

RESPONSE TO NOTICE OF APPEAL OF THE MAJOR SITE PLAN REVIEW APPROVAL OF WARREN COMMONS

Warren A.M.E. Church Housing Opportunities, TASC of Northwest Ohio, Inc., and Community Housing Network, Inc. (the “Applicants”) submit this response to the Notice of Appeal (the “Appeal”) of the approval by the Toledo-Lucas County Plan Commissions of the major site plan review for Warren Commons, SPR-33-21. The Appeal, which was filed by the Women of the Old West End, Inc. (“WOWE”), alleges that WOWE is a party that is aggrieved by the approval of the site plan. As the Applicants explain below, none of the five bases stated in the Appeal are meritorious. The Appeal should be overruled and the site plan approval should be confirmed.

Background

On August 12, 2021, the Toledo City Plan Commission approved the major site plan for Warren Commons (the “Project”). The approval included certain conditions that are acceptable to the Applicants.

The Project is a proposed permanent supportive housing development to be located on the eastern end of the site of the former Warren School. The site is owned by Warren A.M.E. Church Housing Opportunities, an Ohio nonprofit corporation. TASC of Northwest Ohio, Inc. and Community Housing Network, Inc. are the co-developers of the Project. The Project will be managed by National Church Residences. Funding for the construction of the Project comes primarily from Low Income Housing Tax Credits awarded to the developers for the Project by the Ohio Housing Finance Agency (“OHFA”).

The Project will include 46 one-bedroom apartments. The need for the Project is stark. As of January 2020, there were at least 363 homeless adults without children living on the streets of our community. Following the nationally-accepted and evidence-based model of Housing First, the Project will provide safe, secure, and permanent housing for 46 of our neighbors who are now homeless. It also will provide on-site case management services to assist the residents in remaining housed and in improving their quality of life.

The Project is supported by, among others, the Toledo Lucas County Homelessness Board, the Mental Health and Recovery Services Board of Lucas County, the Warren-Sherman Area Council, Advocates for Basic Equality, Northwest Ohio Building & Construction Trades Council and its Affiliate Unions, and the Fair Housing Center. The Lucas Metropolitan Housing Authority is supporting the Project by providing rental subsidy housing vouchers for eligible residents.

The Appeal Should Be Overruled

WOWE has asserted five bases in support of the Appeal. None have any merit. The Appeal should be overruled and the major site plan approval should be confirmed.

1. WOVE complains that it did not have an opportunity to submit a written rebuttal to a report summarizing the neighborhood meeting required by the Plan Commission under the Toledo Municipal Code ("TMC"). WOVE's complaint is misguided.

Section 1111.0201 of the TMC provides that the Chair of the Plan Commission may require the applicants for a site plan approval to notify certain persons of both the proposed project and the convening of a neighborhood meeting by the applicants. In this case, the Applicants held the neighborhood meeting required by the Plan Commission and properly notified the persons required to be notified. Accordingly, because it cannot, WOVE does not complain about the notice provided by the Applicants or about the neighborhood meeting convened by the Applicants (held at Ebenezer Missionary Baptist Church, on the corner of Woodruff and Ashland, one block from the Project site). In addition, a representative of the Applicants attended the Old West End general meeting on July 20 to discuss the Project and answer questions, and several WOVE members were in the audience.

Instead, WOVE complains that because the Applicants did not submit a written report to the Plan Commission summarizing the neighborhood meeting, WOVE was denied an opportunity to rebut the summary report. WOVE's argument overreaches in two ways.

First, although the TMC provides that an applicant for a major site plan approval is to submit a report summarizing the neighborhood meeting, the failure to do so does not require deferral or denial of the application ("The applicant's failure to submit the report **may** be grounds for deferral of the matter by the Plan Commission." TMC 1111.0204 (A)). The Plan Commission plainly has discretion concerning the summary report. Moreover, the planner assigned to the Project from the Plan Commission was in the audience at the public meeting and received a copy of the presentation. He was able to observe all of the presentation and the questions from the public.

Second, and fatally for WOVE's argument, there is no provision in the TMC establishing a right for an opponent of an application to rebut the neighborhood meeting report. Instead, Section 1111.0204(B) provides that "Persons required to be notified in attendance at the neighborhood meeting may also submit their own report ... to the Planning Director." In other words, WOVE was free to submit its own report, and chose not to do so. There is nothing in the TMC that provides anyone, including WOVE, with a right to rebut an applicant's report about the neighborhood meeting. WOVE's assertion that the site plan approval should be reversed because it was denied "an obligatory chance to make written rebuttal comments" is wrong and should be rejected.

2. Next WOVE asserts that the site plan approval for the Project should be reversed because the proposed use for the Project requires a Special Use Permit. Once again, WOVE is stretching the facts to fit its argument. The Plan Commission correctly determined that the Project is a multi-family dwelling that matches the RM34 multi-family residential zoning for the site. In addition, the apartments in the Project are private housing units unlike a treatment center or group home. Each of the Project's apartments will have a private kitchen, bathroom, living room and bedroom.

The Plan Commission staff specifically addressed and rejected the argument that WOVE is now making. It determined that the Project is “not a shelter, group or transitional home, or substance treatment center.” Plan Commission Report p. 10-3. Confronted with this clear finding, WOVE tries to create a new category for the Project – “a unique form of housing” – that requires a Special Use Permit because it allegedly incorporates some elements of the types of housing that WOVE thinks should require a Special Use Permit. WOVE’s efforts are unavailing.

WOVE asserts that the on-site provision of unidentified social services at the Project “comprises a special use.” The only support for this argument is a lengthy quotation from a general overview section of the Applicants’ application to OHFA for tax credit financing. WOVE conveniently fails to include in the Appeal any reference to the Supportive Services Plan that also was included in the OHFA application. The Supportive Services Plan addresses, among other things, what services will be made available to Project residents and, significantly, **where** those services will be provided. By including the quotation from the OHFA application that lists the supportive services that will be provided, and ignoring the more specific Supportive Services Plan, WOVE is misleading Council into thinking that all of the supportive services will be provided on-site. That is not the case. All of the supportive services WOVE emphasizes as requiring a Special Use Permit will be provided **off-site**, primarily at the TASC headquarters.

Specifically, only case management services will be provided at the Project. Case management may include counseling, referrals, financial literacy education, and transportation. Other supportive services, such as medical and clinical services like medication management, alcohol or drug treatment, and psychiatric or psychological sessions, will occur **off-site**, not at the Project. WOVE’s evidence-free insinuation that all supportive services will occur on-site is disingenuous and misleading. Since the Project matches the multifamily zoning designation for the site and since only basic case management services will be provided on-site, the Plan Commission correctly determined that no Special Use Permit is required for the Project.

3. WOVE’s third asserted basis for the Appeal continues to stretch both the facts and common sense. WOVE states that the 1996 Warren Sherman Area Council Strategic Plan (the “Strategic Plan”) designates the Project site as “institutional” and it argues that since the Project is not “institutional” the site plan approval should be rejected. That argument is fundamentally flawed for two reasons.

First, according to the Strategic Plan (at p. 63), the Warren School, which had been closed in 1980, was reopened to students in 1995. Given that development, the Strategic Plan would of course designate the site of the school as institutional. As Council is aware, however, the school subsequently was closed in 2006 and was demolished soon after its closure. The Project site has remained empty of any structures since the school was demolished. Without the school present the site is no longer institutional and the Strategic Plan designation of the site as institutional is meaningless. It is nonsensical to argue that because the site was once designated as institutional because a school was located there means that forever after the only permitted use of the site is institutional.

Second, WOVE fails to note in the Appeal that the Strategic Plan (at p. 28) called for the development of a tax credit housing project for low income neighborhood residents. The Project is consistent with that goal of the Strategic Plan.

4. WOVE next complains that the Project does not conform to the use for the site contemplated in the 20/20 Plan. WOVE's argument ignores the reality of the recent history of the site and the degree to which the Project supports the goals of the 20/20 Plan.

At the time the 20/20 Plan was developed, the Warren School still sat at the western edge of the site. As is true with most schools, the school's footprint included a significant amount of green space. In addition, the Inez Nash pocket park (owned by the City) occupied the northeast corner of the site. Not surprisingly, the 20/20 Plan noted that the site contained park and open green space. WOVE fails to note the presence of the school and the park when the 20/20 Plan was promulgated.

Once the school was demolished, the site was entirely unoccupied except for the Inez Nash Park. When Warren A.M.E. Church Housing Opportunities purchased the site from the City in October 2017, it paid the City a \$32,000 impact fee that was designed to permit the City to move the equipment located in the Inez Nash Park to a new location. As Council is undoubtedly aware, an expanded and enhanced Inez Nash Park is now located three blocks from the site, on Bancroft between Franklin and 14th Street. Accordingly, the proposed development of the Project actually increased access to recreational activities in the neighborhood.

WOVE asserts in the Appeal that the site has been "continuously used for athletic activities and other gatherings." Because that assertion is untrue, WOVE cites no evidence to support it. Since the school was demolished the site has lain fallow and unused for any organized activities, but the Applicants believe that the site has sometimes been the location for a variety of illegal activities. WOVE's attempt to make the site appear to be a thriving and properly used park is unavailing.


5. Finally, WOVE argues that Warren A.M.E. Church Housing Opportunities failed to meet the deadline established in Ordinance 520-15 for the transfer of the site from the City to Warren A.M.E. Church Housing Opportunities. That is not accurate.

The Ordinance provided that the transfer should occur no later than October 26, 2017, two years after enactment of the Ordinance. On October 26, 2017 the City of Toledo, through its Department of Law, delivered to Louisville Title Agency, as escrow agent, an executed Quit Claim Deed conveying the Real Property to Warren A.M.E. Church Housing Opportunities, and an executed utility easement in favor of the City, both to be held in escrow pending satisfaction of certain escrow conditions that were stated in the transmittal letter from the City Department of Law. The escrow conditions included a requirement that the escrow conditions be satisfied by December 28, 2017, and all escrow conditions were fully satisfied by December 28, 2017. WOVE's hyper-technical reading of the requirements of the Ordinance is not consistent with the intent of Council in enacting the Ordinance, and it is not a justifiable basis for reversing the site plan approval for the Project.

Thank you for your consideration of this response. As WOVE does in the Appeal, the Applicants reserve the right to address additional reasons supporting confirmation of the site plan approval and the right to rebut any additional arguments subsequently made by WOVE.

Respectfully submitted,

Warren A.M.E. Church Housing Opportunities


Reverend Otis Gordon, Pastor
Warren AME Church

TASC of Northwest Ohio, Inc.


Johnetta McCollough
Executive Director

Community Housing Network, Inc.


Ryan Cassell
Chief of Real Estate Development