

MEDINA CREATIVE HOUSING VARIANCE CONSIDERATIONS

The property in question will yield a reasonable return, and there can be no beneficial use of the property without the variance.

Medina Creative Housing (MCH) has leased three acres fronting on Fairmount Blvd. from The Ursuline Academy of Cleveland (the Ursuline Sisters) for the purpose of creating a safe, high quality residential environment for adults with intellectual and developmental disabilities (I/DD) in furtherance of the overlapping missions of both organizations. Because MCH and the Ursuline Sisters are nonprofits, their measurement of "reasonable return" is not exclusively in financial terms. MCH's financial consideration is that its costs to acquire and develop the land do not exceed the amount it can charge families to reserve the homes to be built for their children with I/DD. The Ursuline Sisters' financial consideration is that they receive sufficient rent to enable them to cover some of their expenses rather than make a profit. Of greater significance – or "return" – to both organizations is that the lease and use of the three acres will enable MCH to develop homes that enable adults with I/DD to live independently with supports in a safe and nurturing community. The Ursuline Sisters view this project as an opportunity to fulfill their mission to transform lives through justice and compassion and to serve individuals on society's margins.

There can be no beneficial use of the property without the variance, particularly given the recent amendment to the zoning code pertaining to uses of U-2 districts. The Ursuline Sisters have used the land for mission focused purposes, including housing, for over sixty years although the current zoning code makes the residential use nonconforming. The three acres comprise the side and rear yards of the Ursuline Sisters' new apartment building motherhouse. Any active use of that land must be physically compatible with the motherhouse as well as programmatically compatible with the Sisters' mission. MCH's plans for this site is the only use to satisfy these criteria, but development of the plans is contingent on receipt of a variance permitting the extension of the Sisters' long-term, mission based residential use.

The variance is not substantial.

A variance permitting use of the land for a residential purpose would merely continue the use of the Ursuline Sisters' property over the last sixty plus years. None of the uses permitted by the newly amended zoning code is appropriate for this site. The Ursuline Sisters' original motherhouse occupied considerably more area and housed many more residents than the combined new motherhouse and proposed MCH homes. Adding the MCH homes would not change the longstanding residential character of the property. Rather, each proposed cluster of small homes would present an image from the street of being a ranch house comparable to those in the abutting neighborhood. The MCH grouping of homes, with Fairmount frontage, would buffer the large motherhouse from neighboring properties.

The essential character of the neighborhood will not be substantially altered, and adjoining properties will not suffer interference with the proper future development and rights as a result of the variance.

The variance will not alter the character of the neighborhood; it will allow the continuation of a use that has been in place for the last sixty-three years. The forty+ acres of the Ursuline Sisters and the sixty+ acres of Ursuline College have served as campuses for mission based multi-family housing since 1958 and academic buildings since the 1960's respectively (with construction beginning years earlier and the Sisters' acquisition of the land decades prior). All but one of the nine houses on the south side of Fairmount between Lander Circle and Sinton Place were built following construction of the Ursuline motherhouse and Ursuline College buildings, adding a residential character to the primarily institutional

neighborhood. The MCH housing will integrate the mission based nature of the Ursuline Sisters' campus and the single family visuals of the houses on Fairmount.

Adding the MCH homes will extend the residential character of Fairmount Blvd. up to the new Ursuline Sisters' motherhouse. The proposed architecture for the new homes is single family in character as well as scale, making it compatible with existing homes in the area. The proposed MCH homes will be one story and semi-detached, presenting the appearance of single family homes. The architecture of the new homes will reflect the architectural character of the existing neighborhood.

The Planning Commission, pursuant to Section 1262.03(c), may permit an exception to and variations from the U-2 district regulations in this individual case for this specific location in this specific U-2 district. The Ursuline Sisters' residential development of their property predates the Zoning Code, and their residential use of their property has been nonconforming since adoption of the Code. Additionally, city has approved the Sisters' construction of buildings on their campus for spiritual and programmatic uses without requiring variances although the Zoning Code did not identify these uses as permitted U-2 uses. Taking this history into account, the Planning Commission approved the Sisters' plan to replace their outdated motherhouse with a new apartment building which is similar in style to an assisted living facility. Approving the MCH request for a variance to use three acres of the Sisters' land for additional mission based housing would be another logical and appropriate application of the Planning Commission's powers.

The MCH homes will not exacerbate – and may lessen – issues neighbors have cited as resulting from the construction of both the new Ursuline motherhouse and the townhomes off Cedar. Those three issues are lighting, insufficient landscaping, and flooding. Lighting of the proposed project will consist of pole mounted fixtures along driveways and walks and building mounted fixtures at each entrance and outdoor area around each home. Driveway and walk lighting will consist of twelve foot high poles and architectural cut off lighting that illuminates the driveway and walks and does not spill out off the property. Lighting will be limited to that which is adequate to provide a safe environment for residents as well as visitors to the homes.

MCH is sensitive to both aesthetic and privacy issues pertaining to landscaping. The site is heavily vegetated. Existing vegetation will be maintained as much as possible along the western property line adjacent to the one home along Fairmount and three homes on Windy Hill, preserving the natural character of the neighborhood. The MCH homes and property will be extensively landscaped to comply with all local requirements. Plantings will consist of a variety of deciduous and coniferous trees to enhance the property and buildings throughout the seasons. Additionally, ornamental trees, shrubs, grasses, and perennials will be used to provide screening and add visual interest throughout the site and around the homes, with special focus on the entrance to each home.

The development of this site will not contribute to any issues that are currently occurring with storm water and flooding in the neighborhood. All MCH storm water will be detained on site and released into existing drainage areas or systems adjacent to the site. Bio-swales, pervious paving parking areas, and detention pond/areas will be utilized to control the storm water runoff from the site. Discharge from the site will be no more than what the predevelopment site contributed to the area.

The variance will not adversely affect the delivery of governmental services.

The MCH project will not burden any governmental services. The MCH housing combined with the new motherhouse will consume less water and create less sewage than the previous motherhouse did. Because MCH tenants typically live very quiet lives and they have direct care providers who help them through difficulties they face, they will be highly unlikely to make any calls, other than in emergencies, to the fire or police departments.

MCH entered into its property lease knowing Pepper Pike was discussing amendments to the zoning code but not knowing the ultimate effects of any changes.

MCH began discussing developing a Pepper Pike project with the mayor and his staff in March, 2015. The mayor suggested the Ursuline site and facilitated a meeting between MCH and the Ursuline Sisters. At the time, neither the mayor nor his staff foresaw any zoning issues. However, due to the layers of considerations all parties had to attend to, MCH and the Sisters could not execute a lease until June, 2020. By then, the city had determined the necessity to amend code sections pertaining to U-2 districts. However, no amendment to Section 1262.03(c)(2) was being contemplated, so it did not seem imprudent to move forward with the lease and development plans.

Neither the predicament of MCH nor the Ursuline Sisters can be obviated by some other method than the variance.

MCH's plans do not fall under the specifically iterated U-2 uses or any other zoning district, but, as stipulated by Section 1262.03(c)(2), they would be permissible in the U-2 district if granted a variance for "extension of a nonconforming use upon the lot occupied by such use at the time of the passage of this Zoning Code." The Sisters' nonconforming use of their lot for mission based, multi-family housing was in place prior to passage of code section. Without a variance, it will be impossible for MCH to meet the demands of the community for housing for people with I/DD or for the Sisters to lease the acreage in question and put it to productive use.

The spirit and intent of the Zoning Code will be observed, and substantial justice will be done by the granting of the variance.

City officials have told MCH and the Ursuline Sisters numerous times that the recent U-2 zoning amendment was not meant to prevent the MCH project from going forward. Officials have voiced their support for the project. Pepper Pike's own history of the community lauds the Ursuline Sisters and their use of their land. The Sisters' "leadership was visionary and foresaw future growth...The educational and cultural resources of Ursuline have served many residents." ["Fulfilling the Dream," page 12] Given that the city had no intent to use the Zoning Code to deter the Sisters from fulfilling their mission, substantial justice will be done by enabling them to facilitate the development of homes for people with I/DD in furtherance of their religious mission.

Granting the variance will not be contrary to the general purpose, intent, or objective of the U-2 district.

Granting the variance will enable MCH to develop homes for people with I/DD in furtherance of not only the good of that population but of "the public health, safety, convenience, comfort, prosperity, and general welfare" of the entire community called for by the Zoning Code. Pepper Pike has numerous residents with I/DD who have gone through the Orange School system and who desire to remain in the community near their families, friends, and services. The general intent of the U-2 district is to permit uses that benefit the public, and it is in the public interest to have housing that can accommodate the community's most vulnerable citizens. Neighbor responses to information about the MCH plans have been highly supportive and indicative that the proposed housing is consistent with the general purpose, intent, and objective of the U-2 district which contains the Ursuline campuses.

The variance request arises from a condition or circumstance which is unique to the subject site and which is not generally shared by other properties in the same zoning district or general vicinity.

The Ursuline Sisters' property currently is the only U-2 property on which permanent housing is located, so it is the only U-2 district for which this same variance could be requested. (Ursuline College has dormitory housing, and New Directions has short term, recovery housing.) Additionally, the Ursuline Sisters' housing is mission based, just as is the housing that Medina Creative Housing proposes to develop. MCH is one of few developers of independent housing with supports for adults with I/DD nationwide, so it is unlikely that anyone will request a similar variance for any other U-2 property in Pepper Pike. That the mayor of Pepper Pike suggested that the Ursuline Sisters and MCH work together to locate homes for people with I/DD on the Sisters' campus provides further evidence that the circumstances of this proposal and variance request are not shared by other properties in U-2 zoning districts. By approving the very narrowly described variance request for three acres of the Ursuline Sisters' property, the Planning Commission would not be establishing a precedent which could easily be replicated. The Planning Commission did not allow any concern about setting precedent deter them from approving the Sisters' request to replace their old motherhouse with an apartment building. Neither should it allow such concern deter them from approving MCH's request to extend that mission based residential use.

The practical difficulty faced by Medina Creative Housing is created by the Zoning Code and not by any action of either MCH or the Ursuline Sisters.

The Zoning Code does not designate any district in the city for the housing and density MCH is proposing and which best suits the needs of the targeted I/DD population. No district permits the density required to make the MCH project safe for its residents and financially feasible. The Ursuline motherhouse, which is the substitution of a pre-existing nonconforming use is the closest comparable housing. The city's approval of the new motherhouse establishes a precedent – but only for approving the requested variance which would extend the mission based, residential use of the Ursuline Sisters' property. The Planning Commission's approval of the Ursuline Sisters' variance does not, and its approval of the MCH variance would not, establish a basis for requesting a similar use variance for any other U-2 district.

The Zoning Code's Townhouse chapter does not address MCH's dilemma. Section 1267.04(a) stipulates that "The maximum density of a proposed development shall not exceed 5 dwelling units per acre." However, the site which the Sisters have leased to MCH for its twenty-five dwelling units is approximately three acres. Given the desire of the community and city officials to have the MCH project constructed despite its having a higher density than that permitted by code, a variance of the U-2 use restriction, pursuant to 1262.03(c)(2) satisfies the community desire and is appropriate.

The variance will positively affect the public health, safety, and general welfare.

The variance will enable MCH to develop housing that satisfies the very specific public, health, safety, and general welfare needs of the community's most vulnerable citizens and, by extension, the entire community. MCH's model of residential communities enables people with I/DD to live independently with supports, achieve their potential and become active members of society. The CH model consists of a combination of housing and community space and fosters a strong, vibrant, and nurturing community within the larger community. The Creative Housing emphasis on social interaction enables residents to establish friendships and peer support networks. Residents also gain the skills and confidence to become truly integrated into the general community – to shop, to participate in recreational activities, and to use public transportation. The families and caregivers of

the residents gain the assurance of knowing their loved ones are engaged in satisfying and productive activities in a safe environment and are not likely to become victims of unscrupulous people who prey on others as often happens to those with I/DD who are compelled to live in a less structured setting with fewer supports.

The requested variance is the minimum variance necessary to afford relief to the property owner and lessee.

Because Pepper Pike has no zoning district which would accommodate the Creative Housing development – twenty-five compact homes suitable for people with I/DD on approximately three acres, MCH would require a variance regardless if it first obtained rezoning of the land to a U-1A district. This variance, extending the use of the Ursuline Sisters' property for mission based housing, is the most expeditious means of facilitating the MCH planned use of the property.