



City of Chicago



F2019-107

Office of the City Clerk

Document Tracking Sheet

Meeting Date:	9/18/2019
Sponsor(s):	Misc. Transmittal
Type:	Communication
Title:	Expression of opposition to proposed rezoning of property at 1300 N Maplewood Ave
Committee(s) Assignment:	

In re Ordinance O2018-9456

Zoning Reclassification Map No. 3-I, at 1300 N Maplewood Ave.

Written Protest pursuant to Chicago Municipal Code §17-13-0307

The undersigned, being the sole owner of 100 percent of the land to be rezoned (the "Owner") pursuant to Ordinance O2018-9456, introduced December 12, 2018 and currently pending before the Chicago City Council (the "Ordinance"), acting pursuant to Chicago Municipal Code §17-13-0307, does hereby protest against the zoning map amendment proposed in the Ordinance, which proposes to change the zoning classification of the land commonly known as 1300 N. Maplewood Ave., Chicago, Illinois, and having permanent tax identification number 16-01-218-043-0000 (the "Property") from its current RS-3 zoning district to the RS-1 zoning district. In support of such protest, the Owner states as follows:

1. The Owner acquired the Property by deed dated January 24, 2018 and recorded January 25, 2018 with the Cook County Recorder of Deeds as Document 1802508044, a copy of which is attached hereto as Exhibit A.

2. The Property is a single lot bounded by a line 25 feet north of and parallel to West Potomac Avenue, the alley next west of and parallel to North Maplewood Avenue, West Potomac Avenue, and North Maplewood Avenue, and is the only parcel to be rezoned pursuant to the Ordinance.

3. The current zoning district of the Property is RS-3, Residential Single Unit (Detached House) District. All parcels adjacent to the Property are also zoned RS-3; all parcels on both sides of the 1300 Block of North Maplewood Avenue are also zoned RS-3 (except for a single vacant parcel at the opposite end of the block, 1353 N. Maplewood, zoned RM-4.5 on September 5, 2007); all parcels on the block (as defined in Chicago Municipal Code §17-17-0220) are also zoned RS-3 (except for a single parcel at the opposite end of the east side of North Rockwell Avenue, 1357 N. Rockwell, zoned RM-4.5 on December 13, 2017); all parcels on the block south of the block on which the Property is located (except for those south of the public alley north of and parallel to Division Street and fronting on Division Street) are also zoned RS-3. According to the maps at chicagocityscape.com, which are sourced from the City of Chicago GIS and were current to April 25, 2019 as of this writing, no areas are zoned RS-1 in the entire 26th Ward, although the proposed rezoning of the Property and of a handful of other single lots throughout the 26th Ward to RS-1 has been initiated by Alderman Maldonado.

4. The predominant building type in the vicinity of the Property is multi-unit apartments, two to three stories in height. See aerial photograph attached hereto as Exhibit B. Buildings of bulk and density similar to this predominant building type (up to two dwelling units, limited floor area) would be permitted in the current RS-3 zoning district on this block, but would not be permitted in the proposed RS-1 zoning district.

5. Under the RS-1 zoning district, only single-family homes are permitted, the maximum floor area ratio is 0.5, and the minimum lot area is 6,250 square feet. Thus, under the RS-1 zoning district, the largest house that could be built on the Property—which has a lot area of only

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3,156 square feet—is 1,578 square feet. In contrast, under the current RS-3 zoning district, a single family home of up to 2,840 square feet, or two apartments that are 1,420 square feet each (if equal in size; it would be allowed for one to be larger than the other so long as the total floor area does not exceed 2,840 square feet), could be built on the Property. According to the US Census Bureau, the median size of single family homes constructed in the United States during 2018 was 2,386 square feet, and the median size of newly constructed single family homes sold during 2018 was 2,435 square feet. As of this writing, in the area bounded by West Wabansia Avenue (1700 N), Western Avenue (2400 W), Iowa Street (900 N) and California Avenue (2800 W), 19 single-family homes are listed for sale on Zillow.com; of those, only three are 1,578 square feet or less.

6. Chicago Municipal Code §17-13-0308 sets forth review and decision-making criteria for zoning map amendments that the City Council is required to follow. That Section states as follows:

17-13-0308 Review and Decision-Making Criteria. The act of amending the zoning map is a legislative action that must be made in the best interests of the public health, safety and general welfare, while also recognizing the rights of individual property owners. In reviewing and making decisions on proposed zoning map amendments, review bodies and decision-making bodies should consider at least the following factors:

17-13-0308-A whether the proposed rezoning is consistent with any plans for the area that have been adopted by the Plan Commission or approved by the City Council;

17-13-0308-B whether the proposed rezoning is appropriate because of significant changes in the character of the area due to public facility capacity, other rezonings, or growth and development trends;

17-13-0308-C whether the proposed development is compatible with the character of the surrounding area in terms of uses, density and building scale;

17-13-0308-D whether the proposed zoning classification is compatible with surrounding zoning; and

17-13-0308-E whether public infrastructure facilities and city services will be adequate to serve the proposed development at the time of occupancy.

The zoning map amendment proposed in the Ordinance fails to address, let alone meet, these criteria, and no supporting evidence has been submitted in support of the amendment. The amendment does not even pretend to recognize the rights of individual property owners; rather, it eliminates those rights by making it impossible to develop anything at the Property that would fit the urban design of the surrounding area, let alone the needs of prospective buyers or renters. It limits the Property to a single-family home in a neighborhood of two and three story apartment buildings, and of a size far smaller than most other single-family homes in the area. With regard to the five specific criteria cited above:

- A. There are no plans for the area that have been adopted by the Plan Commission or approved by the City Council. To the contrary, the sponsoring Alderman's stated reason for this proposed zoning map amendment is to require his approval—which he says will be based on the input of community groups—for any development proposal on the Property, but there are no standards that will inform their judgment, and no comprehensive plan to ensure consistent and compatible urban design. Leaving any possible development of the Property to the whims of an Alderman or the passions of an unidentified community group leaves property owners and prospective purchasers without any ability to know the potential uses of a property, making it impossible to determine value or plan for development. It takes away authority of a property owner to determine the use of private property, and goes well beyond the government's police power to ensure consistent and compatible development patterns – it removes any development discretion whatsoever from the owner. Instead, it allows the Alderman unbridled authority to dictate the use of private property without limit. Not only is this far more discretion than is necessary for legitimate exercise of zoning authority, but it paralyzes the market for development properties and creates significant opportunity for corruption.
- B. There is no evidence to support the proposed rezoning based on changes in public facility capacity (there have been no significant changes in public facilities in the vicinity of the Property), other rezonings (the surrounding area is primarily zoned RS-3, the current zoning district of the Property, while the surrounding structures are predominantly legal nonconforming buildings that would require rezoning to RT-4 or RM-4.5 to be reconstructed today), or growth and development trends (concerns about gentrification near the 606 Trail, as stated by the sponsoring Alderman, do not provide a rationale for this downzoning; the Property is more than ½ mile from the 606 Trail and in any event, there are numerous other means at the City's disposal to encourage development of affordable housing that do not require a property owner to seek approval of an alderman or community group before even being able to determine what type of development would be possible at a particular parcel, such as the Affordable Requirements Ordinance and various other programs and new initiatives as outlined in Mayor Lightfoot's transition report (p.77)).
- C. As outlined above, the proposed rezoning to RS-1 is completely incompatible with the character of the surrounding area in terms of uses, density and building scale; the surrounding area's uses, density and building scale are consistent with RT-4 or RM-4.5 zoning districts.
- D. As stated above, the proposed rezoning to RS-1 is completely inconsistent with the zoning of the surrounding area, which is overwhelmingly RS-3; there are no parcels zoned RS-1 in the entire 26th Ward.
- E. There is no evidence that public infrastructure facilities or city services would not be able to serve a development on the Property – a single 25' x 126.25' lot – if it were to be improved with a structure compatible in uses, density and scale as its neighboring buildings, and no justification on this basis to downzone the Property to RS-1, which would render it as a practical matter undevelopable.

Accordingly, the proposed zoning map amendment of the Ordinance is outside the authority of the City Council under the Chicago Municipal Code.

There is currently substantial public discussion about the matter of "aldermanic privilege" – the custom and practice, not codified in any ordinance, of deferring to the judgment of an alderman with respect to certain matters within that alderman's ward, particularly with regard to zoning matters. There are legitimate arguments on both sides of this debate, with concerns for the potential for corruption inherent in this discretion balanced against the unique ability of an alderman to understand the needs of that alderman's community and to give the residents of the ward meaningful input into land use decisions and the changing shape of the urban design of their neighborhoods. But even granting the arguments for the legitimate exercise of aldermanic privilege, it must be emphasized that when the exercise of aldermanic privilege strays from legitimate exercise and into the realm of unconstitutionally broad government discretion, unbounded by standards of urban planning and design, unbalanced with the legitimate concerns of private property owners and unfettered by any check against illegitimate leverage of that privilege, then public confidence in any exercise of aldermanic authority is eroded.

For the foregoing reasons, the Owner urges the City Council to reject the Ordinance.

1300 N. Maplewood, LLC, an Illinois limited liability company, Owner

By:



Chethan Shetty, its Manager
(630-484-5186)

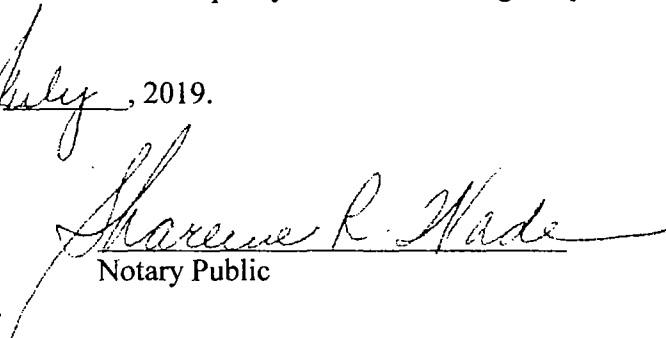
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Chethan Shetty, personally known to me to be the same person whose name are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument in his capacity aforesaid, being duly authorized, for the uses and purposes therein set forth.

Given under my hand and official seal, this 8th day of July, 2019.

My Commission Expires _____, 20__.




Notary Public

Doc# 1802508044 Fee \$50.00
Karen A Yarbrough
Cook County Recorder of Deeds
Date 01/25/2018 09:15 AM Pg 1 of 2

The Grantor, **Robert E. Birkmeyer**
married to **Joanita E. Birkmeyer**, of the City of
Chicago, County of Cook, State of Illinois, for and in
consideration of **TEN DOLLARS** and other good and
valuable consideration in hand paid **CONVEYS** and
WARRANTS to
1300 N. MAPLEWOOD, LLC
an Illinois limited liability company having it's
principal office at **225 W. Scott Street, Apartment 3W,**
Chicago, IL 60610, the following described Real
Estate situated in the County of Cook in the State of
Illinois, to wit:

Dec ID 20180101687850
ST/CO Stamp 0-091-501-088 ST Tax \$260 00 CO Tax \$130 00
City Stamp 1-012-675-104 City Tax \$2,730 00

LOT 24 IN BLOCK 4 IN WINSLOW AND JACOBSON'S SUBDIVISION OF THE
SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 1,
TOWNSHIP 39 NORTH, RANGE 13 LYING EAST OF THE THIRD PRINCIPAL
MERIDIAN IN COOK COUNTY, ILLINOIS.

PIN: 16-01-218-043-0000
Street Address: 1300 N. MAPLEWOOD, CHICAGO, IL 60622

THIS PROPERTY IS NOT HOMESTEAD PROPERTY.

SUBJECT TO: Covenants, conditions, easements and restrictions of record; general real estate taxes for the year 2017 and subsequent years.

IN WITNESS WHEREOF, said Grantor has caused its name to be signed to these presents,
this 24th day of January, 2018.

Robert E. Birkmeyer
Robert E. Birkmeyer

State of Illinois)
) SS.
 County of Cook)

Of the undersigned, a Notary Public in and for said County, in the State aforesaid,
 DO HEREBY CERTIFY that ROBERT E. BIRKMEYER, personally known to me to the same person
 whose name is subscribed above to the foregoing instrument, appeared before me this day in person, and
 acknowledged that he signed, sealed, and delivered the said instrument as his free and voluntary act, for the
 uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and official this 24th day of JANUARY, 2018.

James M. Chaveriat
 Notary Public

Commission Expires: _____

this instrument prepared by:

Robert E. Birkmeyer
 3948 N. Southport
 Chicago, IL 60613

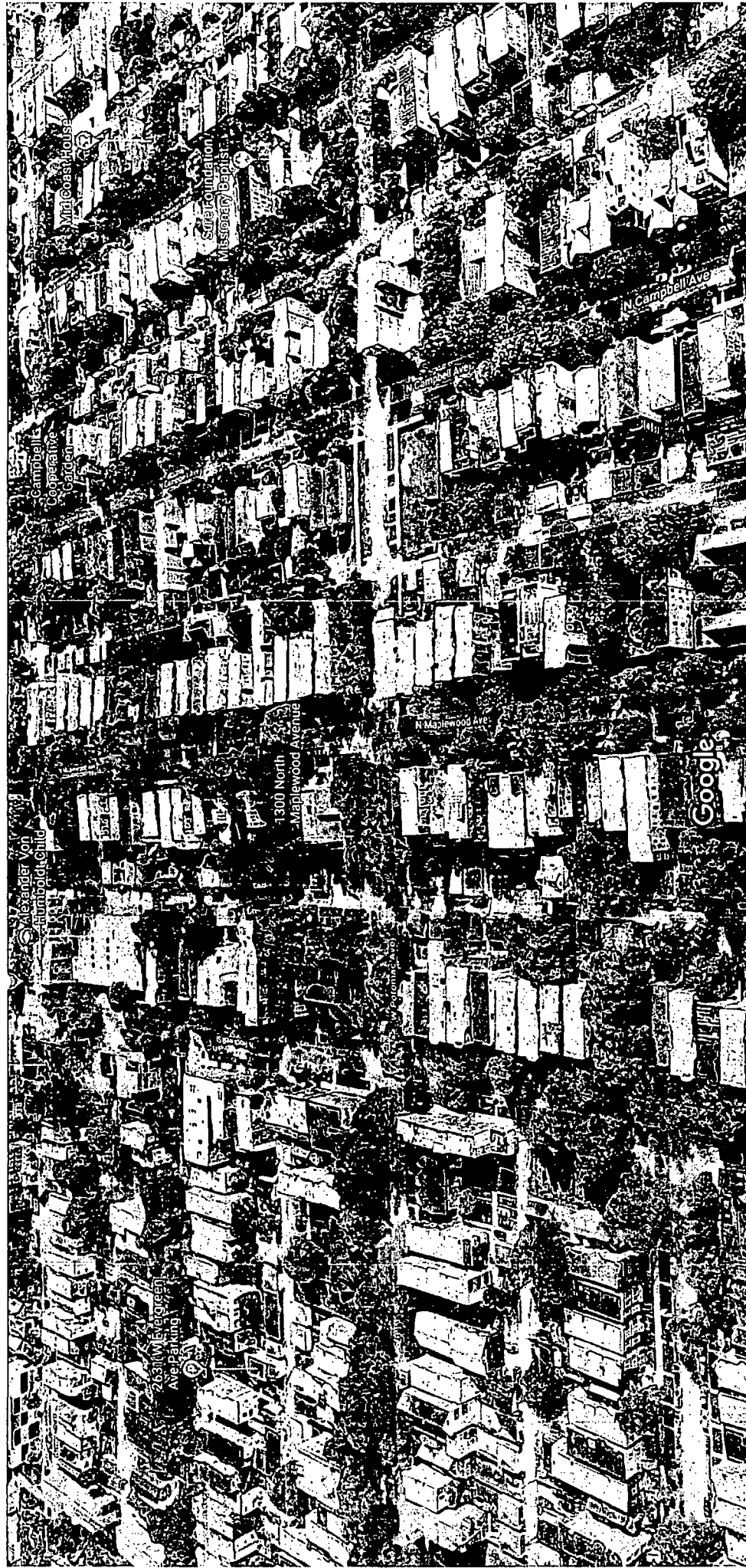


name & address of taxpayer:

1300 W Maplewood, LLC
 225 W Scott St., Apt. 3W
 Chicago, IL 60610

mail to:

Michael Burney, Attorney at Law
 Schain Banks, Ltd.
 70 W. Madison Street, Suite 5300
 Chicago, IL 60602



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