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Legislation Text

File #: F2013-29, Version: 1

CITY COUNCIL, CITY OF CHICAGO COMMITTEE ON ZONING, LANDMARKS AND BUILDING STANDARDS

ALDERMAN ANTHONY BEALE

Applicant,

Application No. A-7894

11103 SOUTH MICHIGAN AVENUE PIN: 25-22-
102-003-0000

Property Affected

Application for a proposed zoning change from BI-3 Neighborhood Shopping District to Residential Single-Unit (Detached House) District.

REZONING PROTEST PETITION

In accordance with Chapter 17-13-0307-A of the Chicago Zoning Ordinance, I, the undersigned property owner protests the proposed zoning change as shown on Map No. 28-E in an area bounded by

A line 23 feet south of and parallel to East 111th Street; the public alley next east of and parallel to South Michigan Avenue; a line 39 feet south of and parallel to East 111th Street; South Michigan Avenue,

which includes the property legally described as:

The South 4 feet of Lot 8 and the North 12 feet of Lot 9, in Block 2, in Egan's Addition to Roseland, being a subdivision of part of Lot 1 of the Assessor's Division of the West half of the Northwest quarter of Section 22, Township 37 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois,

and generally located at 11103 S. Michigan Avenue, Chicago, Illinois 60628 from BI-3 to RS3

as recommended by Alderman Anthony A. Beale of the 9th Ward.

In support of this protest, the undersigned property owner states that, as beneficiary of title-holding land trust, he owns at least 20% of the land proposed to be rezoned, and further, submits his Protester's Supporting Memorandum of Law which is filed herewith and hereby incorporated by

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reference.

Owner of Property

Chicago Title Land Trust Company, Trustee under trust agreement dated November 18, 2005, and known as Trust No. 8002345419.

10 S LaSalle Street Suite #2750 Chicago, IL 60603

Legal description of property:

The South 4 feet of Lot 8 and the North 12 feet of Lot 9, in Block 2, in Egan's Addition to Roseland, being a subdivision of part of Lot 1 of the Assessor's Division of the West half of the Northwest quarter of Section 22, Township 37 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois

Acknowledgment

STATE OF ILLINOIS

COUNTY OF COOK

This instrument was acknowledged before me on May 4, 2013 by Harold Elgazar, as beneficiary of Chicago Title Land Trust Company, Trustee under trust agreement dated November 18, 2005, and known as Trust No. 8002345419

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**CITY COUNCIL, CITY OF CHICAGO COMMITTEE ON ZONING, LANDMARKS
AND BUILDING STANDARDS**

ALDERMAN ANTHONY BEALE

Applicant,

Application No. A-7894

11103 SOUTH MICHIGAN AVENUE PIN: 25-22-
102-003

Property Affected

Application for a proposed zoning change from B1-3 Neighborhood Shopping District to RS3 Residential Single-Unit (Detached House) District.

PROTESTOR'S SUPPORTING MEMORANDUM OF LAW

Protestor, HAROLD ELGAZAR, pro se, as beneficiary of Chicago Title Land Trust Company, Trustee under trust agreement dated November 18, 2005, and known as Trust No. 8002345419, respectfully submits this memorandum in support of his protest to a proposed zoning change from B1-3 Neighborhood Shopping District to RS3 Residential Single-Unit (Detached House) District by the Applicant Alderman Anthony Beale of the 9th Ward.

I. STATEMENT OF FACTS

1. On May 1, 2013, the Protestor, and beneficial owner of the affected property, communicated with Alderman Beale's office regarding the above-entitled matter and was assured that the proposed zoning change was deliberate, intentional and with full knowledge of the impact on the affected property and surrounding area.

2. The affected property at 11103 S. Michigan, (PIN: 25-22-102-003), is entirely surrounded by an area zoned as a "B" district. See Group Exhibit A.

3. The affected property is one lot south of the southeast corner of 111th Street and

Michigan Avenue. See p.1 of Group Exhibit B.

4. The businesses in the immediate vicinity include a bank with a drive thru facility across the street, a Walgreens on the northwest corner of 111th and Michigan; and a currency exchange on the northeast corner of 111th and Michigan.

5. North of, and immediately adjacent to, the affected property is a single story building with retail storefronts and an advertising billboard mounted on the roof of the building. See p.1, p.2 of Group Exhibit B.

6. The business south of and immediately adjacent to the affected property is a restaurant. See p.3 of Group Exhibit B.

7. This restaurant is part of the building structure that contains the affected property, and has its own Property Identification Number (PIN); one building structure contains two PIN numbers, one of which consists of the premises of the affected property, and the other the premises of the adjacent restaurant. See Exhibit C.

8. A CTA Bus Stop is directly in front of the affected property.

9. There are no dwelling units between the two nearest intersecting streets.

10. The lot frontage of the affected property at 11103 S. Michigan is 16 feet with overall dimensions of 16 feet by 125 feet yielding a total lot area of 2,000 square feet.

II. ZONING ORDINANCE STANDARDS

11. Section 17-2-0301-A of the Chicago Zoning Ordinance subjects all development in R districts to a minimum lot area standard of 2500 square feet with the exception as expressly allowed in Section 17-2-0301-B.

12. Section 17-2-0301-B 2. expressly provides:

"A detached house may be established on any lot of record regardless of the size of the lot, provided that

all other requirements of this Zoning Ordinance are met." (Emphasis in

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original).

13. Section 17-2-0303-A subjects all development in a RS3 district to the minimum lot-area-per-unit standard of 2500 square feet except as expressly allowed in Section 17-2-0303-B.

14. Section 17-2-0303-B expressly provides:

"In the RS3 district the minimum lot area per dwelling unit may be reduced to 1,500 square feet when 60% or more of the zoning lots fronting on the same side of the street between the two nearest intersecting streets have been lawfully improved with buildings containing more than one dwelling unit. This exemption will only allow for the establishment of a two unit building." (Emphasis in original).

III. PROPOSED ZONING CHANGE WILL DEPRIVE THE OWNER OF THE AFFECTED PROPERTY OF COMPLETE USE AND ENJOYMENT OF THE PROPERTY AND THUS CONSTITUTE A TAKING UNDER THE FIFTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION

15. In the event that the proposed zoning change were to pass legislation, the affected property would be prohibited from being utilized as any one of the permitted uses allowed under the existing B zoning classification, and in a manner consistent with its neighboring properties.

16. In the event that the proposed zoning change were to pass legislation, there would be no desire or market to develop the property as a single family home or two unit dwelling building given the incompatibility of the surrounding properties and their existing uses with the allowed uses under the proposed zoning.

17. Even if there were a desire or market to develop the affected property as a single family home or two unit dwelling building, it would not be permitted because the affected property does not meet the zoning ordinance standards outlined above in paragraphs 10-13. (Minimum size lot requirement is 2500 square feet for a single family home and 3000 square feet for a two unit dwelling building (1500 square feet per dwelling unit)).

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18. The proposed zoning change would amount to a taking under the Fifth and Fourteenth Amendments to the U.S. Constitution because such change would be unreasonable, arbitrary and capricious, and further, would deny the owner all use of the property without due process of law.

19. The general rule of law is that a zoning classification must have a reasonable relationship to the public health, safety, welfare, or morals, and the regulations and division into districts must be reasonable and must have a fair tendency to accomplish some legitimate legislative purpose. *Frost v. Village of Glen Ellyn*, 30 Ill.2d 241 (1964); *Regner v. County of McHenry*, 9 Ill.2d 577 (1956); *City of Chicago v. Sachs*, 1 Ill.2d 342, 115 (1953).

20. When a small area is zoned differently from the surrounding area, the courts may well characterize the zoning as "spot zoning" and hold it invalid. In *Concerned Citizens for McHenry, Inc. v. City of McHenry*, 76 Ill.App.3d 798 (2d Dist. 1979),

21. The proposed zoning change bears no substantial relation to the public health, safety, morals, comfort, or general welfare and appears to be nothing more than an act undertaken in bad faith.

Respectfully submitted,

Chicago Title Land Trust Company, Trustee under trust agreement
dated November 18, 2005, and known as Trust No. 8002345419

Harold Elgazar 2305 W. Arthur Ave. Chicago, Illinois 60645 (773) 671-4612

GROUP

EXHIBIT

A

Map Output

Zoning Map

CD/?

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JS -"

Zoning date reflects all ordinances classed A in the most recent City Council meeting¹, j -r4Copyright: (c) 2011. City of Chicago^ j

BI-3

Address

11103 S MICHIGAN AVE

Zoning [0' Business | ' ■ | Commercial | 1' | Manufacturing | '. ' Residential | • | Planned Development | ' * , | Planned Manufacturing \cfM\

Downtown Core | ~| Downtown Sen/ice | | Downtown Mixed | ■ ' ! Downtown Residential HjjSO Transportation | ,. | Parks & Open Space
Zoning Boundaries

Historic Preservation

CHICAGO LANDMARKS

| Chicago Landmarks

Landmark Districts

Chicago Historic Resources Survey - Buildings subject to Demolition-Delay Ordinance

| 1 Red | | Orange

ia Water

jijjgH Cemetery \~\ Municipalities

Lakefront Pedestrian Streets Buildings | | Parcels Streets Curbs t^Hj Forest Preserve ■S\ City Boundary

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<<https://gisapps.cityofchicago.org%5e>> 5/1/2013

Map Output

Zoning Map

[Address

11103 S MICHIGAN AVE

Zoning | \ | Business [""':£'»,) Commercial | ;.J | Manufacturing | ! - I Residential

Planned Development Planned Manufacturing Downtown Core | ,.U| Downtown Service | | Downtown Mixed | | Downtown Residential

fiBfjfi Transportation |lr^| Parks & Open Space £J Zoning Boundaries

Historic Preservation

CHICAGO LANDMARKS | Chicago Landmarks

Landmark Districts

Chicago Historic Resources Survey - Buildings subject to Demolition-Delay Ordinance

Red

IfiSyj Orange

HI Water fH| Cemetery

Municipalities

Lakefront Pedestrian Streets Buildings Parcels Streets |jj| Curbs

Forest Preserve

|# City Boundary

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<<https://gisapps.cityofchicago.org/servlet/com.esri.esrimap.Esrimap?ServiceName=overview>> 5/1/2013

GROUP EXHIBIT B

11100 South Michigan Avenue - Google Maps

<<https://maps.google.com/maps?q=1103+s.+michigan&sll=41.692366,-87.620956&cbp=13...>> 5/4/2013
11102 South Michigan Avenue - Google Maps

P. 2-

<<https://maps.google.com/maps?q=11103+s.+michigan&sll=41.692366,-87.620956&cbp=>>
11100 South Michigan Avenue - Google Maps

<<https://maps.google.com/maps?q=l>1103+s.+michigan&sll=41.692366,-87.620956&cbp=>

BOUNDARY SURVEY

OF

THE SOUTH 4.00 FEET OF LOT 8 AND ALL OF LOT 9, AND ALSO THE NORTH 3.00 FEET OF LOT 10, IN BLOCK 2 IN EGAITS ADDITION TO ROSELAND, BEING A SUBDIVISION OF PART OF LOT 1 OF ASSESSOR'S DIVISION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

SCN

TOUR TON PLS No.
THIS IS TO CERTIFY THAT HORIZON CONSULTANTS, INC., ILLINOIS DESIGN FIRM #184004303 EXPIRES APRIL 30, 2007, BY ITS HANAQNG AGENT GEORGE E. STOURTON, P.L.S., PROFESSIONAL LAND SURVEYOR # 2058, WHOSE LICENSURE EXPIRES NOVEMBER 30, 2006, HEREBY CERTIFIES THAT THE PROPERTY DESCRIBED ON THIS PLAT HAS BEEN SURVEYED AND THAT THE RESULTS OF THE SURVEY ARE SHOWN ON THIS PLAT. DIMENSIONS ARE IN U.S. STANDARD FEET AND DECIMALS THEREOF. SEWQSMAL BEARINGS BASED ON ASSUMED IORJH. THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT UJNOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY. =

PREPARED FOR:..

REFERENCES:

25-22-102-003/004 COOK COUNTY, ILL.

PORDEK, ROPENBURG & ASSOCIATES, P.C.

DEED OF RECORD
FOUND IRON PIPES AT ALL CORNERS

COMMONLY KNOWN AS: 11103-0-3 1/2 S. MICHIGAN AVE, CHICAGO, ILL.

Horizon Consultants Inc.

OHC LOCATIONS:

LAND DEVELOPMENT CONSULTANTS CIVIL, MINING, ENVIRONMENTAL, FORENSIC AND UTILITY ENGINEERING, LAND SURVEYING REAL ESTATE AND CORPORATION AGENTS 54 N. OTTAWA ST. SUITE 605, JOUET ILL 00432 PHONE 815.722.8841 <http://815.722.8841>
MOBILE 815.805.0297 FAX 015.722.8842

CA 03-03 1/2 S. MICHIGAN

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