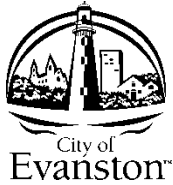


## Land Use Commission

1566 Oak Avenue  
Special Use – Rooming House  
Connections for the Homeless/  
Margarita Inn  
22ZMJV-0078

Recommending Body



# Memorandum

To: Chair and Members of the Land Use Commission

From: Melissa Klotz, Zoning Administrator

CC: Sarah Flax, Interim Director of Community Development  
Elizabeth Williams, Planning Manager

Subject: Special Use – Rooming House  
1566 Oak Avenue, 22ZMJV-0078

Date: April 21, 2023

## **Request**

Donna Pugh & Michael Noonan, Foley & Lardner LLP, attorneys representing Connections for the Homeless, request a Special Use Permit for a Rooming House at 1566 Oak Avenue, commonly known as the Margarita Inn, in the R6 General Residential District (Section 6-8-8-3). The Land Use Commission makes a recommendation to the City Council, the determining body for this case in accordance with Section 6-3-5-8 and Ordinance 92-O-21.

## **Notice**

The Application has been filed in conformance with applicable procedural and public notice requirements including publication in the Evanston Review on November 10, 2022.

## **Update**

Pursuant to court order, the public hearing for the subject matter is reopened as follows:

Donna Pugh & Michael Noonan, Foley & Lardner LLP, attorneys representing Connections for the Homeless, request a Special Use Permit for a Rooming House at 1566 Oak Avenue, commonly known as the Margarita Inn, in the R6 General Residential District (Section 6-8-8-3). This case was previously heard by the Land Use Commission at a public hearing on November 30, 2022, and will be reopened to hear testimony from BCH1555, LLC & their representative based on their continuance request dated November 29, 2022, as required by court order. No additional testimony from any member of the public will be heard on the matter.

For consistency with the November 30, 2022 public hearing and Land Use Commission meeting, the following documents are available:

[Land Use Commission Packet – November 30, 2022](#)

[Public Comment Submitted after Packet and prior to meeting on November 30, 2022](#)

[Land Use Commission Meeting Minutes – November 30, 2022](#)

[Land Use Commission Meeting Video – November 30, 2022](#)

### **Action by the Commission**

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After hearing the additional public testimony, the Land Use Commission shall review the Standards for Approval for Special Uses (Section 6-3-5-10). After making findings of fact as to whether or not the requested special use meets or does not meet the aforementioned Standards for Special Uses, the Land Use Commission shall make a new motion to recommend to the City Council approval, approval with conditions, denial, or make no recommendation (in the case of a tie) for the special use requested. When making a motion, consider the conditions previously recommended by the Land Use Commission at the November 30, 2022 public hearing and deliberation in conjunction with any newly found testimony and deliberation. (November 30, 2022 Meeting Minutes link above)

The Land Use Commission is the recommending body and the City Council is the determining body (Section 6-3-5-8).

### **Attachments**

Continuance Request by Michael Roth, November 29, 2022

November 29, 2022

BY EMAIL TO: [mklotz@cityofevanston.org](mailto:mklotz@cityofevanston.org)

City of Evanston Land Use Commission

Melissa Koltz  
Zoning Administrator

Lorraine H. Morton Civic Center  
2100 Ridge Ave.  
Evanston, IL 60201

**RE: Zoning Petition 22ZMJV-0078; Connections for the Homeless, 1566 Oak Avenue**

Ladies and Gentlemen:

We understand that the above zoning matter will appear on the agenda for the Evanston Land Use Commission meeting of November 30, 2022. This matter involves a petition for special use approval by Connections for the Homeless for the operation of a rooming house for temporary housing for homeless individuals at the Margarita Inn, 1566 Oak Ave., Evanston, IL. ("Subject Property") We represent BCH1555, LLC, the owner of the property at 1555 Oak Ave. across the street from the Subject Property. My client is the victim of vandalism and property damage from the activities of occupants at the Subject Property, and is an objector.

We request that the public hearing on this petition be postponed until the City Council considers and determines a now-pending proposal to amend the text of City Code Title 8, Chapter 17, "Shelters for the Temporarily Homeless" of the Evanston City Code of 2012. The text amendments under the ordinance being considered by the Evanston Human Services Committee targets "Fixed-Site Non-Congregate Shelters" - exactly the land use that is the subject of the Connections for the Homeless special use petition for the Subject Property. This proposal was last brought before the Committee on November 7, 2022, and has not yet been decided for recommendation of an ordinance to the full City Council.

The text amendment, if approved as drafted, would create a significant, substantive set of regulations applicable to Fixed-Site Non-Congregate Shelters. These regulations would require the issuance of a new, annual City license in order for any person to conduct, operate or maintain a fixed-site non-congregate shelter or a shelter for the temporarily homeless, and would also

impose nebulous code compliance and health and welfare standards and requirements. The proposed text amendment is lacking in several critical areas that are particularly pertinent to Connections for the Homeless, given its track record for lack of operational oversight and code compliance, and its illegal operation of a rooming house without even a required rooming house license. Nevertheless, aside from Connections for the Homeless' own poor record of operational performance, the standards that will apply to the special use under consideration if approved, will not be known until the text amendment is fully vetted by the City Council. To avoid conflict, inconsistencies and ambiguities between the licensing and the land use schemes, and guesswork by the Land Use Commission, the Commission should not act prematurely by granting land use rights for rooming houses that fall under the cloak of Fixed-Site Non-Congregate Shelters. By proceeding tomorrow, the Land Use Commission is putting the cart before the horse. It should wait for the text amendment issues to be resolved.

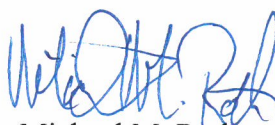
We trust that you will agree that zoning regulations are ill-suited to control business and operational management, and therefore the outcome of the proposed text amendment and regulatory scheme is of critical importance. It is also necessary to enable the public to know what standards of care will be expected of the petitioner should the special use be granted. This is a matter of their due process.

We also make this request out of a sense of fairness to the neighboring public. We realize the late nature of this request, but the proposal to tie a new licensing scheme to a pending special use request is complex and highly irregular. Additionally, the petitioner has been adding to its submittals as late as the thanksgiving holidays, and coupled with the late mailing of notice of tomorrow's zoning hearing by the City (over the holiday weekend), neither my firm nor my client have been afforded an appropriate opportunity to prepare for the hearing. It is unnecessary for the proceedings to begin tomorrow, and we believe that a decision otherwise would be arbitrary and capricious. If the matter were held in abeyance until the City Council decides the regulatory scheme for Fixed-Site Non-Congregate Shelters, that would also afford us an adequate opportunity to obtain the entire file in this matter, arrange for witnesses and otherwise prepare for the hearing, and assess possible appeal or other legal remedies available to my client or an agreed resolution. Again, we formally request that the public hearing on this petition be postponed until the City Council considers and determines the now-pending proposal to amend the text of City Code Title 8, Chapter 17, "Shelters for the Temporarily Homeless."

In regard to relevant documents, we hereby request a complete electronic copy of the City's file, not just the agenda packet, in the matter of both the special use request and the text amendment.

Please advise. Thank you.

Very truly yours,



Michael M. Roth