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REPORT OF THE PROCEEDINGS OF A PUBLIC HEARING  
BEFORE THE VILLAGE OF ARLINGTON HEIGHTS  
PLAN COMMISSION

COMMISSION

RE: 13 E. MINER STREET DEVELOPMENT - PC# 15-013  
PRELIMINARY PLANNED UNIT DEVELOPMENT

REPORT OF PROCEEDINGS had before the Village of  
Arlington Heights Plan Commission Meeting taken at the  
Arlington Heights Village Hall, 33 South Arlington Heights  
Road, 3rd Floor Board Room, Arlington Heights, Illinois on the  
5th day of November, 2015, at the hour of 7:30 p.m.

MEMBERS PRESENT:

JOE LORENZINI, Chairman  
LYNN JENSEN  
TERRY ENNES  
BRUCE GREEN  
GEORGE DROST  
JOHN SIGALOS  
JAY CHERWIN

ALSO PRESENT:

BILL ENRIGHT, Deputy Director

**DRAFT**

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CHAIRMAN LORENZINI: We'll call the meeting to order. Would you please all rise and say the pledge of allegiance with us?

(Pledge of allegiance.)

CHAIRMAN LORENZINI: Roll call please.

MR. ENRIGHT: Commissioner Cherwin.

COMMISSIONER CHERWIN: Here.

MR. ENRIGHT: Commissioner Dawson.

(No response.)

MR. ENRIGHT: Commissioner Drost.

COMMISSIONER DROST: Here.

MR. ENRIGHT: Commissioner Ennes.

COMMISSIONER ENNES: Here.

MR. ENRIGHT: Commissioner Green.

COMMISSIONER GREEN: Here.

MR. ENRIGHT: Commissioner Jensen.

COMMISSIONER JENSEN: Here.

MR. ENRIGHT: Commissioner Sigalos.

COMMISSIONER SIGALOS: Here.

MR. ENRIGHT: Commissioner Warskow.

(No response.)

MR. ENRIGHT: Chairman Lorenzini.

CHAIRMAN LORENZINI: Here. Okay. Normally, the first item on the agenda is approval of meeting minutes, but we have none tonight. Correct, Bill?

MR. ENRIGHT: That's correct.

CHAIRMAN LORENZINI: Okay. Then the next item, we've got two public hearings tonight. Just for anybody else who has not been to a public hearing before, what we do is the petitioner, the person asking for the hearing will present his case. Then Mr. Enright from the Planning Department will also present the case. Each Commissioner will ask questions, and then we'll turn it over to the audience or to the public for any questions they may have. Then we'll come back to the Commissioners for final deliberation or questions.

So, having said that, the first petition on the agenda is PC# 15-013. Have all the proper notices been given?

MR. ENRIGHT: Yes.

CHAIRMAN LORENZINI: Is the Petitioner here? Is the Petitioner here from --

MR. PANZARINO: Yes.

CHAIRMAN LORENZINI: Would you please come forward? Is anybody else going to speak besides yourself tonight?

MR. DeFRANCESCO: Yes.

CHAIRMAN LORENZINI: Would you all, anybody who's going to speak, please come forward? Would you raise your right hand?

(Witnesses sworn.)

CHAIRMAN LORENZINI: Thank you. Okay, whoever wants to give the presentation, please give us a brief description of the project. The rest can sit down if you want. Could you please state your name and spell it for the court reporter please?

MR. DeFRANCESCO: My name is Philip DeFrancesco, P-h-i-l-i-p, DeFrancesco, D-e-F-r-a-n-c-e-s-c-o.

CHAIRMAN LORENZINI: Okay. Have you read the contingencies in the report given by the Planning Department? I think there's five contingencies, submittal of final plat of consolidation, the Design Commission application and so on?

MR. DeFRANCESCO: Yes.

CHAIRMAN LORENZINI: Do you agree with the contingencies?

MR. ENRIGHT: This is about 13 Miner. He's asking about whether or not you're in agreement with the Staff report, the conditions of approval. I just want to note that there are two motions for this project. One is, they're different motions depending upon what the Plan Commission ends up making a recommendation on.

CHAIRMAN LORENZINI: All right, why don't you just go ahead and give us a brief description of the project then?

MR. DeFRANCESCO: Sure. Just trying to get to the first right here. Okay. So, what we're proposing here is a four-story apartment building with a parking garage on the first floor. Basically, it's going to feature six one-bedroom apartments, and six two-bedroom apartments. One of the six apartments will be part of the affordable multi-family housing program. The building will also feature seven ground floor enclosed parking spaces for its residents, storage lockers, and a rooftop terrace.

Here we have the site location, which I'm pretty sure most of us are familiar with. Did you, I guess, want to ask questions as we're going through? Or did you just --

CHAIRMAN LORENZINI: No, just make the presentation and then we'll ask questions later.

MR. DeFRANCESCO: Okay. Here are the three different site plans. The first one is basically the easement site plan. The second one shows basically the balcony locations throughout the floors. Then the third is just the East Miner Street site plan as a whole.

Here is the front elevation of the building. Left elevation, right elevation here. Here it shows basically the lower level of the building. The lower level will have basically the storage area and mechanical rooms of the building.

Here it shows the ground floor with the seven parking enclosed garage spaces. To the west side of the building shows basically the mechanicals and the electrical boxes with the enclosure. This is the second floor elevation of the building, third floor and

fourth floor. Here it shows the rooftop deck that will be in the building with basically the location of the mechanicals in the middle.

What you see here in these next couple of slides basically reveals some of the studies we did with the rental market in the area. One concern of ours that we had to address and do some further research on was if the market would still be a viable area for the rental market. Based on, you know, the employments and the construction, vacancy and rents, it does still show that the area does support additional rentals.

Part of the original proposed plan was basically, the project was supposed to have a section of retail on the first floor. So, part of our decision making with creating an enclosed parking garage on the ground floor was we went through and we did a research study of all the vacant retail in the area which has been an ongoing concern. So, what we did was within a couple block radius, we notated all the vacancies that currently the market holds which has been the biggest determining factor why we hedged our position against having any sort of retail. Having any kind of vacant retail, dark retail, is not going to be beneficial for anybody, and we didn't want to add more vacancy in the area.

The next slide will show that I did a study based on rentals in the market. What this basically shows is that going through the one-bedroom and two-bedroom apartments throughout the market, there's basically a \$700 gap between apartments, rentals that have onsite, enclosed parking garage spaces and then off site, open air parking spaces. So, going through the numbers, it definitely was in our favor to go through the garage route rather than having, taking the chances of, you know, additional retail on the first floor. The numbers below, basically the calculation you see at the bottom shows the \$700 over seven units over 12 months. Why it basically is running there was if we didn't have the seven parking spaces in the garage on the first floor, that's what it would approximate on an annual basis as far lost additional income for the building. That's it.

CHAIRMAN LORENZINI: Okay, thank you. Bill, Staff report?

MR. ENRIGHT: Certainly. There are several requested actions from the Petitioner. This is a preliminary planned unit development for the four-story 12-unit building with seven parking spaces. The fact that it does not have commercial in the first floor which is a requirement of the Downtown Zoning District as well as the Downtown Master Plan, therefore they are seeking a land use variation from the land use table which does not allow all residential development. There has to be a mixed use. So, they're seeking a variation for that.

There are several variations, two for, well, one

for side yard setback. They're required 30 feet combined side yard setbacks. They have 5.81. The rear yard setback for the residential uses above the first floor are required to be 30 feet in the rear, they have five feet. A variation for the parking garage 24 feet drive aisle width to 23.3 feet. A variation for one of the parking stalls within the garage from the nine feet to eight feet required, or nine required, they're providing eight, just one of the spaces. A variation from the loading requirements because it's not feasible to put a loading dock on the property given the size. Also, a waiver from the traffic and parking study.

With respect to the project as a whole, Staff is supportive of the project. Certainly it's a positive to get this lot developed. It previously was a house for years and was torn down several years ago. Mr. Panzarino who owns the business next door has purchased the property and obviously wishes to build. The project has gone to Design Commission and received a favorable review with a few recommendations that will have to be followed.

But the main issue is, you know, there are some site constraints, number one. There are existing utilities that service some of the adjacent properties to the south and to the east of the subject property. So, those issues will have to be resolved prior to this coming back for final planned unit development. In addition to that, there will be an easement required to provide access for this proposed building out through the adjacent property that Mr. Panzarino owns to the west to access out to Miner Street.

With respect to the first floor commercial, that's really a linchpin of our downtown development. Some other neighbors to the east and west along the railroad tracks had not required commercial in some of the developments, I think it's made their downtowns a little bit less exciting and I think there's some regret possibly. But there is certainly a different vibe in our downtown because we have required a first floor commercial space. The Downtown Master Plan which was updated in 2007 made a point of pointing out that that needs to continue to make the downtown vibrant and keep it vibrant.

With respect to the leasing of spaces, right now we have approximately 42 retail, first floor commercial spaces in the north half of downtown. That's in the B-5 Zoning District. 37 are occupied, five are vacant. The five vacancies comprise about 10,000 square feet, which comprises about 13 percent of the total 77,000 square feet in the north half of downtown. Then attached to the Staff report, a listing of all those spaces by address, square footage, some of the square footage are rough estimates, and then the tenant and the type of use and whether or not it's vacant.

As that chart alludes to, we have 77,757 square feet in the north half of first floor commercial: 29,000 is occupied by

restaurants; 22,000 service uses; 7,500 retail; 7,900 office; and 10,000 vacant for 13 percent. So, five of the 42 spaces are vacant. Those five spaces are anywhere from, you know, we have one space that's 2,256 feet, another that's 3,200, 1,700 for the third one, 1,850 for the fourth one, and 1,081 for the fifth one. So, you know, if any of these spaces were to occupy or get re-leased in the next year or so, you know, the vacancy rate will come down significantly for that area.

So, we don't believe we have chronic vacancies. There is one vacancy in the north half of downtown that has been chronic, and I don't know if that will ever be resolved. It used to be the home of the Pioneer Press.

Then this map that I have here, let me make it into full view, what I've done here is depicted where we have retail space on the first floor of our buildings in the north half of downtown. The football-looking objects here that are in yellow are the approximate locations of the five vacancies that I've pointed out. There are a couple here facing Wing, one is the Subway, former Subway spot, and then there used to be a fitness center here.

The chronic, one of the chronic vacancies is over here on Dunton on the base of the Hancock Square building, the northwesterly Hancock Square building. They used to be Pioneer Press and they moved out years ago and that hasn't been re-leased. It's kind of a tough spot. It's, you know, you have to go down a few stairs and it's set back, so it was ill-conceived to begin with. So, I think that's part of the problem with that space and why it's been vacant for so long. But again, if any of these five spaces were to lease up, you know, the vacancy rate could go overnight from, you know, 10 percent to six percent.

We don't think we have a chronic vacancy problem downtown. There are some spots that are, you know, bad spaces that have them. But as you can see from this image, you know, here's 13 East Miner, the Petitioner's project, without retail here there would be a gap in this block. You know, walking through the downtown, you can see this gap up here on Evergreen behind Uptown Café because they have parking lot here and then there used to be a loading area here but Hancock Square is kind of renovating this for an outdoor area for their tenants, and then you have a retail space here that's occupied. There's a big gap here.

When you walk up and down this block with this gap in between, it makes a difference, a fundamental difference I think. If there were retail spaces on the west side here of Evergreen, it would make for a much more lively street and continuity which is very important in our first floor where we'll have that continuity and not have these breaks every so often. So, we see 13 Miner as an integral part being centrally located within this corridor here along Miner

Street. You do have active commercial uses, you have the Adam & Eve Hair Salons Mr. Panzarino owns. There's tenants here at the corner of Miner and Evergreen, and as you wrap around the block there's a couple of vacancies across the street for sure. But one of these, there's a new fitness center going in.

So, you know, vacancies come and go. They change over time. Ten percent of the north half is, we don't feel is something to be overly concerned about. If it were 25 to 30 percent for 10 years in a row, then we probably have a problem.

Regarding some of the Petitioner's comments about rental rates and being able to get \$700 a month for parking and additional rent, we don't agree with that. I don't think there is any, I don't understand the basis for that. In fact, in our downtown, while Petitioner says the average rent for one-bedroom without parking accessible is about \$1,000, some of the rents in our downtown and rental properties, for instance, Hancock Square on the north end of town which doesn't have parking, they use our Village garage across the street, studios go for \$1,400. One-bedrooms go for, you know, at least \$1,400. Two-bedrooms even higher, \$1,600.

So, the rental rates in our downtown, in fact they have two-bedroom/two-bath at Hancock Square going for \$1,900. So, right now, their one to two-bedroom are going at Hancock Square anywhere from \$1,400 to \$1,900. They charge \$75 per month for parking in our garage. They sell at a higher rate than we sell to them. But I also talked to Dunton Tower, I looked on their website, they charge \$65 per month for parking, and their rental rates go from, for a studio \$1,250, for one-bedroom \$1,368, and a two-bedroom as high as \$1,774. In fact, Mr. Panzarino had one, I don't know if he's leased it out in his building on Miner, a two-bedroom/one bath for \$1,900. Hopefully he was able to get that without parking, they have to park in the North Garage.

So, I also talked to a new rental development which we're all familiar with, Arlington Downs, which was the former Sheraton Hotel which was a very high end building with indoor parking attached to the building underground. An average one-bedroom there is going for about \$1,700-\$1,800 a month and up, and the two-bedrooms are even higher in the two's. They're charging for enclosed parking anywhere from \$40 a month to \$100 a month, and there's just a few that a \$100 because they're close to the prime spaces within that internal garage attached to the building.

So, the market does not support the claim that the parking would be worth \$700 per space per month. In fact, one of my colleagues who I work with who lives downtown in the West Loop is paying \$200 a month in parking and that's probably as high as it could get and that's Downtown Chicago. So, I think those numbers have to be,

you know, we have to take into consideration the market here and what really could be attained in terms of rental rates for the seven parking spaces that the Petitioner is proposing.

So, we think that's, you know, a critical component of the project. Staff is not concerned with the variations with the setbacks. That's pretty common, especially in our downtown and infill developments, to have these types of variations. One size doesn't fit all. If we had a large block redeveloping, some of these, you know, like when Village Green came through, three large buildings on a large city block, you know, we were able to obtain these setbacks. But when you have infill development, our setback requirements are not really built to take into consideration infill development. So, it's not uncommon for infill developments to have to seek some of these variations.

One of the key components is the Petitioner will have to provide an easement around the building for the benefit of Commonwealth Edison. They have applied to Commonwealth Edison for services, so they are doing their review at ComEd to see how big an easement they'll need. I met with the developer and ComEd and they verbally said that they think that five feet will be sufficient, but they have to review it and that will take probably another eight to 12 weeks. So, that's a condition on final PUD as well.

With respect to the recommendation, of course Staff does recommend approval of the project with various conditions and variations that relate to the setbacks and waiver of the loading zone and traffic study. However, our recommendation is based on multiple conditions subject to final planned unit development, subject to eliminating the first floor garage and instead having retail space there. If that's done, the frontage of the garage is about 40 feet on Miner, so if that full frontage were commercial, you have a lot of flexibility with the depth on that first floor.

It's about 75-80 feet deep, so you could actually, you know, do a demising wall and adapt to whatever tenant you had. If it was 40 by 30, you could have a 1,200 square-foot space. You could make it 40 by 35 and have it a little bit bigger, 1,400, and so on. So, I think that's beneficial for retail at this location or commercial or it could even be office. There's flexibility with their floor plan if that was implemented, and that would allow them to use the back for storage.

So, we think that's actually a critical component because without that retail there, you know, with the curb cut there, you lose two parking spaces on the street, and then you also lose the ability to gain one because if that's built with retail, an existing curb cut that previously serviced the house there could be eliminated to put an extra space there. So, there's really kind of a net loss of

three spaces when you have a garage there versus active commercial tenant.

In addition, condition 3 would be that the Village would make available 14 residential permits, that's the requirement for the 12 units. The Village recently re-stripped the North Garage to pick up additional parking. We are also doing a study, we've hired a consultant to look at the possibility of expanding that garage and adding significantly more parking.

Residential units are approved as apartments. Converting to condos would require an amendment to the PUD. The developer has indicated that he would like this to be rental but he may want to convert it down the road.

As the Petitioner alluded to, they are willing to provide the one affordable unit consistent with the Village's housing policies and this will go to the Housing Commission later in the month. And I want to compliment the Petitioner because he's had no issues with that or concerns and was more than online to go ahead and provide that.

Compliance with the conditions of the Design Commission from October 27th. Also, prior to final PUD, Petitioner shall have signed agreements for relocation of all existing utilities that serve other adjacent buildings that traverse through the 13 East Miner Street site. Prior to final PUD, the Petitioner shall submit a signed plat of easement for Commonwealth Edison and any other utility companies requiring said easement.

Prior to final PUD, the Petitioner must obtain an executed access easement for ingress and egress to the benefit of the 13 East Miner development along the east side of the property located adjacent to the west which is the Adam & Eve property which Petitioner also owns. This easement shall be in perpetuity and shall be a minimum of five feet wide. In addition, there shall be no obstructions within this easement including such items as gates, fences, and refuse containers. That's because you need to have the ingress and egress for the building, around the west side of the building, and it has to be a minimum of, let me look at the elevations here.

The site plan is kind of small on here but you can see here there's going to be a stairwell for this new building in the rear, and then people will have to exit that stairwell and come out on the west side of the building, but they won't be able to go straight out staying on the 13 East Miner because ComEd is going to require transformers and switchgear here that will take up the rest of the Petitioner's property. So, they will have to cross over onto an existing easement, which services pedestrian easement, ingress and egress for the Adam & Eve building as well as Eddie's behind. So, the Adam & Eve property will have to, the developer will have to obtain an easement for cross access effectively from himself to allow this access

for people who live in the building.

COMMISSIONER ENNES: Is that an emergency?

MR. ENRIGHT: It's, yes, it's required by code, so yes.

COMMISSIONER ENNES: So, it's emergency, that's not the main entrance and exit for the building?

MR. ENRIGHT: The main entrance is directly off of Miner, so yes, emergency. The Petitioner will be required to pay a fee in lieu of detention in our downtown, which is normal. That will be part of final PUD. We'd like to have a decorative swing gate at the front part of the property to screen the switchgear for ComEd. They don't want landscaping because ComEd will have to come right up to the sidewalk and access their switchgear. So, a swing gate would have to be non-locked and be able to pull open so that ComEd can get to the switchgear here. But we do some sort of screening, a decorative metal gate so it's not too visible to the street.

The Petitioner, as part of final PUD, will have to work with the Village on a development construction plan, how they're going to stage the construction, how much, you know, if they're going to have to shut down any traffic lanes or parking areas and how they're going to actually construct the building given time constraints. There are some restrictions on loading here. This is typical of our downtown. In addition, they will have to, as with any residential development, you know, it's an impact fee for school, park, and library. Then if there is commercial as part of this, they'll have to procure permits from the Village in the public parking garage.

So, having said that, we're, you know, we like the development. We like the design. There are some issues with onsite utilities that will have to be resolved with other property owners. We're strongly in favor of first floor commercial. There's only seven spaces in the garage, they require 14, so the garage doesn't even meet their own needs. So, they're going to have lease parking from the Village either way, but we think that's a pretty critical component of really any development in the downtown. That would conclude Staff's presentation.

CHAIRMAN LORENZINI: Thank you, Bill. Do I have a motion to --

COMMISSIONER JENSEN: I'll make that motion.

CHAIRMAN LORENZINI: Is there a second?

COMMISSIONER ENNES: I'll second it.

CHAIRMAN LORENZINI: Okay, thank you. Okay, let's go start with the questions. All in favor?

(Chorus of ayes.)

CHAIRMAN LORENZINI: Opposed?

(No response.)

CHAIRMAN LORENZINI: Commissioner Jensen, would you

like to start?

COMMISSIONER JENSEN: Sure. We heard that there was a house on the lot before it was vacant. How long has that lot been vacant after the house was taken down? I would ask the Petitioner that.

MR. PANZARINO: It's been empty for about --

COMMISSIONER JENSEN: You'll have to come up to the microphone.

CHAIRMAN LORENZINI: Please come up to the microphone.

MR. PANZARINO: Excuse me. About 10 years now.

COMMISSIONER JENSEN: It's been vacant for 10 years.

MR. PANZARINO: I purchased that approximately about four years ago. But the house was torn down approximately within two years prior to that, and it's been an abandoned home for I want to say close to 10 years.

CHAIRMAN LORENZINI: Could you please state your name and spell your last name?

MR. PANZARINO: Frank Panzarino. Last name P-a-n-z-a-r-i-n-o.

CHAIRMAN LORENZINI: Thank you.

COMMISSIONER JENSEN: Had you always had a proposal for just seven parking spaces in the garage that you're proposing and you had always planned to have seven that would be off site at the Village garage?

MR. PANZARINO: Yes.

COMMISSIONER JENSEN: Okay. For whatever reason, I thought maybe at Plat & Sub you had mentioned a larger number.

MR. PANZARINO: Due to the change of the emergency stairwell in the back, we lost a few spaces because of that. Because the Planning Department was asking for an easement for the rear neighbors, and I didn't think that, you know, that was going to happen. So, we decided to just change the stairwell to make that happen. I gave up space, actually I've given up a little bit of space to ComEd because we're going to take down that pole and we're going to try to make it look like it's, I want to clean up that area back there to make it look like a little bit more presentable.

COMMISSIONER JENSEN: You've obviously heard and read the Staff's proposal that the garage would be eliminated and you'll have the commercial on that first floor.

MR. PANZARINO: Right.

COMMISSIONER JENSEN: Would you think this project is still economically feasible if you were to go to the commercial or retail space on the first floor and then have the rest be residential?

MR. PANZARINO: Well, no. Number one, there's a lot more empty spaces there directly across the street from me. There is a

commercial space, like they're suffering. I've been there for nearly 20 years in business. I've seen them come and go quite a bit. They don't have time to support the rent on that side of the track. It just simply doesn't work.

COMMISSIONER JENSEN: So, when you say it's not economically feasible, if ultimately the Board were to turn down the proposal as you have construed it and would not allow you to have the garage in the first floor, is that something that would, you know, cause this project to not go forward?

MR. PANZARINO: As of this point, I feel that I would like the Board to look at it tonight and really to put some good thought into this, because I know I've been putting a lot of thought into this. Due to speaking with a lot of my customers, we have decided that this would be the best choice. Because we need more people to walk in the neighborhood, because I cannot feel I would do this justice to put more retail than to put what I'm trying to do, to put rentals.

COMMISSIONER JENSEN: So, since you own the property, if you didn't go forward, what would you do? Try to find another developer or what would you try to do?

MR. PANZARINO: I am not quite sure as of right now, sir. I would strongly consider, I didn't make up my mind. I'm not quite sure. As of right now, I'm going forward hopefully with some high hopes that this would happen.

COMMISSIONER JENSEN: Sure. You did, I guess have done really a number of marketing studies have been done because we've had groups come before us who had been, who felt that we had some real need for additional apartments. Obviously we're bringing you out on --

MR. PANZARINO: Yes, yes.

COMMISSIONER JENSEN: -- a stream here with Park View and the Arlington Downs, and you still feel there's enough need for apartments?

MR. PANZARINO: Yes. What happens is, like the Planning Department just mentioned, Bill, the rental seems to rent. If I were to have commercial there, it may take months, years. If so, there is not enough traffic on that side of the track to support it. I've been asked how come you're doing so well? The thing is that they don't see how many hours and days I put in there. I have no choice, I'm nearly there seven days a week, 10 to 12 hours a day.

COMMISSIONER JENSEN: I guess my other question is here for Bill. My question is obviously we've looked at the vacancies and you got seven out of 42 that are still vacant. That kind of describes it, but do we have any analysis that suggests there is more demand that we can see on the horizon for retail? I'd like to, what I'm really asking is not what would we like to see but what is the economic forces that we think are there that would move and make the commercial a

success.

We have asked the Petitioner to give us some analysis of why he thinks the apartments would be successful of an economic nature. So, what does the Village think in terms of the underlying economics that would make this retail space, you know, go in the next year or two or whatever?

MR. ENRIGHT: Well, we don't, you know, I don't think there is an economic analysis at such a pinpointed location. I think there's more broad-based things. I don't think you ever have an economic analysis of a certain type of location like this. But there is potential for additional residential downtown, not just this development but larger ones in the south end of downtown. With an expansion, which is hypothetical right now of the North Garage, certainly that can free up more parking which is a positive.

There's a lot of people who live on the north end of the downtown. In Hancock Square, there's 400 units. Now, that's not additional use, they've been there for a while. But yes, do we have any market analysis that says we need X more square feet of retail space? No, we don't.

COMMISSIONER JENSEN: Okay. Well, the only comment I would make on the parking and I guess I'm a little troubled, I think this is sort of apples and oranges to look at parking that is attached by the bridge to the apartments which we have in the case of Hancock Square and also have in terms of Dunton Towers, as opposed to the situation of the Petitioner who is confronted with where they actually have to walk quite a ways outside in the winter. So, I think there is a difference. In my mind, it isn't just the cost of the rented space, I think there probably is some negative impact on, you know, people getting a place that doesn't have parking where they at least have covered access to it.

So, I'm still mulling that over. But at this point, I think I'll pass it on and let the other Commissioners ask some questions. I may come back later.

CHAIRMAN LORENZINI: Thank you. Commissioner Ennes?

COMMISSIONER ENNES: I have a couple of points. Number one, Bill, I'd like to mention that in reviewing the packet, I noticed in the Plat & Subcommittee minutes that I wasn't mentioned in there. I did attend that meeting, so just to clarify the record on that. In looking at the property, Mr. Panzarino, I'm familiar with your property. You take very good care of it, and I'm sure that this is going to be a nice development.

I'm kind of mixed here. My feeling if, in regard to the commercial, is that I think it's important to have this continuity in the neighborhood to get people to walk up and down the street and use commercial. A number of, or I should say our long-term

plan includes additional residential coming into the area, is that correct?

MR. ENRIGHT: Potentially.

COMMISSIONER ENNES: So, which would increase the number of residential properties in the area. So, I think it is important to have it. However, with this size of a property, I don't think that the size of the retail that we can get in there is going to attract the type of retail stores that might draw people into the building. So, I do have a mixed feeling about this.

One question I have in your design, and as we develop these areas in the downtown area, we allow more close to zero lot line developments. In your situation, you have the utility easements so you have to have this walkway in between and you also have to have the escape. But in looking at the size of your building, you have windows there. If the neighbors build adjoining properties, what will people see out of those patios and those windows?

MR. PANZARINO: First of all, it would be for daylight. When would that happen, as far as like you're talking about on the east side of the building?

COMMISSIONER ENNES: Right.

MR. PANZARINO: When would that happen? If it does happen, there's a project like this in the city, that they're real close.

COMMISSIONER ENNES: And you don't think that creates a problem?

MR. PANZARINO: I have no concern for that. I mean, I feel that --

COMMISSIONER ENNES: How about if somebody puts a new building behind you on Northwest Avenue? You have three floors of balconies?

MR. PANZARINO: Right.

COMMISSIONER ENNES: They could put up a property right up against you?

MR. PANZARINO: They can put up, it's there now directly behind. There would be there now. I feel that if --

COMMISSIONER ENNES: That's what, two stories?

MR. PANZARINO: Two stories. Two or three.

COMMISSIONER ENNES: Okay. Mr. DeFrancesco?

MR. DeFRANCESCO: Yes.

COMMISSIONER ENNES: Are you the architect?

MR. DeFRANCESCO: No. I am --

COMMISSIONER ENNES: Are you the appraiser? I didn't really hear your --

MR. DeFRANCESCO: I own Dapper Crown Real Estate, in the real estate business for about 15 years or so.

COMMISSIONER ENNES: Okay. So, you probably review a lot of appraisals?

MR. DeFRANCESCO: Correct.

COMMISSIONER ENNES: It's my understanding, I do a lot of those, too, it's my understanding that a 10 to 15 percent vacancy rate is --

MR. DeFRANCESCO: As far as retail or just in general? Yes, I mean if you're going to underwrite a project, you typically do, I mean it depends on the --

COMMISSIONER ENNES: Ten to 15 percent?

MR. DeFRANCESCO: Correct, yes.

COMMISSIONER ENNES: So, really the vacancy we have in the area is very low?

MR. DeFRANCESCO: Well, that I would have to disagree with. The thing is that, going off of the map that Bill had provided, there was just, quickly glancing at it, there was three sites just across the street on Miner that are vacant. You could walk the street right now and see it for yourself that was not labeled.

COMMISSIONER ENNES: Are you, the Chinese restaurant? Is that one of those?

MR. DeFRANCESCO: I don't know the exact old businesses, but I do have the addresses.

MR. PANZARINO: M Power was one of them, directly across.

MR. DeFRANCESCO: Yes. The addresses range at 16, 17 and 114 East Miner. Just, I mean just even at the corner of Dunton and Northwest Highway, the Pioneer Store, vacant and that's not labeled. So, there's a few stores that maybe weren't just --

MR. PANZARINO: Right next to this one is coming available right now.

MR. DeFRANCESCO: That could have been just maybe overlooked that are not being provided on the map. So, just from the vacancy that's on Miner is a detriment to the project because it's more than 10 percent.

COMMISSIONER ENNES: A question. When you're looking at that, are you looking just at the storefront to see it's vacant? Or are you aware of whether or not there is a tenant that's still paying rent that isn't in there?

MR. DeFRANCESCO: No, I mean there's For Lease signs with phone numbers on the window stating that it's for rent. It's been like that, Frank has been in the area for 20 years, I've been driving the area for several years, and every time I drive by it's the same signs, same locations. If anything, there is added vacant retail that keeps coming to the market.

I did commercial for quite some time and, you

know, the retail market was thriving in '05, '06, '07, and since then it's taken a severe hit. Maybe we might be on the uptick, but the thing is that there's more and more businesses that are not doing well because most of the businesses are online based. So, the need for major retail, street retail, maybe big box items, your Super Walmarts and your Targets, et cetera, where they're more and more becoming more enclosed off, you know, grocery stores and retail, et cetera, that offer more. Besides restaurants which restaurants have a high turnover ratio, there is not many businesses in that area that have been there longer than Frank, if any.

COMMISSIONER ENNES: Have you considered the possibility of, and I don't know if the building is large enough to do this but you have a lower level, you know, a basement where parking could be down there?

MR. PANZARINO: Parking in the first floor, or underground?

COMMISSIONER ENNES: Yes.

MR. PANZARINO: There just simply isn't any room to turn around. That's the reason why we went from 10 to seven. It just won't happen.

COMMISSIONER ENNES: That's all I have at this point.

CHAIRMAN LORENZINI: Commissioner Green?

COMMISSIONER GREEN: My comments are just I have concern over the lack of retail. I've been on the record before, I like to see retail on the first floor in the downtown area, north or south. My concern is the two-bedroom apartments with one parking space. I think you're going to have this parking garage need regardless if it's 14 spaces or seven spaces. I just see that as a problem and I can't figure out how you're going to figure which, in a two-bedroom situation, if it's a shared rent thing, who is going to get the parking spot and who isn't going to get the parking spot.

So, I think this, for parking, the first floor is very tight. I think it's a very tight maneuver just to get in there and park. You don't have the radiuses to go down to a lower level but you barely have maneuverability to move around in this first floor parking area. I'm speaking as an architect, I understand how this works. But I tend to think the parking is not working here. I know in Plat & Sub we talked about fewer units, which would make the parking more of a ratio closer to what we're looking for of two per unit. These are just comments. I'll come back to this.

CHAIRMAN LORENZINI: Commissioner Cherwin?

COMMISSIONER CHERWIN: Yes. Some have been addressed exactly some of the issues I was struggling with I guess. You know, my concern obviously is this tension between the parking and the commercial space as we I think described in the Plat & Subcommittee as

well. The one, you know, thing that I'd look at with this property that is somewhat different, you know, when we talk about first floor retail, you know, I think it's, when you think of a larger property or a larger scale development, it certainly becomes more manageable.

My concern with this property is somewhat, it's an infill property, it's pretty small, a pretty small site. In terms of the viability, you know, of the commercial space and forcing that into this, that's really where my struggle is. I'm not going to belabor the issue. I think I'd like to hear the public comments if any, and my colleagues have already expressed some of the same concerns that I have.

CHAIRMAN LORENZINI: Commissioner Sigalos?

COMMISSIONER SIGALOS: The first comment I have, I'd like to just commend the architect for this front elevation. I think that's really an exciting elevation with the blend of stone on the ground floor and along the building corner lines and masonry in balconies. But aside from that, I'm going back and forth with commercial versus parking.

Bill, just recently we approved a multi-unit apartment development on the southwest corner of Dunton and Eastman. I don't remember how many units that was but there was apartments, correct?

MR. ENRIGHT: 45 apartments, correct.

COMMISSIONER SIGALOS: So, with those 45 apartments, and now seven more apartments on this development, that's going to bring more residents into this area. I would think that would increase the demand for retail that's not there now because of these two vacant properties. So, a couple of years from now when these are all fully developed, you're going to have, you know, another 50-60 people, 70 people living right there within this one block area. So, I think you have to look at that.

The other question I have is right now this is being developed and seeking approval for apartments. I see that in the future they may convert this to condos. They have to come back to the Plan Commission or the Village Board to get approval to sell these as condos or he can do whatever he wants?

MR. ENRIGHT: Staff has recommended a condition which is consistent with the Park View development recently, that yes, they would have to come back and amend the PUD. But that's a recommendation that the Plan Commission can include or not.

COMMISSIONER CHERWIN: Bill, can I ask? I'm sorry.

COMMISSIONER SIGALOS: That's fine.

COMMISSIONER CHERWIN: If you could explain a little bit further on that? What would be, so, you know, Park View is a larger scale development, there's probably more considerations there.

But a development of this size, what is the interest of the Planning Department to require a PUD amendment for a conversion?

MR. ENRIGHT: Well, I think it's twofold. One is, you know, when you're talking about the market and, you know, I think it's a good thing that we have more rental properties coming online in the Village and in the downtown. Originally, the downtown developed with primarily rental properties, Dunton Tower and 200 Arlington Place, now Hancock Square. But then there was no more and for years it was all condos, condos, condos, so it got kind of imbalanced towards condos. Now, we're seeing, you know, as a result of largely the depressed, you know, housing market more rental coming online.

So, to me, in our view, it's certainly beneficial to have rental here versus condo. Would that have changed our recommendation on the project whether or not, you know, we'd recommend approval of it? No, I don't think it would. But there is usually a higher demand for parking for ownership versus rental, so that's an issue as well albeit relatively minor but certainly more, especially when it's only 12 units.

COMMISSIONER SIGALOS: The last question I have, I'm not quite understanding the verbiage in one of the contingencies, item 5-B regarding the affordable unit. Bill, I'm not understanding here where it says, you know, affordable housing program which are consistent with the requirements of the Village's affordable rental housing guidelines may be temporarily followed with respect to the unit but at all other times the requirements of the Village's affordable housing guidelines shall apply in perpetuity. What does that mean temporarily?

MR. ENRIGHT: What it means is we have our standard affordable housing guidelines that are in our policy which we've provided the Petitioner. But there could be like housing vouchers, that's another program that could be used to meet the intent of affordable housing. There are other ones that may not exist now. So, what we're getting at there is, you know, it may not have to be our exact program, there could be another program that's commensurate with our program. Temporarily just means, maybe a better word would have been flexible.

COMMISSIONER SIGALOS: I understand. That's all I have right now. I'd like to hear from people from the audience as far as the question of parking versus retail.

CHAIRMAN LORENZINI: Commissioner Drost?

COMMISSIONER DROST: The Park View property is the northeast corner of Dunton and Eastman, that's, just for the record, 210 to 220 North Dunton?

MR. ENRIGHT: The southwest. Park View?

COMMISSIONER DROST: The northeast corner.

MR. ENRIGHT: This would be the southwest corner of Dunton and Eastman, the future Park View.

COMMISSIONER DROST: Okay. So, it's the southwest, all right, I've got that. I just wanted to identify it as 210-220. That would have been northeast, the block itself.

As far as the Petitioner is concerned, was he exposed or were you exposed to the Downtown Task Force report that we did, what was it, 10 years ago?

MR. ENRIGHT: It's on our website. Certainly we've been talking about it for quite some time.

COMMISSIONER DROST: Was that part of the discussion when they came up with the development in the negotiation?

MR. ENRIGHT: I don't know if we specifically talked about it. I just said in general terms the Downtown Master Plan requires as well as the Zoning first floor commercial. I don't know if that was specifically talked about.

COMMISSIONER DROST: It's my recollection that the Downtown Task Force report was to encourage more commercial development for the north side of the town.

MR. ENRIGHT: Which I believe is on the Staff report.

COMMISSIONER DROST: Is that your recollection? Is that what --

MR. ENRIGHT: Yes, and I've highlighted that on the Staff report.

COMMISSIONER DROST: On the Park View development, the concern that I had there was that we're getting too many garage doors on the street. From an aesthetic standpoint, again I'm not an expert on the economics of it, but what you tend to do at least from my view, if you have a garage door there, that would tend to kind of create a more bleaker feel for what has been attempted to try to revitalize and to maintain this momentum that we've had in the development of the downtown area. That's just a comment. But I also recognize there's economics, but sometimes economics can get trumped by aesthetics. That's my comment and I'll wait for any comments from the audience.

CHAIRMAN LORENZINI: Thank you, George. Bill, can you go back to the floor plans for the basement and the first floor plan right there? We can go to the first floor first. Okay. The Park View development, Bill, where does that stand right now? Is that proceeding?

MR. ENRIGHT: It's my understanding that they are seeking their financing.

CHAIRMAN LORENZINI: Okay, all right. So, a question on the layout, the basement, on the first floor you've got, you know, parking, you've got stairwells. Can we go to the basement then, Bill? Okay, now the basement, you've got a large storage area, some

mechanical area, a big slab, lot of stairways. So, let me ask you this. Can you go back to the first floor, Bill? So, what if you saved the money to build a basement and you put storefronts in your front half or front third, front half let's say, and you move the mechanical and storage in the back half? From an economic standpoint, then you save the money to build a basement and you would have your storefronts then and you can use the back for storage and mechanicals. Is that reasonable? Can you do that?

MR. PANZARINO: As far as storefronts, you're saying --

CHAIRMAN LORENZINI: I'm saying get rid of the basement, save the money on the basement.

MR. PANZARINO: Okay.

CHAIRMAN LORENZINI: And the mechanical and storage you have in the basement --

MR. PANZARINO: Move it to --

CHAIRMAN LORENZINI: Put them in the back half of the first floor and make the front half the commercial space like the Village is recommending.

MR. PANZARINO: The question is this. I did propose storefronts in the very beginning, but through the study that we've been doing, I mean I built a lot of customers in the past 20 years and we go back and forth and we discuss this, and everybody kind of disagrees with storefronts on that side of the track. It will not grow any further. There's a parking garage, there's a park, there's a church, it just will not go any further. We didn't have any trick-or-treaters come to our place. I mean it just, there is no traffic on that side.

I mean I've seen storefronts come and go quickly. There's one right next door, it's been there less than a year. There is no support for that.

CHAIRMAN LORENZINI: All right, thank you.

MR. DeFRANCESCO: Can I add to that? The thing is that at the end of the day, guys, like we're all for what is going to better the building and the Village and the community and really give back to the residents. By adding the additional vacant retail space, our biggest fear is what happens with the retail space that has been there forever? How do we differentiate our retail space compared to these guys? It's not like the space that's available is 25,000 square feet, so you'd have to find a unique tenant to occupy the space. The spaces are 1,000, 1,500, 2,000, 2,500 square feet. It's going to be the same space that we're going to be offering. So, now we're going to add this additional retail space. For what? How is that going to benefit anybody?

The second thing is that if we do one day end up selling the property or converting them to condos, the resale value

side of things when it comes to ownership of a condo with zero parking on site enclosed does drastically hurt the value of the resale. But fine, that's the future. We can't propose what's going to happen in the future.

From a rental market standpoint, the numbers that Bill was going through, we weren't saying that the \$700 difference is what people are paying for the parking, just the parking side of the building. What that difference was if you did a comparison, and this data can be provided and e-mailed to everybody, if you did an analysis of the last 12 months of one-bedroom and two-bedroom apartments that had onsite parking, enclosed garage parking, they were able to gather approximately, again it's an average, of about \$700 more compared to an apartment that had to rent parking down the street, walk three or four blocks, and an open parking garage or an enclosed parking garage, whatever it was. But as soon as people hear that the parking is off site and they have to walk three blocks, we live in Chicago, it's great for two and a half months, the rest of the year weather is against us. People do not want to walk those three blocks.

Yes, of course, you could charge for parking, and in downtown you are able to charge for more, but that's not the point here. We're not talking about charging for parking. We're just saying that the rent you could collect total is more advantageous and more beneficial on a monthly basis, on an annual basis if the parking was included onsite rather than offsite.

CHAIRMAN LORENZINI: Okay, thank you. I think that ends our questions.

COMMISSIONER ENNES: I have one question. While we're on this schedule, it's kind of a financial analysis, don't you think?

MR. DeFRANCESCO: Yes.

COMMISSIONER ENNES: You're comparing what kind of rent you're getting typically for just the apartment as opposed to an apartment with parking?

MR. DeFRANCESCO: No, no. They're both with parking, okay. So, everything here is --

COMMISSIONER ENNES: With parking, I'm sorry, yes.

MR. DeFRANCESCO: With parking. The difference between the one-bedroom and the two-bedrooms, the top two lines and the bottom two lines are basically, or I'm sorry, not the top two. But the top of the one-bedroom with open parking garage or offsite parking and then the third, the second line, the \$700 difference is basically whether the parking is onsite or offsite. But both include parking, it's just again whether it's onsite enclosed or offsite parking space or whatever. But parking is included in everything.

COMMISSIONER ENNES: Okay, and I can appreciate that. What I don't see is, and you're looking at the potential loss of \$4,900

gross per month or \$58,000 gross per year, but if parking is off site, okay, you get to rent it for whatever you get, you're not showing then anything here as to what you get for rent for your commercial space.

MR. DeFRANCESCO: Okay, but the question is how long is that commercial space sitting vacant? How much cash flow have we dumped into a dark commercial space while we wait for the other 30 percent of the retail on our street within our one block get absorbed before we get absorbed? What are we doing different to get them rather than taking the space that's been vacant for three, four, five, 10 years on some spaces.

COMMISSIONER ENNES: Depending on whose figures that we look at here, 10 to 15 percent, then it's what you might expect.

MR. DeFRANCESCO: Sure. I would definitely say more because based on the 10 to 15 percent that was presented, that's on the math that was provided. But that's not including the space that really is dark that is vacant, that's been vacant that wasn't brought up in that map.

COMMISSIONER ENNES: Some of which admittedly is pretty old, not very good retail space. You've done commercial retail brokerage?

MR. DeFRANCESCO: I have.

COMMISSIONER ENNES: In looking at this rental space, when you look at downtown, a lot of the retail space that we have isn't your typical.

MR. DeFRANCESCO: Class 8, yes.

COMMISSIONER ENNES: Eight to 10 square lineal feet tall retail space. This is stuff that's like 12 to 14-foot ceilings. Now, if you added that kind of retail space, you're going to have something that's unique in the market and it will draw some possibly national retailers.

MR. DeFRANCESCO: Possibly. The thing is that, I mean Dunton Towers has vacant space already where business went in and they have gone dark already. So, the thing is that, yes, it would maybe be Class 8 retail, but still some of the retail that has been available would have been absorbed somehow, and the thing is that we're basing skepticism and we're basing opinion of what could potentially happen and the thing is that there's no economic factors that really show that retail really thrives or is to an uptick. So, there is no true data to help us say, okay, you know what, retail will get absorbed in the next 12 months or 16 months. It's all skepticism. So, now we build this retail where it's dark for four or five years, that's all negative cash flow towards the building when we could have been capitalizing on higher rents because parking was included on the first floor, and on the resale side of things get 10, 20, 30 percent more than what the market calls for because parking was included on the first floor.

CHAIRMAN LORENZINI: Okay. Yes, Commissioner Jensen, then we'll go to the audience.

COMMISSIONER JENSEN: Sure, just a brief question about this, how you collected the data. How many places did you survey? We don't want to make it technical.

MR. DeFRANCESCO: Sure.

COMMISSIONER JENSEN: But how many places did you survey for your average rent that you rent both with and without on site?

MR. DeFRANCESCO: For both, there were about 30 places for each one-bedrooms and two-bedrooms. These are all rented, not what's active on the market, who cares what's on the market, what's available right now. It's more true data, proof in the pudding, what has rented. So, this is data that has rented within about a three-block radius from this location, all within the last 12 months.

COMMISSIONER JENSEN: Okay, good. Thank you.

CHAIRMAN LORENZINI: All right, thank you. Now, we're going to go to the public for any questions or comments. Anybody on the right, your left side of the room, have any questions or comments? Anyone? Yes, sir. Come forward, please state your name, spell it for the court reporter.

**QUESTIONS FROM AUDIENCE**

MR. EISEN: Yes, Gerald Eisen, G-e-r-a-l-d E-i-s-e-n. I'm the attorney for Mrs. Anzaldi. She has been thrust into this thing through the death of her husband and she is now managing and owning the property to the south, which is the apartment building at 1216 East Northwest Highway. So, we're mentioned by the fact that there is an issue regarding the relocation of the sewer and water. I don't know if you are familiar with the fact that our lines for water and sewer run through Mr. Panzarino's property. These were unknown to us. We've owned the property, she has owned the property with her husband for approximately 20 years. This was unknown to us, and this thing has popped and we were told by Mr. Panzarino that the sewer and water lines have to be moved.

We hired an engineer to explore the possibilities, and the possibilities are economically dramatic to Mrs. Anzaldi. It's approximately \$150,000, it involves the two properties. They're the other adjoining apartment building next to us. We in good faith made an attempt to explore this issue and it's just a dramatic situation, quite difficult. You want to step in?

CHAIRMAN LORENZINI: Wait, hold on. So, you're one property owner, these are the others? Let's finish yours first, and then we'll move to the next one.

MR. EISEN: Okay. The problem is that we have to run, our connections are at the rear of the property and they continued uninterrupted for 75 or 100 years through Mr. Panzarino's property. Things were fine for 75 or 100 years. We don't even know how this came about. But there is no recorded easement for us to proceed over his, under his property, excuse me.

So, now the issue is that we have to run two lines from the rear of our property, one for this property, one for our property. It has to go all the way out to Northwest Highway, turn, go all the way out to the street to the east. It's impossibly expensive. Some of the contractors don't even want to deal with the state and have to confront the issues of closing on Northwest Highway.

It's a dramatic problem, not technically, but the issues are dramatic to us and to them financially. It's just overwhelming for these two, you know, they're small apartment buildings. They don't throw off tons of income where we can do this type of expense.

CHAIRMAN LORENZINI: Sir, are you done with your --

MR. EISEN: Yes.

CHAIRMAN LORENZINI: Okay. Yes, sir, state your name, spell it for the court reporter please.

MR. GILMARTIN: Yes. My name is Wayne, W-a-y-n-e, Gilmartin, G-i-l-m-a-r-t-i-n. My son and I represent a group that owns the building adjoining Marie Anzaldi's building, 1824 East Northwest Highway.

As Mr. Eisen pointed out, the water and sewer lines serving our property which is a 12-unit building with two retail spaces, 12 apartment units, Mrs. Anzaldi's unit building I believe is six apartment units and also two commercial spaces. The problem here is that these lines were put in somewhere between 85 and 100 years ago, and no one, the Village has no records, there are no records. No one knows at the time what the arrangement was, what the deal was. But these properties have been served by these lines for 75 to 100 years.

The report from the Planning Department makes it a condition that Mr. Panzarino, the Petitioner, work out an agreement with us. The problem is that we've explored agreements with Mr. Panzarino. He is not willing to allow us to stay anywhere on the property. He is not willing to contribute to moving us off the property. So, I'm not exactly sure what kind of an agreement we can work out with him. My guess is his intention is to try to force us off the property through some sort of legal action which we may have defenses for.

But the bottom line here is he is here before this group and part of his claim is that he is entitled to these variances because of economic hardships and difficulties, and yet he is going to

effectively perhaps put two buildings out of business. We're not even sure, I did talk to Mr. Enright, I think there is some level of confidence that at a cost of somewhere between \$100,000 and \$175,000 you could relocate the water and sewer lines into Northwest Highway. It would be a lengthy process. We have to get state of Illinois permits, we need IEPA permits, MWRD permits and so on, I think so. I was told MWRD, maybe not.

But in any event, we're not even sure what kind of conflicts we might find and how doable it is. But the point here really is that the condition that's being suggested by the Planning Department is an agreement, and I think I'd ask that Mr. Panzarino indicate what type of an agreement he would be willing to consider. Thank you.

CHAIRMAN LORENZINI: Thank you. Bill, would you like to share your viewpoint on this?

MR. ENRIGHT: Well, I mean there is an ongoing dispute about what the legal issues are with respect to those utilities between the various property owners and the developer. It's a condition precedent to them, the developer coming back for final PUD, that they are asked that it is resolved, or else this project isn't going forward.

CHAIRMAN LORENZINI: When you say resolved, does that mean --

MR. ENRIGHT: Well, the condition states that there has to be agreements for the relocation of utilities for any property owners, and there are three that we know of, that those agreements are in place and those have to be signed, sealed and delivered to the Village in order for us to move forward with the final PUD.

CHAIRMAN LORENZINI: So, if those agreements, well, I'm going to ask probably our couple of attorneys, if those agreements can't be reached and it ends up going to a lawsuit, that could take years and years and years.

MR. ENRIGHT: That's right. But the PUD, a preliminary PUD, if it is recommended for approval and if it is approved by the Village Board, a preliminary PUD lasts for 12 months. If there's no agreements, then the PUD would expire, the preliminary PUD.

CHAIRMAN LORENZINI: Okay. All right, let's go back to the public. Anybody else have comments? Yes, sir. State your name and spell it please.

MR. RODEWALD: Bruce Rodewald, R-o-d-e-w-a-l-d. I represent the Rodewald family that has owned the small retail of six-unit building at Miner and Evergreen that's immediately east of the Petitioner's property that we're talking about tonight.

One of the strongest arguments against granting the variances as proposed or requested relates to the ordinance

requirement that the plight of the owner is due to unique circumstances. In this case, all of the owner's plights are his own doing and not due to any other circumstances.

I also have some other thoughts. This utility line is a big issue. Our family has owned this building since 1954. As a young man living across the street where Uptown Café is, my dad purchased this property, and I, with slave labor, had to help him maintain the building from my childhood on. There's five units that use the sanitary and the roof drains and they go out and they tie into a sanitary line that came down the old driveway immediately west of our building on his property. As did the house that was there, all of these lines tied into one main line going out to the sanitary sewer on Miner street.

Some important points that I think that this Commission ought to know is that there are no utilities on Northwest Highway. There is no gas, there is no water, and there is no sanitary sewer at all. Everything had to go out to Miner Street in these buildings. There's three buildings that are concerned.

Somewhere back in time, and we're guessing that these buildings were all built from 1925 to 1928. The best thing that we can say is it was all under the control of one property owner at the time. But the water and the sewer had to have Village approval to be able to tie in to the sanitary and to the water main. They just didn't do it. Somebody in the Village at that time said yes, it's approved to do that, otherwise they could not connect.

There is a misstatement that was made earlier regarding 17 East Miner, that's one of our units that we have under our banner. It is currently rented. The lease is coming due. We did put a For Rent sign in it at their request. My deal on this is I've had very good rentals and I have been within several months generally been able to rent a unit. Other than that, I am fully rented. But that was a misstatement saying it's vacant. It's not, it's open for business.

The parking on the first floor is going to be a problem because you're taking out at least two parking spaces off of the street that's already crowded. It's under-served for parking to go along with these units as proposed, and we're going to see more musical cars taking up spots on the street when we're really looking for customers to come in for retail use.

In the rear corner of our building behind 112 North Evergreen, we are concerned about flooding from this building. We'd like to know how that would be addressed somewhere while it goes through the plan review process.

I'm only tying it in with the sanitary sewer, but it's still, the numbers that we're looking at preliminarily are in the \$50,000 range just to auger out and connect into a sanitary sewer. We

have a difference of opinions on this. These lines have been in there for 85 years. Sometime later, probably in the 50's when everybody went off of oil or coal, that's when the gas line probably was put in to service the two three-story buildings in Northwest Highway. Knowing Nicor, they probably didn't put it in unless they had something rock solid where they could actually dig into the property and push that through.

If this building is built, it's being proposed to build tight to our building within very close proximity, a foot or less, we're on a four-foot foundation on that side of the building because these units that would be immediately adjacent to it are on slab. What bonding or provisions do we have to be sure that they don't damage us, that they don't knock something down? If they're going to be digging a 10-foot foundation to put this building on, what assurances do we have that they aren't going to damage our building when they're coming in so tight? We only have a four-foot, we're guessing we only have a four-foot footing foundation here.

So, that's pretty much my thoughts on it. I would strongly urge you to reconsider first floor parking, the parking garage. We have delivery trucks on Miner Street on a regular basis. We're going to have more fights over getting things in and getting out if there is a driveway and a parking garage there, and it's still undersized.

The numbers were thrown around, \$700 increase if there is parking. There's 12 units, they're only talking seven spaces. They're probably going to have more than 12 cars assigned to this piece of property or whatever. I know what I'm getting for my rents and they could certainly put two small units in it and greatly increase their revenue over \$700. So, that's my thoughts. Thank you for your consideration.

CHAIRMAN LORENZINI: Thank you. Anybody else? Actually, are you with the Petitioner?

MR. O'HARA: Yes.

CHAIRMAN LORENZINI: Okay. What would you like to say?

MR. O'HARA: I would just want to address the --

CHAIRMAN LORENZINI: State your name and spell it please.

MR. O'HARA: My name is Brian O'Hara, B-r-i-a-n O'-H-a-r-a. I'm an attorney. Mr. Panzarino asked me to look into the issue of the underground utilities and contact the neighboring property owners to see if an agreement could be reached. I don't know if it's appropriate for me to make my comments now or do you want me to wait for --

CHAIRMAN LORENZINI: Well, let's hold off until the Commissioners have questions.

MR. O'HARA: Okay.

CHAIRMAN LORENZINI: Anybody else from the public who want to make a comment, questions? Okay, if not, we'll close then. Bill, let me just clarify something. Whether we build retail or not on the first floor, if we put a basement in or don't put a basement in, build a three-floor or 20-story building, we're going to have this problem with the utilities no matter what's built on it?

MR. ENRIGHT: Basically. But if there was a smaller footprint, you could allow for more room for these utilities to either partially be relocated back straight out to Miner.

CHAIRMAN LORENZINI: Okay, thank you. Let's go back to the Commissioners. Commissioner Cherwin, would you like to, do you have any more questions or comments, concerns?

COMMISSIONER CHERWIN: I guess I would like to hear from Mr. O'Hara on the issues that he's exploring.

CHAIRMAN LORENZINI: Mr. O'Hara, please come back.

MR. O'HARA: Thank you. So, it's been 11 or 12 months that we've been trying to work something out. Principally, I did my research and found that, number one, there is no easement recorded in the history of the property, both the subject property for the development or the properties that the other gentlemen's clients own. Secondly, there is no prescriptive easement because at the time that we presume, and nobody knows when these lines were built because there is no record of the sewer and water lines that run through the subject property with the Village, they were surprised, the Village as I understand it was as surprised as anybody including Mr. Panzarino as well as the other adjoining property owners that these lines ran through property that there was no easement for.

Secondly, Mr. Eisen I think made a comment, or the last speaker, not Mr. Eisen, the last property owner that spoke said that there was a common ownership. I've researched the ownership of the property, and back as before these buildings, the apartment buildings that we're talking about, the house that was demolished, and the other property, there was no common owner at the time that these were built. There was not one owner that built an apartment building here, another apartment building there, a house here and another apartment here, and we can demonstrate that. We've been trying to avoid getting into a legal action to try and work something out. It's Mr. Panzarino's opinion that these people are in essence trespassing on to his land, which they have been for decades.

But they have not come up with a plan. Mr. Gilmartin has talked about it, Mr. Eisen had talked about the hundreds of thousands of dollars. Well, they have retained one contractor or one engineer to say what might be made and what might be, but there is no, nobody has bid on the job to move these lines. So, as far as the

cost being hundreds of thousands of dollars, we don't know. It could be less than that.

But anyway, it's not on Mr. Panzarino's back to relocate utilities that have been trespassing on the property that he now owns. They were never apparent to Mr. Panzarino when he purchased the property, nor were they disclosed, nor were they apparent even to the property owners who are using them. So, I think this is not really an issue as to the development approval by the Plan Commission tonight. They will, this will have to be resolved, Mr. Enright said by agreement of the parties. Well, if the parties won't, can't or won't agree to a proposal, then it could also be done by court order. Thank you.

CHAIRMAN LORENZINI: Anything else, Commissioner Cherwin?

COMMISSIONER CHERWIN: I'll -- go ahead.

MR. GILMARTIN: May I respond just to clarify? Again, Mr. Gilmartin, I'm one of the owners of the properties whose lines run over Mr. Panzarino's. We actually received a bid from our engineer and we've received bids from two contractors, one of whom was recommended by Mr. Panzarino. All of the bids were consistently over 150. Mr. Panzarino received another bid which he had the contractor call me, it was not in writing, the contractor said he could do it he thought for \$50,000.

I think that my client and Mrs. Anzaldi would be happy to pay the \$50,000 if Mr. Panzarino would pay the balance. I don't think Mr. Panzarino believes that this thing is, that these lines can be moved for anything close to \$50,000.

In terms of the legal rights, you know, there has been no real investigation, there has been no real study. But the bottom line is that Mr. Panzarino is not coming here saying he wants to build something as a matter of right. He's coming and asking for lots of dispensations in order to build his building. I think, I actually think it's a lovely building, I hope he can build it. But I do think if he's going to get those dispensations, the Village has to be cognizant and I think it has of the interests and rights of the other parties that will be affected including my client, myself, and Mrs. Anzaldi and Mr. Rodewald whose buildings will be dramatically affected. So, thank you.

CHAIRMAN LORENZINI: Thank you. Anything else, Jay?

COMMISSIONER CHERWIN: No, not at this time. I mean I think, I guess my comment would be that it sounds like there's a pretty substantial unresolved issue. Mr. Enright has included a condition of agreement and it's still relatively open. So, I think that given the fact that we have condition number, it's number 7, is that right, Mr. Enright? Condition number 7 in there that addresses this, I think that, you know, that would be important for me to make sure we keep

that in.

CHAIRMAN LORENZINI: Okay. Commissioner Sigalos?

COMMISSIONER SIGALOS: My only comments are I would like to see the parties come together and get some kind of an agreement. I like Chairman Lorenzini's idea of eliminating the basement, having commercial or retail on the front of the building, storage and mechanical on the back of the building, and maybe the savings that is achieved from eliminating the space then could be used to relocate these utilities. You have, say one common engineer, the engineer that would be in place for this new building development would engineer these storm, sanitary lines and whatever other utilities that are going through this and they would all be part of the bid process. But again, that savings of eliminating the basement could help pay for that and bring all these parties together, and also eliminate Mr. Rodewald's concern about damage to his building that only has four-foot deep footings where you're putting a basement right up adjacent to his building.

The other comment I want to make is that when Mr. Rodewald stated that he has six units I think right around the corner and hasn't had a problem leasing these for retail space, I of course would like to see retail space continued there and not have this gap there. That's all I have.

CHAIRMAN LORENZINI: Thank you. Commissioner Drost?

COMMISSIONER DROST: My comments are that I do support commercial space on Miner. What I also would want to make sure of is that, the cost that this agreement among the property owners would be hard and from the standpoint of trying to come up with a solution here isn't the appropriate place, whether it's prescriptive easements or adverse possession or whether there was some type of flaw at some point and whether or not there's some action, but I think that should be calculated at least from the Petitioner's proposal to look at the possibility of trying to come to some accommodation here. After all, we are a village of good neighbors and the idea is to solve disputes in an amicable way and it looks as if there would have to be some cost sharing that might be significant, that might impact the development.

So, I ask that or state that as a comment. This isn't going to be easy, it doesn't look like at least from today's presentation. Those are just my comments.

CHAIRMAN LORENZINI: Thank you. Commissioner Jensen?

COMMISSIONER JENSEN: No, I don't have any further questions.

CHAIRMAN LORENZINI: Commissioner Ennes?

COMMISSIONER ENNES: I do have one other point. In addition to item 7, there's an item 9 that addresses the, I believe this is the item that addresses the access easement ingress and egress that accommodates the building immediately behind this existing

building with Eddie's. Is that something that's been resolved? That's still a pending issue?

MR. ENRIGHT: Well, what this easement, there's already an existing easement that is on the Adam & Eve property where I'm showing here, and the west, east side of Adam & Eve property provides ingress and egress for the property, Adam & Eve property, and also Eddie's behind, they have a rear door here. So, that easement is in place. What this condition is, is that the Petitioner, Mr. Panzarino, will have to obtain a cross access easement to the benefit of this 13 East Miner so that they can traverse across the Adam & Eve property to get out to Miner Street. Because you won't be able to do that and stay on site because the ComEd transformers switchgear is going to be right here blocking it.

So, I'm presuming that Mr. Panzarino is amenable to providing in effect himself and future owners of the 13 East Miner if built and then subsequently sold, it would have to run with the land and be in perpetuity.

COMMISSIONER ENNES: So, there isn't also an unresolved easement issue with Eddie's being on the other side. Okay.

MR. ENRIGHT: Eddie's has an easement already.

COMMISSIONER ENNES: Then my question to the other Commissioners is do we want to go ahead and approve something when we don't know what the resolution of the utility issue which is a major thing is?

CHAIRMAN LORENZINI: Commissioner Green?

COMMISSIONER GREEN: My comment on that is I think that this petition, it's just one element of it. You know, we don't, it's a private issue they have to resolve on their own and we're not really voting on whether they're going to do that or how they're going to do that.

COMMISSIONER DROST: Yes, and I have a little bit of history being a downtown business owner, there are conditions that can be imposed, but what you want to do is you don't want to stop the development. You want to give an incentive rather than trying to cross your t's and dot all of your i's. So, there has to be at least some initiative for the Petitioner to go forward and try to resolve some of these issues that are confronting this project. But overall, you know, a project of this size and scope looks pretty good --

COMMISSIONER JENSEN: We may have almost a moot point here if, what the Petitioner said to us, that if we, and it seems like the mood of the Commission is to require some retail space and the indication was that at least there's a big question mark as to whether they would pursue the project if we do that. So, the whole issue of the easements and so forth may be not an issue in fact, so I don't think we should waste time dealing with that.

CHAIRMAN LORENZINI: All right. Anything else, Commissioner Ennes?

COMMISSIONER ENNES: No, that's all I have.

CHAIRMAN LORENZINI: Commissioner Green?

COMMISSIONER GREEN: Just a comment to the owner to the east building. If they are to put a basement there, they are responsible for underpinning and not running your foundation into the hole of the excavation. So, sheet piling or whatever they would have to do to accommodate the basement would be part of their construction techniques. So, just to, you know, they are not going to knock your building down. I am in favor of this, not an intention anyway.

CHAIRMAN LORENZINI: Okay. My final comments are I, too, tack on to what Commissioner Green just said. Yes, there are regulations and codes that the Village has in place that protect the adjacent property owners for the concerns that have been raised. You might just, one thing a lot of people do, you might just want to take a videotape of your foundation before construction starts and after.

But as far as the utilities go, you know, it's obviously a big issue for all the adjacent landowners, a very expensive issue. But I don't think, it's not the purview of us, of this Commission to decide how that dispute gets resolved. What we're here to decide is what type of building goes up there and based on the recommendations or considering the recommendations made by the Planning Department. Now, just a thought, you know, it's totally up to you, to the people in the audience or the people involved, but if you, whether you build the basement or not, you could basically just rebuild the utilities in place and put them underneath the new building. Why not do that? In this way, it would be a lot less expensive than having to relocate them completely. Even if you put a basement in or not, you could still hang them in the basement or just bury it if you don't have a basement.

So, I mean personally, I think the idea of getting rid of the basement, retail on the front half, the storage and the mechanical in the back half of the first floor, and then you can leave the utilities there, just rebuilding a little stronger, and I think that would be the best solution. But that's just my opinion. That's not our purview here to decide.

But the other safety net for the surrounding property owners is item number 7 in the petition, or in the proposal that says an agreement has to be reached before this is approved. So, you're kind of protected there also. But again, I don't think we can tell the owner what he can't or can do with his property because of some item that's in dispute. That's really again not our responsibility, our concern but not our legal right to say one way or the other.

So, having said that, it looks like we've got two recommendations here, one with commercial and no parking, and one with parking and no commercial. Does anybody want --

MR. ENRIGHT: Two motions.

CHAIRMAN LORENZINI: Yes. Does anybody want to make a motion on one of these? Just one or the other, right, Bill?

MR. ENRIGHT: Well, yes. I mean, you know, it could be anything, but one of the motions is based on what the Petitioner is asking for, and at the top it says Project Name: 13 East Miner with parking garage and no commercial. Some of the differences there is that number one, if there's a parking garage and no commercial, then they have to get a land use variation for the building in and of itself, plus some other variations for the parking garage. The second motion is if you require commercial on the first floor and there is no parking garage, then you have mixed use development and you no longer need the land use variation and two of the variations for the parking garage go away, and that's the one labeled with commercial and no parking garage.

COMMISSIONER GREEN: I'd like to make a motion.

**A motion to recommend to the Village Board of Trustees approval of PC# 15-013 (with commercial and no parking garage):**

- \* **A Preliminary Planned Unit Development for 13 East Miner Street;**
- \* **A Variation from Chapter 28, Section 28-5.1-14.6, from the required combined side yard setback of 30 feet to allow 5.81 feet;**
- \* **A Variation from Chapter 28, Section 28-5.1-14.6, from the required rear yard setback of 30 feet for residential uses located above the first floor to allow 5 feet;**
- \* **A Variation from Chapter 28, Section 28-11.7, *Schedule of Loading Requirements*, to waive the required loading berth for the development; and**
- \* **A Variation from Chapter 28, Section 6.12-1(3) to waive the requirement for a traffic and parking analysis from a certified traffic engineer.**

**This approval is contingent upon compliance with the conditions detailed in the Staff Development Committee report dated October 29, 2015:**

1. **Final Planned Unit Development approval shall be required pursuant to Chapter 28, Section 28-9. All required documents, such as but not limited to final engineering plans and construction staging plans and timelines, shall be**

- submitted for review and any additional items pursuant to conditions of the Preliminary Planned Unit Development.
2. The first floor garage shall be eliminated and replaced with commercial space approximately 40 feet in width along the Miner Street frontage and allow for at least 30 feet of depth.
  3. The Village shall make available, and the building owner shall purchase, 14 residential permits in the North Municipal Garage on a monthly basis at the applicable monthly permit fee.
  4. Residential units are approved as rental apartments. Converting residential units to condominiums shall require an amendment to the Planned Unit Development and compliance with the required parking standards.
  5. One affordable housing unit shall be required as follows:
    - A. One affordable unit shall be maintained as affordable in perpetuity under the Village's affordable rental housing guidelines.
    - B. With the approval of the Village, the affordability requirements of another local, state or federal affordable housing program, which are consistent with the requirements of the Village's affordable rental housing guidelines, may be temporarily followed with respect to the unit, but at all other times the requirements of the Village's affordable rental housing guidelines shall apply in perpetuity.
    - C. The owner or the owner's designee shall be responsible for reporting to the Village on a quarterly basis in compliance with the affordable housing requirements utilizing a form prescribed by the Village of Arlington Heights.
  6. Compliance with the conditions of the Design Commission motion dated October 27, 2015.
  7. Prior to Final Planned Unit Development, the Petitioner shall have signed agreements for relocation of all existing utilities that serve other adjacent buildings that traverse through the 13 East Miner Street site.
  8. Prior to the Final Planned Unit Development, the Petitioner shall submit a signed plat of easement for ComEd and any other utility companies requiring said easement.
  9. Prior to Final Planned Unit Development, the Petitioner must obtain an executed access easement for ingress and egress to the benefit of the 13 East Miner Street development along the east side of the property located adjacent to the west. This easement shall be in perpetuity and shall be a minimum of 5

- feet wide. In addition, there shall be no obstructions within this easement, including such items as gates, fences, and refuse containers.
10. Prior to Final Planned Unit Development, the Petitioner shall pay a fee in lieu of onsite detention, pursuant to the standards established by the Village of Arlington Heights.
  11. The Petitioner shall provide a decorative swing gate to screen the Miner Street side of the ComEd equipment located along the west side of the building.
  12. The Petitioner shall work with the Village to develop an acceptable construction schedule including a development phasing plan that includes the location of staging areas throughout the development. Any work within the right of way shall be scheduled to minimize disruption to other businesses and patrons of the downtown. All construction traffic shall be limited to pre-approved lanes and locations, to be determined by the Village.
  13. Delivery/loading operations shall be restricted as follows: *retail stores*, 7:00 a.m. to 3:00 p.m., Monday through Saturday with no deliveries on Sunday; and the *residential*, 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 2:00 p.m. on Saturday with no deliveries on Sunday.
  14. Pursuant to Section 29-401 of the Arlington Heights Municipal Code, the developer shall make cash contribution in lieu of land for school, park, and library districts.
  15. Future tenants of the commercial space shall procure permits from the Village for employee parking in the public parking garage.
  16. Compliance with all federal, state, and Village regulations and policies.

CHAIRMAN LORENZINI: Is there a second?

COMMISSIONER SIGALOS: I'll second that.

CHAIRMAN LORENZINI: Roll call vote please.

MR. ENRIGHT: Commissioner Green.

COMMISSIONER GREEN: Yes.

MR. ENRIGHT: Commissioner Sigalos.

COMMISSIONER SIGALOS: Yes.

MR. ENRIGHT: Commissioner Cherwin.

COMMISSIONER CHERWIN: Yes, with comment.

MR. ENRIGHT: Commissioner Drost.

COMMISSIONER DROST: Aye.

MR. ENRIGHT: Commissioner Ennes.

COMMISSIONER ENNES: Yes.

MR. ENRIGHT: Commissioner Jensen.

COMMISSIONER JENSEN: Yes, with comment.

MR. ENRIGHT: Chairman Lorenzini.

CHAIRMAN LORENZINI: Yes. Commissioner Cherwin,  
comment?

COMMISSIONER CHERWIN: The only comment I would have is I think I am just a little reluctant on item number 4. I'd still go ahead and vote to approve it, the motion, but I guess I'm just, my concern is putting a restriction on a future conversion. I think that once it's built, it's a similar use, I understand Mr. Enright's concerns but that's not something I would typically want.

CHAIRMAN LORENZINI: Thank you.

COMMISSIONER JENSEN: Actually I withdraw the comment.

CHAIRMAN LORENZINI: Okay. Mr. Enright, the next step?

MR. ENRIGHT: This item will likely go to the Board, the Village Board, the first meeting in December. Yes, first meeting in December. I think that's whatever that Monday is, the 6th or 7th.

CHAIRMAN LORENZINI: So, the Petitioner still has the right to go forward with either proposal, but this proposal is what's being recommended to the Board of Trustees.

MR. ENRIGHT: That's correct.

CHAIRMAN LORENZINI: The Board of Trustees will have final say. So, with that, thank you all for sitting through this. If you have any discussion, would you please take that out in the hall because we have one more public hearing to do after this.

(Whereupon, the meeting was adjourned  
at 9:09 p.m.)