



January 26, 2018

Village of Arlington Heights  
Department of Planning & Community Development  
33 S. Arlington Heights Road  
Arlington Heights, IL 60005

Re: 45 S. Chestnut – PUD & Variance Justification

Dear Plan Commission,

As part of our submittal for the project listed above, we are seeking PUD variations as well as standard variations from the Village Municipal Code. The following statements from the Petitioner address both the PUD and standard variations to the Arlington Heights Municipal Code (the “Village Code”).

**I. PUD Variations**

According to Section 9.4 of the Village Code, for any Planned Unit Development, the Plan Commission may recommend, and the Village Board of Trustees may authorize, variations to the applicable bulk regulations of the ordinance and such other variations from the zoning regulations as may be required within the boundaries of such development without referring the matter to the Zoning Board of Appeals.

Such variations may be granted as long as it is demonstrated that they will not exercise a detrimental influence on the surrounding neighborhood. Variations shall be justified when other characteristics of the development exceed the minimum standards of the Village Code. All recommendations shall be based on the standards for appeals as stated in Section 6-201 of the Village Code. Special consideration shall be given to:

- The provision for indoor and outdoor recreation facilities, which should be proportional to the size and density of the Planned Unit Development.
- The conservation of natural resources such as flood plains, wet lands and wooded areas.
- As much as possible, the preservation, of the natural drainage and floodwater retention.

- *Such variations may be granted as long as it is demonstrated that they will not exercise a detrimental influence on the surrounding neighborhood.*
  - Petitioner Response: In the traffic study performed by KLOA dated December 15, 2017, it was concluded that the traffic generated by the development will not have a significant impact on area roadways, and that the proposed access and roadway system will be adequate in accommodating the development generated traffic. The parking of 1.5 spaces/unit in the development meets the Village Code requirements, and will not be a detrimental influence on the surrounding neighborhood. In terms of size and massing of the proposed development, the 5-story building is consistent with the Village's Downtown Masterplan, so it is of appropriate size relative to the transitional R-7 zoning that the Village has set forth.
- *The provision for indoor and outdoor recreation facilities, which should be proportional to the size and density of the Planned Unit Development.*
  - Petitioner Response: The second floor of the building includes a community room and fully-equipped fitness center. It also includes an outdoor amenity deck that will be available for use by all residents. The outdoor amenity deck is located in the middle of the u-shaped courtyard of the building that faces south, and as can be seen from the elevations this amenity will show a very attractive and non-monotonous design feature along Sigwalt. This outdoor gathering space includes tables, chairs, and grilling stations.
- *The conservation of natural resources such as flood plains, wet lands and wooded areas.*
  - Petitioner Response: There are no natural resources on the proposed site that will be negatively affected.
- *As much as possible, the preservation, of the natural drainage and floodwater retention.*
  - Petitioner Response: Unlike any other development projects in the downtown area, the drainage and floodwater retention for the proposed development will be installed and managed by on-site through new underground storage tanks that will be located along the west and north sides of the property. Storm water retention, including

release rates, will meet all standards set forth by the Village Code and the MWRD (Metropolitan Water Reclamation District of Cook County).

## **II. Standard Village Code Variations**

The following is a list of standard variations that Petitioner is seeking for the project listed above. In each case, the development will meet the following criteria.

- *The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone.*
- *The plight of the owner is due to unique circumstances.*
- *The variation, if granted, will not alter the essential character of the locality*

### **Chapter 28, Section 5.1-7.3 Minimum Area for Zoning District, to allow the R-7 District to be approximately 1.39 acres where Village Code requires a minimum of 2 acres for the R-7 District.**

- *The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone.*
  - Petitioner Response: The R-7 zoning is appropriate for this property because it acts as a transitional site between the B-5 Districts downtown, and the R-3 District for single-family homes. The site is not large enough to meet the formal area requirements of the R-7 District. This subject parcel is bordered by streets on all but the north side of the property, which is or will be zoned B-5 and is not for sale, so there is no room to make the site bigger. Therefore, if it's to be developed within the R-7 guideline the variance is necessary. In addition, the Minimum Area variation request is not unique to this site and has been granted on nearby R-7 zoned properties
- *The plight of the owner is due to unique circumstances.*
  - Petitioner Response: The vision of the Village's Comprehensive Plan and Downtown Master Plan shows the subject property as part of a larger strip of R-7 zoned land. This is a unique circumstance because when considered in sum, the strip of potential R-7 zoning is over 2 acres in size.

- *The variation, if granted, will not alter the essential character of the locality.*
  - Petitioner Response: The vision of the Village's Comprehensive Plan and Downtown Master Plan shows the property as R-7 zoned land. When considering the alteration of the "essential character of the locality", the Village has determined what that "essential character" is to be, and that includes the requirements and rights associated with property zoned as R-7.

**Chapter 28, Section 5.1-7.4 Minimum Lot Size, to allow a 39,587 sq. ft. lot where Village Code requires a minimum of 61,500 sq. ft. in lot size.**

- *The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone.*
  - Petitioner Response: If the project were planned per the underlying zoning, the property would allow for only 55 units. The financial return on cost with that quantity of units would not come close to yielding a reasonable return for the proposed development. The proposed 80 units meets both the demand for the market (as shown in the Market Study) and can yield a reasonable return on cost as calculated by the Petitioner. A development on this site less than 80 units would not yield an appropriate return for an investor or developer who will be making an immense financial investment and taking all of the development risk. It is important to note that the Petitioner has not asked for any tax abatement from the Village for this development, and, unlike other downtown properties, is constructing a very costly on-site underground storm water drainage system, as well as contributing to the Village's Affordable Housing Policy.
- *The plight of the owner is due to unique circumstances.*
  - Petitioner Response: The density regulations were established in the 1970's when the average household sizes were higher than they are today based on US Census reports. This is a unique circumstance where the density regulations for an R-7 District are obsolete because they are based on average household sizes that are no longer applicable today.
- *The variation, if granted, will not alter the essential character of the locality*
  - Petitioner Response: The location of this R-7 District is intended to be a transition between the B-5 District downtown and the R-3 District. The northern portion of

Block 425 is also zoned for B-5, which allows a much higher density than R-7 so the proposed 80 units of density will still act as a transition from the northern half of the site to the residential neighborhood in terms of density.

**Chapter 28, Section 5.1-7.6 Required Front Yard, to allow a front yard setback (east side) of 6.7' where Village Code requires a 47' setback.**

**Chapter 28, Section 5.1-7.6 Required Front Yard, to allow a front yard setback (west side) of 20' where Village Code requires a 47' setback.**

**Chapter 28, Section 5.1-7.6 Required Side Yard, to allow a side yard setback of 5' where Village Code requires a 37' setback.**

- *The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone.*
  - Petitioner Response: If the project were planned per the existing setback requirements, the proposed 80 units would not be able to fit in the footprint of the building. In fact, the resulting building footprint that would fit within setback requirements would be less than half of the size of the proposed development. This loss in density would not be economically feasible for the Petitioner. A development on this site less than 80 units would not yield an appropriate return for the Petitioner. It is important to note that the Petitioner has not asked for any tax abatement from the Village for this development, and, unlike other downtown properties, is constructing a very costly on-site underground storm water drainage system, as well as contributing to the Village's Affordable Housing Policy.
- *The plight of the owner is due to unique circumstances.*
  - Petitioner Response: The property is fronted by 3 streets, which provide an extra layer of buffer that is typically not found in R-7 Districts. The proposed reduced setbacks will not adversely impact the surrounding properties because the width of the street is not factored in. Along the north setback, the proposed 5' setback is measures to a 1-story garage ramp. The major mass of the building measures 18' from the north property line.

- *The variation, if granted, will not alter the essential character of the locality*
  - Petitioner Response: The Petitioner is required to dedicate 8' of land for public right-of-way on both the east and west sides of the property. This will ensure that the essential character of the property is maintained. It should also be noted that the Petitioner is aware that the Village staff and Plan Commission both believe that the current setback's for the downtown are unreasonable and need to be revised. But for this project, these revised setback requirements may have been already enacted. If enacted in the future, the amount of the required variations for setbacks will be even less.

**Chapter 28, Section 7.1-7.7 Maximum Building Lot Coverage, to allow 72% building lot coverage where Village Code allows a maximum 45% building lot coverage.**

**Chapter 28, Section 5.1-7.13 Maximum Floor Area Ratio, to allow 242% F.A.R where Village Code limits maximum F.A.R to 200%**

- *The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone.*
  - Petitioner Response: The current proposal is designed to limit the bulk and mass of the building while still maintaining density and efficiency of the floor plans. A unit count less than the proposed 80 units would not yield a reasonable return on cost as calculated by the Petitioner. As previously noted, the Petitioner has not asked for any tax abatement from the Village for this development, and, unlike other downtown properties, is constructing a very costly on-site underground storm water drainage system, as well as contributing to the Village's Affordable Housing Policy.
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- *The plight of the owner is due to unique circumstances.*
  - Petitioner Response: The location and zoning of the proposed development is unique. The location of this R-7 District is intended to be a transition between the B-5 District downtown and the R-3 District at the single-family neighborhood. The northern portion of this site is also zoned for B-5, meaning that even within the entire Block 425, there will be a transition from the north to the south.
- *The variation, if granted, will not alter the essential character of the locality*

- Petitioner Response: The 5<sup>th</sup> floor massing setbacks, the 8' dedicated right of way on the east and west sides, and the width of the streets are all measures to maintain the essential character of the neighborhood.

**Chapter 28, Section 6.6-5.1, Permitted Obstructions to allow a transformer within the required front yard setback where Village Code requires all transformers to be located outside of all setback areas.**

- *The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone.*
  - Petitioner Response: Locating the transformer outside of the setback areas would require a reduction in the square footage of the building and a loss in density. A unit count less than the proposed 80 units would not yield a reasonable return on cost as calculated by the Petitioner.
- *The plight of the owner is due to unique circumstances.*
  - Petitioner Response: The footprint of the building was moved as far east as possible to provide more space between the proposed building and the residential neighborhood along Chestnut. This resulted in limited space outside of the setbacks on the east side of the building.
- *The variation, if granted, will not alter the essential character of the locality*
  - Petitioner Response: The proposed location for the transformer will be away from the residential areas and is located in an area with existing Village utilities that are within the right-of-way and the area surrounding the transformer will be properly landscaped.

**Chapter 28, Section 11.2-8, to allow certain drive aisles to be no less than 20' wide where Village Code requires a minimum drive aisle width of 24'**

- *The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone.*

- Petitioner Response: The drive aisle in question is the width of the ramp that connects the 2 levels of parking together. This ramp is not able to be any wider without abutting the north property line.
- *The plight of the owner is due to unique circumstances.*
  - Petitioner Response: The drive aisles within the actual parking areas are at least 24' wide and meet Village Code. The drive aisle in question is the width of the ramp that connects the 2 levels of parking together.
- *The variation, if granted, will not alter the essential character of the locality*
  - Petitioner Response: 24' wide drive aisles are provided at the actual parking areas on each floor. The functionality of pulling in and out of parking spaces will not be altered.

**Chapter 28, Section 6.6-5.1, Permitted Obstructions, to allow some certain balconies to project 5.3' into the required front, exterior side and side yards.**

- *The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone.*
  - Petitioner Response: To recess all the balconies to meet the Village Code would reduce the overall floor area of each unit. This would reduce the rentable square footage that the Petitioner can rent out, making it less than a reasonable return.
- *The plight of the owner is due to unique circumstances.*
  - Petitioner Response: Per Village Code, balconies can only encroach into a rear yard. Since this site is bound by streets on 3 sides and is considered to have 2 "Fronts", the property is located on a unique site.
- *The variation, if granted, will not alter the essential character of the locality*
  - Petitioner Response: All balconies encroach into the yards to an extent, but where feasible, balconies have been recessed to maintain the design intent of the building.

We are very excited for this process and we look forward to our continued work with the Village of Arlington Heights.



Regards,

A handwritten signature in black ink, appearing to read 'M. Porto', with a long horizontal stroke extending to the right.

Michael Porto  
Project Manager  
CA Ventures