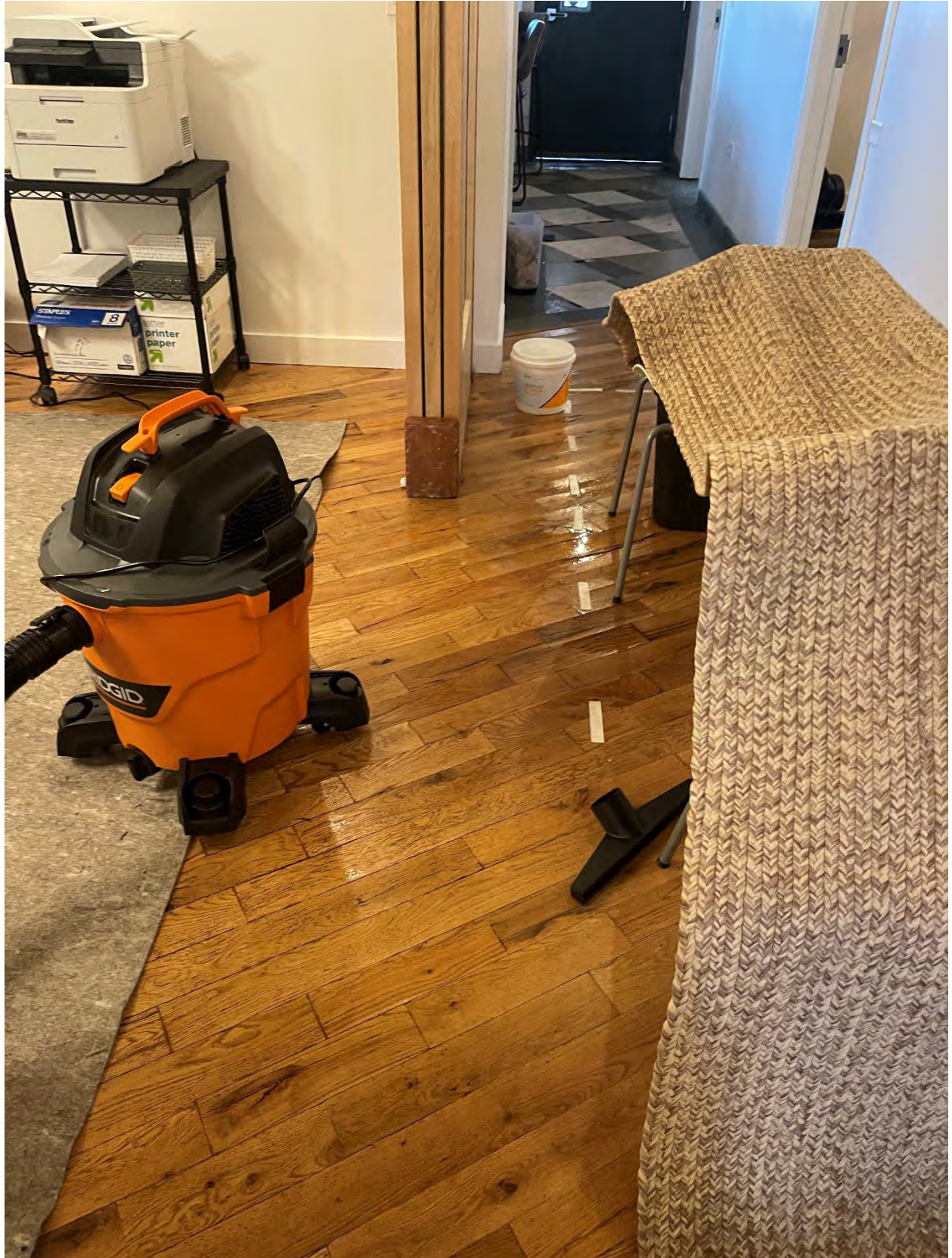


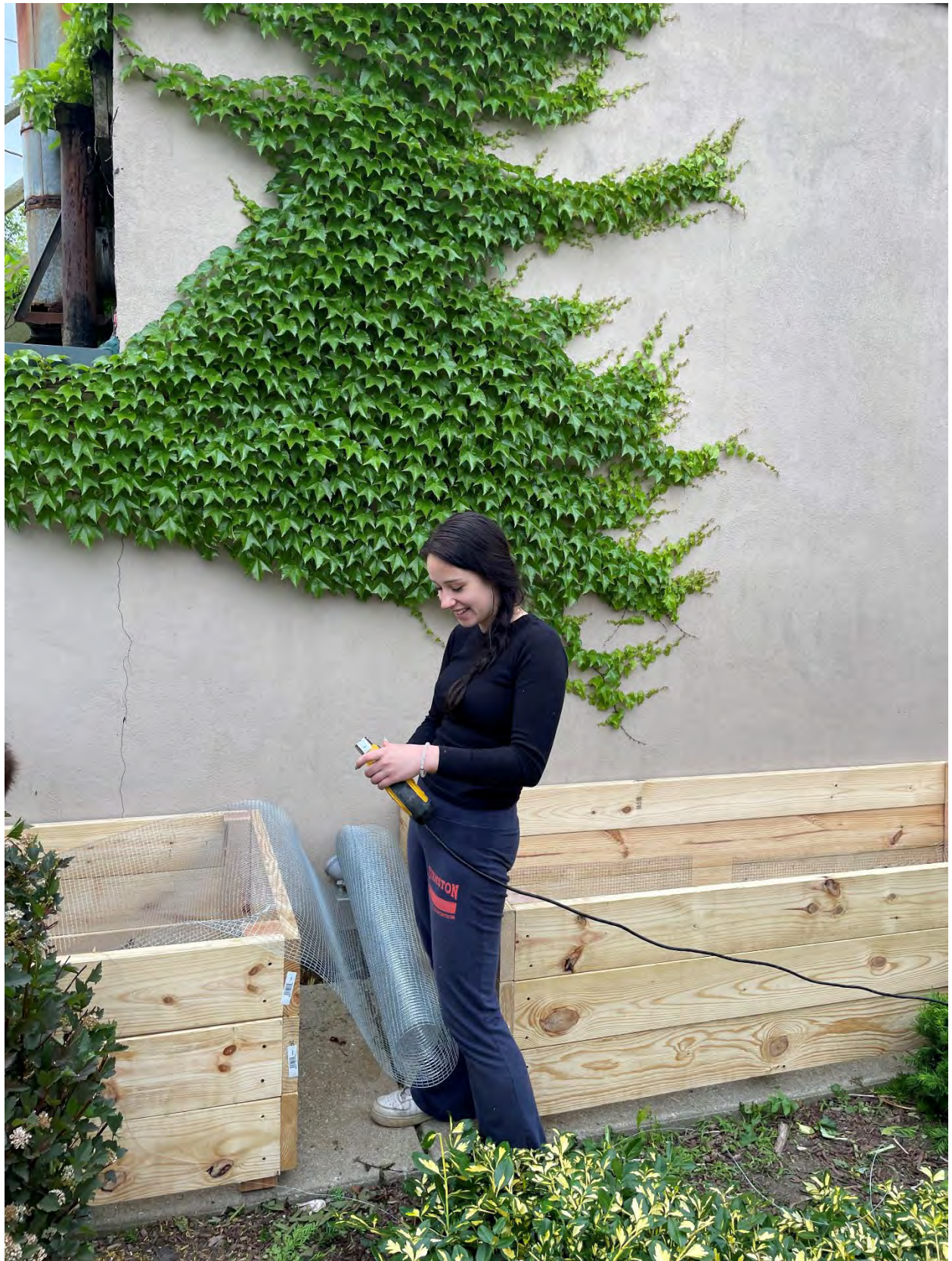
EXHIBIT J

Photographs Exhibiting Absorptive Plantings for Environmentally-Friendly Water Management, including Raised Garden Beds above Impervious Surfaces, and Consistent and Regular Courtyard Use at 1817 Church Street















Jackson LLP Healthcare Lawyers



July 12, 2022 at 3:37 PM · 🌐

It was a beautiful day to gather in the Evanston courtyard over the lunch hour to make cards for children, families, seniors, and veterans in who are in hospitals, senior living centers, schools, and rehabilitation centers served by [Cardz For Kidz](#).

Cards for Kidz uplifts spirits around the globe by delivering handmade cards with inspirational messages. No, the visual arts aren't the firm's usual lane. But we're all about support and encouragement (for each other, our clients, and our community). So, yes, we loved every minute of this project!





Jackson LLP Healthcare Lawyers

September 27, 2022 at 11:05 AM · 🌐



Our courtyard garden harvest is headed to the Evanston Community Fridge!





Jackson LLP Healthcare Lawyers



July 6, 2022 at 3:03 PM · 🌐

Peppers, tomatoes, tomatillos, basil, cilantro and more! We're putting our Evanston HQ's lush courtyard to work. Student Fellow Hanna Lindroth built raised beds and planted a new vegetable garden.

We plan to donate our harvest to a nearby community fridge. If you're unfamiliar with such programs, community fridges offer food-based mutual aid guided by the principle of "leave what you can and take what you need."







EXHIBIT K

Photographs of Reflooring of 1817 Church Street First Floor due to Ongoing Water Damage









EXHIBIT L

Photographs of Moving of Furniture to Replace Flooring on First Floor of 1817 Church Street



EXHIBIT M

Photographs of Skylight-Focused Construction to Harness Natural Light and Energy Efficiency



























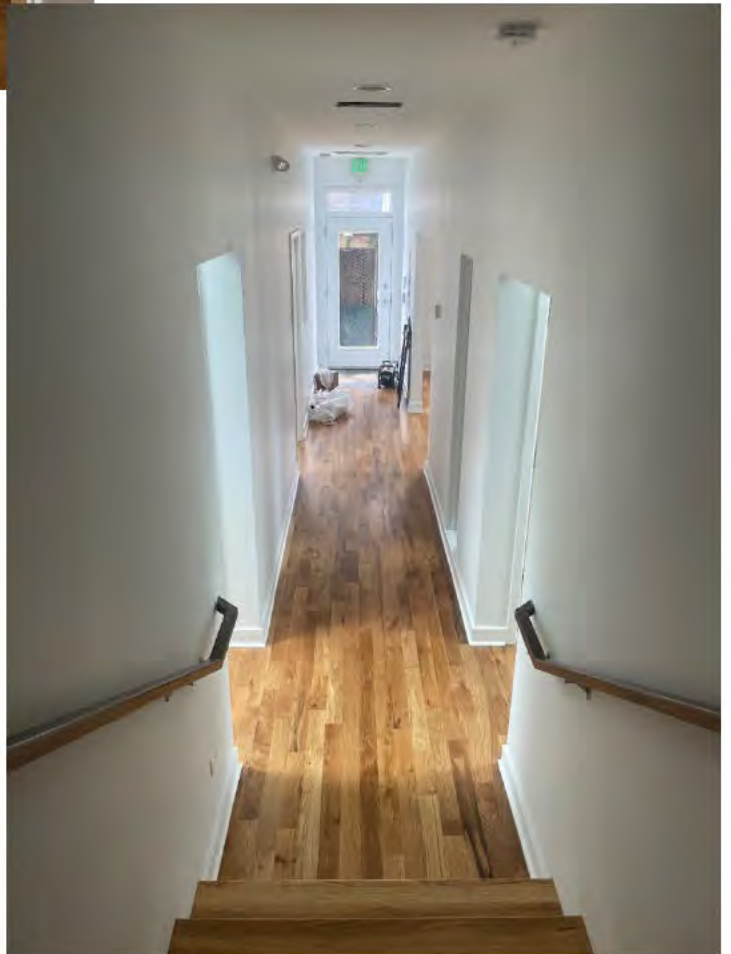


EXHIBIT N
Photographs of Graded ADA Ramp in
Courtyard of 1817 Church Street





EXHIBIT O

Meeting Minutes of May 22, 2006, Planning and
Development Committee

Consideration of Planned Development for 1708-10 Darrow
Avenue/1805 Church Street

*[Attached to email transmission of this document to the
Land Use Commission]*

EXHIBIT P

Videos of Church Street Traffic, dated 1/20/2023,
4:30pm

*[Attached to email transmission of this document to the
Land Use Commission]*

EXHIBIT Q

Crosby Theodore LLC Certificate of Good Standing



Office of the Secretary of State
ilsos.gov

Corporation/LLC Search/Certificate of Good Standing

LLC File Detail Report

File Number	09361847
Entity Name	CROSBY THEODORE LLC
Status	ACTIVE

Entity Information

Principal Office
1817 CHURCH ST
EVANSTON, IL 602010000

Entity Type
LLC

Type of LLC
Domestic

Organization/Admission Date
Wedne day, 14 October 2020

Juri diction
IL

Duration
PERPETUAL

Agent Information

Name CONNOR D. JACKSON
Address 1817 CHURCH ST EVANSTON , IL 60201
Change Date Wednesday, 14 October 2020

Annual Report
For Year 2022
Filing Date Thursday, 25 August 2022

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EXHIBIT R

Habitat for Humanity, “Home Ownership Builds
Wealth”

*[Attached to email transmission of this document to the
Land Use Commission]*

EXHIBIT S

“Plan Alternatives” for West TIF District Sub-Area #3

4 PLAN ALTERNATIVES

The three early Plan Alternatives reviewed by the community at the September 21, 2006 meeting grew out of a thorough review of existing neighborhood conditions and the community input received up to that point, and were presented as a mix-and-match set of redevelopment strategies that illustrated different options for key plan elements. At this point in the planning process, the community was not asked to support a particular Plan Alternative, rather to give feedback on key elements of all of the Plan Alternatives about which they felt either positive or negative. These key elements included:

- Building heights and configurations at the Church & Dodge intersection
- Various strategies for diminishing the impact of the abandoned railroad embankment, and
- Several levels of residential redevelopment within and along the abandoned railroad embankment

The Plan Alternatives contained new residential counts that ranged from 121 to 235 dwelling units and retail levels that ranged from 9,300 to 18,400 square feet.





EXHIBIT T

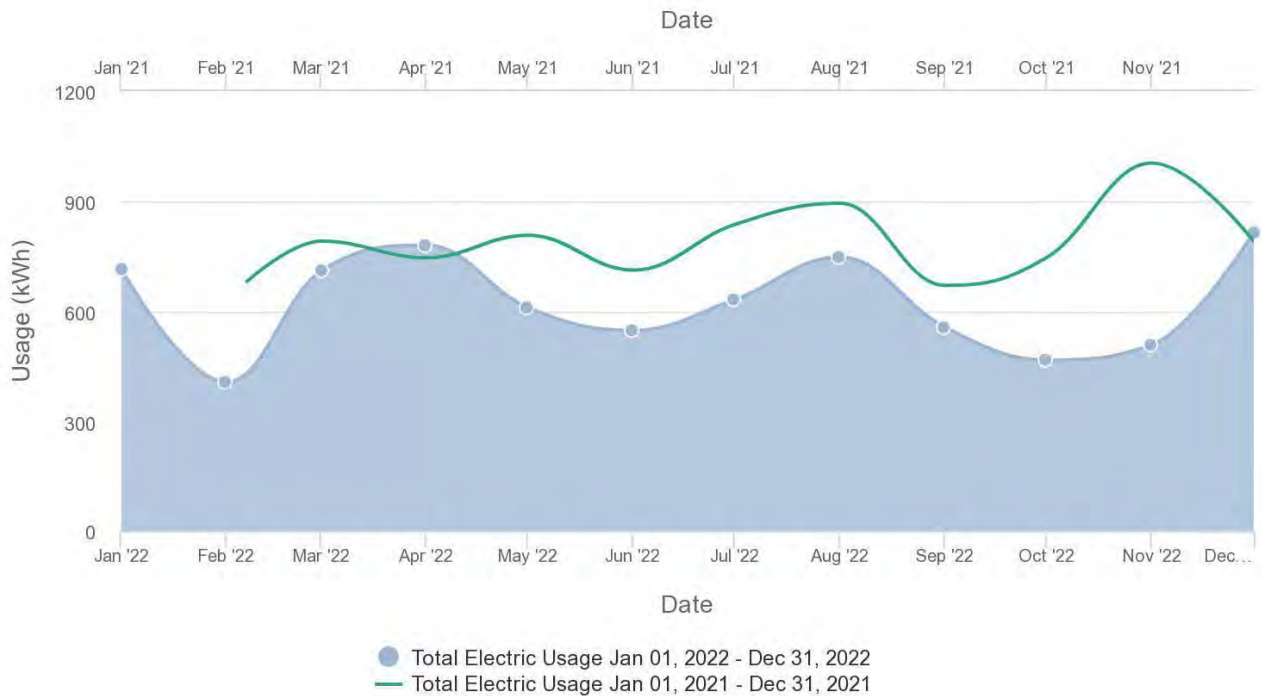
Illinois Environmental Protection Agency, “No
Further Remediation Letter” to E-Town Community
Ventures, LLC

Dated November 6, 2017

*[Attached to email transmission of this document to the
Land Use Commission]*

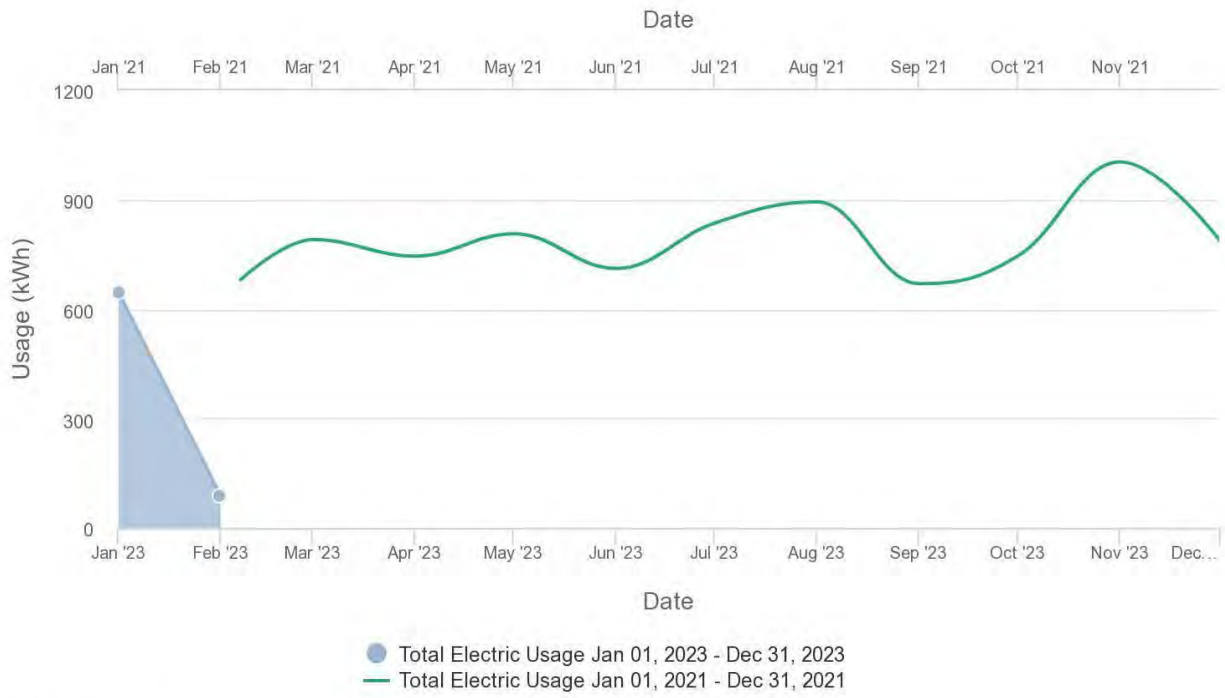
EXHIBIT U

Graphic Demonstrating Our Electrical Usage in 2021 versus 2022, and during the first months of 2023



All Meters Selected

The above graphic demonstrates electrical usage on our first floor in 2021 vs. 2022. Though our team grew during that time, our efforts at creating a more sustainable and energy-efficient office began to be reflected through our electrical bills.



All Meters Selected

The above graphic demonstrates electrical usage on our first floor in the initial months of 2023, as compared with 2021.

EXHIBIT V

Parking Signage near Church/Dodge Intersection



EXHIBIT W

Photo Depicting High Usage of Parking Spots on Church Street Where Proposed “Loading Zone” Would Replace Existing Parking



Photos taken at approximately 2:45pm on Tuesday, February 7, 2023

EXHIBIT X

Photo Depicting Blocked Access to the Alley from Dodge Avenue Because of a Single Refuse Truck



Photos taken at approximately 2:45pm on Tuesday, February 7, 2023

DRAFT

**Planning & Development Committee
Minutes of May 22, 2006
Council Chambers – 6:30 p.m.
Evanston Civic Center**

Alderman Present: S. Bernstein, A. Hansen, D. Holmes, L. Jean-Baptiste, E. Moran, A. Rainey, E. Tisdahl, C. Wollin, M. Wynne

Staff Present: J. Wolinski, J. Carroll, J. Burke, K. Cox, N. Ney, D. Spicuzza, E. Szymanski, J. Brownlee

Presiding Official: Alderman Rainey

DECLARATION OF QUORUM

Chair Rainey called the meeting to order at 7:00 p.m.

APPROVAL OF THE MEETING MINUTES OF MARCH 27, 2006 AND SPEICAL MEETING OF APRIL 4, 2006

Both sets of meeting minutes were unanimously approved 8-0.

ITEMS FOR CONSIDERATION

(P2) Planned Development for 1708-10 Darrow Avenue/1805 Church Street

Consideration of a recommendation from the Plan Commission to deny a planned development for Housing Opportunity Development Corporation. The Planned Development includes a 4-story multi-family residential building with 27 affordable housing units and 30 off-street parking spaces. The Committee began discussion of this item at the March 27, 2006 meeting and was held. This item was held at the special meeting on April 4, 2006. On April 11, 2006, this item was held again to be brought back by a P&D Subcommittee at the May 22, 2006 meeting. A report from the Subcommittee will be transmitted on Monday, May 22, 2006.

THIS ITEM WAS TRANSCRIBED BY COURT REPORTER DENISE ANDRAS, IN ACCORDANCE WITH THE KLAEREN RULES. PLEASE REFER TO THE ATTACHED TRANSCRIPT.

The final vote was 5 voting aye (Wynne, Hansen, Tisdahl, Bernstein, Rainey) and 4 voting nay (Holmes, Jean-Baptiste, Wollin, Moran).

ADJOURNMENT

With no further business, the meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Jacqueline E. Brownlee

CITY OF EVANSTON

PLANNING & DEVELOPMENT COMMITTEE

CASE NO.: P2

RE: PLANNED DEVELOPMENT FOR 1708-1710 DARROW AVENUE/
1805 CHURCH STREET. Consideration of a recommendation
from the Plan Commission to deny a planned development
for Housing Opportunity Development Corporation.

Transcribed Report of Proceedings of a public
hearing on the above captioned matter, held May 22, 2006
at the Village Hall of Evanston, 2100 Ridge Avenue, 2nd
Floor, Evanston, Illinois, at 6:43 p.m. and presided
over by M. Wynne, Chair.

PRESENT:

M. WYNNE, Chair	L. JEAN-BAPTISTE
S. BERNSTEIN	A. RAINEY
E. TISDAHL	D. HOLMES
E. MORAN	A. HANSEN
C. WOLLIN	J. WOLINSKI

STAFF:

J. BROWNLEE
E. SZYMANSKI

CHAIRMAN WYNNE: Welcome everyone to Monday, May 22nd meeting of Planning and Development Committee. We have one item on our Agenda for consideration tonight. It's the Planned Unit Development at Darrow and Church. Since we have just this single item, I'd like to lay out what the plan is for this evening.

We have a Sub-Committee that's been working on this as many of you or all of you know, for a number of meetings. A Sub-Committee report has been prepared, everyone should have a copy of that. Do we have copies out? Yes, copies are out there, it's a short summary. What I'd like to do first is have the members of the Sub-Committee present their report, we've all read it, if you could summarize it, then we are going to give both the opponents and the proponents approximately 15 minutes to provide summation.

If you anticipate presenting any new evidence, we'll have to swear you in which is not a difficulty at all, we have a court reporter here and what we'll do is first hear from the opponents and then hear from the proponents for approximately 15 minutes. That's, that'll be the limit. Then we'll bring it back up here for the Committee discussion. So, first on the order of

battle here is going to be the Sub-Committee report. Is there, Alderman Holmes, were you the Chair of the Sub-Committee was there an Official Chair?

ALDERMAN HOLMES: Yes, I was the Official Chair.

CHAIRMAN WYNNE: Would you like to present the report to us please? And if anyone else would like to comment, that would be useful.

ALDERMAN HOLMES: We'll the, as outlined in the report, we had a total of six, I believe, meetings and presented a lot of ideas and suggestions, we had a lot of debate back and forth about the project. All of that of course, I hope all of the Aldermen received that in their minutes.

I tried to keep the conversation between the Sub-Committee members, except that we did allow Aldermen to have some input and as the report points out that we ended up with the number of units, ownership versus rental, parking and ground floor usage and probably the redesign of the project as being the topics that we chose to report on it.

This is a, Mr. Wolinski was very helpful in terms of keeping very good notes, that we could pull

together a report and this is, this is it. I don't think I need to read it. It's pretty clear that we, I guess the conclusion was that even though we worked really, really hard, that we just couldn't come back with a recommendation that both sides could agree on.

CHAIRMAN WYNNE: Okay, would any other member of the Sub-Committee like to add anything? Alderman Tisdahl.

ALDERMAN TISDAHL: I'd just like --

CHAIRMAN WYNNE: I'd just wanted to say, the court reporter has asked that we all make sure our microphones are on and that we speak clearly into them.

ALDERMAN TISDAHL: I think this is one time when I did remember to turn it on, but thank you. No, I just wanted to agree with Alderman Holmes' synopsis and say that everyone did, did work very hard, but it is difficult for the project to change, because of the demands of the funding.

CHAIRMAN WYNNE: All right. Thank you. All right, oh, Alderman Jean-Baptiste? I don't, are these lights? I'm sorry, the lights were not turned on. Can you press the red? All right, Alderman Jean-Baptiste? We'll figure this technical thing out.

ALDERMAN JEAN-BAPTISTE: I did miss the last two meeting, I missed the summary meeting and the meeting before that, but I was at most of the other meetings and the issues, you know, when we addressed, for example, parking. Although the structure itself, the Developer was not able to exercise the kind of flexibility to absorb more of the parking inside the building.

However, a representative from our parking, Public Works, Jean Barkum and I believe John Burke, came, and they had done a study of the available parking in the community, and they were able to find an additional 30 or more spaces and we are talking about some within the same block, some across the street with small modification of allowing parking on both sides of the street, or allowing parking in places where parking was restricted previously.

So I personally felt that the parking issue, we allowed for some flexibility. And the year before, we added 15, or we added maybe 10 additional parking places right in front of Strange, the new Strange building when we supported the installation of diagonal parking. And for the most part the analysis was that

the main pressure came on, during the weekend because there are about four churches there. So for parking, you know, I think there was a proposed resolution.

On-Site Management was an important issue as well, and the neighbors wanted to make sure that, you know, that there was some oversight of the place and the tenants there and that the building was maintained over a long period of time, that it didn't become a blight on the community and the Developer indicated that it would hire an additional person on-staff to do management and would commit up to about 20 hours a week to provide for management and that they would hire a resident to also do some minor upkeep of the building.

Additionally, ECDC, as an organization is supposed to have an office there and part of the agreement is that it would maintain a presence there as well. So, I thought that that issues was addressed, not to the maximum possible outcome, but it was addressed. There was a lot of discussion about the library, the potential on-site library there, branch library and I don't know what ended up happening in the end, but that was something to be resolved and I thought it would come before us, but I don't see it in the report

specifically.

ALDERMAN HOLMES: May I address that?

CHAIRMAN WYNNE: Yes, go ahead Alderman Holmes.

ALDERMAN HOLMES: Alderman Jean-Baptiste, two things I follow up on the library, but first on the parking, at our meeting on the 19th, the Developer with some readjustments within the building, could come up with five additional parking spaces on-site. Meaning that there would be 35 rather than 30.

So that means that would be seven then short.

The other, in terms of the library? At the Tuesday meeting, the community, if we couldn't have a full branch library, then they would rather not have the library. But would want to negotiate with, I hope I'm stating it correctly, but I know Mr. Sutton is here so he could address that. But were willing to negotiate with HODC and ECDC as to what would be, actually what would go into that space at a later date.

ALDERMAN JEAN-BAPTISTE: Okay.

ALDERMAN HOLMES: Is that correct?

ALDERMAN JEAN-BAPTISTE: And then I know that there was some issues as to ownership as stakeholders versus renters as not being stakeholders. So there were

a lot of discussions about perhaps the rental with option to buy and trying to manage the different perception into the mind of those who would be coming into the building and hopefully in the community's mind as well.

So, I see here that in the report there were discussions, I don't know whether anything was adopted in fact, but issues such as a tenant organization. So that people would have greater camaraderie, be able to discuss the condition of the building and be able to make suggestion and sort of police each other in the process.

So, you know, and of course the ground floor usage, I think the On-Site Management, the ECDC presence and others contributed to that. There was an issue that Alderman Hansen had which was that the gate and the fence in the rear, the wooden fence that was proposed promoted a perception of, well, of not such a good quality for the community.

And I think the Developer had stated that he would commit to putting wrought iron fence that may be on the middle, so that it's still open to the street, to the community, but provides some type of security as

well. So these are some of the things that I recall that we talked about and hammered out.

CHAIRMAN WYNNE: All right, thank you. I wanted to let the Committee Members know that for some reason the light board is not working. So if you would like to speak could you raise your hand so I could see you a little bit. I don't know why that is. The white button? Yes, we turned on the white button Mayor.

MAYOR: Does that do it?

CHAIRMAN WYNNE: No, it doesn't. If everyone could just bear with us, this will make things. Here comes Max. If everyone could just bear with us for a minute. All right. Not just a Mayor, but a tech person! Okay. Now I'd like. Any? Now I don't know which of you had your lights on. Would any of you like to make a comment further? Okay. All right. Why don't we hear from the opponents first. Mr. Sutton, do you expect to present any new information?

MR. SUTTON: No.

CHAIRMAN WYNNE: Okay, all right. Thank you.

MR. SUTTON: Due to the shortage of time, excuse me, I'm going to make the, I've summarized all of the concerns of the people in my group and I'll be the

only one making a presentation.

CHAIRMAN WYNNE: Okay, can you introduce yourself?

MR. SUTTON: Yes, I will. Carlis Sutton, President of the Community Alliance Organization. To Alderman Melissa Wynne, Chairman, Planning and Development Committee, the summary of the Task Force Committee from the perspective of the Community Alliance. The objections to the planned development, Darrow Corners, of are two types.

One, harm to the surrounding neighborhood, and two, possible harm to the occupants. Virtually all the discussion that I've heard this evening and before the Task Force, has been about the occupants of the building and how to improve things for them. But the Developer expressed little or no interest in addressing the harm to the neighborhood, and did not agree to any corrections to reduce this harm.

While the neighbors are as concerned as anyone about how low income tenants would be treated in an affordable housing facility, many of us fall into that category themselves or have for decades been providing such houses, housing as landlords, to their tenants. We

would like to see every possible improvement made for their well being.

It is striking that the Developer still proceeded as if that was the only concern which deserved his attention and continued to ignore all the deficiencies regarding the impact on the neighborhood, which the Plan Commission found would result. And many of the Aldermen stated their agreement with the Commission. Why are the legitimate concerns and needs of this neighborhood so easily disregarded?

The Zoning Ordinance and Adopted Plans makes protection of residential neighborhoods the top priority. We, as stakeholders, are mandated that any development conform to the Standards and the Tests. Is there something about my particular neighborhood that makes it ineligible for these protections? What excludes us?

We have a sterling opportunity this evening to observe where the intent of the law and the concerns of the neighbors are in agreement. Don't facilitate a political decision to move this development on without visualizing the harm that this message will send out. The citizens concerns don't count. Zoning laws are not

important. City plans and citizen participation are irrelevant.

And when it comes to decisions, who should prevail? Citizens, laws and city plans, or Developers?

It is the position of the Community Alliance to give Mr. Koenig of HODC an additional opportunity to respond in good faith to our concerns. If Mr. Koenig is interested in making any substantial changes to his planned development regarding his financing, the density of Darrow Corners, or addressing our concerns about parking and set-backs, we are prepared to discuss and assist him in implementing these plans.

However, if he continues to present his development in the current form, we have reached an impasse. We continue to refer to other major projects which were approved by the Plan Commission and the Developer still made major alterations in accordance with the neighbors and the Planning and Development Committee. Mr. Koenig, by contrast, has been unwilling to make any significant improvements despite unanimous findings of fact requiring disapproval by the Plan Commission.

The only major change for the neighbors, from

the Task Force meeting has been the revelation that affordable home ownership is not guaranteed in 15 years or at any time for this development. It is only a contingency. This proposal is not realistic, practical or enforceable. We have reduced our many concerns to the following corrections which are the minimum which should be made to bring this plan into compliance.

One, some immediate home ownership. At least 1/3 of the units, or create a Limited Equity Co-Op to provide immediate home ownership. Two, provide the required amount of parking. Three, reduce the size of the building so it does not dominate the residential neighborhood. Four, more ground level type space for active, commercial use. Community Alliance position regarding Darrow Corners.

The community surrounding Church and Darrow will welcome additional affordable housing projects that fit within the scale and character of the neighborhood. The Darrow Corner's proposal does not meet this criteria. The following summary explains the central issues of this project from the Community Alliance point of view. The Community Alliance represents residents in the area surrounding the proposed planned development

called Darrow Corners at Church Street.

We live on Darrow Avenue, Dodge, Church Street, Lions and Emerson. The Community Alliance is a residential neighborhood made up primarily of single family homes, with some two flats, four flats and several town homes. Our area includes three single family houses built for affordable housing and we welcome more affordable housing projects that are in the same character and scale as our neighborhood.

In contrast, the proposed project for Darrow and Church is a four story, residential building with 27 apartments. The residents and landowners in this area value the essential character of our neighborhood and one of our highest priorities is to preserve this character as we work to revitalize it. It represents the quality of life that brought us to this area and that we desire to maintain.

We oppose the planned development for Church and Darrow. One, because it is contrary to our vision for the area we call our home. Two, because it will have a negative impact on our neighborhood. And three, because there are viable alternatives both for commercial development and at that target site and for

smaller scale affordable housing projects in our neighborhood. First, this project is designed as a residential building in a location intended to support business. This part of Church Street, with business neighbors near Dodge Avenue, is not suitable for raising young children.

As a major route in and out of Evanston, there is a steady stream of cars, mass transit busses, very large trucks entering and leaving Onyx, and a regular flow of high school students to and from ETHS. There is no room for open space in the proposed development. We have long hoped for a project to develop the empty lot at the corner of Church and Darrow. Our vision for that corner has been a building with street level spaces designed for pedestrian oriented public use, commercial or non-profit.

The proposed project is not the only economic development possibility for the empty lot at Church and Darrow. Second, a large multi-unit, multi-floor, residential building is out of character with our neighborhood. The additional population density will bring traffic and parking to levels not associated with any other predominantly single family neighborhood.

Our vision for the streets on which we live does not include making it more difficult to park in proximity to our homes and destination. Third, the sheer size of the building, regardless of it's use is way out of scale with anything in our community. Neighborhood context is the appropriate criterion for design, not maximum dimensions allowable by zoning. A project of this size opens the door to other developers to plan more large scale buildings.

Fourth, to bring this large residential structure, the plan calls for tearing down 2, two flats. Tearing down smaller structures to erect larger structures is the exact opposite of our intentions and the vision of our neighborhood. Fifth, this neighborhood has many rental units with relatively low rent and many of these units have been vacant for some time.

Even though the project targets a very low income population, the projected 15 years of rental units will add competition with this already struggling low and moderate income local rental rate. The fundamental problem with this proposal is location. It is a noble attempt to develop a long vacant business lot

and provide affordable housing. A project was developed that does not fit the site in the context with the surrounding business and residential community.

However, as designed, this project is well suited for a residential area where existing residential buildings of a similar size already exist. The unfortunate result is that two important community values, and members of the community support both of these values, have been placed unnecessarily into a high-stake, win-lose conflict. The tragic fallacy of this disagreement is the notion that neighborhood values have to be compromised to achieve affordable housing goals. They do not!

Affordable housing and neighborhood preservation can be achieved compatibly and harmoniously by planning affordable housing projects that fit the particular character of Evanston's diverse neighborhoods. We, who embrace these values on both sides of this issue, should not have been forced into this avoidable and disheartening dilemma.

City Council is faced with a difficult decision and there is an understandable great reluctance by Aldermen to oppose this project. The City has not

made significant progress on affordable housing and there is a great desire to show some forward movement. ECDC and others actively participating in this goal, have invested a lot of time and hopes on this project. HODC has invested a considerable amount of their organizational resources in developing this plan.

Opposition to this project by the Council may be mis-construed as a lack of support for affordable housing efforts and there is pressure to quickly initiate development activities in the new TIF District.

Despite these great pressures, City Council should not accept this plan without major changes to conform to the character and needs of our area.

The intention of this neighborhood, to preserve its character, should not be sacrificed to achieve another community goal no matter how invested the project is. Especially where there are compatible alternatives. We're being asked, under the banner of affordable housing, to sacrifice our long-term best interests to benefit the short-term interests of an other invested party's.

To do so is unfair to this neighborhood and therefore, unacceptable. This decision will make a

statement about how City Council views the roles of neighborhoods and self-determination. Our Community Alliance expects to have a significant voice in determining the direction of change in our neighborhood.

Summary of Sub-Committee meetings for Darrow Corners Project. When the Planning and Development Committee formed a special committee to explore compromises that the Developer might make to address community concerns about the Darrow Corner's proposed development, the neighborhood groups represented by Todd Smith, John Leineweber and me, had four principal areas of concern. One, ownership.

We had serious concerns about a densely populated building of uniformly low income renters, particularly given the lack of full-time staff on-site to oversee the property. We wanted some immediate stakeholders to be living or working on the premises. We suggested a mix of residential owners and renters as HODC has done at some of its other developments. While creating a cooperative now as REBA Fellowship has done at some of their properties in Southeast Evanston. HODC's response? Not possible because the financing will allow only rental use for a minimum of 15 years.

However, they will form a Tenant's Committee. Commercial space at street level. To spur economic development, to conform with the neighborhood plan and to create a more pedestrian friendly environment around the building, the neighbors asked for commercial space at street level, fronting Church Street. This would also introduce alternative stakeholders on-site in the form of businesses with a vested interest in the maintenance and general environment of the property's common areas.

An Evanston branch library was considered and agreed to by us neighbors and Developer. That was modified by virtue of a space allotted for this. Only 1200 square feet, as opposed to the minimum 3000 square feet which will be made available with the first floor modifications, which is not large enough for an actual library branch on Church. Also, the Evanston Library Board advised that the expense for this location was not feasible. Subsequently, Alderman Holmes reported that some neighbors voiced opposition to a quasi-library computer center at that location. HODC response to this request?

Most of the common area on the first floor is

reserved for storage, laundry and ECDC and HODC offices and a community room. Independent commercial users would require a carve-out of space from the LIHTC funding. Developers indicate that commercial space is not feasible. Adequate parking. The neighbors requested that HODC find a way, through TIF funds, home funds, for purchase of the land, economizing on construction where there's a wide swing between budget and proposed higher construction cost, nearly 1.2 million dollars, to provide the parking required by zoning, on the premises.

HODC along with the City Staff identified where additional spaces on the street might be utilized.

As many as 28 parking, tightly North and South of Church on Darrow. Mr. Koenig also redesigned the parking lot to accommodate another three parking spaces by reducing rear yard set-backs and moving a handicapped space onto the street. The neighborhood groups were not happy with this accommodation. As it is anticipated that continued development in this neighborhood will quickly exhaust street parking, it is the neighbors belief that developers working in the Fifth Ward should be held to the same standards as all of the developers

in the city. HODC's response?

Because of cost and engineering considerations requirements, they are not willing to seek alternative financing to comply with zoning requirements with regard to parking. Inappropriate Density. Although this property is located in a B2 Zoning, the area surrounding the site is composed of two story, two-flats, single family homes and one or two story commercial properties averaging only 25 feet in height.

The neighbors feel as though this project, at 45 feet high and 97 percent lot coverage, will dominate the neighborhood physically and that it's residents, by their sheer number, may be significantly alter the tone of the community. Particularly their will be no full time site management or janitor. We asked that HODC consider reducing the number of units in the building to 18 by removing the third floor.

This would address our most serious concerns by modifying the sheer size of the building to 35 feet high, with 3 foot set backs on Church and Darrow so that it would fit more appropriately in the community's existing design. Creating a more manageable situation in terms tenant issues.

Building maintenance issues and traffic into and around the site which is already burdened by the truck traffic flowing to downtown Evanston and into the Onyx waste transfer station. Allow for the proper number of parking spaces required under Evanston's zoning ordinance. Result? Mr. Koenig stated that this will require modifying the IHDA application and that his Board of Directors had instructed him to abandon the project unless it could go forward as presented.

CHAIRMAN WYNNE: Mr. Sutton, I'm going to give you about three more minutes.

MR. SUTTON: Yes, I'm on the last paragraph.

CHAIRMAN WYNNE: Okay, thank you.

MR. SUTTON: Okay. It has been, it has become more apparent over the course of the past weeks, five meetings in all, that HODC really didn't have the ability to compromise much at all because of the application that has been submitted to IHDA for the LIHTC financing. To make any substantive changes would require that the application be resubmitted and his Board will not allow that course because of the resources that might be required to redesign the project.

While we appreciate that HODC has invested much time and money in bringing the proposal to this point, we feel very strongly that this dialogue with the stakeholders should have taken place before the application was submitted to IHDA. The neighborhood groups who oppose this project maintain that we should not bear the burden of the Developer's inability to modify this project because they finalized financing for a planned development before presentation Plan Commission, before presentation to the Planning and Development Committee, and before presentation to the legal stakeholders.

Like every other community in Evanston, the members of Community Alliance, Dr. Hill Community Associate, OLE, West Side Neighbors, and Mayfair Neighbors ask that our voices be heard. At the very least we demand that this project be in compliance with Evanston zoning ordinance as we believe a variance for this project will harm our community.

Therefore, we request that the Planning and Development Committee follow the recommendation of the Plan Commission and deny the variances requested for the Darrow Corners Planned Development. Thank you.

CHAIRMAN WYNNE: Thank you. Yes, if you have copies of Mr.? Yes, why don't you just pass that out. Thank you. While this is being passed out, I'd like to ask the Committee that we make the Sub-Committee report on Darrow Corners, dated today, part of our record. The Legal Department has indicated that we should include that in our records. Mr. Gaines, did you want to?

MR. GAINES: Will you also be making the opponents response part of the legal record?

CHAIRMAN WYNNE: This is what Mr. Sutton just read to us? Yes, then this would be part of the record.

MR. GAINES: Thank you.

CHAIRMAN WYNNE: Yes, all right. Want to step up? Okay. Now, Mr. Koenig, you don't have any new information do you?

MR. KOENIG: No.

CHAIRMAN WYNNE: Okay. And you don't have to be sworn then.

MR. KOENIG: Good evening, Council members. My name is Richard Koenig, I am the Director of the Housing Opportunity Development Corporation and on behalf of the Evanston Community Development Corporation we are the proposed sponsor of the Darrow Corners Project. Thank

you so much for having this meeting tonight and for allowing to go to the Sub-Committee process to go through and address some of the issues and some of the concerns that were brought up.

When we started the Sub-Committee process, we were faced, we were given a list of 10 community issues.

Four primary and six additional issues which we covered throughout the process. The issues as identified were: Ownership, Management, Commercial Space, Parking, Use of Minority Contractors, Traffic, Land Ownership, the Memorandum of Understanding and the EPA information. As a member of the Sub-Committee, Dino Robinson, John Fuller and myself started to address these issues and we had considerable dialogue about a lot of the issues and so I'll mark off some of the easier ones that we addressed very quickly at the beginning of the meeting.

One was regarding the minority contractor issue, we had promised previously and continued to promise that we will give local hiring preference to local minority businesses in Evanston and that's something that we had long promised and will continue to reiterate. That's something that's a priority for us. An issue was traffic and we agreed that we would work

with the neighbors to try to address issues of traffic concerns primarily caused by Onyx, to try and make sure that those issues are addressed for the neighborhood. A question was raised regarding land ownership.

The, all of the land, all three parcels, the two that HODC owns as well as the parcel on the corner will be owned by the partnership. There will be no secret hidden partners, we have laid out exactly who everyone will be that's involved in the partnership and will be owning all of those lots. We shared also the Memorandum of Understanding between HODC and ECDC.

We have agreed to share the proceeds of this project with a community organization to provide some seed capital to help the organization be able to afford staffing, we've offered them the space within the building, and so we've really worked, I think, gone above and beyond what a lot of other developers have offered funding for the trust fund, to actually provide money for a community organization to give them some legs.

In addition, the EPA issue regarding the possible contamination of the site, we have already spoken with city staff and with the EPA to clean up the

environmental concerns, to address the tanks that are in the ground and make sure that that environment issue is cleaned up and taken care of. So those are the easier things that we've agreed to, there was not much disagreement about that, but we wanted to be clear that those we raised as issues and we have fully addressed all those concerns.

Regarding the issue of home ownership. We have offered through this proposal, when we started talking about the project about three years ago, we were looking for a way to start community revitalization along Church and Dodge. And we explored issues of, through the Evanston Community Development Organization, explored issues of rental housing and home ownership and try to find a way to get a building built on area that's very expensive, construction costs are very high. And we explored many ways that that could be done.

As we have explained, this was the model that we arrived at, is to create a way to provide funding for the community to bring over 6 million dollars into the community in order to create an opportunity to give people a decent place to live now as well as a long term ownership opportunity. We did explore a lot of issues

through the process, such as going through using a Co-Op model. Going through some of the alternatives and what the conclusion is, is that that costs a ton of money and it would require the city putting in a significant amount of money. Not just a little bit here and there, but a large, large amount of money and we've already secured that financing.

We went out in good faith and said, here's a proposal, that through the process we've discovered that this is a proposal that certain members of the community think is a good idea. And we went out and we secured that financing, based on the type of model, the thing that we wanted to be able to get built in the neighborhood. So the financing really followed the model, and the fiscal reality of what it takes to get something built on this site as opposed to the development following the financing.

The financing followed along with what it was that we needed to get built, get a building constructed in that area would be very expensive, and so that's, to be able to put that funding together. We have agreed to, we've guaranteed the fact that we will be selling these units to the occupants of the building after the

15 years. So in the year 2023, assuming everything is approved, the financing gets done, the building gets constructed. Then that year we will sell, the partnership will sell the building, HODC will acquire the property and sell those units to the people who are living there.

In the event that HODC is unable to do that, we have agreed to give the tenants themselves that ability to buy that building. So that they then can sell it to themselves. Part of this process, we recognize the fact that it takes a long time to get there and there are a lot of steps involved in the process, it makes it very complicated. But we are committed to providing the ownership training, we've committed to providing the Tenant Organization to get an organization up and running, to teach them how to run meetings, to get tenants involved with budgeting and then in the end of 15 years, if all else fails, they will have the right to buy the building and buy their units and sell that to themselves.

So there's a built in guarantee for that to happen. We've talked about the Equity Savings Plan and agreed to have tenants saving for a down payment and

we've agreed to match that funding. And we had originally agreed to match two to one and through that, through the community process it was suggested that for certain tenants we give them an additional match of four to one, which we've agreed to do for tenants who have been there for more than, more than the ten year period to give them an additional incentive to stay in the building, to give them the opportunity to buy their units. The other large issue we discussed was property management. And that included a lot of discussion of social issues and who's going to be living there and how will we be dealing with tenants, how will we be working with them.

HODC provides professional property management. Our style is very hands-on. Tenants know who to call, they know to call our office, they know where to get a hold of us and the reason we do our own management is because we found that other management companies are not as receptive. They're not responsive to the tenants, they don't provide for the tenants needs like we do, and we think that it's really important that tenants know who to contact and know who the landlord is. We have a constant presence at all of our sites.

That's not to say that issues never come up, but when they do, we get on them as quickly as we possibly can and we make sure that we continue to be good landlords. We recognize that getting the building built does not mean success. Offering the building for the long-term means success. Success for the community, success for the tenants that live there, success for the neighborhood. That, part of that process, of course, involves thorough screening. And the screening process has to be very detailed and we've gone through some of those details, so I don't need to re-cover that, but we have committed to involving people from the community in that process.

We've offered a seat on that screening board, through, to the Community Alliance as well as to ECDC to be involved with that screening. We recognize that good management is the key to long-term success for this building and all the other buildings. So we have agreed to bring additional staff to this building. We talked about having a half-time maintenance person, we've agreed to hire someone living in the building to be a management aide on-site and HODC is going to need another property manager who'll be providing regular

office hours on-site.

We'll estimate that they'll be there 20 hours a week to provide for the needs of the tenants. In addition, with ECDC having its offices located there, there will be a constant presence on-site. It's not only someone who works in the office, but also HODC staff on regular office hours, in addition to random times when the tenants stop by so they can't get, tenants can't get away with things when know that management's not going to be there. There will be a constant presence there on-site and it will take the community doing that as well as HODC and ECDC working together to make that happen.

We did address the issue of commercial space and we all have strong agreement that the commercial space, the space on the first floor should be active, used space. We disagree on exactly how that use should be. We don't believe that there's a need for a retail type space in that area and it would be worse to have a vacant space than to allow that space to be used for community purposes. We want to have a place for the people in the building to have a place to go to have their resident's meetings, to have a place to go for

their training sessions. To have a place to go through all the program that we've talked about.

We actually started to put together a calendar, and came up with a list of about 20 different organizations that would be interested in coming in and providing training such as the job training and the home buyer counseling and all types of other training in that space for the tenants who live in that building. We had offered to make that space available to people outside the building, but the community felt that that was not a good idea, so we've withdrawn that. And we'll make that space available for people living in the building to help work on issues that they think that they need to work on but to give them a space to congregate, to get together, and to become a community within that building.

We've addressed the library issue and are interested in pursuing some sort of community use. Whether it's a legislative outpost, or, there's other alternatives that I think that we can explore in redesigning that area and coming up with a use that would really be a great asset for the community. Of course the issue of parking is one that we recognize and

it was something that we had asked for a variance. We still believe that there are sufficient parking spaces for the tenants who'll be living there.

That's based on the three factors that we had talked about before. One, the current HODC tenants have less than one car per family. Neighborhood residents average about 1.2 cars per family and this building adds 1.1 cars per, for household and nationally, most cities that have affordable housing available, they talked about inclusionary zoning or have set-asides available for affordable housing, allow lower density parking because they recognize that the tenants in the building will have fewer cars, that the tenants will be able to use public transportation, it's right there on the bus line, so that's really a great asset. This is a perfect location for providing housing like this based on those types of assets.

We have, however, when working through the committee and through great suggestions, found a way that with a few modifications and, unfortunately asking for some more variances, we could squeeze out a few more spots within the site. And that's something that's summarized briefly in that memo, but if we reconfigure

some of the spots on the inside, if we address squeezing some of the parking spaces, we can possibly fit up to five additional spaces right there within the site.

So to provide those additional housing, in the, if the Council is interested in having us do that, to squeeze those spaces out, we can discuss that a little bit further. We did agree on some of the other issues regarding putting up the fencing on the West side as Alderman Jean-Baptiste mentioned to you, a wrought iron fence to create something that would be attractive, that would be an asset. We've agreed to put in the sliding door for the access from the alley, an overhead door.

And so, I think that we have, we have gone through the process and we've appreciated the input and we've tried to make this the best building possible. The form of the building is, again I must say, it's not driven by the financing. The building that we're building is going to provide a mix of one, two and three bedroom apartments. It's very rare in the affordable housing world that you can get three bedroom apartments.

That of course, raises the issue of parking, because of the additional bedrooms that we're going to

make available so that families with children can actually have a decent, affordable place to live. So the issue regarding the units, the reason that we have the number of 27, is that, that's the number that fits comfortably within the site, within the zoning envelope. We're not asking for a variance on the height, in fact we're right at the height.

In fact on our PD, we could go up a whole nother story. We're asking for 75 percent of the total number of units which could be allowed, per the zoning on this site. The zoning would allow up to 42 units and if you put in 42 one bedrooms, you could easily fit the parking there within the site by putting in a lower level. But that's not what we're proposing. We're trying to make affordable that would fit for a range of people.

For people that need one's, two's and three bedroom units. I've gone through the neighborhood plan trying to figure out where I missed that language, that the building should be smaller. Because in essence, what I learned last Friday, through the review process, is that I'm being asked through HODC, through the development, through the project, is just to make one

change. And that one change is to lop off the top floor.

It's been said that that would address some of those issues and so I wracked my brain and I read the plan over and over this weekend trying to figure out where I missed the fact that we should be building below what's allowed, where we should be doing, looking at something that would be a lower density zoning, and issues in the neighborhood plan addressed industrial uses.

They addressed the R-5 issue, and really the issue did not come up through the neighborhood plan process and so, through the community process, since meetings in 2003, in May of 2004, where we presented this proposal and in all the other community meetings that we've talked about and the people that have been involved with process. I think what we've come up with is a site that, a site plan that fits within zoning, that provides a range of opportunities, it addresses a number of issues that otherwise would not be able to be addressed without taking any significant impact or any funding from the city to create such a valuable asset.

I recognize that this meeting tonight, and

what we're asking for tonight is to, is for a decision about whether or not this is something we can go forward with and working in the community. But this is not the last meeting, by any means. There are still many issues to be discussed. We recognize that we have to continue to talk about other types of issues. We need to talk about how the community space will be utilized, and we will continue to do that. We know that we need to go through the selection process and make sure that that is discussed so that everyone feels comfortable with that process.

We know that we need to talk about landscaping. That was something that wasn't specifically addressed as one of the top ten issues, but we have agreed to add additional landscaping. We had talked about putting landscaping in the parkway, putting trees. We're talking about limiting curb cuts off of the street, but we've, in addition, we've agreed to, on the first floor, push in along Church Street, to create an arcade area where there will be planters placed in there, where the set-back on the first floor would be back three feet where we'd put in planting.

We've agreed to put in plantings along Darrow,

all the way up along the street where there's parking, up along the, along the street, from up to the alleyway, we've agreed to put in planters there so that the lattice work, so that vines can grow up the lattice work, so that the cars will be hidden. To put in additional planting, to put in bushes and flowers and to really make it, not only plantings along the parkway, but plantings through the process we've discovered that it's really necessary to really shield the cars and create a really beautiful asset so that people walking up that sidewalk can see the beautiful landscaping that we've put there.

So this is not the end of the journey, this is just the beginning. We do recognize that we will continue to talk with the community, we'll continue to work together, we'll continue to iron out some of the other details. So I wanted to thank you all for going through this process with us. I wanted to thank you for having the Sub-Committee process and again for your consideration and time. Thank you very much.

CHAIRMAN WYNNE: Thank you. Thank you very much. All right. All right Committee, discussion? Alderman Tisdahl.

ALDERMAN TISDAHL: Thank you Alderman Wynne. Mr. Koenig brought up the neighborhood plan which is what I had wanted to discuss tonight also. I received a call from someone who said she would never have bought a home in this area if she had known we weren't going to follow the neighborhood plan. Well, we voted on the neighborhood plan, we agreed to it, so I went back to look at it to see what it says. And it says on page eight, three, the developed neighborhood retail service centers, the three locations within the study area, Ashland Simpson, Church Dodge, the Green Bay Road corridor.

These three areas are envisioned as predominantly neighborhood oriented commercial areas serving the retail and service needs of the local community. A number of the needs have been described through the planning process. Restaurants, coffee shops, local branch bank, local immediate care center, and then it goes on. On page eleven, Goal Two. Develop neighborhood develop neighborhood retail service center at Church Street and Dodge. It says Church and Dodge is the historic retail center of the Fifth Ward and home to ETA Chess, despite its past as a nexus of African-

American business and community life in Evanston, this commercial area has experienced economic decline and social stress.

What once was a viable neighborhood business district now has few local businesses and it goes on to discuss the need to develop commercial enterprises. On page 24 of the neighborhood plan, it, there's a discussion of maintaining affordable housing. And it says they want to maintain affordable housing units and increase home ownership. And that's a goal throughout the plan is to increase, thank you Alderman Rainey, to increase home ownership. On page 23, it discusses a decrease in the number of percentage of home owners in the study area. It talks about the number of dilapidated buildings.

Mr. Wolinski has told us that fixing and selling affordable, fixing and selling dilapidated buildings in an area, increases the value of the area and can provide affordable units. I have been over this plan and on page 9 it does talk about providing affordable rental for locally employed Evanston residents.

But I can understand why the woman who called

me felt that this project was not the sort of project that we had okayed and in voting for this neighborhood plan and so I am reluctant to support a project, having voted for the plan, that I cannot understand how it, how it complies with the plan. And I wish that Mr. Koenig, who I think has done a wonderful job at the financing and is a great guru at that, but I wish that he'd had a chance to look at the neighborhood planning report before coming up with this project.

CHAIRMAN WYNNE: Alderman Jean-Baptiste.

ALDERMAN JEAN-BAPTISTE: Alderman Tisdahl, if I followed you correctly, you said the plan called for development of commercial business districts.

CHAIRMAN WYNNE: Alderman Jean-Baptiste, is your mic on?

ALDERMAN JEAN-BAPTISTE: Yes. Development of commercial business districts. This one, maintain affordable housing, and increase home ownership and then to provide rental housing, affordable rental housing. Did you say that?

ALDERMAN TISDAHL: Those are on the list, yes.

ALDERMAN JEAN-BAPTISTE: Those were the three categories, right?

ALDERMAN TISDAHL: To maintain affordable housing and increase home ownership, yes.

ALDERMAN JEAN-BAPTISTE: Yes, I repeated that. Develop commercial business districts, right?

ALDERMAN TISDAHL: Yes.

ALDERMAN JEAN-BAPTISTE: Maintain affordable housing and increase home ownership and to increase availability of affordable rental housing.

ALDERMAN TISDAHL: For locally employed Evanston residents, yes that's what it says.

ALDERMAN JEAN-BAPTISTE: Okay.

ALDERMAN TISDAHL: But it also talks about the decrease in the percentage of homeowners and the increase in the study area of the number of people who are renting. Which is why it puts an emphasis on increasing home ownership.

ALDERMAN JEAN-BAPTISTE: I understand that. So having mentioned those three aims of the plan, you then concluded that this particular proposal is incompatible with those. Can you maybe elaborate that, because I'm not sure I'm seeing how you get to your conclusion.

ALDERMAN TISDAHL: Okay. I would be much happier if there was retail or commercial space on the

first floor. That would solve one problem for me.

ALDERMAN JEAN-BAPTISTE: Okay.

ALDERMAN TISDAHL: The second is if home ownership happened sooner in an area where there's a decreasing amount of home ownership and an increasing number of people renting. If part of the, if some percentage of this was immediate home ownership, and if it didn't take 15 years, I, it's difficult for me to consider the, this as providing home ownership when you have to wait 15 years.

ALDERMAN JEAN-BAPTISTE: Mm-hmm.

ALDERMAN TISDAHL: To me this is a rental project for quite a long time.

ALDERMAN JEAN-BAPTISTE: What about the notion, the goal of increasing rental housing?

ALDERMAN TISDAHL: It says provide affordable rental for locally employed Evanston residents and that is the one goal that I do think it meets. And I put that in because it was in the plan and I wanted to be complete. It does provide affordable rental. I don't know that it's for locally employed Evanston residents, although that's what the plan calls for.

ALDERMAN JEAN-BAPTISTE: Okay. Could I just

ask you, you've been able to take a look at the commercial spaces in that particular area, right?

ALDERMAN TISDAHL: Yes, I have.

ALDERMAN JEAN-BAPTISTE: And do you find that it's fully occupied?

ALDERMAN TISDAHL: No, they're not fully occupied. I'm not sure that all of them have been kept up to the level where they're expecting to be fully occupied right now.

ALDERMAN JEAN-BAPTISTE: So you're saying maintenance is the basis of their low level of occupancy?

ALDERMAN TISDAHL: No, I think there are multiple reasons, but I certainly think that having a commercial area is something that is in the plan and is something that the plan says we should strive for and I voted for the plan and I therefore think that, yes, you probably can if you work on it hard enough, get commercial occupancy. I'm not sure that retail would work right now, but I think you could probably get some commercial. And I am very concerned about a large room that I don't know what's going to happen, you know, I don't know what use it will have.

If in a pedestrian friendly area, you don't have a large empty room. You're supposed to have a vibrant street life, you know, with I think commercial would be better than the large room. And some of the photos that we were shown of other projects with community rooms, it became clear that these were senior affordable housing areas. Where there were people that were living in the building all day long so of course, they were in the room and made more use of it than in a building where I would hope that people would be going to jobs.

ALDERMAN JEAN-BAPTISTE: So are you saying that every project that may be developed in the area, one, has to build with increasing, at least adding some more commercial space in the area even though we have a number of commercial spaces there that are under occupied or unoccupied?

ALDERMAN TISDAHL: We also have rental areas, rental spaces there that are not occupied, so, we're putting in more rental.

ALDERMAN JEAN-BAPTISTE: And what is the problem with occupancy of the rental space that exists now. See, I'm trying to understand the conclusion and

you may be totally right, I'm just trying to understand how you get to the conclusion you got to. The other thing is, increasing home ownership.

So you're saying every project that is proposed for the area, going forward from the plan, if it doesn't serve the specific purpose, at least one of its main tenants, to provide more home ownership, then we don't need to have any development going on over there? So a vacant lot is preferable in terms of the conclusion. And you're saying that if a rental housing is, has gone up, we have to guarantee that those who have gone in there are locally employed?

ALDERMAN TISDAHL: That's what the plan says, that's not what I said.

ALDERMAN JEAN-BAPTISTE: I understand that, and I'm asking you is that what we have to guarantee or else we have no development going on in the area. Because it seems to me those three items you're talking about, one, you know, without some kind of density in the area, commercial space will continue to be vacant. Two, maintaining affordable housing and increasing home ownership, you know, is a product of the market.

Are people going to buy and where are they

buying. And I think that, I'm not sure we have a whole bunch of homes that are rented there, I think we have many more homes that are owned and occupied by the owners in that area. So I don't, I'm not seeing a whole bunch of vacant homes sitting there.

And thirdly, the rental housing for locally employed, I would think that those who would seek to rent there would include those who are employed in the city of Evanston. So, if there were some other factors in the plan that you saw that led you to the conclusion that you reached, I could understand it, but I'm just trying to, it just.

CHAIRMAN WYNNE: Why don't we let, why don't we let Alderman --

ALDERMAN JEAN-BAPTISTE: You're sitting through the committee and going through the discussion --

CHAIRMAN WYNNE: Alderman Jean-Baptiste let's let --

ALDERMAN JEAN-BAPTISTE: That was never an issue that was advocated for.

CHAIRMAN WYNNE: Let's let Alderman Tisdahl respond, because you've asked her a number of questions. If she'd like to respond.

ALDERMAN TISDAHL: Thank you Alderman Wynne. First, in the report and then now I'm not going to find exactly where, but it does talk about, aha, there are a number of parcels in the study area that are deteriorating, boarded up, or under utilized.

In addition, not all property owners demonstrate commitment to the overall well being of the community in terms of their property maintenance and management practices. Upgrading or redeveloping these areas will require significant property owner involvement as well as investment. All that I'm saying is that Mr. Wolinski said at one point that it does help to revitalize an area if you purchase homes that are boarded up or dilapidated, rehab them for affordable housing, that that's a very successful way to both provide affordable housing and to revitalize an area.

I support Alderman Rainey's suggestion that we have a referendum and that we spread the, that we spread the joys of supporting affordable housing throughout the entire community through a broader group and that we put that money into rehabbing buildings and providing some immediate home ownership. I very much hope that we will do that. This neighborhood plan may say to you, when it

talks about the importance of retail and commercial on the first floor of projects, that the plan that Mr. Koenig has proposed, which has a large community room on the first floor instead, it may, to you, seem to be in sync with this plan, to me it isn't.

Does every single building that is built in this area have to have commercial on the first floor? Absolutely not. But this is one of the first, and we just passed this plan. And all of this is being done with tax payer money, so I am somewhat confused since according to one of Mr. Koenig's statements, it could have been designed to have commercial on the first floor, but not with the current financing. I am confused as to why it wasn't. I think that would have been, as I read the plan, which calls for commercial and retail on the first floor, that would have been more in keeping with the plan which we all passed. We all voted for it.

ALDERMAN JEAN-BAPTISTE: May I just ask her one more question?

CHAIRMAN WYNNE: Yes, but I have two other Aldermen on the list.

ALDERMAN JEAN-BAPTISTE: Okay.

CHAIRMAN WYNNE: Is it a brief question?

ALDERMAN JEAN-BAPTISTE: Yes, I was going to ask her, so are you saying that if this had commercial space on the first floor then you would support it?

ALDERMAN TISDAHL: If it had commercial space on the first floor and it had some portion of it had, provided immediate home ownership then yes, I would support it and I hope to support it. I hope that we'll be able to resolve some of the problems with it. That I see with it.

CHAIRMAN WYNNE: Alderman Holmes? And then I have Alderman Bernstein.

ALDERMAN HOLMES: Oh, I just wanted to follow up with what Alderman Tisdahl was saying, if you, where you just finished reading from, Alderman, if you would read the next paragraph that states the manner in which this is pursued is crucial to increasing the offering of local housing opportunities while minimizing displacement of moderate and low income residents. And I also wanted to follow up by saying that you made a statement that you wished that HODC had looked at the plan before developing this project.

I wanted just, I can't speak for HODC, but I

want to say that there was lots of looking at the plan from many of us who live in the community who had worked on the plan before contacting HODC to become a part of this. And I'm speaking now with an old hat, when I was a part of ECDC. So the plan was very definitely looked at and I think it is a matter of opinion in terms of how you interpret the plan. Whether it is in, that this project is not following the plan or is in conflict with the plan because I happen to disagree with that.

CHAIRMAN WYNNE: Alderman Bernstein?

ALDERMAN BERNSTEIN: Thank you, Madame Chair. I come at it a bit differently. We all have sat up here and overlooked comprehensive plans, zoning ordinances, when the end-game met the needs that we were trying to fulfill. But what moves me about this particular neighborhood plan and it's unique to this group of objectors, is that these objectors were not just reacting to a program. These objectors were in fact pro-active and they were developers of this plan.

These people have been meeting with Alderman Holmes for years. So I'm not as concerned about the letter of this neighborhood plan, but its spirit. And I think the spirit was to rebuild this neighborhood,

which, in all my years on the Council we've conceded needs a great deal of rebuilding. The question then is how to go about rebuilding and from a zoning standpoint, I think this project proposes to overbuild the lot no matter what's in it. And I think that's one thing. The fact that it doesn't come up to the level of PUD's that you could conceivably ask for, is irrelevant to me. It leaves no, no space of anything. No breathing space on the lot whatsoever.

The parking is very important in that area. The fact that we can develop 30 additional spaces, if we do our jobs right, we're going to need those 30 additional spaces because there will be some, please god, some life breathed into this area. So, when I look at a project from a zoning aspect and it calls upon me to extend variations, I then look to public benefit. And to me, the public benefits here are too remote. And too obscure and too, too iffy. There are no guarantees in this plan.

I do a lot of work with condo organizations and I know how difficult it is for people who are invested in a condominium unit to give time to a condominium association. To think that there's going to

be a tenant organization that's actively running this building begs my frame of knowledge. I don't think it's going to happen. I think that tenants are tenants and I think that's largely what is the concern of the neighbors in the area. Another concern is the, we, none of us gets tomorrow. That's the same for individuals and for not-for-profit groups. We're putting a whole lot of faith on the continued existence of HODC and continued viability of HODC and I've indicated that to my knowledge, HODC, Mr. Koenig specifically, is probably the best at what he does in terms of financing these projects.

But it begs the question to me for him to say that the financing isn't driving this project because the 15 year pay back is the very reason that there cannot be any home ownership until 15 years. But then, there's only a right of refusal in HODC initially. So if they choose not to, if the corporation wants to sell, the owner corporation wants to sell, HODC, if in fact it's still in existence, or a successor to it, has an opportunity. If they choose not to, then it goes to this group that's going to be formed from a tenant's organization. Which again I question will ever exist.

Then, there is no option to purchase. Unless these two pre-conditions happen.

It's just so remote for me to believe that people are going to try to buy in. Now they talked about Co-op ownership, they talked about any form of ownership initially negates the entire credit situation that this whole six million dollars is built upon. It can't happen. There cannot be any ownership earlier than 15 years and that to me is questionable whether it's ever going to happen. You weren't here for the last meeting when the consultant who talked about our revitalizing, our planning and development methods and our methodology of how we view a project and what we do.

And in effect I asked him, if you build it, will they come? In effect. Meaning, just because this is not a great project, should we take it because it's better than nothing.

And I've made the argument historically that sometimes it is better than nothing. But we're at the very beginning. And in order for us to be true to the mission that I hope that we're here about, we have to go out and create a vision for that area and then reach to that vision. We cannot react. I think that this

project may well be suited for other areas. But I just don't think it's appropriate for that particular area. The fact of a, an unsupervised 1200 foot space just boggles my mind. Because I perceive who is going to be hanging out in that space.

Okay, now we're going to preclude people from the neighborhood unless there's renters, but there's going to be renters in the building who are going to have friends coming in scares me. I don't want that to happen, all right. Now, it's a wonderful thing that we're not being asked for any city's funds. And the other night Alderman Rainey made a statement with respect to a request for funds, about why don't agencies get together?

This is six million dollars that's going to be spent for affordable housing and Marty Stern said it was consistent with the reality, but to me, \$389,000 rental units are *really* expensive units. And I'm putting, you know, I'm just trying my best. And I was not excited about the project initially because I know the people who are objecting. And I know their commitment to the community. And I know that they're good people. Now, on the other side, I know the current leadership of ECDC

and I love them, but I just think that there's too much, too much fat in this particular budget for a couple not-for-profits and too little benefit for the public.

I need to see home ownership, I need to see retail in that area. Because that is one of the corners. If we give it away now without retail, we don't have any areas to come back. There are some vacant areas. Are we going to go and kick Onyx out? Which I'm guessing, you know, some people who are developing the area would like us to do because the values of their property would enhance. But, I mean the reality is that there will be development in that area because we're going to make it happen.

And I think that the best way to make it happen is to, to try to find something that feels better. And that's all I'm saying and the bottom line is, it doesn't feel right to me. I think there's just too much want to, too much hope, too much speculation, and I just don't, I don't feel comfortable with the players on whom I'm going to have to place my hope and needs for the next 15 years. So I can't support this now. I don't know that you can go back to the drawing board, I saw, you know, a valid attempt to negotiate.

But the reality is, when the financing mandates a 15 year period, you can't do much about it. You could cut off the top.

Well, you know, then you have a smaller project of a similar nature. I think that, I got a call today from a zoning lawyer in town who has a person who wants to buy this land. Well, we all know that there's going to be 100 people who want to, 100 people who have projects, and it may be a while. Dino sent us a letter and saying, well, if we don't accept this it might be another how many years before we get anything in this land. I hope that doesn't happen. But at this point in time, I'm not wedded enough and not convinced enough in this particular project not to take a chance that we're going to do better in a very short time to come. So, with reluctance to my brother and sister aldermen who are very concerned and vested in this project. I cannot support it.

CHAIRMAN WYNNE: Alderman Moran?

ALDERMAN MORAN: Thank you. First let me say one thing. You know, Steve was just mentioning hope and I want to talk about hope for a second in relation to this project. You know, ten years ago this Council sat

down and made up a list of priorities that we should work on over the course of time. And the number one priority was to do what we could for the West side and specifically the Church/Dodge area.

Tonight we are presented with a proposal to do something about that. Since that time I have carried the hope that there would be people of good will and hope who would come forward and make proposals that would help build momentum in that area that we have observed many times has been absent. And tonight is an opportunity to look at that hope. From another perspective, I am just lost with this notion that by proposing a building that is rent-to-own, and so that people understand, the people who rent units in this building will have the opportunity to purchase their units over the course of time.

It's also important to observe that in part, the size of the proposed building, has resulted from the desire to build 27 residential units, numerous of which, all of which will ultimately be attractive to people who will want to have equity ownership of those units. And people keep talking about size, and they forget to mention the fact that the size element is driven to a

large degree because there is hope that renters will ultimately own these units. I do not despair and I do not lose hope when I hear that a building will initially be a rental building.

Evanston is legendary for being a stepping stone for many people who are starting life and, adult life, and building families and the first place we have, and for a lot of us the second place, and the third place that we live in, are apartments. I reject outright the notion that this building, or any other building in Evanston is a potential blight on our community because it might be a rental building. I reject that. I reject the notion that renters cannot be stakeholders in the community. I know people who own property in this building that I don't consider to be stakeholders in this community. They don't do the right things. I see it all the time.

So, so to say that an owner, an equity owner is a stakeholder and a renter is not, is, well, it's wrong. This is a place, that other people have talked about this and are better informed than I, but I've heard people refer to this lot as being empty for at least 30 years. It's most likely polluted because it

was, at least at one point I'm told, a gas station. We have a place that, to some degree, is exemplary of the fact that we have not progressed as much as we should, when we have a good sized lot, in a very prominent place in our community that has sat empty and contaminated for 30 years.

And there are people who are, obviously not satisfied with this proposal, but when I say, what is the recourse, that we continue to look at this empty contaminated lot and say, you know, you know, if not here, where, if not now, when. We need to do something and we've got a proposal here to do something. A lot of discussion about how this project is to be financed. But the plain fact of the matter is, is that we have an unusual opportunity. We have people like Optima and Roszak who come to us and ask us for concessions for them to build their buildings. And we've made huge concessions to them, for opulent housing.

We have here a project for low to middle income people who I would have thought, if we were ever to make any progress on a situation like this, that the coffers of the city of Evanston would be drawn down to a huge degree and what we are presented with here is a

project that indicates that our coffers will not be drawn down at all. There is a financing mechanism that HODC is using that allows us to avoid making any specific dollar commitment to the construction and propagation of this project.

And I take that as a significant benefit to the community at large, because people who are willing to invest in investment tax credit plan for the construction of this type of housing are willing to make those types of commitments, it's good for them, and it would be good for us. If for no other reason, than we don't have to pay out of the city treasury to make this happen. The question of home ownership. Home ownership is not a thing that's easy in Evanston, regardless of where you are right now. I have two kids, one who's in her late 20's and one who's in his early 30's who can't afford a house in Evanston and I don't know when they'll be able to.

So there's, if people want to break in in Evanston, if they want to live in Evanston, and I think that people should want to live in Evanston, I know I have. You've got to work your way up the ladder. There's the, you know, that's just the economic reality.

You can't get away from it. You, somebody, you've got to get that one bedroom apartment, if you're lucky two bedroom apartment, work your way up and maybe ultimately you'll be able to get the money to buy a home. But that's not, that's not bad. That's hope. I see hope in that. Evanston has always provided that hope.

You know, one of the beauties of our community is we have this diversity in our housing stock. Where, where people, you know, it's not like Lake Forest. You don't have to have a million bucks in the bank to just enter this community. There are other ways of doing it and this is another way of doing it. HODC in its conversation with the Sub-Committee and other forces within the community, has, from my perspective, come up with some good alterations to the plan that will make sense. And Richard, and I'm not going to repeat them, Richard recited them for us. But it's not true that they have been categorical in their approach to this plan.

They've stood their ground where they had to stand their ground. There's been concern that they haven't compromised enough. I think they have compromised on a number of situations. The places where they haven't compromised are the places where they don't

have the flexibility to compromise where this particular financing plan demands certain things of them and that's been referred to here tonight even by the objectors. So I think that we have to say, this is the reality, the economic reality is that certain things have to be done a certain way. Others we can nip and tuck and improve and I see that that is happening.

With respect to the parking question, Jim Wolinski did a study in relation to parking in the city of Evanston and has related it to two particular census districts that are in and around this particular area. Now, the original proposal, maybe not the original, but the one that's come forward most of the time by HODC is that they would have 30 parking spaces for 27 units. So that's 1.11 parking spaces per unit. In the two census tracts that are most relevant to the location of this particular project, 8092 and 8096. Looking at both vehicles available for owner occupied housing and vehicles available for renter occupied housing, the average vehicle demand cumulating, accumulating both of those categories of housing is .99. And that is in the May 3, 2006 memo on this subject. The data of which was collected by Jim Wolinski.

The proposal that Richard came forward with for HODC was 1.11 which would be, if this scenario were to hold true, is in excess of what the automobile demand, parking demand would be for this particular project. But we don't have to be satisfied with that. Because one other aspect of having this dialogue, which I give credit to both the objectors and the proponents for, and for our city staff, is that there has been a proposal brought forward to add 69 street spaces on Darrow north of Church and 12 spaces on Darrow south of Church. So, we not only have the provision of what should be, and I recognize that it's not completely inconsistent with the zoning requirements. I understand that.

But, of course, the zoning requirements are set up on a broad basis. They're not meant to address strictly an affordable housing project which, I think logic tells us that there's going to be a lesser demand in that situation than the entire panoply of situations. But we've done better because we've found 28 more spaces that could respond to this situation. Not only this situation, but the whole neighborhood, because my, as I add these numbers up, I suspect that if we proceed

with that plan, and I'm prepared to do it, that actually other people in the community will have more available parking.

I don't expect that these additional spaces will be drawn down on by residents in this project if it goes forward. HODC also, as Richard said earlier, worked hard to come up with the redesign so that it's possible to add another five spaces which would bring it up to 35, 35 spaces for 27 units which will get it to 1.25 or close there to. Again, following the statistics that we've been cited by our Community Development Department is well in excess of what should be needed for this particular project. We've addressed the home ownership because there will be a time when the units in this building will be owned by people who are living there.

I believe that this community space, I think can provide a benefit, but I think over the course of time we can all have hope that if it doesn't work out, we have significant resources in this community that will find apt uses for that space and I think everybody's going to feel ownership in that regard and want it to work and I think we will find a way for it to

work. HODC has made commitments in terms of additional landscaping, made commitments in terms of additional set-back.

The project, Church Street Village, which is going to go forward and will be east of this project, and which I derive hope from as I would from this project as well is going to be a good addition to that area in land that is not being utilized in any positive way right now. But it will be a project of, I think we stopped at 40 units, 40 or 41, with pricing at, between \$340,000 to somewhere in the low to mid 400's I believe.

I feel that this Council would, if it did not come up with an affordable housing proposal in this area, that did not have a substantial rental component, that we would be sending a signal to this community that we were turning our back on it.

One of the concerns that I have had has been, as much as I support the Church Street project, I can see some members of the community seeing a project that contains units that are selling for 340 into 400 as not being affordable. Although in point of fact, on a relative basis, they are affordable in Evanston. When you see every new house that goes up, it costs between a

million and a million seven now. 340,000 amazingly is starting to look affordable in Evanston.

I didn't think I would see the day when that would be the case, but it's true. Now, if we just stop there, it wouldn't be, it would not, in my view, foster a positive outlook to the community on the west side. To say, we're going to come in, you know, with townhouses or condominiums, they're going to be in the 300, \$400,000 range and then we're just going to march right down Church Street and we're going to put in more and more and more of that. I think that we'd be turning our backs to the community by suggesting that that's all we want to see. And it isn't all that we should want to see.

We should have rental affordable housing in that area. And this will give us a chance to do that. I don't see any of the public benefits related to this proposal as being remote. I don't see them as being hopeless, I see them as being extremely hopeful. I see this as a tremendous potential benefit to the community.

We did adopt the neighborhood plan and I wholeheartedly endorsed it because it's been my hope and my desire that the west side, with everybody working together, will

move forward in a positive direction. People will feel included, and that was what a lot of the work in that plan involved and I'm fully supportive of it. I'm fully supportive of it.

Does that mean that I think that every single incremental element that could go into, that could relate in one fashion or another to that plan, will be a perfect replication of every specification in that plan?

Reality and practicality and my life experience tells me that that is not going to be the case. It's not going to be perfectly in conformity with every aspiration that's announced in that plan. But you know what? Having proposals that get close? That means a lot to me, you know.

Somebody said a long time ago, they said you know, politics is the art of the possible. I didn't understand what they were saying at that point but I know better now, I mean that was a long time ago, it was like 30 years ago, now I understand, I've come to understand what they meant. And it means that, you know, nothing's ever perfect, but the political process suggests that people get together, they have good faith, well reasoned, heart filled arguments about what exactly

is the right plan and then ultimately you can come up with something that makes sense.

Everybody may not be perfectly happy but what, you know you have a good situation when the community is moving forward. Maybe not perfectly in conformity with some prescribed plan, but when you're hitting on most of the major points, you're making progress. This project will allow our community to move forward in that direction. It's consistent with the spirit and the letter of our establishment of the TIF in this area. And I believe it's consistent with the overall spirit and criteria set forth in the neighborhood plan which I support.

I support the neighborhood plan. So I urge my colleagues to please consider supporting this. I think that this is a positive plan, I think it's a good plan, I think it's going to help us move forward, I would beg of everyone who sees deficiencies in the plan to continue to work. We will continue to work with you. I believe that HODC will continue to work with you. We need to get behind it, it's been a hard road, I understand that. I believe that people have made their arguments and their positions in good faith. I accept

that completely. But I think that this is a time where we as a community, all of us, need to start pulling together on this. If we see problems with it, let's address those problems where we can, where we can, let's address them.

CHAIRMAN WYNNE: Thank you Alderman Moran. I have two other members who are signed up and I'd like to move on to them. There are others who have not had an opportunity to speak. Alderman Rainey.

ALDERMAN RAINEY: Following up on a few things Alderman Moran mentioned. Years ago we did identify area of Church and Dodge and Howard Street as critical areas that needed our attention and that we would commit time and effort to. Unfortunately several years ago, an investor came along and purchased a lot of the property on Church Street around Dodge and what happened? It's all sitting vacant.

I went by yesterday afternoon. The grass behind the old grocery store at the corner of Church and Dodge has got to be at least a foot high. The place looks like the city dump. So, while we might have aspirations for Church and Dodge, obviously some of the people that have invested there aren't living up to our

aspirations. Secondly, I want to, that was just an aside really. I want to address the whole issue of home ownership. The 15 year time period. To me that is the weakest, the very weakest piece of this whole project.

The mom who moves in to this project, if it is built, let's say 2008 it'll be occupied. She's got a five year old and a six year old. Her dreams for home ownership, I don't think include living there 15 years and then after her kid has graduated from college, is 21 years old and one is 20, they're going to get to buy their house. Isn't that special? I mean the kid's 21 years old, probably got married and moved away, maybe got a nice job in California or something. That kid's not going to enjoy life in a home that he owns, absolutely not.

Anybody who lives in an apartment building, who lives there at the time the place is converted has right of first refusal. And those units are always cheaper. So if you move into a condo, if you move into an apartment building in south Evanston, the chances you're going to get a fabulous deal, when that building converts is far greater than you're being able to own a unit at Darrow Corners, believe me, that's an absolute

fact. This project is completely run and managed by its financing. Completely. I said once before, that this is the least creative financing plan that could have ever been dreamt up because it is the only way you finance low income rentals. It's the only way. So nothing special was done.

Richard told us the other night in a meeting that he worked at IDA. He knows exactly how they work there. I think, given the fact that Richard knows exactly how they work there and he has mastered this kind of financing, that he's ready to move on to something bigger and better, to another kind of financing and I think the Alderman in the Fifth Ward, is probably the best alderman that the Fifth Ward has ever had and that she can bring us a better project than this. I think this is just not the project for this corner and I'm not going to get into the community space, the parking is a disaster, but I'm not going to get into the community space because I think people know how I feel about that.

I don't believe this is the right project. I don't believe that we have to jump at the very, or that the community should jump at the very first financing

scheme that comes along to build something on that corner. I thought one of the speakers tonight brought up an excellent point that this project is going to take down two houses that are, I think they're both two flats. Just think, with a 100,000 each from home funds, those probably could be renovated, could be restored and sold to people of very modest means. That would be four units of owner occupied housing. Four units. I think that's very important.

Something else could be put on this corner. I'm not going to support this despite my overwhelming admiration for Alderman Holmes. I think, I think she can do better here. I think it was an opportunity to support a project and I probably would have seized the moment as well if I had been in her shoes. But I think the time has come, we certainly have made an issue of this corner.

I think people know about this corner, that never knew about this corner and hopefully either Housing Opportunity Development Corporation can come back with something really, really interesting and a real contribution to the community and I know Alderman Holmes would support that as well. Alderman Moran said

that if we don't build this, we're turning our backs on the community. I think if we do build it, we're sticking it to the community and therefore I'm voting against it.

CHAIRMAN WYNNE: Alderman Wollin.

ALDERMAN WOLLIN: Thank you. I'm going to try to keep this really brief, although I have made a lots of notes while I've been listening. I too am disappointed that the Sub-Committee meetings did not result in a compromise that was acceptable to everybody. But I do think, I object to the question or the statement, that neighbors in other city projects get to have a say and these neighbors didn't. Because these were five or six meetings, I went to three of them where in fact everybody did get a say and we do listen and people in my ward will be happy to tell you that even though they had serious concerns with a particular project, it was approved.

So it wasn't because it wasn't that we didn't listen and that we didn't try to make compromises that were workable. I also had a problem with the statement that families don't belong here. We're building as Alderman Moran mentioned, the Church Street Village

townhouses just a few blocks down. We expect families to live there. In fact families are the strength and the backbone of communities and so, again, I have a problem with that. I do think that some of the components, for example financing and savings for tenants so that they'll be ready for home ownership is a very positive thing. I don't think everybody is ready, not just financially, but in other respects, to own homes immediately.

I would hope that, in fact, Evanston residents who are workforce people, do get top priority in the screening and that's one of the things that I heard both at Church Street Village townhouses, I forgot what we're calling those, and in the discussion about Darrow Corners is that we will look at Evanston residents who work and live in the community and try to help them. You know, there are some programs that are there, I was very happy to see in the summary that even opponents said they would be willing to work on ground floor use, that we didn't have to decide that right tonight that we would be able to, they were willing to work towards that and I think that's a very healthy start.

You're right, this is perhaps, excuse me,

financing that is very clear about how to meet the standards to be able to use low income tax credits. But it is an opportunity on land that has not been developed, and it is an opportunity that if we don't use it, that money is going to go to another community, to probably build affordable housing. I am so concerned that we take a step forward to actually put affordable housing in place that I am willing to support this because I do think that HODC and ECDC have a record. They have worked within the community for years and years and years and they deserve to have, they've put all this paperwork together, they've hopped through all the state hoops and we all know how difficult that is, to be able to put forward a financial package that will bring six million dollars to Evanston and 27 homes to Evanston residents.

So, I'm not going to go in, we did talk about Onyx moving, I've been part of those discussions as well, so I know that that's not a, not necessarily a sky, you know, dream, that they will move out of that neighborhood. But I do think that we have to look at the realism of families having a healthy, good, strong, constructive building to live in who are working and

living in Evanston and that we can revitalize this area of Evanston.

I think we do it with the Church Street project, I mean the Church Street townhouses as well as the Darrow/Church corner project and I think it's a, that we can make some compromises here and we can come up with a final product that is going to meet the needs of many Evanston residents.

CHAIRMAN WYNNE: Thank you. Alderman Hansen.

ALDERMAN HANSEN: I'm sitting here and I'm bewildered at a statement that was made earlier by Richard about that the financing wasn't driving this project. And I know many of you have already spoken to this, but as someone that was on the Sub-Committee I see, I saw three major issues that the neighbors put forth which was the ownership versus rental, the parking, the ground floor usage. And when you talk about ownership versus rental and we talked about what if we could do, you know, a mixed use, you know, condominiums and rentals. Why, it couldn't be done, because of the financing.

What about the parking and there was a suggestion about, well, underground parking. Which I

will say I said from the get go, I was not in favor of because of the cost to underground parking that I would not put that hardship on HODC in trying to come up with an affordable housing project. But when the question was put forth, which was an idea that was put forth at the Sub-Committee level, the answer was, the money, the cost and the financing. There was another suggesting in regards to the parking of, well, what if you created less units, then you wouldn't need as much parking.

Well, I saw that there was, at the last Sub-Committee meeting which I was unable to attend, that well if we do less units, then some of the rents would have to be increased to cover that cost gap which would get out of the range of that target for this financing.

Ground floor usage, what about commercial space? And the answer still remains the same. No, because of the financing. So I think, it just, I don't think the statement can be made that financing is not driving this project because I think it is. Three major things and to get my support, I was hoping that one concession could be made. Just one.

In terms of the ownership versus rental, there was, and Richard laid it out for us, the half time

maintenance worker, a management aide on-site, a second property manager. Realizing that the maintenance worker and the property manager would also be of use for HODC for their other properties. The HODC has said that this is something new for them in terms of this financing and this rent-to-own. And I think with so much of a question out there as to how this is actually going to play out in the next 15 years, it deserves more attention than, okay, we'll have somebody there, but they're going to be with our other properties and helping us manage our other properties and overseeing our other properties.

One of the first things we talked about was a tenant association which I was encouraged about. Because I thought this might address that ownership idea and Alderman Tisdahl, I think almost every meeting when this was brought up said, well, it has to be a tenant association with some authority. And she constantly said that but that wasn't how this, or isn't how this tenant association was going to work. They were going to be this ad-hoc committee and they'd get to, you know, almost like a classroom model, they'd get to sit there and talk about what we could do as an association, but

they wouldn't have any authority.

The ultimate authority would lie with HODC and I think that is not putting a lot of faith of these people who are supposed to own in 15 years. The parking, yes, city staff came up with, well, if we allow parking on both sides of Darrow, or allowed parking on this side we can come up with so many spaces. Which is great. However, my concern was, why is the city bearing the burden of coming up for the shortfall of parking for this project. This is not going to be, this is the first project right there. It's not going to be the only one. What happens when this revitalization of commercial and business occurs but we've already given away all the parking to this affordable housing project.

Where are these people going to go? Where are these people who are going to come shop at Church and Dodge, where are they going to park? And in terms of the ground floor usage, a suggestion was made before we even went to Sub-Committee level and I believe it was made by Alderman Wollin and I apologize if this is a wrong reference to you Alderman Wollin, but something about, and I don't remember the terminology, but a scheduler as to the use of the community room, like who

is going to oversee that, who is going to know who is having use of that community room, which residents, what's occurring there?

And that question or that idea still has yet to be answered because we talked about the library but towards the end of our time as a Sub-Committee we were unable to really say that that's what would happen there. So it was back to square one and I don't see where that was addressed. That if we still use this as a community space, who is going to oversee it and who's going to say what's occurring and if those things are in fact occurring. If one thing would have been given I would have been able to give my support to this but it didn't happen.

And there are options, but I don't think the options were explored because of the financing. There are examples that HODC gave to the Sub-Committee members in regards to what Chicago has done, or what Highland Park has done to assist in creating affordable housing so there are options. There are other ways of financing and they haven't been explored and I know that Richard and HODC can come up with those options and work with the city of Evanston to create affordable housing at

this location. But I think the model that we're sitting at before us, leaves too many what if's and there aren't any guarantees as to how this is going to play out and how it will be in 15 years.

The one thing I said was when we were at our last P&D meeting when we talked about Darrow Corners and came to our Sub-Committee group was that I didn't hear and I didn't see any type of compromise between the neighbors and between the Developer and all the projects that I've seen come through P&D in the last year, we've had that. We've had some type of compromise. It's not perfect, but there's some type of significant compromise on some of the major points or one of major points that the neighbors that are going to be directly affected, that the developer has come up with and this project doesn't even address one of their three major concerns. Just one.

And I think that just because it's, this project says it's affordable housing, I think that we shouldn't automatically say it's affordable housing, let's just do it. Or that I should look the other way in the process that we've seemed to follow in this last year and just say, let's just do it. I wish I could. I

wish I could support Alderman Holmes and say, let's just do it. But I think I'd be doing a disservice to myself and a disservice to the community if we didn't explore our other options.

CHAIRMAN WYNNE: Thank you, at this point I have Alderman Holmes and Alderman Jean-Baptiste next, but I do want to throw in my comments. I haven't had an opportunity to speak on this. I too am troubled by this project. As someone who worked the first four years that I was on the Council, with a neighborhood planning group, I know how hard it is to participate in that, how hard it, how difficult it is to get community members to come, how, the clashes that you experience and how productive that process can be.

Your community was the community that was studied after the Chicago Avenue plan was completed and I know how difficult that process was. I was at the Plan Commission a number of times when that report was being worked on. I don't want to, part of the ways that we get people to invest and believe in our community and our ordinances is because we follow them and we honor the processes that we create. Nothing could, I think, more discourage people in my ward, if, after four years

of hours and hours of working, if we completely ignore it, the Chicago Avenue plan.

One of the critical things that the Berchal Krause consultant's report indicated to us last week, that we all praised, was that planning, planning, planning. You develop neighborhood plans, you connect them to each other, you create an entire zoning ordinance that makes sense to everybody, it fits together like a jigsaw puzzle and then you follow it. To me, we're trying to plunk in a very inflexible plan, project, into the middle of a planning process that's, that took four years to take place and I'm not willing to throw out the process. I think the process was working here and I don't believe this project adheres enough to the neighborhood plan for me to support it.

I think as others have said, the model is too inflexible. And that's fundamentally what's went on here is instead of coming in with something that could be altered or modified or discussing it with the community beforehand, it was presented and it was unchangeable because of the financing. And I agree with Alderman Hansen. It's all about the financing here. I also agree with Alderman Bernstein that the home

ownership issue is, it sounds too fragile and too remote. 15 years is a long period of time, it's a hope and it's not a strong enough hope for me to support this.

We have to be able to do better than this and I think Richard Koenig has clearly got a terrific mind for financing these projects, but I think this isn't the right one for this site. This is the beginning of doing something at this site and too much of it is inappropriate to the neighborhood plan, to the neighborhood wishes and doesn't really achieve the goals that we're all hoping for and there isn't a one of us up here who doesn't completely support affordable housing but I don't think that we have to take projects that we are so troubled by. There has to be other ways to do this.

So, for all of the reasons that have been stated by those who are in opposition, I can't support the project either and I would like to support something, but I think this one presents too remote a possibility and too many problems that we can already foresee and there are going to be some unintended consequences that we don't even see tonight. So, I'm

going to put my Chairman's hat back on again. The Mayor is waving to me and we have a lot of folks waiting outside. The preservation awards are coming up.

I have two Aldermen signed up to speak. I, we need to decide what we're doing with this project at this point, whether we're going to continue for another five or ten minutes. What's the wish of the community? Why don't we take the last two. Alderman Jean-Baptiste, if you could be your eloquent brief self so that we give Alderman Holmes an opportunity to speak as well.

ALDERMAN JEAN-BAPTISTE: Well, I'm going to be as brief as I can be.

CHAIRMAN WYNNE: Okay.

ALDERMAN JEAN-BAPTISTE: This is about poor people. It has nothing to do with plan. This is about poor people. I've lived in New York, some years back and there was a case that went through the Appellate Court and the issue was that poor people constitute an environmental hazard. This is what this is about people, so don't fool yourself with the notion of plan.

Plans are guidelines and when you hide behind the plans then you raise it as a dogma to support a

particular perspective and the perspective that is being supported here is that poor people constitute an environmental hazard in this particular neighborhood. What plan, what are we talking about? We support revitalization, we all support affordable housing. Public benefits? There's not enough public benefits here, it's too remote. When have you guys done anything for Church and Dodge? And that area? Nothing has been done.

People come back to the city of Evanston and they see downtown and they're amazed. They see a lot of other neighborhoods and they're amazed. And they look at Church and Dodge and they shake their heads. It is the same old business. Planning, planning, it's not about worship of plans, it's about pro-activity, taking advantage of the opportunities, and couple them with your planning to make things happen. The city of Evanston doesn't have money to go and develop that lot. We don't.

We take advantage of the opportunities that have presented themselves, that present themselves to us. It's not about if Richard Koenig and HODC had jumped through only one hoop then we would have awarded

him with our support. It has nothing to do with anything like that. Okay? Because we did talk about parking, it's not a disaster, there's 32 additional spaces identified, a year ago we gave some money, okay?

To one of the main opponents of this project, because we believed in what he was trying to do and he increased the number of space available. We invested the money. Okay? He has commercial space he added to the neighborhood. So what? How did it benefit the immediate neighborhood? It didn't do a thing for any of the residents there.

The local resident business people could not even afford to go in there. So people, let's stop hiding behind the notion of plan, behind the notion of, we didn't jump through enough hoops, we compromised. In that committee, we engaged in the discussion of on-site management. The reason why it became so important is because this was poor people who were going to be in there and so we wanted to make sure that we managed them properly. And we talked about all kinds of measures to manage the situation. Community rooms sitting empty, we don't know what's going to go in there. What? Is this going to be an open space? No. We talk about training

of tenants, we talk about all kinds of training, job training, we talked about all kinds of activities going in that community room.

So that's another excuse. And the notion, you know, some of us have set in inclusionary housing project meetings for years and then suddenly public benefit is too remote when we talk about affordable housing, rental housing. Some of us talk about that our families, what families are going to be benefitting from that because they'd be gone. You know the trend is that most families, the children stay home for the most part.

I mean I have two locally. One is going on 30, the other one is going on 24. I mean they're still hovering around home. Okay? So, and look, 15 years people is not an eternity. Ownership is not sacrosanct. Okay?

Near the lake you have a bunch of buildings there, walk ups, where there's not adequate parking around, some of them are turning condo and all kinds of stuff, people have survived. We can't even, we couldn't find that many units, that many parking spaces for people living on that side of town. Luckily we've been able to do so on this side of town. So, you know, I really think that behind our civility is really the

betrayal of one of the objectives and the principles that we say we stand for.

We say we stand for affordable housing. We ain't passing no ordinance that supports that. You know, we inch our way towards that. 27 units in that building. Does that mean everybody who's coming in there will be a criminal? I don't think so. Commercial space? We've got vacancies on Church and Dodge, we're not filling them. So I think that, you know, the fight for the TIF was a fight and you guys remember that. It was a fight, it was a political struggle to try to open up some direction and some possibilities and some opportunities. But when it came to a concrete project that a community group, ECDC fought for and who are the ECDC people?

At some point, Alderman Holmes was involved in it, at some point I was involved in it at some point Chief Logan is involved. Dino Robinson, various other people. Who have always opened up the process to those who are now opposed. Now I respect the opponents. I mean I appreciate Carlis' statement and I think it was heartfelt, it raised a lot of good issues. But at the same time people, the process of moving forward is not

about all or nothing. It is about compromise, it is about working through our issues, it is about ultimately, the principle.

Affordable housing, providing for those who have less resources in the community so that they could have a place to live. So I am totally surprised that the majority of Aldermen on the Council, at this point in time, behind all kinds of notions, have concluded that we can't afford this. I heard that a respectable person in the community say, we're creating, don't be coming in there creating a ghetto. You know. Look, this is about poor people. If it was a rich, \$1500 a month, \$2000 a month rental property going on there, we'd be the first to support it. I'm totally disappointed myself. Thank you.

ALDERMAN HOLMES: I'm really lost for words, so I'm just going to say that Alderman Jean-Baptiste did over what he said in terms of the disappointment, I respect and appreciate, I guess Alderman Bernstein, Alderman Rainey and Alderman Hansen by saying they wish they could support me. This project has never been about me. This project is about the people that I represent. And including the opponents and we went

through a long drawn out process, so I know that we represent the community, I know that this project is good for the community. Yes.

Is it perfect? No, it's not perfect. But it is a beginning and it could do a lot to begin to revitalize that area. We will continue to work with the opponents as well as those folk who are in support of whatever it is that's going to happen in the Church/Dodge area. But I hate that we pass this opportunity of being able to bring six million dollars into the city of Evanston for affordable housing and that we would miss an opportunity like that.

So I, on Friday, I believe one of the opponents asked, well what do you think about the Council? Where do you think they are? And I said at that time, I would never dream to speak for, nor had I made a call, nor will I ever make a call to ask anyone where there, how they're going to vote. Because if you're like me, you'll vote your conscience and you'll vote where you stand. But I would hate to think that once again the squeaky wheel gets the oil.

CHAIRMAN WYNNE: Thank you. I don't have any other names at this point, I think it's time for us to

have a motion. No Madam Mayor, I believe we can move to act on this. Yes. Alderman Rainey?

ALDERMAN RAINEY: Yes. I move to, god, I hate to do it this way. I move to accept the Plan Commission's recommendation that this planned unit development be denied.

ALDERMAN BERNSTEIN: Second.

CHAIRMAN WYNNE: All those in favor of the motion please indicate by saying aye.

ALDERMAN RAINEY: Aye.

ALDERMAN HANSEN: Aye.

ALDERMAN TISDAHL: Aye.

ALDERMAN BERNSTEIN: Aye.

CHAIRMAN WYNNE: All those opposed, please say. I think we're going to need a role call. Alderman Holmes?

ALDERMAN HOLMES: No.

CHAIRMAN WYNNE: Alderman Moran?

ALDERMAN MORAN: No.

CHAIRMAN WYNNE: Alderman Tisdahl?

ALDERMAN TISDAHL: Aye.

CHAIRMAN WYNNE: Alderman Rainey?

ALDERMAN RAINEY: Aye.

CHAIRMAN WYNNE: Alderman Hansen?

ALDERMAN HANSEN: Aye.

CHAIRMAN WYNNE: Alderman Wollin?

ALDERMAN WOLLIN: No.

CHAIRMAN WYNNE: Alderman Jean-Baptiste?

ALDERMAN JEAN-BAPTISTE: No.

CHAIRMAN WYNNE: Alderman Bernstein?

ALDERMAN BERNSTEIN: Aye.

CHAIRMAN WYNNE: The Chair votes aye. The motion passes 5 to 4. The recommendation of the Plan Commission to deny the application has passed. We are adjourned.

(Whereupon, the hearing in the above-titled cause was concluded at 8:50 p.m.)



How does homeownership contribute to wealth building?

Low-income households and households of color have limited access to homeownership because of barriers such as limited supply of affordable housing, restricted access to credit, and systemic inequities. For those low-income households and households of color, homeownership can be a catalyst to wealth building. Home equity accounts for over half their net wealth, but these gains from homeownership vary by income, gender and race/ethnicity.

This evidence brief:

- Summarizes research on the key factors to wealth building through homeownership for low-income households, households headed by single women, and Black and Hispanic/Latinx households.
- Shares how Habitat for Humanity contributes to these factors to encourage wealth building.

Financial benefits of homeownership for low-income households

Overall, homeownership promotes wealth building by acting as a forced savings mechanism and through home value appreciation. Homeowners make monthly payments that increase their equity in their homes by paying down the principal balance of their mortgage. Home value appreciation also helps homeowners build wealth by enabling them to realize greater proceeds if they sell the home or borrow against the additional equity. In addition, owning a home promotes intergenerational homeownership and wealth building. Children of homeowners transition to homeownership earlier – lengthening the period over which they can accumulate wealth – and have homeownership rates 25 percentage points higher than the rate of children of renters.^{1,2}

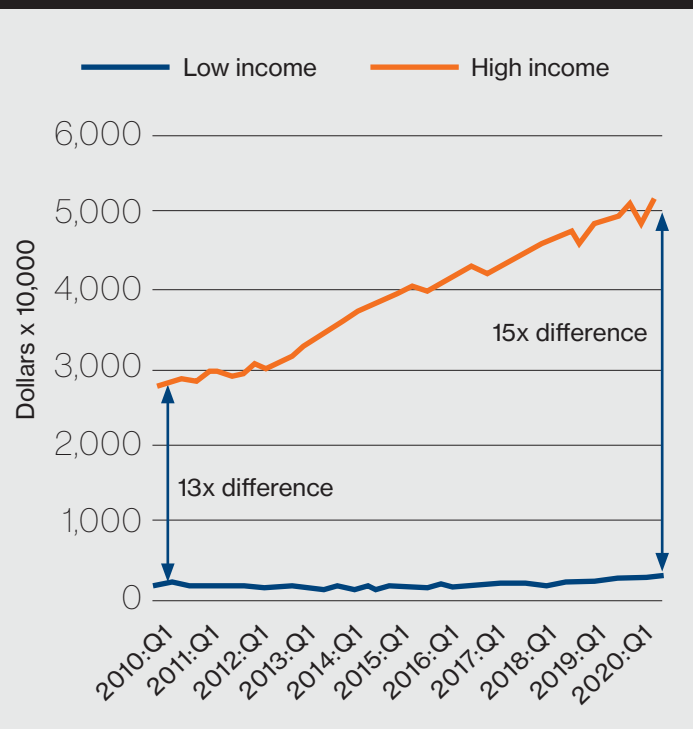
For every dollar in net wealth accumulated by a high-income household, a low-income household amasses 7 cents. This wealth gap has significantly widened over the past decade (Figure 1).³ Homeownership is a substantial contributor to the wealth of low-income households, since they hold the majority of their wealth in their homes. But do low-income households achieve greater financial returns through homeownership than through renting? Low-income homeowners with sustained ownership and affordable loans have higher wealth accumulation – both housing and non-housing wealth – than comparable renters.⁴ Furthermore, low-income homeowners earned higher financial returns than high-income homeowners when the annual costs and benefits of homeownership, which include imputed rents (the rental value that the homeowner would get from renting their home at the market rate), are estimated.⁵ The ratio of imputed rents to home values declines with income level and drives this result. The rate of return, however, hinges on the value of imputed rent and the homeowners' ability to build home equity.

Key factors to build home equity

Providing affordable financing and refinancing loans at lower interest rates help low-income households to build equity in their homes.

- Low interest rates reduce the cost of financing and enable homebuyers to contribute more of their monthly mortgage payments to principal – and equity-building – than to interest payments.
- Increasing the initial mortgage interest rate by 1 percentage point increases the probability of exiting homeownership by 16%.⁶
- Low-income households are more vulnerable to predatory lending that lowers home equity through fees, poor underwriting and high penalties. Interest rates for subprime loans can be more than 4 percentage points higher than traditional loans.⁷
- Low-income households are less likely to refinance their existing mortgage to take advantage of lower interest rates. Failing to refinance reduced their aggregate wealth by \$22 billion.⁸

FIGURE 1: DISTRIBUTION OF HOUSEHOLD WEALTH FOR LOW- AND HIGH-INCOME HOUSEHOLDS



Sustaining homeownership allows homebuyers to recoup the transaction costs associated with the purchase of a home and to weather home value fluctuations.

- Transaction costs to buy and sell a home can average 8% to 10% of the value of a home.⁹ Homeowners can offset the transaction costs by remaining in their homes long enough for home values to appreciate to cover those costs.
- Living in the home for a longer duration also allows homeowners to weather short-term fluctuations in home values and realize positive financial returns.¹⁰
- Low-income households tend to pay a higher share of their monthly income for housing than do higher-income households, and they have less savings to cushion unexpected financial events such as a job loss or health bills. For low-income homeowners, a loss in income increases the probability that they will transition to renting by 74%.¹¹ Within five years of buying their first home, over half of low-income homeowners return to renting, compared with 25%-30% of high-income buyers.^{6,12}

Appreciating home values increases the equity in the home, especially at the time of resale, but the rate of appreciation depends on the timing and location of the home purchase.

- There is mixed evidence regarding whether lower-priced homes, the type of homes typically purchased by low-income homebuyers, have lower rates of appreciation than higher-priced homes. The level of appreciation depends on the specific period and market.⁹
- Low-income households that purchase during periods of high home appreciation are more likely to realize wealth accumulation than renters, but the reverse holds true during periods of lower appreciation.¹³



How Habitat contributes

- Habitat affiliates help homeowners build equity by keeping the cost of homeownership affordable for low-income families so that homeowners can begin to accrue equity immediately. Habitat is committed to ensuring mortgage payments consume no more than 30% of a homeowner's income and meets this goal by offering financial packages composed of low- or zero-interest loans and forgivable loans. These creative financing packages also help sustain homeownership by providing flexible mortgage restructuring options and other financial support to homeowners when they lose income.
- Habitat also offers down payment assistance that helps people access homeownership earlier and begin accruing equity sooner, granting them more financial resilience and the ability to focus on other financial goals.
- Habitat builds modest homes and manages the cost of land acquisition, development and construction to keep the overall cost of homes low. Moreover, Habitat lowers transaction costs by eliminating the need for real estate agent and other transaction fees.
- Many Habitat affiliates are leading the way on permanent affordability, using land trust programs and shared-equity models to help growing numbers of families build equity through their homes while ensuring that future homeowners will have the same access to affordable homeownership. These tools help manage expensive land costs and rising home prices to retain affordability while still enabling families to build equity through their homes.
- Habitat affiliates also provide financial education classes and pre- and post-purchase counseling that provide tools and strategies to manage household finances, which can render homeowners better able to continue to meet their mortgage payments and sustain homeownership.
- Habitat's repair programs offer homeowners the opportunity to affordably address acute housing problems and improve the quality of their homes. This allows homeowners to maintain their homes at an affordable cost and continue to build equity through homeownership.
- In addition to the direct services that keep homeownership affordable, Habitat advocates at all levels of government for policies and programs

that make affordable homeownership more broadly available and support homeowners in building equity through their homes. Our advocacy work focuses on expanding access to safe, low-interest mortgages; tax credits and saving incentive programs to help low-income families build financial reserves; resources such as housing counseling and short-term mortgage assistance to prevent foreclosure; and policies aimed at reducing regulatory barriers to building affordable homes in appreciating markets.





Financial benefits of homeownership for women

In the past decades, homeownership by single women – regardless of race and ethnicity – has outpaced that of single men. In 2020, single women accounted for 19% of first-time homebuyers, compared with 11% of single men.¹⁴ Single men annually earn returns on their housing investment that are 7.9 percentage points higher – after accounting for financing costs – than the returns earned by single women. This is mostly due to market timing and negotiating ability; single women pay approximately 1%-2% more for comparable properties than single men, and then sell these homes for 2%-3% less. For an average home worth \$200,000 held for five years, a 2% difference in purchase and sale price translates to single women losing approximately \$1,600 per year relative to single men.¹⁵

How Habitat contributes

- Habitat homes are priced at fair market value, which is the price of the home if it were sold under prevailing market conditions, and are not subject to the negotiating ability of the homebuyer or any implicit bias or prejudice on the part of their real estate agent.
- Mortgage payments for Habitat homes are kept at 30% of the homeowner's monthly income, independent of home value or financing terms. This model ensures that Habitat homes are affordable regardless of gender and protects women from paying higher costs for their homes.
- Consequently, Habitat homeowners, most of whom are female, do not start their homeownership journey at a deficit and instead are able to begin accruing equity immediately upon purchasing their home.

Financial benefits of homeownership for Black and Hispanic/Latinx households

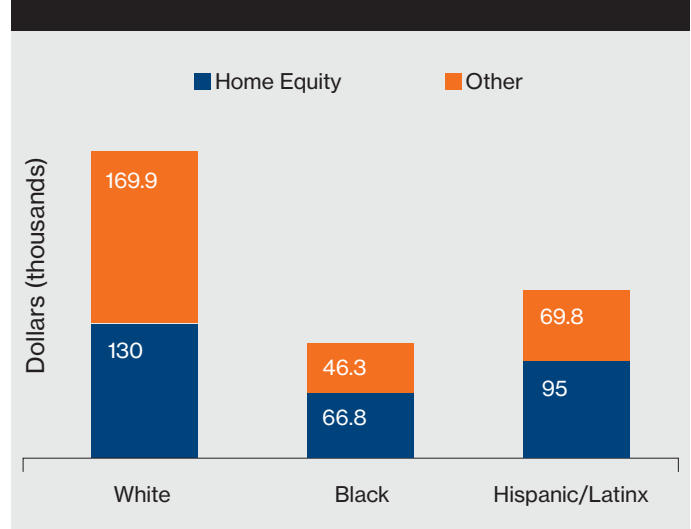
The homeownership rate of white households continues to exceed those of Black and Hispanic/Latinx households, and for Black households, this gap has widened. Black and Hispanic/Latinx households trail white households' overall accumulated wealth and amount of equity amassed in their homes, which is the primary contributor to their net wealth (Figure 2).^{16,17} But how do the financial returns of Black and Hispanic/Latinx homebuyers compare with that of white homebuyers? After accounting for the annual costs and benefits of homeownership, Black and Hispanic/Latinx homebuyers – regardless of income level – achieved returns that outpace that of white homebuyers.⁵ This result centers on Black and Hispanic/Latinx homebuyers having higher ratios of imputed rent (the rental value that homeowners would get from renting their home at market rates) to home values. However, in addition to the factors discussed earlier, Black and Hispanic/Latinx homebuyers face key barriers that may impact their ability to build equity.

Key barriers to build home equity for Black and Hispanic/Latinx homebuyers

Black and Hispanic/Latinx homebuyers tend to use debt to finance homeownership and face more expensive mortgage financing, paying higher mortgage rates.

- Black and Hispanic/Latinx homeowners are more likely to finance homeownership through debt. The median loan-to-value ratios were 66%, 61% and 56% for Black, Hispanic/Latinx and white homeowners with a mortgage, respectively.¹⁸
- On average, Black homebuyers pay 29 basis points more than comparable white homebuyers.¹⁹ Financial technology lenders reduce this disparity somewhat, but borrowers of color are still charged interest rates that are typically eight basis points higher than they charge white borrowers with similar financial characteristics.²⁰
- During the housing boom of the 2000s, subprime loans were disproportionately concentrated in communities of color, and Black and Hispanic/Latinx borrowers were more likely to receive subprime loans and adverse pricing.^{21,22} Subprime lending

FIGURE 2: MEDIAN NET WORTH



strips equity, with the excessive fees paid to lenders, contributing to an excessive rate of foreclosures. One in 5 subprime loans end in foreclosure.²³

- Black homeowners are 16.5% less likely to refinance than white homeowners, and when they do refinance, Black homeowners pay interest rates that are about 1 percentage point higher. This translates to over \$22 billion in lost equity to Black homeowners.^{7,8}

Homes purchased by Black homebuyers tend to be lower-valued, appreciate more slowly, and have higher property taxes.

- Even after conveying their preferences, homebuyers of color, especially Black homebuyers, are more likely to be steered to disadvantaged neighborhoods by their real estate agents despite having characteristics similar to white buyers.²⁴ This contributes to households of color tending to purchase homes in residentially segregated neighborhoods that are likely to experience limited or even negative home appreciation.⁵
- In neighborhoods where Black households represent the majority of the population, homes are valued at about half the price of homes in neighborhoods where there are no Black households. Furthermore,

similar quality homes located in neighborhoods with similar amenities are worth 23% less in majority Black neighborhoods, compared with those with very few or no Black residents.²⁵

- Black and Hispanic/Latinx homeowners also pay higher property taxes than do white homeowners. For every \$1 of property taxes paid by white homeowners, Black and Hispanic/Latinx homeowners pay an additional 10 to 13 cents. This is due to the higher tax-assessed values of their homes within similar neighborhood types and the lower likelihood that they will appeal assessments and receive reductions in assessments. This disparity in assessment amounts to an extra \$300-\$390 annually for the median Black and Hispanic/Latinx homeowner.²⁶

During the housing boom of the 2000s, subprime loans were disproportionately concentrated in communities of color, and Black and Hispanic/Latinx borrowers were more likely to receive subprime loans and adverse pricing. Subprime lending strips equity with the excessive fees paid to lenders, contributing to an excessive rate of foreclosures. One in 5 subprime loans end in foreclosure.

FIGURE 3: BLACK-WHITE GAP IN HOME VALUATION AND PROPERTY TAXES PAID





Black and Hispanic/Latinx households are less likely to sustain homeownership.

- Low-income households of color are slower to transition to ownership, more likely to return to renting, and less likely to return to homeownership if they have transitioned to renting than white households at similar income levels.^{12,27} Less than half of low-income homeowners of color remained homeowners within four years of becoming a homeowner, compared with 60% of low-income white homeowners.¹²
- For those able to sustain homeownership through economic decline, Black and Hispanic/Latinx households are more likely to end up with negative equity than comparable white homeowners. For Black households, this is largely driven by the housing market in which they purchased their homes.²⁸

How Habitat responds

- Habitat serves a diverse range of homeowners, providing more equitable access to low-cost financing that can help support building home equity. Mortgages for all Habitat homeowners, regardless of race, are priced to be affordable, with monthly payments kept at 30% or less of income, and Habitat affiliates can create unique financing options that meet the needs of all of their homebuyers.
- The counseling and classes offered by Habitat affiliates can help ease the transition to homeownership for low-income households of color and better position them to sustain homeownership.
- Habitat advocates for policies that increase and broaden access to safe and sound credit for underserved populations and help close the homeownership gap for Black households and other communities of color.
- Habitat also advocates for anti-racist housing, lending and land-use policies at the local, state and federal levels that seek to increase racial equity in homeownership.

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everyone

needs a place to call home

A Habitat for Humanity U.S. Research and Measurement Team evidence brief



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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

BRUCE RAUNER, GOVERNOR

ALEC MESSINA, DIRECTOR

217/524-3300

November 6, 2017

CERTIFIED MAIL

7014 2120 0002 3285 4791

E-Town Community Ventures, LLC
Attn: Daniel Chefetz
1338 Warrington Drive
Deerfield, Illinois 60015

Re: 0310815369/Cook County
Evanston/E-Town Community Ventures LLC
Site Remediation Program/Technical Reports
No Further Remediation Letter

Dear Mr. Chefetz:

The *Remedial Action Completion Report* (received August 3, 2017/Log No. 17-65218), as prepared by Environmental Consulting Group (ECG), Inc. for the above referenced Remediation Site, has been reviewed and approved by the Illinois Environmental Protection Agency ("Illinois EPA"). This Report demonstrates the remediation objectives approved for the site, in accordance with 35 Illinois Administrative Code Part 742 including the indoor inhalation pathway, are above the existing concentrations of regulated substances and the remedial action was completed in accordance with the *Remedial Action Plan* (received March 9, 2016/Log No. 16-61659) and 35 Illinois Administrative Code Part 740.

The Remediation Site, consisting of 0.26 acres, is located at 1801-1805 Church Street, Evanston, Illinois. Pursuant to Section 58.10 of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/1 et seq.), your request for a no further remediation determination is granted under the conditions and terms specified in this letter. The Remediation Applicant, as identified on the Illinois EPA's Site Remediation Program DRM-1 Form (received November 10, 2015/Log No. 15-60815), is E-Town Community Ventures, LLC.

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595 S. State, Egin, IL 60123 (847)608-3131
2125 S. First St., Champaign, IL 61820 (217)278-5800
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9511 Harrison St., Des Plaines, IL 60016 (847)294-4000
412 SW Washington St., Suite D, Peoria, IL 61602 (309)671-3022
2309 W. Main St., Suite 116, Marion, IL 62959 (618)993-7200
100 W. Randolph, Suite 10-300, Chicago, IL 60601

This focused No Further Remediation Letter (“Letter”) signifies a release from further responsibilities under the Act for the performance of the approved remedial action. This Letter shall be considered prima facie evidence that the Remediation Site described in the attached Illinois EPA Site Remediation Program Environmental Notice and shown in the attached Site Base Map does not constitute a threat to human health and the environment for the specified recognized environmental conditions so long as the Site is utilized in accordance with the terms of this Letter.

Conditions and Terms of Approval

Level of Remediation and Land Use Limitations

- 1) The recognized environmental conditions characterized by the focused site investigation and successfully addressed, consist of the contaminants of concern identified in the attached Table A.
- 2) The Remediation Site is restricted to industrial/commercial land use.
- 3) The land use specified in this Letter may be revised if:
 - a) Further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use; and
 - b) A new Letter is obtained and recorded in accordance with Title XVII of the Act and regulations adopted thereunder.

Preventive, Engineering, and Institutional Controls

The implementation and maintenance of the following controls are required as part of the approval of the remediation objectives for this Remediation Site.

Preventive Controls:

- 4) At a minimum, a safety plan should be developed to address possible worker exposure in the event that any future excavation and construction activities may occur within the contaminated soil. Any excavation within the contaminated soil will require implementation of a safety plan consistent with NIOSH Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities, OSHA regulations (particularly in 29 CFR 1910 and 1926), state and local regulations, and other USEPA guidance. Soil excavated below asphalt pavement must be returned to the same depth from which it was excavated or properly managed or disposed in accordance with applicable state and federal regulations.

Engineering Controls:

- 5) The asphalt barrier, as shown on the attached Site Base Map, must remain over the contaminated soils. This asphalt barrier must be properly maintained as an engineered barrier to inhibit inhalation of the contaminated media.

Institutional Controls

- 6) Any future buildings constructed on the site must contain a full concrete slab-on-grade floor or full concrete basement floor and walls with no sump(s) other than in the area described in paragraph 7.
- 7) No building shall be occupied within the area depicted on the attached Site Base Map unless a Building Control Technology (“BCT”) meeting the requirements of 35 Illinois Administrative Code Part 742 Subpart L is operational prior to human occupancy. This BCT must be properly maintained to address the indoor inhalation pathway. If the BCT becomes inoperable, the site owner/operator shall notify building occupants and workers to implement protective measures. In addition, any sump located within the building with the BCT shall be sealed with an approved cap and vent system. A caution label must be affixed to the vent pipe indicating that the system cannot be dismantled without proper consultation. A vacuum pressure gauge must be installed on the system to provide a clear indication of when the system is operating properly and when maintenance is required. The sump cover must be resealed if it is ever removed for sump pump inspection, replacement, maintenance or for any other reason. The vent system must also be correctly maintained under such circumstances. Failure to maintain the BCT or the sealed sump shall be grounds for voidance of this No Further Remediation letter.
- 8) No person shall construct, install, maintain, or operate a well at the Remediation Site. All water supplies and water services for the Remediation Site must be obtained from a public water supply system. The provisions of this institutional control shall be applicable to all water usage (e.g., domestic, industrial/commercial uses and outdoor watering).

Other Terms

- 9) Pursuant to Section 57.10 of the Act (415 ILCS 5/57.10), all statutory and regulatory corrective action requirements applicable to the occurrence involving Leaking UST Incident Number 20150678 have been completed. This Letter constitutes the Illinois EPA’s final decision regarding the above-referenced Leaking UST incident.
- 10) Where the Remediation Applicant is not the sole owner of the Remediation Site, the Remediation Applicant shall complete the attached *Property Owner Certification of the No Further Remediation Letter under the Site Remediation Program* Form. This certification, by original signature of each property owner, or the authorized agent of the owner(s), of the Remediation Site or any portion thereof who is not a Remediation Applicant shall be recorded along with this Letter.
- 11) Further information regarding this Remediation Site can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to:

Illinois Environmental Protection Agency
Attn: Freedom of Information Act Officer
Division of Records Management #16
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

- 12) Pursuant to Section 58.10(f) of the Act (415 ILCS 5/58.10(f)), should the Illinois EPA seek to void this Letter, the Illinois EPA shall provide notice to the current title holder and to the Remediation Applicant at the last known address. The notice shall specify the cause for the avoidance, explain the provisions for appeal, and describe the facts in support of this cause. Specific acts or omissions that may result in the avoidance of the Letter under Sections 58.10(e)(1)-(7) of the Act (415 ILCS 5/58.10(e)(1)-(7)) include, but shall not be limited to:
- a) Any violation of institutional controls or the designated land use restrictions;
 - b) The failure to operate and maintain preventive or engineering controls or to comply with any applicable groundwater monitoring plan;
 - c) The disturbance or removal of contamination that has been left in-place in accordance with the Remedial Action Plan. Access to soil contamination may be allowed if, during and after any access, public health and the environment are protected consistent with the Remedial Action Plan;
 - d) The failure to comply with the recording requirements for this Letter;
 - e) Obtaining the Letter by fraud or misrepresentation;
 - f) Subsequent discovery of contaminants, not identified as part of the investigative or remedial activities upon which the issuance of the Letter was based, that pose a threat to human health or the environment;
 - g) The failure to pay the No Further Remediation Assessment Fee within forty-five (45) days after receiving a request for payment from the Illinois EPA;
 - h) The failure to pay in full the applicable fees under the Review and Evaluation Services Agreement within forty-five (45) days after receiving a request for payment from the Illinois EPA.
- 13) Pursuant to Section 58.10(d) of the Act, this Letter shall apply in favor of the following persons:
- a) E-Town Community Ventures, LLC;
 - b) The owner and operator of the Remediation Site;
 - c) Any parent corporation or subsidiary of the owner of the Remediation Site;

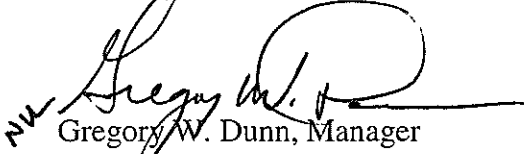
- d) Any co-owner, either by joint-tenancy, right of survivorship, or any other party sharing a relationship with the owner of the Remediation Site;
 - e) Any holder of a beneficial interest of a land trust or inter vivos trust, whether revocable or irrevocable, involving the Remediation Site;
 - f) Any mortgagee or trustee of a deed of trust of the owner of the Remediation Site or any assignee, transferee, or any successor-in-interest thereto;
 - g) Any successor-in-interest of the owner of the Remediation Site;
 - h) Any transferee of the owner of the Remediation Site whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest;
 - i) Any heir or devisee of the owner of the Remediation Site;
 - j) Any financial institution, as that term is defined in Section 2 of the Illinois Banking Act and to include the Illinois Housing Development Authority, that has acquired the ownership, operation, management, or control of the Remediation Site through foreclosure or under the terms of a security interest held by the financial institution, under the terms of an extension of credit made by the financial institution, or any successor-in-interest thereto; or
 - k) In the case of a fiduciary (other than a land trustee), the estate, trust estate, or other interest in property held in a fiduciary capacity, and a trustee, executor, administrator, guardian, receiver, conservator, or other person who holds the remediated site in a fiduciary capacity, or a transferee of such party.
- 14) This letter, including all attachments, must be recorded as a single instrument within forty-five (45) days of receipt with the Office of the Recorder of Cook County. For recording purposes, the Illinois EPA Site Remediation Program Environmental Notice attached to this Letter should be the first page of the instrument filed. This Letter shall not be effective until officially recorded by the Office of the Recorder of Cook County in accordance with Illinois law so that it forms a permanent part of the chain of title for the E-Town Community Ventures, LLC property.
- 15) Within thirty (30) days of this Letter being recorded by the Office of the Recorder of Cook County, a certified copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA to:

Mr. Jim Scott
Illinois Environmental Protection Agency
Bureau of Land/RPMS #24
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

16) In accordance with Section 58.10(g) of the Act, a No Further Remediation Assessment Fee based on the costs incurred for the Remediation Site by the Illinois EPA for review and evaluation services will be applied in addition to the fees applicable under the Review and Evaluation Services Agreement. Request for payment of the No Further Remediation Assessment Fee will be included with the billing statement.

If you have any questions regarding the E-Town Community Ventures, LLC property, you may contact the Illinois EPA project manager, Tammy Smith at 217-525-7207.

Sincerely,


Gregory W. Dunn, Manager
Remedial Project Management Section
Division of Remediation Management
Bureau of Land

Attachments: Illinois EPA Site Remediation Program Environmental Notice
Site Base Map
Table A: Regulated Substances of Concern
Property Owner Certification of No Further Remediation Letter under the Site
Remediation Program Form
Instructions for Filing the NFR Letter

cc: Robert Johnson
Environmental Consulting Group
rjohnson@envcg.com

Bureau of Land File

Mr. Jim Scott

Mr. Dennis Marino
Assistant Director of Planning
2100 Ridge Avenue
Evanston, Illinois 60201

PREPARED BY:

Name: Daniel Chefetz
E-Town Community Ventures, LLC

Address: 1338 Warrington Drive
Deerfield, IL 60015

RETURN TO:

Name: Daniel Chefetz
E-Town Community Ventures, LLC

Address: 1338 Warrington Drive
Deerfield, IL 60015

THE ABOVE SPACE FOR RECORDER'S OFFICE

This Environmental No Further Remediation Letter must be submitted by the remediation applicant within 45 days of its receipt, to the Office of the Recorder of Cook County.

Illinois State EPA Number: 0310815369

E-Town Community Ventures, LLC., the Remediation Applicant, whose address is 1338 Warrington Drive, Deerfield, Illinois, 60015 has performed investigative and/or remedial activities for the remediation site depicted on the attached Site Base Map and identified by the following:

1. Legal description or Reference to a Plat Showing the Boundaries:

The South 160.00 feet of Lots 9 and 10 in Block 3 in Merrill Ladd's Second Addition to Evanston, said addition being a subdivision of the West ½ of the Southwest ¼ of the Northeast ¼ of Section 13, Township 41 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

2. Common Address: 1801-1805 Church Street, Evanston, Illinois 60201

3. Real Estate Tax Index/Parcel Index Number: 10-13-220-035-0000

4. Remediation Site Owner: E-Town Community Ventures, LLC

5. Land Use: Industrial/Commercial

6. Site Investigation: Focused

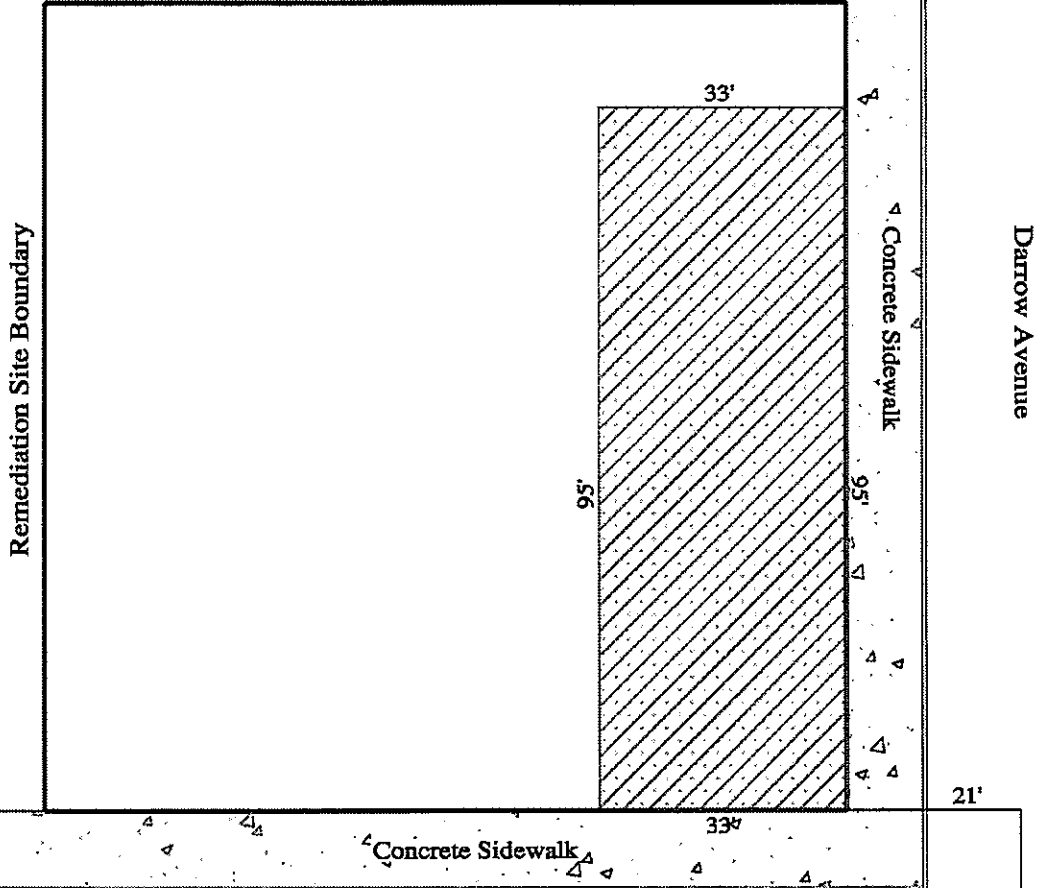
See NFR letter for other terms.

(Illinois EPA Site Remediation Program Environmental Notice)

Site Base Map
 LPC #0310815369/Cook County
 Evanston/E-Town Community Venture, LLC
 SRP/Technical Reports



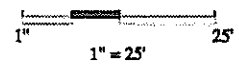
Remediation Site Boundary



Legend:

= Limits of Engineered Barrier (Asphalt Cover) and Defined Area needing BCT if Building Constructed

Church Street



Environmental Consulting Group, Inc.
 105 S. York Road, Suite 250
 Elmhurst, Illinois 60126
 www.ecgmidwest.com

Site Base Map
 Project Location: 1801-1805 Church Street, Evanston
 Project Number: E171696-698

Completed on 9/19/17
 Drawn by RAJ

TABLE A: Regulated Substances of Concern

**0310815369--Cook County
Evanston/E-Town Community Ventures, LLC
Site Remediation Program**

Volatile Organic Compounds (VOCs)	
CAS No.	Compound Name
67-64-1	Acetone
71-43-2	Benzene
75-27-4	Bromodichloromethane
75-25-2	Bromoform
74-83-9	Bromomethane
78-93-3	2-Butanone
75-15-0	Carbon Disulfide
56-23-5	Carbon Tetrachloride
108-90-7	Chlorobenzene
75-00-3	Chloroethane
67-66-3	Chloroform
74-87-3	Chloromethane
124-48-1	Dibromochloromethane
75-34-3	1,1-Dichloroethane
107-06-2	1,2-Dichloroethane
75-35-4	1,1-Dichloroethene
540-59-0	1,2-Dichloroethene (total)
156-59-2	cis-1,2-Dichloroethene
156-60-5	trans-1,2-Dichloroethene
78-87-5	1,2-Dichloropropane
10061-02-6	trans-1,3-Dichloropropene
10061-01-5	cis-1,3-Dichloropropene
100-41-4	Ethylbenzene
591-78-6	2-Hexanone
75-09-2	Methylene Chloride
108-10-1	4-Methyl-2-Pentanone
1634-04-4	Methyl tert-butyl ether
100-42-5	Styrene
79-34-5	1,1,2,2-Tetrachloroethane
127-18-4	Tetrachloroethene
71-55-6	1,1,1-Trichloroethane
79-00-5	1,1,2-Trichloroethane
79-01-6	Trichloroethene
108-88-3	Toluene
108-05-4	Vinyl Acetate
75-01-4	Vinyl Chloride
1330-20-7	Xylenes (total)

Semivolatile Organic Compounds (SVOCs)	
CAS No.	Compound Name
208-96-8	Acenaphthalene
83-32-9	Acenaphthene
120-12-7	Anthracene
92-87-5	Benzidine
56-55-3	Benzo(a)anthracene
205-99-2	Benzo(b)fluoranthene
207-08-9	Benzo(k)fluoranthene
191-24-2	Benzo(g,h,i)perylene
50-32-8	Benzo(a)pyrene
65-85-0	Benzoic acid
100-51-6	Benzyl alcohol
111-91-1	bis(2-Chloroethoxy)methane
111-44-4	bis(2-Chloroethyl)ether
108-60-1	bis(2-Chloroisopropyl)ether
117-81-7	bis(2-Ethylhexyl)phthalate
101-55-3	4-Bromophenyl-phenyl ether
85-68-7	Butylbenzylphthalate
86-74-8	Carbazole
106-47-8	4-Chloroaniline
59-50-7	4-Chloro-3-methylphenol
91-58-7	2-Chloronaphthalene
95-57-8	2-Chlorophenol
7005-72-3	4-Chlorophenyl-phenyl ether
218-01-9	Chrysene
53-70-3	Dibenzo(a,h)anthracene
132-64-9	Dibenzofuran
95-50-1	1,2-Dichlorobenzene
541-73-1	1,3-Dichlorobenzene
106-46-7	1,4-Dichlorobenzene
91-94-1	3,3'-Dichlorobenzidine
120-83-2	2,4-Dichlorophenol
84-66-2	Diethylphthalate
105-67-9	2,4-Dimethylphenol
131-11-3	Dimethylphthalate
534-52-1	4,6-Dinitro-2-methylphenol
51-28-5	2,4-Dinitrophenol
121-14-2	2,4-Dinitrotoluene
606-20-2	2,6-Dinitrotoluene
84-74-2	Di-n-butylphthalate
117-84-0	Di-n-octylphthalate

206-44-0	Fluoranthene
86-73-7	Fluorene
118-74-1	Hexachlorobenzene
87-68-3	Hexachlorobutadiene
77-47-4	Hexachlorocyclopentadiene
67-72-1	Hexachloroethane
193-39-5	Indeno(1,2,3-cd)pyrene
78-59-1	Isophorone
91-57-6	2-Methylnaphthalene
95-48-7	2-Methylphenol
108-39-4	3-Methylphenol
106-44-5	4-Methylphenol
91-20-3	Naphthalene
88-74-4	2-Nitroaniline
99-09-2	3-Nitroaniline
100-01-6	4-Nitroaniline
98-95-3	Nitrobenzene
88-75-5	2-Nitrophenol
100-02-7	4-Nitrophenol
621-64-7	N-Nitroso-di-n-propylamine
86-30-6	N-Nitrosodiphenylamine
62-75-9	N-Nitrosodimethylamine
87-86-5	Pentachlorophenol
85-01-8	Phenanthrene
108-95-2	Phenol
129-00-0	Pyrene
110-86-1	Pyridine
120-82-1	1,2,4-Trichlorobenzene
95-96-4	2,4,5-Trichlorophenol
88-06-2	2,4,6-Trichlorophenol

Inorganics	
CAS No.	Compound Name
7440-38-2	Arsenic
7440-39-3	Barium
7440-43-9	Cadmium
7440-47-3	Chromium
7439-97-6	Mercury
7782-49-2	Selenium
7440-22-4	Silver

Aroclors	
CAS No.	Compound Name
12674-11-2	Aroclor - 1016
11104-28-2	Aroclor - 1221
11141-16-5	Aroclor - 1232
53469-21-9	Aroclor - 1242
12672-29-6	Aroclor - 1248
11097-69-1	Aroclor - 1254
111096-82-5	Aroclor - 1260

**PROPERTY OWNER CERTIFICATION OF THE NFR LETTER
UNDER THE SITE REMEDIATION PROGRAM**

Where the Remediation Applicant (RA) is not the sole owner of the remediation site, the RA shall obtain the certification by original signature of each owner, or authorized agent of the owner(s), of the remediation site or any portion thereof who is not an RA. The property owner(s), or the duly authorized agent of the owner(s) must certify, by original signature, the statement appearing below. This certification shall be recorded in accordance with Illinois Administrative Code 740.620.

Include the full legal name, title, the company, the street address, the city, the state, the ZIP code, and the telephone number of all other property owners. Include the site name, street address, city, ZIP code, county, Illinois inventory identification number and real estate tax index/parcel index number.

A duly authorized agent means a person who is authorized by written consent or by law to act on behalf of a property owner including, but not limited to:

1. For corporations, a principal executive officer of at least the level of vice-president;
2. For a sole proprietorship or partnership, the proprietor or a general partner, respectively; and
3. For a municipality, state or other public agency, the head of the agency or ranking elected official.

For multiple property owners, attach additional sheets containing the information described above, along with a signed, dated certification for each. All property owner certifications must be recorded along with the attached NFR letter.

Property Owner Information
Owner's Name: _____ Title: _____ Company: _____ Street Address: _____ City: _____ State: _____ Zip Code: _____ Phone: _____
Site Information
Site Name: _____ Site Address: _____ City: _____ State: _____ Zip Code: _____ County: _____ Illinois inventory identification number: _____ Real Estate Tax Index/Parcel Index No. _____
I hereby certify that I have reviewed the attached No Further Remediation Letter and that I accept the terms and conditions and any land use limitations set forth in the letter. Owner's Signature: _____ Date: _____ SUBSCRIBED AND SWORN TO BEFORE ME this _____ day of _____, 20__ _____ Notary Public

The Illinois EPA is authorized to require this information under Sections 415 ILCS 5/58 - 58.12 of the Environmental Protection Act and regulations promulgated thereunder. If the Remediation Applicant is not also the sole owner of the remediation site, this form must be completed by all owners of the remediation site and recorded with the NFR Letter. Failure to do so may void the NFR Letter. This form has been approved by the Forms Management Center. All information submitted to the Site Remediation Program is available to the public except when specifically designated by the Remediation Applicant to be treated confidentially as a trade secret or secret process in accordance with the Illinois Compiled Statutes, Section 7(a) of the Environmental Protection Act, applicable Rules and Regulations of the Illinois Pollution Control Board and applicable Illinois EPA rules and guidelines.

Notice to Remediation Applicant

Please follow these instructions when filing the NFR letter with the County Recorder's Office

Instructions for Filing the NFR Letter

The following documents must be filed:

- A. Body of the NFR Letter (contains appropriate terms and conditions, tables, etc.)
 - B. Attachments to NFR letter
 - Illinois EPA Site Remediation Program Environmental Notice (Legal Description and PIN of property)
 - Maps of the site
 - Table A: Regulated Substances of Concern (if applicable.)
 - Property Owner Certification
 - C. A copy of the ordinance, if applicable, used to address groundwater contamination
1. Place the Illinois EPA Site Remediation Program Environmental Notice on top of the NFR prior to giving it to the Recorder.
 2. If you are not the owner (record title holder) of the property on the date of filing of this NFR, you must attach a **completed** owner's certification form signed by the owner of the property at the time of filing (e.g., if the property recently sold, the new owner must sign).
 3. If any of the terms and conditions of the NFR letter references a groundwater ordinance, you must record a copy of the groundwater ordinance with the NFR letter.
 4. If any of the terms and conditions of the NFR letter references a highway agreement, you must record the highway agreement if specifically required by the municipality granting the agreement, the County or the Illinois Department of Transportation.
 5. Within thirty (30) days of this NFR Letter being recorded by the Office of the Recorder of the County in which the property is located, a certified copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA to:

Jim Scott
Illinois Environmental Protection Agency
Bureau of Land/RPMS
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

6. **Remove this page from the NFR letter, prior to recording.**

If you have any questions call (217) 524-6940 and speak with the "project manager on-call" in the Site Remediation Program.