

**COMPLETE CASE FILE
ZONING BOARD OF APPEALS**

**APPEAL OF THE DECISION OF THE
HISTORIC CONSERVATION BOARD
DATED JUNE 28, 2012
APPROVING THE ISSUANCE OF THE
CERTIFICATE OF APPROPRIATENESS
FOR 300 LYTLE STREET
IN THE LYTLE PARK HISTORIC DISTRICT**

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C. FRANCIS BARRETT
PATRICK WEBER
NET L. BELL

BARRETT & WEBER
A LEGAL PROFESSIONAL ASSOCIATION

500 FOURTH & WALNUT CENTRE
105 EAST FOURTH STREET
CINCINNATI, OHIO 45202-4015

TELEPHONE (513) 721-2120
FACSIMILE (513) 721-2139

July 23, 2012

Majed A. Dabdoub, P.E.
Secretary, Zoning Board of Appeals
City of Cincinnati
Business Development and Permit Center
3300 Central Parkway
Cincinnati, Ohio 45225

RECEIVED
ZONING BOARD OF APPEALS
DATE 7-23-12

Re: 300 Lytle Street / Historic Conservation Board
Decision dated June 28, 2012

Dear Mr. Dabdoub:

Enclosed are the following documents which we are submitting on behalf of our client, Western & Southern Life Insurance Company, the owner of the abutting/adjacent property at 311 Pike Street, to appeal the decision of the Historic Conservation Board dated June 28, 2012 concerning the issuance of the Certificate of Appropriateness for the subject property located at 300 Lytle Street:

1. Notice of Appeal;
2. Application for Appeal to the Zoning Board of Appeals;
3. The letter addressed to the members of the Zoning Board of Appeals constituting the "justification for appeal"; and
4. Check in the amount of \$750.00 payable to the City of Cincinnati for the filing fee.

Within twenty-one (21) days of this submission, we will be filing with your office eight (8) copies of the complete case file in bound form, indexed and all pages numbered.

If you have any questions, or if any additional information is required, please do not hesitate to contact the undersigned. Please notify the undersigned of the date and time of the hearing to be conducted by the Zoning Board of Appeals as soon as it has been scheduled.

BARRETT & WEBER

A LEGAL PROFESSIONAL ASSOCIATION

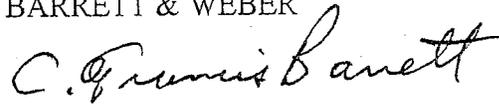
July 23, 2012

Page 2

Thank you for your attention to this matter.

Sincerely,

BARRETT & WEBER



C. Francis Barrett

Attorney for Western & Southern Life Insurance Company

Enclosures

cc: Western & Southern Life Insurance Company

ZONING BOARD OF APPEALS
CITY OF CINCINNATI

RECEIVED
ZONING BOARD OF APPEALS
DATE 7-23-12

IN RE: 300 LYTLE STREET :
CINCINNATI, OHIO 45202 : NOTICE OF APPEAL

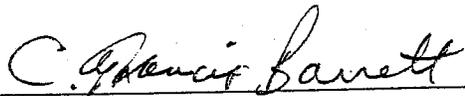
Western & Southern Life Insurance Company, by and through counsel, hereby gives notice of its appeal to the Zoning Board of Appeals of the City of Cincinnati from the decision of the Historic Conservation Board dated June 28, 2012, a copy of which is attached hereto as Exhibit "A" and incorporated herein. This decision approved the Certificate of Appropriateness for the building known as the Anna Louise Inn located at 300 Lytle Street.

This decision is appealed to the Zoning Board of Appeals pursuant to the following sections of Chapter 1411, Downtown Development Districts; Chapter 1435, Historic Landmarks and Districts; Chapter 1447, Nonconforming Uses and Structures; and Chapter 1449, Zoning Appeals, of the Zoning Code of the City of Cincinnati:

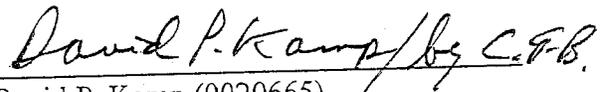
1. Section 1411-03(b), Subdistrict B-Downtown Residential;
2. Section 1435-01-E, Environmental Change;
3. Section 1435-13, Regulation of Alterations, Demolitions and Environmental Changes;
4. Section 1435-15, Approval of Certificates of Appropriateness;
5. Section 1447-09, Expansion of Nonconforming Use, paragraph (a);
6. Section 1449-03, Person Affected, paragraphs (b) and (c);
7. Section 1449-09, Appeals to the Zoning Board of Appeals, paragraph (b);
8. Section 1449-11, Time Limit for Appeals; and

9. Section 1449-15, Procedures for Appeals from Decisions of the Zoning Hearing Examiner or Historic Conservation Board.

Western & Southern Life Insurance Company submits that the decision of the Historic Conservation Board is contrary to the provisions and requirements of the Zoning Code of the City of Cincinnati and is therefore unreasonable, arbitrary, illegal, improper, invalid, and an abuse of discretion. The decision is contrary to law and fact and therefore must be reversed and set aside.



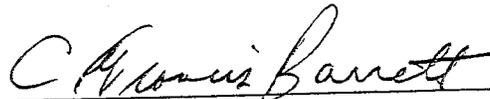
C. Francis Barrett (0022371)
Attorney for Appellant
Western & Southern Life Insurance Company
Barrett & Weber
105 East Fourth Street, Suite 500
Cincinnati, Ohio 45202
(513) 721-2120
(513) 721-2139 - facsimile
cfbarrett@barrettweber.com



David P. Kamp (0020665)
Attorney for Appellant
Western & Southern Life Insurance Company
White Getgey & Meyer Co., LPA
One West Fourth Street, Suite 1700
Cincinnati, Ohio 45202
(513) 241-3685
(513) 241-2399 - facsimile
dkamp@wgmlpa.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Appeal was served by first class United States Mail on this 23rd day of July, 2012 upon Andrea E. Yang (0082256), Assistant City Solicitor and attorney for the Historic Conservation Board of the City of Cincinnati, c/o City Solicitor's Office, Room 214 City Hall, 801 Plum Street, Cincinnati, Ohio 45202, and upon Timothy M. Burke (0009189), attorney for Cincinnati Union Bethel, c/o Manley Burke LPA, 225 West Court Street, Cincinnati, Ohio 45202.



C. Francis Barrett (0022371)
Attorney for Appellant
Western & Southern Life Insurance Company

**DECISION
HISTORIC CONSERVATION BOARD
CITY OF CINCINNATI
DATE OF DECISION: JUNE 28, 2012**

APPLICANT: CINCINNATI UNION BETHEL

OWNER: CINCINNATI UNION BETHEL

CASE TYPE: CERTIFICATE OF APPROPRIATENESS

PROPERTY: 300 LYTLE STREET

SUMMARY OF REQUEST:

Applicant requests a certificate of appropriateness to renovate its building and construct a fifth floor addition to the building.

SUMMARY OF DECISION:

The Board confirmed its approval of Applicant's original request for a certificate of appropriateness submitted June 15, 2011 to permit Applicant to renovate its building and construct a fifth floor addition to the building is approved subject to the conditions listed below. The Board further determined that the conditions imposed on approval of the certificate of appropriateness have been satisfied by the documents accompanying Applicant's May 25, 2012 letter.

PUBLIC HEARING:

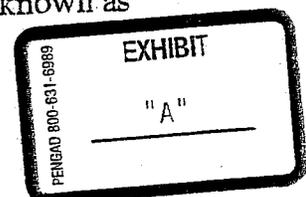
After reviewing the testimony and documents submitted by Applicant and other concerned persons, and considering the report and recommendations of the Urban Conservator, the Board conducted a public hearing on Applicant's request, prior notice of the time and place of the hearing having been published in *The City Bulletin* and mailed to the Applicant and to all abutting property owners and other interested parties. The hearing was held on June 25, 2012 at 3:00 pm. A majority of the Board's members were present throughout the hearing constituting a quorum pursuant to Section 5 of the Board's Rules of Procedure.

A recording was made of the hearing and is available for review and transcription.

FINDINGS AND DECISIONS OF THE BOARD:

Upon motion duly made and seconded, a majority of the Board made the following findings and rendered the following decision:

1. Applicant Cincinnati Union Bethel, an Ohio non-profit corporation, is the owner of the property located at 300 Lytle Place, Cincinnati, Ohio 45202 commonly known as



the Anna Louise Inn. It wants to renovate its building and construct a fifth floor addition to its building (the "Project"). A summary of the Project is contained in the report prepared by the Urban Conservator and in the materials submitted on behalf of Applicant by its legal counsel, Timothy M. Burke, dated May 25, 2012 ("May 2012 Request").

2. The property is located in the Lytle Park Historic District and is subject to the district's conservation guidelines ("Guidelines"). No alteration, demolition or environmental change may be made to property located within an historic district without first obtaining a certificate of appropriateness pursuant to Cincinnati Municipal Code 1435-13.
3. On or about June 27, 2011, the Board held a hearing on Applicant's application for a certificate of appropriateness dated June 15, 2011 ("Original Application"). According to the transcript of that hearing (Tab 2 of May 2012 Request), the Board voted to approve the issuance of a certificate of appropriateness ("Original COA") with certain conditions.
4. As part of the May 2012 Request, Applicant's counsel requested that the Board place again on its hearing agenda Applicant's request for a certificate of appropriateness for the Project. The reason provided for the request was that a recent decision of the Hamilton County Court of Common Pleas concluded that: (a) the Zoning Code requires a certificate of appropriateness to be issued before a building permit for a project may be issued, but the City had erroneously issued the building permit for the Project prior to the issuance of the Original COA; and (b) the Original COA was deficient in failing to expressly state the conditions of the Board's approval. Applicant's May 2012 Request requested that the Board (i) confirm its approval of the Original COA and clearly articulate the conditions of approval thereof; and (ii) provide a determination as to whether or not the conditions were met by the updated materials submitted with the May 2012 Request (May 2012 Request, Tabs 6 and 7).
5. Section 1435-15 (a) of the Zoning Code provides that the Board has the duty to approve or approve with conditions the application for a certificate of appropriateness when it finds that the application conforms to the conservation guidelines adopted by Council for the relevant historic district.
6. The Urban Conservator's June 25, 2012 report regarding the Applicant's May 2012 Request for relief ("Report") found that the Project as proposed in the Original Application met the conservation guidelines for the Lytle Park Historic District subject to the following conditions ("Conditions"): (i) mechanical systems on the roof be moved further north than the proposed in the Original Application; and (ii) documentary evidence be provided to confirm that the State Historic Preservation Office approves the installation of 1 over 1 double hung windows in the empty window openings in the fifth floor parapet wall rather than 2 over 2 windows. The Report stated that the Board's June 2011 approval of the Original COA was subject to the Conditions. The Report also recommended that the Board confirm its June 2011 approval of the Original COA subject to Applicant's compliance with the Conditions.

III. DECISION

And now, this 28th day of June, 2012, in consideration of the foregoing, the Board hereby:

1. Confirms its approval of the issuance of a certificate of appropriateness to Applicant for the Project per the plans reviewed by the Board at its June 27, 2011 meeting, and as originally granted at the June 27, 2011 meeting, subject to the following conditions:
 - (i) The mechanical systems on the roof be moved further north than the proposed in the Original Application; and
 - (ii) Applicant shall provide documentary evidence to confirm that the State Historic Preservation Office approves the installation of 1/1 double hung windows rather than 2/2 windows.
2. Determines that the documents submitted with Applicant's May 2012 Request meet the conditions listed in Section 1 of this Decision as follows:
 - (i) The updated roof plan submitted as Tab 6 of the May 2012 Request showing the mechanical systems as moved 3'10" northward meets the condition stated in 1 (i) above; and
 - (ii) The correspondence from Mariangela Pfister of the Ohio State Historic Preservation Office (SHPO) submitted as Tab 7 of the May 2012 Request confirms SHPO's approval of the 1 over 1 double hung windows and disapproval of 2 over 2 windows.

The following conditions apply to all relief granted under this decision:

- a. The project shall be constructed in accordance with the plans and specifications stamped FINAL APPROVED PLAN by the Urban Conservator and forwarded to the Business Development and Permit Center.
- b. All building permits necessary for the project shall be obtained within two years from the date of this decision.
- c. The project must meet all applicable codes and regulations of the City of Cincinnati.
- d. If the applicant and/or owner do not meet all of the conditions required by this decision within the timeframes provided, this decision shall have no further

force or effect. If no timeframe is provided for meeting a condition, the condition must be met prior to the time that all building permits issued in connection with the development are closed.

IV. ROLL CALL

The following is a record of the votes cast by members of the Board concerning the foregoing findings and decision:

1. As to confirmation of the approval of the certificate of appropriateness and conditions thereto.

Affirmative:

Mr. Ken Jones
Ms. Bobbie McTurner
Mr. John Senhauser
Ms. Judith Spraul-Schmidt
Mr. Benjamin R. Young

Absent:

Mr. Jay Chatterjee
Mr. Kenneth P. Kreider
Mr. Carolyn Wallace

Negative: None

2. As to the determination that Applicant has met the conditions to the Board's approval of the certificate of appropriateness

Affirmative:

Mr. Ken Jones
Ms. Bobbie McTurner
Mr. John Senhauser
Ms. Judith Spraul-Schmidt
Mr. Benjamin R. Young

Absent:

Mr. Jay Chatterjee
Mr. Kenneth P. Kreider
Mr. Carolyn Wallace

Negative: None

ORDERED THIS 28th day of June, 2012.



Larry Harris
Secretary, Historic Conservation Board

APPEALS:

This decision may be appealed to the Zoning Board of Appeals, pursuant to Chapters 1435 and 1449 of the Zoning Code. Appeals must be filed within thirty days of the date of this decision.

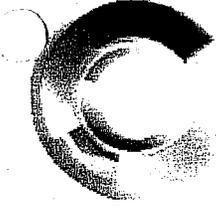
TRANSMITTED this 28 day of June, 2012, by certified mail to:

CINCINNATI UNION BETHEL
300 Lytle Street
Cincinnati, OH 45202

TRANSMITTED this 28 day of June, 2012, by interdepartmental mail to Rodney Ringer and Rick Schriewer at the Permit Center.

ZONING BOARD OF APPEALS

3300 Central Parkway, Cincinnati, Ohio 45225



APPLICATION FOR APPEAL TO THE ZONING BOARD OF APPEALS

RECEIVED

ZONING BOARD OF APPEALS

DATE 7-23-12

FOR OFFICE USE ONLY

File No. _____

Date Filed _____

Date of Decision _____

Appealed _____

Hearing Date _____

ZBA Decision _____

Date of Decision _____

SUBJECT PROPERTY

ADDRESS 300 Lytle Street, Cincinnati, Ohio 45202

BASE ZONING CLASSIFICATION DD-B, Downtown Development, "B" - Downtown Residential

ZONING OVERLAY Lytle Park Historic District

APPELLANT Western & Southern Life Insurance Company TELEPHONE (513) 629-1800

ADDRESS 400 Broadway

CITY Cincinnati STATE Ohio ZIP CODE 45202

EMAIL _____

OWNER Cincinnati Union Bethel TELEPHONE _____

ADDRESS 300 Lytle Street

CITY Cincinnati STATE Ohio ZIP CODE 45202

EMAIL _____

AUTHORITY OF APPEAL - Indicate the appropriate section of 1449-03 that qualifies you to make an appeal 1449-03(b) and (c)

NATURE OF APPEAL - I am appealing a decision/order of the (indicate case #): Historic Conservation Board meeting of June 25, 2012, Item 1

Director of City Planning and Buildings (1449-13) _____

Zoning Hearing Examiner (1449-15) _____

Historic Conservation Board (1449-15) Decision of the Historic Conservation Board dated June 28, 2012

JUSTIFICATION FOR APPEAL - Attach a separate sheet explaining in detail the basis of your appeal. See attached

SUBMISSION REQUIREMENTS

1. The applicant is required by Section 1449-15(b) of the Zoning Code to file within 21 days of filing notice of appeal; a complete record of the proceeding along with a transcript of all testimony.

FEES: Residential - 1, 2, & 3, Family -- \$500 Multi-Family/Commercial -- \$750

2. Eight copies of the complete case file, including this application and a transcript of any public hearing if applicable. **No submittal will be accepted unless these materials are spiral bound or in a notebook, indexed and all pages numbered.**

Signature C. Francis Barrett, Atty. Date July 23, 2012
C. Francis Barrett, Attorney for Appellant

13477

FIFTH THIRD BANK
13-31-420

BARRETT & WEBER
A LEGAL PROFESSIONAL ASSOCIATION
OPERATING ACCOUNT
105 E. 4TH ST., 500 FOURTH & WALNUT CENTRE
CINCINNATI, OH 45202

DATE JULY 23, 2012

\$ 750.00

DOLLARS

PAY TO THE ORDER OF city of Cincinnati
Seven hundred fifty and 00/100

Overdraw to verify amount

FOR _____

⑆013477⑆⑆04200034⑆⑆0072932894⑆⑆

RECEIVED
ZONING BOARD OF APPEALS
DATE 7-23-12

CITY OF CINCINNATI
DEPARTMENT OF BUILDINGS AND INSPECTIONS
DIVISION OF LICENSES AND PERMITS
RECEIPT

R201210482

CONTRACTOR:

Payment By Other (Applicant)

INSURANCE COMPANY

WESTERN & SOUTHERN LIFE

400 BROADWAY
CINCINNATI OH
45202

RE: PROPERTY LOCATED AT: 300 LYTLE ST CINC

PERMIT NUMBER: 2012P05314
TYPE: CBPCMFEE Miscellaneous Fees Rcpt
SUB TYPE: ZBA

NOTATION:

TRANSACTION DATE: July 24, 2012

TOTAL PAYMENT: 750.00

TRANSACTION LIST:

Type	Method	Description	Amount
Payment	Check	13477	750.00

ACCOUNT ITEM LIST:

Item#	Description	Account Code	Tot Fee	Paid rev.	Pmts Cur.	Pmts
1138	Zoning Board of	050-172-2000-8761	750.00	750.00	.00	750.00

ISSUED BY: LSUPER
DATE: July 24, 2012

LRS
8:14 AM

BARRETT & WEBER
A LEGAL PROFESSIONAL ASSOCIATION

C. FRANCIS BARRETT
H. PATRICK WEBER
NET L. BELL

500 FOURTH & WALNUT CENTRE
105 EAST FOURTH STREET
CINCINNATI, OHIO 45202-4015

TELEPHONE (513) 721-2120
FACSIMILE (513) 721-2139

July 23, 2012

Zoning Board of Appeals
City of Cincinnati
3300 Central Parkway
Cincinnati, Ohio 45202

RECEIVED
ZONING BOARD OF APPEALS
DATE 7-23-12

Re: 300 Lytle Street / Historic Conservation Board
Decision dated June 28, 2012

Dear Members of the Zoning Board of Appeals:

This letter constitutes the "justification for appeal" as a part of the "Application for Appeal to the Zoning Board of Appeals" which is hereby submitted by and on behalf of Western & Southern Life Insurance Company, the owner of the abutting/adjacent property at 311 Pike Street, Cincinnati, Ohio 45202.

Western & Southern Life Insurance Company is appealing to the Zoning Board Appeals pursuant to Sections 1449-03 (b) and (c), 1449-09(b), 1449-11, and 1449-15 of the Zoning Code of the City of Cincinnati concerning the decision rendered by the Historic Conservation Board on June 28, 2012. This decision approved a Certificate of Appropriateness for the building known as the Anna Louise Inn at 300 Lytle Street in the Lytle Park Historic District.

Attached hereto as Exhibit "A" is a copy of the decision of the Historic Conservation Board dated June 28, 2012.

Attached hereto as Exhibit "B" is a copy of the "Certificate of Appropriateness" issued by the Historic Conservation Board on June 29, 2012.

Attached hereto as Exhibit "C" is a copy of the letter dated June 25, 2012 to the Historic Conservation Board from the undersigned as attorney for Western & Southern Life Insurance Company, with attachments 1 and 2, respectively, as follows:

- (1) Memorandum of Decision and Order of Judge Norbert A. Nadel of the Hamilton County Court of Common Pleas dated May 4, 2012 in the case of *State of Ohio on Relation of 506 Phelps Holdings LLC, et al., vs. Amit B. Ghosh, P.E., Chief Building Official, City of Cincinnati, et al.*, consolidated Case Nos. A1104189, A1108167, and A1108168;

July 23, 2012

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- (2) Chapter 1447, Non-Conforming Uses and Structures, of the City of Cincinnati Zoning Code.

As stated in Exhibit C, the Hamilton County Court of Common Pleas rendered a decision concerning the uses of the Anna Louise Inn. This decision states that the proposed 85 units of permanent supportive housing are not permitted as of right in the "DD-B" zoning district. Further, that Decision states that the existing Off-the-Streets program is not permitted as of right. (¶¶ 7-15 of the Conclusions of Law of the Decision.) Additionally, the Decision states explicitly in Conclusion of Law ¶ 16 that the Off-the-Streets program presently occupying the Anna Louise Inn is a non-conforming use. In ¶ 19 of the Conclusions of Law, the Court states that the 85 units of permanent supportive housing and the Off-the-Streets program may only be permitted as a conditional use if the Anna Louise Inn is considered as a whole, integrated use. Finally, Conclusion of Law ¶ 21 states that it must be determined whether the Off-the-Streets program, which is an existing use and proposed to be enlarged, may be expanded as a non-conforming use and may be approved as a conditional use.

Moreover, the City of Cincinnati admitted in the Answer it filed in aforesaid Hamilton County Court of Common Pleas Case No. A1104189 that the prior uses of the Anna Louise Inn were non-conforming uses. The City further stated in its Answer that the proposed renovation of the Anna Louise Inn would bring the existing non-conformity into compliance with the Cincinnati Zoning Code, but the Court specifically overruled the City on this point, as referenced in the foregoing paragraph. Specifically, the Western & Southern Plaintiffs stated as follows in their Amended Complaint filed in said Case No. A1104189 in ¶¶ 59 and 60:

59. The original and prior uses of the subject property may have qualified as legal non-conforming uses, but the aforesaid expanded uses, additional uses, and fundamentally changed uses do not qualify as legal non-conforming uses.
60. Any expansion or substitution of a legal non-conforming use requires the prior review and approval by Defendant, Margaret A. Wuerstle, Zoning Hearing Examiner of the City of Cincinnati.

In the Answer of the City Defendants, the City states in corresponding ¶¶ 59 and 60:

59. The City admits that the original and prior uses of the subject property may have qualified as legal non-conforming uses, but denies the truth of the remainder of the allegations contained in Paragraph 59 of the Amended Complaint. The plans for the proposed renovation of the Anna Louise Inn bring any prior or existing non-conformity into compliance with the Cincinnati Zoning Code.

July 23, 2012

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60. The City admits that Plaintiffs-Relators have correctly stated the process by which a legal non-conforming use is expanded or substituted, but denies that any non-conforming uses are being expanded or substituted on the subject property.

Hence, in light of the Court's decision, only the Zoning Hearing Examiner, not the Historic Conservation Board, has jurisdiction to approve the expansion of a non-conforming use. Moreover, although a non-conforming use may be expanded within an existing building, the physical expansion of the existing building containing the non-conforming use is prohibited as detailed below. The application of Cincinnati Union Bethel for a Certificate of Appropriateness involved the expansion of a non-conforming use. The Historic Conservation Board, by issuing a Certificate of Appropriateness, was approving the expansion of a non-conforming use, which it has no jurisdiction to approve.

The application filed by Cincinnati Union Bethel dated May 25, 2012 seeking a Certificate of Appropriateness from the Historic Conservation Board states that Cincinnati Union Bethel will be submitting an application for conditional use approval of the uses proposed to exist in the Anna Louise Inn at a later date, in order to comply with the Court's decision. Nevertheless, at the time the Historic Conservation Board considered this matter on June 25, 2012, rendered its decision on June 28, 2012, and issued the Certificate of Appropriateness on June 29, 2012, the existing uses of the Anna Louise Inn had been determined judicially to be "non-conforming".

As referenced above in Exhibit C and attachment 2 thereof, Chapter 1447, Non-Conforming Uses and Structures, of the City of Cincinnati Zoning Code, regulates the subject property and its current non-conforming status. Section 1447-09, entitled "Expansion of Non-Conforming Use", specifically prohibits the expansion of the existing building pursuant to paragraph (a) of Section 1447-09. The plans and drawings submitted to the Historic Conservation Board with the application for Certificate of Appropriateness show a building expansion in the form of the addition and enlargement of the fifth floor. As paragraph (a) of Section 1447-09 states: "A non-conforming use may be expanded through the entire building, however, expansion of the existing building is prohibited." (Emphasis added.)

By proposing to expand the Anna Louise Inn with a fifth floor addition, and with the Court having determined that the existing use of the Anna Louise Inn is a non-conforming use, it was improper for the Historic Conservation Board to issue a Certificate of Appropriateness allowing the physical expansion of the existing building in which the non-conforming use is located.

Even if the Historic Conservation Board had jurisdiction to approve the expansion of a non-conforming use, the Historic Conservation Board still failed to follow the requirements for

July 23, 2012

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reviewing an application for a Certificate of Appropriateness. Whenever the Historic Conservation Board considers and reviews an application for Certificate of Appropriateness, the Historic Conservation Board must comply with the requirements and provisions of Chapter 1435, Historic Landmarks and Districts, of the Cincinnati Zoning Code. Under the definitions set forth in this chapter, "Environmental Change" is defined in Section 1435-01-E as "A material alteration, removal, construction or addition or private or public improvements to a historic structure or within a Historic Landmark or District, if subject to public view, subject to the provisions of this chapter." (Emphasis added.)

The plans and drawings submitted by Cincinnati Union Bethel to the Historic Conservation Board show the construction and addition of the fifth floor as an environmental change to the historic Anna Louise Inn within the Lytle Park Historic District. Especially, the photographic evidence presented by the architects for Cincinnati Union Bethel shows the superimposition of the fifth floor addition and demonstrates that the fifth floor addition is subject to public view.

Section 1435-13 is entitled "Regulation of Alterations, Demolitions and Environmental Changes". This section states in applicable part: "A person may not make an alteration, demolition or environmental change to a historic structure or within a Historic Landmark or District without first obtaining a Certificate of Appropriateness. The procedure for obtaining a Certificate of Appropriateness is as follows: . . ." (Emphasis added.)

Hence, the fifth floor addition is an environmental change requiring a Certificate of Appropriateness. In determining whether or not the building owner is entitled to a Certificate of Appropriateness, the provisions of Section 1435-15, entitled "Approval of Certificates of Appropriateness", must be examined. This section states in applicable part:

The Historic Conservation Board has the duty to review and act on all certificates of appropriateness in the manner prescribed herein . . . The Board has the duty to approve or approve with conditions the Certificate of Appropriateness when it finds that:

- (a) Conforms to Guidelines. . . .
- (b) No Alternatives. . . .
- (c) Nonprofits. In case the owner is a nonprofit corporation or organization, there is no feasible and prudent alternative alteration or environmental change that would conform to the guidelines; and the strict application of the guidelines would:

July 23, 2012

Page 5

(1) deny the owner the use of the property in a manner compatible with its organizational purposes; and

(2) amount to a taking of the property without just compensation.

Otherwise, the Board has the duty to deny the certificates of appropriateness. (Emphasis added.)

Since there is no provision in the guidelines for the Lytle Park Historic District which authorizes the physical expansion of a non-conforming use, it cannot be concluded that the proposed physical expansion of the Anna Louise Inn involving non-conforming uses complies with or conforms to the guidelines. The decision of the Historic Conservation Board, being void of any justification or basis for the physical expansion of the proposed non-conforming use, was thus rendered contrary to the provisions of Zoning Code Section 1435-15.

There is nothing in the decision of the Historic Conservation Board, in any of the documents submitted to the Historic Conservation Board, or in any of the evidence received by the Historic Conservation Board that would suggest that the denial of the expansion of the fifth floor of the Anna Louise Inn would deny Cincinnati Union Bethel the use of the Anna Louise Inn in a matter compatible with its organizational purposes and amount to a taking of the Anna Louise Inn property. In other words, no justification has been established for the fifth floor expansion. Hence, the Historic Conservation Board had a duty to deny the application for Certificate of Appropriateness.

For all of the foregoing reasons, Western & Southern Life Insurance Company respectfully requests the Zoning Board of Appeals to vacate and reverse the Decision of the Historic Conservation Board dated June 28, 2012, and to vacate and void the Certificate of Appropriateness issued by the Historic Conservation Board on June 29, 2012, pursuant to that Decision.

Respectfully submitted,

BARRETT & WEBER



C. Francis Barrett

Attorney for Western & Southern Life Insurance Company

cc: Western & Southern Life Insurance Company

DECISION
HISTORIC CONSERVATION BOARD
CITY OF CINCINNATI
DATE OF DECISION: JUNE 28, 2012

APPLICANT: CINCINNATI UNION BETHEL

OWNER: CINCINNATI UNION BETHEL

CASE TYPE: CERTIFICATE OF APPROPRIATENESS

PROPERTY: 300 LYTLE STREET

SUMMARY OF REQUEST:

Applicant requests a certificate of appropriateness to renovate its building and construct a fifth floor addition to the building.

SUMMARY OF DECISION:

The Board confirmed its approval of Applicant's original request for a certificate of appropriateness submitted June 15, 2011 to permit Applicant to renovate its building and construct a fifth floor addition to the building is approved subject to the conditions listed below. The Board further determined that the conditions imposed on approval of the certificate of appropriateness have been satisfied by the documents accompanying Applicant's May 25, 2012 letter.

PUBLIC HEARING:

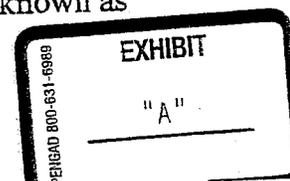
After reviewing the testimony and documents submitted by Applicant and other concerned persons, and considering the report and recommendations of the Urban Conservator, the Board conducted a public hearing on Applicant's request, prior notice of the time and place of the hearing having been published in *The City Bulletin* and mailed to the Applicant and to all abutting property owners and other interested parties. The hearing was held on June 25, 2012 at 3:00 pm. A majority of the Board's members were present throughout the hearing constituting a quorum pursuant to Section 5 of the Board's Rules of Procedure.

A recording was made of the hearing and is available for review and transcription.

FINDINGS AND DECISIONS OF THE BOARD:

Upon motion duly made and seconded, a majority of the Board made the following findings and rendered the following decision:

1. Applicant Cincinnati Union Bethel, an Ohio non-profit corporation, is the owner of the property located at 300 Lytle Place, Cincinnati, Ohio 45202 commonly known as



the Anna Louise Inn. It wants to renovate its building and construct a fifth floor addition to its building (the "Project"). A summary of the Project is contained in the report prepared by the Urban Conservator and in the materials submitted on behalf of Applicant by its legal counsel, Timothy M. Burke, dated May 25, 2012 ("May 2012 Request").

2. The property is located in the Lytle Park Historic District and is subject to the district's conservation guidelines ("Guidelines"). No alteration, demolition or environmental change may be made to property located within an historic district without first obtaining a certificate of appropriateness pursuant to Cincinnati Municipal Code 1435-13.
3. On or about June 27, 2011, the Board held a hearing on Applicant's application for a certificate of appropriateness dated June 15, 2011 ("Original Application"). According to the transcript of that hearing (Tab 2 of May 2012 Request), the Board voted to approve the issuance of a certificate of appropriateness ("Original COA") with certain conditions.
4. As part of the May 2012 Request, Applicant's counsel requested that the Board place again on its hearing agenda Applicant's request for a certificate of appropriateness for the Project. The reason provided for the request was that a recent decision of the Hamilton County Court of Common Pleas concluded that: (a) the Zoning Code requires a certificate of appropriateness to be issued before a building permit for a project may be issued, but the City had erroneously issued the building permit for the Project prior to the issuance of the Original COA; and (b) the Original COA was deficient in failing to expressly state the conditions of the Board's approval. Applicant's May 2012 Request requested that the Board (i) confirm its approval of the Original COA and clearly articulate the conditions of approval thereof; and (ii) provide a determination as to whether or not the conditions were met by the updated materials submitted with the May 2012 Request (May 2012 Request, Tabs 6 and 7).
5. Section 1435-15 (a) of the Zoning Code provides that the Board has the duty to approve or approve with conditions the application for a certificate of appropriateness when it finds that the application conforms to the conservation guidelines adopted by Council for the relevant historic district.
6. The Urban Conservator's June 25, 2012 report regarding the Applicant's May 2012 Request for relief ("Report") found that the Project as proposed in the Original Application met the conservation guidelines for the Lytle Park Historic District subject to the following conditions ("Conditions"): (i) mechanical systems on the roof be moved further north than the proposed in the Original Application; and (ii) documentary evidence be provided to confirm that the State Historic Preservation Office approves the installation of 1 over 1 double hung windows in the empty window openings in the fifth floor parapet wall rather than 2 over 2 windows. The Report stated that the Board's June 2011 approval of the Original COA was subject to the Conditions. The Report also recommended that the Board confirm its June 2011 approval of the Original COA subject to Applicant's compliance with the Conditions.

III. DECISION

And now, this 28th day of June, 2012, in consideration of the foregoing, the Board hereby:

1. Confirms its approval of the issuance of a certificate of appropriateness to Applicant for the Project per the plans reviewed by the Board at its June 27, 2011 meeting, and as originally granted at the June 27, 2011 meeting, subject to the following conditions:
 - (i) The mechanical systems on the roof be moved further north than the proposed in the Original Application; and
 - (ii) Applicant shall provide documentary evidence to confirm that the State Historic Preservation Office approves the installation of 1/1 double hung windows rather than 2/2 windows.
2. Determines that the documents submitted with Applicant's May 2012 Request meet the conditions listed in Section 1 of this Decision as follows:
 - (i) The updated roof plan submitted as Tab 6 of the May 2012 Request showing the mechanical systems as moved 3'10" northward meets the condition stated in 1 (i) above; and
 - (ii) The correspondence from Mariangela Pfister of the Ohio State Historic Preservation Office (SHPO) submitted as Tab 7 of the May 2012 Request confirms SHPO's approval of the 1 over 1 double hung windows and disapproval of 2 over 2 windows.

The following conditions apply to all relief granted under this decision:

- a. The project shall be constructed in accordance with the plans and specifications stamped FINAL APPROVED PLAN by the Urban Conservator and forwarded to the Business Development and Permit Center.
- b. All building permits necessary for the project shall be obtained within two years from the date of this decision.
- c. The project must meet all applicable codes and regulations of the City of Cincinnati.
- d. If the applicant and/or owner do not meet all of the conditions required by this decision within the timeframes provided, this decision shall have no further

force or effect. If no timeframe is provided for meeting a condition, the condition must be met prior to the time that all building permits issued in connection with the development are closed.

IV. ROLL CALL

The following is a record of the votes cast by members of the Board concerning the foregoing findings and decision:

1. As to confirmation of the approval of the certificate of appropriateness and conditions thereto.

Affirmative:

Mr. Ken Jones
Ms. Bobbie McTurner
Mr. John Senhauser
Ms. Judith Spraul-Schmidt
Mr. Benjamin R. Young

Absent:

Mr. Jay Chatterjee
Mr. Kenneth P. Kreider
Mr. Carolyn Wallace

Negative: None

2. As to the determination that Applicant has met the conditions to the Board's approval of the certificate of appropriateness

Affirmative:

Mr. Ken Jones
Ms. Bobbie McTurner
Mr. John Senhauser
Ms. Judith Spraul-Schmidt
Mr. Benjamin R. Young

Absent:

Mr. Jay Chatterjee
Mr. Kenneth P. Kreider
Mr. Carolyn Wallace

Negative: None

ORDERED THIS 28th day of June, 2012.



Larry Harris
Secretary, Historic Conservation Board

APPEALS:

This decision may be appealed to the Zoning Board of Appeals, pursuant to Chapters 1435 and 1449 of the Zoning Code. Appeals must be filed within thirty days of the date of this decision.

TRANSMITTED this 28 day of June, 2012, by certified mail to:

CINCINNATI UNION BETHEL
300 Lytle Street
Cincinnati, OH 45202

TRANSMITTED this 28 day of June, 2012, by interdepartmental mail to Rodney Ringer and Rick Schriewer at the Permit Center.

**FINAL
ACTION**

BUILDING ADDRESS 300 LYTLE STREET CINCINNATI OHIO

PERMIT NO. 2011P03029 (if applicable)

DECISION BY URBAN CONSERVATOR (minor alterations)
 HISTORIC CONSERVATION BOARD
Date of Board Action June 25, 2012
Public Hearing Held Yes No

FINAL ACTION

APPROVE APPROVE WITH CONDITIONS DISAPPROVE

CONDITIONS: 1. Relocate rooftop mech. units to hide from view.
2. Provide State approval for 1/1 windows vs 2/2

[Signature]
URBAN CONSERVATOR

06.29.2012
DATE

HCB
HISTORIC
CONSERVATION
BOARD

**CERTIFICATE OF
APPROPRIATENESS**

FINAL APPROVED PLAN
CASE NO. ZR 2011 P03029

[Signature]
ZONING HEARING EXAMINER URBAN CONSERVATOR
DATE 6/25/2012

PENGAD 800-631-6989
EXHIBIT
"B"

BARRETT & WEBER
A LEGAL PROFESSIONAL ASSOCIATION

C. FRANCIS BARRETT
L. PATRICK WEBER
JANET L. BELL

500 FOURTH & WALNUT CENTRE
105 EAST FOURTH STREET
CINCINNATI, OHIO 45202-4015

TELEPHONE (513) 721-2120
FACSIMILE (513) 721-2139

June 25, 2012

Historic Conservation Board
City of Cincinnati
Centennial Plaza Two, 7th Floor
805 Central Avenue
Cincinnati, Ohio 45202

Re: Cincinnati Union Bethel
Anna Louise Inn
300 Lytle Street
Lytle Park Historic District

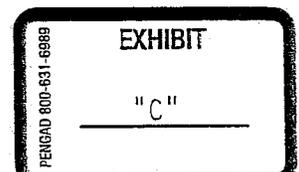
Dear Members of the Historic Conservation Board:

This letter is submitted on behalf of our client, Western & Southern Life Insurance Company, the owner of the abutting/adjacent property at 311 Pike Street.

We note that the pending Application for a "Certificate of Appropriateness" states that this request is before the Historic Conservation Board pursuant to the recent judicial Decision in *State of Ohio on Relation of 506 Phelps Holdings, LLC, et al., v. Amit B. Ghosh, P.E., Chief Building Official, City of Cincinnati, et al.*, Hamilton County Common Pleas Court Case Nos. A1104189, A1108167, and A1108168. Attached at Tab 1 is a copy of that Decision entitled "Memorandum of Decision and Order."

That Decision at Tab 1 states that the proposed 85 units of permanent supportive housing are not permitted as of right. Further, that Decision indicates that the existing Off-the-Streets Program is not permitted as of right. See Conclusions of Law, paragraphs 7-15. Further, the Decision states explicitly in Conclusion of Law paragraph 16 that the Off-the-Streets Program presently occupying the Anna Louise Inn is a nonconforming use. In Conclusion of Law paragraph 19, the Court states that the 85 units of permanent supportive housing and the Off-the-Streets Program may only be permitted as a conditional use if the Anna Louise Inn is considered as a whole, integrated use. Finally, Conclusion of Law paragraph 21 states that it must be determined whether the Off-the-Streets Program, which is an existing use and proposed to be enlarged, may be expanded as a nonconforming use and may be approved as a conditional use.

The pending Application for a Certificate of Appropriateness dated May 25, 2012, states that Cincinnati Union Bethel will be submitting an Application for Conditional Use Approval of



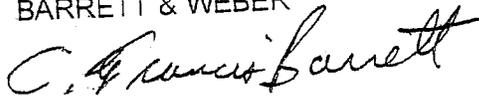
Historic Conservation Board
June 25, 2012
Page 2

the uses proposed to exist in the Anna Louise Inn at a later date, in order to comply with the Court's decision. However, as matters stand now, the existing uses of the Anna Louise Inn have been judicially determined to be "nonconforming." Attached at Tab 2 is a copy of Chapter 1447, Nonconforming Uses and Structures, of the City of Cincinnati Zoning Code. Section 1447-09, entitled Expansion of Nonconforming Use, prohibits the expansion of the existing building pursuant to subparagraph (a).

The pending request for a Certificate of Appropriateness involves a fifth floor addition, which is, admittedly and undeniably, an expansion of the Anna Louise Inn building. Accordingly, based on the recent Court decision and the circumstances now existing, it would not be appropriate to issue a Certificate of Appropriateness for the expansion of the Anna Louise Inn which is presently deemed a nonconforming use by the Court.

Respectfully submitted,

BARRETT & WEBER



C. Francis Barrett,
Attorney for Western & Southern Life Insurance Company

cc: Larry Harris, Urban Conservator & Secretary of the Historic Conservation Board
Carolyn Hardy Kellam, Senior City Planner
Sean S. Suder, Assistant City Solicitor
Timothy M. Burke, Attorney for Cincinnati Union Bethel
Western & Southern Life Insurance Company

COUNTY COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

MAY 04 2012

STATE OF OHIO ON RELATION OF
506 PHELPS HOLDINGS, LLC, et al.,

Plaintiffs-Relators,

Vs.

AMIT B. GHOSH, P.E.,
CHIEF BUILDING OFFICIAL
CITY OF CINCINNATI, et al.,

Defendants-Respondents.

Case No: A1104189
(Case No. A1108167)
(Case No. A1108168)
(Consolidated)

(Judge Norbert A. Nadel)

MEMORANDUM
OF DECISION
AND ORDER

Plaintiffs-Relators, the Western & southern Life Insurance Company and 506 Phelps Holdings, LLC on behalf of themselves and on relation of the State of Ohio in Case No. A1104189 bring this action against the City Defendants and Cincinnati Union Bethel and the related non-profit defendants, Anna Louise Inn.

Western and Southern has also appealed to this Court both Zoning Board of Appeals decisions granting Cincinnati Union Bethel's application for a building permit for the renovation of the Anna Louise Inn. The building permit appeal is Case No. A1108167 and the Historic Conservation Board appeal is Case No. A1108168. All parties agreed to the consolidation of the three cases.

Pursuant to stipulation (a copy of which is attached as Exhibit "A"), the issue to be decided is whether the uses proposed to exist in the renovated Anna Louise Inn are permitted under the Cincinnati Zoning Code.

Before deciding this issue, the Court would like to point out that this case is not only important to the parties, but is also important to this community because of the following:

1. The Anna Louise Inn has and continues to provide many benefits to the less fortunate in our City.
2. Western and Southern also provides many benefits to this City including jobs, economic development, and substantial tax revenue.
3. More than twelve million dollars of taxpayers subsidies are being provided for the renovation of the Anna Louise Inn.
4. However this case cannot be decided by which party does the most good for this Community.

5. Nor will this Court decide whether spending in excess of twelve million dollars to renovate the Anna Louise Inn in an Historic area of Cincinnati is a wise use of taxpayers subsidies.
6. Rather this decision is limited to the interpretation and application of zoning laws and regulations.

After considering the Record, the evidence presented at the hearing, the pleadings, the briefs, and arguments of counsel, the Court finds as follows:

FINDINGS

1. Cincinnati Union Bethel, an Ohio non-profit social service agency that began operation in 1830, has historically provided a wide variety of social services to residents of the Cincinnati area who were in need.
2. To fulfil the need in the early 1900s for suitable housing for young women who came to work in the City of Cincinnati, Mr. and Mrs. Charles P. Taft donated the land located at 300 Lytle Street and the necessary funds to construct suitable and affordable dormitory-style housing for these young women in what was originally a 5-story, 120 unit rooming house named the Anna Louise Inn after Mr. and Mrs. Taft's daughter. Originally and historically, the Anna Louise Inn provided affordable housing for working women who were gainfully employed but had lower paying income positions, typically such as bookkeepers, stenographers, office clerks, sales persons, or telephone operators, with a much smaller percentage holding jobs in nearby factories.
3. In 1994, Cincinnati Union Bethel began to operate its' "Family Living Center" program at the Anna Louise Inn, involving a comprehensive program designed to assist homeless families, and the City of Cincinnati provided the funding to reconstruct a portion of the Anna Louise Inn to house those families. Cincinnati Union Bethel has been informed by the operators of the Family Living Center that they will not be returning to the Anna Louise Inn after it is renovated.
4. In 2006, Cincinnati Union Bethel opened its "Off-the-Streets" program at the Anna Louise Inn, involving housing and social services for recovering prostitutes, including programs to provide comprehensive services..
5. The City Council of Cincinnati adopted Ordinance No. 410-2010 on November 17, 2010 "AUTHORIZING the establishment of one new H.O.M.E. Investment Trust Project Account No. 411x162x0912, "Anna Louise Inn"; and further authorizing the transfer and appropriation of the sum of \$800,000 from H.O.M.E. Investment Trust Project Account No. 411x162x09600, "Homeless to Homes - Transitional Housing 10", to newly created H.O.M.E. Investment Trust Project Account No. 411x162x09012, "Anna Louise Inn"; And further authorizing the transfer and appropriation of the sum of \$1,869,351 from the unappropriated surplus of H.O.M.E. Investment Trust Fund 411 to newly created H.O.M.E. Investment Trust Project No. 411x162x09012, Anna Louise Inn"; and further authorizing the City Manager to enter into and execute an agreement with

Anna Louise Inn, Limited Partnership, for the purpose of funding and implementing the rehabilitation of 85 units of permanent supportive housing in the City of Cincinnati, located at 300 Lytle Street in Lytle Park Historic District of downtown Cincinnati.”

6. Cincinnati Union Bethel submitted an application for a building permit for the renovation of the Anna Louise Inn to the City of Cincinnati on April 28, 2011. This application described the current and proposed uses at the Anna Louise Inn using Ohio Building Code classifications “B” for business use and “R-1/R-2” for residential use.

7. On May 26, 2011, the City of Cincinnati through ones of its Zoning Plan Examiners issued approval of the proposed “R-1/R-2” residential and “B” business uses as complying with the City’s Zoning Code, although the City maintains that final zoning approval is not granted until the building permit is issued.

8. Cincinnati Union Bethel did not apply for the required Certificate of Appropriateness under the Historic District zoning regulation of the City of Cincinnati Zoning Code until June 15, 2011, twenty days after zoning approval had been given.

9. On July 1, 2011 at 12:00 a.m., Defendants Amit B. Ghosh and the City of Cincinnati issued the building permit for the subject property. Thereafter, also on July 1, 2011, the Historic Conservation Office/Historic Conservation Board issued the certificate of appropriateness for the subject property under building permit application No. 2011:P03029.

10. The uses of the Anna Louise Inn are described in the documents prepared by Cincinnati Union Bethel and the City of Cincinnati, which are exhibits in the Administrative Record in Case No. A1108167 or exhibits admitted by the Court at the evidentiary hearing as follows:

A. The Supportive Service Plan with regard to the proposed Permanent Supportive Housing at the Anna Louise Inn, provides:

This Supportive Service Plan will provide a range of services to the tenants of the Anna Louise Inn, which is comprised of 85 affordable housing units, 60 of which will be set aside for permanent supportive housing (PSH). The target population for this project will be single, low-income women who are homeless or at risk of homelessness. (Emphasis added.)

Off-the-Streets (OTS) is a unique and award winning program housed in the first floor of the Anna Louise Inn that will serve as a feeder for the renovated supportive housing that will be housed at ALL. The mission of Off-the-Streets is to provide comprehensive, wrap-around services that will assist women involved in the sex trade move toward safety, recovery, empowerment, and community reintegration.

(Emphasis added.)

B. According to the "Timeline of CUB Events":

1908 – Mr. and Mrs. Charles Taft donate the Land on the corner of Third and Lytle Street to build working girls' home, what will become the Anna Louise Inn, named after their daughter, Anna Louise Taft.

1909 – The Anna Louise Inn opens to serve women from the rural area who need safe and secure housing while working in downtown Cincinnati. It was filled to capacity the first day.

1994 – With support from the City of Cincinnati, the second floor of the Anna Louise Inn is renovated to provide shelter for the homeless families. Today it is operated in partnership with Mercy Franciscan. (Emphasis added.)

2005 – The Off-the-Streets (OTS) Collaborative selected CUB to serve as the lead agency for the OTS program serving prostituted women.

C. "Homeless to Homes / Putting an End to Homelessness"

A comprehensive plan for the City of Cincinnati and Hamilton County, Ohio, to ensure single homeless individuals who have access to appropriate shelter facilities and comprehensive services which facilitate their movement from shelter to permanent housing. (Emphasis added.)

Permanent Supported Housing is defined as service-enriched housing where the population of the dwellings must be certified as homeless prior to residing in the units, and where such housing is required by the homeless individual to maintain permanent residency. (Emphasis added.)

D. City of Cincinnati Ordinance No. 410-2010

The City Council of Cincinnati stated on November 17, 2010, in that Ordinance:

Anna Louise Inn is currently the only single room occupancy for at-risk homeless women in Cincinnati. (Emphasis added.)

E. The publication of Cincinnati Union Bethel entitled "Off-the-Streets" states in part:

The mission of Off-the-Streets is to assist women involved in the sex trade move toward safety, recovery, empowerment, and community reintegration...

Off-the-Streets accepts referrals from various sources. All women with a history of involvement in the sex trade are eligible for services.

- * Criminal justice
- * Treatment providers and social service agencies
- * Communities
- * Self-referrals

(Emphasis added.)

F. In another publication of Cincinnati Union Bethel entitled "Off-the-Streets", states in part:

Emergency Housing: 23 individual shelter rooms are available for homeless women accessing services. The shelter rooms are provided until the women are able to obtain ongoing, safe, and stable housing. (Emphasis added.)

G. In another publication of Cincinnati Union Bethel entitled "Off-the-Streets Program", states in part:

Program services

A peer-facilitator works with each woman to develop an individualized recovery plan based on her individual needs. Services are provided on site by peer and professional staff and through referrals to other community based providers. (Emphasis added.)

H. The publication of Cincinnati Union Bethel dated December 8, 2011 states in part:

The Anna Louise Inn is a safe harbor, offering a community of women a sense of home. Often our residents have nowhere else to go, and we provide the stability they need to offer them hope and independence. (Emphasis added.)

I. The publication of Cincinnati Union Bethel entitled "Off-the-Streets, a Program of Cincinnati Union Bethel" states in part:

Off-the-Streets provides services for over 400 women involved in prostitution.

97% of the women are unemployed and 87% have no source of income
76% of women are homeless with no other housing options

(Emphasis added.)

11. The publication of the U.S. Department of Health and Human Services entitled "Permanent Supportive Housing" describes "Permanent Supportive Housing" as:

Permanent. Tenants may live in their homes as long as they meet the basic obligations of tenancy, such as paying rent;

Supportive. Tenants have access to the support services that they need and want to retain housing;

Housing. Tenants have a private and secure place to make their home, just like other members of the community, with the same rights and responsibilities. (Emphasis added.)

12. The publication entitled "Ohio Intergency Council on Homelessness and Affordable Housing/Permanent supportive Housing Policy Framework" states in part:

While this is an ambitious goal, we need to continue to grapple with balancing our concerns for those currently homeless and those at risk of homelessness or institutionalization, it is achievable through this State of Ohio Permanent Supportive Housing Policy Framework. (Emphasis added.)

13. The Court finds that the uses of the Anna Louise Inn consisting of the Off-the-Streets program, the 85 units of Permanent Supportive Housing and the support services provided and offered to the occupants of the Off-the-Streets units and the Permanent Supportive Housing units, all under the control and direction of Cincinnati Union Bethel, cannot be separated and must be considered as a integrated land use.

14. The Court also finds that support services are required to be provided to the occupants of the Off-the-Streets Program and the Permanent Supportive Housing units, regardless of whether the occupants decline or accept such services, and that both the Off-the-Streets units and the Permanent supportive Housing units are intended to provide shelter and housing, respectively, for single women who are homeless or at risk of homelessness, and both types of uses are a part of the City's Homeless to Homes Plan. Further, the support services and special services provided by Cincinnati Union Bethel are required to be offered to the occupants of both types of units and therefore these uses

cannot be separated and constitute an integrated use of the Anna Louise Inn. Thus, the Anna Louise Inn is not a mixed use facility where the different uses are separated and independent of each other.

CONCLUSIONS OF LAW

1. Subject property is located in the Lytle park Historic district and accordingly is regulated under the Historic District zoning regulations set forth in Chapter 1435, Historic Landmarks and Districts, of the Cincinnati Zoning Code.
2. Cincinnati Union Bethel was required to procure a certificate of appropriateness from the Historic Conservation Office/Historic Conservation Board of the City of Cincinnati. Accordingly, the procurement of a certificate of appropriateness is a condition precedent to zoning approval.
3. Since the Historic Conservation Office/Historic Conservation Board issued the certificate of appropriateness for the subject property on July 1, 2011, it was improper for the Zoning Plans Examiner in the Building Department to have issued zoning approval beforehand on May 26, 2011, which was also prior to the submission of the application for certificate of appropriateness to the Historic conservation Office/Historic Conservation Board on June 15, 2011.
4. The certificate of appropriateness issued by the Historic Conservation Office/Historic Conservation Board on June 1, 2011 states that the Final Action is "approved with conditions" but does not state those conditions.
5. Although the parties knew what the conditions of approval were for the issuance of the certificate of appropriateness from their representatives having attended the Historic Conservation Board meeting on June 27, 2011, the certificate of appropriateness is nevertheless deficient in its failure to state the conditions or to reference a document in the official case file for this application which states those conditions.
6. Amit B. Ghosh and the City of Cincinnati issued the building permit for the subject property on July 1, 2011 at 12:00 a.m., which is prior to the issuance of the certificate of appropriateness. Therefore, the building permit was improperly issued.
7. The subject property is located in the "Downtown Development" district and in subdistrict "B" thereunder, the "DD-B" District, and the uses permitted on the subject property are set forth in Section 1411-05, Land Use Regulations, of Cincinnati Zoning Code Chapter 1411, Downtown Development Districts.
8. The use classifications permitted in the "DD-B" subdistrict are set forth in Schedule 1411-05: Use Regulations - Downtown Development Use Subdistricts, of section 1411-05 of the Zoning Code, and the relevant "Use Classification" for purposes of deciding the zoning issues is that entitled "Residential Uses".

9. Immediately preceding Schedule 1411.05, Use regulations – Downtown Development Use Subdistricts, in Zoning Code Section 1411-05 is the statement “Use Classifications not listed in Schedule 1411-05 below are prohibited.” (Emphasis added.)

10. Accordingly, it is for the Court to determine whether the Off-the-Streets program and the 85 units of Permanent Supportive Housing fall within any of the “Residential Uses” set forth in this Use Classification of Schedule 1411-05. Further, Section 1411-05 provides, in part, that “Use Classifications are defined in Chapter 1401, Definitions.” Accordingly, the provisions of Section 1411-05, Land Use Regulations, pertaining to the “DD-B” District must be read in relationship to the definitions of the use classifications set forth in Chapter 1401, Definitions, and further in relationship to the provision in Section 1411-05 that any use classification not listed in Schedule 1411-05 is prohibited.

11. The residential uses of the Anna Louise Inn consisting of the existing Off-the-Streets program and the proposed 85 units of Permanent Supportive Housing are not listed per se under “Residential Uses”, and therefore, it is necessary to determine if the definitions of any of the enumerated “residential Uses” apply to either of these uses.

12. Although these uses may appear to be a type of “group residential” use which is a listed “Residential Use”, neither of these uses qualifies as a “group residential” use under Schedule 1411-05, and neither use is one of the five enumerated listed uses under “Group Residential”. Accordingly, the Court finds that “group residential” does not permit either the Off-the-Streets program or the Permanent Supportive Housing units.

13. The Court must then consider whether the 85 units of Permanent Supportive Housing within the Anna Louise Inn would qualify as a “multi-family dwelling” which is a permitted use within the “DD-B” subdistrict. “Multi-family dwelling” is defined in Zoning Code Section 1411-01-M8 as “A building or group of buildings that contain three or more dwelling units.” Section 1401-01-D14 defines “Dwelling Unit” as one or more rooms with a single kitchen designed for occupancy by one family for living and sleeping purposes.” Section 1401-01-F2 defines “Family” as “A person living alone or two or more persons living together as a single housekeeping unit in a dwelling unit as distinguished from a group residential use.” (Emphasis added.)

14. Permanent Supportive Housing units necessarily require special services and supportive services at the Anna Louise Inn. These services must be made available to the occupants of these units, and since the special services and supportive services are inextricably linked to the occupancy and funding of the Permanent Supportive Housing, as indicated by the documents of the City of Cincinnati, U.S. Department of Health and Human Services, and the State of Ohio, the Court concludes that the occupants of the 85 units of Permanent Supportive Housing do not live in their units as a “single housekeeping unit” and, therefore, the 85 units do not constitute multi-family dwelling units, and are thus not permitted as of right in the “DD-B” District.

15. Section 1401-01-S11 defines "Special Assistance Shelter" as "A facility for the short term housing for individuals who are homeless and who may require special services." The Court finds that the occupants of the Off-the-Streets program are women involved in the sex trade who are typically homeless and require special services, and the very nature of that Program is to provide housing for at-risk homeless women and to provide them special services.

16. Accordingly, the Off-the-Streets program presently occupying the Anna Louise Inn is a non-conforming use, and the proposed expanded Off-the-Streets Program is a conditional use as a "Special Assistance Shelter", as listed in Schedule 1411-05 and as defined in Section 1401-01-S11.

17. The Court is aware that the Off-the-Streets Program has attributes of "Transitional Housing" as defined in Section 1401-01-T. However, the Court concludes that the definition of "Special Assistance Shelter" applies more definitively and appropriately to the Off-the-Streets program than does the definition of "Transitional Housing" for a number of reasons, including but not limited to the descriptions of the Off-the-Streets program in the documents of Cincinnati Union Bethel in the record referring to emergency housing, housing for homeless women or women at risk of homelessness, and women who require special services by virtue of their involvement in the vice of prostitution. Moreover, the City of Cincinnati's "Homeless to Homes" plan, which has been applied to the Anna Louise Inn, describes the entry into the program as through a "safe walk-in shelter", which the Off-the-Streets program at the Anna Louise Inn does not provide, or through a "women's shelter", which clearly the Anna Louise Inn provides, and thereafter referral to either "transitional housing" or to "permanent supportive housing". Accordingly, the Off-the-Streets program is not "transitional housing" under the City's "Homeless to Homes" plan applied by the City to the Anna Louise Inn.

18. Similarly, the Permanent Supportive Housing has attributes of "transitional housing" as defined in Section 1401-01-T. However, by definition "permanent housing" cannot be "transitional housing".

19. The Court recognizes the language in Section 1411-05 that "Use Classifications not listed in Schedule 1411-05 below are prohibited". Accordingly, the Court concludes that the only way to construe the Zoning Code to determine that the 85 units of Permanent Supportive Housing may be permitted is to consider the Anna Louise Inn as a whole, integrated use. This integrated use of providing housing to at-risk homeless women or women at risk of homelessness and who need special services, which includes the special services to the recovering prostitutes in the Off-the-Streets program and the support services required to be made available to the occupants of the Permanent Supportive Housing units, may thus be considered a special assistance shelter as provided in Schedule 1411-05. Therefore, the proposed uses of the Anna Louise Inn may only be permitted on the subject property as a conditional use pursuant to Section 1411-05 if the Anna Louise Inn is considered as a whole, integrated use.

20. Therefore, the Court finds that the decision of the Zoning Board of Appeals should be vacated and the entire matter should be remanded to Defendant City of Cincinnati for the proper administrative review and proper administrative proceedings in accordance with the Court's findings.

21. These reviews and proceedings should determine whether the Off-the-Streets program, which is an existing use and which is proposed to be enlarged, may continue or be expanded as a non-conforming use and further that it requires approval as a conditional use.

22. The Court further finds that the matter of the proposed 85 units of Permanent Supportive Housing should be remanded to the appropriate administrative officials of the City of Cincinnati for consideration as a conditional use as a part of the integrated use of the Anna Louise Inn since this use is not permitted as of right as this use requires support services and/or special services on site.

23. The Court finds that Amit B. Ghosh, as Chief Building Official of the City of Cincinnati, had a duty to refer the land use and zoning issues pertaining to the building permit for the renovation of the Anna Louise Inn to the appropriate administrative officials of the City of Cincinnati for the proper determination of all zoning issues prior to issuing the building permit.

ORDER

It is hereby ordered that this case is set on May 15, 2012 at 1:30 P.M. for presentation of entry in accordance with the above decision.

5/4/12
Date

Norbert A. Nadel
Norbert A. Nadel, Judge



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COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

FILED

2011 NOV 23 P 2:13

STATE OF OHIO ON RELATION OF
506 PHELPS HOLDINGS, LLC, et al.,

Plaintiffs-Relators

vs.

AMIT B. GHOSH, P.E.,
CHIEF BUILDING OFFICIAL
CITY OF CINCINNATI, et al.,

Defendants-Respondents

Case No. A1104189

(Judge Norbert A. Nadel)

(TARGET CASE)

WESTERN & SOUTHERN LIFE
INSURANCE COMPANY,

Plaintiff-Appellant

vs.

ZONING BOARD OF APPEALS
CITY OF CINCINNATI, et al.,

Defendants-Appellees.

Case No. A1108167

(Judge R. Patrick DeWine)

(Magistrate Michael L. Bachman)

(SOURCE CASE)

WESTERN & SOUTHERN LIFE
INSURANCE COMPANY

Plaintiff-Appellant

vs.

ZONING BOARD OF APPEALS
CITY OF CINCINNATI, et al.,

Defendants-Appellees.

Case No. A1108168

(Judge Nadine L. Allen)

(Magistrate Michael L. Bachman)

(SOURCE CASE)

STIPULATION

It is hereby agreed and stipulated by and between Plaintiffs-Relators/Plaintiffs-Appellants and Defendants-Respondents/Defendants-Appellees as follows: the issues to be decided by the Court at the hearing on December 15, 2011 at 10:00 a.m., reset from December 14, 2011 at 11:00 a.m., shall be limited to Plaintiffs-Relators' First Claim for Relief and Third Claim for Relief in the First Amended Verified Complaint filed in Case No. A1104189 on August 9, 2011 seeking, respectively, a writ of mandamus and declaratory judgment concerning the Zoning Code of the City of Cincinnati and the use of the subject property thereunder, and to the administrative appeals from the decisions of the City's Zoning Board of Appeals in Case No. A1108167 and Case No. A1108168, respectively.

Further, the zoning issues to be determined by the Court at that hearing pertain to the existing and proposed uses of the Anna Louise Inn located on the subject property to include: (1) what uses are permitted as of right; (2) what uses are not permitted; (3) what uses are conditional uses for which a hearing must be held before the Zoning Hearing Examiner of the City of Cincinnati; (4) what uses are the continuation, expansion, or extension of a non-conforming use for which a hearing must be held by the Zoning Hearing Examiner of the City of Cincinnati; or (5) some combination of (1) through (4) above.

If the Court determines that all of the existing and proposed uses of the Anna Louise Inn are permitted as of right under the Zoning Code, no further consideration of (2) through (5) above is required by the Court. If the Court determines that some or all of the existing or proposed uses of the Anna Louise Inn are not permitted as of right, the Court will rule as to whether each of such uses falls under (2), (3), (4) or (5) above. As to any of the existing or

proposed uses which the Court finds to be a conditional use or to be the continuation, expansion, or extension of a non-conforming use, the Court shall remand the matter for the appropriate hearing and proceedings before the Zoning Hearing Examiner of the City of Cincinnati.

The objections of Defendants-Respondents made in their initial motions to dismiss and in the oral argument on August 10, 2011, are preserved.

All other issues and claims in Plaintiffs-Relators' Amended Complaint and in Defendants-Respondents' Counterclaim are reserved for further consideration and scheduling by the Court subsequent to the hearing to be held on December 15, 2011. The parties shall file simultaneous pre-trial memoranda on December 12, 2011.

SO STIPULATED AND AGREED:

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Chapter 1447. Nonconforming Uses and Structures.

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§ 1447-01. Purpose.

The purpose of this Chapter is to regulate:

- (a) **Nonconforming Uses.** Uses lawfully established prior to the effective date of this code that do not conform to the use regulations of this code in the zoning districts in which such uses are located; and
- (b) **Nonconforming Structures.** Buildings and structures lawfully constructed prior to the effective date of this code that do not comply with the applicable bulk regulations of this code in the zoning districts in which such buildings or structures are located.

§ 1447-03. Authority to Continue and Maintain.

Nonconforming uses and structures may be continued as follows:

- (a) **Continuation of Nonconforming Use.** A nonconforming use that lawfully occupies a structure or a land site on the effective date of this Code may be continued so long as it remains otherwise lawful, subject to the standards and limitations in this chapter.
- (b) **Continuation of Nonconforming Structure.** A nonconforming structure that lawfully occupies a lot on the effective date of the Cincinnati Zoning Code and that does not conform with the standards for yards, buffers, height, floor area of structures, driveways, location of parking or open space for the district in which the structure is located may be used and maintained, subject to the standards and limitations in this chapter.

- (c) **Continuation of Nonconforming Accessory Uses and Structures.** The continued existence of nonconforming accessory uses and structures is subject to the provisions governing principal nonconforming uses and structures set forth in this chapter
- (d) **Maintenance, Repair and Structural Safety.** Normal maintenance and incidental repair may be performed on a conforming structure that contains a nonconforming use or on a nonconforming structure.

§ 1447-05. Nonconforming Structures.

A nonconforming structure may not be moved, expanded or altered, except in the manner provided in this section or unless required by law.

- (a) **Repair, Maintenance, Alterations and Expansion.** A nonconforming structure may be repaired, maintained, altered or enlarged; provided, however, that no such repair, maintenance, alteration or expansion shall either create any new nonconformity or increase the degree of the existing nonconformity of all or any part of such structure.
- (b) **Moving.** A nonconforming structure may not be moved, in whole or in part, for any distance whatsoever, to any other location on the same lot or to any other lot unless the entire structure conforms to the regulations of the zoning district in which it is located after being moved.

§ 1447-07. Abandonment of Nonconforming Use.

A nonconforming use of land or of a structure in a district that is abandoned may not be reestablished or resumed. Any subsequent use or occupancy of the structure or land must conform to the regulations for the district in which it is located.

Abandoned means the interruption for a period of 365 consecutive days of active or productive operations of the nonconforming use on the land or within the structure or the removal or destruction of the nonconforming elements. Any period of abandonment caused by government action and without any contributing fault by the nonconforming user is not considered in determining the period of abandonment.

§ 1447-09. Expansion of Nonconforming Use

On application to the Zoning Hearing Examiner pursuant to the procedures and standards established in this chapter, a nonconforming use may be expanded subject to the standards as follows:

- (a) A nonconforming use may be expanded through the entire building, however, expansion of the existing building is prohibited.
- (b) The expansion of the nonconforming uses of land without buildings may not exceed, in all, 50% of the area devoted to the existing nonconforming use of land. Provided further that expansion of a nonconforming use is limited to expansion on the lot currently occupied by the use and may not extend beyond a district boundary line into a more restrictive district.

§ 1447-11. Substitution of a Nonconforming Use.

The Zoning Hearing Examiner may allow the substitution of a nonconforming use for another nonconforming use permitted in another district as specified in Schedule 1447-11 - Substitution Rights for a Nonconforming Use. Whenever any nonconforming use is changed to a conforming use, such use may not later be changed to a use other than a conforming use.

Schedule 1447-11 - Substitution Rights for a Nonconforming Use

Location of Nonconforming Use	Substitution Rights	Location of Nonconforming Use	Substitution Rights	Location of Nonconforming Use	Substitution Rights
SF-20	None ¹	RM0.7	OL	CGA	ML
SF-10	None ¹	OL	OG	DD	None
SF-6	None ¹	OG	CN-P, CN-M	ML	MG
SF-4	None ¹	CN-P	CN-M	MG	None
SF-2	None ¹	CN-M	CC-P	RF-R	RF-C
RMX	RM0.7	CC-P	CC-M	RF-C	RF-M
RM-2.0	RM0.7	CC-M	CC-A	RF-M	None
RM-1.2	OL	CC-A	CG-A	I-R	None

¹See § 1447-13

§ 1447-13. Nonconforming Residential Buildings.

In the case of a nonconforming residential building, an increase in the number of dwelling units within the existing floor area or through an extension of the floor area is not permitted. Provided, however, in the case of a building used in part for nonresidential purposes, if the nonresidential use is relinquished, the number of dwelling units may be increased by one within the existing floor area irrespective of the minimum lot area for every dwelling unit requirements of the district in which the building is located.

§ 1447-15. Application Procedures.

An application for a substitution of a nonconforming use may be filed with the Director of Buildings and Inspections in accord with the application procedures under Chapter 1441, Application Procedures, Fees, Permits and Certificates. Applications must include a complete description of the proposed use and such other information as the Zoning Hearing Examiner determines is necessary to decide the application, as shown on the application form approved by the Zoning Hearing Examiner. In the review and decision of applications, the following procedures apply:

- (a) **Staff Report.** The director has the duty to prepare a staff report on the application and transmit the staff report to the Zoning Hearing Examiner prior to the public hearing.
- (b) **Public Hearing.** The examiner has the duty to schedule and hold a public hearing on the completed application in accord with the procedures for conduct of the public hearing set forth in § 1443-07.
- (c) **Action.** Staff reports received by the examiner are to be considered at a public hearing. Following the conclusion of the public hearing and within ten working days, the examiner has the duty to take one of the following actions:
 - (1) Approve the application.
 - (2) Approve the application subject to specific conditions.
 - (3) Postpone a decision pending consideration of additional information.
 - (4) Deny the application.
- (d) **Coordinated Review and Approval of Applications.** Whenever, in addition to approval of an application for a substitution of a nonconforming use pursuant to this chapter, the applicant also requires a variance or other approval from the examiner, the applicant must simultaneously file all other applications and required applications with the director. All required notices must include reference to the request for all required examiner approvals.
- (e) **Conditions.** The Zoning Hearing Examiner may impose such conditions that are determined to be in the public interest and necessary to mitigate any harmful effects of the substitution of the nonconforming use. The EXAMINER may require a bond or other acceptable form of surety to insure compliance with the conditions

imposed. These conditions must be expressly set forth in the examiner's decision.

§ 1447-17. Standards for the Expansion or Substitution of Nonconforming Uses.

The Zoning Hearing Examiner may approve, approve with conditions or disapprove an application for expansion or substitution of a nonconforming use as limited in § 1447-09 and § 1447-11 based on written findings of fact in consideration of the following standards. The failure of the proposed work to conform with any single factor or standard may not necessarily be a sufficient basis for denial:

- (a) **Consistent.** The proposed use is consistent with the general purposes and intent of the Cincinnati Zoning Code;
- (b) **Safety and Efficiency.** The proposed use promotes the safe and efficient use of land;
- (c) **Compatibility.** The proposed use is compatible with other adjacent land uses and buildings existing in the surrounding area;
- (d) **Neighborhood Compatibility.** The proposed use is consistent with the purposes of the zoning district in which the use is located and does not negatively impact the value of surrounding property; and
- (e) **Limited Purpose Building.** The proposed use would be located in a building that is specially equipped or structurally designed for that use.

§ 1447-19. Limitations on Expansion or Substitution of Nonconforming Use.

Subject to an extension of time granted pursuant to Chapter 1445, Zoning Hearing Examiner Procedures, an expansion or substitution of a nonconforming use must be completed within two years of the date of the decision in accordance with the provisions of § 1443-09.

§ 1447-21. Revocation of Expansion or Substitution of Nonconforming Use.

Violation of any condition or limitation on the grant of an approval of an expansion or substitution of a nonconforming use is a violation of the Cincinnati Zoning Code and constitutes grounds for revocation of the approval, pursuant to the provisions of Chapter 1451, Enforcement.

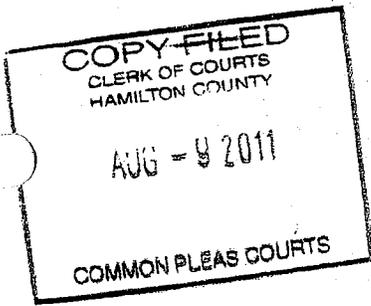
§ 1447-23.

Reconstruction of Nonconforming Use and Structure.

A nonconforming use, building or structure, or improvement or one or more of a group of nonconforming buildings or structures related to one use and under one ownership, substantially destroyed by fire, flood, earthquake or other act of God, may not be reconstructed or used as before such calamity.

As used in this section, "substantially destroyed" means that the estimated cost of reconstruction exceeds 150 percent of the assessed improvement value as determined from the records of the Hamilton County Auditor of all the buildings or structures within the group of one or more nonconforming buildings or structures related to one use and under one ownership. The estimated cost of reconstruction is as submitted in a verified affidavit acceptable to the Director of Buildings and Inspections as reasonable. The repairs and reconstruction must be completed within two years of the date of the damage.

If the estimated cost of reconstruction exceeds 150 percent of the assessed improvement value, the use of the property and the reconstruction of the building must be in accordance with the provisions of this Zoning Code.



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Trial Attorneys for Plaintiffs-Relators

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STATE OF OHIO ON RELATION OF
506 PHELPS HOLDINGS, LLC, et al

Plaintiffs-Relators,

vs.

AMIT B. GHOSH, P.E.
CHIEF BUILDING OFFICIAL
CITY OF CINCINNATI, et al

Defendants-Respondents.

Case No. A1104189

(Judge Norbert A. Nadel)

FIRST AMENDED VERIFIED
COMPLAINT IN MANDAMUS
AND FOR TEMPORARY
RESTRAINING ORDER,
PRELIMINARY INJUNCTION,
AND PERMANENT
INJUNCTION, AND FOR
DECLARATORY JUDGMENT,
AND MONEY DAMAGES

NOW COME Plaintiffs-Relators, by and through counsel, and based upon circumstances which have changed since the filing of the original Verified Complaint and upon information received since that time, state as follows for their Amended Verified Complaint:

PARTIES

1. Plaintiff, 506 Phelps Holdings, LLC is an Ohio limited liability company that owns real property located at 506 East Fourth Street in the City of Cincinnati which neighbors the subject property.

2. Plaintiff, The Western & Southern Life Insurance Company, is an Ohio corporation that owns real property located at 421 East Fourth Street, 550 East Fourth Street, and 311 Pike Street in the City of Cincinnati, all of which neighbor the subject property.

3. Relator, State of Ohio on Relation of 506 Phelps Holdings, LLC, is bringing certain claims hereinafter set forth in the name of the State of Ohio on behalf of 506 Phelps Holdings, LLC against Amit B. Ghosh, P.E., Chief Building Official of the City of Cincinnati, Margaret A. Wuerstle, Zoning Hearing Examiner of the City of Cincinnati, and the City of Cincinnati, as Respondents.

4. Relator, State of Ohio on Relation of The Western & Southern Life Insurance Company, is bringing certain claims hereinafter set forth in the name of the State of Ohio on behalf of The Western & Southern Life Insurance Company against Amit B. Ghosh, P.E., Chief Building Official of the City of Cincinnati, Margaret A. Wuerstle, Zoning Hearing Examiner of the City of Cincinnati, and the City of Cincinnati, as Respondents.

5. Defendant Amit B. Ghosh, P.E. is the Chief Building Official of the City of Cincinnati and is the Manager of the Business Development and Permit Center of the City of Cincinnati located at 3300 Central Parkway, Cincinnati, Ohio 45225, where applications for permits related to building and construction within the City of Cincinnati are filed and processed.

6. Defendant Margaret A. Wuerstle is the Zoning Hearing Examiner of the City of Cincinnati, and she must hear applications for certain types of uses under the Zoning Code of the City of Cincinnati which require her review and approval prior to the issuance of any permits.

7. Defendant City of Cincinnati is an Ohio municipal corporation organized and existing as a city under the laws of the State of Ohio and has jurisdiction over the subject property located at 300 Lytle Street in the City of Cincinnati, Hamilton County, Ohio.

8. Defendant Cincinnati Union Bethel is a non-profit corporation registered with the Ohio Secretary of State, with its principal offices located at 300 Lytle Street in the City of

Cincinnati.

9. Defendant Anna Louise Inn, Limited Partnership is a domestic limited partnership registered with the Ohio Secretary of State, with its principal offices located at 300 Lytle Street in the City of Cincinnati and is an affiliated entity of Defendant Cincinnati Union Bethel.

10. Defendant Anna Louise Inn, GP, LLC is a domestic non-profit limited liability company registered with the Ohio Secretary of State, with its principal offices located at 300 Lytle Street in the City of Cincinnati, and this Defendant is the sole General Partner of Defendant Anna Louise Inn, Limited Partnership.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF

11. Recognizing the need in the early 1900s for suitable housing for young women who came to work in the City of Cincinnati, Mr. and Mrs. Charles P. Taft donated land located at 300 Lytle Street in the City of Cincinnati and the necessary funds to construct suitable and affordable dormitory-style housing for these women on the subject property.

12. As a result of the generosity of Mr. and Mrs. Taft, a 5-story, 120-unit rooming house, named the Anna Louise Inn after Mr. and Mrs. Taft's daughter, was erected on the subject property.

13. Originally and historically, the Anna Louise Inn provided affordable housing for working women who were gainfully employed but had lower paying income positions, typically such as bookkeepers, stenographers, office clerks, sales persons, or telephone operators, with a much smaller percentage holding jobs in the nearby factories.

14. Originally and historically, these working women were not classified or considered as "at-risk" women, chemically dependent women, recovering prostitutes, battered or

abused women, women in need of special social services, unemployed women, or homeless women..

15. Defendant Cincinnati Union Bethel has owned and operated the Anna Louise Inn since its founding, but now apparently plans to transfer ownership of the subject property consisting of the land at 300 Lytle Street and the Anna Louise Inn thereon, and the responsibilities for its operation, to Defendant Anna Louise Inn, Limited Partnership.

16. It has been generally known and recognized that until the 1990s, Defendant Cincinnati Union Bethel provided no formalized social services for residents of the Anna Louise Inn, provided no homeless shelter accommodations at this location, and provided no programatic recovery services for women previously engaged in the vice of prostitution.

17. As a result, for its first 80 years or so, the Anna Louise Inn functioned strictly as a secure and affordable urban rooming house for young women working in the City of Cincinnati.

18. Over the past 20 years or so, Defendant Cincinnati Union Bethel has fundamentally and materially altered, expanded, and substituted its use of the Anna Louise Inn to offer new social services programs intended to support a very different kind or type of population of residents.

19. Approximately 20 years ago, Defendant Cincinnati Union Bethel altered its mission and began to concentrate on providing generalized programatic support services for at-risk homeless women, rather than its original mission of affordable housing for working women.

20. Thereafter, in 1994, Defendant Cincinnati Union Bethel began to operate its "Family Living Center" program at the Anna Louise Inn, involving a comprehensive program designed to assist homeless families.

21. The aforesaid programs are designed not only to provide homeless individuals and families with housing, but also to provide them with therapeutic treatments to overcome mental illness, substance abuse addiction, and other conditions requiring various forms of counseling and support.

22. Further, in 2006, Defendant Cincinnati Union Bethel opened its "Off the Streets" program at the Anna Louise Inn, involving housing and social services for recovering prostitutes, including programs to provide comprehensive services, in addition to transitional housing, to assist recovering prostitutes in moving toward community reintegration.

23. According to documents provided by Defendant Cincinnati Union Bethel, the Anna Louise Inn currently offers housing for approximately 163 residents, involving 106 traditional resident units, 42 Family Living Center units, and 15 Off the Streets units.

24. Approximately half of the current residents have lived at the Anna Louise Inn for over a year, and some up to 30 years.

25. Greater Cincinnati Behavior Health Services now provides mental health services to the residents of the Anna Louise Inn, including on-site case management services, Medicaid and Medicare-funded psychiatric, psychological, counseling, and other supportive services to residents of the Anna Louise Inn.

26. The aforesaid actions over the past 20 years have established new uses of the subject property, which now concentrate on higher-risk populations in need of a broad range of extensive social and mental health services, as contrasted with the original and long on-going use of just housing, consisting of affordable housing for working women.

27. There are no known public records, past or present, indicating that Defendants

Cincinnati Union Bethel, Anna Louise Inn, Limited Partnership, and Anna Louise Inn GP, LLC, have ever applied for or procured any zoning certificates, conditional use permits, or other land use or zoning approvals for any of these fundamental changes in use of the subject property, or that Defendants Amit B. Ghosh, Margaret A. Wuerstle, and the City of Cincinnati have ever reviewed or approved any zoning certificates, conditional use permits, or other land use or zoning approvals for any of the aforesaid fundamental changes to the use of the subject property.

28. The uses proposed by Defendant Cincinnati Union Bethel for the Anna Louise Inn property are similar to the uses proposed by the YWCA of Greater Cincinnati for the establishment of a women's special assistance shelter at Reading Road and Kinsey Street in the Mt. Auburn neighborhood of the City of Cincinnati, as described in the letter dated May 19, 2011 from the attorney for the YWCA to the Mayor and members of Council, a copy of which is attached hereto as Exhibit "A", and described in the Staff Report of the City Planning Commission dated June 17, 2011 pertaining to the YWCA's proposed special assistance shelter, a copy of which is attached hereto as Exhibit "B".

29. The use proposed by the YWCA of Greater Cincinnati is classified as a "special assistance shelter" and is the type of use, and is one of the several uses, proposed by Defendant Cincinnati Union Bethel for the Anna Louise Inn property.

30. The subject property is located within the Lytle Park Historic District which is a designated historic district established by the City Council of Defendant City of Cincinnati and is therefore regulated by the historic district zoning regulations of the Zoning Code of the City of Cincinnati.

31. The subject property is a part of the Lytle Park area of the City of Cincinnati

which has long been established with very high quality land uses and accordingly has been regulated by Defendant City of Cincinnati to accommodate very highly valued real property to enhance the tax base of the City of Cincinnati and to promote the uses in this area consisting primarily of high-value condominiums and luxury apartments, expensive commercial office buildings, an upscale hotel, the historic Taft Museum, and park areas.

32. The Anna Louise Inn was formerly compatible with the Lytle Park area with its original mission of providing quality affordable housing in an attractive setting for women working in downtown Cincinnati, but is now in conflict with the character of the area with Defendant Cincinnati Union Bethel's change in the use of the subject property through the expansion of social services operations concentrating on high-risk individuals in need of support services.

33. Plaintiffs are collectively the owners of the greatest amount of real property having the highest number of employees, customers, tenants, and visitors in the Lytle Park area and are especially damaged by Defendant Cincinnati Union Bethel's expansion of the aforesaid services which have changed the use of the subject property and are out of character with the uses of the other properties within this area, and as a direct and proximate result, adversely impact Plaintiffs' use, quiet enjoyment, and value of their real property.

34. In 2010, Defendants Cincinnati Union Bethel, Anna Louise Inn Limited Partnership, and Anna Louise Inn GP, LLC, began formal plans for a major renovation to the Anna Louise Inn to accommodate more extensively the current, and planned future, support programs on the subject property with a new emphasis on permanent supportive housing and an increase in the number of recovering prostitutes under the Off the Streets program.

35. The estimated cost of this renovation is approximately \$12.4 million, which is to be funded primarily by Low Income Housing Tax Credits, Federal Historic Tax Credits, and a development loan from Defendant City of Cincinnati's HOME fund.

36. Attached hereto as Exhibit C is a copy of Ordinance No. 410-2010 adopted by the City Council of Defendant City of Cincinnati on November 17, 2010 to provide part of said funding.

37. Said Ordinance only references "85 units of permanent supportive housing" and fails to describe the other existing and proposed uses of the subject property, including but not limited to the special assistance shelter.

38. According to Defendant Cincinnati Union Bethel's website, construction is expected to begin in May of 2011 with completion by the fall of 2012.

39. Defendants Cincinnati Union Bethel, Anna Louise Inn, Limited Partnership, and Anna Louise Inn GP, LLC plan to subsidize rent of the 85 planned permanent supportive housing units through HUD and other funds.

40. To initiate the process toward commencing the renovation project, Defendant Cincinnati Union Bethel submitted Building Permit Application No. 2011P03029 to Defendant City of Cincinnati's Department of Planning and Zoning on April 28, 2011.

41. Defendant Cincinnati Union Bethel's application for permit, a copy of which is attached to Plaintiffs-Relators' Memorandum in Opposition to Motions to Dismiss at Tab 1 and incorporated herein by reference, inaccurately describes the present use as "B" Business and "R-1/R-2" Residential, consisting of 212 dwelling units, as it fails to disclose the special assistance shelter use, the Off the Streets use, and the supporting social services uses, among other uses, and

that the number of actual dwelling units has been substantially less than 212 for some period of time.

42. Further, the application for permit fails to describe accurately and properly the proposed use, stating that the proposed use is "B" Business and "R-1/R-2" Residential, consisting of 85 dwelling units, as the 85 units are not traditional dwelling units but permanent supportive housing units, and as the application fails to describe the other units for at-risk women and other purposes, the special assistance shelter, and Off the Streets use, and the special social services uses.

43. On May 26, 2011, Defendant Amit B. Ghosh, P.E., Chief Building Official of the City of Cincinnati, and Defendant City of Cincinnati, gave zoning approval for the subject property, as shown in the document attached at Tab 2 of Plaintiffs-Relators' Memorandum in Opposition to Motions to Dismiss which is incorporated herein by reference.

44. In accordance with the zoning requirements of Defendant City of Cincinnati and pursuant to the practices of Defendants Amit B. Ghosh and the City of Cincinnati, zoning approval is not to be given and cannot properly and lawfully be given for a property within a historic district unless and until a Certificate of Appropriateness is issued by the Historic Conservation Office/Historic Conservation Board.

45. With respect to the prior applications for building permits for the subject property since the adoption of the Lytle Park Historic District, said applications for building permits were first routed to the Historic Conservation Office/Historic Conservation Board.

46. In this instance, however, the application for Certificate of Appropriateness was not submitted to the Historic Conservation Office/Historic Conservation Board until June 15,

2011, some 20 days after zoning approval had been given, and a copy of that application is attached at Tab 3 of Plaintiffs-Relators' Memorandum in Opposition to Motions to Dismiss and incorporated herein by reference.

47. On July, 1, 2011 at 12:00 a.m., Defendants Amit B. Ghosh and the City of Cincinnati issued the building permit for the subject property, as evidenced by the document attached at Tab 5 of Plaintiffs-Relators' Memorandum in Opposition to Motions to Dismiss which is incorporated herein by reference.

48. Thereafter, also on July 1, 2011, the Historic Conservation Office/Historic Conservation Board issued the Certificate of Appropriateness for the subject property under said building permit application No. 2011P03029, a copy of which is attached at Tab 4 of Plaintiffs-Relators' Memorandum in Opposition to Motions to Dismiss and incorporated herein by reference.

49. Pursuant to the Zoning Map of Defendant City of Cincinnati, the subject property is located in the Downtown Development District, Subdistrict B, the "DD-B" District.

50. Pursuant to the Zoning Map of Defendant City of Cincinnati, the subject property is also located in the Lytle Park Historic District and is therefore regulated pursuant to Chapter 1435, Historic Landmarks and Districts, of the City of Cincinnati Zoning Code.

51. Chapter 1411 of the Cincinnati Zoning Code is entitled "Downtown Development Districts".

52. Section 1411-05 thereunder is entitled "Land Use Regulations", and Schedule 1411-05 is entitled "Use Regulations - Downtown Development Use Subdistricts".

53. Schedule 1411-05, a copy of which is attached at Tab 6 of Plaintiffs-Relators'

Memorandum in Opposition to Motions to Dismiss and incorporated herein by reference, lists the use classifications which are permitted as of right, permitted subject to certain limitations, and conditionally permitted, and all use classifications not listed therein are prohibited.

54. Within the "DD-B" district in which the subject property is located, the present and proposed uses of the subject property collectively are not permitted as of right, are not permitted with limitations, and are not permitted as conditional uses, although some of the separate uses, present and proposed, may qualify as conditional uses.

55. Although Plaintiffs-Relators state that any administrative appeals within and/or before any of the boards or agencies of Defendant City of Cincinnati are not adequate, would be onerous and unduly burdensome, and would be futile, Plaintiffs-Relators nevertheless protected their rights by filing a Notice of Appeal with the Zoning Board of Appeals from the decision of Defendants Amit B. Ghosh and the City of Cincinnati concerning the July 1, 2011 issuance of the building permit for the subject property, and by filing a Notice of Appeal with the Zoning Board of Appeals of Defendant City of Cincinnati concerning the July 1, 2011 issuance of the Certificate of Appropriateness by the Historic Conservation Board, as evidence by the documents attached to "Defendants' Joint Request for the Court to Take Judicial Notice" filed August 4, 2011, solely to protect their rights and to prevent Defendants from arguing that Plaintiffs-Relators have waived their rights.

56. The aforesaid appeals to the Zoning Board of Appeals are not adequate, are not reasonably available, and clearly would be futile and therefore unnecessary for many reasons including but not limited to the following: (1) Defendant Cincinnati Union Bethel did not accurately describe the existing and proposed uses of the subject property on its application for

building permit; (2) Defendants Ghosh and the City of Cincinnati knew or should have known that the application for building permit did not accurately describe the existing and proposed uses but took no corrective action; (3) the City Solicitor's Office as counsel for the City Defendants in this action has stated that the proposed uses of the subject property are permitted as of right when they are not so permitted ; (4) the City Solicitor's Office and specifically the Assistant City Solicitor serving as counsel for the City Defendants in this action is counsel to the Zoning Board of Appeals and will undoubtedly advise the Zoning Board of Appeals that the proposed uses are permitted as of right, thereby effectively negating and nullifying any appeal which Plaintiffs-Relators may take to the Zoning Board of Appeals; (5) the actions taken by Defendant City of Cincinnati with respect to the special assistance shelter proposed by the YWCA of Greater Cincinnati confirms that such use proposed by Defendant Cincinnati Union Bethel for the subject property is not permitted as of right, yet the City Defendants fail to recognize this circumstance in this action; (6) both the City Defendants and the Anna Louise Inn Defendants have misrepresented and are continuing to misrepresent the extent of the existing and proposed uses of the subject property; (7) the administrative hearings concerning conditional uses and non-conforming uses requested by Plaintiffs-Relators are required to be held before a building permit is issued, not afterwards; and (8) the holding of the administrative hearings required before a building permit may be issued should not be further delayed or frustrated by requiring administrative appeals concerning the already issued permit when such appeal hearings clearly will not address the issue of the requirement of administrative hearings before the issuance of the building permit.

57. Any of the uses of the subject property which may qualify as conditional uses may

only be undertaken after an application for conditional use approval has been submitted to Defendants City of Cincinnati and Amit B. Ghosh, Chief Building Official, and thereafter reviewed and approved by Defendant, Margaret A. Wuerstle, Zoning Hearing Examiner of the City of Cincinnati.

58. No such conditional use approval has been granted for the subject property.

59. The original and prior uses of the subject property may have qualified as legal non-conforming uses, but the aforesaid expanded uses, additional uses, and fundamentally changed uses do not qualify as legal non-conforming uses.

60. Any expansion or substitution of a legal non-conforming use requires the prior review and approval by Defendant, Margaret A. Wuerstle, Zoning Hearing Examiner of the City of Cincinnati.

61. As such, the aforesaid expansion of services on the subject property in the 1990s and 2006 constitute a prior expansion of the non-conforming use of the subject property for which no zoning permit or zoning approval has ever been granted.

62. The purpose of the aforesaid \$12.4 million renovation is to accommodate the aforesaid expansion of certain services on the subject property, which therefore results in the expansion of the non-conforming use of the subject property.

63. As a part of the aforesaid \$12.4 million renovation, the total useable space within the subject property will be significantly reconfigured, allowing the increase of the aforesaid services on the subject property.

64. As a result of the foregoing, Defendants Cincinnati Union Bethel, Anna Louise Inn, Limited Partnership, and Anna Louise Inn GP, LLC are expanding and/or substituting,

intend to expand and/or substitute, and will continue to expand and/or substitute the present non-conforming use of the subject property without the necessary and proper reviews and approvals by Defendants, Amit B. Ghosh, Chief Building Official of the City of Cincinnati, Margaret A. Wuerstle, Zoning Hearing Examiner of the City of Cincinnati, and the City of Cincinnati.

FIRST CLAIM FOR RELIEF
(For Writ of Mandamus)

65. Plaintiffs-Relators restate paragraphs 1 through 64 and incorporate said paragraphs herein.

66. Plaintiffs-Relators bring this claim for relief in the name of the State of Ohio against Defendants, Amit B. Ghosh, Chief Building Official, and Margaret A. Wuerstle, Zoning Hearing Examiner, as Respondents herein.

67. Plaintiffs-Relators hereby seek a writ of mandamus to compel said Defendants-Respondents to perform their clear legal duty to not issue any permits for the subject property in contravention of the Zoning Code of the City of Cincinnati and to perform their clear and legal duty to cause any applications for permits for the subject property to be reviewed and approved in accordance with the provisions of the Zoning Code of the City of Cincinnati prior to the issuance thereof.

68. Said Defendants-Respondents have refused to perform their clear legal duty as stated aforesaid.

69. Plaintiffs-Relators have no adequate remedy in the ordinary course of law.

70. Plaintiffs-Relators are entitled to a writ of mandamus compelling said Defendants-Respondents to perform their clear legal duty with respect to the issuance of any permits for the

subject property.

SECOND CLAIM FOR RELIEF
(For Injunctive Relief)

71. Plaintiffs-Relators restate paragraphs 1 through 70 and incorporate said paragraphs herein.

72. Unless Defendants are enjoined from proceeding with the development of the subject property for the expanded and substituted uses aforesaid, Plaintiffs will be denied their legitimate and lawful rights to have the provisions of the Zoning Code of the City of Cincinnati enforced for their benefit and protection as owners of contiguous or neighboring property, and will be especially damaged by the aforesaid violations of the Zoning Code of the City of Cincinnati as the owners of contiguous or neighboring property, and Plaintiffs need this injunctive relief to prevent the expansion and/or substitution of the existing non-conforming use of the subject property, and to prevent the damage to their property which will result from the diminution in the value thereof by the aforesaid conduct of Defendants.

THIRD CLAIM FOR RELIEF
(For Declaratory Judgment)

73. Plaintiffs-Relators restate paragraphs 1 through 72 and incorporate said paragraphs herein.

74. Plaintiffs bring this claim for relief seeking declaratory judgment pursuant to Chapter 2721 of the Ohio Revised Code, and specifically Ohio Revised Code Section 2721.03, under which Plaintiffs seek to obtain a declaration of their rights under the Zoning Code of Defendant, City of Cincinnati, concerning the aforesaid proposed substitution and expansion of the non-conforming use of the subject property.

75. Defendants have continued and will continue to violate Section 1447.09 of the Zoning Code of the City of Cincinnati by allowing and undertaking the substitution and expansion of the non-conforming use of the subject property without obtaining the required approval of Defendant, Margaret A. Wuerstle, Zoning Hearing Examiner of the City of Cincinnati.

76. Plaintiffs therefore request that this Court declare that the aforesaid actions and conduct of Defendants constitutes a violation of the provisions of the Zoning Code of the City of Cincinnati, and specifically Section 1447.09 thereof.

FOURTH CLAIM FOR RELIEF

(For Declaratory Judgment)

77. Plaintiffs-Relators restate paragraphs 1 through 76 and incorporate said paragraphs herein.

78. Plaintiffs bring this claim relief seeking declaratory judgment pursuant to Chapter 2721 of the Ohio Revised Code, and specifically Ohio Revised Code Section 2721.03, under which Plaintiffs seek to obtain a declaration of their rights under the Zoning Code of Defendant City of Cincinnati and concerning their rights with respect to Ordinance No. 410-2010 adopted by the City Council of Defendant City of Cincinnati on November 17, 2010, a copy of which is attached hereto as Exhibit "C" and incorporated herein, and concerning their rights as abutting property owners and as taxpayers of the City of Cincinnati.

79. Said Ordinance does not fully, fairly, properly, or accurately describe the proposed use of the subject property.

80. This Ordinance was adopted by the City Council of Defendant City of Cincinnati

contrary to the normal, customary, and proper procedures for adopting an ordinance of this nature.

81. As a direct and proximate result thereof, Plaintiffs-Relators have been denied due process of law and the equal protection of the law.

FIFTH CLAIM FOR RELIEF
(For Damages)

82. Plaintiffs-Relators restate paragraphs 1 through 81 and incorporate said paragraphs herein.

83. Ohio Revised Code Section 2731.11, Recovery of Damages, provides that, if judgment in a proceeding for a writ of mandamus is rendered for the Plaintiffs, the Relators may recover the damages which they have sustained as in a civil action, and costs.

84. Plaintiffs-Relators have sustained damages, and are presently sustaining damages, and will continue to sustain damages, as a direct and proximate result of Defendants' refusal to comply with the requirements of the Zoning Code of the City of Cincinnati.

85. Plaintiffs-Relators have been damaged in an amount to be determined at trial, which amount is greater than \$25,000.

86. Ohio Revised Code Section 2731.11 further provides that Plaintiffs-Relators are entitled to be granted a peremptory writ of mandamus without delay, in addition to damages.

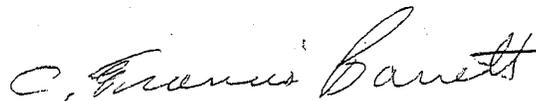
WHEREFORE, Plaintiffs-Relators demand judgment as follows:

- I. The Court issue a peremptory writ of mandamus compelling Defendants-Respondents, Amit B. Ghosh, Chief Building Official of the City of Cincinnati, and Margaret A. Wuerstle, Zoning Hearing Examiner of the City of Cincinnati, to

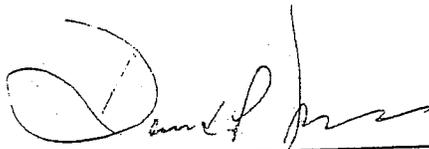
comply with the requirements of the Zoning Code of the City of Cincinnati to, in particular, require review and approval of any and all permits for the proposed expanded use of the subject property by the Zoning Hearing Examiner of the City of Cincinnati;

- II. In the alternative, the Court issue an alternative writ of mandamus requiring Defendants-Respondents, Amit B. Ghosh, Chief Building Official of the City of Cincinnati, and Margaret A. Wuerstle, Zoning Hearing Examiner, to show cause why they should not be ordered and compelled to comply with the provisions of the Zoning Code of the City of Cincinnati requiring that any and all permits for the proposed expanded use of the subject property require review and approval by the Zoning Hearing Examiner;
- III. The Court issue a temporary restraining order, restraining Defendants from proceeding with the development of the proposed expanded use of the subject property before complying with the requirements of the Zoning Code of the City of Cincinnati;
- IV. Defendants-Respondents be preliminarily enjoined from proceeding with the development of the proposed expanded use of the subject property before complying with the requirements of the Zoning Code of the City of Cincinnati;
- V. Defendants-Respondents be permanently enjoined from proceeding with the development of the proposed expanded use of the subject property before complying with the requirements of the Zoning Code of the City of Cincinnati;
- VI. The Court declare that the actions and conduct of the Defendants are in

- contravention of the requirements of the Zoning Code of the City of Cincinnati;
- VII. The Court enter declaratory judgment in favor of Plaintiffs-Relators with respect to their rights under the Zoning Code of the City of Cincinnati;
- VIII. The Court enter declaratory judgment in favor of Plaintiffs-Relators with respect to Ordinance No. 410-2010 of Defendant City of Cincinnati;
- IX. The Court declare that Defendants have denied Plaintiffs due process of law and the equal protection of the law;
- X. Plaintiffs-Relators be awarded damages against Defendants in an amount greater than \$25,000;
- XI. Plaintiffs-Relators recover their costs against Defendants pursuant to Ohio Revised Code Section 2731.11;
- XII. Plaintiffs-Relators be awarded reasonable attorney's fees;
- XIII. Plaintiffs-Relators recover their expenses and court costs; and
- XIV. Plaintiffs-Relators be granted all further relief, legal or equitable, to which they may be entitled.



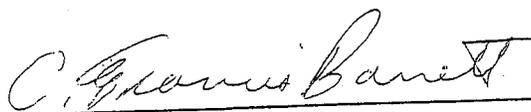
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "First Amended Verified Complaint in Mandamus and for Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction, and for Declaratory Judgment and Money Damages" was served upon Robert B. Newman (0023484), trial attorney for Anna Louise Inn, Limited Partnership, c/o Newman & Meeks, Co., LPA, 215 E. Ninth Street, Suite 650, Cincinnati, Ohio 45202 (robertnewman@newman-meeks.com); upon Timothy M. Burke (0009189), trial attorney for Cincinnati Union Bethel, c/o Manley Burke, LPA, 225 W. Court Street, Cincinnati, Ohio 45202 (tburke@manleyburke.com); upon John W. Peck (0016906), trial attorney for Anna Louise Inn GP, LLC, c/o Peck Shaffer & Williams LLP, 201 E. Fifth Street, Suite 900, Cincinnati, Ohio 45202 (jpeck@peckshaffer.com); and upon Sean S. Suder (0078535), trial attorney, and Terrance A. Nestor (0065840), chief counsel, City of Cincinnati, Room 214 City Hall, 801 Plum Street, Cincinnati, Ohio 45202 (sean.suder@cincinnati-ohio.gov) and (terry.nestor@cincinnati-oh.gov), by electronic mail transmission and by ordinary United States Mail, this 9th day of August, 2011.



C. Francis Barrett (0022371)
Trial Attorney for Plaintiffs-Relators



David P. Kamp (0020665)
Trial Attorney for Plaintiffs-Relators

AFFIDAVIT

STATE OF OHIO :

: SS

COUNTY OF HAMILTON :

Mario San Marco, being first duly cautioned and sworn, deposes and states as follows:

1. I am over twenty-one (21) years of age, I have personal knowledge of the facts, and I am competent to give this Affidavit.

2. I am President of Eagle Realty Investments, Inc., which is the Managing Member of 506 Phelps Holdings, LLC and I am also Vice President of The Western & Southern Life Insurance Company, and I am authorized to act for and on behalf of 506 Phelps Holdings, LLC and The Western & Southern Life Insurance Company concerning the subject property at 300 Lytle Street in the City of Cincinnati.

3. I have read the allegations contained in the foregoing "First Amended Verified Complaint in Mandamus and for Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction, and for Declaratory Judgment, and Money Damages", and I believe that they are true and accurate to the best of my knowledge and belief.

Further Affiant sayeth naught.


Mario San Marco

Sworn to and subscribed in my presence, this 1st day of August, 2011.


Notary Public

MICHAEL NEIL BARNETT
Attorney At Law
Notary Public, State of Ohio
My Commission Has No Expiration Date
Section 147.03 R.C.

MANLEY BURKE

A LEGAL PROFESSIONAL ASSOCIATION

ROBERT E. MANLEY (1935-2008)

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KATHY A. FARRO

*Also admitted in Kentucky
**Also admitted in Illinois and Missouri
***Also admitted in Virginia and Michigan

May 19, 2011

*Via Hand-Delivery*Mayor Mark Mallory
City of Cincinnati
City Hall
801 Plum Street
Cincinnati, Ohio 45202Vice Mayor Roxanne Qualls
City of Cincinnati
City Hall
801 Plum Street
Cincinnati, Ohio 45202Council member Chris Bortz
City of Cincinnati
City Hall
801 Plum Street
Cincinnati, Ohio 45202Council member Leslie Ghiz
City of Cincinnati
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Cincinnati, Ohio 45202Council member Wayne Lippert
City of Cincinnati
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Cincinnati, Ohio 45202Council member Amy Murray
City of Cincinnati
City Hall
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Cincinnati, Ohio 45202Council member Laure Quinlivan
City of Cincinnati
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Cincinnati, Ohio 45202Council member Cecil Thomas
City of Cincinnati
City Hall
801 Plum Street
Cincinnati, Ohio 45202Council member Charles Winburn
City of Cincinnati
City Hall
801 Plum Street
Cincinnati, Ohio 45202Council member Wendell Young
City of Cincinnati
City Hall
801 Plum Street
Cincinnati, Ohio 45202

PENGAD 800-631-6989

EXHIBIT

"A"

MANLEY BURKE

A LEGAL PROFESSIONAL ASSOCIATION

Mayor and Council Members
City of Cincinnati
May 19, 2011
Page 2

Re: Notwithstanding Ordinance for YWCA of Greater Cincinnati

Dear Mayor and Council:

On behalf of the YWCA, please consider this letter and its attachments to be submitted in support of the application for a notwithstanding ordinance to allow for the establishment of a women's special assistance shelter at 2452 Kinsey in conformance with the Homeless to Homes Plan.

Over the past few years the Cincinnati /Hamilton County Continuum of Care and local homeless shelters service providers, law enforcement, religious leaders, the business community, political leaders, city and county administrators and local foundations have been working together to help improve the city's care for its homeless population. There have been monthly meetings with representatives from local homeless care providers, including Lighthouse, the YWCA, the City Gospel Mission, the Drop Inn Center, Mt. Airy Shelter, and the Continuum of Care in a collaborative effort to successfully execute the recommendations developed in the Homeless to Homes Plan. Based on City Ordinances No. 347-2008 and No. 129-2009, the Homeless to Homes Plan proposes specific standards for homeless shelter programs. Recommendations included updated emergency shelter facilities to better target the needs of their homeless guests, increased number of both transitional and permanent housing, along with a collaborative effort to make better and strategic uses of funding resources. In order to assist with the implementation of the Homeless to Homes Plan, 3CDC has offered development assistance and expertise for the development of new facilities.

Founded in 1868, the YWCA serves more than 30,000 individuals annually in Adams, Brown, Clermont and Hamilton Counties. Approximately 70% of those served are female. The majority of individuals and families served through direct service are at poverty level. Crisis Intervention programming includes domestic violence/sexual assault crisis lines, emergency shelters, transitional housing and court advocacy for battered women and children, batterers' intervention programming for adult males and at-risk adolescents, and emergency food assistance. Training and Education programs include employment readiness training, adult & family literacy programs and licensed day care services. Health and Wellness programs include a fitness center, breast and cervical health education and screenings and educational programs for at-risk youth. Advocacy and Recognition programs include racial justice programs, scholarship funding for female high school students, the annual Career Women of Achievement tribute, and a women's art gallery.

Mayor and Council Members
City of Cincinnati
May 19, 2011
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MANLEY BURKE
A LEGAL PROFESSIONAL ASSOCIATION

All YWCA programs work together to provide a comprehensive approach to offering services to women in our community. The YWCA has been providing housing to women for over 140 years and specifically to homeless women for over 32 years. The YWCA has long recognized that the empowerment of women requires a multi-faceted approach that addresses the multiple and varied needs of each woman. The YWCA is committed to finding innovative and successful ways to serve a wide array of women's needs, from safety to health to education to employment. Since its founding, the YWCA has been a keystone for positive change in the lives of hundreds of thousands of women. Consistently identifying the needs of women, the YWCA then meets them head on. YWCA programs and services empower individuals to enhance their lives- whether it is moving out of poverty, escaping from abuse, learning to read, or training for a job. The YWCA of the USA requires all YWCAs to provide quality programming focusing on the economic empowerment of women and racial justice. This national emphasis strengthens the YWCA of Greater Cincinnati's efforts to provide programming that contributes to the self-sufficiency of women in our community. YWCA programs understand the importance of focusing on economic stability for clients and incorporate this into program design.

The YWCA of Greater Cincinnati's mission to eliminate racism and empower women is at the heart of the agency's vision for a new state of the art emergency shelter for single homeless women. In order for single homeless women's needs to be met and potentially to become sufficiently empowered to transition out of homelessness, the community must specifically address their needs in a comprehensive fashion. This can best be met by creating a safe environment designed specifically for women that meets the Homeless to Homes Plan's criteria which consolidates all beds for single homeless women (except those specifically for victims of domestic violence and those operated by the Off the Streets program) into this new facility.

The facility would be designed to serve 50 (up to 60 with overflow) women nightly. Currently, there are no women-only special assistance shelter facilities in the region. The YWCA shelter would provide a continuum of services including: basic human needs (such as shelter, food, clothing, toiletries), welcoming and accepting staff that immediately engage new residents, a timely and comprehensive assessment process followed by an on-site mental health and substance abuse diagnostic assessment. In addition, high quality case management focused on assisting with independence and self-sufficiency utilizing case planning including timelines with achievable goals specific to an appropriate length of stay, day treatment program with trained staff providing structured activities and access to resources such as health and job readiness/training services would be provided.

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A LEGAL PROFESSIONAL ASSOCIATION

Mayor and Council Members
City of Cincinnati
May 19, 2011
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The facility envisioned by the YWCA of Greater Cincinnati would meet the requirements outlined in the Homeless to Homes Plan, which is based on nationally recognized best practices as well as the YWCA's vast experience of providing housing to women. The site will be centrally located with access to bus transportation in order to access community resources such as stores, recreation, physical/mental, and substance abuse health treatment as well as access to facilities that provide community benefits (i.e. Hamilton County Jobs and Family Services, Freestore Food Bank, SuperJobs etc.). Per Homeless to Homes Plan the shelter will be for women only and will not be located next-door or across the street from an existing school.

The building will be approximately 14,000 sq. ft. and include non-dormitory style bedrooms that will house one to four women each. A number of single occupancy room designs will be incorporated to accommodate women with special needs for privacy. There will be a licensed commercial food services operation (institutional kitchen) for preparation, cooking, dishwashing, and refrigeration and storage. Resident community meeting rooms for recreation, relaxation, and services including day treatment will reflect a welcoming environment similar to the YWCA's other facilities (shelters, administrative offices, transitional living apartments).

Staff space will include private and shared offices, intake area to facilitate transitioning from the streets into the shelter environment, and meeting room(s) where groups of staff and community members can meet for planning, coordination, and training activities. Outdoor space will be available that includes landscaping, furniture, shade, and shelter from the rain. If space is available, a community garden that can be maintained by community volunteers working with residents that chose to be involved in this therapeutic activity has been shown to provide an inspirational venue that can change community norms and prejudices and improve community relations through celebrating the harvest together.

The property at 2452 Kinsey Avenue is located in a CC-A, Commercial Community Auto-oriented, Zoning District along Reading Road near E. McMillan Street. A special assistance shelter is not a permitted use in this zoning district or any other zoning district in the city. Therefore, a zone change to another district would not allow the shelter as a permitted use. While this use may be approved as a conditional use in the CC-A Zone, in order to more effectively implement the Homeless to Homes Plan, the applicant is seeking approval of a notwithstanding ordinance in order to meet City Council's directives concerning the implementation of the Homeless to Homes Plan. The only other administrative remedy available is a use variance. The standards required for a use variance are exceptionally difficult to meet. To my knowledge, the City has never

MANLEY BURKE

A LEGAL PROFESSIONAL ASSOCIATION

Mayor and Council Members
 City of Cincinnati
 May 19, 2011
 Page 5

approved a use variance. Therefore, approval of Notwithstanding Ordinance is requested to permit the establishment of a shelter at this site.

The proposed special assistance shelter will not have an adverse effect on the public health, safety or welfare. The redevelopment of the site will put these long vacant parcels to more productive use, allowing the YWCA to further their mission and the implementation of the Homeless to Homes Plan. The shelter will provide additional housing opportunities for the City's homeless and provide need daytime programming.

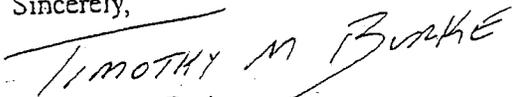
The property is currently owned by Michael Carnevale, Jr., Trustee, but is under contract to purchase by a subsidiary of 3CDC, which will transfer the property to the YWCA.

In addition to this letter, we have included all necessary documents as required under the submission requirements for a Notwithstanding Ordinance. They are as follows:

1. The completed application form
2. A copy of the zoning map showing the property
3. An aerial photograph, with the subject property outlined
4. A site plan of the proposed development
5. A schematic drawing of the proposed buildings
6. Floor plans for the buildings.

In conclusion, the granting approval for the establishment of a women's only special assistance shelter by the YWCA, through the approval of a notwithstanding ordinance appropriate based on the requirements of § 111-5 of the Municipal Code.

Sincerely,


 Timothy M. Burke

cc: Sean Suder, Assistant City Solicitor
 Charles Graves, Director of Buildings and Inspections
 Margaret Wuerstle, Chief Planner
 Debbie Brooks, YWCA of Cincinnati
 Adam Gelter, 3CDC, Vice-President of Development

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Honorable City Planning Commission
Cincinnati, Ohio

June 17, 2011

SUBJECT:

A report and recommendation regarding a Notwithstanding Ordinance application for a special assistance shelter to be located at 2452 Kinsey Avenue in the Mount Auburn neighborhood.

BACKGROUND:

The property located at 2452 Kinsey Avenue is within the Mount Auburn neighborhood and is zoned Commercial Community - Auto (CC-A). The applicants, Timothy M. Burke and Julia B. Carney are proposing a special assistance shelter that would be operated by the YWCA. A special assistance shelter is a conditional use within the CC-A zone district. The administrative remedy available would be for the applicant to apply for conditional use hearing in accordance with Chapter 1441 Application Procedures, Permits and Certificates and Chapter 1443 Zoning Hearing Examiner Procedures of the Cincinnati Zoning Code. Applications are available at the Business Permit Center 3300 Central Parkway.

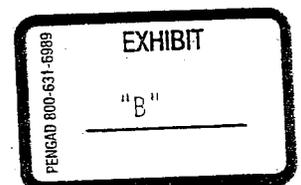
The applicants state that the facility at 2452 Kinsey Avenue would be designed to serve 50 (up to 60 with overflow) women nightly. The applicants propose a building approximately 14,000 sq. ft. in size and include non-dormitory style bedrooms that will house one to four women each. However, no plans have been submitted that clearly illustrate what is being proposed for the property.

The Ohio Historic Inventory indicates the building dates from approximately 1896 and is associated with the Cincinnati Street Railway Company. The company was one of five to apply for the privilege of laying rails in the city.

MUNICIPAL CODE SECTION 111-5 NOTWITHSTANDING ORDINANCES:

The following shall be considered when making a recommendation to Council to determine whether the proposed application will not have an adverse effect on the character of the area or the public health, safety and welfare. In addition, the following shall be considered to determine whether the proposed application is consistent with the zoning district where the subject property is located. Recommendations to Council may include conditions or limitations on use of the subject property and the length of time for continuation of the use of the subject property.

- a. Providing a guide for the physical development of the city.
- b. Preserving the character and quality of residential neighborhoods.
- c. Fostering convenient, harmonious and workable relationships among land uses.
- d. Achieving the arrangement of land uses described in the comprehensive plan for the development of the city as may have been adopted by council.
- e. Promoting the economic stability of existing land uses and protecting them from intrusions by inharmonious or harmful land uses.
- f. Providing opportunities for economic development and new housing for all segments of community.



- g. Creating pedestrian-friendly environments to reduce reliance on the automobile for travel.
- h. Preventing excessive population densities and overcrowding of land or buildings.
- i. Ensuring the provision of adequate open space for light, air and fire safety.
- j. Ensuring that development is compatible with the environment, particularly on the hillsides and along the riverfront.
- k. Promoting the conservation, protection, restoration and enhancement of the historic resources of the city.
- l. Lessing congestion in the public streets by providing for off-street parking and loading areas for commercial vehicles.
- m. Providing effective signage that is compatible with the surrounding urban environment.
- n. Setting standards by which a nonconforming use may continue to function and provide for the adequate reuse of nonconforming buildings.

RECOMMENDATION:

The staff of the City Planning and Buildings Department recommends that the City Planning Commission take the following action:

DISAPPROVE the Notwithstanding Ordinance application for a special assistance shelter to be located at 2452 Kinsey Avenue in the Mount Auburn neighborhood for the reason that the proposed use is a conditional use in the CC-A zone district and;

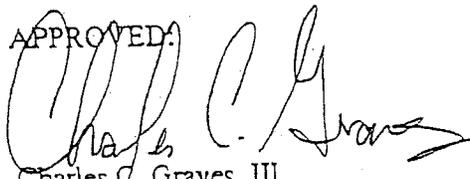
DIRECT the applicant to apply for a conditional use hearing in accordance with Chapter 1441 and Chapter 1443 of the Cincinnati Zoning Code following regular procedure for obtaining a conditional use approval.

Respectfully submitted,



Steve Briggs
Senior City Planner

APPROVED:



Charles C. Graves, III
Director of City Planning and Buildings

EMERGENCY

City of Cincinnati

RDH/B
JPC/PAH

An Ordinance No. 410

- 2010

AUTHORIZING the establishment of one new HOME Investment Trust project account no. 411x162x09012, "Anna Louise Inn"; and further AUTHORIZING the transfer and appropriation of the sum of \$800,000 from HOME Investment Trust project account no. 411x162x09600, "Homeless to Homes—Transitional Housing '10", to newly created HOME Investment Trust project account no. 411x162x09012, "Anna Louise Inn"; and further AUTHORIZING the transfer and appropriation of the sum of \$1,869,351 from the unappropriated surplus of HOME Investment Trust Fund 411 to newly created HOME Investment Trust project account no. 411x162x09012, "Anna Louise Inn"; and further AUTHORIZING the City Manager to enter into and execute an agreement with Anna Louise Inn, Limited Partnership, for the purpose of funding and implementing the rehabilitation of 85 units of permanent supportive housing in the City of Cincinnati, located at 300 Lytle Street in the Lytle Park historic district of downtown Cincinnati.

WHEREAS, the Anna Louise Inn was built in 1909 by Charles and Anna Taft in honor of their daughter, Anna Louise, to provide secure and affordable housing to young working women. Anna Louise Inn is currently the only single room occupancy for at-risk homeless women in Cincinnati. Cincinnati Union Bethel (CUB) has operated the Anna Louise Inn since 1909 and their mission is to provide supportive services and educational programs. Rising operating costs due to the age of building systems and deferred maintenance are threatening CUB's ability to carry out the mission; and

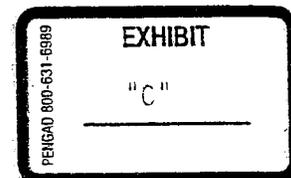
WHEREAS, the HOME Investment Trust funding will allow for improvements to the existing building including the substantial rehabilitation of units to provide 85 units of permanent supportive housing; and

WHEREAS, unappropriated funding is available in HOME Investment Trust Fund 411 due to funds repaid as a result of the Huntington Meadows settlement; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the establishment of one new HOME Investment Trust project account no. 411x162x09012, "Anna Louise Inn," is hereby authorized.

Section 2. That the transfer and appropriation of the sum of \$800,000 from HOME Investment Trust project account no. 411x162x09600, "Homeless to Homes—Transitional Housing '10", to newly created HOME Investment Trust project account no. 411x162x09012, "Anna Louise Inn" is hereby authorized.



Section 3. That the transfer and appropriation of the sum of \$1,869,351 from the unappropriated surplus of HOME Investment Trust Fund 411 to newly created HOME Investment Trust project account no. 411x162x09012, "Anna Louise Inn," is hereby authorized.

Section 4. That the City Manager is hereby authorized to enter into and execute an agreement, in a form to be approved by Council, with Anna Louise Inn, Limited Partnership, for the purpose of funding and implementing the rehabilitation of 85 units of permanent supportive housing in the City of Cincinnati, located at 300 Lytle Street in the Lytle Park historic district of downtown Cincinnati.

Section 5. That appropriation of any funds from newly created HOME Investment Trust project account no. 411x162x09012, "Anna Louise Inn" shall be contingent upon Council approval of a fully-executed development agreement between the City of Cincinnati and Anna Louise Inn, LP.

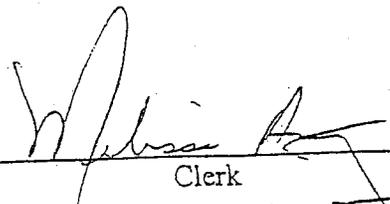
Section 6. That the proper City officials are further authorized to use and expend the sum of \$2,669,351 according to the terms of Sections 1 through 5 hereof.

Section 7. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need for the provision of funding so that necessary improvements to the Anna Louise Inn can proceed as quickly as possible.

Passed: November 17, 2010



Mayor

Attest: 

Clerk

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF OFFICE IN CINCINNATI, OHIO, THIS 17th DAY OF NOVEMBER, 2010.

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STATE OF OHIO EX REL. 506
PHELPS HOLDINGS, LLC, et al.,

Plaintiffs-Relators,

-vs-

AMIT B. GHOSH, P.E., CHIEF
BUILDING OFFICIAL, et al.,

Defendants-Respondents.

Case No. A1104189

Judge Norbert A. Nadel

ANSWER OF CITY
DEFENDANTS-RESPONDENTS

Now come Defendants-Respondents City of Cincinnati, Margaret A. Wuerstle, Zoning Hearing Examiner, and Amit B. Ghosh, P.E., Chief Building Official (collectively, the "City"), by and through counsel, and for their answer to Plaintiffs-Relators' First Amended Verified Complaint in Mandamus and for Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction, and for Declaratory Judgment, and Money Damages ("Amended Complaint"), state as follows:

ANSWER

1. In response to the allegations contained in Paragraph 1 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity. Further answering, the City denies that the property located at 506 East Fourth Street neighbors the subject property.
2. In response to the allegations contained in Paragraph 2 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record,

but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity. Further answering, the City specifically denies the allegation that 421 East Fourth Street and 550 East Fourth Street neighbor the subject property. Further answering, the City admits that the property located at 311 Pike Street neighbors the subject property.

3. The statements contained in Paragraph 3 of the Amended Complaint are for informational purposes only and do not require a response.
4. The statements contained in Paragraph 4 of the Amended Complaint are for informational purposes only and do not require a response.
5. The City admits the truth of the allegations contained in Paragraph 5 of the Amended Complaint.
6. In response to the allegations contained in Paragraph 6 of the Amended Complaint, the City admits that Margaret A. Wuerstle is the Zoning Hearing Examiner of the City of Cincinnati and that in her capacity as such she must hear applications for certain types of uses under the Cincinnati Zoning Code which require her review and approval prior to the issuance of any permits. Further answering, the City denies that Ms. Wuerstle is required or has any authority to hear any application for the current or proposed uses of the subject property.
7. The City admits the truth of the allegations contained in Paragraph 7 of the Amended Complaint.
8. In response to the allegations contained in Paragraph 8 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to

form a belief as to their truth or falsity.

9. In response to the allegations contained in Paragraph 9 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
10. In response to the allegations contained in Paragraph 10 of the Complaint, the City admits those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
11. In response to the allegations contained in Paragraph 11 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
12. The City admits that the Anna Louise Inn was erected and exists on the subject property and is five stories in height, but denies the remainder of the allegations in Paragraph 12 of the Amended Complaint for want of knowledge or information sufficient to form a belief as to their truth or falsity.
13. In response to the allegations contained in Paragraph 13 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
14. The City denies the allegations in Paragraph 14 of the Amended Complaint for want of knowledge or information sufficient to form a belief as to their truth or falsity.

15. In response to the allegations contained in Paragraph 15 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
16. The City denies the allegations contained in Paragraph 16 of the Amended Complaint for want of knowledge or information sufficient to form a belief as to their truth or falsity.
17. The City denies the allegations contained in Paragraph 17 of the Amended Complaint for want of knowledge or information sufficient to form a belief as to their truth or falsity.
18. The City denies the allegations contained in Paragraph 18 of the Amended Complaint for want of knowledge or information sufficient to form a belief as to their truth or falsity.
19. The City denies the allegations contained in Paragraph 19 of the Amended Complaint for want of knowledge or information sufficient to form a belief as to their truth or falsity.
20. The City denies the allegations contained in Paragraph 20 of the Amended Complaint for want of knowledge or information sufficient to form a belief as to their truth or falsity.
21. The City denies the allegations contained in Paragraph 21 of the Amended Complaint for want of knowledge or information sufficient to form a belief as to their truth or falsity.
22. In response to the allegations contained in Paragraph 22 of the Amended Complaint,

the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.

23. In response to the allegations contained in Paragraph 23 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
24. The City denies the allegations contained in Paragraph 24 of the Amended Complaint for want of knowledge or information sufficient to form a belief as to their truth or falsity.
25. In response to the allegations contained in Paragraph 25 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
26. The City denies the allegations contained in Paragraph 26 of the Amended Complaint for want of knowledge or information sufficient to form a belief as to their truth or falsity.
27. In response to the allegations contained in Paragraph 27 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
28. The City denies the allegations contained in Paragraph 28 of the Amended Complaint.
29. In response to the allegations contained in Paragraph 29 of the Amended Complaint,

the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity. Further answering, the City specifically denies the allegation that Defendant Cincinnati Union Bethel has proposed to use the Anna Louise Inn as a special assistance shelter.

30. The City admits the truth of the allegations contained in Paragraph 30 of the Amended Complaint.
31. In response to the allegations contained in Paragraph 31 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
32. The City denies the truth of the allegations contained in Paragraph 32 of the Amended Complaint.
33. In response to the allegations contained in Paragraph 33 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
34. In response to the allegations contained in Paragraph 34 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
35. In response to the allegations contained in Paragraph 35 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public

record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.

36. The statements contained in Paragraph 36 of the Amended Complaint are for informational purposes only and do not require a response.

37. The City admits that Ordinance No. 410-2010 references "85 units of permanent supportive housing," but denies the remainder of the allegations in Paragraph 37 of the Amended Complaint.

38. In response to the allegations contained in Paragraph 38 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.

39. In response to the allegations contained in Paragraph 39 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.

40. The City admits the truth of the allegations contained in Paragraph 40 of the Amended Complaint.

41. The City denies the truth of the allegations contained in Paragraph 41 of the Amended Complaint.

42. The City denies the truth of the allegations contained in Paragraph 42 of the Amended Complaint.

43. The City denies the truth of the allegations contained in Paragraph 43 of the Amended Complaint. Further answering, final zoning approval is not granted until a building

permit is issued.

44. The City denies the truth of the allegations contained in Paragraph 44 of the Amended Complaint. Further answering, a certificate of appropriateness is required for some but not all actions taken by an owner of property within a historic district. Further answering, Plaintiffs-Relators' use of the term "zoning approval" is overly vague and does not account for the multi-step process of zoning review and ignores the fact that zoning approval is not final until the issuance of the building permit.
45. In response to the allegations contained in Paragraph 45 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
46. In response to the allegations contained in Paragraph 46 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
47. In response to the allegations contained in Paragraph 47 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
48. In response to the allegations contained in Paragraph 48 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.

49. The City admits the truth of the allegations contained in Paragraph 49 of the Amended Complaint.
50. The City admits the truth of the allegations contained in Paragraph 50 of the Amended Complaint.
51. The statements contained in Paragraph 51 of the Amended Complaint are for informational purposes only and do not require a response.
52. The statements contained in Paragraph 52 of the Amended Complaint are for informational purposes only and do not require a response.
53. In response to the allegations contained in Paragraph 53 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information sufficient to form a belief as to their truth or falsity.
54. The City denies the truth of the allegations contained in Paragraph 54 of the Amended Complaint.
55. The City avers that the statements contained in Paragraph 55 of the Complaint call for legal conclusions and contain generalized assertions and attorney argument to which no response is required. To the extent that a response is required, the City denies the allegations contained in Paragraph 55 of the Amended Complaint.
56. The City avers that the statements contained in Paragraph 56 of the Complaint call for legal conclusions and contain generalized assertions and attorney argument to which no response is required. To the extent that a response is required, the City denies the allegations contained in Paragraph 56 of the Amended Complaint.
57. The City admits that, generally, approval of conditional uses require an application to

be submitted to the City of Cincinnati and Amit B. Ghosh, Chief Building Official, and that they are reviewed and approved by Margaret A. Wuerstle, Zoning Hearing Examiner as alleged in Paragraph 57 of the Amended Complaint. Further answering, the City denies that current or proposed uses of the subject property require conditional use approval.

58. The City admits the truth of the allegations contained in Paragraph 58 of the Amended Complaint. Further answering, the City states that no conditional use approval has been granted because none is necessary.
59. The City admits that the original and prior uses of the subject property may have qualified as legal non-conforming uses, but denies the truth of the remainder of the allegations contained in Paragraph 59 of the Amended Complaint. The plans for the proposed renovation of the Anna Louise Inn bring any prior or existing non-conformity into compliance with the Cincinnati Zoning Code.
60. The City admits that Plaintiffs-Relators have correctly stated the process by which a legal non-conforming use is expanded or substituted, but denies that any non-conforming uses are being expanded or substituted on the subject property.
61. The City denies the truth of the allegations contained in Paragraph 61 of the Amended Complaint.
62. The City denies the truth of the allegations contained in Paragraph 62 of the Amended Complaint.
63. In response to the allegations contained in Paragraph 63 of the Amended Complaint, the City admits the truth of those allegations that are verifiable as a matter of public record, but otherwise denies the allegations for want of knowledge or information

sufficient to form a belief as to their truth or falsity.

64. The City denies the truth of the allegations contained in Paragraph 64 of the Amended Complaint.

FIRST CLAIM FOR RELIEF

65. The City restates and incorporates all responses, admissions and denials to paragraphs 1 through 64 of the Amended Complaint.
66. The statements contained in Paragraph 66 of the Amended Complaint are for informational purposes only and do not require a response.
67. The City avers that the statements contained in Paragraph 67 of the Complaint call for legal conclusions and contain generalized assertions and attorney argument to which no response is required. To the extent that a response is required, the City denies the allegations contained in Paragraph 67 of the Amended Complaint.
68. The City denies the allegations contained in Paragraph 68 of the Amended Complaint.
69. The City denies the allegations contained in Paragraph 69 of the Amended Complaint.
70. The City avers that the statements contained in Paragraph 70 of the Complaint call for legal conclusions and contain generalized assertions and attorney argument to which no response is required. To the extent that a response is required, the City denies the allegations contained in Paragraph 70 of the Amended Complaint.

SECOND CLAIM FOR RELIEF

71. The City restates and incorporates all responses, admissions and denials to paragraphs 1 through 70 of the Amended Complaint.
72. The City avers that the statements contained in Paragraph 72 of the Complaint call for legal conclusions and contain generalized assertions and attorney argument to which no

response is required. To the extent that a response is required, the City denies the allegations contained in Paragraph 72 of the Amended Complaint.

THIRD CLAIM FOR RELIEF

73. The City restates and incorporates all responses, admissions and denials to paragraphs 1 through 73 of the Amended Complaint.
74. The City avers that the statements contained in Paragraph 74 of the Complaint call for legal conclusions and contain generalized assertions and attorney argument to which no response is required. To the extent that a response is required, the City denies the allegations contained in Paragraph 74 of the Amended Complaint.
75. The City avers that the statements contained in Paragraph 75 of the Complaint call for legal conclusions and contain generalized assertions and attorney argument to which no response is required. To the extent that a response is required, the City denies the allegations contained in Paragraph 75 of the Amended Complaint.
76. The City avers that the statements contained in Paragraph 76 of the Complaint call for legal conclusions and contain generalized assertions and attorney argument to which no response is required. To the extent that a response is required, the City denies the allegations contained in Paragraph 76 of the Amended Complaint.

FOURTH CLAIM FOR RELIEF

77. The City restates and incorporates all responses, admissions and denials to paragraphs 1 through 76 of the Amended Complaint.
78. The City avers that the statements contained in Paragraph 78 of the Complaint call for legal conclusions and contain generalized assertions and attorney argument to which no response is required. To the extent that a response is required, the City denies the

allegations contained in Paragraph 78 of the Amended Complaint.

79. The City denies the allegations contained in Paragraph 79 of the Amended Complaint.
80. The City denies the allegations contained in Paragraph 80 of the Amended Complaint.
81. The City avers that the statements contained in Paragraph 81 of the Complaint call for legal conclusions and contain generalized assertions and attorney argument to which no response is required. To the extent that a response is required, the City denies the allegations contained in Paragraph 81 of the Amended Complaint.

FIFTH CLAIM FOR RELIEF

82. The City restates and incorporates all responses, admissions and denials to paragraphs 1 through 81 of the Amended Complaint.
83. The City avers that the statements contained in Paragraph 83 of the Complaint call for legal conclusions and contain generalized assertions and attorney argument to which no response is required. To the extent that a response is required, the City denies the allegations contained in Paragraph 83 of the Amended Complaint.
84. The City denies the allegations contained in Paragraph 84 of the Amended Complaint.
85. The City denies the allegations contained in Paragraph 85 of the Amended Complaint.
86. The City avers that the statements contained in paragraph 86 call for a legal conclusion, and contain generalized assertions and attorney argument to which no response is required. To the extent that a response is required, the City denies the allegations contained in paragraph 86 of the Amended Complaint.

AFFIRMATIVE DEFENSES

1. The City denies each and every statement, allegation, and averment contained in the Amended Complaint which is not specifically herein admitted to be true and reserves

- the right to amend the foregoing admissions and denials in light of information that may become known to it during the course of these proceedings.
2. The City reserves the right to raise such further defenses as shall become manifest during or upon completion of discovery.
 3. The City reserves the right to exercise all defenses under Ohio Revised Code Chapter 2744.
 4. The City is entitled to a credit, setoff, or deduction of all amounts paid to or available to Plaintiffs-Relators from collateral sources as set forth in §2744.05 of the Ohio Revised Code.
 5. The City reserves the right to assert insufficiency of process and insufficiency of service of process pursuant to Civil Rule 12(B)(4) and (5) as these defenses may develop during the discovery of this action.
 6. The Amended Complaint fails to state a claim against the City upon which relief may be granted.
 7. Plaintiffs-Relators lack standing or capacity to prosecute this action.
 8. Plaintiffs-Relators have failed to exhaust their administrative remedies.
 9. Plaintiffs-Relators' claims are not ripe.
 10. Plaintiffs-Relators' claims may be barred by the applicable statute of limitations and/or contractual limitations clauses.
 11. Plaintiffs-Relators may have failed to join all necessary or proper parties.
 12. Plaintiffs-Relators' claims may be barred due to its failure to mitigate damages.
 13. Plaintiffs-Relators' claims may be barred due to its failure to act in a commercially reasonable manner.

14. Plaintiffs-Relators' claims may be barred, in whole or in part, by laches or other equitable principles.
15. The City is entitled to 10th Amendment immunity for its governmental acts.
16. The relief sought by Plaintiffs-Relators may be either unsupported by, or contrary to, applicable law or contract, including, without limitation, the laws governing municipalities in the State of Ohio.

WHEREFORE, having fully answered the Amended Complaint, the City respectfully requests the following:

- I. That the Amended Complaint be dismissed with prejudice or, in the alternative, that all parties be required to establish their respective interests, or be forever barred;
- II. That this Court award the City its costs herein expended, including reasonable attorneys' fees;
- III. That such other relief as may be granted herein be subject to the relief of the City; and,
- IV. That the City be granted all such other and further relief to which it may be entitled at law or in equity.

Respectfully submitted,

JOHN P. CURP,
City Solicitor

/s/ Sean S. Suder

Sean S. Suder (0078535)

Terrance A. Nestor (0065840)

Chief Counsel

Office of the Solicitor of the City of
Cincinnati

801 Plum Street, Room 214

Cincinnati, Ohio 45202

Phone: (513) 352-3327

Fax: (513) 352-1515

E-mail: Sean.Suder@cincinnati-oh.gov

Terry.Nestor@cincinnati-oh.gov

*Attorneys for Defendants-Respondents City
of Cincinnati, Margaret A. Wuerstle, Zoning
Hearing Examiner, and Amit B. Ghosh,
P.E., Chief Building Official*

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing ANSWER OF CITY DEFENDANTS-RESPONDENTS has been duly served upon all parties or counsel of record by electronic mail and regular mail, postage prepaid, this 11th day of October, 2011:

C. Francis Barrett
Barrett & Weber
105 E. Fourth Street, Suite 500
Cincinnati, Ohio 45202
Attorneys for Plaintiffs-Relators

David P. Kamp
White, Getgey & Meyer Co., LPA
One West Fourth Street, Suite 1700
Cincinnati, Ohio 45202
Attorneys for Plaintiffs-Relators

Timothy M. Burke
Manley Burke, LPA
225 W. Court Street
Cincinnati, Ohio 45202
Attorneys for Defendant-Respondent Cincinnati Union Bethel

Robert B. Newman
Newman and Meeks
215 E. Ninth Street
Cincinnati, Ohio 45202
*Attorneys for Defendant-Respondent Anna Louise Inn,
Limited Partnership*

John W. Peck
Peck, Shaffer & Williams, LLP
201 E. Fifth Street, Suite 900
Cincinnati, Ohio 45202
Attorneys for Defendant-Respondent Anna Louise Inn, GP, LLC

/s/ Sean S. Suder
Sean S. Suder (0078535)

TIMOTHY BURKE
A LEGAL PROFESSIONAL ASSOCIATION

ROBERT E. MANLEY (1935-2006)

TIMOTHY M. BURKE
ROBERT H. MITCHELL
SEAN P. CALLAN*
JOHN E. CHRISTOPHER*

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May 30, 2012

Via Email and Regular U.S. Mail

COUNSEL

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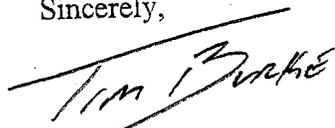
Re: Cincinnati Union Bethel and the Anna Louise Inn

Dear Fran:

While we are still waiting to resolve placing an entry of record in your lawsuit relating to the Anna Louise Inn, we have begun the process of complying with Judge Nadel's decision.

We have taken the first step by making a formal request to the Historic Conservation Board to review the Certificate of Appropriateness issued for the exterior renovation of the building, confirm what the conditions were that were placed on the approval of the Certificate of Appropriateness and confirm if those conditions have been satisfactorily complied with. Enclosed is a copy of what was filed last Friday with the Historic Conservation Board staff.

Sincerely,



Tim Burke

Enclosure

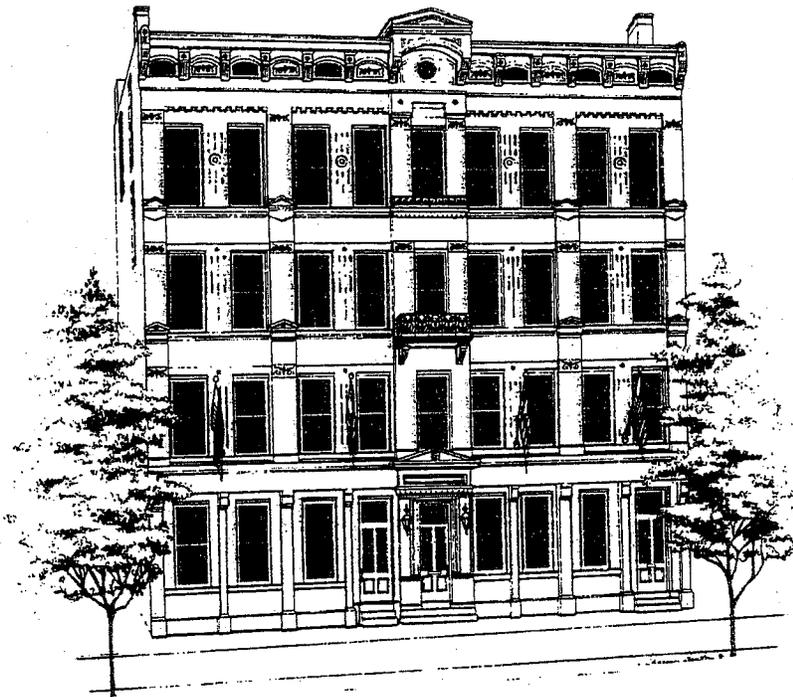
Cc: Sean S. Suder

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Anna Louise Inn
Certificate of Appropriateness
Issue

*Submitted on behalf of
Cincinnati Union Bethel*

by
Timothy M. Burke
Manley Burke, LPA



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May 25, 2012

John Senhauser, Chairman
and Members
Cincinnati Historic Conservation Board
c/o Larry Harris, Secretary
Centennial Plaza Two
Seventh Floor
805 Central Avenue
Cincinnati, Ohio 45202

Ladies and Gentlemen:

As you will recall, approximately one year ago on June 27, 2011, Cincinnati Union Bethel appeared before the Historic Conservation Board seeking a Certificate of Appropriateness for the renovation of its Anna Louise Inn.

As a result of a recent judicial decision in *State of Ohio on Relation of 506 Phelps Holdings, LLC, et al. v. Amit B. Ghosh, P.E., Chief Building Official, City of Cincinnati, et al.*, Hamilton County Common Pleas Court, Case Nos. A1104189, A1108167 and A1108168, that Certificate of Appropriateness has been called into question. The issue appears to be that the conditions placed on the granting of the Certificate of Appropriateness were not clearly articulated on any documents following the approval, and that the Certificate of Appropriateness was physically issued later the same day after the building permit was physically issued.

In order to clear up this matter, we are requesting that the issue of the Certificate of Appropriateness for the renovation of the Anna Louise Inn again be placed on the agenda of the Historic Conservation Board for consideration and confirmation of the previously issued Certificate of Appropriateness, the clear articulation of the conditions and a determination as to whether or not those conditions are met by the plans submitted with this letter.

To assist in your consideration of this request, also enclosed are the following documents:

- 1) A copy of the original application;
- 2) A copy of the transcript of the Board's meeting, at which the application was considered and approved with conditions. As will be seen from the transcript, the two conditions that accompanied the Board's approval of the Certificate of Appropriateness were:

MANLEY BURKE

A LEGAL PROFESSIONAL ASSOCIATION

John Senhauser, Chairman
and Members
Cincinnati Historic Conservation Board
May 25, 2012
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- A) Modify the five new windows on the fifth floor of the building that will be inserted in the existing openings of the parapet wall to be 2 x 2 windows, matching the existing windows on the fifth floor, instead of being 1 x 1 windows as shown in the plans. That condition was itself conditioned upon the State Historic Preservation Office and the National Park Service's approval of that change. It was understood that if the National Park Service declined to approve it, the condition would not be enforced by the Board or delay the issuance of the Certificate of Appropriateness. Subsequently, the National Park Service did decline to approve that change, desiring instead that the windows be different so that the new windows were readily distinguishable from the historic windows.
- B) The Board also conditioned approval on moving the air handling unit from the south side of the roof of the building where it might be visible from Ft. Washington Way toward the middle of the roof where it was not likely to be visible from Ft. Washington Way. That modification was complied with and is depicted on the plans. Also included is a copy of the roof plan, showing the original location proposed for the air handling equipment.
- 3) Also enclosed is a copy of the guidelines for approval of Certificates of Appropriateness in the Lytle Park Protection Area. As you can see, those guidelines relate exclusively to the exterior of the building. The plan for the renovation of the Anna Louise Inn meets all of the relevant criteria for approval of a certificate of appropriateness.

At a later date, in order to comply with the court's decision, we will submit an application for conditional use approval of the uses proposed to exist in the Anna Louise Inn. Those uses are:

- 1) 85 units of housing, each of which will have private bath and kitchen facilities, but which the Court has determined to be part of a special assistance shelter use, requiring conditional use approval. The 85 units will be located on the second through fifth floors. On the second floor, there will be one office that will house a care coordinator present to assist those residents of the 85 units who choose to avail themselves of such

MANLEY BURKE
A LEGAL PROFESSIONAL ASSOCIATION

John Senhauser, Chairman
and Members
Cincinnati Historic Conservation Board
May 25, 2012
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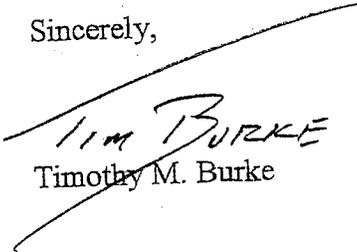
assistance in arranging medical care, providing financial advice, employment counseling, and so on.

- 2) The plans will also include the Cincinnati Union Bethel's award-winning *Off the Streets*SM Program, designed to protect and assist women in transitioning from prostitution, which Cincinnati Union Bethel believes to be a transitional use permit in the DD Zone, but which the Court determined to also be a part of a special assistance shelter which requires conditional uses.
- 3) The application will include Cincinnati Union Bethel's offices, which serve as all of Cincinnati Union Bethel's operations, not just the Anna Louise Inn. Cincinnati Union Bethel believed that use was an office use principally permitted in the DD Zone. While the Court decision did not specifically address the office use, the Plaintiff's expert had argued in court that the offices too were a part of a special assistance shelter. Thus, in order to eliminate any doubt, we will seek approval for those office uses as well.

I specifically request to be notified as to when this matter will be considered on the agenda of the Historic Conservation Board and that any neighboring property owners would normally receive notice of an application for a Certificate of Appropriateness also be provided with notice.

Thank you for your consideration.

Sincerely,


Timothy M. Burke

Enclosures

cc: Sean Suder

N:\CLIENTS\Cincinnati Union Bethel\Corres\Senhauser and Cinti Hist Pres Bd Members.5-21-12 - re Cert of Appropriateness.TMB.doc-rrb

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- 3 Lytle Park Protection Area Guidelines
- 4 11" x 17" copies of Plans from 2011 Submittal
- 5 Photos of Proposed Alterations to Anna Louise Inn
- 6 Updated Roof Plan per conditions placed on COA by Historic Conservation Board in June, 2011
- 7 Email from Ohio Historic Office Regarding Fifth Floor Windows

HISTORIC CONSERVATION BOARD

ANNA LOUISE INN PREHEARING

JUNE 21, 2011

Prehearing regarding Anna Louise Inn, taken at the Office of The City Planning Commission, Suite 700, Two Centennial Plaza, 805 Central Avenue, Cincinnati, Ohio, on Tuesday, the 21st of June, 2011, at approximately 9:45 a.m.

CHAIRPERSON: Caroline Kellam

BOARD MEMBERS: Stephen t. MacConnell

Deanna Heil

Mary Carol Melton

Craig Rambo

Timothy Burke

Morag Adlon

Bobby Maly

Nick Zimmerman

Larry Harris

Sean Suder

PROCEEDINGS

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MS. KELLAM: Okay. We are going to start the prehearing. This is a very informal process here. The sole purpose of this prehearing is just to discuss the renovations of the Anna Louise Inn and the application of the Certificate of Appropriateness.

The historic conservation board has jurisdiction over the renovation of the building and they do not have jurisdiction over use or any other issues. So that's the main, the main purpose of today, to just present the project and see if anybody has any questions. Is there any abutting property owner present in the room?

(No response.)

MS. KELLAM: And is there anyone here for Western Southern, aside from the court reporter?

(No response.)

MS. KELLAM: Okay. Well, usually when this happens, we really just kind of wait to see if somebody comes. I allow a half-hour time period, and if nobody comes, then the prehearing is closed.

So, does anybody need a presentation on the project at all? The receptionist has been instructed to send anybody back that comes in the next half hour.

1 So I think we can just casually sit here and -- I've
2 been -- I've been over the project with Craig, and I
3 think I have the list of all the exterior changes to
4 the building. And the project has received state
5 historic approval and also approval from the National
6 Park Service. And they do have their Part II historic
7 tax code approval. And the project is going before the
8 board in order to obtain their Certificate of
9 Appropriateness, particularly because they are adding
10 an addition to the building. So that's the reason that
11 it's going before the board on Monday.

12 MR. SUDER: Is that the only thing that's
13 being proposed, is the addition? Are there any changes
14 to the exterior?

15 MS. KELLAM: Yeah. I have a list, actually.

16 MR. SUDER: Windows?

17 MS. KELLAM: Window replacements and, you
18 know, tuckpointing, and just a list of --

19 MR. SUDER: Did you all review the
20 conservation guidelines?

21 MS. HEIL: Yes. The only new windows will be
22 part of the fifth floor addition. All the other windows will remain.

23 MR. SUDER: Okay.

24 MS. HEIL: And then minor tuckpointing, if
25 needed.

1 MR. SUDER: Okay.

2 MS. HEIL: And I have a specification that's
3 approved.

4 MS. KELLAM: And some new roofing, a slate
5 roof that will be retained, mechanical equipment
6 installed on the roof will not be visible, the fifth
7 floor addition with the new windows just at the fifth
8 floor, and doing some repainting, and that's about
9 it. So --

10 (Off the record.)

11 MS. KELLAM: These are pictures on
12 PowerPoint. It gives a good idea of the addition.
13 They are basically connecting two parts of the building
14 that were not connected initially -- filling in.

15 MR. RAMBO: Correct, at the
16 existing facade between the two connections that are
17 already there facing Lytle Park.

18 MS. KELLAM: And it's not adding
19 any height to the building either. So it's almost a
20 misconception to call it an addition, but --

21 MR. SUDER: It's an alteration.

22 MS. KELLAM: Yes. It's an alteration. At
23 any other time, the public is -- can come in and look
24 at the plans if they were unable to attend this
25 prehearing. Of course, all the plans are public

1 information.

2 MR. SUDER: And the hearing is what date?

3 MS. KELLAM: Pardon?

4 MR. SUDER: When is the hearing?

5 MS. KELLAM: The hearing is on Monday, June

6 27th, at 3:00 p.m.. I'm not sure how long the agenda

7 is. Are there other -- Do you have items?

8 MR. HARRIS: There are two other cases, at

9 least at this point, and that's about it. We have the

10 review of -- the re-review of 44442 Liberty Hill, and

11 then the case which is a garage addition to a property

12 in East Walnut Hills.

13 MS. KELLAM: Okay.

14 MR. HARRIS: And then this one.

15 MS. KELLAM: Okay.

16 MR. HARRIS: Oh, I'm sorry. There is also the

17 Gamble House. I completely forgot that -- not that I

18 should.

19 MS. KELLAM: Where will this go on the

20 agenda?

21 MR. HARRIS: This will probably be -- are

22 there no variances on this one?

23 MS. KELLAM: No.

24 MR. HARRIS: Okay. So, it will probably be

25 number three on the agenda of four cases.

1 MS. KELLAM: Before the Gamble House?

2 MR. HARRIS: Well, their application came in
3 before and -- yeah. I mean, I don't know what the
4 crowd is going to be. Mr. Barrett has told me he would
5 not be at the meeting. So, well, someone will be there
6 representing. But at the same, the prehearing is
7 tomorrow. And depending on that, I may just adjust the
8 schedule. I know he won't be at the prehearing
9 tomorrow. So, if it elevates, it will be number two.

10 MS. KELLAM: Okay.

11 (Off the record.)

12 MR. HARRIS: Caroline, are there any
13 recommendations for materials for windows? I know
14 vinyl is usually not the preferred material, but if the
15 guidelines don't specifically state that, that's
16 probably another point of contention.

17 MS. KELLAM: The windows are vinyl windows?

18 MS. HEIL: Pardon me?

19 MS. KELLAM: It already has vinyl windows,
20 right?

21 MS. HEIL: It has vinyl windows everywhere.
22 Our Part II application describes clad with double-hung
23 windows.

24 MS. KELLAM: Well, first of all, I don't
25 think the guidelines go into any detail on that. And

1 also it's been approved by the National Park Service.
2 So I don't have a problem with it.

3 MR. SUDER: And what do the guidelines say
4 about windows?

5 MS. KELLAM: They only talk about openings.
6 The scale of openings facing Lytle Park, including
7 doorways and windows, shall be generally in character
8 with the buildings surrounding the park -- which
9 implies the creation of openings, not the windows
10 themselves.

11 MR. BURKE: Caroline, just to confirm, we're
12 dealing with the 1964 guidelines?

13 MS. KELLAM: Yes.

14 MR. BURKE: Okay. Passed by ordinance of
15 1964.

16 MR. SUDER: Well, the earlier ones --

17 MS. HEIL: Was that one of the first ones?

18 MS. KELLAM: I think it's one of the first
19 historic districts in the city. They called them
20 protection areas.

21 MR. HARRIS: Yeah. The Dayton Street one, I
22 think preceded that one, but they were called protected
23 area as well.

24 MS. KELLAM: Then they might have been at the
25 same time. But I don't think there's anything earlier

1 than '64.

2 MR. SUDER: Is that what you have then in the
3 guidelines?

4 MS. KELLAM: Yes.

5 MR. SUDER: Let me see those.

6 MR. BURKE: And they're supposed to expire in
7 50 years?

8 MS. KELLAM: I'm not aware of that.

9 MR. SUDER: Fifty years?

10 MR. BURKE: Fifty.

11 MR. SUDER: Is that what it says?

12 MR. BURKE: In the ordinance. Guidelines for
13 architectural point of view applicable to the area
14 described on said plat being effective for a period of
15 50 years.

16 MR. SUDER: I guess it's time to redo these,
17 huh?

18 MR. HARRIS: That was before the 1435 Chapter
19 was created. I don't know, Sean, you can probably
20 review that in determining whether or not that voided
21 that provision.

22 MR. BURKE: You may be right about that. I
23 just raised that as a matter of curiosity more than
24 anything else.

25 MR. HARRIS: Yeah. I know the -- I think the

1 ordinance to create the 1435 was in the eighties, and,
2 obviously, much later.

3 MR. BURKE: Sure.

4 MS. KELLAM: In fact, the office was
5 established in 1980.

6 MR. HARRIS: Which is generally a year or two
7 before the first ordinance for the chapter. And the
8 chapter has been revised several times.

9 MS. KELLAM: We should probably take a look
10 at that.

11 MR. BURKE: Sure.

12 MR. SUDER: Sean, that's the copy of the
13 ordinance, itself.

14 MR. SUDER: Oh, yeah. Great. Thanks.

15 MR. BURKE: But I need that one back.

16 MR. SUDER: Okay.

17 MS. KELLAM: I think we can conclude the
18 prehearing.

19 Nobody else is coming. And if somebody does, the plans are
20 available to look at here in the office.

21 (Proceedings concluded at 9:50 p.m.)

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CERTIFICATE OF REPORTER

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COMMONWEALTH OF KENTUCKY AT LARGE:

I do hereby certify that the foregoing transcript was recorded stenographically and mechanically by me and then reduced to typewritten form under my direction, and constitutes a true record of the transcript as taken, all to the best of my skill and ability. I do hereby certify that I am not a relative or employee of either counsel, and that I am in no way interested financially, directly or indirectly in this action.

MARGARET J. FAHEY

COURT REPORTER AND NOTARY PUBLIC

MY COMMISSION EXPIRES: SEPTEMBER 5, 2011

HISTORIC CONSERVATION BOARD

REGULAR MEETING

June 27, 2011

J. Martin Griesel Room - 7th Floor

3:00 p.m., II Centennial Plaza, 805 Central Avenue

BOARD MEMBERS:

John Senhauser, chairman

Ben Young

Carolyn Wallace

Ken Jones

Bobbie McTurner

Judith Spraul-Schmidt

ALSO PRESENT:

Sean Suder, Esq.

Larry Harris

Court Reporter: LaCartha Pate

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PROCEEDINGS

JUNE 27, 2011

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CHAIRMAN SENHAUSER: Looking at the list here, which is for Item 2 -- looking at the list, two things. I'd like to suspend the rules -- we can still go through staff's presentation, but in terms of people speaking, I would like to suspend the rules and allow 15 minutes for those people who it appears as though you have a group of speakers and so --

MR. BURKE: Mr. Chairman, I may be able to help you with that. We think we have half a dozen people here who are prepared to speak. I believe we can present our entire case today through one witness, and that's Craig Rambo.

So my intention would be to present Mr. Rambo, add a little bit of argument, and then see, depending upon what questions there are, whether or not we need to call somebody else. Some of that we may not know until there is an opportunity for rebuttal.

I talked with Mr. Barrett a couple of times prior to this hearing to determine

1 whether or not there was going to be
2 opposition to this. It's still not clear to
3 me whether there's any opposition to this.

4 CHAIRMAN SENHAUSER: Okay. Well, my
5 point is that I'd like to suspend the rules,
6 and I will give individuals an opportunity to
7 speak, but I'd like to limit those in the pro
8 and those in the con that there are. And I
9 do have one person speaking -- Mr. Barrett
10 has indicated he and Mr. Sanmarco are
11 speaking. And I will give them an
12 opportunity, an equal opportunity to speak.

13 I would state here that, initially that
14 the issue before the Board here is one of the
15 Certificate of Appropriateness based on the
16 historic guidelines for the Lytle Place
17 Historic District. And so that is the
18 decision -- that is the basis on which we
19 will be making decisions. That is the basis
20 on which we will be making motions related to
21 the staff presentation.

22 Other issues related to use of zoning
23 really are not best handled in this venue, so
24 we specifically will be addressing the issues
25 of a Certificate of Appropriateness based on

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and doesn't it look kind of odd in the
artist's rendering where they're
one-over-one?

MS. WALLACE: I can only speculate, but
I know that there's a pattern, with reviews
done by the Ohio Historic Preservation Office
for historic credit applications that
whenever additions are put on buildings, they
want those additions to look new, and that's
the only thing that I can figure. But they
were approved by the State.

MR. YOUNG: If we were to change that to
two-over-two, does that hurt on their tax
credits?

MS. WALLACE: I would have to check with
the State, but I wouldn't think so.

MR. YOUNG: It looks like you ran out of
two-over-two windows and went down and got
one-over-one.

MS. WALLACE: But there's also a lot of
eight-over-eight windows, too.

MR. YOUNG: But they're all on the same
floors.

MR. HARRIS: Mr. Young, if I could
interject. The question you asked about

1 whether it would alter their approval, it
 2 would -- it may not, but it has to be
 3 resubmitted, because they get approved on the
 4 drawings that are submitted. And once they
 5 make any changes that are not in keeping with
 6 those drawings, they have to get approval
 7 back. And so they would have to submit that
 8 to --

9 MR. YOUNG: But it's submitted as an
 10 amendment, I think.

11 MR. HARRIS: It's a change, basically.
 12 It's not an amendment as much because it's
 13 not really amending, it's changing one of the
 14 conditions that were approved already.

15 MS. WALLACE: And I don't know how
 16 lengthy that process is, that would delay the
 17 project.

18 MR. YOUNG: My second question is in
 19 regards to the cooling tower, it will be
 20 pretty predominant from the Ft. Washington
 21 Way side. Now from reviewing the guidelines,
 22 the protection of the view from the park
 23 seems to be the most important, according to
 24 the guidelines, not the view from the river
 25 side. Is that your understanding also?

1 MS. WALLACE: That's correct.

2 MR. YOUNG: Thank you.

3 MR. JONES: I was going to ask another
4 question. Would there be anything involved
5 in terms of putting something to hide that
6 cooling tower?

7 MS. WALLACE: The cooling tower?

8 MR. JONES: Yes.

9 MS. WALLACE: We'd have to ask the
10 applicant. I'm sure there may be
11 possibilities on how to accomplish that.

12 CHAIRMAN SENHAUSER: Any other questions
13 of staff? Do you have a motion?

14 MR. JONES: I move to approve. Should I
15 make an amendment if we're going to make an
16 amendment?

17 CHAIRMAN SENHAUSER: Well, let's see if
18 we got a motion for trying to amend it or you
19 may submit an amended motion as a motion.

20 MR. JONES: I'll wait.

21 CHAIRMAN SENHAUSER: You'll wait. Okay.

22 MS. MCTURNER: I'll second the motion.

23 CHAIRMAN SENHAUSER: Thank you, Carolyn.

24 Mr. Burke, you said Mr. Rambo will be

25 in?

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MR. BURKE: Yes. Mr. Chairman, we may have to submit it to rearrange the boards. I'm Tim Burke. I'm here as counsel for Cincinnati Union Bethel and Anna Louis Inn.

As I indicated earlier, we actually have five or six people who are here who can answer questions today, and at least one question has been raised already which may cause us to bring up one of the other witnesses. But, principally, I believe all the questions can be appropriately addressed by Craig Rambo, from McGill Smith Punshon, who is the architect for this project.

The project has been designed very carefully to comply with the Lytle Park Historic District guidelines for area A. Unlike the Walnut Hill guidelines that you just looked at, these are much simpler and, frankly, in many ways clearer. And I think you will see that everything that is proposed is in complete compliance with those guidelines.

And with that, I'd like to turn it over to Mr. Rambo to explain what will be happening to the property.

1 MR. RAMBO: I appreciate the opportunity
2 to speak to the Board. The Anna Louise Inn
3 is obviously, as you know by reading the
4 guidelines, one of the design guideline
5 buildings for the Lytle Park area. And the
6 only thing with this facade that will be
7 changing from the Lytle Park view is the fact
8 that the openings where these -- there's a
9 wall that's a facade that connected the
10 original 1909 building with the 1920
11 building -- will remain as plaster. It's a
12 plaster surface.

13 It will have windows inserted, and I
14 might note that we would prefer windows that
15 match the adjacent side, but it was
16 recommended to us by the State Historic
17 Preservation Board to install the
18 two-over-two, so we responded appropriately
19 based on their recommendation, not ours.

20 And so the roof of this facility is
21 exactly the same pitch as the adjacent roof
22 from the 1920 era. And if you can see on the
23 far left board, that shows a person standing
24 on the sidewalk at Fourth Street, at the edge
25 of Lytle Park, and the visibility of that

1 roof is -- the angle, you can see, is not
2 visible of the roof. Also, you can see that
3 the mechanical cooling unit on the opposite
4 or western south roof is not visible at all
5 as well.

6 So the -- actually, the only change to
7 that facade on the north side is the
8 insertion of five windows. Finishes on the
9 outside will be, require some tuck pointing.
10 There may be a few bricks to change. We
11 found a brick that matches extremely closely
12 in color and in texture, both for the red
13 brick and for the white brick.

14 And so we're being vary careful. The
15 only things we're doing to the outside of the
16 building on the north side is exactly as I've
17 described it.

18 MR. BURKE: Mr. Rambo, did you design
19 the alterations to the building in compliance
20 with the Lytle District guidelines?

21 MR. RAMBO: Yes. I reviewed those
22 guidelines very extensively, making sure we
23 were meeting those requirements.

24 MR. BURKE: And as a part of the
25 application, were there a series of photos

1 that have been provided?

2 MR. RAMBO: Yes, we provided some color
3 photographs that showed a rendition of the
4 buildings being inserted or the windows being
5 inserted in that facade.

6 MR. BURKE: And I believe that's
7 attached to the report that you have in front
8 of you.

9 MS. WALLACE: It's for the Power Point,
10 which is the photographs showing before and
11 after.

12 MR. RAMBO: Any exterior painting will
13 match the existing color, as existing. So
14 while we'll be painting some of the plaster
15 surfaces, both at that top level and under
16 the porch and trim that is wood, it will be,
17 it's specified to match existing paint
18 colors, so really trying to maintain the
19 integrity of the Anna Louise Inn as it faces
20 the park.

21 CHAIRMAN SENHAUSER: Questions of Mr.
22 Rambo?

23 MR. JONES: The new windows that you're
24 putting in, do they have clear glass?

25 MR. RAMBO: Yes, they do.

1 MS. SPRAUL-SCHMIDT: In your discussions
2 with the Ohio board, you say that they didn't
3 want you to put eight-over-eight. They said
4 they didn't want to put two-over-two windows
5 in that addition?

6 MR. RAMBO: I think the best way to say
7 this is they wanted two-over-two.

8 MS. SPRAUL-SCHMIDT: But this shows
9 one-over-one.

10 MR. RAMBO: I'm sorry, they wanted
11 one-over-one. They came down and did a
12 walk-of review and their recommendation was
13 to install one-over-one.

14 MS. SPRAUL-SCHMIDT: And I apologize for
15 asking the question badly.

16 MR. BURKE: We have nothing else for Mr.
17 Rambo, if you don't have any other questions.

18 MR. JONES: I'm sorry, relevant to the
19 unit on the roof, how high above the roof
20 does that project?

21 MR. RAMBO: On the straight-on facade,
22 that elevation on the lower level shows
23 exactly the height, and I would have to
24 estimate it's about five or six feet. I
25 don't have that exact dimension, but you can

1 see what that would be. But it is not
2 visible from Lytle Park.

3 MR. JONES: Well, I was going to say,
4 would there be any consideration to sort of
5 shield that?

6 MR. RAMBO: I would have to talk to the
7 owner about that of the inn.

8 MR. JONES: Just a suggestion.

9 CHAIRMAN SENHAUSER: Relative to that,
10 I'm not sure that it's in the packet or not,
11 but what's the relative position of that
12 relative to the south wall of the building?
13 Is it right up at the south wall or is it
14 back against, toward the little part in the
15 middle?

16 MR. RAMBO: If you considered -- I can
17 show you.

18 CHAIRMAN SENHAUSER: I see, it's here.

19 Thank you. So it's about --

20 MR. RAMBO: On the roof plan, on the
21 lower right you can see the white box that
22 shows the location of the mechanical unit.
23 Here you go, this is the south roof, the
24 north roof, and this is the atrium. And that
25 is the unit right there, and the center line

1 inward.

2 CHAIRMAN SENHAUSER: Any other questions
3 for Mr. Rambo?

4 MR. YOUNG: May I ask a question in
5 regards to between tower one, I know it's not
6 seen from Lytle Park but there's one somebody
7 is putting on a building downtown and it's
8 very predominant from the river side that
9 will be a gleaming beacon of light from
10 Kentucky.

11 Would you have any problem with moving
12 that towards the north wall of the south
13 building? A lot of times utilizing the
14 structure of the exterior wall to hold the
15 beams of the tower, if there's no provision
16 for screening, moving it.

17 MR. RAMBO: I'll tell you what, the
18 reason for positioning it is there is some
19 code restrictions for the distance of a unit
20 from the edge of a building.

21 MR. YOUNG: Only if there's mechanical
22 access on that side?

23 MR. RAMBO: Right.

24 MR. YOUNG: And the Queen Tower can be
25 built with a door and locked on one side, if

1 you could potentially look into that.

2 MR. RAMBO: I will be glad to do that.
3 Otherwise, I don't see a problem of shifting
4 it.

5 MR. YOUNG: Thank you.

6 MR. BURKE: Simply to deal quickly with
7 the question that Ben asked earlier about the
8 change in the windows. Deanna, would you
9 come up for a moment? Deanna Hiehl has
10 represented this project, both with the State
11 Historic Preservation Office and the National
12 Park Service, and may be in a better position
13 to add some additional detail to the answer
14 of those questions.

15 MR. YOUNG: Thank you. Would you like
16 me to re-ask my question in regards to --

17 MS. HIEHL: I think I remember it. It
18 is customary for store tax credit projects to
19 introduce one-over-one windows unless there's
20 an historic window there that matches
21 identical. The existing windows on the fifth
22 floor are vinyl two-over-two windows, so we
23 are not typically -- we would not match the
24 existing vinyl window. And so when we talked
25 to the historic preservation office, they

1 came to discuss installing whatever window.

2 MR. YOUNG: I understand that, but it
3 doesn't carry the continuity across. Is
4 there some idea -- is that something that
5 could be, at least from my experience of
6 dealing with the Power building, we went back
7 and asked for some --

8 MS. HIEHL: We absolutely can go back
9 and ask. I intended on asking her before
10 today's hearing. She's been out of the
11 office for three weeks now and I was not able
12 to get back before this hearing.

13 MR. YOUNG: So you wouldn't have a
14 problem asking her that question.

15 MS. HIEHL: I wouldn't have a problem
16 asking because I would agree, it would be
17 anything other than a match.

18 MS. WALLACE: And what was that process?

19 MS. HIEHL: The process would be that I
20 would have a phone conversation with her.
21 She likely can pull up the material and tell
22 me on the phone whether or not that's
23 something she could approve. If she approves
24 it, we would submit a formal amendment, fill
25 out the form and mail it, and then she would

1 amend it and pass it on to the National Park
2 Service for their approval.

3 MR. BURKE: I get the sense that there's
4 likely to be an amendment made to the
5 recommendation by staff. I only ask if you
6 make such an amendment, that it be
7 conditioned in such a way that if we are able
8 to gain approval from historic in Columbus
9 and the park service, that the window change
10 would be made.

11 CHAIRMAN SENHAUSER: It would.

12 MR. BURKE: That's all we have, unless
13 there are other questions? I would simply
14 ask that as you hear from the opponents, I
15 will object if the opponents attempt to get
16 beyond the issues that are in front of this
17 board.

18 CHAIRMAN SENHAUSER: I understand.

19 Any other questions for Mr. Burke?
20 Thank you.

21 MR. BURKE: Thank you.

22 CHAIRMAN SENHAUSER: Mr. Barrett? Mr.
23 Barrett, is Mr. Burger with you or is he on
24 his own?

25 MR. BARRETT: He is not with us.

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CHAIRMAN SENHAUSER: I'm sorry, my mistake.

MR. BARRETT: Thank you, Mr. Chairman, members of Historic Conservation Board.

My name is C. Francis Barrett. I'm an attorney with the law firm of Barrett & Weber. My address is 500 Fourth and Walnut Center, Suite 500, 105 East Fourth Street, Cincinnati, Ohio 45202. I am the attorney for the Western Southern Life Insurance Company, which is the predominant and primary landowner within Lytle Park Historic District, specifically the owner of the abutting property at 311 Pike Street. On my right is Mr. Mario Sanmarco, is the president of Eagle Realty Group, which is responsible for all of the real estate of Western Southern.

We're here today primarily to protect our position. We understand the scope, as described by Chairman Senhauser, and we will confine our statements accordingly.

Just like -- to give you a little background information. The Lytle Park Historic District is shown in this map.

1 Carolyn was kind enough to send me an eight
2 by 11. I enlarged it. I don't know if
3 you're familiar with it specifically, but we
4 have Third Street down here, Broadway this
5 area, this is where Fourth Street is, Fifth
6 Street is the northern boundary, and Columbia
7 Parkway is over here. The eastern boundary
8 is Butler Street, which runs behind the Taft
9 Museum. The lower elevation does not
10 intersect with Columbia Parkway, it's below
11 Columbia Parkway. It extends to Third
12 Street. And this corner of Fourth and
13 Broadway here, there's an alleyway called
14 McAllister which is from Fourth Street to
15 Fifth Street. And, again, this is the
16 northern boundary of Fifth Street.

17 As I mentioned, Western Southern has
18 many properties in this district. One of the
19 points I'm going to make is, you can see how
20 Ft. Washington Way is shown bisecting the
21 park. And it's actually Western Southern
22 that is most responsible for the preservation
23 of Lytle Park. Some 40 years ago when the
24 State of Ohio proposed extending I-71 through
25 the park, it would have totally altered the

1 character of the park. It would have reduced
2 the park to two small pocket parks.

3 The Anna Louise Inn is this location
4 right here (indicating). In fact, the Anna
5 Louise was considered to be in jeopardy from
6 that ODOT preparation project. The Earl's
7 Building, which is the abutting property that
8 Western Southern owns right here, 311 Pike
9 Street, was also deemed to be a building that
10 would be lost.

11 Western Southern then accordingly agreed
12 to pay for the slab which was placed over
13 Lytle Park in its entirety, and that's the
14 tunnel that we have on I-71 for both
15 northbound and southbound traffic, and in
16 exchange for paying for that slab, Western
17 Southern did get the air rights to build what
18 is 550 East Fourth Street, which is right
19 over I-71. It's the corner of Pike,
20 northwest corner of Fourth and Pike. And it
21 was deemed at that time, as I understand
22 it -- neither of us were around then, but I
23 do remember reading about it in the paper at
24 that time. Mr. Sanmarco has indicated that
25 he's very familiar, having gone through this,

1 but the park would not be the same. And one
2 of the reasons was Lytle Park was considered
3 to be historic with the Taft Museum, with
4 Gilford School, which Western Southern has
5 restored, the Phelps that they restored, and
6 a number of other buildings and, therefore,
7 they did it as a civic investment.

8 I have a timeline here I would just like
9 to pass out which kind of emphasizes a couple
10 of points. I have some copies here, Carolyn,
11 if you could pass that up that side and I'll
12 give Larry a few over here. This timeline
13 just shows a few relevant dates.

14 On April 26th of this year, the
15 application for the building permit was filed
16 with the city building department by the
17 architect for the owner, of Mr. Rambo. And
18 we just noted the application really does not
19 fully and accurately describe the present
20 proposed use of the property.

21 Mr. Chairman, we will not discuss that.
22 We're not going to discuss that. That was
23 one of the concerns we had.

24 On May 24th, zoning approval was
25 actually issued by the building zoning

1 planning examiner, and we were concerned
2 about that because the historic regulations
3 of Chapter 1435 were part of the zoning code
4 and yet zoning approval was already given.

5 Then on June 15th, thereafter, the
6 application for Certificate of
7 Appropriateness was filed with Historic
8 Conservation Office by the architect for the
9 owner.

10 And the very next day, the notice was
11 prepared for another public hearing for
12 today's meeting and the prehearing
13 conference, which was held last week. The
14 prehearing conference was held on June 21st,
15 as I believe Carolyn noted. We did not
16 attend that meeting, we had prior commitments
17 and conflicts. I did send a court reporter,
18 so we did have a record and I did just get
19 that transcript just very, very recently, and
20 I looked it over. But we were not there
21 because of prior conflicts and unable to
22 attend.

23 That same day, later in the day, our
24 client, the abutting property owner of 311
25 Pike Street received a notice of the public

1 hearing to be held today and the prehearing,
2 which had already been held, and of course
3 today is the public hearing.

4 So we basically wanted to state that for
5 the record and preserve our rights and
6 protect our position. Mr. Sanmarco did wish
7 to say a few words as an officer of the
8 company.

9 State your full name, please.

10 MR. SANMARCO: My name is Mario
11 Sanmarco, president of Eagle Realty Group,
12 vice president of Western and Southern Life
13 Insurance Company. And I just wanted to, for
14 the record, clear one comment up because we
15 come, we do come before this board often and
16 we're here today because of our, the impact
17 this development would have on our
18 properties.

19 Despite what you read in the paper,
20 Western and Southern, or Eagle Realty Group,
21 has never concluded or stated that it wanted
22 to demolish Anna Louise Inn or 300 Lytle
23 Street. That's not something that has been
24 said by us.

25 MR. BARRETT: Thank you, Mr. Chairman.

1 You're not here to object to the work not
2 meeting the standards of the district; is
3 that correct?

4 MR. BARRETT: At this point in time,
5 having read Carolyn's staff report, I have
6 nothing to say in objection to her findings. 

7 MR. JONES: Thank you.

8 MS. WALLACE: Staff just wanted to
9 clarify that the requirement for mailing for
10 the prehearing and for the board meeting is
11 to the abutting property owners, to the
12 applicant and to the downtown residents
13 council, so that is who we did conduct a
14 mailing for.

15 MR. YOUNG: I guess my question is, the
16 abutting property, was the abutting property
17 owner -- is it possible that they received
18 the notice the same day as the prehearing
19 conference?

20 MS. WALLACE: No, I wouldn't think so.

21 MR. YOUNG: But those are sent, I think,
22 certified mail, right? Don't we get the
23 receipts back?

24 MS. WALLACE: No.

25 MR. YOUNG: At least we used to.

1 MS. WALLACE: No, we don't send them
2 that way.

3 MR. YOUNG: So how do we know when they
4 received them? I'm just asking, when I used
5 to be on the board --

6 MR. HARRIS: Generally if it's -- unless
7 there's a call that confirms it, the only
8 thing that goes out by certified mail is the
9 result of the board and that COA rejection or
10 denial. That is sent out by certified mail.

11 However, it is not a policy to do
12 certified mail on notices of public hearing
13 or prehearing. The general policy is that we
14 notify, and we do believe it may say regular
15 mail but it may not even specify that, we do
16 a publication in the city bulletin, we do a
17 publication to the surrounding neighbors,
18 which would have been Western Southern Group.
19 And that is the requirement itself, as
20 testified.

21 MR. YOUNG: I guess I'm splitting hairs
22 only because I've been on the community
23 councils and received notices the days of
24 prehearings or the days after, not
25 necessarily in regards to this but zoning and

1 other requirements.

2 Did the City follow the requirements of
3 proper notification of abutting property
4 owners?

5 MS. WALLACE: Yes. The mailing, the
6 Certificate of Appropriateness came in on the
7 15th of June and the mailing went out on the
8 16th, and the prehearing was held on the
9 21st.

10 CHAIRMAN SENHAUSER: And the Certificate
11 of Appropriateness would have not have been
12 considered prior to that because it was first
13 required of you by the building department
14 and by the zoning and in this case the
15 building zoning plant manager.

16 MS. WALLACE: Correct, and the planning
17 examiner was incorrect in signing off on it
18 because the project does not require any
19 zoning variances.

20 CHAIRMAN SENHAUSER: But that wasn't
21 until May 24th, according to this timeline,
22 so we wouldn't have had a Certificate of
23 Appropriateness prior to May 24th because we
24 did not have the sign on the building.

25 MS. WALLACE: That's correct.

1 MR. HARRIS: As well, I advised Carolyn
2 to send information to the applicant, since
3 they were going through a state, as well as
4 federal, review there may be changes in the
5 drawing. So we can advise the client to get
6 that approval before they submit it to COA so
7 that we can avoid any misinformation of
8 communication.

9 CHAIRMAN SENHAUSER: Any other
10 questions?

11 MS. SPRAUL-SCHMIDT: I'd just like to
12 make one comment, and that is in response to
13 Mr. Barrett's on the delineation of the
14 efforts on the part of Western Southern to
15 maintain Lytle Park and to say that we are
16 all grateful for that. I think everybody in
17 the City appreciates that, and we also
18 appreciate particularly the caretaking and
19 the changes to the Gilford School.

20 MR. BARRETT: Thank you very much.

21 CHAIRMAN SENHAUSER: If there are no
22 other questions, thank you, Mr. Barrett, Mr.
23 Sanmarco.

24 Mr. Burke, I'll give you an opportunity
25 for rebuttal.

1 MR. BURKE: The only thing that I think
2 is appropriate to point out is that
3 Mr. Barrett had actual notice of both the
4 prehearing conference and this meeting, and
5 Mr. Barrett has been very aggressive in
6 pursuing Western Southern rights. He was
7 aware of this.

8 But the most important thing is that
9 they've been aware of this. They came here
10 today. They exercised their right to testify
11 and offer comments, and they have no
12 objections to the issues that are before you
13 today.

14 Thank you.

15 CHAIRMAN SENHAUSER: Discussions?

16 MR. YOUNG: I'd like to make an
17 amendment that the Cincinnati Historic
18 Conservation Board require the applicant to
19 submit an amendment to utilize two-over-two
20 windows on the fifth floor windows infills
21 and that the Historic Conservation Board will
22 allow the Ohio State Historic Preservation
23 Office to make the final decision on the
24 amendment. We are okay otherwise.

25 And then, second, the applicant look

1 into moving the cooling tower north on the
2 south building to be flush with the exterior
3 wall, to move it further out of the line of
4 site of Ft. Washington Way.

5 MR. JONES: I'll second.

6 CHAIRMAN SENHAUSER: Mr. Secretary --

7 MR. SUDER: Just to clarify the motion.

8 What is the Board's pleasure if the
9 applicant does not receive an amendment from
10 the State?

11 MR. YOUNG: That we're okay --

12 CHAIRMAN SENHAUSER: We're okay with the
13 State's final decision.

14 MR. SUDER: So whatever the State
15 decides.

16 MR. YOUNG: Yes, that's correct.

17 MR. SUDER: I just want to verify that.

18 CHAIRMAN SENHAUSER: Any other
19 discussion on the amendment?

20 MR. HARRIS: Again, for clarification.
21 This is Mr. Young's, for both submissions,
22 that the State be the final word on that
23 because, again, each one requires a re-review
24 from the State.

25 MR. YOUNG: I would agree with that.

1 CHAIRMAN SENHAUSER: Mr. Harris, please
2 call the roll.

3 MR. HARRIS: Mr. Jones?

4 MR. JONES: Aye.

5 MR. HARRIS: Ms. McTurner?

6 MS. McTURNER: Aye.

7 MR. HARRIS: Mr. Senhauser?

8 CHAIRMAN SENHAUSER: Aye.

9 MR. HARRIS: Ms. Spraul-Schmidt?

10 MS. SPRAUL-SCHMIDT: Aye.

11 MR. HARRIS: Ms. Wallace?

12 MS. WALLACE: Aye.

13 MR. HARRIS: Mr. Young?

14 MR. YOUNG: Aye.

15 CHAIRMAN SENHAUSER: Any discussion on
16 the motion as amended?

17 Seeing none, Mr. Secretary, call the
18 roll, please.

19 MR. HARRIS: Mr. Jones.

20 MR. JONES: Aye.

21 MR. HARRIS: Ms. McTurner?

22 MS. McTURNER: Aye.

23 MR. HARRIS: Mr. Senhauser?

24 CHAIRMAN SENHAUSER: Aye.

25 MR. HARRIS: Mr. Spraul-Schmidt?

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MS. SPRAUL-SCHMIDT: Aye.

MR. HARRIS: Ms. Wallace?

MS. WALLACE: Aye.

MR. HARRIS: Mr. Young?

MR. YOUNG: Aye.

MR. HARRIS: Motion carries on both the amendment and second motion.

CHAIRMAN SENHAUSER: Thank you.

(Hearing concluded.)

C E R T I F I C A T I O N

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I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

s:/LaCartha Pate
LaCartha Pate

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HCB

HISTORIC
CONSERVATION
BOARD

CERTIFICATE OF APPROPRIATENESS

HCB USE
DATE RECEIVED
BY HCB: 6/15/11
PERMIT/APD NO: _____

APPLICATION
BUILDING ADDRESS: 300 Lytle Street
DISTRICT NAME: Lytle Park Historic District
(if applicable)

OWNER NAME: Cincinnati Union Bethel
ADDRESS: 300 Lytle Street
Cincinnati, Ohio 45202

PHONE NO: 513.768.6907

CONTRACTOR NAME: Model Construction
ADDRESS: 2170 Gilbert Ave.
Cincinnati, Ohio 45206

PHONE NO: 513.559.5800

ARCHITECT NAME: McGill Smith Punshon, Inc.
ADDRESS: 3700 Park 42 Drive, Suite 190B
Cincinnati, Ohio 45241

PHONE NO: 513.759.3225

<input type="checkbox"/> MINOR ALTERATION HCB USE ONLY	<input checked="" type="checkbox"/> NEW CONSTRUCTION <input checked="" type="checkbox"/> REHABILITATION	<input checked="" type="checkbox"/> ADDITION <input type="checkbox"/> OTHER _____	<input type="checkbox"/> DEMOLITION
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APPLICATION

WORK PROPOSED: (Describe type of work, existing conditions, methods to be used, materials proposed)

Exterior work includes a partial 5th floor addition. The addition will be constructed on the north side of the building, behind an existing parapet wall, with a roof line to match the adjacent existing low-sloped roof. New aluminum clad wood double hung windows will be installed in the existing 5th floor parapet wall openings.

Miscellaneous exterior work includes the removal of all window air conditioning units, painting the existing stucco finish areas, painting the wood entrances & fire escape, painting the brick in the light well (already painted), replacing the existing downspouts, & minimal tuck pointing as necessary. New mechanical equipment will be installed in the south side of the roof; it will not be visible from the adjacent streets. A new flat rubber roof will be installed on the light well parapet walls.

IN ORDER TO EXPEDITE HCB ACTION, PLEASE ATTACH ADDITIONAL INFORMATION, IF AVAILABLE, AS MAY BE APPROPRIATE.

LIST ANY INFORMATION ATTACHED: (Elevations, site plans, specifications, photos, material samples, additional drawings or written matter)

SEE permit drawings, dated 05/23/2011.

3700 Park 42 Drive, Suite 190B
 Cincinnati, Ohio 45241-2097
 (513) 759-0004
 Fax: (513) 563-7099

LETTER OF TRANSMITTAL



McGill Smith Punshon, Inc.

TO: **CAROLINE KELLAM, SENIOR CITY PLANNER**
 DEPARTMENT OF PLANNING AND BUILDINGS INSPECTIONS
 HISTORIC CONSERVATION BOARD, 7TGH FLOOR
 CENTENNIAL PLAZA II
 CINCINNATI OH 45202

ATTENTION: **CAROLINE KELLAM**
 DATE: JUNE 16, 2011
 JOB NO.: 92369.52
 RE: HISTORIC BOARD REVIEW

WE ARE SENDING YOU THE FOLLOWING:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Attached | <input type="checkbox"/> Under separate cover via _____ | <input type="checkbox"/> Specifications |
| <input type="checkbox"/> Shop drawings | <input checked="" type="checkbox"/> Prints | <input type="checkbox"/> Samples |
| <input checked="" type="checkbox"/> Copy of letter | <input type="checkbox"/> Change Order | <input type="checkbox"/> Plans |
| | | <input checked="" type="checkbox"/> Other |

<u>Copies</u>	<u>Date</u>	<u>No.</u>	<u>Description</u>
1		3 sheets	Anna Louise Inn Shell Materials & 2 sheets of Anna Lousie Inn History from "Reflections of the Inn" book
1	5/23/2011	8 sheets	11 x 17 plans and elevations of the proposed work including a site plan and view angle from 4 th street sidewalk
1	6/9/2011	1 sheet	US Dept of Interior notice of approval
1		3 photos	Aerial of the Inn, 2 photos of entry at driveway
1	6/16/2011	1 disc	disc of power point presentation

THESE ARE TRANSMITTED AS FOLLOWS:

- | | | |
|--|--|---|
| <input type="checkbox"/> For approval | <input type="checkbox"/> Approved as submitted | <input type="checkbox"/> Resubmit _____ copies for approval |
| <input checked="" type="checkbox"/> For your use | <input type="checkbox"/> Approved as noted | <input type="checkbox"/> Submit _____ copies for distribution |
| <input type="checkbox"/> As requested | <input type="checkbox"/> Returned for correction | <input type="checkbox"/> Return _____ corrected prints |
| <input type="checkbox"/> Other _____ | | <input type="checkbox"/> For review and comment |
| <input type="checkbox"/> FOR BIDS DUE _____ | | <input type="checkbox"/> For your information |

REMARKS

Carolyn: These are for your use in submission to the board members.

SIGNED:

cc: Tim Burke

Anna Louise Inn Exterior Shell Materials

Initial Anna Louise Inn Construction
East Expansion Construction

May 1909
May 1920

North Elevation:

Area under porch:
Porch frame:
Entry door
Trim at top of façade
Plaster façade
Plaster façade
Existing gutter
New gutter at addition
New roll roofing
Existing red brick
Existing white glazed brick

Existing plaster finish painted white – new paint to match
Wood columns & fascia painted white – new paint to match
Wood door and trim painted white – new paint to match
Wood trim, painted white – new paint to match
Existing plaster painted white – new paint to match
New replacement plaster – paint white to match existing
Paint to match existing color
Paint to match adjacent gutter
Grey color to match adjacent existing roll roofing
Existing to remain with minor repairs and tuck pointing
Existing to remain with minor repairs and tuck pointing

East Elevation

Porch frame:
Entry door
Metal railing on entry
Trim at top of façade
Existing slate roof
Existing red brick
Existing white glazed brick
Existing cut stone base

Limestone – no change
Wood door and trim painted white – new paint to match
Existing wrought Iron, paint to match existing
Wood trim, painted white – new paint to match
To remain, patch & repair as req.
Existing to remain with minor repairs and tuck pointing
Existing to remain with minor repairs and tuck pointing
Existing to remain with minor repairs and tuck pointing

South Elevation

Stairway exit door
Existing fire escape
Trim at top of façade
Existing slate roof
Existing red brick
Existing white glazed brick
Existing cut stone base

Wood door and trim painted white – new paint to match
Existing wrought Iron, paint to match existing
Wood trim, painted white – new paint to match
To remain, patch & repair as req.
Existing to remain with minor repairs and tuck pointing
Existing to remain with minor repairs and tuck pointing
Existing to remain with minor repairs and tuck pointing

West Elevation

Porch frame:
Entry door
Metal railing on entry
Trim at top of façade
Existing slate roof
Existing red brick
Existing white glazed brick
Existing cut stone base

Limestone – no change
Wood door and trim painted white – new paint to match
Existing wrought Iron, paint to match existing
Wood trim, painted white – new paint to match
To remain, patch & repair as req.
Existing to remain with minor repairs and tuck pointing
Existing to remain with minor repairs and tuck pointing
Existing to remain with minor repairs and tuck pointing

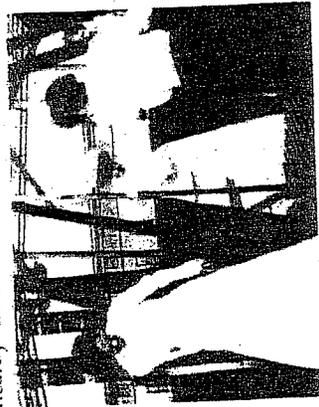
Reflections of the Inn: 1910-1919

The beginning of the twentieth century brought many changes in the population of Cincinnati and the demands for decent homes for low-income women. As their expertise became apparent in areas formerly reserved for men, women began moving into white-collar jobs, although their wages were still distastefully low. The success of the Cincinnati Union Bethel to provide safe, affordable housing for this new workforce is, once again, a tribute to the philanthropy of the concerned citizenry of this city.

In 1911, following the typical outline for a proper planned development for low-income workers, the Bethel acquired a vacation house in New Richmond, Ohio, through Dr. P.V.N. Meyers, a professor of history at the University of Cincinnati. The following year it was ready to be visited for summer vacations by the working women of the Anna Louise Inn.

New careers were opened to women during this time period, perhaps because women could fill these positions for a lower wage than men could. Many of the Inn's residents

were employed as bookkeepers, stenographers, office clerks, salespersons, or telephone operators. A much smaller percentage held jobs in the nearby factories.



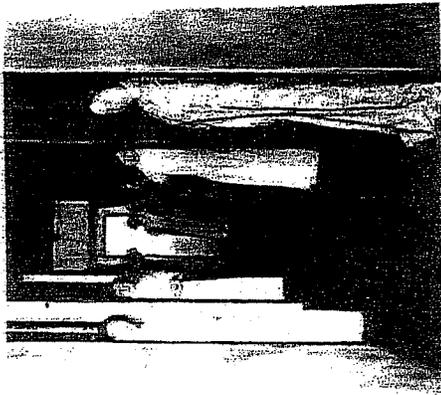
Playing around on the rooftop of the Inn. Photo courtesy of Cincinnati Museum Center Library/Archives.

The ten years following the opening of the Inn saw five additional facilities open for women. However, as the number of females increased in the workforce, the demand for rooms early in the decade put a strain on all of these residences. Between 1915 and 1917, Mr. and Mrs. Taft came to the rescue once again by acquiring and donating property at 301, 303, 305, 307, and 309 Pike Street.



The young women residing at the Inn met their visitors in this small tky-tix lobby.

The young working woman of the Teens, whose members increased dramatically during World War I, shed her restrictive corsets and her raddy-made clothes were more relaxed and simple. As she grew more independent her hair and her skirts became shortened.

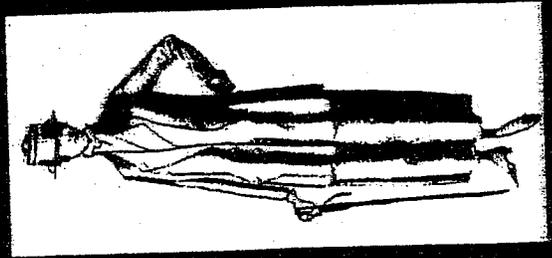


Light attire at "lights out" 90 years ago. Photo courtesy of Cincinnati Museum Center Library/Archives.

With this additional land adjoining the Inn, the Bethel sought the services of architects Garber and Woodward and planned a \$100,000 addition that would more than double the size of the Anna Louise Inn. However, by the end of 1917, the Americans became involved in World War I and it was evident that all construction on the Inn would have to be suspended.

After the war, Mrs. Taft contributed to their previous donations, making a total gift of \$128,000. The building effort was begun once more and, while rooms were rented as floors were completed, the Inn celebrated the completion of this huge addition of 150 new sleeping rooms in May 1920.

By this time, however, the effects of the war—casualties, and the deployment of the male population—and a severe epidemic that swept through the city, caused the population in the city to decline.



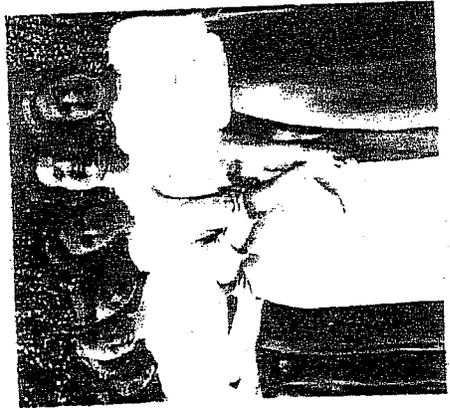
Reflections of the Inn: Introduction

Anna Louise Inn is the comfort of country mothers and the Conservator of young women who come to the city aspiring but unprotected.

— John W. Langdale (1914)

During the late 1800s and early 1900s, a new segment of society was drawn from the home and into the work place—young women. The availability of safe, affordable housing was a major concern for these women who, until industrialization, stayed in the home. At that time, sewing and housekeeping—general domestic work—were the main occupations accepted by society for women.

Cincinnati had become a major industrial city and attracted many young women to work in the city, drawing them from the safety of their homes in search of work. Most jobs



Some early residents of the Anna Louise Inn. Photo courtesy of the Cincinnati Museum Center Library/Archives.

open to women during that time paid only one-third to one-half that of their male counterparts. The belief was that men had families to support and women either lived at home or would work only until they could marry and be supported. The only residences affordable to these low-income workers were in undesirable neighborhoods. In addition, many places would not rent to women, feeling that they were too much trouble. Meals were costly as well, since women were forced to eat in higher-priced restaurants that offered protection, unlike the nearby saloons.

The founding of the House of Mercy by the Sisters of Mercy, in 1858, made Cincinnati one of only three U.S. cities to establish low-income residences for working women. By 1905, five additional homes were opened, offering approximately 293 rooms in total. However, the number of rooms available was inadequate and the waiting list was always long. The Cincinnati Union Bethel had established a Settlement House, following England's example, as well as a lunchroom for women who worked in the nearby factories. It was in these places that the Bethel officers first learned of the housing problem for the young single businesswomen.

Just as her father, David Sinton, was an ardent supporter of the Cincinnati Union Bethel, so was Anna Sinton, who married Charles Phelps Taft. After learning of the plight of the Union Bethel to build a home for

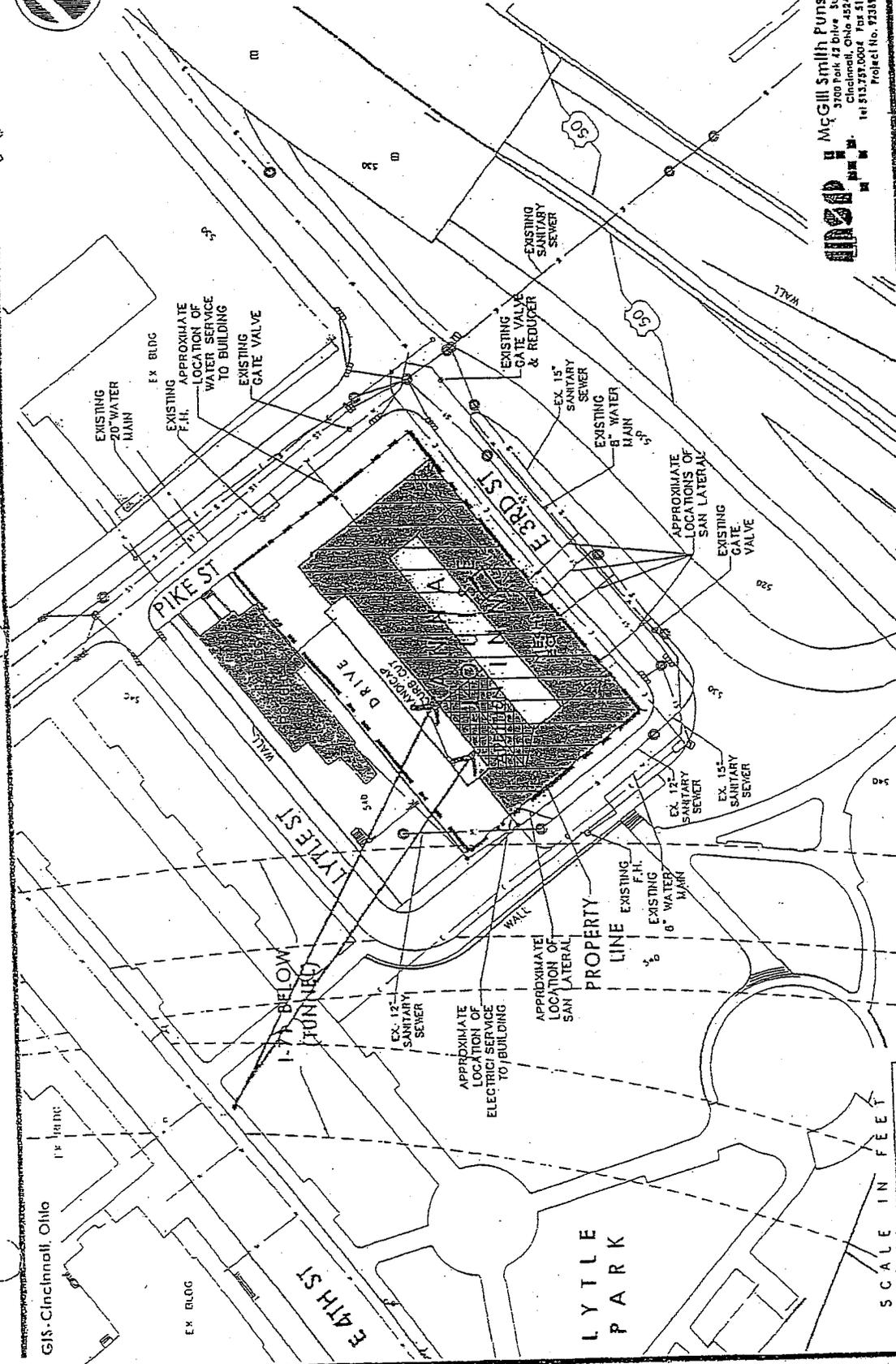
In 1908 the American woman still looked to the "Gibson Girl" style as her ideal... a shirtwaist and skirt which she probably made herself. This suited the social freedom women were experiencing. She was a lady with spirit!



working girls (as they often were referred to at that time), Mrs. Taft secured the property on Third and Lytle for the building of the hotel and presented it to the board along with a sizable cash donation. Within a very short time, other donations were secured from many of Cincinnati's prominent families and work began on the Hotel for Working Girls. Immediately thereafter it was named after the Tafts' daughter—Anna Louise.

In May 1909, the Anna Louise Inn opened its doors with 120 rooms—becoming the largest residence for low-income working women in the city. The five-story brick and terra-cotta building offered a small sky-lit lobby, steam heating, gas lighting, several parlors for entertaining, laundry, library, and dining room. Some of the wealthiest families in Cincinnati furnished the Inn through donations, that included Oriental carpets, oil paintings, giant gilded mirrors and carved furniture. Many activities were offered and religious services were held for all that were interested. All this was available for a weekly fee of \$2.75 to \$4.25, according to income. The top salary that the women could earn and stay at the Inn was initially set at \$15.00, but as the Inn filled, the income limit was dropped to \$10.00.

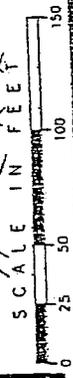
As large as the Inn was, it soon filled to capacity and the waiting list for one of the single rooms soon grew to nearly 100. Such was the need for this type of housing in the early part of the century and the beginning of a residence that became a tradition in Cincinnati.



- 1. E. C. & O.
- 2. Existing Utility
- 3. Proposed Utility
- 4. Proposed Sanitary Sewer
- 5. Proposed Water Main
- 6. Proposed Electric
- 7. Proposed Gas
- 8. Proposed Storm Sewer
- 9. Proposed Sanitary Sewer
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- 95. Proposed Water Main
- 96. Proposed Electric
- 97. Proposed Gas
- 98. Proposed Storm Sewer
- 99. Proposed Sanitary Sewer
- 100. Proposed Water Main

MSAP McGIII Smith Punshon, Inc.
 2100 Park 22 Drive, Suite 1008
 Cincinnati, Ohio 45241-2097
 Tel: 513.752.0004 Fax: 513.563.7071
 Project No. 92349.31

2/11/2011



GIS - Cincinnati, Ohio



MCGH South Portland, Inc.
 3700 Park 47 Drive, Suite 400
 Cincinnati, Ohio 45212-1077
 Tel: 513-751-1000 • Fax: 513-751-1001
 Employees • Architects • Surveyors
 Planners • Landscape Architects

Project No.	300 LYTLE STREET
Client	300 LYTLE STREET
Location	CINCINNATI, OHIO
Scale	AS SHOWN
Sheet No.	100
Sheet Title	RENOVATION OF
Author	
Checker	
Designer	
Plotter	
Printer	
Scale	
Notes	

RENOVATION OF
 ANNA LOUISE INN
 300 LYTLE STREET
 CINCINNATI, OHIO 45202

Sheet No.	C100
Project No.	300 LYTLE
Scale	AS SHOWN
Author	
Checker	
Designer	
Plotter	
Printer	

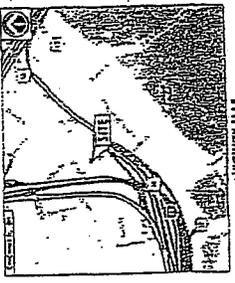


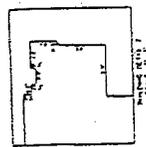
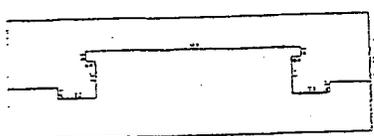
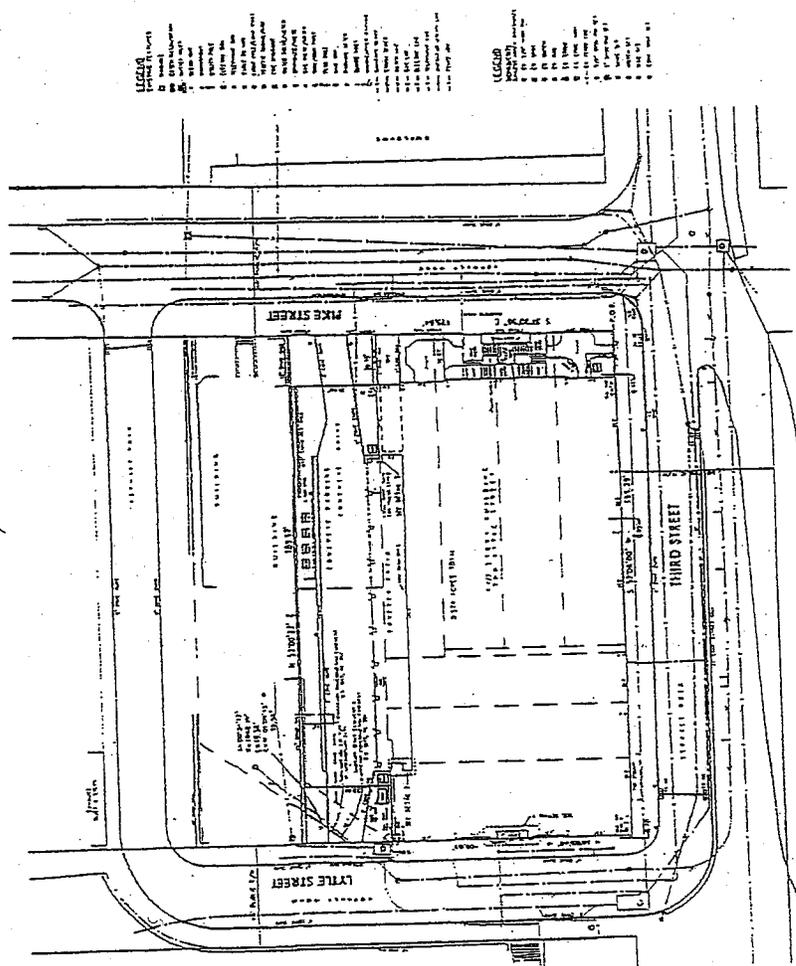
FIGURE 1
 SITE PLAN

NOTES

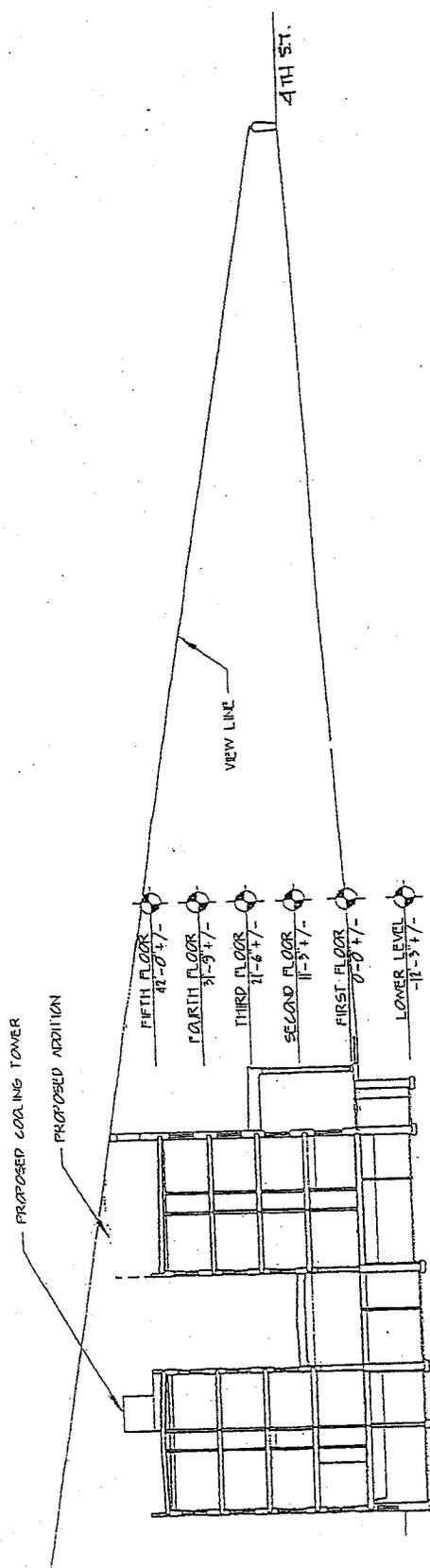
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF CINCINNATI, OHIO, ORDINANCES AND SPECIFICATIONS.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF CINCINNATI, OHIO.
3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
4. THE CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES AND STRUCTURES.
5. THE CONTRACTOR SHALL MAINTAIN THE EXISTING CURBS AND SIDEWALKS.
6. THE CONTRACTOR SHALL MAINTAIN THE EXISTING DRIVEWAYS AND PAVEMENT.
7. THE CONTRACTOR SHALL MAINTAIN THE EXISTING LANDSCAPE AND PLANTINGS.
8. THE CONTRACTOR SHALL MAINTAIN THE EXISTING SIGNAGE.
9. THE CONTRACTOR SHALL MAINTAIN THE EXISTING UTILITIES AND STRUCTURES.
10. THE CONTRACTOR SHALL MAINTAIN THE EXISTING CURBS AND SIDEWALKS.
11. THE CONTRACTOR SHALL MAINTAIN THE EXISTING DRIVEWAYS AND PAVEMENT.
12. THE CONTRACTOR SHALL MAINTAIN THE EXISTING LANDSCAPE AND PLANTINGS.
13. THE CONTRACTOR SHALL MAINTAIN THE EXISTING SIGNAGE.

LEGEND

- 1. EXISTING CURBS AND SIDEWALKS
- 2. EXISTING DRIVEWAYS AND PAVEMENT
- 3. EXISTING LANDSCAPE AND PLANTINGS
- 4. EXISTING SIGNAGE
- 5. EXISTING UTILITIES AND STRUCTURES
- 6. EXISTING CURBS AND SIDEWALKS
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- 13. EXISTING LANDSCAPE AND PLANTINGS
- 14. EXISTING SIGNAGE
- 15. EXISTING UTILITIES AND STRUCTURES



ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF CINCINNATI, OHIO, ORDINANCES AND SPECIFICATIONS.



EXISTING BUILDING SECTION
SCALE 3/4" = 1'-0"

ANNA LOUISE INN

300 LYTLE STREET
CINCINNATI, OHIO 45202

Drawn By	DAB	Scale	1/16" = 1'-0"	Project No.	92388.52	Sheet No.	A1
Project Mgr.	JCR	Date	06/10/11	File No.	92388521-4W16		
CAD File	92388521-4W16						
X-Ref.	NONE						

MSA
 Engineers • Architects • Surveyors • Planners • Landscape Architects

McGill Smith Punshon, Inc.
 3700 Park 42 Drive • Suite 1908
 Cincinnati, Ohio 45241-2087
 Tel 513.755.0004 • Fax 513.563.7089



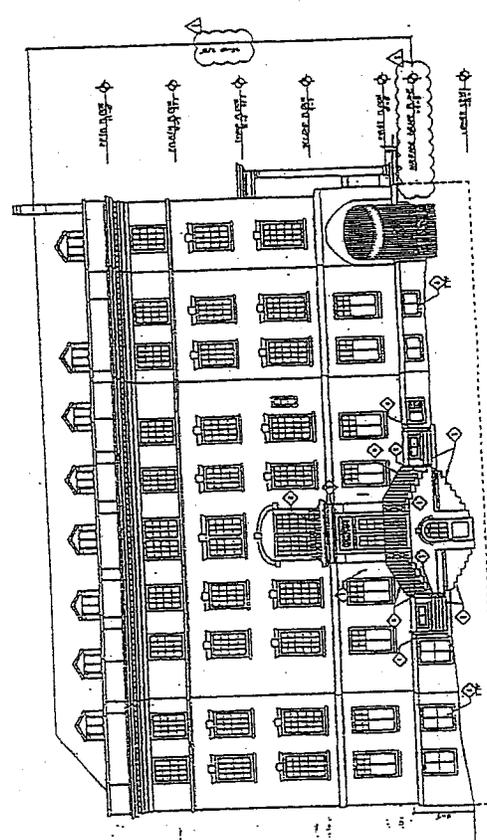
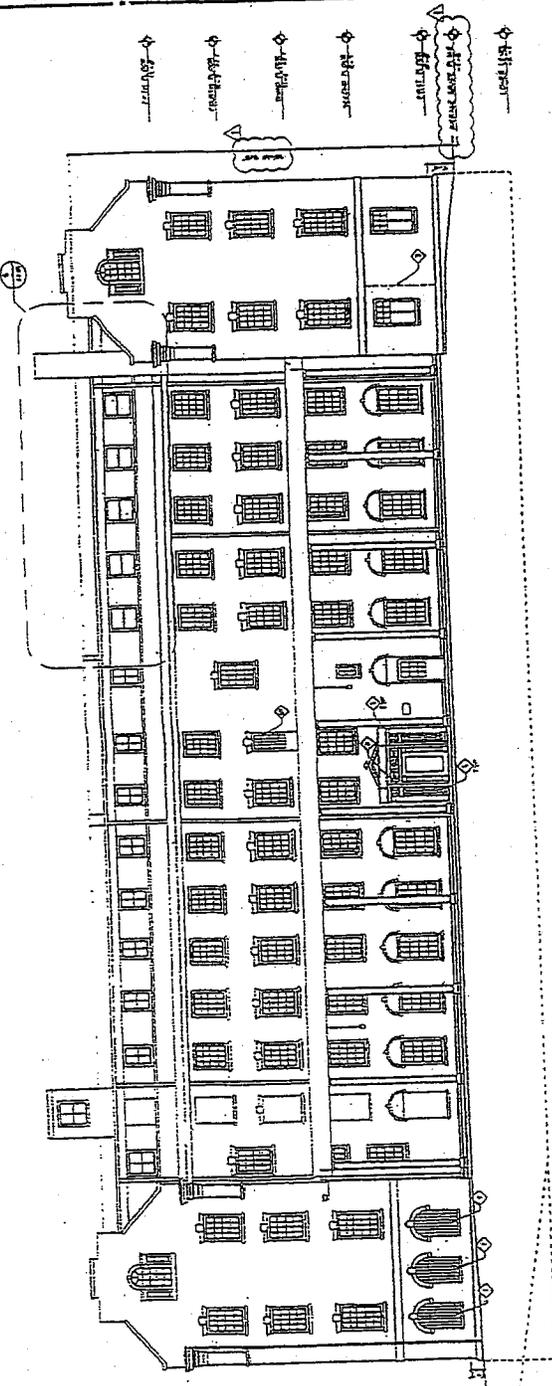
McClint Smith Preston, Inc.
 300 North High Street, Suite 2000
 Columbus, Ohio 43215-2000
 Tel: 614-291-1000 Fax: 614-291-1001
 www.msp.com

NO.	DATE	DESCRIPTION
1	10/15/01	ISSUED FOR PERMITS
2	11/15/01	ISSUED FOR PERMITS
3	12/15/01	ISSUED FOR PERMITS
4	01/15/02	ISSUED FOR PERMITS
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99	12/15/09	ISSUED FOR PERMITS
100	01/15/10	ISSUED FOR PERMITS

NORTH ELEVATION
 SCALE 1/8" = 1'-0"
 EAST ELEVATION
 SCALE 1/8" = 1'-0"

RENOVATION OF
ANNA LOUISE INN
 300 LYLE STREET
 CINCINNATI, OHIO 45202

DRAWING NO. 1013V
 DATE 11/15/01
 PROJECT NO. 1013V
 SHEET NO. 1013V



DRAWING NOTES
 1. SEE PERMITS FOR ALL REQUIREMENTS.
 2. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES.
 3. ALL MATERIALS SHALL BE APPROVED BY THE ARCHITECT.
 4. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
 5. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT.
 6. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE CITY.
 7. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE COUNTY.
 8. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE STATE.
 9. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE FEDERAL GOVERNMENT.
 10. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL GOVERNMENT.

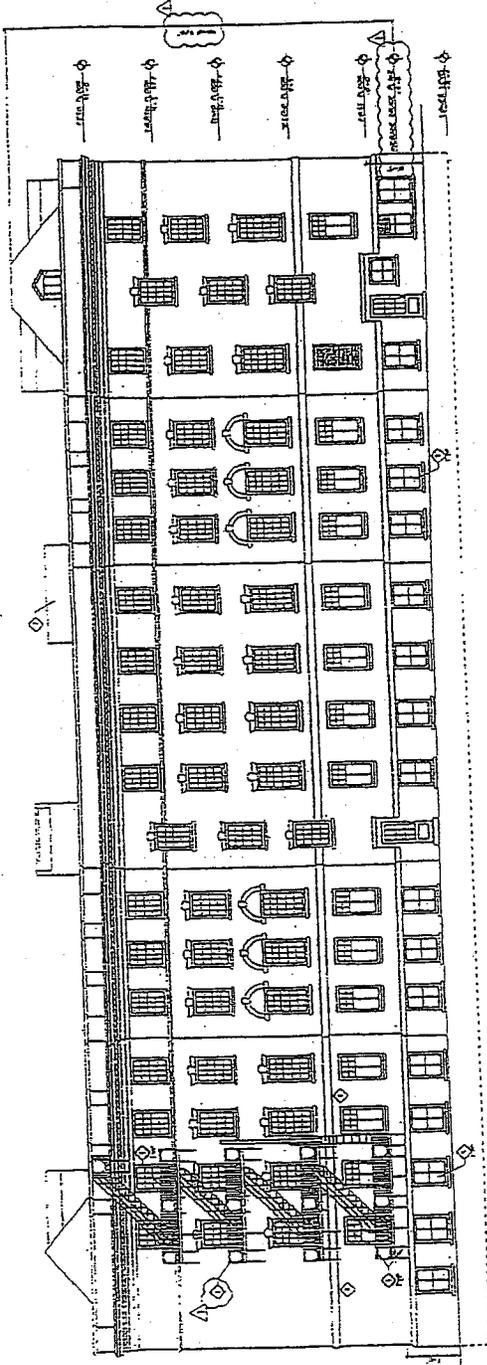


M.C.C.S. Smith Purshon, Inc.
 3700 Park Drive, Suite 200
 Cincinnati, Ohio 45226-1000
 Tel: 513-763-1000
 Fax: 513-763-1001
 Website: www.mccs.com

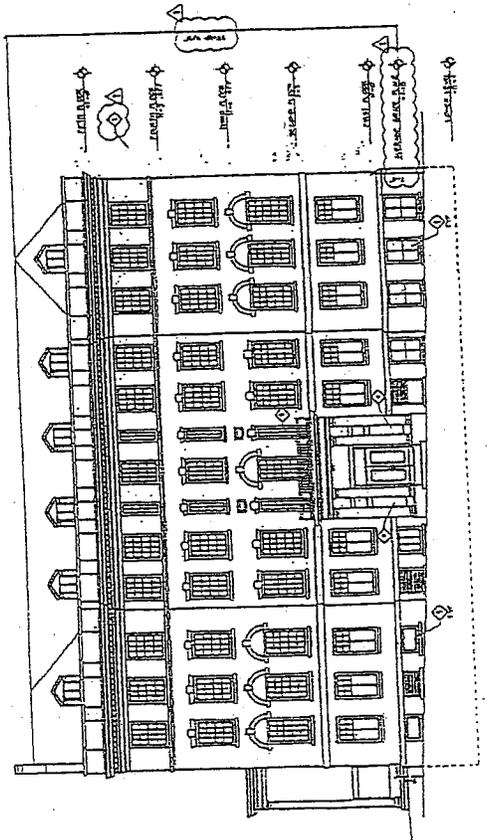
Project No.	10011111-01
Client	Anna Louise Inn
Architect	M.C.C.S. Smith Purshon, Inc.
Contractor	
Engineer	
Interior Designer	
Structural Engineer	
MEP Engineer	
Other	

RENOVATION OF
 ANNA LOUISE INN
 300 LYTLE STREET
 CINCINNATI, OHIO 45202

Sheet No. A102
 Project No. 10011111-01
 Date: 1/1/07
 Scale: 1/8" = 1'-0"



SOUTH ELEVATION
 SCALE 1/8" = 1'-0"



WEST ELEVATION
 SCALE 1/8" = 1'-0"

DRAWING NOTES

- 1. REFER TO ALL OTHER DRAWINGS FOR DETAILS.
- 2. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.
- 3. ALL MATERIALS SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
- 4. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
- 5. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.
- 6. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
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- 8. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
- 9. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.
- 10. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

REC'D BY OHPO MAR 20 2011

Form 10-168a
Rev. 12/90

UNITED STATES DEPARTMENT OF THE INTERIOR

OMB Approved
No. 1024-0009

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 - DESCRIPTION OF REHABILITATION



NPS

NPS Office Use Only
NRIS No:

76001435

NPS Office Use Only
Project No:

24446

Instructions: Read the instructions carefully before completing the application. An application is not valid unless a completed application form has been received. Type or print clearly in black ink. If additional space is needed, use additional sheets or attach blank sheets. A copy of this form may be provided to the Internal Revenue Service. The decision by the National Park Service with respect to certification is made on the basis of the descriptions in this application form. In the event of any discrepancy between the application form and other, supplementary material submitted with it (such as architectural plans, drawings, and specifications), the application form shall take precedence.

(OHPO #3017)

1. Name of Property: Anna Louise Inn
Address of Property: Street 300 Lytle Street City Cincinnati County Hamilton State OH Zip 45202

Listed individually in the National Register of Historic Places; give date of listing: _____
 Located in a Registered Historic District; specify: Lytle Park Historic District (NRHP 1976)
Has a Part 1 Application (Evaluation of Significance) been submitted for this project? yes no
If yes, date Part 1 submitted: 2/9/2010 Date of certification: 3/31/2010 NPS Project Number: 24446

2. Data on building and rehabilitation project:
Date building constructed: ca. 1909 Total number of housing units before rehabilitation: 193
Type of construction: masonry Number that are low-moderate income: 193
Use(s) before rehabilitation: offices, residential Total number of housing units after rehabilitation: 85
Proposed use(s) after rehabilitation: offices, residential Number that are low-moderate income: 85
Estimated cost of rehabilitation: \$12,400,000 Floor area before rehabilitation: 79,488 s.f.
This application covers phase number 1 of 1 phases Floor area after rehabilitation: 79,488 s.f.
Project/phase start date (est.): May 2011 Completion date (est.): September 2012

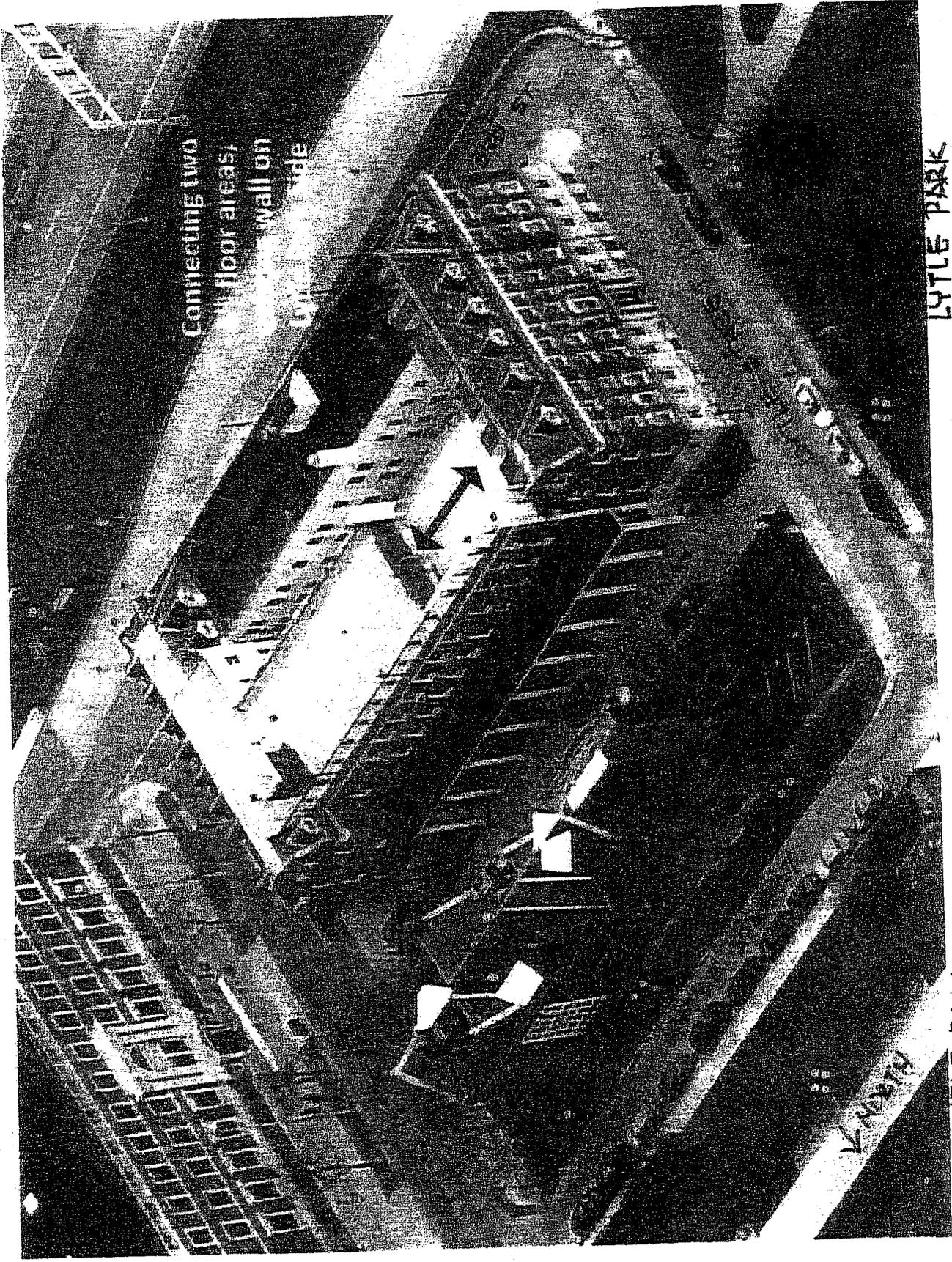
3. Project contact:
Name Deanna Hill, Architect City Cincinnati
Street 222 E. 14th Street Zip 45202 Daytime Telephone Number (513) 621-0750
State Ohio

4. Owner:
I hereby attest that the information I have provided is, to the best of my knowledge, correct, and that I own the property described above. I understand that falsification of factual representations in this application is subject to criminal sanctions of up to \$10,000 in fines or imprisonment for up to five years pursuant to 18 U.S.C. 1001.
Name Steven T. MacConnell, President and CEO Signature Steven T. MacConnell Date 2/25/11
Organization Cincinnati Union Bethel
Social Security or Taxpayer Identification Number _____ City Cincinnati
Street 300 Lytle Street Zip 45202 Daytime Telephone Number (513) 768-8907
State Ohio

NPS Office Use Only
The National Park Service has reviewed the "Historic Certification Application - Part 2" for the above-named property and has determined:
 that the rehabilitation described herein is consistent with the historic character of the property or the district in which it is located and that the project meets the Secretary of the Interior's "Standards for Rehabilitation." This letter is a preliminary determination only, since a formal certification of rehabilitation can be issued only to the owner of a "certified historic structure" after rehabilitation work is completed.
 that the rehabilitation or proposed rehabilitation will meet the Secretary of the Interior's "Standards for Rehabilitation" if the attached conditions are met.
 that the rehabilitation described herein is not consistent with the historic character of the property or the district in which it is located and that the project does not meet the Secretary of the Interior's "Standards for Rehabilitation." A copy of this form will be provided to the Internal Revenue Service.

Date 6/9/11 National Park Service Authorized Signature [Signature] National Park Service Office/Telephone No. HPS

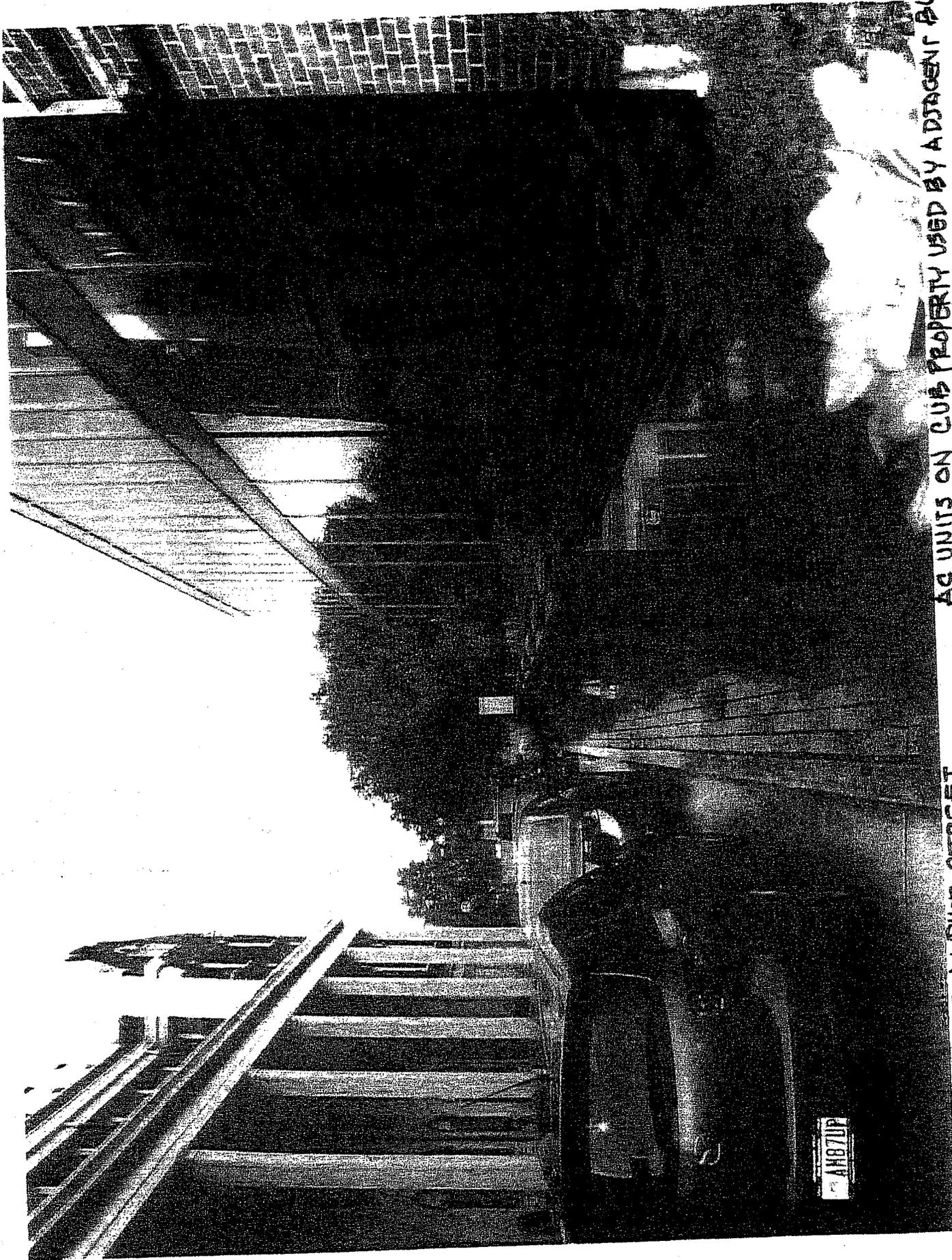
See Attachments



Connecting two
floor areas,
wall on
Lytle Park side

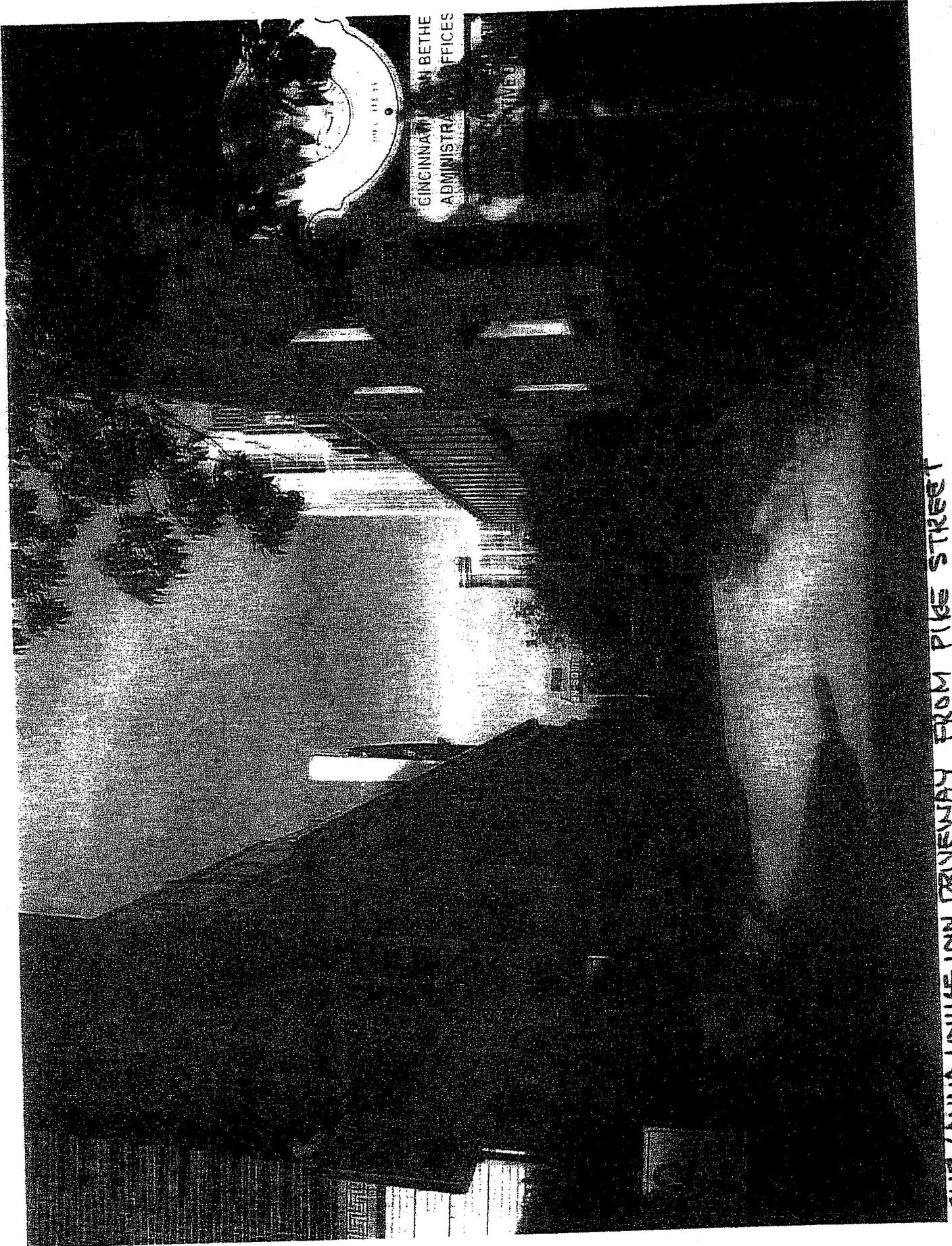
LYTLE PARK

LYTLE PARK



AC UNITS ON CURB PROPERTY USED BY ADJACENT BUDG

ENTRY DRIVE FROM PIKE STREET



GUB/ANNA LUISSE INN DRIVEWAY FROM PIKE STREET

Anna Louise Inn - 300 Lytle St.

conference call
6-15-11

Mary Carrol Milton contact - Union Bethel

1. Tuck pointing - repairs
2. If need new brick - used brick that matches
3. West side - gable roof - slate - remains
4. East side - asphalt shingles - not visible
5. north side - rolled roofing will remain
6. addition - rolled roofing
7. mechanical mechanical equipment on the roof - provide
8. 5th floor - on old part does not connect section
to 5th floor addition - filling in
9. windows - vinyl - to remain
10. Install aluminum clad wood windows $\frac{1}{4}$ - 5 new
windows - 5th floor
11. ~~Exterior~~ Repaint to match - wall is white, trim white
red accent

June 16, 2011

**NOTICE OF A PUBLIC HEARING
BEFORE THE HISTORIC CONSERVATION BOARD
FOR A
CERTIFICATE OF APPROPRIATENESS
MONDAY JUNE 27, 2011
3:00 P.M.**

**CENTENNIAL PLAZA TWO, 805 CENTRAL AVE. 7TH FLOOR
J. MARTIN GRIESEL CONFERENCE ROOM**

Cincinnati Union Bethel, owner of 300 Lytle Street, has applied for a Certificate of Appropriateness to rehabilitate and construct an addition on the building at 300 Lytle Street (Anna Louise Inn). This property is located within the Lytle Park Historic District.

A pre-hearing conference has been set for Tuesday June 21, 2011 at 9:30 A.M. in Suite 720, Centennial Plaza Two, 805 Central Avenue. The purpose of this pre-hearing conference is to provide interested parties with an opportunity to review the project and to ask questions prior to the hearing on June 27, 2011. No decision on the application will be made at the pre-hearing conference. At other times, plans are available for inspection in Centennial Plaza Two, Suite 700, 805 Central Ave.

This hearing is being held pursuant to the regulations set forth in Chapter 1435 (Historic Structures, Sites, and Districts) of the Zoning Code of the City of Cincinnati. Information requests and communications should be directed to the staff person and office listed below. Individuals with disabilities who need reasonable accommodation or special modifications to participate should contact the Secretary, in Suite 700, Centennial Plaza Two, 805 Central Avenue 352-4888 in advance.

Caroline H. Kellam
Historic Conservation Office
Centennial Plaza Two 805 Central Avenue, Suite 700
Cincinnati, Ohio 45202 Phone 352-4842
Caroline.kellam@cincinnati-oh.gov

537 ASSOCIATES LLC
6380 CHEVIOT RD
CINCINNATI OH 45247

SHV OIL AND GAS HOLDING
COMPANY
300 PIKE ST
CINCINNATI OH 45202

WESTERN & SOUTHERN LIFE
INSURANCE COMPANY
400 BROADWAY AVE
CINCINNATI OH 45202

MARY CAROL MELTON
EXEC VICE PRESIDENT
CINCINNATI UNION BETHEL
300 LYTLE ST.
CINCINNATI, OH 45202

CRAIG RAMBO
MCGILL SMITH PUNSHON, INC.
3700 PARK 42 DRIVE
SUITE 190B
CINCINNATI, OH 45241

537 ASSOCIATIONS LLC
537 E PETE ROSE WAY
CINCINNATI OH 45202

STATE OF OHIO THE
505 S STATE ROUTE 741
LEBANON OH 45036

DEANNA HEIL
CITY STUDIOS
222 E 14TH ST.
CINCINNATI, OH 45202

SCOTT PUFFER
PROJECT MANAGER
MODEL GROUP
2170 GILBERT AVE.
CINCINNATI, OH 45206

DOWNTOWN RESIDENTS
COUNCIL
CHRIS WEIDEMAN
P.O. BOX 868
CINCINNATI, OH 45201-0868

CINCINNATI UNION BETHEL
300 LYTLE ST
CINCINNATI OH 45202

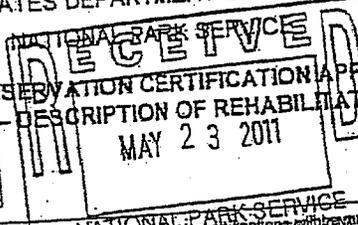
TAFT MUSEUM OF ART
316 PIKE ST
CINCINNATI OH 45202

BOBBY MALY
MODEL GROUP
2170 GILBERT AVE.
CINCINNATI, OH 45206

NICK ZIMMERMAN
SR PROJECT MANAGER
MODEL CONSTRUCTION
2170 GILBERT AVE. SUITE 100
CINCINNATI, OH 45206

UNITED STATES DEPARTMENT OF THE INTERIOR

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 - DESCRIPTION OF REHABILITATION



NPS

NPS Office Use Only

NRIS No:

76001435

NPS Office Use Only

Project No:

24446

Instructions: Read the instructions carefully before completing the application. Do not make any changes to the application unless a completed application form has been received. Type or print clearly in black ink. If additional space is needed, use separate sheets or attach extra sheets. A copy of this form may be provided to the Internal Revenue Service. The decision by the National Park Service with respect to certification is made on the basis of the descriptions in this application form. In the event of any discrepancy between the application form and other, supplementary material submitted with it (such as architectural plans, drawings, and specifications), the application form shall take precedence.

(OHFO # 3017)

1. Name of Property: Anna Louise Inn
Address of Property: Street 300 Lytle Street City Cincinnati County Hamilton State OH Zip 45202

Listed individually in the National Register of Historic Places; give date of listing: _____
 Located in a Registered Historic District; specify: Lytle Park Historic District (NRHP 1976)

Has a Part 1 Application (Evaluation of Significance) been submitted for this project? yes no
If yes, date Part 1 submitted: 2/9/2010 Date of certification: 3/31/2010 NPS Project Number: 24446

2. Data on building and rehabilitation project:
Date building constructed: ca. 1909 Total number of housing units before rehabilitation: 193
Type of construction: masonry Number that are low-moderate income: 193
Use(s) before rehabilitation: offices, residential Total number of housing units after rehabilitation: 85
Proposed use(s) after rehabilitation: offices, residential Number that are low-moderate income: 85
Estimated cost of rehabilitation: \$12,400,000 Floor area before rehabilitation: 79,488 s.f.
This application covers phase number 1 of 1 phases Floor area after rehabilitation: 79,488 s.f.
Project/phase start date (est.): May 2011 Completion date (est.): September 2012

3. Project contact
Name Deanna Heil, Architect City Cincinnati
Street 222 E. 14th Street Zip 45202 Daytime Telephone Number (513) 621-0750
State Ohio

4. Owner:
I hereby attest that the information I have provided is, to the best of my knowledge, correct, and that I own the property described above. I understand that falsification of factual representations in this application is subject to criminal sanctions of up to \$10,000 in fines or imprisonment for up to five years pursuant to 18 U.S.C. 1001.
Name Steven T. MacConnell, President and CEO Signature Steven T. MacConnell Date 2/25/11
Organization Cincinnati Union Bethel
Social Security or Taxpayer Identification Number _____
Street 300 Lytle Street City Cincinnati
State Ohio Zip 45202 Daytime Telephone Number (513) 768-6987

NPS Office Use Only

The National Park Service has reviewed the "Historic Certification Application - Part 2" for the above-named property and has determined:

- that the rehabilitation described herein is consistent with the historic character of the property or the district in which it is located and that the project meets the Secretary of the Interior's "Standards for Rehabilitation." This letter is a preliminary determination only, since a formal certification of rehabilitation can be issued only to the owner of a "certified historic structure" after rehabilitation work is completed.
- that the rehabilitation or proposed rehabilitation will meet the Secretary of the Interior's "Standards for Rehabilitation" if the attached conditions are met.
- that the rehabilitation described herein is not consistent with the historic character of the property or the district in which it is located and that the project does not meet the Secretary of the Interior's "Standards for Rehabilitation." A copy of this form will be provided to the Internal Revenue Service.

Date

6/9/11

National Park Service Authorized Signature

National Park Service Office/Telephone No.

NPS

See Attachments

Historic Preservation Certification Application
State Historic Preservation Office Review & Recommendation Sheet
Rehabilitation—Part 2/Part 3

Project number: 24446

NUMBER 1

Anna Louise Inn
(Property)
300 Lytle Street

Cincinnati Ohio 45202

Certified Historic Structure? yes pending

Type of Request: Part 2
 Part 3 (Part 2 previously reviewed)
 Part 3 (Part 2 not previously reviewed)
 Amendment

Date application received by State 03/28/2011

Date(s) additional information requested by State 04/20/2011

Complete information received by State 05/13/2011

Date of transmittal to NPS 5/18/11

Property visited by State staff (before) (during) (after) rehab.
02/11/2011 M. Pfister

- Preliminary done
- Non-standard billing
- Fee Payment by Credit Card form

SHPO REVIEW SUMMARY

- Fully reviewed by SHPO
- No outstanding concerns
- Owner informed of SHPO recommendation
- In-depth NPS review requested

NUMBER 2

STATE RECOMMENDATION:

Mariangela Pfister *M.P.*, who meets the Secretary of the Interior's Professional Qualification Standards, has reviewed this application.

The project:

- meets the Standards.
- meets the Standards *only* if the attached conditions are met.
- does not meet Standard number(s) _____ for the reasons listed on the reverse.
- warrants denial for lack of information
- This application is being forwarded without recommendation.

For completed work previously reviewed, check as appropriate:

- completed rehabilitation conforms to work previously approved.
- completed rehabilitation differs substantively from work previously approved (describe divergences from Part 2 application on reverse).

5/18/2011 *Mariangela Pfister*
Date State Official Signature

Technical Preservation Services
Ohio Historic Preservation Office
1982 Veima Avenue
Columbus, OH 43211
614/298-2000

This is a review sheet only and does not constitute an official certification of rehabilitation

OHPO number 3.017

NUMBER 3

ISSUES

X Additions, including rooftop

Alteration, removal, or covering of significant interior finishes or features

Changes to significant interior spaces or plan features (including circulation patterns)

Damaging or inadequately specified masonry treatments

Alteration of significant exterior features or surfaces

Adjacent new construction, extensive site work, or demolition of adjacent structures

Window replacements on any major elevation that do not match historic configuration, material, and profiles

X Other (explain) corridor ceiling work & soffits at interior transom areas

NUMBER 4

Basis for recommendation. Focus on how the issues checked in NUMBER 3 are being addressed. Where denial is recommended, explain fully. Comment on noteworthy aspects of the project, including any technical or design innovations, or creative solutions.

STATE EVALUATION OF PROJECT AND CONCERNS:

This project involves the rehabilitation of the Anna Louise Inn in Cincinnati, Ohio. A Part 1 application has already been approved by NPS. Cleaning and repointing work is to be done with a specific mention made of submitting before and after close-up, color photos of the subject areas to ensure no damage and to show correct completion of the work. The existing cornice is to remain and be repaired and repainted. Existing replacement windows are to remain with five new windows introduced at the openings in the existing parapet on the north side, as this space will have an addition consisting of a raised roof at the west portion of the north side to match the east portion and designed to create room at the north side of the fifth floor. This addition will have minimal visual impact. The new windows will be 1/1 double-hung clad wood windows and the owner will submit them for approval prior to installation. The fire escape is to be repaired and repainted. All existing exterior entrances will be retained. Roof work is to be done with coping at the parapet replaced. The chimneys are to be retained and repaired to match. The box gable is to be retained as is the lightwell and historic skylight.

The interior is to be rehabilitated for modern residential and office use. The main historic corridors at all floors are to remain. Some other walls will be reconfigured, though most walls to be impacted are newer. A glass wall will be introduced at the first floor to divide the spaces while retaining the feeling of openness. Another wall shown on the first floor drawings in the very intact and historically significant West meeting room space (referred to as the central room on the photos) will not be done and is correct in the narrative. At the southeast corner of the first floor, a portion of a historic corridor wall is to be shifted six inches to accommodate new accessible toilet/shower rooms. The existing dropped ceiling in this corner corridor area is to be removed and replaced, but with a drywall ceiling at historic heights, as stated in the narrative, and not a new dropped ceiling as shown on the drawings. The walls on the upper floors behind the corridors, which are historic, are to be reconfigured so as to make these currently tiny rooms usable modern residential units. All walls and ceilings are to have a smooth, painted finish. A new corridor will be added at the fifth floor. Historic stairs are to remain. There are a large number of historic interior doors remaining in the corridors and many still have transoms. Many will be retained, but some, as shown on the drawings, are to be removed as the rooms are enlarged, as code requires wider entrance doors. While it is preferable to retain historic doors, it is our opinion that the loss of some of the interior doors is not a deniable issue. Historic trim is to be retained where it remains in the corridors except where the previously mentioned doors are to be removed. However, window units, door trim will be specified on the interior of individual living units, so as to introduce needed fire rated walls and also soffits at the transoms. This loss of trim and the obscuring of the transoms interiors are unfortunate, however in our opinion it is preferable to blocking the transoms on the corridor side with soffits and is therefore minimally acceptable. Other historic trim, including window trim and baseboards is to remain in place with few exceptions, which are noted on the drawings. The corridor ceilings have been compromised on 1 floors with either dropped ceilings or exposed conduit, pipes, etc. In this rehabilitation, it is the owner's intent to return corridor ceilings to historic heights, by using bulkheads instead of dropped ceilings to run electrical, sprinkler and data lines. These bulkheads are not to interfere with historic doorway/transom areas. On the second floor, two new continuous water lines, and on the fourth floor three, will be run to service the mechanical systems. They will be continuously run approximately nine inches down from the historic ceiling at the center of each of the two corridor ceilings with branch lines running from these main lines to each unit. These water lines are not needed on the other floors. The branch lines will be run tight to the bulkheads and all will be painted out to match the ceiling. The owner has investigated other options and this is the best approach they currently have. While this approach does allow for great portions of the historic ceilings to be exposed, we still have concerns about the impact on the ceilings. However, given the current state of the ceilings and the challenges such low ceilings present to any rehabilitation project, we do not feel that this work to the corridor ceilings is sufficient to warrant denial of the entire project. The existing elevator is to be removed, the shaft enlarged, and a new elevator introduced.

This rehabilitation project has posed serious challenges. The ceilings are so low in the residential area corridors that they have been extremely difficult to work with. While we are concerned about the amount of equipment still going into the ceilings, especially at the second and fourth floors with the added plumbing lines in addition to the bulkheads, and we are concerned about the loss of door trim and the blocking of transoms within the units themselves, we still feel that overall the project as proposed minimally meets the Secretary of the Interior's Standards for Rehabilitation and should be approved. We remind the owner that because this project in our opinion only minimally meets the Standards, any change to the scope should be first reviewed by the OHPO and NPS before proceeding to ensure continued compliance to the Standards.

INNOVATIVE SOLUTIONS/NOTEWORTHY ASPECTS:

new technical process creative design solution noteworthy project
X See attachments: X rolled plans X specifications X photographs X other:
Items sent separately plans specifications photographs other:
Other documentation on file in State.

NPS COMMENTS:

Date National Park Service Reviewer



E 5TH ST

SENTINEL ST

I-74 SB EXWY

I-74 NB EXWY

GULVERT ST

BULLERS ST

MCALLISTER ST

LAWRENCE ST

E 4TH ST

PIKE ST

E 3RD ST

DD

LYTLE ST

300 LYTLE ST. CINC.

ROADWAY

IGLEA AL

ARCH ST

DR

FT WSHNGTN EB TO COLUMBIA EB RAMP

FT WSHNGTN EB TO COLUMBIA EB RAMP

FT WSHNGTN EB TO COLUMBIA EB RAMP

PD

E PETE ROSE WY

US 27

PR



E 5TH ST

BROADWAY

US 27

CALLISTERS ST

SENTINEL ST

1711 NB

1711 NB

BUTLER ST

CULVERT ST

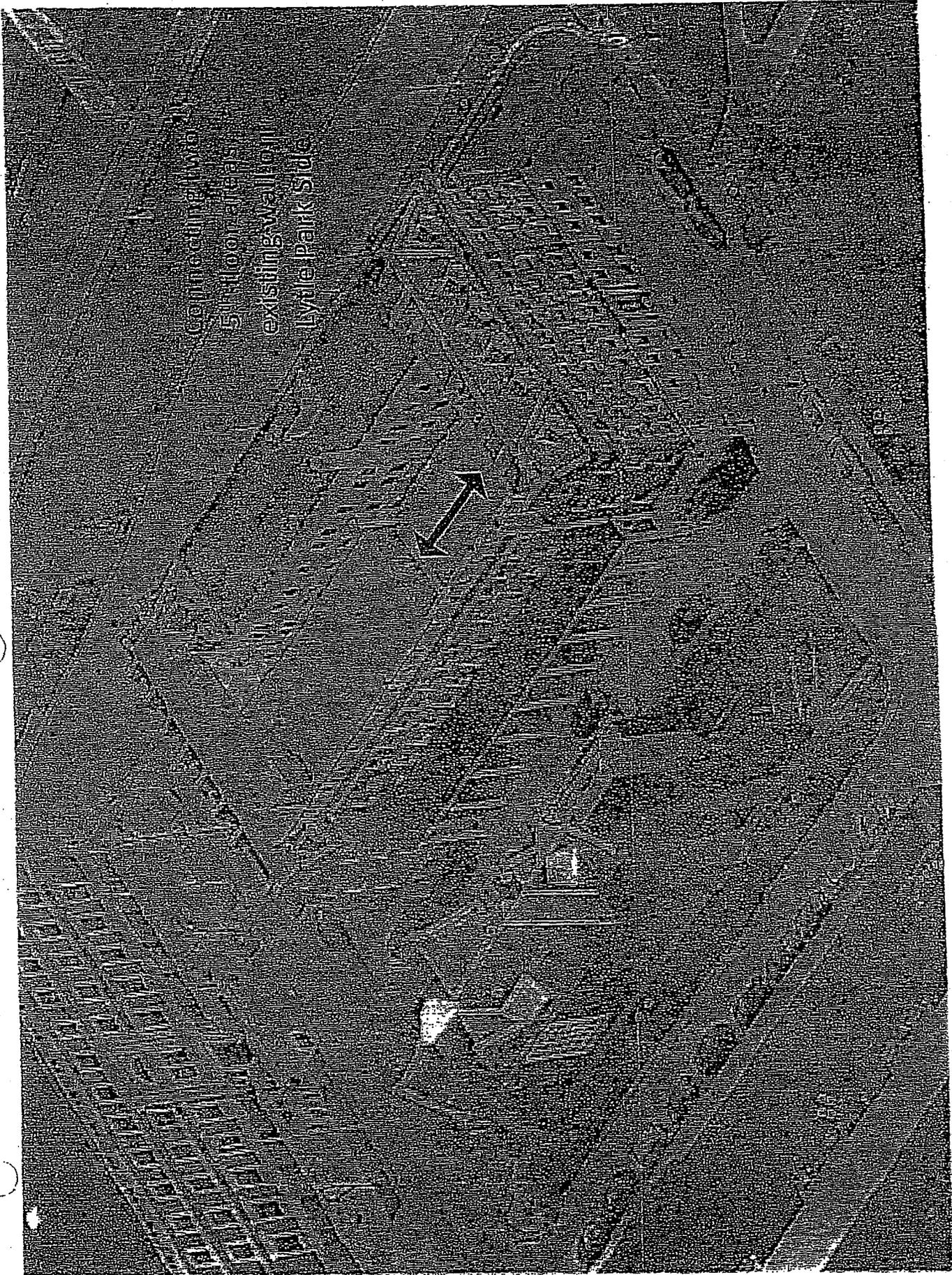
ST

FT WSHNGTN NB EXWY TO E 3RD ST RAMP

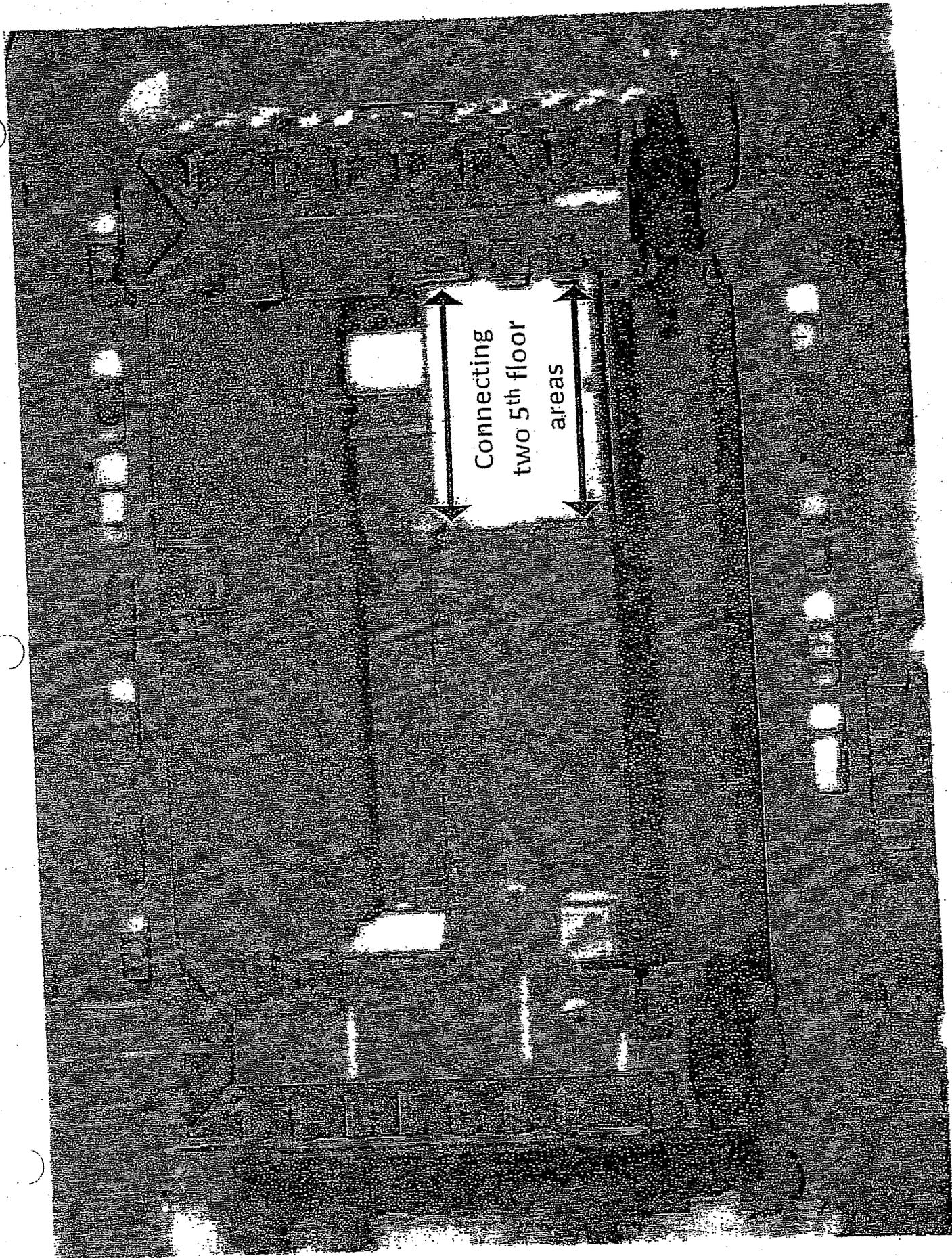
FT WSHNGTN EB TO COLUMBIAN EB RAMP

E 3RD ST

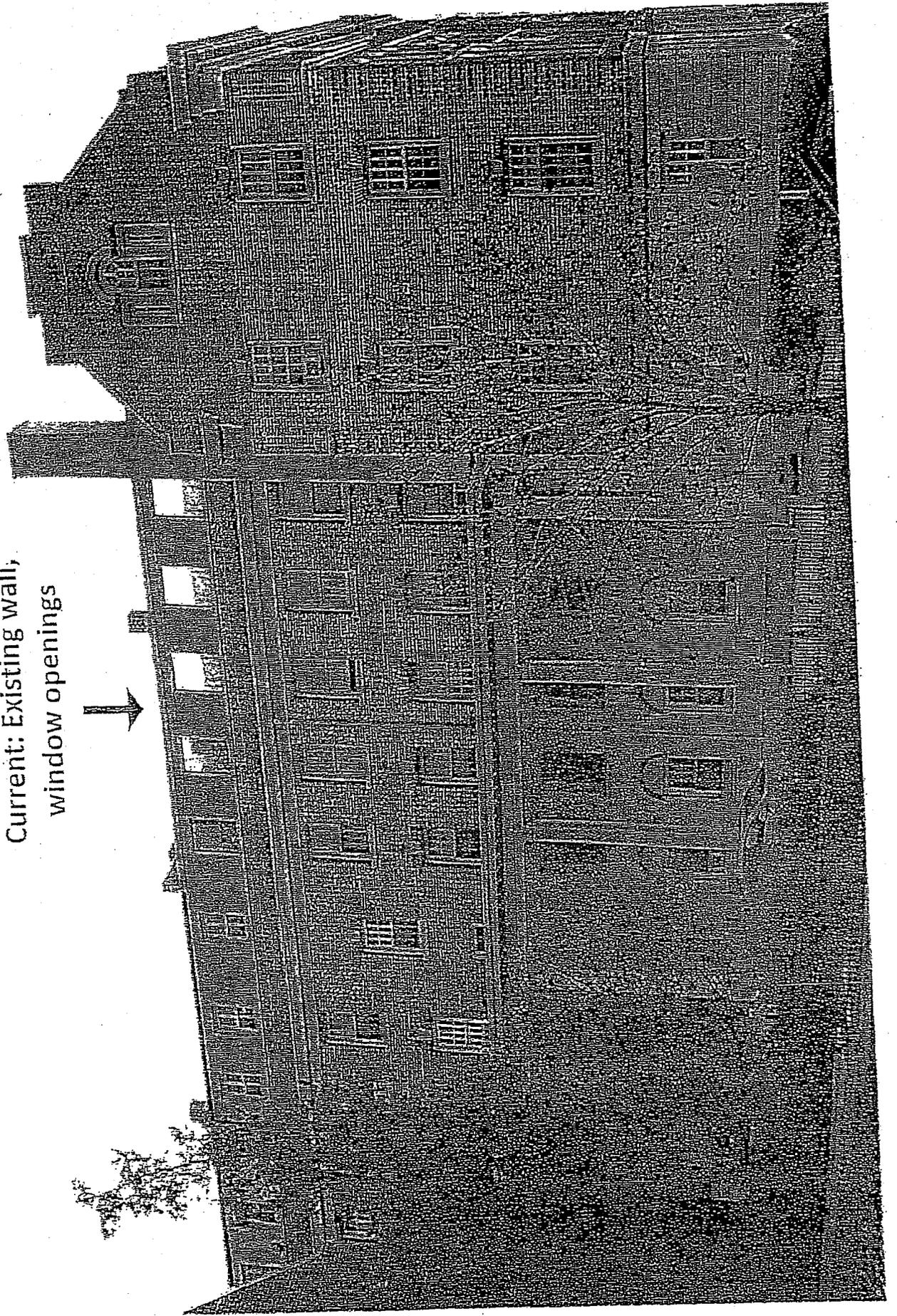
PETER RC PD



connecting two
50,000 sq ft
existing wall on
Lytle Park Side



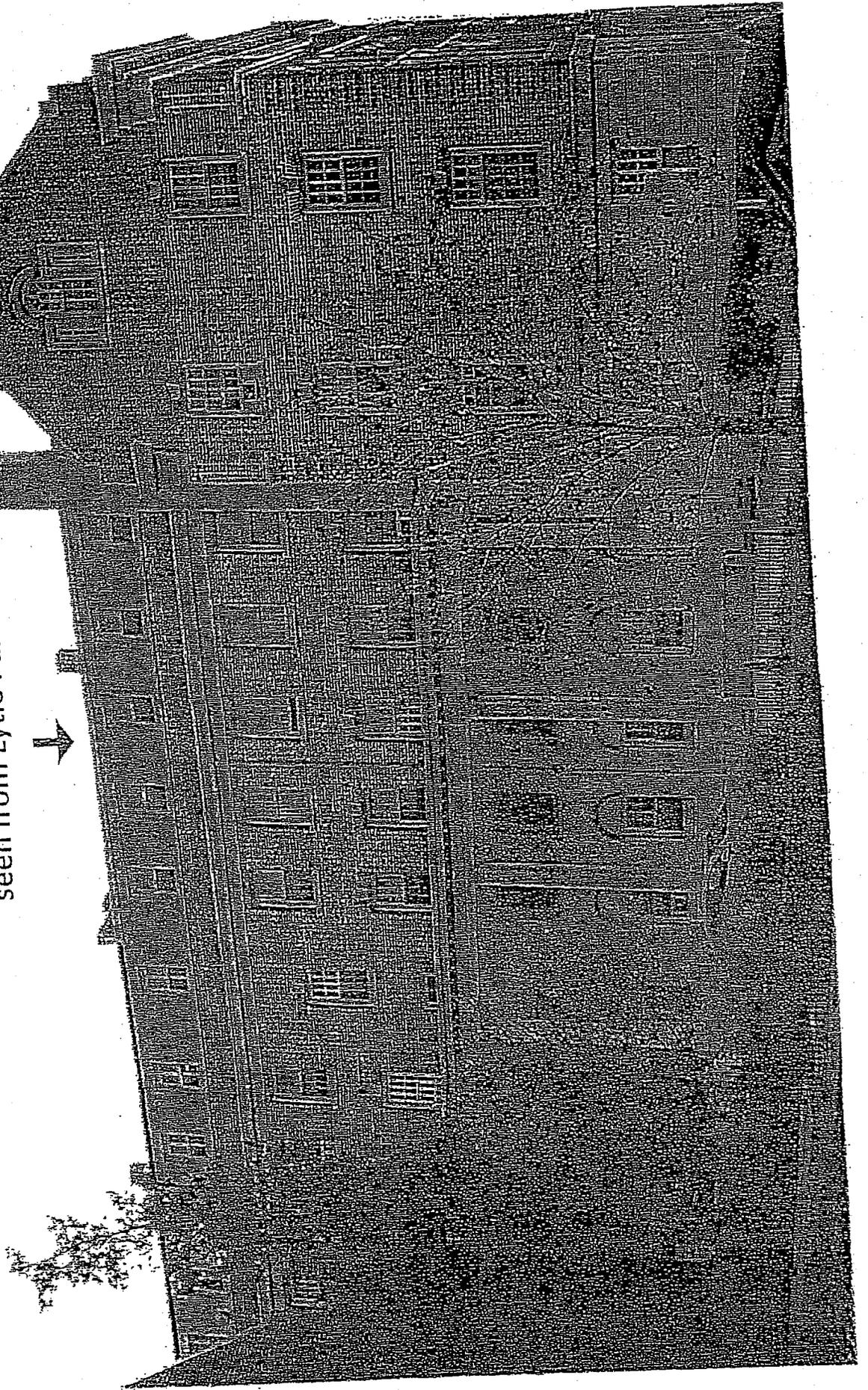
Current: Existing wall,
window openings

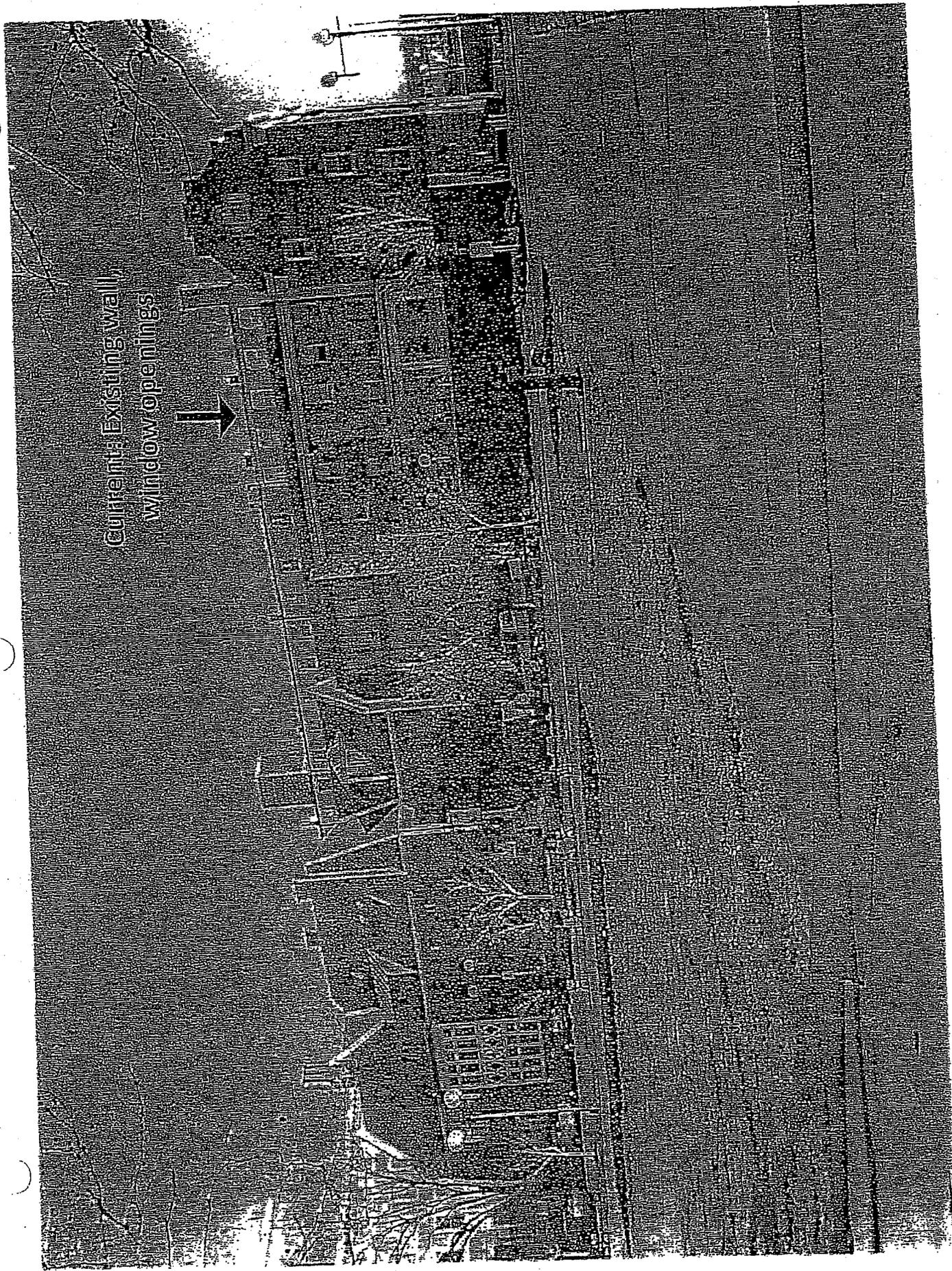


Window AC Units to
be removed



After: Existing wall, windows
installed, roofline cannot be
seen from Lytle Park





Current Existing wall,
window openings



LYTLE PARK PROTECTION AREA GUIDELINES

Section 1. That the plat, designated as Exhibit "A" and made a part thereof and accompanying guides and procedures applicable to the area on said plat, approved by the City Planning Commission on June 19, 1964, and transmitted to the Council, are hereby adopted with a time limit of fifth (50) years, and shall be in full force and effect for fifth (50) years.

Section 2. That the Taft Museum, the Earls Building, the Anna Louise Inn, Literary Club and Phelps Townhouse buildings are hereby established as references for design compatibility of new buildings or alterations to existing buildings to be constructed in Area #A of said plat.

Section 3. That the guides for determining compatibility of new buildings and alterations of existing buildings by an Architectural Board of Review applicable to Areas #A and #B of said plat shall be as follows; the provisions of other codes and ordinances notwithstanding:

Area A

Building height shall be appropriate to give Lytle Park the appearance of an enclosed Park or square without domination over the Taft Museum.

Materials used for exterior treatment of walls facing Lytle Park, including exterior paint, shall be harmonious with the Taft Museum, the Earls Building, Anna Louise Inn, Literary Club and Phelps Townhouse.

Scale of doorways, windows and other openings in walls of building facing Lytle Park shall be generally in character with the reference buildings specified in Section 2.

Garage doors, service docks or openings for motor vehicles in building walls shall be inconspicuous where such doors, docks or openings face Lytle Park.

Tanks, fans and similar equipment located on roofs shall be inconspicuous from Lytle Park.

Advertising signs or billboards shall be prohibited on any property, and identification signs or other signs may be prohibited if not compatible or in harmony with the character of the area.

Exterior lighting or illumination shall be limited.

Area B

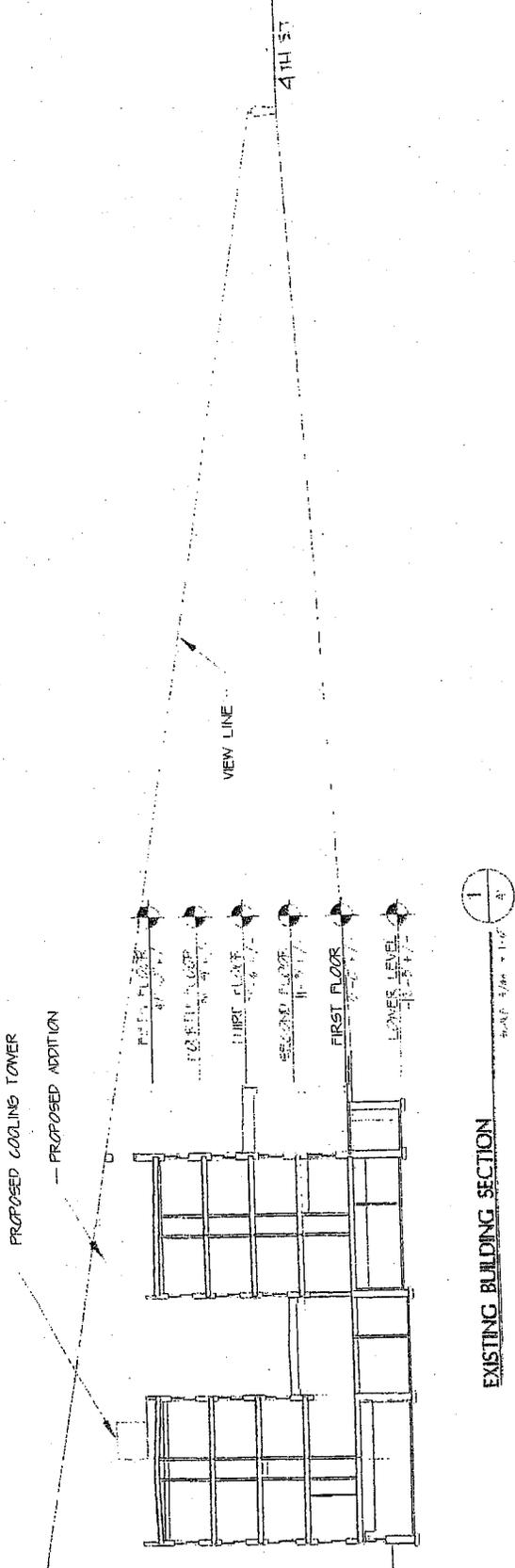
Tanks, fans and similar equipment on roofs shall be controlled as provided in paragraph (a) (5) above.

Advertising signs, billboards and identification signs shall be controlled as provided in paragraph (a) (6) above.

Section 4. That the Architectural Board of Review shall have the power to adopt rules and regulations consistent with the purposes herein stated.

Section 5. That, when and after this ordinance is adopted, the Commissioner of Buildings shall not issue a building permit for any application filed for any property on said plat unless he receives approval in writing from the Board, provided, however, that (a) failure by the Board to act within thirty (30) days following the filing of materials with the Board shall be deemed to constitute approval; (b) where there are on file with the Commissioner of Buildings, prior to the effective date of this ordinance, building

plans and a statement of intent to build in accordance with said plans, permits shall be issued for such buildings without the approval of the Architectural Board of Review; and (c) in cases involving fire damage, structural hazards or other threats to the public safety, the Commissioner of Buildings shall be empowered to authorize the partial or total demolition of a building without the approval of the Architectural Board of Review.



ANNA LOUISE INN
 300 LYTLE STREET
 CINCINNATI, OHIO 45202

Drawn By	DAB	Scale	1/16" = 1'-0"	Project No	92369 52	Sheet No	A1
Project Mgr.	JCR	Date	06/10/11	File No	9236952 L-JUV16		
CAD File	92369521-4W16						
X-Ref	NONE						

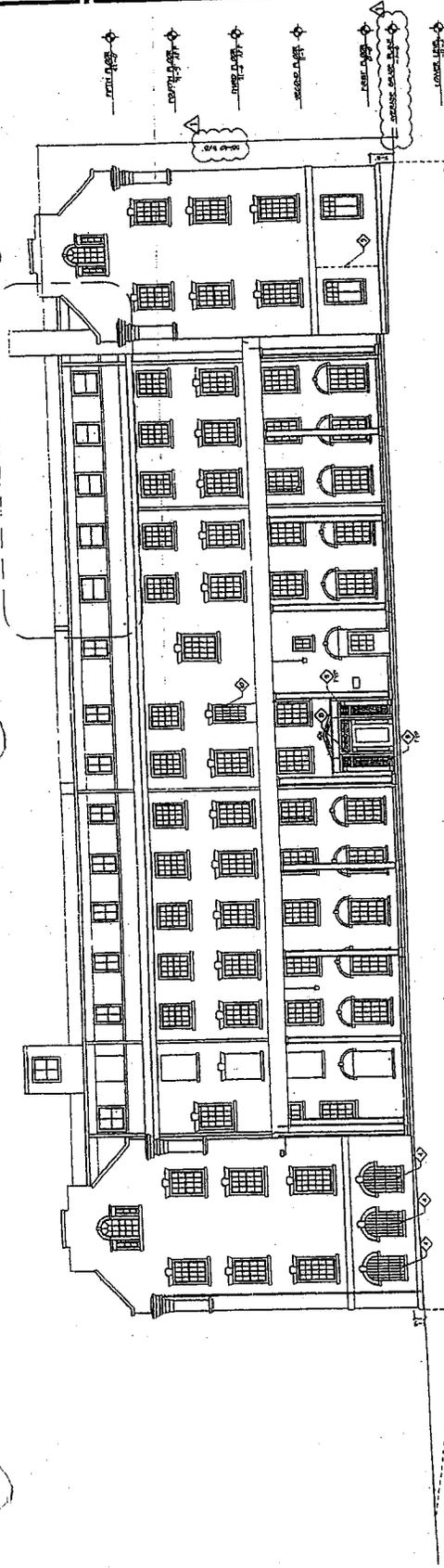
msp
 Engineers • Architects • Surveyors • Planners • Landscape Architects

McGill Smith Punshon, Inc.
 3700 Park 42 Drive • Suite 190B
 Cincinnati, Ohio 45241-2097
 Tel 513.759.0004 • Fax 513.563.7099

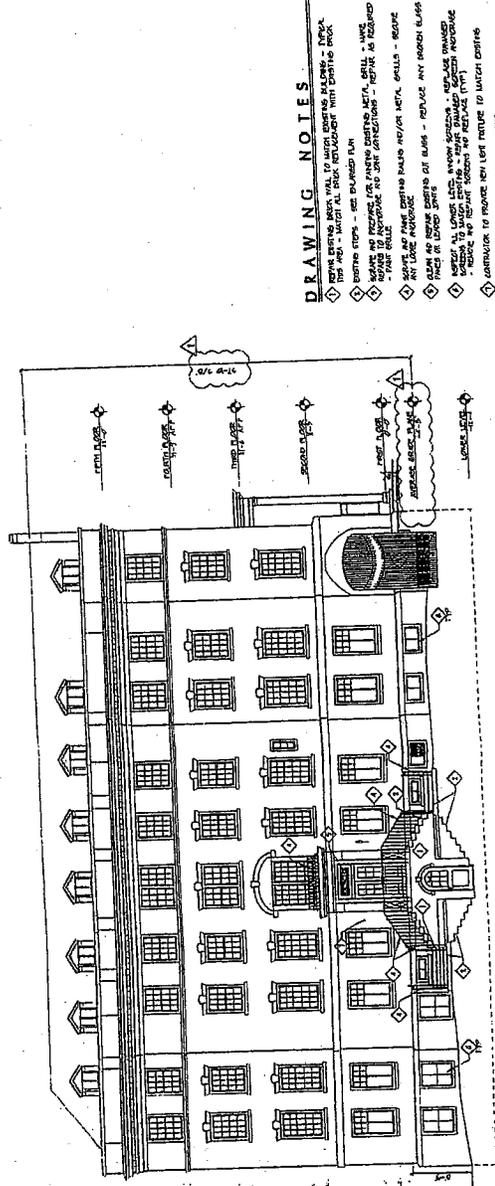
Drawn By	DAW	Project No.	12293523-401
Scale	1/8" = 1'-0"	Sheet No.	A3.01
Client	Smith Purdon, Inc.	Revision	
Project	Renovation of Anna Louise Inn	Date	05/20/01
Location	300 Lytle Street, Cincinnati, Ohio	Author	DAW
Contract	12293523-401	Checker	DAW
Discipline	Architecture	Scale	1/8" = 1'-0"
Sheet	A3.01	Project	12293523-401

ANNA LOUISE INN
 RENOVATION OF
 300 LYTLE STREET
 CINCINNATI, OHIO 45202

Sheet Title	EXTERIOR ELEVATIONS
Project No.	12293523
Scale	1/8" = 1'-0"
Sheet No.	A3.01
File No.	12293523-401



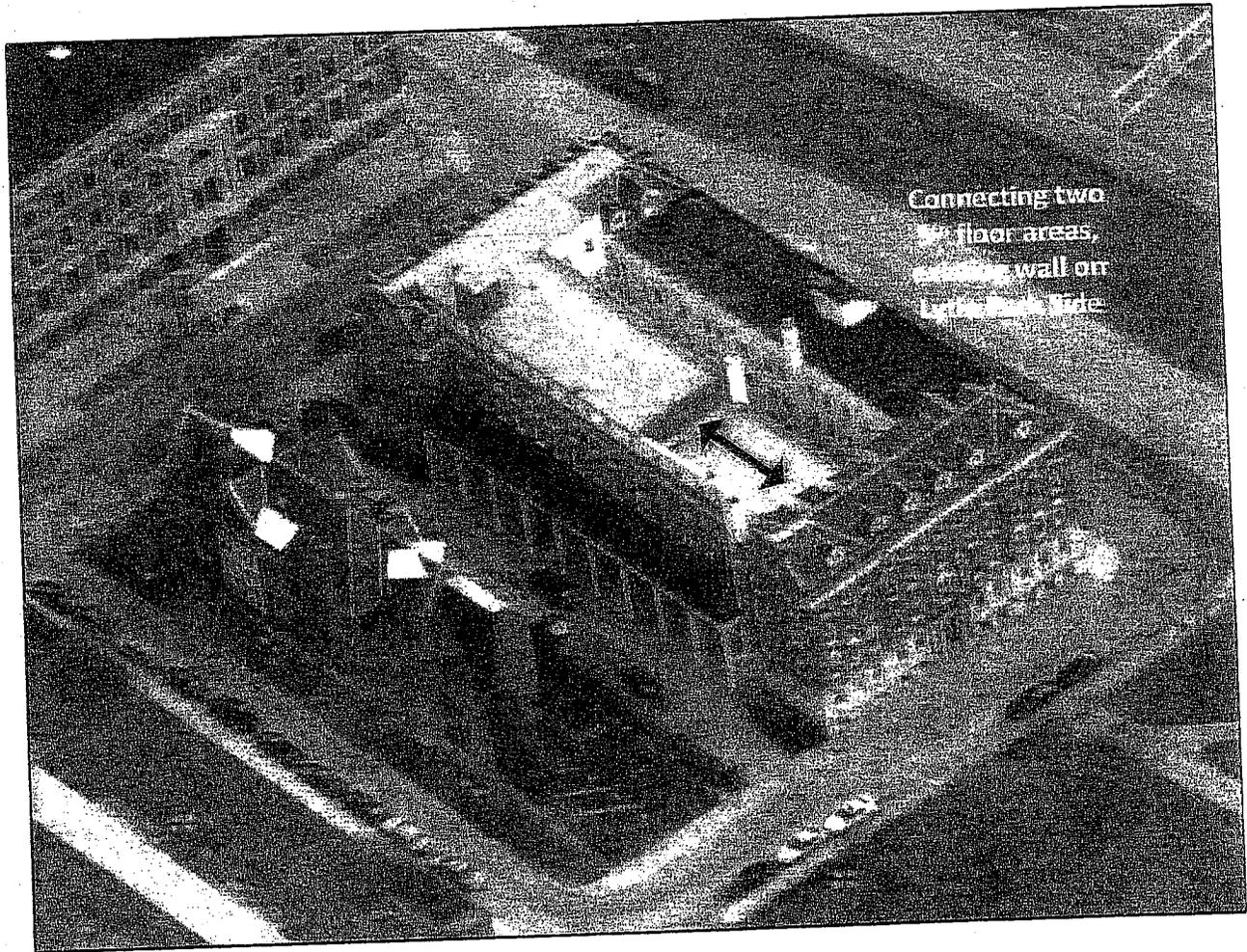
NORTH ELEVATION
 SCALE 1/8" = 1'-0"



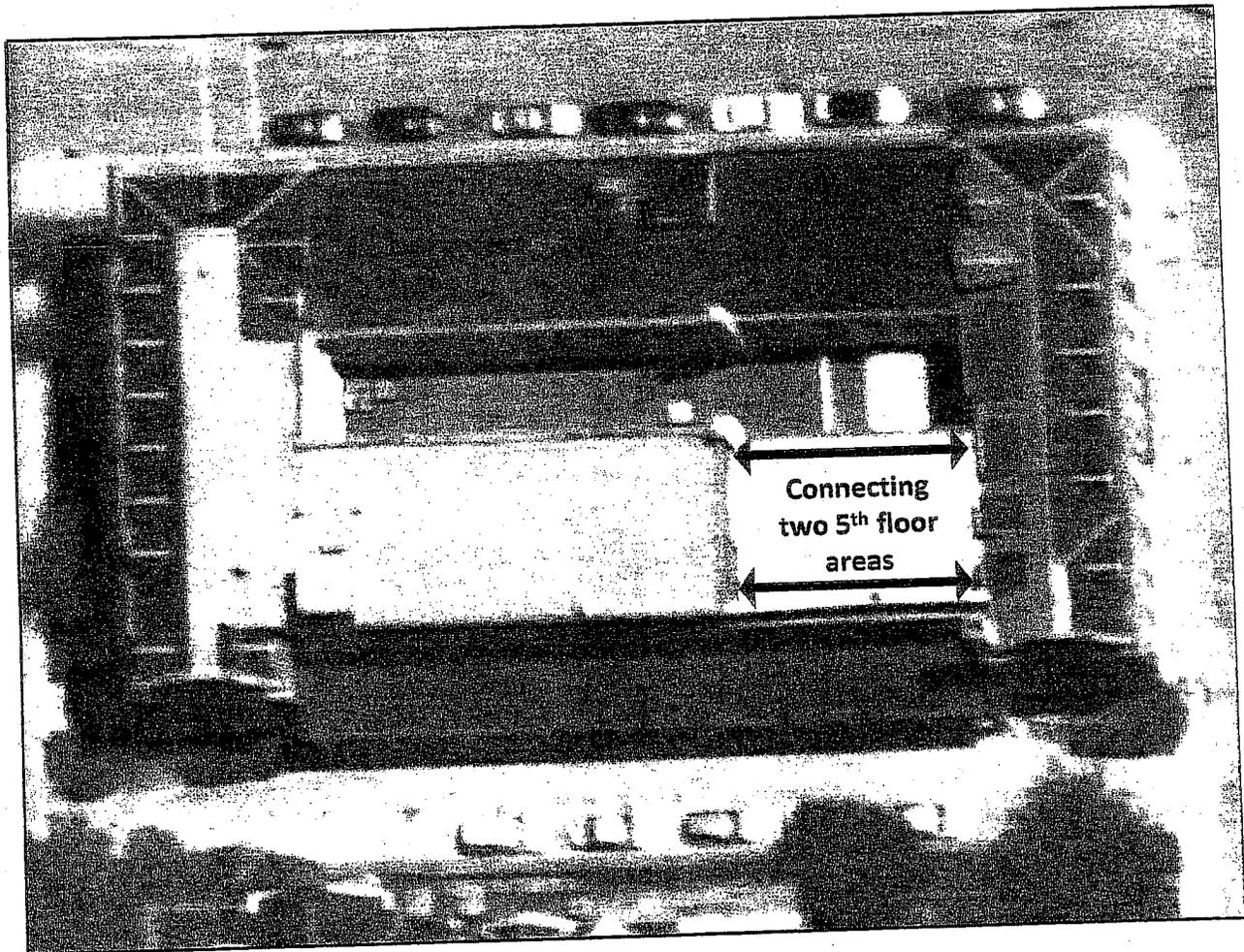
EAST ELEVATION
 SCALE 1/8" = 1'-0"

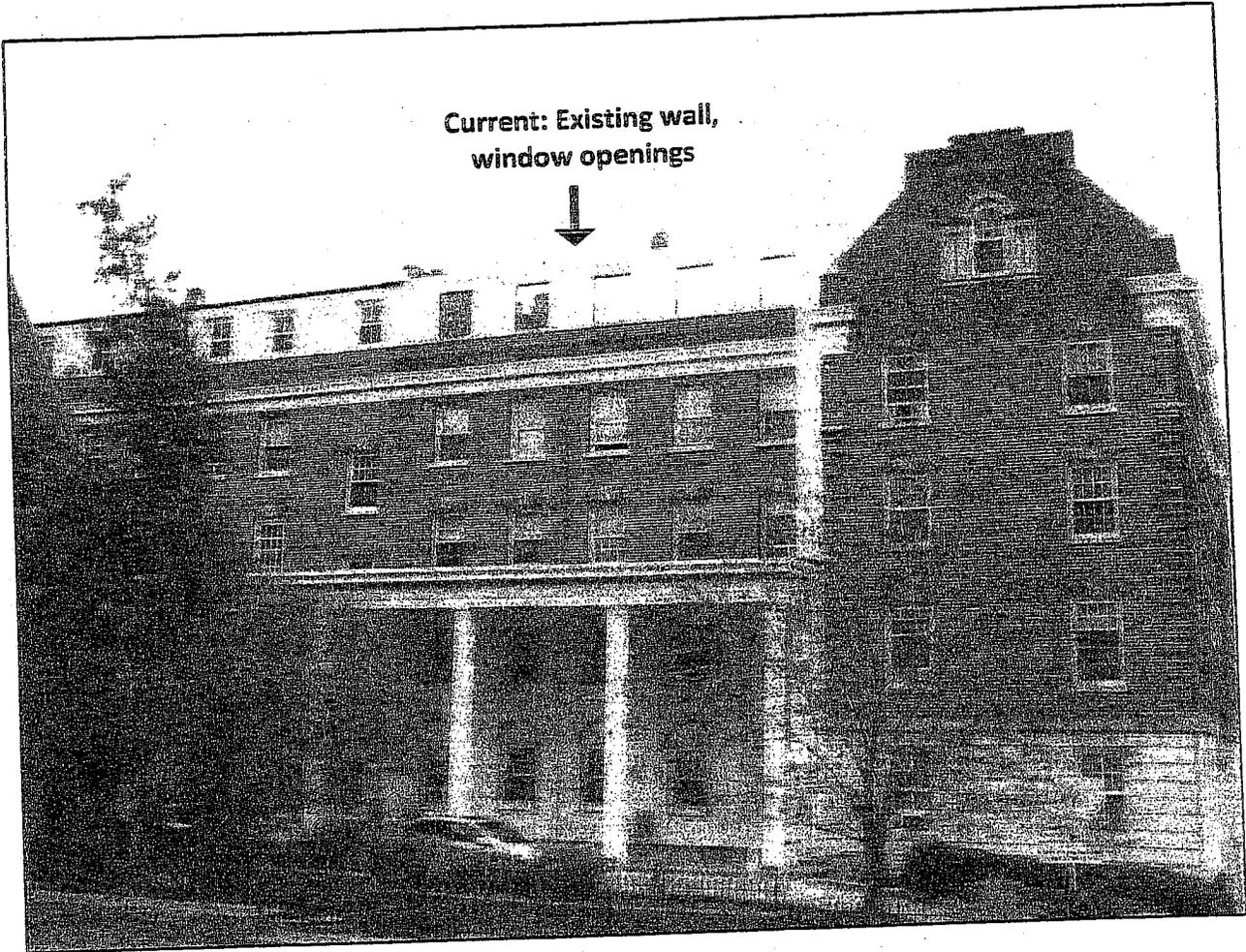
DRAWING NOTES

- 1. ALL MATERIALS SHALL BE MATCHED TO EXISTING MATERIALS - UNLESS NOTED OTHERWISE.
- 2. MATCH ALL EXISTING MATERIALS WITH EXISTING BUILDING.
- 3. EXISTING STAIRS - SEE EXISTING PLAN.
- 4. MATCH ALL EXISTING MATERIALS WITH EXISTING BUILDING.
- 5. MATCH ALL EXISTING MATERIALS WITH EXISTING BUILDING.
- 6. MATCH ALL EXISTING MATERIALS WITH EXISTING BUILDING.
- 7. MATCH ALL EXISTING MATERIALS WITH EXISTING BUILDING.
- 8. MATCH ALL EXISTING MATERIALS WITH EXISTING BUILDING.
- 9. MATCH ALL EXISTING MATERIALS WITH EXISTING BUILDING.
- 10. MATCH ALL EXISTING MATERIALS WITH EXISTING BUILDING.



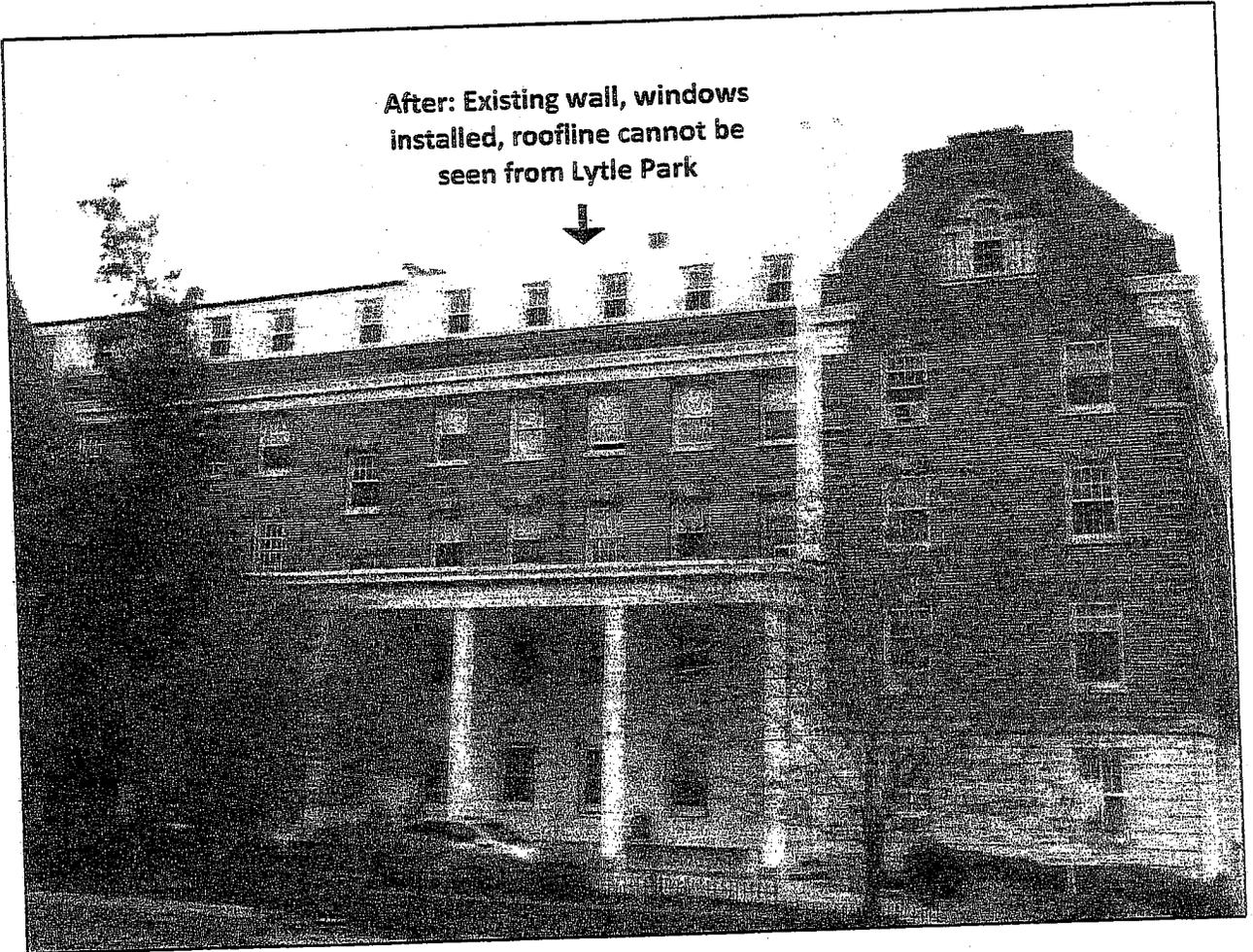
Connecting two
50 floor areas,
adding wall on
East side side.

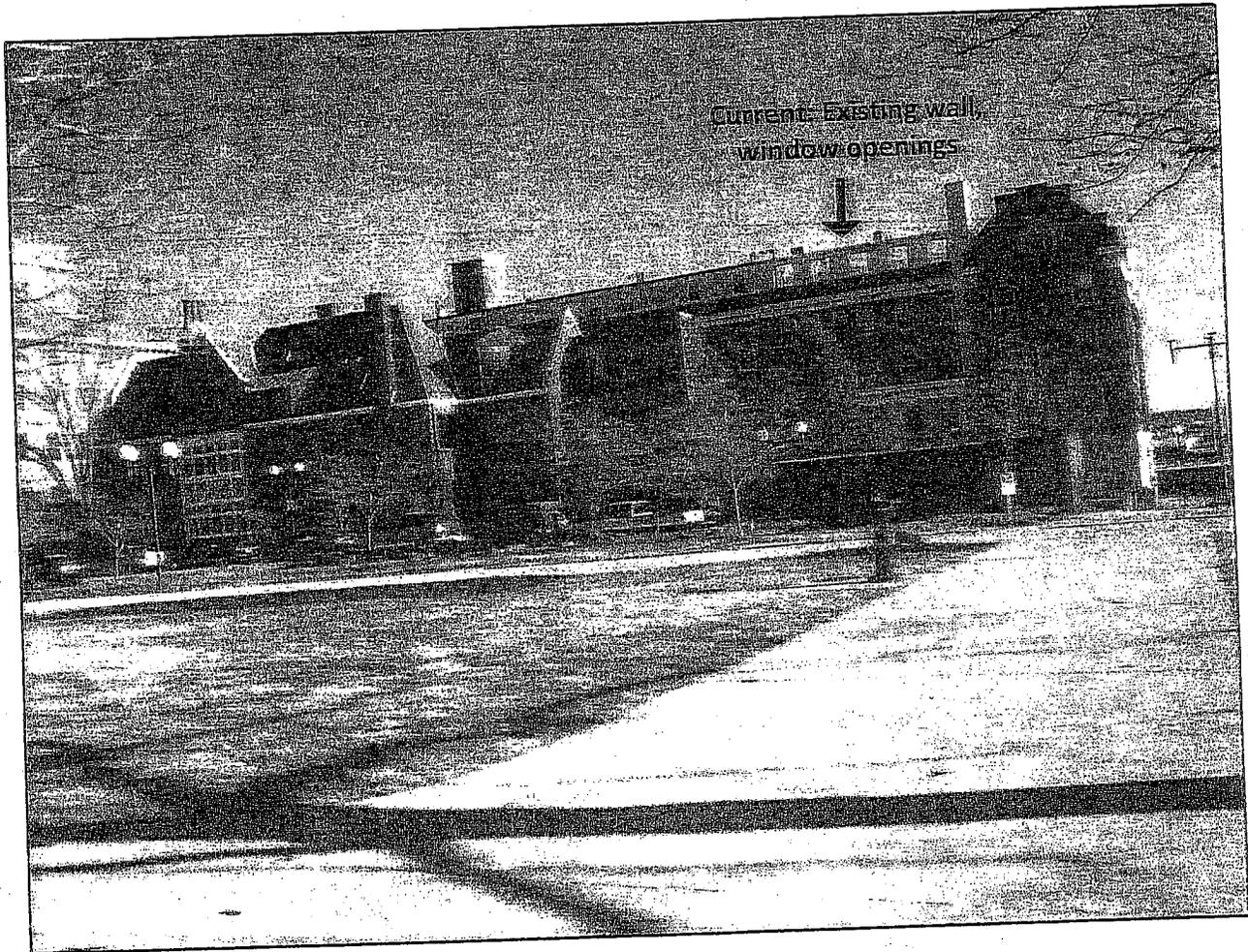




Current: Existing wall,
window openings

After: Existing wall, windows
installed, roofline cannot be
seen from Lytle Park







After Existing wall, windows
installed, roofline cannot be
seen from Lytle Park.

Deanna Heil
CITYSTUDIOS
ARCHITECTURE
222 east 14th street
cincinnati, oh 45202
ph: 513 621 0750
c: 859 663 0579

-----Original Message-----

From: Mariangela Pfister [mailto:mpfister@ohiohistory.org]
Sent: Tuesday, June 28, 2011 12:06 PM
To: Deanna Heil
Subject: RE: Anna Louise Inn

Hello Deanna -

In response with respect to the windows, 2/2 windows are not appropriate if the openings never had 2/2 windows. With respect to the cooling tower, I can see no objection if it will not adversely impact historic fabric and will be invisible from the ground.

Please email any other questions if you have them Deanna. I received another project yesterday so I currently have 11 to review, so I will likely be operating close to my 30-day review window, though I will of course try to move as quickly as possible.

Mariangela

-----Original Message-----

From: Deanna Heil [mailto:dheil@citystudiosarch.com]
Sent: Tue 6/28/2011 11:43 AM
To: Mariangela Pfister
Subject: Anna Louise Inn

Mariangela,

Two items came up at the historic board hearing yesterday for the Anna Louise Inn. We were asked by the board to submit an amendment and obtain an official decision from OHPO.

1. We proposed new 1-over-1 double hung windows at the 5th floor addition (in the existing masonry openings). The board would prefer 2-over-2 double hung windows to match the other 5th floor windows. The existing 5th floor windows are newer vinyl windows. I've attached a photo.
2. The board would like for the architect to relocate the cooling tower to the north as much as possible so that is farther from the south edge of the building. It would not change the fact that the equipment will not be

visible from any adjacent streets.

The city will not release the building permit until they have an official response from OHPO.

I will try and call you this afternoon.

Thank you,

Deanna

Deanna Heil

CITYSTUDIOS

ARCHITECTURE

2 east 14th street

cincinnati, oh 45202

ph: 513 621 0750

c: 859 663 0579

HISTORIC CONSERVATION BOARD

REGULAR MEETING

June 25, 2012

J. Martin Griesel Room - 7th Floor
II Centennial Plaza, 805 Central Avenue

Transcript of CD

BOARD MEMBERS

John Senhauser, Chairman

Judith Spraul-Schmidt

Ben Young

Bobbie McTurner

Ken Jones

1 MS. KELLAM: Item 1, is a Certificate of
2 Appropriateness for 300 Lytle Street, the
3 Anna Louis Inn and the Lytle Park Historic
4 District. A couple of things I wanted to
5 clarify. Staff refers to the settlement in
6 the court case and I wanted to be clear that
7 this issue today is only one part of that
8 settlement. There will be other things to be
9 dealt with at a later date.

10 So reissuing the Certificate of
11 Appropriateness and restating the conditions,
12 that's the only thing that's being dealt with
13 today. It's not intended for the Board to
14 re-review this project. Staff is here to
15 just clarify that the conditions that were
16 stated in the report regarding moving the
17 mechanical equipment further north. I do
18 have a drawing here to show that the
19 equipment was moved. That's in your packet
20 you received with the drawings.

21 And then the other condition -- the
22 other condition is that there be something in
23 writing that the one over one windows are
24 appropriate and were approved by the state
25 historic office and you have the E-mails in

1 your packet from Manley Burke and it's also
2 attached to a report stating that those are
3 the appropriate windows that were approved.

4 So staff is recommending today that the
5 Board approve a Certificate of
6 Appropriateness for the proposed renovation
7 in addition to 300 Lytle Street with the
8 following conditions: The mechanical systems
9 on the roof need to be moved further to the
10 north, which they have 3 feet 10 inches. And
11 provide confirmation in writing from the SHPO
12 office that the windows as proposed, the one
13 over ones, aluminum clad wood windows were
14 approved by the state historic office. See
15 attached.

16 A prehearing was held and the two
17 attorneys and representatives of Union Bethel
18 were the only people in attendance.

19 CHAIRMAN SENHAUSER: Thank you.

20 Questions of staff?

21 UNIDENTIFIED SPEAKER: Pertaining to
22 (inaudible) in writing rather than E-mail?

23 MS. KELLAM: No, the E-mail is
24 sufficient. You have that.

25 CHAIRMAN SENHAUSER: Any other questions

1 of staff? Thank you. May I have a motion,
2 please?

3 MS. McTURNER: I move that we accept
4 staff's recommendation.

5 CHAIRMAN SENHAUSER: Is there a second?

6 UNIDENTIFIED SPEAKER: I second.

7 CHAIRMAN SENHAUSER: Thank you. To this
8 motion I have one, two, three, four, five,
9 six people to speak to the motion.

10 MR. BURKE: Mr. Chairman, we may be able
11 to not call most of them.

12 CHAIRMAN SENHAUSER: Okay. Mr. Burke, I
13 don't have you on my list.

14 MR. BURKE: I apologize. I forgot to
15 sign in.

16 CHAIRMAN SENHAUSER: Well, I will allow
17 you 15 minutes for your presentation. You
18 may call the people you wish to call that --
19 if they've signed up here on the list.

20 MR. BURKE: Mr. Chairman, Members of the
21 Commission, I'll try and be brief and perhaps
22 then the Board can give us some indication as
23 to which witnesses they would like to hear
24 from. Let me just add a little bit to what
25 staff has indicated. I don't regard this

1 case as having been settled. Rather the case
2 was decided by Judge Nadel in a decision that
3 we have yet to make a decision as to whether
4 or not it will be appealed. But clearly what
5 Cincinnati Union Bethel has elected to do is
6 to attempt to comply with Judge Nadel's
7 decision. Judge Nadel's decision had several
8 criticisms of what happened with regard to
9 the issuance of the Certificate of
10 Appropriateness.

11 First, he indicated that a staff member
12 in the building department had very early on
13 in the process checked off the block marked
14 zoning approved before the Certificate of
15 Appropriateness was issued.

16 Second the judge was critical of the
17 fact that while -- and he acknowledged
18 everybody knew what the conditions were,
19 because it's in the transcript of the hearing
20 and all parties were here when the commission
21 put the two conditions on the approval. The
22 conditions weren't written into the record,
23 and the Judge found that to be improper.

24 The third criticism the Judge had, was
25 that on the day the building permit and the

1 Certificate of Appropriateness were, in fact,
2 physically handed out, the building permit
3 was handed out to Cincinnati Union Bethel up
4 the street and they then came down here and
5 picked up the Certificate of Appropriateness
6 and it should have been in the opposite
7 order. Those were the decisions that the
8 Judge made with regard to the Certificate of
9 Appropriateness.

10 We're here today simply attempting to
11 correct those deficiencies. The Judge's
12 decision also voided the building permit, so
13 we're not at a point where the building
14 permit even exists any longer based on the
15 Court's decision. We are asking that the
16 Certificate of Appropriateness be approved as
17 it was approved based on the hearing we last
18 had here and you've got in front of you the
19 transcripts from that hearing all of which
20 evidence was taken under oath at that time.

21 We do ask that in approving the
22 Certificate of Appropriateness the Board
23 recognize that we have, in fact, complied
24 with the conditions. And I'd be happy to
25 address that or Craig Rambo can address the

1 change that was made with regard to the
2 location of the air-handling equipment on the
3 roof of the building. Deanna Heil can
4 address the issue around the windows and the
5 response from the state historic preservation
6 office.

7 I do want to comment on the letter that
8 I was handed when I walked in from
9 Mr. Barrett who is questioning whether or not
10 the Board can grant a Certificate of
11 Appropriateness today. When we have to come
12 back and we do, as I've indicated in this
13 document. We will be coming back to the
14 Board now based on the rest of the Judge's
15 decision and we will be filing for
16 conditional use approval for the entire
17 building as a special assistance shelter. I
18 disagree that that's what it is, but the
19 Judge tells us that's what it is and that's
20 what we will attempt to present evidence to
21 you in a later hearing. Obviously -- and
22 that hearing I would anticipate would involve
23 a number of witnesses and it will probably be
24 a fairly long hearing given what's involved
25 in that, but that's not before you today. We

1 don't think that the need to obtain
2 conditional use approval in the future is
3 necessary when it comes to determining
4 whether or not the exterior renovations
5 proposed for the Anna Louise Inn comply with
6 the Lytle Park historic designation --
7 historic district guidelines.

8 As I've indicated, we have witnesses who
9 are here who can respond on the issues of
10 financing with Bobby Maly from The Model
11 Group on the issues of the conditions. And
12 on Cincinnati Union Bethel's future
13 intentions both the president and
14 vice-president of the organization are here.
15 I don't think it's necessary to call them,
16 but obviously if the Board has any witnesses,
17 they're here. They've been sworn in and they
18 can respond.

19 CHAIRMAN SENHAUSER: Okay. If there's
20 any Board member here who would like to raise
21 a question with any of the aforementioned
22 individuals, please do so and we'll ask them
23 to testify. Okay.

24 Mr. Burke, are you finished?

25 MR. BURKE: Unless the Board has any

1 questions, I am finished. Yes, sir.

2 CHAIRMAN SENHAUSER: Thank you.

3 MR. BURKE: Thank you very much.

4 MR. YOUNG: I have a question, if you
5 don't mind. And maybe you're not the right
6 person to ask the question to. I read the
7 letter that we were given as we walked in
8 today, and me not being a lawyer, I don't see
9 where this letter calls into question the
10 next step which you clearly indicate in your
11 book as much as it calls into question that
12 since the Judge has said that there's -- or
13 somebody has determined, evidently because of
14 this letter, that the existing use is
15 nonconforming, that we do not have the
16 ability to support any type of expansion of
17 the existing building while it's considered
18 nonconforming. It's almost as if they were
19 to say that we have to clear up the
20 nonconforming use before a COA can be issued.
21 Now, I'm not being party to that, I'd like
22 somebody to clarify that.

23 MR. BURKE: Let me tell you first of all
24 that when we had the prehearing conference I
25 asked Mr. Barrett what his position was. I

1 sent him two E-mails following that asking
2 what his position was. The most recent
3 correspondence I had from Mr. Barrett is that
4 his position had not changed since we were
5 here the last time, when as you recall, he
6 had no objections. All of sudden today, I
7 get this letter when I walk in. That does
8 put us at a little bit of a disadvantage in
9 terms of trying to respond to your letter.

10 We also recognize clearly that unless we
11 can obtain the conditional use approval which
12 we will seek and we've indicated, this
13 development isn't going to happen. Not the
14 way it's planned. But on the other hand, we
15 do believe that it is appropriate for you to
16 approve the fact that the building renovation
17 that's being proposed meets the historic
18 guidelines for the Lytle Park Historic
19 District. That's all we are asking for
20 today. Not the use.

21 CHAIRMAN SENHAUSER: The zoning related
22 items since it was not part of any agenda
23 item that we announced in our printed agenda
24 and public notice being -- proper public
25 notice being given, we really can't address

1 anything related to the zoning at this
2 meeting.

3 MR. BURKE: Nor are we asking for that.

4 MR. JONES: Excuse me, Mr. Chair.

5 Follow-up with Ben's question. I would like
6 to hear from the City about the
7 appropriateness of that question. Whether we
8 can make a decision on a nonconforming
9 building. I'd like to hear from the City --
10 the city's position.

11 MS. YANG: Is your question whether --
12 the question is whether --

13 MR. JONES: We can --

14 MS. YANG: -- we can even consider this
15 issue?

16 MR. JONES: Correct.

17 MS. YANG: I think the application --
18 the requesting of the application for this
19 hearing was for confirmation of the
20 previously issued Certificate of
21 Appropriateness and to articulate the
22 conditions of that, and whether or not those
23 conditions have been met. And those were the
24 issues addressed in the staff report and this
25 hearing is limited to that purpose.

1 MR. JONES: Thank you.

2 CHAIRMAN SENHAUSER: Any other questions
3 of Mr. Burke? I am not certain Mr. Rambo,
4 Ms. Heil, Mary Carol Melton, David
5 Thompson -- I think that is everybody who did
6 sign up to speak in the pro. Mr. Barrett?

7 MR. BARRETT: Thank you. My name is C.
8 Francis Barrett. I'm an attorney with the
9 law firm of Barrett and Weber. My address is
10 500 Fourth and Walnut Center, 105 East Fourth
11 Street, Cincinnati, Ohio 45202. I represent
12 Western Southern Life Insurance Company,
13 which is the owner of the abutting adjacent
14 property at 311 Pike Street. That was the
15 building that was known for years as the
16 Earls building. It's immediately in front of
17 the Anna Louise Inn -- immediately north of.
18 With me today on my right, closest to me in
19 the front row on your left is Mr. Mario San
20 Marco who is the president of Eagle Realty
21 Group, which is a wholly owned subsidiary of
22 Western Southern. And that group is
23 responsible for all of Western Southern's
24 real estate and he is the CEO of that
25 organization. He's also a vice-president

1 with Western Southern Life Insurance Company.

2 To his right on your far left at the end
3 of the aisle is Mr. Michael Barnett. He is
4 senior counsel with Western Southern Life
5 Insurance Company in the law department.

6 I will stick with my two minutes,
7 Mr. Chairman. I did submit a letter. I
8 apologize for not coming across this sooner.
9 I was not aware of it at the time of
10 prehearing. But over the weekend when I was
11 traveling, I did read the zoning code very
12 closely and determined that there is no
13 allowance for the expansion of a
14 nonconforming use. You can expand a
15 nonconforming use within the building, but
16 you cannot expand the building to accommodate
17 that nonconforming use.

18 As circumstances stand today with the
19 Judge's decision, which I've attached at tab
20 1, you have an expansion of the building, the
21 fifth floor is being expanded. There's a
22 fifth floor addition. And as things stand
23 today that would be not permitted. Those
24 issues have to be resolved. I understand
25 from the prehearing Caroline Kellam indicated

1 typically you hear all of it together
2 conditional use, Certificate of
3 Appropriateness. But they elected to come
4 just before the Board on the Certificate of
5 Appropriateness. That is another quirk in
6 the zoning code that that does not allow the
7 Historic Conversation Board to hear
8 extensions or expansions of nonconforming
9 uses. That's one power for whatever reason
10 is reserved as a zoning hearing examiner
11 although your Board has jurisdiction over the
12 other matters.

13 So I just felt compelled to bring that
14 to your attention. And you have our letter.
15 We've attached the decision. We've attached
16 the zoning code section. I believe that's my
17 two minutes.

18 MR. SENHAUSER: Questions of
19 Mr. Barrett?

20 MR. BARRETT: Thank you.

21 CHAIRMAN SENHAUSER: Mr. Barrett, I am
22 not certain, I would have to do a little
23 research myself because we just adopted a --
24 last, what Friday?

25 MR. HARRIS: Yes.

1 CHAIRMAN SENHAUSER: Last Friday, we
2 just adopted a new Chapter 1435 in the zoning
3 code which is historic preservation section.

4 MR. HARRIS: These were on last
5 Wednesday.

6 CHAIRMAN SENHAUSER: Counsel on
7 Wednesday.

8 MR. HARRIS: Yeah, still about 25 days
9 left. But the existing zoning code
10 1447 -- I'm not sure --

11 CHAIRMAN SENHAUSER: Well, my point is
12 we ultimately will determine whether or not
13 this is the Board that will hear the
14 nonconforming use, which I am not certain
15 whether that was modified or not in the
16 new...

17 MR. HARRIS: Any variance request in
18 the -- any action in the historic district,
19 the Board replaces the zoning hearing
20 examiner as the hearer of the facts in the
21 case and makes the decisions with the most
22 historical impact (inaudible) --

23 CHAIRMAN SENHAUSER: I'm not certain
24 that's germane to this proceeding, so we will
25 deal with that at the appropriate time. Yes.

1 Were there any questions of Mr. Barrett?

2 MR. BARRETT: Thank you very much. I
3 only have one last point just so there's no
4 misunderstanding. Western Southern Life
5 Insurance Company is the single most
6 responsible entity for the preservation of
7 Lytle Park. Over 40 years ago they insured
8 the future of Lytle Park by paying for the
9 slab over the right of way of I-71. If they
10 haven't done that, 71 would have gone right
11 through Lytle Park and there'd be no Lytle
12 Park.

13 They also are a major property owner.
14 In addition to 311 Pike Street, due north
15 they own the 550 East Fourth Street Luxury
16 Apartments. They have the Residence Inn
17 which they restored in the Phoenix building.
18 Immediately to the west, the closest building
19 to the west of the Anna Louise Inn, is the
20 Gilford School historic building which they
21 restored. Their home office and their annex
22 are also in this area to the northwest of the
23 Anna Louise Inn. So there's nobody more
24 committed to historic preservation in this
25 area than they are. Thank you very much.

1 CHAIRMAN SENHAUSER: Thank you.

2 Discussion on the motion.

3 MS. SPRAUL-SCHMIDT: Yes. I wonder if
4 the language -- if it makes sense or if it's
5 the best policy to follow the language that's
6 in the staff recommendation or to refer to
7 the changes that have already been planned
8 rather than say the mechanical systems on the
9 roof need to be moved north. The mechanical
10 systems on the roof be moved 3 foot 10 and a
11 half inches; is that right? 3 foot 10 inches
12 proposed further north.

13 CHAIRMAN SENHAUSER: As proposed, yes.

14 MS. SPRAUL-SCHMIDT: As proposed --
15 further north as proposed. So I suppose I'm
16 throwing that out for discussion or I'm
17 offering it as an amendment.

18 And then I wondered to on Item 2 if the
19 language could be -- should be clarified
20 because if we already have in writing a
21 statement from the State Historic
22 Preservation office, does it make sense for
23 us to say provide confirmation when we have
24 it.

25 MS. McTURNER: Provide confirmation --

1 MS. SPRAUL-SCHMIDT: Didn't you say that
2 the E-mail constitutes --

3 CHAIRMAN SENHAUSER: It is the
4 confirmation.

5 MS. SPRAUL-SCHMIDT: It is the
6 confirmation so why would we have a condition
7 that says provide confirmation in writing of
8 something that's already been provided.
9 Wouldn't we say, accept --

10 MS. McTURNER: I suggest that we
11 (inaudible).

12 MS. SPRAUL-SCHMIDT: So leave this
13 language here and add additional language?

14 UNIDENTIFIED SPEAKER: When they say the
15 information provided (inaudible).

16 MS. McTURNER: And then try to confer
17 with the conditions of and then --

18 MS. SPRAUL-SCHMIDT: Okay. That's why I
19 asked.

20 CHAIRMAN SENHAUSER: Then it will be
21 necessary to amend the motion.

22 MS. SPRAUL-SCHMIDT: Yeah, it will be
23 necessary to amend the motion. But you'd
24 rather have any amendments after the Items 1
25 and 2 listed.

1 CHAIRMAN SENHAUSER: Any other
2 discussion on the motion which is for the
3 acceptance of the staff recommendation?
4 Seeing none, secretary, will you please call
5 the roll?

6 MS. SPRAUL-SCHMIDT: Well, don't we need
7 the language?

8 CHAIRMAN SENHAUSER: I thought we were
9 going to do it as two separate motions.

10 MS. SPRAUL-SCHMIDT: Oh, two separate
11 motions. Sorry.

12 MR. HARRIS: On motion to accept the
13 staff recommendation. Mr. Jones?

14 MR. JONES: Aye.

15 MR. HARRIS: Ms. McTurner?

16 MS. McTURNER: Aye.

17 MR. HARRIS: Ms. Spraul-Schmidt?

18 MS. SPRAUL-SCHMIDT: Aye.

19 MR. HARRIS: Mr. Young?

20 MR. YOUNG: Aye.

21 MR. HARRIS: Mr. Senhauser?

22 CHAIRMAN SENHAUSER: Aye.

23 MR. HARRIS: Motion passes.

24 CHAIRMAN SENHAUSER: Now, if you'd like
25 to make a motion that the -- that stipulates

1 that these items have been complied with in
2 the proposal before us, then however you'd
3 like --

4 MS. SPRAUL-SCHMIDT: So it has to be a
5 motion. Can you just say (inaudible)
6 stipulating that? No, it has to be --

7 CHAIRMAN SENHAUSER: In the recognition
8 of --

9 UNIDENTIFIED SPEAKER: If I may, move to
10 acknowledge that the Board acknowledge that
11 these conditions have been met. You're
12 saying just that little bit of language. I
13 think we need the specific language.

14 MS. SPRAUL-SCHMIDT: Approve the
15 Certificate of Appropriateness.

16 CHAIRMAN SENHAUSER: We already did
17 approve the Certificate.

18 MS. SPRAUL-SCHMIDT: It's a statement;
19 isn't it? I'm hung up on the language.

20 CHAIRMAN SENHAUSER: In consideration of
21 the fact that --

22 MS. SPRAUL-SCHMIDT: Okay. In
23 consideration of the fact that the mechanical
24 systems --

25 CHAIRMAN SENHAUSER: The drawings --

1 MS. SPRAUL-SCHMIDT: -- that the
2 drawings presented indicate the mechanical
3 systems have been moved --

4 CHAIRMAN SENHAUSER: As designed.

5 MS. SPRAUL-SCHMIDT: -- as designed.

6 And that --

7 CHAIRMAN SENHAUSER: Written
8 confirmation.

9 MS. SPRAUL-SCHMIDT: -- written
10 confirmation has been received from the State
11 Historic Preservation office that the windows
12 were approved.

13 CHAIRMAN SENHAUSER: Is there a second?

14 MS. McTURNER: I second.

15 CHAIRMAN SENHAUSER: Is there any
16 discussion? Secretary call the roll, please.

17 MR. HARRIS: Mr. Jones?

18 MR. JONES: Aye.

19 MR. HARRIS: Ms. McTurner?

20 MS. McTURNER: Aye.

21 MR. HARRIS: Ms. Spraul-Schmidt?

22 MS. SPRAUL-SCHMIDT: Aye.

23 MR. HARRIS: Mr. Young?

24 MR. YOUNG: Aye.

25 MR. HARRIS: Mr. Senhauser?

CHAIRMAN SENHAUSER: Aye. Thank you.

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STATE OF OHIO :
: SS.
COUNTY OF HAMILTON :

I, La Cartha J. Pate, the undersigned, a
duly qualified notary public within and for the
State of Ohio, do hereby certify that the above
twenty-three (23) pages were transcribed by means of
computer under my supervision; that I am neither a
relative of any of the parties or any of their
counsel and have no interest in the result of this
action.

IN WITNESS WHEREOF, I have hereunto set my
hand and official seal of office at Cincinnati,
Ohio, this 3rd day of August, 2012.

La Cartha J. Pate-Notary Public
State of Ohio

My Commission expires:
June 11, 2017.

S Bisczat

From: Harris, Larry [Larry.Harris@cincinnati-oh.gov]
Sent: Friday, June 29, 2012 3:34 PM
To: CF Barrett
Subject: COA document package for the June 25, 2012 HCB Review for 300 Lytle Street
Attachments: 300 Lytle Street COA approval w_ conditions listed.pdf

Fran - I am attaching the various file documents to the email to affirm the requirements of the courts for the remand of the COA back to the HCB. Included are the following.

1. The COA re-issued with the conditions of approval listed in the conditions line on the COA document.
2. The email communication between the SHPO and Deanna Heil confirming the Board request for 2/2 windows would not be appropriate for the new window at the fifth floor and that the relocation of the rooftop mechanical units would be appropriate as requested to be out of view of the street.
3. Summary of the COA request and findings of the HCB relative the request.

All pertinent documents are stamped and/or signed by me as the Urban Conservator.

Please respond to this email to affirm that your office will accept this email and the attachments, in lieu of the certified mail copy outlined in the Cincinnati Zoning Code §1435-17.

Thank you and if you have additional request, please contact my office directly by email or phone.

Larry D. Harris

City Urban Conservator
Historic Conservation Office
Department of Planning and Buildings
Two Centennial Plaza - Suite 720
805 Central Avenue
City of Cincinnati, Ohio 45202

Phone: 513.352.4848
Fax: 513.352.4853
Email: larry.harris@cincinnati-oh.gov

**FINAL
ACTION**

BUILDING ADDRESS 300 LYTLE STREET CINCINNATI OHIO

PERMIT NO. 2011P03029 (if applicable)

DECISION BY

URBAN CONSERVATOR (minor alterations)

HISTORIC CONSERVATION BOARD
Date of Board Action June 25, 2012

Public Hearing Held Yes No

FINAL ACTION

APPROVE

APPROVE WITH CONDITIONS

DISAPPROVE

CONDITIONS: 1. Relocate rooftop mech. units to hide from view.
2. Provide State approval for 1/1 windows vs 2/2

[Signature]
URBAN CONSERVATOR

06.29.2012
DATE

HCB
HISTORIC
CONSERVATION
BOARD

CERTIFICATE OF APPROPRIATENESS

FINAL APPROVED PLAN
CASE NO. ZR 2011P03029

[Signature]
~~ZONING HEARING EXAMINER~~ URBAN CONSERVATOR
DATE 6/25/2012

Harris, Larry

From: Deanna Heil [dheil@citystudiosarch.com]
Sent: Friday, June 29, 2012 11:03 AM
To: Harris, Larry
Subject: FW: Anna Louise Inn

Larry - see below.

Deanna

Deanna Heil
CITYSTUDIOS
ARCHITECTURE
222 east 14th street
cincinnati, oh 45202
ph: 513 621 0750
c: 859 663 0579

FINAL APPROVED PLAN

CASE NO. ZH 112011P03029

ZONING HEARING EXAMINER

DATE 6/25/2012

*LIPKAW
CONSERVATIVE*

-----Original Message-----

From: Mariangela Pfister [mailto:mpfister@ohiohistory.org]
Sent: Tuesday, June 28, 2011 12:06 PM
To: Deanna Heil
Subject: RE: Anna Louise Inn

Hello Deanna -

In response with respect to the windows, 2/2 windows are not appropriate if the openings never had 2/2 windows. With respect to the cooling tower, I can see no objection if it will not adversely impact historic fabric and will be invisible from the ground.

Please email any other questions if you have them Deanna. I received another project yesterday so I currently have 11 to review, so I will likely be operating close to my 30-day review window, though I will of course try to move as quickly as possible.

Mariangela

-----Original Message-----

From: Deanna Heil [mailto:dheil@citystudiosarch.com]
Sent: Tue 6/28/2011 11:43 AM
To: Mariangela Pfister
Subject: Anna Louise Inn

Mariangela,

No items came up at the historic board hearing yesterday for the Anna Louise Inn. We were asked by the board to submit an amendment and obtain an official decision from OHPO.

1. We proposed new 1-over-1 double hung windows at the 5th floor addition (in the existing masonry openings). The board would prefer 2-over-2 double hung windows to match the other 5th floor windows. The existing 5th floor windows are newer vinyl windows. I've attached a photo.

2. The board would like for the architect to relocate the cooling tower to the north as much as possible so that is farther from the south edge of the building. It would not change the fact that the equipment will not be visible from any adjacent streets.

The city will not release the building permit until they have an official response from OHPO.

I will try and call you this afternoon.

Thank you,

Deanna

Deanna Heil

○ TYSTUDIOS

ARCHITECTURE

222 east 14th street

cincinnati, oh 45202

ph: 513 621 0750

c: 859 663 0579

**DECISION
HISTORIC CONSERVATION BOARD
CITY OF CINCINNATI
DATE OF DECISION: JUNE 28, 2012**

APPLICANT: CINCINNATI UNION BETHEL

OWNER: CINCINNATI UNION BETHEL

CASE TYPE: CERTIFICATE OF APPROPRIATENESS

PROPERTY: 300 LYTLE STREET

SUMMARY OF REQUEST:

Applicant requests a certificate of appropriateness to renovate its building and construct a fifth floor addition to the building.

SUMMARY OF DECISION:

The Board confirmed its approval of Applicant's original request for a certificate of appropriateness submitted June 15, 2011 to permit Applicant to renovate its building and construct a fifth floor addition to the building is approved subject to the conditions listed below. The Board further determined that the conditions imposed on approval of the certificate of appropriateness have been satisfied by the documents accompanying Applicant's May 25, 2012 letter.

PUBLIC HEARING:

After reviewing the testimony and documents submitted by Applicant and other concerned persons, and considering the report and recommendations of the Urban Conservator, the Board conducted a public hearing on Applicant's request, prior notice of the time and place of the hearing having been published in *The City Bulletin* and mailed to the Applicant and to all abutting property owners and other interested parties. The hearing was held on June 25, 2012 at 3:00 pm. A majority of the Board's members were present throughout the hearing constituting a quorum pursuant to Section 5 of the Board's Rules of Procedure.

A recording was made of the hearing and is available for review and transcription.

FINDINGS AND DECISIONS OF THE BOARD:

Upon motion duly made and seconded, a majority of the Board made the following findings and rendered the following decision:

1. Applicant Cincinnati Union Bethel, an Ohio non-profit corporation, is the owner of the property located at 300 Lytle Place, Cincinnati, Ohio 45202 commonly known as

the Anna Louise Inn. It wants to renovate its building and construct a fifth floor addition to its building (the "Project"). A summary of the Project is contained in the report prepared by the Urban Conservator and in the materials submitted on behalf of Applicant by its legal counsel, Timothy M. Burke, dated May 25, 2012 ("May 2012 Request").

2. The property is located in the Lytle Park Historic District and is subject to the district's conservation guidelines ("Guidelines"). No alteration, demolition or environmental change may be made to property located within an historic district without first obtaining a certificate of appropriateness pursuant to Cincinnati Municipal Code 1435-13.
3. On or about June 27, 2011, the Board held a hearing on Applicant's application for a certificate of appropriateness dated June 15, 2011 ("Original Application"). According to the transcript of that hearing (Tab 2 of May 2012 Request), the Board voted to approve the issuance of a certificate of appropriateness ("Original COA") with certain conditions.
4. As part of the May 2012 Request, Applicant's counsel requested that the Board place again on its hearing agenda Applicant's request for a certificate of appropriateness for the Project. The reason provided for the request was that a recent decision of the Hamilton County Court of Common Pleas concluded that: (a) the Zoning Code requires a certificate of appropriateness to be issued before a building permit for a project may be issued, but the City had erroneously issued the building permit for the Project prior to the issuance of the Original COA; and (b) the Original COA was deficient in failing to expressly state the conditions of the Board's approval. Applicant's May 2012 Request requested that the Board (i) confirm its approval of the Original COA and clearly articulate the conditions of approval thereof; and (ii) provide a determination as to whether or not the conditions were met by the updated materials submitted with the May 2012 Request (May 2012 Request, Tabs 6 and 7).
5. Section 1435-15 (a) of the Zoning Code provides that the Board has the duty to approve or approve with conditions the application for a certificate of appropriateness when it finds that the application conforms to the conservation guidelines adopted by Council for the relevant historic district.
6. The Urban Conservator's June 25, 2012 report regarding the Applicant's May 2012 Request for relief ("Report") found that the Project as proposed in the Original Application met the conservation guidelines for the Lytle Park Historic District subject to the following conditions ("Conditions"): (i) mechanical systems on the roof be moved further north than the proposed in the Original Application; and (ii) documentary evidence be provided to confirm that the State Historic Preservation Office approves the installation of 1 over 1 double hung windows in the empty window openings in the fifth floor parapet wall rather than 2 over 2 windows. The Report stated that the Board's June 2011 approval of the Original COA was subject to the Conditions. The Report also recommended that the Board confirm its June 2011 approval of the Original COA subject to Applicant's compliance with the Conditions.

III. DECISION

And now, this 28th day of June, 2012, in consideration of the foregoing, the Board hereby:

1. Confirms its approval of the issuance of a certificate of appropriateness to Applicant for the Project per the plans reviewed by the Board at its June 27, 2011 meeting, and as originally granted at the June 27, 2011 meeting, subject to the following conditions:
 - (i) The mechanical systems on the roof be moved further north than the proposed in the Original Application; and
 - (ii) Applicant shall provide documentary evidence to confirm that the State Historic Preservation Office approves the installation of 1/1 double hung windows rather than 2/2 windows.
2. Determines that the documents submitted with Applicant's May 2012 Request meet the conditions listed in Section 1 of this Decision as follows:
 - (i) The updated roof plan submitted as Tab 6 of the May 2012 Request showing the mechanical systems as moved 3'10" northward meets the condition stated in 1 (i) above; and
 - (ii) The correspondence from Mariangela Pfister of the Ohio State Historic Preservation Office (SHPO) submitted as Tab 7 of the May 2012 Request confirms SHPO's approval of the 1 over 1 double hung windows and disapproval of 2 over 2 windows.

The following conditions apply to all relief granted under this decision:

- a. The project shall be constructed in accordance with the plans and specifications stamped FINAL APPROVED PLAN by the Urban Conservator and forwarded to the Business Development and Permit Center.
- b. All building permits necessary for the project shall be obtained within two years from the date of this decision.
- c. The project must meet all applicable codes and regulations of the City of Cincinnati.
- d. If the applicant and/or owner do not meet all of the conditions required by this decision within the timeframes provided, this decision shall have no further

force or effect. If no timeframe is provided for meeting a condition, the condition must be met prior to the time that all building permits issued in connection with the development are closed.

IV. ROLL CALL

The following is a record of the votes cast by members of the Board concerning the foregoing findings and decision:

1. As to confirmation of the approval of the certificate of appropriateness and conditions thereto.

Affirmative:

Mr. Ken Jones
Ms. Bobbie McTurner
Mr. John Senhauser
Ms. Judith Spraul-Schmidt
Mr. Benjamin R. Young

Absent:

Mr. Jay Chatterjee
Mr. Kenneth P. Kreider
Mr. Carolyn Wallace

Negative: None

2. As to the determination that Applicant has met the conditions to the Board's approval of the certificate of appropriateness

Affirmative:

Mr. Ken Jones
Ms. Bobbie McTurner
Mr. John Senhauser
Ms. Judith Spraul-Schmidt
Mr. Benjamin R. Young

Absent:

Mr. Jay Chatterjee
Mr. Kenneth P. Kreider
Mr. Carolyn Wallace

Negative: None

ORDERED THIS 28th day of June, 2012.



Larry Harris
Secretary, Historic Conservation Board

APPEALS:

This decision may be appealed to the Zoning Board of Appeals, pursuant to Chapters 1435 and 1449 of the Zoning Code. Appeals must be filed within thirty days of the date of this decision.

TRANSMITTED this 28 day of June, 2012, by certified mail to:

CINCINNATI UNION BETHEL
300 Lytle Street
Cincinnati, OH 45202

TRANSMITTED this 28 day of June, 2012, by interdepartmental mail to Rodney Ringer and Rick Schriewer at the Permit Center.

S Bisczat

From: Kellam, Caroline [Caroline.Kellam@cincinnati-oh.gov]
Sent: Thursday, July 19, 2012 1:55 PM
To: CF Barrett
Subject: FW: Anna Louis Inn

From: Kathy Farro [mailto:kfarro@manleyburke.com]
Sent: Thursday, July 12, 2012 10:12 AM
To: Kellam, Caroline
Subject: FW: Anna Louis Inn

From: Tim Burke
Sent: Wednesday, June 20, 2012 11:31 AM
To: 'caroline.kellam@cincinnati-oh.gov'
Subject: FW: Anna Louis Inn

Thanks for giving us the opportunity to react to the draft. I don't think it can be said that the law suit has been settled. Consider this instead:

BACKGROUND: On May 4, 2012, Judge Nadel issued a decision in the Anna Louise Inn case which, among other things, found the Certificate of Appropriateness (COA) was deficient because:

My only other comment is with regard to the description of the condition 1. in the staff findings and RECOMMENDATION. Following last year's June 27th hearing with the HCB, the plans were modified to show the rooftop mechanical equipment being moved farther north. The COA was issued based on that change and the SHPO approval of the windows. Could condition 1. be stated in both places as follows:

1. The mechanical systems on the roof shall be installed in the location on the plans dated 6/30/2011 which reflect a movement north of the mechanical systems from their originally proposed location.

As the condition currently reads in the draft it sounds like they would have to be moved farther north.

Thank you for your consideration.

Tim

Timothy M. Burke
Attorney at Law
Manley Burke, LPA
225 West Court Street
Cincinnati, OH 45202
(513) 721-5525

S Bisczat

From: Kellam, Caroline [Caroline.Kellam@cincinnati-oh.gov]
Sent: Thursday, July 19, 2012 1:56 PM
To: CF Barrett
Subject: FW: ALI Report

From: Kathy Farro [mailto:kfarro@manleyburke.com]
Sent: Wednesday, June 20, 2012 10:05 AM
To: Kellam, Caroline
Subject: ALI Report

Caroline,

Could I get a copy of the COA report for Anna Louise Inn? Thank you

Kathleen A. Farro - Urban Planner
Manley Burke, L.P.A.
225 W. Court Street
Cincinnati, OH 45202
Telephone: (513) 721-5525 x 1336
Fax: (513)721-4268

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S Bisczat

From: Kellam, Caroline [Caroline.Kellam@cincinnati-oh.gov]
Sent: Thursday, July 19, 2012 1:56 PM
To: CF Barrett
Subject: FW: Anna Louise resubmission

From: Harris, Larry
Sent: Thursday, June 07, 2012 1:01 PM
To: Kellam, Caroline
Subject: RE: Anna Louise resubmission

Thanks you.

Larry D. Harris

City Urban Conservator
Historic Conservation Office
Department of Planning and Buildings
Two Centennial Plaza - Suite 720
805 Central Avenue
City of Cincinnati, Ohio 45202

Phone: 513.352.4848
Fax: 513.352.4853
Email: larry.harris@cincinnati-oh.gov

From: Kellam, Caroline
Sent: Thursday, June 07, 2012 9:36 AM
To: Harris, Larry
Subject: RE: Anna Louise resubmission

Yes. I have their submission. It will be scheduled for the 25th.

From: Harris, Larry
Sent: Thursday, June 07, 2012 9:31 AM
To: Kellam, Caroline
Subject: Anna Louise resubmission

Caroline – has Kathy Farro contact you in reference to the court ruling to resubmit the project.

Larry D. Harris

City Urban Conservator
Historic Conservation Office
Department of Planning and Buildings
Two Centennial Plaza - Suite 720
805 Central Avenue
City of Cincinnati, Ohio 45202

Phone: 513.352.4848
Fax: 513.352.4853
Email: larry.harris@cincinnati-oh.gov

S Bisczat

From: Kellam, Caroline [Caroline.Kellam@cincinnati-oh.gov]
Sent: Thursday, July 19, 2012 1:57 PM
To: CF Barrett
Subject: FW: Anna Louise Inn
Attachments: Anna Louise Judge Nadel Decision.pdf

From: Kathy Farro [mailto:kfarro@manleyburke.com]
Sent: Thursday, May 24, 2012 2:39 PM
To: Kellam, Caroline
Subject: FW: Anna Louise Inn

Caroline,

The decision is attached. On page 7 you will see the findings regarding the COA. I was able to find the COA application form on the website.

Kathleen A. Farro - Urban Planner
Manley Burke, L.P.A.
225 W. Court Street
Cincinnati, OH 45202
Telephone: (513) 721-5525 x 1336
Fax: (513)721-4268

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From: Kathy Farro
Sent: Wednesday, May 23, 2012 4:21 PM
To: 'larry.harris@cincinnati-oh.gov'
Subject: FW: Anna Louise Inn

Mr. Harris,

As requested, a copy of the decision from Judge Nadel is attached. Per his ruling, we will need to come back to the HCB for re-evaluation for Certificate of Appropriateness. Please let me know if you have any questions. We will get 11 hard copies and one digital copy on CD to Ms. Kellam in your department on Friday, in hope to get on the June 25 agenda.

Kathleen A. Farro - Urban Planner
Manley Burke, L.P.A.
225 W. Court Street
Cincinnati, OH 45202
Telephone: (513) 721-5525 x 1336
Fax: (513)721-4268

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From: Craig Rambo [<mailto:CRambo@McGillSmithPunshon.com>]
Sent: Wednesday, May 23, 2012 4:03 PM
To: caroline.kellam@cincinnati-oh.gov
Cc: Tim Burke; Kathy Farro
Subject: Anna Louise Inn

Caroline

In response to the ruling by Judge Nadel, we are going to resubmit documents to your department to obtain the certificate of appropriateness. Please call me at 759-3225 at my office or my cell phone at 479-8157 to discuss and confirm the submittal requirements. I also want to know if there is an need to have a pre-hearing public meeting as was done last time.

Craig Rambo

COUNTY COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

COPY OF ENTRY FILED
MAY 04 2012

STATE OF OHIO ON RELATION OF :
506 PHELPS HOLDINGS, LLC, et al.,

Plaintiffs-Relators, :

Vs. :

AMIT B. GHOSH, P.E., :
CHIEF BUILDING OFFICIAL :
CITY OF CINCINNATI, et al., :

Defendants-Respondents. :

Case No: A1104189
(Case No. A1108167)
(Case No. A1108168)
(Consolidated)

(Judge Norbert A. Nadel)

MEMORANDUM
OF DECISION
AND ORDER

RECEIVED
MAY 05 2012
Marilyn Burke, LPA

Plaintiffs-Relators, the Western & southern Life Insurance Company and 506 Phelps Holdings, LLC on behalf of themselves and on relation of the State of Ohio in Case No. A1104189 bring this action against the City Defendants and Cincinnati Union Bethel and the related non-profit defendants, Anna Louise Inn.

Western and Southern has also appealed to this Court both Zoning Board of Appeals decisions granting Cincinnati Union Bethel's application for a building permit for the renovation of the Anna Louise Inn. The building permit appeal is Case No. A1108167 and the Historic Conservation Board appeal is Case No. A1108168. All parties agreed to the consolidation of the three cases.

Pursuant to stipulation (a copy of which is attached as Exhibit "A"), the issue to be decided is whether the uses proposed to exist in the renovated Anna Louise Inn are permitted under the Cincinnati Zoning Code.

Before deciding this issue, the Court would like to point out that this case is not only important to the parties, but is also important to this community because of the following:

1. The Anna Louise Inn has and continues to provide many benefits to the less fortunate in our City.
2. Western and Southern also provides many benefits to this City including jobs, economic development, and substantial tax revenue.
3. More than twelve million dollars of taxpayers subsidies are being provided for the renovation of the Anna Louise Inn.
4. However this case cannot be decided by which party does the most good for this Community.

5. Nor will this Court decide whether spending in excess of twelve million dollars to renovate the Anna Louise Inn in an Historic area of Cincinnati is a wise use of taxpayers subsidies.
6. Rather this decision is limited to the interpretation and application of zoning laws and regulations.

After considering the Record, the evidence presented at the hearing, the pleadings, the briefs, and arguments of counsel, the Court finds as follows:

FINDINGS

1. Cincinnati Union Bethel, an Ohio non-profit social service agency that began operation in 1830, has historically provided a wide variety of social services to residents of the Cincinnati area who were in need.
2. To fulfil the need in the early 1900s for suitable housing for young women who came to work in the City of Cincinnati, Mr. and Mrs. Charles P. Taft donated the land located at 300 Lytle Street and the necessary funds to construct suitable and affordable dormitory-style housing for these young women in what was originally a 5-story, 120 unit rooming house named the Anna Louise Inn after Mr. and Mrs. Taft's daughter. Originally and historically, the Anna Louise Inn provided affordable housing for working women who were gainfully employed but had lower paying income positions, typically such as bookkeepers, stenographers, office clerks, sales persons, or telephone operators, with a much smaller percentage holding jobs in nearby factories.
3. In 1994, Cincinnati Union Bethel began to operate its' "Family Living Center" program at the Anna Louise Inn, involving a comprehensive program designed to assist homeless families, and the City of Cincinnati provided the funding to reconstruct a portion of the Anna Louise Inn to house those families. Cincinnati Union Bethel has been informed by the operators of the Family Living Center that they will not be returning to the Anna Louise Inn after it is renovated.
4. In 2006, Cincinnati Union Bethel opened its "Off-the-Streets" program at the Anna Louise Inn, involving housing and social services for recovering prostitutes, including programs to provide comprehensive services..
5. The City Council of Cincinnati adopted Ordinance No. 410-2010 on November 17, 2010 "AUTHORIZING the establishment of one new H.O.M.E. Investment Trust Project Account No. 411x162x0912, "Anna Louise Inn"; and further authorizing the transfer and appropriation of the sum of \$800,000 from H.O.M.E. Investment Trust Project Account No. 411x162x09600, "Homeless to Homes - Transitional Housing 10", to newly created H.O.M.E. Investment Trust Project Account No. 411x162x09012, "Anna Louise Inn"; And further authorizing the transfer and appropriation of the sum of \$1,869.351 from the unappropriated surplus of H.O.M.E. Investment Trust Fund 411 to newly created H.O.M.E. Investment Trust Project No. 411x162x09012, Anna Louise Inn"; and further authorizing the City Manager to enter into and execute an agreement with

Anna Louise Inn, Limited Partnership, for the purpose of funding and implementing the rehabilitation of 85 units of permanent supportive housing in the City of Cincinnati, located at 300 Lytle Street in Lytle Park Historic District of downtown Cincinnati."

6. Cincinnati Union Bethel submitted an application for a building permit for the renovation of the Anna Louise Inn to the City of Cincinnati on April 28, 2011. This application described the current and proposed uses at the Anna Louise Inn using Ohio Building Code classifications "B" for business use and "R-1/R-2" for residential use.

7. On May 26, 2011, the City of Cincinnati through ones of its Zoning Plan Examiners issued approval of the proposed "R-1/R-2" residential and "B" business uses as complying with the City's Zoning Code, although the City maintains that final zoning approval is not granted until the building permit is issued.

8. Cincinnati Union Bethel did not apply for the required Certificate of Appropriateness under the Historic District zoning regulation of the City of Cincinnati Zoning Code until June 15, 2011, twenty days after zoning approval had been given.

9. On July 1, 2011 at 12:00 a.m., Defendants Amit B. Ghosh and the City of Cincinnati issued the building permit for the subject property. Thereafter, also on July 1, 2011, the Historic Conservation Office/Historic Conservation Board issued the certificate of appropriateness for the subject property under building permit application No. 2011:P03029.

10. The uses of the Anna Louise Inn are described in the documents prepared by Cincinnati Union Bethel and the City of Cincinnati, which are exhibits in the Administrative Record in Case No. A1108167 or exhibits admitted by the Court at the evidentiary hearing as follows:

A. The Supportive Service Plan with regard to the proposed Permanent Supportive Housing at the Anna Louise Inn, provides:

This Supportive Service Plan will provide a range of services to the tenants of the Anna Louise Inn, which is comprised of 85 affordable housing units, 60 of which will be set aside for permanent supportive housing (PSH). The target population for this project will be single, low-income women who are homeless or at risk of homelessness. (Emphasis added.)

Off-the-Streets (OTS) is a unique and award winning program housed in the first floor of the Anna Louise Inn that will serve as a feeder for the renovated supportive housing that will be housed at ALL. The mission of Off-the-Streets is to provide comprehensive, wrap-around services that will assist women involved in the sex trade move toward safety, recovery, empowerment, and community reintegration.

(Emphasis added.)

B. According to the "Timeline of CUB Events":

1908 – Mr. and Mrs. Charles Taft donate the Land on the corner of Third and Lytle Street to build working girls' home, what will become the Anna Louise Inn, named after their daughter, Anna Louise Taft.

1909 – The Anna Louise Inn opens to serve women from the rural area who need safe and secure housing while working in downtown Cincinnati. It was filled to capacity the first day.

1994 – With support from the City of Cincinnati, the second floor of the Anna Louise Inn is renovated to provide shelter for the homeless families. Today it is operated in partnership with Mercy Franciscan. (Emphasis added.)

2005 – The Off-the-Streets (OTS) Collaborative selected CUB to serve as the lead agency for the OTS program serving prostituted women.

C. "Homeless to Homes / Putting an End to Homelessness"

A comprehensive plan for the City of Cincinnati and Hamilton County, Ohio, to ensure single homeless individuals who have access to appropriate shelter facilities and comprehensive services which facilitate their movement from shelter to permanent housing. (Emphasis added.)

Permanent Supported Housing is defined as service-enriched housing where the population of the dwellings must be certified as homeless prior to residing in the units, and where such housing is required by the homeless individual to maintain permanent residency. (Emphasis added.)

D. City of Cincinnati Ordinance No. 410-2010

The City Council of Cincinnati stated on November 17, 2010, in that Ordinance:

Anna Louise Inn is currently the only single room occupancy for at-risk homeless women in Cincinnati. (Emphasis added.)

E. The publication of Cincinnati Union Bethel entitled "Off-the-Streets" states in part:

The mission of Off-the-Streets is to assist women involved in the sex trade move toward safety, recovery, empowerment, and community reintegration...

Off-the-Streets accepts referrals from various sources. All women with a history of involvement in the sex trade are eligible for services.

- * Criminal justice
- * Treatment providers and social service agencies
- * Communities
- * Self-referrals

(Emphasis added.)

F. In another publication of Cincinnati Union Bethel entitled "Off-the-Streets", states in part:

Emergency Housing: 23 individual shelter rooms are available for homeless women accessing services. The shelter rooms are provided until the women are able to obtain ongoing, safe, and stable housing. (Emphasis added.)

G. In another publication of Cincinnati Union Bethel entitled "Off-the-Streets Program", states in part:

Program services

A peer-faciliator works with each woman to develop an individualized recovery plan based on her individual needs. Services are provided on site by peer and professional staff and through referrals to other community based providers. (Emphasis added.)

H. The publication of Cincinnati Union Bethel dated December 8, 2011 states in part:

The Anna Louise Inn is a safe harbor, offering a community of women a sense of home. Often our residents have nowhere else to go, and we provide the stability they need to offer them hope and independence. (Emphasis added.)

I. The publication of Cincinnati Union Bethel entitled "Off-the-Streets, a Program of Cincinnati Union Bethel" states in part:

Off-the-Streets provides services for over 400 women involved in prostitution.

97% of the women are unemployed and 87% have no source of income

76% of women are homeless with no other housing options

(Emphasis added.)

11. The publication of the U.S. Department of Health and Human Services entitled "Permanent Supportive Housing" describes "Permanent Supportive Housing" as:

Permanent. Tenants may live in their homes as long as they meet the basic obligations of tenancy, such as paying rent;

Supportive. Tenants have access to the support services that they need and want to retain housing;

Housing. Tenants have a private and secure place to make their home, just like other members of the community, with the same rights and responsibilities. (Emphasis added.)

12. The publication entitled "Ohio Intergency Council on Homelessness and Affordable Housing/Permanent supportive Housing Policy Framework" states in part:

While this is an ambitious goal, we need to continue to grapple with balancing our concerns for those currently homeless and those at risk of homelessness or institutionalization, it is achievable through this State of Ohio Permanent Supportive Housing Policy Framework. (Emphasis added.)

13. The Court finds that the uses of the Anna Louise Inn consisting of the Off-the-Streets program, the 85 units of Permanent Supportive Housing and the support services provided and offered to the occupants of the Off-the-Streets units and the Permanent Supportive Housing units, all under the control and direction of Cincinnati Union Bethel, cannot be separated and must be considered as a integrated land use.

14. The Court also finds that support services are required to be provided to the occupants of the Off-the-Streets Program and the Permanent Supportive Housing units, regardless of whether the occupants decline or accept such services, and that both the Off-the-Streets units and the Permanent supportive Housing units are intended to provide shelter and housing, respectively, for single women who are homeless or at risk of homelessness, and both types of uses are a part of the City's Homeless to Homes Plan. Further, the support services and special services provided by Cincinnati Union Bethel are required to be offered to the occupants of both types of units and therefore these uses

cannot be separated and constitute an integrated use of the Anna Louise Inn. Thus, the Anna Louise Inn is not a mixed use facility where the different uses are separated and independent of each other.

CONCLUSIONS OF LAW

1. Subject property is located in the Lytle park Historic district and accordingly is regulated under the Historic District zoning regulations set forth in Chapter 1435, Historic Landmarks and Districts, of the Cincinnati Zoning Code.
2. Cincinnati Union Bethel was required to procure a certificate of appropriateness from the Historic Conservation Office/Historic Conservation Board of the City of Cincinnati. Accordingly, the procurement of a certificate of appropriateness is a condition precedent to zoning approval.
3. Since the Historic Conservation Office/Historic Conservation Board issued the certificate of appropriateness for the subject property on July 1, 2011, it was improper for the Zoning Plans Examiner in the Building Department to have issued zoning approval beforehand on May 26, 2011, which was also prior to the submission of the application for certificate of appropriateness to the Historic conservation Office/Historic Conservation Board on June 15, 2011.
4. The certificate of appropriateness issued by the Historic Conservation Office/Historic Conservation Board on June 1, 2011 states that the Final Action is "approved with conditions" but does not state those conditions.
5. Although the parties knew what the conditions of approval were for the issuance of the certificate of appropriateness from their representatives having attended the Historic Conservation Board meeting on June 27, 2011, the certificate of appropriateness is nevertheless deficient in its failure to state the conditions or to reference a document in the official case file for this application which states those conditions.
6. Amit B. Ghosh and the City of Cincinnati issued the building permit for the subject property on July 1, 2011 at 12:00 a.m., which is prior to the issuance of the certificate of appropriateness. Therefore, the building permit was improperly issued.
7. The subject property is located in the "Downtown Development" district and in subdistrict "B" thereunder, the "DD-B" District, and the uses permitted on the subject property are set forth in Section 1411-05, Land Use Regulations, of Cincinnati Zoning Code Chapter 1411, Downtown Development Districts.
8. The use classifications permitted in the "DD-B" subdistrict are set forth in Schedule 1411-05: Use Regulations – Downtown Development Use Subdistricts, of section 1411-05 of the Zoning Code, and the relevant "Use Classification" for purposes of deciding the zoning issues is that entitled "Residential Uses".

9. Immediately preceding Schedule 1411.05, Use regulations – Downtown Development Use Subdistricts, in Zoning Code Section 1411-05 is the statement “Use Classifications not listed in Schedule 1411-05 below are prohibited.” (Emphasis added.)

10. Accordingly, it is for the Court to determine whether the Off-the-Streets program and the 85 units of Permanent Supportive Housing fall within any of the “Residential Uses” set forth in this Use Classification of Schedule 1411-05. Further, Section 1411-05 provides, in part, that “Use Classifications are defined in Chapter 1401, Definitions.” Accordingly, the provisions of Section 1411-05, Land Use Regulations, pertaining to the “DD-B” District must be read in relationship to the definitions of the use classifications set forth in Chapter 1401, Definitions, and further in relationship to the provision in Section 1411-05 that any use classification not listed in Schedule 1411-05 is prohibited.

11. The residential uses of the Anna Louise Inn consisting of the existing Off-the-Streets program and the proposed 85 units of Permanent Supportive Housing are not listed per se under “Residential Uses”, and therefore, it is necessary to determine if the definitions of any of the enumerated “residential Uses” apply to either of these uses.

12. Although these uses may appear to be a type of “group residential” use which is a listed “Residential Use”, neither of these uses qualifies as a “group residential” use under Schedule 1411-05, and neither use is one of the five enumerated listed uses under “Group Residential”. Accordingly, the Court finds that “group residential” does not permit either the Off-the-Streets program or the Permanent Supportive Housing units.

13. The Court must then consider whether the 85 units of Permanent Supportive Housing within the Anna Louise Inn would qualify as a “multi-family dwelling” which is a permitted use within the “DD-B” subdistrict. “Multi-family dwelling” is defined in Zoning Code Section 1411-01-M8 as “A building or group of buildings that contain three or more dwelling units.” Section 1401-01-D14 defines “Dwelling Unit” as one or more rooms with a single kitchen designed for occupancy by one family for living and sleeping purposes.” Section 1401-01-F2 defines “Family” as “A person living alone or two or more persons living together as a single housekeeping unit in a dwelling unit as distinguished from a group residential use.” (Emphasis added.)

14. Permanent Supportive Housing units necessarily require special services and supportive services at the Anna Louise Inn. These services must be made available to the occupants of these units, and since the special services and supportive services are inextricably linked to the occupancy and funding of the Permanent Supportive Housing, as indicated by the documents of the City of Cincinnati, U.S. Department of Health and Human Services, and the State of Ohio, the Court concludes that the occupants of the 85 units of Permanent Supportive Housing do not live in their units as a “single housekeeping unit” and, therefore, the 85 units do not constitute multi-family dwelling units, and are thus not permitted as of right in the “DD-B” District.

15. Section 1401-01-S11 defines "Special Assistance Shelter" as "A facility for the short term housing for individuals who are homeless and who may require special services." The Court finds that the occupants of the Off-the-Streets program are women involved in the sex trade who are typically homeless and require special services, and the very nature of that Program is to provide housing for at-risk homeless women and to provide them special services.

16. Accordingly, the Off-the-Streets program presently occupying the Anna Louise Inn is a non-conforming use, and the proposed expanded Off-the-Streets Program is a conditional use as a "Special Assistance Shelter", as listed in Schedule 1411-05 and as defined in Section 1401-01-S11.

17. The Court is aware that the Off-the-Streets Program has attributes of "Transitional Housing" as defined in Section 1401-01-T. However, the Court concludes that the definition of "Special Assistance Shelter" applies more definitively and appropriately to the Off-the-Streets program than does the definition of "Transitional Housing" for a number of reasons, including but not limited to the descriptions of the Off-the-Streets program in the documents of Cincinnati Union Bethel in the record referring to emergency housing, housing for homeless women or women at risk of homelessness, and women who require special services by virtue of their involvement in the vice of prostitution. Moreover, the City of Cincinnati's "Homeless to Homes" plan, which has been applied to the Anna Louise Inn, describes the entry into the program as through a "safe walk-in shelter", which the Off-the-Streets program at the Anna Louise Inn does not provide, or through a "women's shelter", which clearly the Anna Louise Inn provides, and thereafter referral to either "transitional housing" or to "permanent supportive housing". Accordingly, the Off-the-Streets program is not "transitional housing" under the City's "Homeless to Homes" plan applied by the City to the Anna Louise Inn.

18. Similarly, the Permanent Supportive Housing has attributes of "transitional housing" as defined in Section 1401-01-T. However, by definition "permanent housing" cannot be "transitional housing".

19. The Court recognizes the language in Section 1411-05 that "Use Classifications not listed in Schedule 1411-05 below are prohibited". Accordingly, the Court concludes that the only way to construe the Zoning Code to determine that the 85 units of Permanent Supportive Housing may be permitted is to consider the Anna Louise Inn as a whole, integrated use. This integrated use of providing housing to at-risk homeless women or women at risk of homelessness and who need special services, which includes the special services to the recovering prostitutes in the Off-the-Streets program and the support services required to be made available to the occupants of the Permanent Supportive Housing units, may thus be considered a special assistance shelter as provided in Schedule 1411-05. Therefore, the proposed uses of the Anna Louise Inn may only be permitted on the subject property as a conditional use pursuant to Section 1411-05 if the Anna Louise Inn is considered as a whole, integrated use.

20. Therefore, the Court finds that the decision of the Zoning Board of Appeals should be vacated and the entire matter should be remanded to Defendant City of Cincinnati for the proper administrative review and proper administrative proceedings in accordance with the Court's findings.

21. These reviews and proceedings should determine whether the Off-the-Streets program, which is an existing use and which is proposed to be enlarged, may continue or be expanded as a non-conforming use and further that it requires approval as a conditional use.

22. The Court further finds that the matter of the proposed 85 units of Permanent Supportive Housing should be remanded to the appropriate administrative officials of the City of Cincinnati for consideration as a conditional use as a part of the integrated use of the Anna Louise Inn since this use is not permitted as of right as this use requires support services and/or special services on site.

23. The Court finds that Amit B. Ghosh, as Chief Building Official of the City of Cincinnati, had a duty to refer the land use and zoning issues pertaining to the building permit for the renovation of the Anna Louise Inn to the appropriate administrative officials of the City of Cincinnati for the proper determination of all zoning issues prior to issuing the building permit.

ORDER

It is hereby ordered that this case is set on May 15, 2012 at 1:30 P.M. for presentation of entry in accordance with the above decision.

5/4/12
Date

Norbert A. Nadel
Norbert A. Nadel, Judge



D95461915

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

FILED

2011 NOV 23 P 2:13

STATE OF OHIO ON RELATION OF
506 PHELPS HOLDINGS, LLC, et al.,

Plaintiffs-Relators

vs.

AMIT B. GHOSH, P.E.,
CHIEF BUILDING OFFICIAL
CITY OF CINCINNATI, et al.,

Defendants-Respondents

Case No. A1104189

(Judge Norbert A. Nadel)

(TARGET CASE)

WESTERN & SOUTHERN LIFE
INSURANCE COMPANY,

Plaintiff-Appellant

vs.

ZONING BOARD OF APPEALS
CITY OF CINCINNATI, et al.,

Defendants-Appellees.

Case No. A1108167

(Judge R. Patrick DeWine)

(Magistrate Michael L. Bachman)

(SOURCE CASE)

WESTERN & SOUTHERN LIFE
INSURANCE COMPANY

Plaintiff-Appellant

vs.

ZONING BOARD OF APPEALS
CITY OF CINCINNATI, et al.,

Defendants-Appellees.

Case No. A1108168

(Judge Nadine L. Allon)

(Magistrate Michael L. Bachman)

(SOURCE CASE)

STIPULATION

It is hereby agreed and stipulated by and between Plaintiffs-Relators/Plaintiffs-Appellants and Defendants-Respondents/Defendants-Appellees as follows: the issues to be decided by the Court at the hearing on December 15, 2011 at 10:00 a.m., reset from December 14, 2011 at 11:00 a.m., shall be limited to Plaintiffs-Relators' First Claim for Relief and Third Claim for Relief in the First Amended Verified Complaint filed in Case No. A1104189 on August 9, 2011 seeking, respectively, a writ of mandamus and declaratory judgment concerning the Zoning Code of the City of Cincinnati and the use of the subject property thereunder, and to the administrative appeals from the decisions of the City's Zoning Board of Appeals in Case No. A1108167 and Case No. A1108168, respectively.

Further, the zoning issues to be determined by the Court at that hearing pertain to the existing and proposed uses of the Anna Louise Inn located on the subject property to include: (1) what uses are permitted as of right; (2) what uses are not permitted; (3) what uses are conditional uses for which a hearing must be held before the Zoning Hearing Examiner of the City of Cincinnati; (4) what uses are the continuation, expansion, or extension of a non-conforming use for which a hearing must be held by the Zoning Hearing Examiner of the City of Cincinnati; or (5) some combination of (1) through (4) above.

If the Court determines that all of the existing and proposed uses of the Anna Louise Inn are permitted as of right under the Zoning Code, no further consideration of (2) through (5) above is required by the Court. If the Court determines that some or all of the existing or proposed uses of the Anna Louise Inn are not permitted as of right, the Court will rule as to whether each of such uses falls under (2), (3), (4) or (5) above. As to any of the existing or

proposed uses which the Court finds to be a conditional use or to be the continuation, expansion, or extension of a non-conforming use, the Court shall remand the matter for the appropriate hearing and proceedings before the Zoning Hearing Examiner of the City of Cincinnati.

The objections of Defendants-Respondents made in their initial motions to dismiss and in the oral argument on August 10, 2011, are preserved.

All other issues and claims in Plaintiffs-Relators' Amended Complaint and in Defendants-Respondents' Counterclaim are reserved for further consideration and scheduling by the Court subsequent to the hearing to be held on December 15, 2011. The parties shall file simultaneous pre-trial memoranda on December 12, 2011.

SO STIPULATED AND AGREED:

C. Francis Barrett

C. Francis Barrett (0022371)
Trial Attorney for Plaintiffs-Relators/Plaintiffs-Appellants

David P. Kamp By C. Francis Barrett

David P. Kamp (0020665)
Trial Attorney for Plaintiffs-Relators/Plaintiff-Appellants

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Anna Louise Inn, L.P.

TIMOTHY M. BURKE

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Trial Attorney for Defendant-Respondent/Defendant-Appellees
Cincinnati Union Bethel

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Anna Louise Inn, GP, LLC

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S Bisczat

From: Kellam, Caroline [Caroline.Kellam@cincinnati-oh.gov]
Sent: Thursday, July 19, 2012 1:59 PM
To: CF Barrett
Subject: FW: Anna Louise Inn

From: Craig Rambo [mailto:CRambo@McGillSmithPunshon.com]
Sent: Wednesday, May 23, 2012 4:03 PM
To: Kellam, Caroline
Cc: Tim Burke; kfarro@manleyburke.com
Subject: Anna Louise Inn

Caroline

In response to the ruling by Judge Nadel, we are going to resubmit documents to your department to obtain the certificate of appropriateness. Please call me at 759-3225 at my office or my cell phone at 479-8157 to discuss and confirm the submittal requirements. I also want to know if there is an need to have a pre-hearing public meeting as was done last time.
Craig Rambo

C. FRANCIS BARRETT
H. PATRICK WEBER
JANET L. BELL

BARRETT & WEBER
A LEGAL PROFESSIONAL ASSOCIATION

500 FOURTH & WALNUT CENTRE
105 EAST FOURTH STREET
CINCINNATI, OHIO 45202-4015

TELEPHONE (513) 721-2120
FACSIMILE (513) 721-2139

August 9, 2012

Majed A. Dabdoub, P.E.
Secretary, Zoning Board of Appeals
City of Cincinnati
Business Development and Permit Center
3300 Central Parkway
Cincinnati, Ohio 45225

Hand Delivery

Re: 300 Lytle Street / Cincinnati Union Bethel
Historic Conservation Board Decision dated June 28, 2012
Appeal filed July 23, 2012

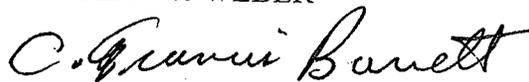
Dear Mr. Dabdoub:

Enclosed for filing with the Zoning Board of Appeals are eight (8) sets of binders containing the information related to the above-captioned appeal. Please note that the materials in each binder are indexed with all pages numbered. By copy of this letter to Mr. Timothy M. Burke, attorney for Cincinnati Union Bethel, a binder of materials is also being sent to Mr. Burke.

If you have any questions, or if you need any additional information, please do not hesitate to contact the undersigned.

Sincerely,

BARRETT & WEBER



C. Francis Barrett
Attorney for Appellant, Western & Southern
Life Insurance Company

Enclosures

cc: Timothy M. Burke, Attorney for Cincinnati Union Bethel (with enclosure)
Andrea E. Yang, Assistant City Solicitor