



MEETING MINUTES

LAND USE COMMISSION

Wednesday, April 26, 2023 | 7:00 PM
Lorraine H. Morton Civic Center, 2100 Ridge Avenue
James C. Lytle City Council Chambers

Members Present: George Halik, Kiril Mirintchev, John Hewko, Kristine Westerberg, Myrna Arevalo, and Matt Rodgers

Members Absent: Max Puchtel, Jeanne Lindwall, and Brian Johnson

Staff Present: Corporation Counsel Nicholas Cummings, Planner Katie Ashbaugh, Neighborhood, Zoning Administrator Melissa Klotz, and Planning Manager Liz Williams

Presiding Member: Matt Rodgers

Call to Order

Chair Rodgers opened the meeting at 7:06 PM. A roll call was then done and a quorum was determined to be present.

Old Business

A. Special Use | 1566 Oak Avenue | 22ZMJV-0078

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.

Chair Rodgers requests corporation counsel to read the applicant's statement. Nicholas Cummings reads a statement from BCH 1555 LLC reviewing the past Land Use Commission hearings and findings from the Circuit Court of Cook County. The purpose of the meeting today is to address the continuance granted by the Circuit Court of Cook County for BCH 1555 LLC and allow them to present evidence.

Chair Rodgers reviewed the time allowances for the neighbor to present their case and the rebuttal time for the applicant, as permitted by the commission's rules. The chair

advises commissioners to ask questions in between each and then proceed with the normal deliberative process.

Monica Forte, Forte and Associates LLC, testifies that: 1) A rooming house definition for the Margarita Inn is inappropriate and that a more fitting designation would be a transitional shelter; 2) Connections' proposed use will have a negative cumulative effect citing the Valbridge Report; 3) The application does not completely address adequate parking and congestion on and around Oak Avenue; and 4) The number of crimes occurring at the Margarita Inn constitutes a nuisance under Evanston's Public Safety ordinance.

Tom Wolf, Pacific Alliance for Prevention and Recovery, shares his personal experience of homelessness and addiction recovery in San Francisco and the negative consequences they have had on the community. He questions the effectiveness of the low barrier housing first harm reduction model and presents data from HUD and a Harvard study that suggest it may not be as successful in the long term. Wolf emphasizes the need for recovery and treatment services and raises concerns about data transparency and the obligations of service providers.

Dr. Lucy Ibrahim, a member of the American Board of Psychiatry and Neurology, expresses her concerns about the nature of psychiatric illness in the homeless population. She argues that providing only a bed and roof without adequate supervision, security, and treatment is a disservice to both the homeless individuals and the neighborhood of the shelter. Dr. Ibrahim believes that mixing individuals with various mental illnesses under one roof without proper support perpetuates homelessness and does not provide any incentives for seeking treatment or improving their lives or others around them.

Chair Rodgers added to the record that he is acquainted with Mr. DeClark but does not think it affects his involvement in the hearing.

Gary DeClark, Valbridge Property Advisors Chicago office, presents an impact study on the Margarita Inn area. He discusses three main issues: zoning, real estate impact, and crime. Regarding zoning, Mr. DeClark concludes that the Margarita Inn is not consistent with the surrounding uses and is not applicable as a rooming house or transitional shelter. In terms of real estate value impact, the study shows a significant decline in property values within the immediate vicinity of the Margarita Inn since the start of the Connections for the Homeless operations. Additionally, crime rates have increased, as indicated by a significant rise in fire and police calls in the area. Based on these findings, Mr. DeClark suggests that there is a diminution of value in the overall context of the Margarita Inn and its surrounding properties.

Neil Renzi, Renzi & Associates, Inc., presents a rebuttal to the Linberger impact study report on behalf of BCH 1555 LLC. He argues that there is evidence of interference and diminished value in the neighborhood due to increased police, fire, and emergency calls associated with the Margarita Inn's special use. Mr. Renzi also challenges the claim

that the special use is consistent with the inn's past operations, stating that historically, the residents were working individuals rather than people of limited means.

Commissioner Questions

Commissioner Westerberg inquires about the control area for the real estate evaluation. Mr. DeClark explains that efforts were made to keep the control area similar to the target area around the Margarita Inn. While not identical, both areas consist of a mixture of uses, including multi-family properties such as condominiums, and townhouses.

Commissioner Halik asked Connections if any actions were taken to address crime and if there is any recent data on criminal activity. Ms. Forte responded that they only had data from the FOIA requests through November of 2022.

Mr. Halim observes that there has been a decrease in activities and occupancy over the past few months. Nefrette Halim states that the crime reports confirm that sustained crime has occurred at the address. Commissioner Hewko asks if the applicant would like to propose any additional conditions to address their concerns. Mr. Halim only questions the effectiveness of the conditions.

Carl Kettler, the owner of a nearby building, expresses his concerns about the impact of the project on property values. He shares his experience participating in the Good Neighbor agreement committee and mentions the challenges of getting community participation. He also highlights the concerns expressed by a retired doctor and a professor regarding data on successful resident outcomes and recidivism. He questions the ability to monitor and enforce the agreement.

Chair Rodgers asks about the operating agreement and its status. Mr. Cummings responds that the city engaged the services of an outside attorney and land use professional to review the agreements crafted by staff, multiple departments, and the councilmember representing the ward, in collaboration with Connections for the Homeless. They are close to a final version of the agreement. Mr. Cummings adds that a breach of the agreement could potentially lead to the revocation of the license. The city code has mechanisms in place, including the ability to revoke a special use permit, to address any failures or issues that may arise. Mr. Halim questioned the living conditions in the facility and emphasized the need for dignity and proper treatment for the homeless, urging the committee to vote against the project.

William McKenna, an attorney for Connections, reminds the commission of previous testimony regarding operations, including treatment options, social workers, and medical professionals. Mr. McKenna emphasizes the success of the Margarita Inn program, with 70% of individuals transitioning to housing solutions compared to the national average of 40%. He highlights that Connections follows programmatic best practices endorsed by federal and state agencies, such as the United States Interagency Council on Homelessness, the U.S Substance Abuse and Mental Health

Service Administration, HUD, and the Illinois Department of Human Services Cook County and the Alliance to End Homelessness in Suburban Cook County.

Mary Linberger, real estate appraiser and owner of Linberger & Company, LLC, highlights inconsistencies in the data and in the selection of different control areas for different properties used by the objector's appraiser. Ms. Linberger argues that the Margarita Inn does not diminish property values and criticizes the objector's conclusion that Albany Care increases property values.

George Kissel, a licensed architect and certified planner, addresses the standards raised by the opposition. He dismissed the opposition's argument about the definition of a rooming house and emphasizes the consistency of the proposed use with the city's policies on housing and homelessness. Mr. Kissel also defends the proposed use against concerns about its impact on the immediate area, stating that the land use impact and demand for emergency services do not represent an undue burden.

Mr. Kissel shows police calls to the 1550 block of Oak Avenue from 2017 to 2022 and describes internal and external calls and states data assumptions. The data indicates an increase in calls when the Margarita Inn began operating in March 2020, followed by a decline in calls. Commissioner Halik questions both the reduced reporting of internal crimes and the impact on external calls.

Betty Bogg, the CEO of Connections for the Homeless, and Tina White, the Chief Program Officer, express their concerns about a newly drafted Good Neighbor agreement by residents which they did not have the opportunity to collaborate on, particularly the limitation on the number of residents in the facility. They argued that the proposed limit of 30 residents was not reasonable considering the demand for shelter beds in the community. They explained that while they understand the need for control and monitoring, they believe that 30 residents are insufficient. They mentioned that they currently house between 50 and 60 people, and recent decreases in population is due to providing more meeting space and a medical clinic. Mr. Kissel states that the standard dictates 50 square feet per person for multiple occupancy in a room. Ms. Klotz adds that they meet occupancy requirements by Property Standards based on rooms for a rooming house, not full dwelling units.

Chair Rodgers notes the Good Neighbor and license agreements are not in the commission's purview, but they are a recommending body regarding the special use. He asks Ms. Bogg to speak about substance policies. Ms. Bogg discusses Connections policies regarding drug use and alcohol consumption in the Margarita Inn. They state that illicit substances are not allowed inside the facility, but alcohol use is permitted in private rooms, with restrictions on consumption in common areas. The organization focuses on addressing disruptive behavior rather than individual alcohol consumption. They also clarify that firearms or any kind of weapons are not permitted in the facility. Ms. Bogg states that approximately 80 percent of the individuals they serve at the Margarita Inn are from Evanston. She clarifies that they do not have contracts with other municipalities to house people at the facility. Mr. Cummings adds that the federal

and state funding come with certain guidelines and requirements which would determine any limitations on their activities, including restrictions on discriminating based on residency, race, color, creed, national origin, age, etc.

Commissioner Westerberg requests Connections to comment on how they are approaching the relationship with police since last November. Ms. Bogg shares that they have had productive meetings with beat cops and police leadership, and they have strong relationships with the police. They clarify that they do call the police when necessary and allow them access.

Chair Rodgers asks for final statements.

William Ng, a licensed architect representing Mr. Halim, raises concerns about the current shelter design and lack of support spaces. He reviews the 2016 New York City design guidelines for Supportive Housing which transformed a neighborhood building. Mr. Halim suggests creating a shelter that provides adequate services and support for Evanston residents.

Mr. McKenna, the applicant, emphasizes that they have policies in place to address urgent situations and are mandated to report child abuse. He asserts that background checks are conducted, and they have strict policies against illicit drugs. Mr. McKenna refutes claims about their relationship with the police, stating that they have a robust and improving relationship. He acknowledges the architect's concerns but argues that the standards for supportive housing apartments are not applicable to a rooming house like Margarita Inn. He asserts that they have met all the standards for a special use and that there is no adverse impact on property values or the community.

Chair Rodgers closes public testimony.

Deliberations

Commissioner Halik expresses concern regarding the lack of communication and negotiation between the two sides. He believes that homeless facilities are necessary but raises concerns about Connections' current operational standards and calls for better treatment services and a closer look at the number of residents to meet the Special Use standards. He states that enforceability of a Good Neighborhood agreement is not within their purview and overall expresses the need for a more defined proposal.

Commissioner Westerberg focuses on the designation of a rooming house and argues that the Connections program does not fit the traditional definition of a rooming house due to the absence of direct rental transactions, selective acceptance of residents, tenant and police mediation, and the provision of supportive housing programs. She also raises concerns about the impact on the neighborhood and questions whether the current location is the best choice for this type of program. Commissioner Westerberg

suggests exploring alternative real estate solutions that consider both the needs of Connections and the concerns of the neighbors.

Commissioner Arevalo points out the lack of comparative data in the presentations, makes it difficult to assess the specific impact of the Margarita Inn compared to other areas in Evanston. She highlights a need for contextual data on issues such as overdoses, crimes, and incarceration rates in the neighborhood to make an informed judgment. Without such comparisons, it is challenging to determine whether the issues associated with the Margarita Inn are unique to the facility or a reflection of broader societal challenges.

Commissioner Mirintchev expresses disappointment around the neighborhood agreement. However, he continues to support the program since 70% of the Margarita Inn residents find permanent homes under the supervision of Connections.

Commissioner Hewko expresses difficulty in reaching a conclusion due to conflicting information from experts and property assessments. He raises the concern about the location, the rooming house definition, negative cumulative effects, and property values. He notes the crime contribution from the Margarita Inn and the need to address homelessness in the city in a new and effective way.

Chair Rodgers states that the rooming house definition has been settled as the closest definition for the Connections operation. He emphasizes that the decision being considered by the commission is for the special use and not the operating agreement which will be addressed by City Council. He believes in the good intentions of both Mr. Halim and Connections for the Homeless. He thinks that the special use meets the necessary standards. He emphasizes the importance of the City Council leading the way in developing a comprehensive operating agreement which should mention the possibility of revoking licenses if necessary.

Commissioner Halik emphasizes the importance of the operating agreement in shaping his opinion on the impact of the facility on property values. Due to the uncertainty regarding the process for and content of the operating agreement, he can only base his opinion on the information at hand.

Mr. Cummings advises Chair Rodgers to determine if the commissioners that were at the previous hearing have the same vote. Then he advises the chair to review the standards for the record for Commissioner Hewko who was not present at the previous hearing.

Chair Rodgers conducts a poll and Commissioners Halik (No), Westerberg (No), Arevalo (Yes), Mirintchev (Yes) and Rodgers (Yes) all do not change their vote.

The Chair reviewed the Standards for a Special Use (Section 6-3-5-10) providing the opportunity for Mr. Hewko to comment.

1. Is one of the listed special uses for the zoning district in which the property lies: The standard was found to be met and Mr. Hewko concurs.
2. Complies with the purposes and the policies of the Comprehensive General
3. Plan and the Zoning Ordinance: Because the building fits the proposed activity and the conditions address management issues, the standard was found to be met and Mr. Hewko concurs.
4. Does not cause a negative cumulative effect in combination with existing special uses or as a category of land use: Because the conditions that are being placed on the management of the of the facility lessen the impact on the neighborhood and the creation of a good neighbor and licensing agreement, the standard was found to be met and Mr. Hewko does not concur.
5. Does not interfere with or diminish the value of property in the neighborhood: Because various testimony was heard but a place where people can be housed and given services that they need may do more for property values than having people living homeless on the streets, the standard was found to be met and Mr. Hewko does not concur.
6. Is adequately served by public facilities and services: Because the infrastructure provided it is adequately served and further testimony about police and fire resources will not provide significant additional insight, the standard was found to be met and Mr. Hewko concurs.
7. Does not cause undue traffic congestion: Because this is not a site that would create traffic as residents are not typically car owners, the standard was found to be met and Mr. Hewko concurs.
8. Preserves significant historical and architectural resources: Because it is recommended to have historic preservation staff conduct a non-binding review of the property before any permits are issued for exterior work on the building, the standard was found to be met and Mr. Hewko concurs.
9. Preserves significant natural and environmental resources: Because the building is not being added to and the landscaping will be maintained, the standard was found to be met and Mr. Hewko concurs.
10. Complies with all other applicable regulations: Because Connections will operate under any licensing or operating agreements, the standard was found to be met and Mr. Hewko concurs.

Chair Rodgers asked for Commissioner Hewko's vote which is No. The chair summarizes that it is a 3-3 vote which will move forward to city council without any recommendation from the Landuse Commission.

Chair Rodgers called for a five-minute recess at 9:14 PM.

Approval of April 12, 2023 Meeting Minutes

Commissioner Westerberg made a motion to approve the Land Use Commission meeting minutes from April 12, 2023. Seconded by Commissioner Arevalo. A voice vote was taken, and the motion passed 4-0 with two abstentions.

New Business

A. Adoption of Amendments to Land Use Commission Rules & Procedures

Chair Rodgers introduces a new business item regarding the adoption of amendments to the land use commission rules and procedures and asks if there are any questions. Commissioner Westerberg raises a question about Section 3, which states that the commission shall hear and decide on any other matters referred by the city council and asks whether there are any restrictions or limitations on these referrals. Chair Rodgers clarifies that the commission can push back on referrals that are outside of their purview and Ms. Williams notes that referrals follow the Landuse Commission Ordinance.

The discussion then moves on to time limits for hearings and public comments. Chair Rodgers explains that they aim to provide a base level of time for individuals to be heard, but also grant extensions if needed. He highlights the importance of a granted extension to be in writing to ensure clarity and avoid arbitrary decisions. He mentions that time allotments for public comments may vary depending on the number of people and to prioritize those living within the defined notification area. Chair Rodgers expresses the view that everyone should be given an opportunity to speak, including those from outside the defined area, with no one monopolizing the conversation. Commissioner Mirintchev suggests reminding the public to support previous speakers rather than repeating the same points. Commissioner Hewko suggests having a default time limit specified in the rules while allowing the chair to modify it based on the meeting's circumstances.

They also discuss the issue of attorneys appearing before the commission and making legal determinations. The chair expresses that the commission, consisting of non-attorneys, may not be equipped to handle such matters and wants to find a balance between hearing people's concerns and avoiding potential legal issues. A discussion of cross-examination ensues. Mr. Cummings adds that cross examination is limited to objectors within so many feet based upon the application.

Commissioner Halik brings up the topic of continuances. Chair Rodgers mentions that there is a request to change the city code to allow the commission to grant continuances with conditions and until the code is changed, they will still operate under the "shall" provision. Ms. Klotz adds that an omnibus text amendment package is scheduled to come to the land use Commission on May 24, 2023.

The discussion then focuses on the submission of evidence and the challenges faced by staff and commissioners in handling and reviewing late materials. Commissioner Westerberg suggests setting standards for what commissioners can be expected to digest. Chair Rogers notes that there is a five business-day deadline for submitting materials. Ms. Williams notes that if they receive material after the deadline, they try distributing it, but the document now includes if it is received after 3 pm the day before the meeting it may be distributed to the commission at the meeting. Ms. Ashbaugh reads the document section which informs the public about the deadline and the possibility of materials not being read.

Chair Rodgers summarized other issues such as meeting duration, rulings, staff clarification questions, terminology, and group representation. Mr. Cummings advises that public comment is a derivative of the open meetings act to allow for people to be able to address the commission as a public body under state law. Public testimony is specifically dealing application or the issue that's before the body that's going to be considered as "evidence" in the commissions deliberations as to whether something meets the standards or not. Ms. Williams adds that public testimony is limited to those with the mail noticing radius.

Commissioner Westerberg made a Motion to adopt the Land Use Commission Rules & Procedures, with an amendment to Article VI, Section 5. Second by Commissioner Halik. Commissioner Hewko offerered motion to add an amendment to provide a time limitation to Section 5 for public comment with the chair having the option to use his or her discretion. Second by Commissioner Halik. A roll call vote was taken, and the motion passed, 6-0.

Communications

There was none.

Adjournment

Commissioner Halik motioned to adjourn, Commissioner Westerberg seconded, and the motion carried, 6-0.

Adjourned 9:44 PM.

The next meeting of the Evanston Land Use Commission is a Special Meeting to be held on **Wednesday, May 10, 2023, at 7:00 PM, in the James C. Lytle Council Chambers in the Lorraine H. Morton Civic Center.**

Respectfully submitted,
Amy Ahner, AICP, Planning Consultant

Reviewed by,
Katie Ashbaugh, AICP, Planner