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March 22, 2019

Mr. Terrence Ennes and Members of
the Plan Commission of the
Village of Arlington Heights
33 S. Arlington Heights Rd.
Arlington Heights, IL 60005-1403

Re: Arlington 425 / CCH LLC - PC#: 19-001

LAND USE VARIATION CRITERIA

A. Variation to Chapter 28, Section 5.1-14.1, Conditions of Use, to allow dwelling units below the second floor in the building along Chestnut Avenue (“Chestnut Building”).

- 1. The proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property.*

Correct. Although one of the several lots on which the Chestnut Building will be built is currently zoned R-3, Petitioner seeks to rezone the four of the seventeen lots to B-5 in the interest of creating a PUD consolidating all seventeen lots into a single lot with the same underlying zoning. Multi-family residential buildings are not permitted in the B-5 District as a matter of right under the Village’s current zoning ordinances. However, Petitioner believes that it is prudent, better planning and more desirable for the underlying zoning for the entire parcel PUD to be B-5. The proposed site of the Chestnut Building is directly across the street from an R-6 District, consisting of several single-family residences. Hence, construction of the Chestnut Building will not alter the essential character of the locality, and is compatible with existing uses and nearby zoning.

- 2. The plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned.*

Correct. The property has been vacant for a long time. As a result, it is more feasible to develop the property as a single, cohesive lot rather than to individually develop each lot piecemeal. Because the underlying zoning designation of Petitioner’s proposed lot will be

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B-5, this variation is necessary. Additionally, by developing the Chestnut Building as an all residential building, Petitioner hopes to ease the fears that any neighboring residents might have about a commercial development altering the character Chestnut Avenue and the neighborhood as a whole.

3. *The proposed variation is in harmony with the spirit and intent of this Chapter.*

Correct. It is the intention of the Village Zoning Code "[t]o protect the character and stability of the residential, business and manufacturing areas within the Village and to promote the orderly and beneficial development of such areas." Petitioner seeks to develop the Chestnut Building as an all residential building to promote the orderly development of Block 425. The strictly residential nature of the Chestnut Building will help with the transition from the neighboring R-6 District homes on the west and R-3 District, to the other mixed-use buildings being proposed on Block 425, to the B-5 District on the other side of Block 425.

4. *The variance requested is the minimum variance necessary to allow reasonable use of the property.*

Correct. Petitioner seeks to develop the Chestnut Building as 100% residential in order to promote the cohesive development of the entire project as mixed-use and in accordance with the residential character of those properties to the west of the Chestnut Building. For the Chestnut Building to be strictly residential, Petitioner will need to utilize the entire first floor for residential use.

B. Variation to Chapter 28, Section 5.1-14.2, Required Minimum Yards, to allow a 12.9' setback along an interior lot line (southern lot line) for the building along Highland Avenue ("Highland Building") where code requires a 25' setback.

1. *The proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property.*

Correct. Petitioner is seeking this variance due to the location of the existing Vail Avenue parking garage which extends over Highland Avenue and abuts the subject property. To remedy this, Petitioner seeks to align the south end of the Highland Building with the south end of the Vail Avenue parking garage, thereby reducing the above-referenced setback from 25 feet to 12.9 feet. This variance will create a uniform



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and more aesthetically compatible appearance that does not alter the essential character of the locality. Petitioner also notes that a paved walkway is proposed adjacent to the southern side of the Highland Building, and no structures will be built within this area.

- 2. The plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned.*

Correct. The Vail Avenue parking garage is a unique obstacle that Petitioner has taken great strides to overcome. This requested variation is one of those great strides that Petitioner seeks to utilize to overcome this obstacle, specifically by allowing the south end of the Highland Building to align directly with the south end of the Vail Avenue parking garage.

- 3. The proposed variation is in harmony with the spirit and intent of this Chapter.*

Correct. It is the intention of the Village Zoning Code "[t]o protect the character and stability of the residential, business and manufacturing areas within the Village and to promote the orderly and beneficial development of such areas." Petitioner seeks to develop the lower portion of the Highland Building as a parking garage aligning with the pre-existing Vail Avenue parking garage as a means to beneficially develop the land in an orderly fashion. By developing the Highland Building in a manner consistent with the Vail Avenue parking garage, Petitioner is adhering to the orderly development of the project.

- 4. The variance requested is the minimum variance necessary to allow reasonable use of the property.*

Correct. As previously stated, the location and dimensions of the Vail Avenue parking garage limits Petitioner's development opportunities. Petitioner is requesting the minimum setback variance to allow for the Highland Building to align with the Vail Avenue parking garage.

C. Variation to Chapter 28, § 5.1-14.6, Required Minimum Yards to reduce the required public street frontage setback (west) from 20 feet to 7 feet for the building along Campbell Street ("Campbell Building")

- 1. The proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property.*

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Correct. The Campbell Building will be bordered on the east by the B-5 District and on the west by the R-6 District. The imposition of the eight foot right-of-way required dedication severely impacts this property. The bottom floor of the Campbell Building will be commercial with the eastern portion likely containing a restaurant, and the western portion containing a more active retail or commercial use. In order to accommodate outdoor seating at the restaurant on the eastern portion of the building, Petitioner is seeking to push the building further west with a setback variation on the western side. But for the moving of the Campbell building further west and the required eight foot dedication, requirement this variance would not be required

- 2. The plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned.*

Correct. The property has been vacant for a long time and is bordered by residential and commercial districts. This requested variance is a means to develop the property in accordance with the nature of the adjacent properties/ districts which contrast with one another.

- 3. The proposed variation is in harmony with the spirit and intent of this Chapter.*

Correct. One of the intentions of the Village Zoning Code is "[t]o protect the character and stability of the residential, business and manufacturing areas within the Village and to promote the orderly and beneficial development of such areas." Because the Campbell Building is bordered on the east by the B-5 District, a restaurant with outdoor seating is appropriate on the Campbell Building's east side. Such a development would be both orderly and beneficial considering the character of the neighboring property.

- 4. The variance requested is the minimum variance necessary to allow reasonable use of the property.*

Correct. This variance is the minimum necessary to allow for outdoor seating at the restaurant on the first floor of the Campbell Building. A restaurant is a reasonable use considering the bordering B-5 District and the popularity of outdoor seating downtown during the warmer months.

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D. Variation to Chapter 28, Section 5.1-14.2, Required Minimum Yards, to allow a 12.2' setback along a public street frontage (Chestnut Street) for the Chestnut building where code requires a 20' setback.

- 1. The proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property.*

Correct. Petitioner seeks to develop the Chestnut Building as all residential. Because the Chestnut Building will be adjacent to the R-6 District, this use will be compatible with the zoning of nearby property. However, the requirement of a fire lane between the Chestnut building and the Highland Building, coupled with the need for adequate space between these buildings, affects Petitioner's ability to setback the Chestnut building further from the street. Hence, the requested variation.

- 2. The plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned.*

Correct. The property has been vacant for many years. To develop the property in the most beneficial fashion, consistent with its location on the edge of downtown, this variation is required; specifically, due to the required fire lane and the need to properly space the buildings.

- 3. The proposed variation is in harmony with the spirit and intent of this Chapter.*

Correct. It is the intention of the Village Zoning Code "[t]o protect the character and stability of the residential, business and manufacturing areas within the Village and to promote the orderly and beneficial development of such areas." This project promotes the orderly and beneficial development consistent with the unique nature of this and the neighboring properties.

- 4. The variance requested is the minimum variance necessary to allow reasonable use of the property.*

Correct. In order to accommodate the proper and orderly development of the property, the requested setback is the minimum required.

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E. Variation to Chapter 28, Section 10.2-7, Size, to allow certain parking spaces within the Highland Building garage to be 15.3' in depth where code requires 18' in depth.

1. *The proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property.*

Correct. Since all parking stalls are inside of the garage there will not be any incompatibility with existing uses and zoning of nearby property.

2. *The plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned.*

Correct. The unique circumstances are that in order to provide as many parking stalls as possible, the reduction in the length of these few stalls is necessary. They can easily be reserved for motorcycles or compact cars. If this variance is not allowed, these spaces will be eliminated.

3. *The proposed variation is in harmony with the spirit and intent of this Chapter.*

Correct. Nothing about the reduction of the length of these parking stalls will in any way disrupt the harmony with the spirit and intent of this Chapter.

4. *The variance requested is the minimum variance necessary to allow reasonable use of the property.*

Correct. Based on the required width of drive aisles and other Code requirements, the requested variance is the minimum necessary to allow the use of these parking stalls.

F. Variation to Chapter 29, Section 29-304(I), to allow a 50' wide right-of-way for a local street where code requires a 66' wide right-of-way for local streets, along certain portions of Highland Avenue.

1. *The proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property.*

Correct. The Vail Avenue parking garage is built on the property line. No 66' right of way is physically possible under the Vail Avenue parking garage.

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- 2. The plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned.*

Correct. The unique circumstances are that the Village constructed the Vail Avenue parking garage in such a way as to make a 66' right-of-way impossible.

- 3. The proposed variation is in harmony with the spirit and intent of this Chapter.*

Correct. Nothing about the reduction in the right of way of Highland Avenue under the Vail Avenue parking garage will in any way disrupt the spirit and intent of this Chapter.

- 4. The variance requested is the minimum variance necessary to allow reasonable use of the property.*

Correct. This variance was necessitated when the extension of the Vail Avenue parking garage was built. Petitioner has no ability to widen the right of way due to the existence of the Vail Avenue parking garage.

G. Variation to Chapter 28, Section 6.15-2.2, Landscape Requirements between Zoning Districts, to waive the requirement for a 6-foot tall solid screen along the southern property line.

- 1. The proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property.*

Correct. Although the property is zoned B-5 along the southern property line adjacent to the Chestnut Building, the Chestnut Building will be residential only, which is consistent with the possible R-7 zoning of the southern adjacent parcel. The screening requirement is more applicable to business uses that abut residential property; however, along the southern property line, both the Highland Building and Chestnut Building will be residential. Additionally, a retaining wall will need to be constructed along the southern property line up to three feet in height. The property to the south is not developed and can provide screening along this boundary between the two properties should it be determined that a screen is warranted at the time of its development. There is not sufficient room to install a landscape screen or berm along the southern property line. Therefore, the only way to meet the screening requirement would be to install a six-foot

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tall solid fence. Because the retaining wall may be up to three feet in height at certain portions, a six foot tall fence plus three-foot tall retaining wall would create a nine-foot barrier that would be out of character on the otherwise flat lot. Petitioner is willing to construct an “open” screen on top of the retaining wall, if possible.

- 2. The plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned.*

Correct. The property has been vacant for a long time. As a result, it is more feasible to develop the property as a single, cohesive lot. Because the underlying zoning designation of Petitioner’s proposed lot will be B-5, and the retaining wall will not allow for construction of a six foot solid barrier, this variation is necessary.

- 3. The proposed variation is in harmony with the spirit and intent of this Chapter.*

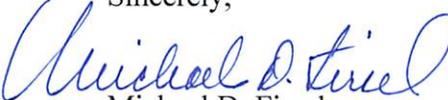
Correct. Among the zoning code’s intents is “[t]o protect the character and stability of the residential, business and manufacturing areas within the Village and to promote the orderly and beneficial development of such areas.” The construction of a six foot tall solid screen would be out of character with the development of the surrounding area.

- 4. The variance requested is the minimum variance necessary to allow reasonable use of the property.*

Correct. Although Petitioner will be unable to construct a six-foot solid screen, Petitioner is willing to construct a six-foot open screen along the southern property line.

Should you require and further information or clarification, please do not hesitate to contact the undersigned.

Sincerely,


Michael D. Firsell