

PREPARED BY AND:

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CITY OF DES PLAINES
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DES PLAINES, IL 60016

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KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 02/09/2024 01:37 PM PG: 1 OF 17

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

OFFICE OF RECORDER OF DEEDS
COOK COUNTY, ILLINOIS

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CITY OF DES PLAINES

ORDINANCE Z-29-23

An Ordinance Approving A Zoning Map Amendment And Major Variations For
1625 Linden Street, Des Plaines, Illinois

PINs: 09-28-101-085-0000

RECORDING FEE 88.00
DATE 2/09/2024 COPIES 6x
OK BY [Signature]

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CITY OF DES PLAINES

ORDINANCE Z - 29 - 23

AN ORDINANCE APPROVING A ZONING MAP AMENDMENT AND MAJOR VARIATIONS FOR 1625 LINDEN STREET, DES PLAINES, ILLINOIS.

WHEREAS, Valerie Walski-Garza ("**Owner**") is the owner of the property commonly known as 1625 Linden Street, Des Plaines, Illinois ("**Subject Property**"); and

WHEREAS, the Subject Property is currently improved with a two-story residential building ("**Building**"), garage, and hard surface area; and

WHEREAS, the Subject Property is located in the R-2 Two Family Residential District of the City ("**R-2 District**"); and

WHEREAS, the Owner desires to use the Building on the Subject Property for three dwelling units; and

WHEREAS, pursuant to Section 12-7-2.I of the Des Plaines Zoning Ordinance of 1998, as amended ("**Zoning Ordinance**"), no more than two dwelling units are permitted on a single lot in the R-2 District; and

WHEREAS, pursuant to Section 12-3-7 of the Zoning Ordinance, the Owner filed an application with the City for the approval of a map amendment to the "Zoning Map of the City of Des Plaines" ("**Zoning Map**") to rezone the Subject Property from the R-2 District to the R-3 Townhouse Residential ("**R-3 District**") to allow the Owner to use the Building for three-dwelling units ("**Map Amendment**"); and

WHEREAS, the Petitioner also submitted an application to the City of Des Plaines Department of Community and Economic Development ("**Department**") for approval of major variations from (i) Section 12-7-2.J to reduce the minimum lot area in the R-3 District from 8,400 square feet to 6,304 square feet; and (ii) Section 12-9-7 of the Zoning Ordinance to reduce the required off-street parking from six spaces to three spaces (collectively, the "**Variations**"); and

WHEREAS, within 15 days after the receipt thereof, the Petitioner's applications were referred by the Department of Community and Economic Development to the Planning and Zoning Board of the City of Des Plaines ("**PZB**"); and

WHEREAS, within 90 days after the date of the Owner's applications, a public hearing was held by the PZB on September 12, 2023, pursuant to publication in the *Des Plaines Journal* on August 23, 2023; and

WHEREAS, notice of the public hearing was mailed to all property owners within 300 feet of the Subject Property; and

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WHEREAS, during the public hearing the PZB heard testimony and received evidence with respect to how the Owner intended to satisfy and comply with the provisions of the Zoning Ordinance; and

WHEREAS, pursuant to Section 12-3-7 of the Zoning Ordinance, the PZB filed a written report with the City Council on September 13, 2023, summarizing the testimony and evidence received by the PZB and stating its recommendation, by a vote of 7-0, to approve the Map Amendment and Variations, subject to certain terms and conditions; and

WHEREAS, the Owner made representations to the PZB with respect to Proposed Map Amendment and Major Variations, which representations are hereby found by the City Council to be material and upon which the City Council relies in approving the Map Amendment and Variations; and

WHEREAS, the City Council has considered the written report of the PZB, the applicable standards for map amendments set forth in the Zoning Ordinance, and the Community and Economic Development Staff Memorandum dated September 21, 2023 and has determined that it is in the best interest of the City and the public to approve the Map Amendment and Variations in accordance with the provisions of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Des Plaines, Cook County, Illinois, in the exercise of its home rule powers, as follows:

SECTION 1. RECITALS. The recitals set forth above are incorporated herein by reference and made a part hereof, the same constituting the factual basis for the approval of the Requested Relief.

SECTION 2. LEGAL DESCRIPTION OF SUBJECT PROPERTY The Subject Property is legally described as:

SITUATED IN LOT 11 AND 12 IN BLOCK 2 IN WHITE'S RIVERVIEW ADDITION, A SUBDIVISION OF THE NORTHWEST QUARTER (1/4) OF THE NORTHWEST QUARTER (1/4) OF SECTION 28, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. SUBJECT TO ALL EASEMENTS, COVENANTS, CONDITIONS, RESERVATIONS, LEASES AND RESTRICTIONS OF RECORD, ALL LEGAL HIGHWAYS, ALL RIGHTS OF WAY, ALL ZONING, BUILDING AND OTHER LAWS, ORDINANCES AND REGULATIONS, ALL RIGHTS OF TENANTS IN POSSESSION, AND ALL REAL ESTATE TAXES AND ASSESSMENTS NOT YET DUE AND PAYABLE. BEING THE SAME PROPERTY CONVEYED BY DEED

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RECORDED IN DOCUMENT NO. 87597382 OF THE COOK COUNTY, ILLINOIS RECORDS.

PINs: 09-28-101-085-0000

Commonly known as 1625 Linden Street, Des Plaines, Illinois.

SECTION 3. APPROVAL OF MAP AMENDMENT. Pursuant to Section 12-3-7 of the Zoning Ordinance, the City Council has considered the factors relevant to the approval of map amendments and has determined that the procedure for the review of map amendments has been satisfied. The Map Amendment to rezone the Subject Property from the R-2 District to the R-3 District is hereby approved.

SECTION 4. VARIATIONS. The City Council finds that the Variations satisfy the standards set forth in Section 12-3-6.H of the Zoning Ordinance and, pursuant to the City's home rule powers, finds that the Variations are otherwise necessary and appropriate. Subject to and contingent upon the conditions, restrictions, limitations, and provisions set forth in Section 5 of this Ordinance, the Variations are hereby approved.

SECTION 5. CONDITIONS. The Variations granted in Section 4 of this Ordinance shall be, and is expressly subject to and contingent upon the conditions, restrictions, and limitations set forth in this Section 5:

A. **Compliance with Law and Regulations.** The development, use, operation, and maintenance of the Variations and the Subject Property by the Petitioner must comply with all applicable City codes and ordinances, as the same have been or may be amended from time to time, except to the extent specifically provided otherwise in this Ordinance.

B. **Compliance with Plans.** The development, use, and maintenance of the Subject Property shall be in substantial compliance with the following plans below, except for minor

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changes and site work approved by the Director of the Department of Community and Economic Development in accordance with applicable City codes, ordinances, and standards:

1. The "Petitioner's Narrative and Response to Standards" consisting of five sheets, prepared by Petitioner, and undated, a copy of which is attached to and, by this reference, made a part of this Ordinance as **Exhibit A**;

2. The "Plat of Survey" consisting of one sheet, prepared by the Jens K. Doe and dated October 16, 1987, a copy of which is attached to and, by this reference, made a part of this Ordinance as **Exhibit B**.

C. Additional Conditions. The development, use, and maintenance of the Subject Property are subject to and contingent upon compliance with the additional conditions as follows:

1. Prior to issuance of rental license, property owner must provide either evidence of previous permits converting the basement unit to meet building code requirements, or pass a City building inspection demonstrating sufficient compliance with applicable International Building Code for a new unit of this type.

SECTION 7. SEVERABILITY. If any paragraph, section, clause or provision of this Ordinance is held invalid, the remainder shall continue in full force and effect without affecting the validity of the remaining portions of the Ordinance.

SECTION 8. EFFECTIVE DATE.

A. This Ordinance shall be in full force and effect only after the occurrence of the following events:

1. its passage and approval by the City Council in the manner provided by law;
2. its publication in pamphlet form in the manner provided by law;

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3. the filing with the City Clerk by the Petitioner, not less than 60 days after the passage and approval of this Ordinance, of an unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance, and demonstrating the Petitioner's consent to its recordation. Said unconditional agreement and consent shall be in substantially the form attached to, and by this reference made a part of, this Ordinance as **Exhibit C**; and

4. at the Petitioner's sole cost and expense, the recordation of this Ordinance together with such exhibits as the City Clerk deems appropriate, with the Office of the Cook County Recorder.

B. In the event that the Petitioner does not file with the City Clerk a fully executed copy of the unconditional agreement and consent referenced in Section 8.A.3 of this Ordinance, within 60 days after the date of passage of this Ordinance by the City Council, the City Council shall have the right, in its sole discretion, to declare this Ordinance null and void and of no force or effect.

SECTION 9: SEVERABILITY. If any paragraph, section, clause or provision of this Ordinance is held invalid, the remainder shall continue in full force and effect without affecting the validity of the remaining portions of the Ordinance.

[SIGNATURE PAGE FOLLOWS]

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PASSED this 2nd day of October, 2023.

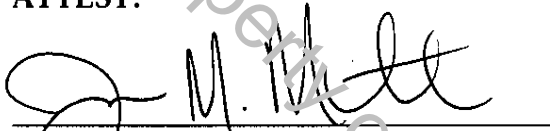
APPROVED this 2nd day of October, 2023.

VOTE: AYES 7 NAYS 0 ABSENT 1

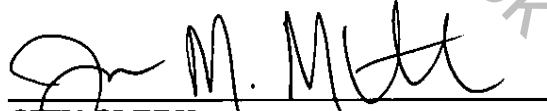


MAYOR


ATTEST:


CITY CLERK

Published in pamphlet form this
3rd day of October, 2023.


CITY CLERK

Approved as to form:


Peter M. Friedman, General Counsel

DP-Ordinance Approving Map Amendment from R-2 to R-3 and Major Variations for Minimum Lot Area and Off-Street Parking Requirement

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CITY OF DES PLAINES

ORDINANCE Z-29-23

AN ORDINANCE APPROVING A ZONING MAP AMENDMENT AND MAJOR
VARIATIONS FOR 1625 LINDEN STREET, DES PLAINES, ILLINOIS

ADOPTED ON OCTOBER 2, 2023
BY THE CITY COUNCIL
OF THE
CITY OF DES PLAINES

Published in pamphlet form by authority of the City Council of the City of Des Plaines,
Cook County, Illinois, on this 3rd day of October, 2023

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STATE OF ILLINOIS)

) SS.

COUNTY OF COOK)

CERTIFICATE

I, Jessica M. Mastalski, certify that I am the duly elected and acting Municipal Clerk of the City of Des Plaines, Cook County, Illinois.

I further certify that on October 3, 2023, the Corporate Authorities of such municipality passed and approved Ordinance Z-29-23, AN ORDINANCE APPROVING A ZONING MAP AMENDMENT AND MAJOR VARIATIONS FOR 1625 LINDEN STREET, DES PLAINES, ILLINOIS provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance Z-29-23 was posted in the municipal building commencing on October 3, 2023 and continuing for at least 10 days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Municipal Clerk.

DATED at Des Plaines, Illinois, this 3rd day of October, 2023.

(SEAL)

Jessica M. Mastalski

Jessica M. Mastalski, City Clerk

By:

Laura Fast

Laura Fast, Deputy Clerk

*Per the provisions of 65 ILCS 5/3.1-20-5
Of the Illinois Compiled Statutes (2006)

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ATTACHMENT ONE TO DEVELOPMENT APPLICATION FOR 1625 LINDEN AVENUE, DES PLAINES, ILLINOIS

The applicant is requesting the following:

1. Zoning Map Amendment to R-3, Multiple Family to allow for use of the Property as “multiple-family” dwelling in accordance with zoning definitions (Section 12-13-3).
2. Major Variation to the minimum lot area requirement as the Property is approximately 6200 square feet (Refer to Section 12-7-2.J).
3. Major Variation for Parking: Section 12-9-7 as there are currently 3 spaces off-street and 3 spaces on the property.

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Description of Request/Parking Statement

The subject Property consists of three separate dwelling units within a two flat style building with a garden apartment. The applicant is requesting the following:

1. Zoning Map Amendment to R-3, Multiple Family. This zoning allows for "Dwellings, multiple-family". (Section 12-13-3). The subject building consists of three separate dwelling units within a two flat, garden apartment style building.
2. Major Variation to the minimum lot area requirement: R-3 zoning requires lots to be a minimum of 2800 sq ft per dwelling unit (Refer to Section 12-7-2.J). For a three flat, the minimum size of the lot would need to be 8400 sq ft. The subject Property is approximately 6200 sq ft.
3. Major Variation for Parking: Section 12-9-7 requires 2 spaces per dwelling unit for multiple-family dwellings. The Property consists of three spaces in the back (including a garage) and three spaces in front, with a vast amount of spaces available on both Linden Street and Oakton Street.

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STANDARDS FOR MAP AMENDMENTS

1. **Whether the proposed amendment is consistent with the goals, objectives, and policies of the comprehensive plan, as adopted and amended from time to time by the city council.**

Response: The Property was constructed in the 1960s at the same time with the neighboring properties located at 1633 and 1641 Linden which all consist of garden, first floor and second floor separate dwellings. The proposed amendment is merely to permit the legal use of the Property for two or more families and in no way affects the original zoning plan that was put in place more than sixty years ago.

2. **Whether the proposed amendment is compatible with current conditions and the overall character of existing development in the immediate vicinity of the subject property**

Response: As stated above, all 3 buildings consist of three separate dwelling units. The buildings located at 1633 and 1641 are currently occupied by more than two families. All local utilities, gas, electric and refuse service bill all three buildings as 3 separate dwellings. The US Post office has 3 separate unit numbers for each building.

3. **Whether the proposed amendment is appropriate considering the adequacy of public facilities and services available to this subject property**

Response: The public facilities and services not only consider the building as 3 separate units but have done so for over 60 years.

4. **Whether the proposed amendment will have an adverse effect on the value of properties throughout the jurisdiction**

Response: The proposed amendment will actually have an extremely favorable effect on the value of all properties in the neighborhood as values would increase by 50-75% of current market value.

5. **Whether the proposed amendment reflects responsible standards for development and growth**

Response: The proposed amendment has no effect on the development of the area which has been well established for more than 60 years.

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STANDARDS FOR VARIATIONS

1. **Hardship:** No variation shall be granted pursuant to this subsection H unless the applicant shall establish that carrying out the strict letter of the provisions of this title would create a particular hardship or a practical difficulty.

Response: The subject property and neighboring properties located at 1633 and 1641 have been used as multi family dwellings for more than 60 years. Parking has never been an issue as there is space behind the property for 3 cars and Linden Avenue as well as Oakton Street have sufficient available parking for the entire neighborhood to utilize.

2. **Unique Physical Condition:** The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

Response: The requested variance merely conforms the Property to its original constructed use as a three unit dwelling.

3. **Not Self-Created:** The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this title.

Response: The Property was constructed over 60 years ago and there have not been any actions/inaction of any owners of record

4. **Denied Substantial Rights:** The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.

Response: The Property is a 3-unit dwelling and denial would allow legal use of the same

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5. **Not Merely Special Privilege:** The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot.

Response: The neighboring properties would all benefit from the requested variations

6. **Title And Plan Purposes:** The variation would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this title and the provision from which a variation is sought were enacted or the general purpose and intent of the comprehensive plan.

Response: The property and the neighboring properties all enjoy use as three unit buildings.

7. **No Other Remedy:** There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.

Response: As the Property was originally constructed in this manner, applicant has no other remedies but to request the variations.

8. **Minimum Required:** The requested variation is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of this title.

Response: There are no other remedies available.

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ARCHITECTURAL - INDUSTRIAL - LOTS - FARMS - SUBDIVISIONS - MORTGAGE - CONDOMINIUMS

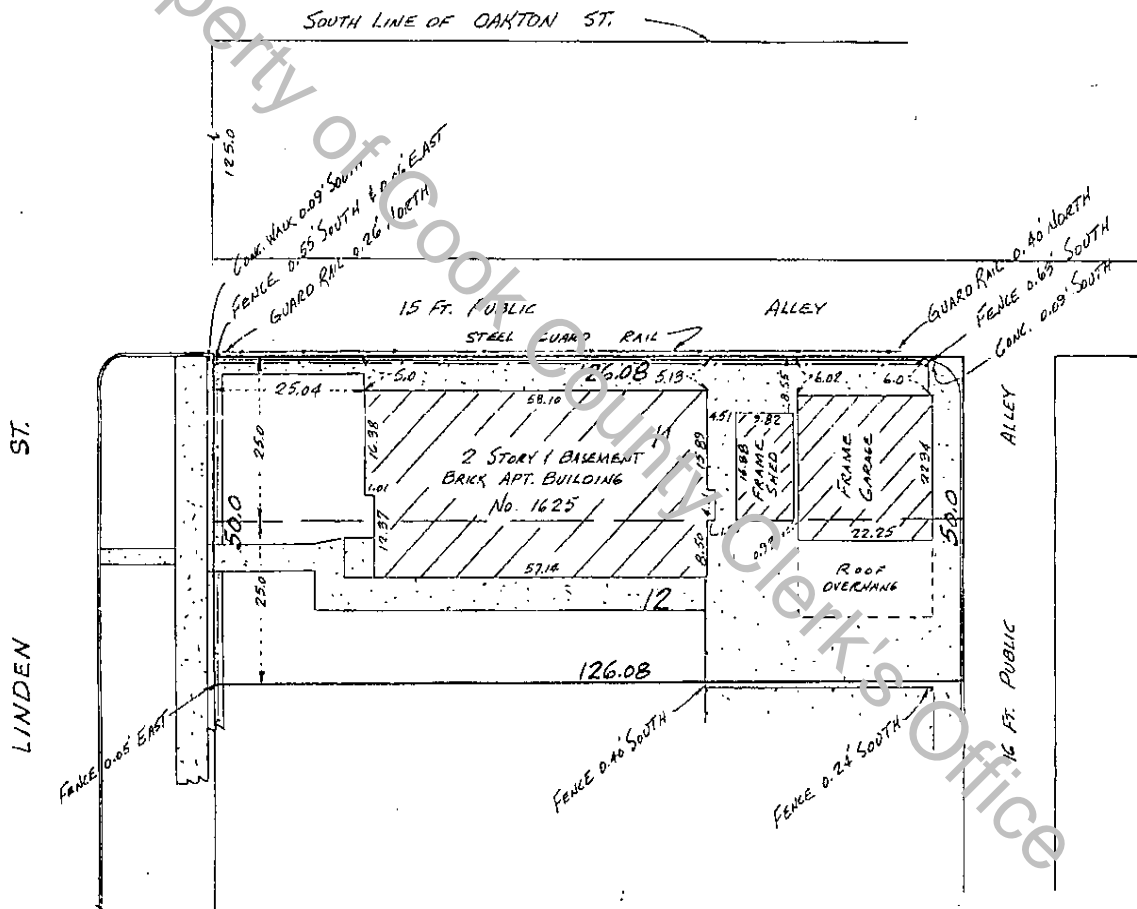
North Harlem Avenue
Chicago, Illinois 60648Phone: 7754
7754

Scale - 1 inch = 20 Feet

*Jens K. Doe*SURVEY SERVICE, INC.
Registered Land Surveyors

ORDER NO.

872369

PLAT OF SURVEY
ofLOTS 11 AND 12 IN BLOCK 2 IN WHITE'S RIVERVIEW ADDITION, A
SUBDIVISION OF THE NORTH WEST QUARTER OF THE NORTH WEST QUARTER OF
SECTION 28, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL
MERIDIAN, IN COOK COUNTY, ILLINOISState of Illinois }
County of Cook } ssJENS K. DOE SURVEY SERVICE, INC. does hereby certify that a survey has been made under
its direction, by a Registered Illinois Land Surveyor of the property described hereon and that the
plat hereon drawn is a correct representation of said survey.**NOTE**

Dimensions are not to be assumed or scaled.

Legal Description noted on this plat is a copy of
order and for accuracy MUST be compared
Deed. For building restrictions refer to your
set, Deed or Contract.Chicago, Illinois Dated 16TH day of OCTOBER, 19 87

JENS K. DOE SURVEY SERVICE, INC.

THOMAS J. POPKE, President

(Illinois Registered Land Surveyor No. 1575)



Exhibit B

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EXHIBIT C

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The City of Des Plaines, Illinois ("**City**");

WHEREAS, Valerie Walski-Garza ("**Petitioner**") is the owner of the property commonly known as 1625 Linden St, Des Plaines, Illinois ("**Subject Property**"); and

WHEREAS, the Petitioner submitted an application to the City of Des Plaines Department of Community and Economic Development ("**Department**") for a map amendment and major variations from (i) Section 12-7-2.J to reduce the minimum lot area from 8,400 square feet to 6,304 square feet; and (ii) Section 12-9-7 of the Zoning Ordinance to reduce the required off-street parking from six (6) spaces to three (3) spaces (collectively, the "**Requested Relief**"); and

WHEREAS, Ordinance No. Z-29-23 adopted by the City Council of the City of Des Plaines on 10/2, 2023 ("**Ordinance**"), grants approval of the Requested Relief, subject to certain conditions; and

WHEREAS, the Petitioner desires to evidence to the City his unconditional agreement and consent to accept and abide by each of the terms, conditions, and limitations set forth in said Ordinance, and its consent to recording the Ordinance and this Unconditional Agreement and Consent against the Subject Property;

NOW, THEREFORE, the Petitioner does hereby agree and covenant as follows:

1. Petitioner hereby unconditionally agrees to accept, consent to and abide by all of the terms, conditions, restrictions, and provisions of that certain Ordinance No. Z-29-23, adopted by the City Council on 10/2, 2023.
2. Petitioner acknowledges and agrees that the City is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the City's review and approval of any plans for the Subject Property, or the issuance of any permits for the use and development of the Subject Property, and that the City's review and approval of any such plans and issuance of any such permits does not, and shall not, in any way, be deemed to insure Petitioner against damage or injury of any kind and at any time.
3. Petitioner acknowledges that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any such revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the procedures required by Section 12-4-7 of the City's Zoning Ordinance are followed.

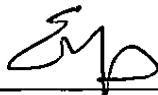
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4. Petitioner agrees to and does hereby hold harmless and indemnify the City, the City's corporate authorities, and all City elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with (a) the City's review and approval of any plans and issuance of any permits, (b) the procedures followed in connection with the adoption of the Ordinance, (c) the development, construction, maintenance, and use of the Subject Property, and (d) the performance by Petitioner of its obligations under this Unconditional Agreement and Consent.
5. Petitioner hereby agrees to pay all expenses incurred by the City in defending itself with regard to any and all of the claims mentioned in this Unconditional Agreement and Consent. These expenses shall include all out-of-pocket expenses, such as attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employees of the City.

ATTEST:

VALERIE WALSKI-GARZA

By: _____


(E. YEP)

By: _____

