BOARD OF ZONING APPEALS (BZA)

AGENDA

The regular monthly meeting of the BOARD OF ZONING APPEALS will be held at 6:00 p.m. on Tuesday, February 1, 2022. This meeting will be held remotely as permitted by legislation S.50001 and A.40001, which extends virtual access to public meetings granted by the Governor’s Executive Order 202.1 A live stream is available at https://www.youtube.com/channel/UC7RtJN1P_RFaFW2IVCnTrDg.

I. CONTINUED APPEALS

A. Appeal Number: 3202
   Address: 815 S. Aurora Street
   Zone: R-3b
   Applicant: Susanne Dennis and South Hill Living Solutions
   Owner: IC Overlook, LLC
   Public Hearing: No
   Description: Request for an appeal of the Zoning Administrator’s determination that the construction of three multiple dwellings at 815 S. Aurora Street meets the requirements of §325-8, Column 14/15, Rear Yard; §325-20F(3)(b), Landscape Compliance Method for New or Enlarged Parking Areas with the Capacity for Three or More Parking Spaces on Lots within Residential Zoning Districts; and §325-29.9, Fall Zone and Setback Requirements for Tier Three Personal Wireless Service Facilities (PWSF).

II. NEW APPEALS

A. Appeal Number: 3209
   Address: Catherine Commons (118 Cook Street, 202 College Avenue, 204 College Avenue, 206 College Avenue, 210 College Avenue, 120 Catherine Street, 122 Catherine Street, 124 Catherine Street, 128 Catherine Street, 302 College Avenue, 304 College Avenue, and 306 College Avenue)
   Zone: CR-3, CR-4, MU-1, MU-2
   Applicant: Trowbridge Wolf Michaels
   Owner: Coll-Cath Associates, LLC & Cook-Coll, LLC
   Public Hearing: Yes
   Description: Request for an area variance from §325-45.2E, Collegetown Residential 3 (CR-3), §325-45.2F, Collegetown Residential 4 (CR-4), and §325-45.2G, Mixed Use 1 (MU-1) and Mixed Use 2 (MU-2) District Standards for Off-Street Parking, Building Height in Feet, Building Height in Stories, Rear Yard, Required Vegetative Buffer, and Siting Exceptions for Corner Lots in the MU-2 District, to allow the construction of six new buildings along Cook Street, Catherine Street, and College Avenue. The project would consolidate the above referenced tax parcels into two new lots and the construction of: (1) one three-story multiple dwelling in the CR-3 district; (2) two four-story multiple dwellings in the CR-4 district; (3) two seven-story multiple dwellings in the MU-1 district; and (4) one eight-story mixed use building in the MU-2 district.

If you have a disability and would like specific accommodation in order to participate, please contact the City Clerk’s Office at 274-6570 by 12:00 p.m., no later than 2 days (not including weekends and holidays) before the meeting.
III. PRELIMINARY PRESENTATIONS & BOARD COMMENTS
   A. None

IV. ADMINISTRATIVE MATTERS
   A. February 8th and March 1st Agenda Review
   B. Joint Training with Planning and Development Board – February 15, 2022

V. APPROVAL OF MINUTES

VI. ADJOURNMENT

PLEASE NOTE: The Board may take a 10-minute break around 8:00 p.m., if the meeting will continue for more than two hours.

ACCESSING ONLINE MEETING MATERIALS
Parties interested in reviewing application materials prior to the meeting may visit the City’s website at http://www.cityofithaca.org/368/Board-of-Zoning-Appeals (select “Most Recent Agenda”), beginning one week before the scheduled BZA meeting. Please do not hesitate to contact our office if you have any questions or need any assistance accessing the materials.

WRITTEN COMMENTS & QUESTIONS
Interested parties may submit comments for public hearings by mail or email. All comments must be received by 4 p.m. on the day of the meeting, and they will be read into the record. Each comment is limited to three minutes. Indicate in your email that the comment is for a public hearing and please include your name and address. All comments and questions can be emailed to Megan Wilson at mwilson@cityofithaca.org or call (607) 274-6550.
APPEAL # 3202

815 S. AURORA STREET

Appeal of Susanne Dennis and South Hill Living Solutions, LLC of the Zoning Administrator’s determination that the construction of three multiple dwellings at 815 S. Aurora Street meets the requirements of §325-8, Column 14/15, Rear Yard; §325-20F(3)(b), Landscape Compliance Method for New or Enlarged Parking Areas with the Capacity for Three or More Parking Spaces on Lots within Residential Zoning Districts; and §325-29.9, Fall Zone and Setback Requirements for Tier Three Personal Wireless Service Facilities (PWSF).

In April 2019, the Zoning Administrator reviewed plans for the construction of a new 66-unit student housing complex on the property located at 815 S. Aurora Street. The property is an irregularly shaped 2.85-acre lot that is also the site of an existing cell tower facility. After a complete review of project plans, the Zoning Administrator determined that the new project met all requirements of the City’s Zoning Ordinance, and no variances were required.

On September 16, 2019, Susanne Dennis, owner of 117-119 Coddington Road, and Brian Grout1, owner of 809 S. Aurora Street, submitted an application to the Board of Zoning Appeals to appeal the Zoning Administrator’s decision. The appellants claimed that the proposed project did require variances for (1) rear yard; (2) siting of a parking area in the fall zone of a cell tower; and (3) the landscape compliance method for locating a new parking lot in the rear and/or side yards. The Zoning Administrator determined that the appeal could not be heard by the BZA because it was submitted more than 60 days after the decision on the project’s zoning compliance. The appellants filed an Article 78 proceeding to challenge the rejection of their appeal. On September 16, 2019, the Appellate Division, Third Department, ruled that the Zoning Administrator’s rejection of the appeal was improper because the initial no-variance determination had not been formally filed with the City Clerk. The Court has ordered the BZA to hear the appellants’ appeal.

On October 22, 2021, the appellants Susanne Dennis and South Hill Living Solutions, LLC timely submitted an application to appeal the Zoning Administrator’s decision that the project at 815 S. Aurora Street is compliant with the following zoning regulations:

1) §325-8, Column 14/15, Rear Yard: The appellants assert that the average lot depth was calculated incorrectly and the project is deficient in the required rear yard.

2) §325-20D(2)(e), Access Requirements: The appellants argue that the driveway grade exceeds the 8% allowed by the Zoning Ordinance.

3) §325-20E(3), Front Yard Parking: The appellants claim that the proposed front yard parking and driveways exceed the 25% permitted by the Zoning Ordinance.

1 Mr. Grout has since sold his property and has been replaced by South Hill Living Solutions LLC.
4) §325-20F(3)(b), Landscape Compliance Method: The appellants state that the proposed parking area does not meet the landscape compliance method for locating a parking area in the rear and side yards.

5) §325-29.9, Fall Zone and Setback Requirements for Tier Three Personal Wireless Service Facilities (PWSF): The project sites a parking area within the fall zone for the existing cell tower and the appellants assert that a parking area is an area of congregation and, as such, should not be permitted within the fall zone.

At the December 7, 2021 Board of Zoning Appeals meeting, the Zoning Administrator and the appellants’ presented their analyses of the project, and the Board held a public hearing on the appeal. The Board will continue its deliberation at the January 4, 2022 meeting.

The Board of Zoning Appeals must determine whether the Zoning Administrator’s application of the above referenced sections of the Zoning Ordinance to the subject property in April 2019 was correct.
TO: Board of Zoning Appeals

FROM: Megan Wilson, Zoning Administrator

DATE: November 16, 2021

RE: BZA 3202 – 815 S. Aurora Street: Appeal of Determination of Zoning Administrator

At the December 7th BZA meeting, the Board will hear an appeal of the Zoning Administrator’s decision that a new development project at 815 S. Aurora Street does not require any area variances. The appellants are two adjacent property owners who meet the Board’s definition of “interested party.” The appellants claim that the Zoning Administrator was incorrect in his review and the project must seek area variances from five separate requirements of the Zoning Ordinance. The case summary provides a history of this appeal and outlines the individual claims. In addition, both the Zoning Administrator and the appellants have submitted their respectively analyses on how the zoning requirements should be applied and both will present their information to the Board at the meeting. The owner of the subject property will also have an opportunity to present its position to the Board.

The Board of Zoning Appeals must determine whether the Zoning Administrator’s application of the Zoning Ordinance to the project at 815 S. Aurora Street was correct in this instance. The burden is on the appellants to demonstrate to the Board that the Zoning Administrator erred in one or more of his determinations. If the Board agrees with the Zoning Administrator’s application of the Zoning Ordinance to this project, the original decision will be upheld and no area variances will be required. If the Board agrees with the appellants and decides the project does require one or more area variances, a majority vote is required to overturn the Zoning Administrator’s determination. In case of a tie, the Zoning Administrator’s decision will stand. Whether a variance should be granted is not an issue before the Board at this time; consideration of any potential area variances would require the owner of the subject property to bring a separate appeal.

Board members will have the opportunity to ask City staff and the appellants questions related to this appeal at the December meeting. However, should you have any questions about this appeal process, please contact me at mwilson@cityofithaca.org
CITY OF ITHACA  
108 E. Green St. — Third Floor  Ithaca, NY  14850-5690  
DEPARTMENT OF PLANNING, BUILDING, ZONING & ECONOMIC DEVELOPMENT  
Megan Wilson, Secretary to the Board of Zoning Appeals  
Telephone: 607-274-6550  
Fax: 607-274-6558  
E-Mail: mwilson@cityofithaca.org

BOARD OF ZONING APPEALS (BZA) APPLICATION

1. TYPE OF APPEAL:
   [ ] AREA VARIANCE  
   [ ] SPECIAL PERMIT  
   [ ] USE VARIANCE  
   [ ] SIGN VARIANCE  
   [X] ACTION, DECISION, OR INTERPRETATION OF ZONING OFFICER

   APPEAL #: 3202  
   HEARING DATE: 12/7/2021  
   BUILDING PERMIT #: 38534  
   RECEIPT #: 66296

2. Property Address: 815 South Aurora Street  
   Use District: R-36

   Owner’s Name: 815 S Aurora QOZB, LLC  
   Owner’s Address:  

   City: Ithaca  
   State: NY  
   Zip: 14850

   Susanne Dennis and  
   South Hill Living Solutions, LLC  
   Appellant’s Address: 1075 Taughannock Blvd.

   City: Ithaca  
   State: NY  
   Zip: 14850

   Telephone: 607-246-3284  
   E-Mail: russ@ithaca.legal

3. Appellant’s Name:  
   Appellant’s Address:  

4. Attach Reason for Appeal (see “Zoning Appeal Procedure Form”)

5. Appellant Certification: I certify the information submitted with the appeal is true to the best of my knowledge/belief; and I have read and am familiar with City of Ithaca Zoning Ordinance sections that apply to this appeal (incl. Section 325-40, describing the powers and duties of the Board of Zoning Appeals). I also acknowledge the Board of Zoning Appeals may visit the property and I specifically permit such visits.

   [ ] I have met/discussed this application with Zoning Division staff prior to submission.

   Appellant Signature

STATE OF NEW YORK  
COUNTY OF TOMPKINS

Sworn to this 22nd day of October, 2021

Notary Public

Notary Public available at City Hall.

IMPORTANT: INCOMPLETE applications will be returned to the applicant and the applicant will have to reapply.

If ANOTHER CITY APPROVAL is required (e.g., Site Plan Review, Subdivision Review, Ithaca Landmarks Preservation Commission Review), this application will likely not be considered at the next scheduled BZA meeting date.

If an application is submitted and subsequent CHANGES are made to the proposal/project, a revised application will be required. The original application will not be considered a placeholder for the original BZA hearing date. Zoning Division staff will also not remove contents from earlier applications to complete a revised application. Applicants are responsible for ensuring all information necessary for processing a Zoning Appeal is submitted by the application deadline for a given BZA hearing date.
CITY OF ITHACA BOARD OF ZONING APPEALS
APPLICATION WORKSHEET

************************** OFFICE USE ONLY **************************

1. Ordinance Section(s) for the Appeal:

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<th>Zoning Ordinance Section Being Appealed</th>
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2. Application of SEQR determination: [ ] Type 1 [ ] Type 2 [ ] Unlisted

3. Environmental Assessment form used:
   [ ] Short Environmental Assessment Form (SEAF)
   [ ] Full Environmental Assessment Form (FEAF)
   [ ] Completed by Planning Division at preliminary hearing for Site Plan Review
   [ ] Not Applicable (Type 2 Action)

4. A previous appeal [ ] has / [ ] has not been made for this proposal:
   - Appeal No. __________, dated __________
   - Appeal No. __________, dated __________
   - Appeal No. __________, dated __________
   - Appeal No. __________, dated __________
   - Appeal No. __________, dated __________

5. Notes or Special Conditions:
   - This is an appeal of the Zoning Administrator’s determination that a new development project at 815 S. Aurora Street requires no area variances. The appellants claim that the determination was made in error, and five area variances are required. This proceeding is an appeal of the determination only. Consideration of any potential area variances would require the owner of the subject property to bring a separate appeal.
CITY OF ITHACA
108 East Green Street — 3rd Floor Ithaca, New York 14850-5690
DEPARTMENT OF PLANNING, BUILDING, ZONING & ECONOMIC DEVELOPMENT
Megan Wilson, Secretary to the Board of Zoning Appeals
Telephone: 607-274-6550 Fax: 607-274-6558 Email: mwilson@cityofithaca.org

ONLY SUBMIT THIS FORM IF ZONING APPEAL APPLICATION IS BEING SUBMITTED/SIGNED BY SOMEONE OTHER THAN CURRENT RECORD PROPERTY OWNER.

OWNER'S AUTHORIZATION FORM

ZONING APPEAL #: TBD 3202 DATE: 10/22/21

TO: BOARD OF ZONING APPEALS (Ithaca, NY):

I (We) South Hill Living Solutions, LLC of 1075 Taughannock Boulevard
(Name) (Street Address)
Ithaca New York, 14850 (City/Municipality) (State & Zip Code)

Owner of the property at 809 South Aurora Street, Ithaca NY 14850
(Street & Number)

☐ I am the sole owner of the above-mentioned property.
☐ This property is also owned by
and I have a Power of Attorney to authorize this appeal (attach POA).

I do hereby authorize Allen & Maines and Knauf Shaw, LLP to appeal or request a
(Date)
Variance or Special Permit on my (our) behalf. I (we) understand the appeal will be heard at the
TBD meeting of the Board of Zoning Appeals.

Garth O. Dennis, Managing Member

STATE OF NEW YORK) COUNTY OF TOMPKINS)
Sworn to this 22nd day of
October 2021
Notary Public

Note to those signing this form:

(1) Owners authorizing another to present an appeal on their behalf should be aware the Board may, in granting
relief, add reasonable conditions which then become binding on the property.

(2) Especially where a Variance is being sought, the owner may be the only person with detailed information about
the property that is essential to the appeal. In such a case, authorizing another person to appeal may be detrimental
to the appeal, unless the owner is either present at the hearing or sends another person fully prepared to answer
questions about the property and the feasibility of using it consistent with the Zoning Ordinance.
CITY OF ITHACA
108 East Green Street — 3rd Floor Ithaca, New York 14850-5690
DEPARTMENT OF PLANNING, BUILDING, ZONING & ECONOMIC DEVELOPMENT
Megan Wilson, Secretary to the Board of Zoning Appeals
Telephone: 607-274-6550 Fax: 607-274-6558 Email: mwilson@cityofithaca.org

ONLY SUBMIT THIS FORM IF ZONING APPEAL APPLICATION IS BEING SUBMITTED/SIGNED BY SOMEONE OTHER THAN CURRENT RECORD PROPERTY OWNER.

OWNER'S AUTHORIZATION FORM

ZONING APPEAL #: TBD 3202 DATE: 10/22/2021

TO: BOARD OF ZONING APPEALS (Ithaca, NY):

I (We) _______ Susanne Dennis _______ of 1075 Taughannock Boulevard
(Name) _______ _______ (Street Address)
(City/Municipality) _______ _______ (State & Zip Code)
Ithaca NY 14850

Owner of the property at 117-119 Coddington Road, Ithaca, New York
(Street & Number)

☐ I am the sole owner of the above-mentioned property.

☐ This property is also owned by ________________________________

and I have a Power of Attorney to authorize this appeal (attach POA).

I do hereby authorize ________________________________ to appeal or request a
RuSs Moines Jan Tomillo
Variance or Special Permit on my (our) behalf. I (we) understand the appeal will be heard at the
Allen & Maine and Knauf Shaw LLP
TBD _______ meeting of the Board of Zoning Appeals.
(Date)

Susanne Dennis
(Signature)

STATE OF NEW YORK)
COUNTY OF TOMPKINS)

Sworn to this 22nd day of October, 2021

Notary Public

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(2) Especially where a Variance is being sought, the owner may be the only person with detailed information about the property that is essential to the appeal. In such a case, authorizing another person to appeal may be detrimental to the appeal, unless the owner is either present at the hearing or sends another person fully prepared to answer questions about the property and the feasibility of using it consistent with the Zoning Ordinance.
NOTICE OF APPEAL
REGARDING ZONING OR SIGN ORDINANCE
CITY OF ITHACA, NEW YORK

APPEAL NO. 3202

TO: Owners of Property within 200 feet of 815 S. Aurora Street and others interested.

(property address)

FROM: South Hill Living Solutions, LLC & Susanne Dennis applicable to property named above, in R-3b zone.

(name of person or organization making appeal)

REGARDING: (check appropriate box)

☐ Area Variance ☐ Use Variance ☐ Sign Variance ☒ Action, Decision, or Interpretation of Zoning Officer

City regulations require you be notified of this appeal to the Board of Zoning Appeals (BZA), as described in the attached letter and provide the opportunity for you to comment on it and/or attend the meetings listed below. Anyone considered an interested party may speak for or against the appeal at the meetings listed below, or submit a written statement to the BZA before its designated meeting. There is a time limit of three (3) minutes for each interested party to address the BZA during the Public Hearing portion of the meeting.

The Board of Zoning Appeals bases its decision primarily on the written evidence submitted and presented to it, the testimony of interested parties, and zoning and legal considerations. The written case record will be available for review on the City’s website (http://www.cityofithaca.org/368/Board-of-Zoning-Appeals) under “Most Recent Agenda,” beginning one week before the scheduled BZA meeting. This case has also been referred to the City’s Planning and Development Board that will advise the BZA, if granting the relief sought by the appellant will affect long-term planning objectives. The date of the Planning Board’s meeting regarding this appeal is also listed below.

The PLANNING BOARD will consider this case on 11/23/2021 at 6:00 P.M. via the online platform Zoom. A live stream is available at https://www.youtube.com/channel/UC7RtJN1P_RFaFW2FvCnTrDg. To provide comments to the Planning Board on this appeal, please submit written comments to Anya Harris at aharris@cityofithaca.org, and your comments will be forwarded to the Board members for their review.

The BOARD OF ZONING APPEALS will consider this case on 12/7/2021 at 6:00 P.M. via the online platform Zoom. There will be a public hearing on this appeal, and there are two options to participate in the public hearing:

1. Submit comments by email no later than 4 p.m. on the day of the meeting to zoningdivision@cityofithaca.org and they will be read into the record. Each comment is limited to three minutes. Indicate in your email that the comment is for a public hearing. You must provide your name and address.

2. To speak at the meeting, sign up and receive instructions by contacting zoningdivision@cityofithaca.org or Anya Harris at (607) 274-6550 or aharris@cityofithaca.org. You must provide your name and address.

Russell E. Maines
Digitally signed by Russell E. Maines
Date: 2021.10.29 10:16:31 -04'00'

Signature of Appellant

Allen & Maines
417 N. Cayuga Street, Ithaca, NY 14850

Address

Date 10/29/21
November 16, 2021

To: Property Owners Within 200 Feet of
815 South Aurora Street, Ithaca, and Other Interested Persons

RE: Zoning Board of Appeals Hearing
Appeal No. 3202
Regarding 815 South Aurora Street, Ithaca

Dear Property Owners Near 815 South Aurora Street:

We represent South Hill Living Solutions, LLC; which, along with Susanne Dennis is appealing a determination of the City of Ithaca Zoning Administrator. The appellants’ request for this interpretation was initially filed on September 16, 2019 and we expect it to come before the Board of Zoning Appeals (“BZA”) on December 7, 2021 at 6 p.m. We expect that the hearing will be conducted by remote link; check the BZA’s website for more information or contact me. We also request that you make arrangements in advance to make comments at the hearing, or to submit written comments. Please review this letter and the enclosed notice of appeal.

At the City, Zoning Administrator Megan Wilson can be reached at (607) 274-6560 or at mwilson@cityofithaca.org.

We disagree with determinations made by a separate City Zoning Administrator, that that no area variances are required for the project. We request that the BZA determine that variances would be required; and that the appropriate city official or board revoke the building permit, or issue a restraining order prohibiting the continued construction of the three apartment buildings, consisting of about 66 apartments and parking facilities. The property is owned by 815 S Aurora QOZB, LLC. The developer at the time of the permit application was Visum Development Group, LLC.

On or about May 13, 2021, the City purportedly issued a permit for the construction of three new multi-family buildings. The permit was limited to foundation work until written approval from the Building Department was received. We believe that the initial permit was issued
in error. We believe that the City is claiming that authorization for further construction of two of the buildings, known as Building A and Building B, had been issued over the summer. We believe that those authorizations were issued in error.

On October 28, 2021, the Building Department issued a permit for complete construction of the third building, known as Building C, notwithstanding the fact that an appellate court had determined that the City should have considered our application for a Board of Zoning Appeals review of the matter more than two years ago. We believe that the Building Department’s issuance of the third permit was an error, as the others were.

We believe that at least five variances were required, and request that the Board of Zoning Appeals rule as follows:

First, the BZA should determine that rear setback variances are required. Ithaca City Code Section 325-8(14)(b), buildings in the zoning district must have a rear yard of at least 20% of the average lot depth, which in this case is slightly greater than 50 feet. In 2019, the Zoning Administrator miscalculated the average lot depth and instead measured from an arbitrary point. The result was an error of approximately 8.5 feet in the developer’s favor. Proposed “Building C” requires a variance of approximately 8.5 feet. Since no variance was issued, the construction violates the building setback requirement.

Second, the BZA should determine that the project includes a congregation area within a cell tower fall zone, in violation of Ithaca City Code. Ithaca City Code Section 329.9 prohibits congregation areas within cell tower fall zones. The parking area of the 815 South Aurora Street development is within a cell tower fall zone.

Third, the BZA should determine that a front yard variance is required. Ithaca City Code Section 325-20(E)(3) requires a maximum of 25% lot coverage for front yard parking. The 815 South Aurora Street construction would consist of 28.9% lot coverage.

Fourth, the BZA should determine that a variance is required for a driveway grade. Ithaca City Code Section 325-20(D)(2)(e)(2)(a) prescribes a maximum driveway grade of 8%. The 815 South Aurora Street driveway grade would exceed 10%.

Fifth, the BZA should determine that a variance is required because the parking area contains insufficient green space. The fifth error relates to construction of a parking area that has less than the required 25% area coverage for plantings as required by Ithaca City Code Section 276-7(C)(4).

We urge you to participate in the Board of Zoning Appeals hearing on December 7 at 6 p.m. and to voice your opinion regarding this project. We request that the BZA require a variance, and that the applicant’s variance application be heard at a later date.

If you wish to view additional documents relating to this appeal, please feel free to contact me or to view my firm’s website, in the blog relating to this appeal. We look forward to seeing you at the BZA hearing.
Enc:

Notice of Appeal
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<td>Ave St Louis MO 63136</td>
<td>Fort Myers FL 33908</td>
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ZONING APPEAL CERTIFICATION OF MAILING

RE: City of Ithaca Board of Zoning Appeals

I, __________________________, affirm all property owners within two hundred (200) feet of the boundaries of the lot(s) under consideration have been mailed a copy of the enclosed notice on or before __________________________. I affirm the notice was mailed to the property owners at the addresses shown on the attached list of owners, by depositing the copy in a post-paid properly addressed envelope, in a post office or an official depository under the exclusive care and custody of the United States Post Office. I further affirm the names and addresses of the property owners are the same as the most recent assessment roll.

____________________________________
(Appellant’s Signature)

Russell E. Maines
Digitally signed by Russell E. Maines
Date: 2021.11.16 14:09:12 -05'00'

PLEASE SUBMIT THIS FORM TO:
City of Ithaca Zoning Division
108 E. Green St., 3rd Fl.
Ithaca, NY 14850

Phone: (607) 274-6550
Fax: (607) 274-6558
To: Board of Zoning Appeals (BZA)
From: Gino Leonardi, Zoning Administrator
Date: November 18, 2021

Subject: 815 South Aurora Street Project Review

A court order by the Appellate Division, Third Department, is requiring the Board of Zoning Appeals to make a determination on the zoning approval for 815 South Aurora Street (the Project). The applicant requests a determination on the following, as outlined in the letter to the Board of Zoning Appeals dated September 16, 2019: (1) that the Project did not violate the requirement of City Code § 325-29.9 that no congregation area be within the fall zone of a cell tower, and (2) that the project would not require a setback variance for the parking using the Landscape Compliance Method §325-20F(3)(b)[2], and (3) the Project did not require a variance for the rear yard setback, driveway grade, or parking for onsite buildings. I have addressed these issues by outlining the review process that led to the zoning approval for the Project.

1. The Project does not violate City Code § 325-29.9 because there is no “congregation area” within the fall zone. The project review for a parking area within a fall zone led to multiple sources of information to determine if a parking area was permitted in a fall zone. The information reviewed included the Building Division’s property file for 815 South Aurora Street, the 2002 Zoning Ordinance Section 325-29, the 2016 zoning amendment [Ord. No. 2016-10], and general research for fall zones. The findings are as follows:

The Building Division’s property file revealed that since the 1960’s, a tower has been located on the property. In the 1990’s, the tower was replaced with a guyed-wire type tower, which is the tower currently located on the property. In 2002, the Telecommunication Ordinance was enacted, thereby causing the tower and the associated structures to be non-conforming with the 2002 ordinance. Non-conforming uses or structures are subject to the requirements of Section 325-32: for repair, changes in use, extension or enlargement of nonconforming uses or structures. Subsequently, many zoning variances are on file for antenna replacement, antenna installation, and a tower extension for the modifications to the tower. Therefore, a variance would be required for any changes or replacement of the tower.

In the 2002 Zoning Ordinance, the fall zone was specified as twice the height of the tower or 200%. Since the tower was constructed prior to 2002, the existing tower did not meet the fall zone requirements of the ordinance. The radius of 200% for the fall zone area, as applied to the existing tower, results in a fall zone that extends into other properties, Route 96B, and neighboring residential buildings. (See: Exhibit A).
In 2015, revisions to the Telecommunication Ordinance were proposed. The Planning Department’s review for amending the ordinance was prompted by a request from the developer for the proposed project at 815 South Aurora Street. The Planning Department thoroughly vetted the information provided and did extensive research on fall zone impacts. The review also contained information concerning the existing tower at 815 South Aurora. From the engineer’s report, the tower was designed to collapse on itself if there was a structural failure, minimizing the fall zone area. During the review concerning fall zones, the parking area for 815 S. Aurora Street was subject matter. “Ultimately, the decision to reduce the fall zone passed and the benefits of development outweighed the concerns” (See: Exhibit B). Reviewing this information revealed the intent of the zoning amendment approved by Common Council. [Amended 5-4-2016 by Ord. No. 2016-10].

Before approving the parking lot, additional research was performed to address the safety concerns of a parking area within the fall zone. Section 325-29.9(A)(1) of the Zoning Ordinance states: "No habitable structure or outdoor area where people congregate shall be within a fall zone of 120% of the height of the PWSF or its mount". The ordinance does not specifically prohibit all uses in a fall zone. Rather, it provided certain exceptions for uses that could not be located in the fall zone. Due to the ordinance’s lack of defining the term congregate, the review required a definition: to collect into a group or crowd; assemble (See: Exhibit C). The terms within the definition refer to a large number of people gathered together or assembled in one place for a common purpose. Furthermore, fall zones and siting requirements are implemented to protect surrounding property values, radio frequency radiation, scenic views, and natural areas, to name a few. As a result of these findings and concerns, the Planning Board included conditions that the owner provide: “Signage in parking lot pertaining to cell tower fall zone must be installed before a certificate of occupancy is granted”, and “Submission to the Planning Board of the tenant lease including language regarding the fall zone of the cell tower” to ensure that no such area be used to congregate within a fall zone. (See: Exhibit D) The approval for a parking area in a fall zone was allowed based on the review, Site Plan Approval conditions, and the fall zone amendment approval by Common Council. The parking area is not a “congregation area” therefore it complies with the ordinance.

2. The Project does not violate City Code §325-20F(3)(b)[2], Landscape Compliance Method. The ordinance requires parking areas with three or more parking spaces to conform to either the Setback Compliance method or the Landscape Compliance method (emphasis added). In addition, the plans must comply with the all-other general standards and specific standards of 325-20 and with the District Regulations chart. For this Project, the developer chose to comply with the Landscape Method outline in 325-20 F(3)(b).

Landscaping compliance method, Section 325-20F(3)(b):

(b) Landscaping compliance method.
[1] A plan for a parking area using the landscaping compliance method shall be submitted to the Planning and Development Board for review. The required building permit shall not be issued until a plan approved by the Board or the Board's designee (and a certificate of appropriateness is on file with the Building Department where applicable; see below) is on file in the Building Department.

[2] The Planning and Development Board may, at its discretion, approve a parking area that covers more than 50% of any side or rear yard (as calculated after excluding the minimum setback areas specified for the applicable zoning district, per the District Regulations Chart), if the Board finds that mitigating factors such as, but not limited to, the following exist:
[a] Natural land forms or tall vegetation provide significant shielding of views toward the parking area from the street and/or adjacent properties.

[b] The configuration of the parking area protects and preserves existing healthy and mature vegetation, especially trees over eight-inch DBH (diameter at breast height).

[c] One or more curbed and landscaped planting areas are provided within the parking area. Any such interior planting area shall be a minimum of 80 square feet with no dimension being less than eight feet.

[d] The parking area will be substantially shaded by existing woodland or canopy trees, or the parking area plans call for the planting of trees of a species that, at maturity, will provide canopy shading. Trees currently or prospectively providing such shade may be located around the periphery of the parking area or in interior planting areas. Any such interior planting area accommodating such canopy trees shall be a minimum of 80 square feet with no dimension being less than eight feet. Such interior planting areas shall be curbed and have a minimum three-foot-deep excavation prior to planting.

[3] All property owners using the landscaping compliance method must notify surrounding property owners by placing a notice at the project site in a form prescribed by the Planning and Development Board.

[4] The Board shall be under no obligation to approve a parking area using the landscaping compliance method; any such approval is discretionary.

[5] In the event that the proposed parking area is under the jurisdiction of the Ithaca Landmarks Preservation Commission, the proposed plan shall also be submitted to the Commission for its review. The role of the Commission shall be limited to ruling on the appropriateness of the plan in relation to any adverse impact on the aesthetic, historical or architectural significance or value of the landmark or site in question. A building permit shall not be issued for a plan that has not received a certificate of appropriateness by the Commission, where such a certificate is required.

Section 325-20F(3)(b)[2], specifically allows the Planning Board the discretion to permit parking areas to cover more than 50% of any side or rear yard. Additionally, the ordinance provides a method of calculation to determine if a proposed parking area exceeds the 50%, (“as calculated after excluding the minimum setback areas specified for the applicable zoning district, per the District Regulations Chart”) This method does not exclude the area where parking can be permitted, rather it provides a consistent basis for determining if the parking area covers more than 50%. This is evident in the text deviation between the Setback Method and the Landscape Method.

Please note the underlined areas within the text for the Setback method are for illustration only. The Setback compliance method requires parking not be located in the required side or rear yard and that no more than 50% of the “remaining” side or rear yard be used for parking.

(a) Setback compliance method. Parking areas using the setback compliance method shall conform to the following standards:

[1] Setbacks. The parking area shall not be located within the required minimum side or rear yard setback areas established for the applicable zoning district by the District Regulations Chart. These setbacks shall not apply to any driveway up to 12 feet in width that provides access for vehicles.

[2] Maximum yard coverage. The parking area, excluding any driveway up to 12 feet in width that provides vehicle access to a street, but including all other turnaround and vehicle maneuvering areas associated with parking, shall not cover more than 50% of any remaining side or rear yard, as such percentage is calculated after excluding the required minimum side or rear yard setback areas specified for the applicable zoning district by the District Regulations Chart. For the purposes of this calculation,
the area of a side or rear yard shall not include the building area of any building or accessory structure located in the yard.

The landscape method has no such limitations that would reduce the parking area in the “remaining” or “required” side or rear yard. Rather it states: “a parking area that covers more than 50% of any side or rear yard”.

(b) Landscaping compliance method.

[1] A plan for a parking area using the landscaping compliance method shall be submitted to the Planning and Development Board for review. The required building permit shall not be issued until a plan approved by the Board or the Board's designee (and a certificate of appropriateness is on file with the Building Department where applicable; see below) is on file in the Building Department.
[2] The Planning and Development Board may, at its discretion, approve a parking area that covers more than 50% of any side or rear yard (as calculated after excluding the minimum setback areas specified for the applicable zoning district, per the District Regulations Chart), if the Board finds that mitigating factors such as, but not limited to, the following exist:

In accordance with the ordinance, the request for the Landscape Compliance method for the parking area was sent to the Planning Board for approval.

3. The Project does not violate City Code §325-8(A)(14)(a) for the rear yard setback for onsite buildings. The parcel at 815 South Aurora Street is an irregular shaped pentagon that fronts on South Aurora Street. In assessing the rear yard setback for such a parcel, the ordinance must be applied, and established practices used to maintain uniform enforcement. Although this is an irregular shaped parcel, the principles of the Zoning Ordinance were strictly followed as explained below:

Section 325-3 contains the relevant definitions for the review:

Yard: That part of a lot not occupied by the principal building or structure and which shall not be occupied by any other building or structure from the ground upward unless specifically authorized in this chapter or other provisions of the City of Ithaca Code.
Front Yard: An open space extending the full width of the lot between a main building and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward, the depth of which shall be the least distance between the front lot line and the front of such main building.
Side Yard: An open space extending from the front yard to the rear yard between any building and the side lot line, unoccupied and unobstructed by buildings or structures from the ground upward. The required width of side yards shall be measured horizontally from the nearest point of the side lot line to the nearest part of any building.
Rear Yard: An open space extending the full width of a lot between the rearmost main building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as hereinafter specified, the depth of which shall be the least distance between the rear lot line and the rear of such main building.
The zoning ordinance Section 325-3, provides a diagram for the location of the yards in relationship to a building. It is depicted in a regularly shaped lot:

Section 325-8(A)(14)(a) provides the requirements for an irregular lot using the average of the two unequal side lot lines to determine the rear yard depth:

Subject to the provisions of the following Subsection A(14)(b), buildings hereafter erected in each district must have a rear yard of at least the depth which is the percentage figure listed in this column. Such percentage shall be taken of the lot depth. If the two side lot lines are of unequal lengths, the rear yard percentage shall be taken of the average of the two lengths. (See illustration below.)
In accordance with Section 325-8(A)(14)(a), the average rear lot line must be calculated by taking the average of the two unequal side lot lines. Using the diagram, it depicts that the side lot line lengths should be drawn at a 90-degree angle perpendicular to the front lot line to determine the unequal lengths. When an irregular lot is reviewed, such as in the case of 815 South Aurora Street, a 90-degree angle perpendicular to the front lot line, from each end point extending to the furthest rear line, was used to calculate the average lot depth (See: Exhibit E).

The parcel at 815 South Aurora Street contains five lot lines of varying lengths as shown (See: Exhibit E). The side lot lines are indicated with the letter’s “E”, “B”, and “C”. The front lot line is indicated as letter “A” and the rear lot line is indicated as letter “D”. The rear yard extends from the rear most building (the smaller of the three) and extends the full width of the lot between the rear most building and the rear lot line. Depth 1 totals 342.81’, which extends at a 90-degree angle perpendicular to the front lot line to the furthest point of the property line. Depth 2 totals 183.52’ and extends at a 90-degree angle perpendicular to the front lot line, to the furthest point at the back of the parcel, to the line indicated with the letter “C”.

The average of the two calculated side lot line depths were used to determine the location of the rear lot line, as follows:

\[
\begin{align*}
342.81' + 183.52' &= 526.33' \\
526.33' \text{ divided by } 2 &= 263.16
\end{align*}
\]

The calculated average lot depth is 263.16’ from the front property line. The rear yard setback for the R-3b zone district, according to the District Regulations Chart is 20% or 50’, but not less than 20’. Therefore, the most restrictive rear yard setback of 50’ was applied. (See: Exhibit E)

This is the precise method used to calculate the rear yard for the project located at 815 South Aurora Street. The buildings were positioned accordingly, respecting the required setbacks for both the side and the rear yards. The Project fulfilled the setback requirements of the ordinance.

The applicant provided an alternate method for determining the rear yard setback. The method used is inconsistent with the uniform enforcement and text of the ordinance. The applicant used one of the dimensioned property lines for a lot depth and then used a calculated point for the other lot depth line. Then calculated the sums to find the average depth of the lot. This is an inconsistent method and causes questions as to how such method was derived and how it meets the ordinance. If a consistent method is used, it would require that North and South dimensioned lot lines be used to calculate the average rear yard. The North line is 163.99’ in length and the South line is 551.42’ in length. Resulting in an average rear yard of 357.7’, which puts the calculated rear lot line into an adjacent property. Similarly, if both lot line dimensions were used on the northern portion of the lot, the average rear yard would equal (163.99 + 227.33 + 551.42 divided by 2) 471.37’, which is even further into the adjacent property. The ordinance requires: “If the two side lot lines are of unequal lengths, the rear yard percentage shall be taken of the average of the two lengths. (See illustration below.)” Therefore, to determine a rear yard that would be on the property, calculating both lot lengths using the same method would be required. Using 90-degree angles perpendicular to the front property line, meets the intent of the illustration in the ordinance and provided an adequate rear yard for the 2.5-acre parcel.
3a. The Project does not violate City Code §325-20(D)(2)(c)[2][a] for the maximum driveway grade requirements. The ordinance states:

*Maximum driveway grades. Driveways to areas containing parking spaces for three or more vehicles shall be graded to form a street entry with a maximum grade of 8% for a distance of 25 feet from the curbside.*

Per the plans submitted for review, the following Driveway Profile was provided.

As a matter of practice, driveway grades are determined by using the top of the curb as the bench mark for calculating the maximum grade. The above drawing reflects the grade from 3.5% to the transitioning 10% slope. In Exhibit F, the grade heights are show and the 25-foot depth of the driveway is indicated. The street grade is 746.28 and the topo line at the 25-foot depth is 748.50.

Calculating the percentage of grade for the first 25-feet of driveway is as follows:

\[
(748.50 - 746.28) = 2.22, \text{minus the curb height (7” curb height) } = 1.637 \text{ feet of grade elevation,}
\]

\[
(1.637 \text{ divided by } 25’) = .06548 \times 100 = 6.548\% \text{ driveway grade.}
\]

The ordinance requires that driveways be “graded to form” a maximum grade of 8%. As a result, the average grade of 6.5% for the driveway complies with the ordinance.

3b. The Project does not violate City Code §325-20(E)(3) for parking in front yards.

*In all residential districts, parking in the front yard of lots which have a width at the street line of more than 50 feet shall be restricted to an area not greater than 25% of the total area of the front yard, including turnaround and other vehicle maneuvering areas and driveways leading to garages and parking areas. The setback for any such parking area must meet the minimum front yard setback dimensions specified in §325-8, District Regulations Chart,[9] for the zoning district in which the parking area is to be constructed.*
As depicted in Exhibit G, the Developer provided the front yard area calculations for the portions of the driveway and the parking located in the front yard. The total front yard area is 13,548 square feet, resulting in an allowable area of 3,387 square feet (25% of 13,548 SF). The plan indicates that the driveway and parking total area was calculated at 3,212 square feet. Therefore, the front yard parking complied with the ordinance.

Please note: the paved area in front of the Buildings A and B, is a required area for areal access to meet the requirements of the NYS Fire Code. The Ithaca Fire Department has required this area to be designated as a Fire Lane. Therefore, it is not applicable to the requirements of the Zoning Ordinance §325-20(E)(3).

In conclusion, with thorough knowledge of the written text of the Zoning Ordinance and past practices, an in-depth review of the project was performed in accordance with the Zoning Ordinance. The Project was found to be in compliance with the Zoning Ordinance.

Sincerely,

Gino Leonardi, Zoning Administrator
For the City of Ithaca Zoning Division
To: Planning & Development Board  
From: Lisa Nicholas, Deputy Director of Planning  
Date: August 9, 2019  
RE: 815 S Aurora St- Cell Tower Fall Zone and Parking

At the July 23, 2019 Planning Board meeting, staff was asked to look into the question of a parking lot within the fall zone of the cell tower located at 815 S Aurora Street. The primary questions were 1) are parking lots restricted within fall zones under current zoning 2) should they be restricted in fall zones, and 3) what is Common Council’s awareness of this issue (e.g. was it discussed when the fall zone was reduced in 2016).

Please find attached information that addresses these question. I have included an email discussion between JoAnn Cornish, Gino Leonardi, Seph Murtagh and me. The email chain includes the concept memo that was sent to Council to introduce the proposed zoning change. Also attached are the FEAF Part 3 and engineering reports.
Hi JoAnn and Lisa,

I reviewed Phyllis’s research file for Telecommunication Facilities and both the 2002 and the 2016 ordinance/CC minutes. The 2016 fall zone standard states: "No habitable structure or outdoor area where people congregate shall be within a fall zone of 120% of the height of the PWSF or its mount." [Amended 5-4-2016 by Ord. No. 2016-10] From the documents I reviewed from Phyllis’s research file, the main concern for Designating a fall zone was to minimize the physical damage to nearby homes, maintain property values, and for health reasons. There were references to parks, playgrounds, and athletic areas in association with the fall zones, which were prohibited within the designated area. Unfortunately, I could not find any notes by Phyllis concerning a parking area within the fall zone. But I do remember numerous discussions with Phyllis concerning the reduction of the fall zone. In particular, the proposed project at 815 S. Aurora Street, which prompted the zoning amendment. From my recollection, we did discussed the parking area and both Phyllis and I felt that it would be the owners responsibility to prohibit the public from congregating within the fall zone. I recently spoke to Phyllis concerning this issue to confirm my recollection. She did remember that the parking area for 815 S. Aurora was not considered an area of congregation and that the issue was also discussed with Ari prior to her determination.

I hope this helps,

Gino Leonard
Zoning Administrator
City of Ithaca Zoning Division
(607) 274-6513

Gino,

Below is the conversation about the fall zone and if parking lots should be restricted or be considered areas of assembly/congregation under zoning.

Could you provide a brief expatiation of 1) why or why not parking lots are areas of assembly and 2) if they can be restricted in a fall zone under zoning.

Thanks you so much.

Lisa Nicholas, AICP, Deputy Director of Planning
Planning Division
108 E Green Street
Ithaca, NY 14850
607-274-6557

To: Joseph Murtagh; Gino Leonardi  
Cc: Mike Niechwiadowicz; Lisa Nicholas  
Subject: RE: Fall zone 815  

We did quite a bit of research and analysis when reduction in the fall zone for the tower was originally requested. There were various opinions as to whether or not parking lots were considered areas of congregation and should be prohibited from being placed in a fall zone. Ultimately, the decision to reduce the fall zone passed and the benefits of development outweighed the concerns and it was not conclusively determined that parking lots were area of “congregation”.  

See below the concept memo I wrote on December 30, 2015. In addition, I am attaching the engineering reports and the FEAF Part 3, which is what the adoption by Common Council was base on.  

The City has received a request to consider revising City Zoning Ordinance, Article VA, “Telecommunications Facilities and Services” (hereafter referred to as “TCO”), Section 325­29.9. A. (1) concerns the fall zone setback requirements for Tier III telecommunications facilities and applies to the siting of towers, monopoles, and lattice structures. The area of a fall zone is where: “No habitable structure or outdoor area where people congregate shall be within a fall zone of two times the height of the PWSF [personal wireless service facility] or its mount.”  

Specifically, the request is in regard to the existing telecommunications tower located at 815 South Aurora Street in the City of Ithaca. The tower is on a 2.5-acre parcel and has an estimated height of 170 feet. In accordance with the existing ordinance, this would require any development to be outside a radius of 340 feet from the base of the tower. The request is to reduce the fall zone to 120% of the height of the tower, the distance the cell tower will actually fall based on two engineering reports submitted to the city, (available upon request) which state that in the worst situation, if all three­guy wires supporting the tower fail, the tower’s fall will be equal to the tower’s height, or 170 feet and that a debris field may extend beyond the collapsed tower an additional 10-15 feet.  

The City of Ithaca adopted its Telecommunications Services and Facilities Ordinance (TCO) in 2002, carefully avoiding any violation of Federal law. The FCC imposed limitations on communities so that local governments could not prohibit cell towers from within their municipalities. The City based the fall zone requirement on its authority to adopt laws that protect the safety and welfare of its citizens as well as to protect the natural features and aesthetic character of the City.  

The required fall zone was determined, in part, to insure that cell towers were not placed in the City’s valley or “flats” as we commonly describe our downtown. Several locations were proposed by various carriers that included Cass Park, Stewart Park, Newman Golf Course, the NYSDOT site, and Inlet Island. Essentially, with a fall zone requirement of twice the height of the tower, there are very few places in the city where a cell tower could be sited. If the fall zone is reduced, it may allow for more towers to be built in the city but it will also allow projects on land where previously the fall zone prohibited development.

JoAnn Cornish  
Director of Planning and Development  
City of Ithaca  
108 E. Green Street  
Ithaca, NY 14850  
607-274-6566  
jcornish@cityofithaca.org  

From: Joseph Murtagh  
Sent: Monday, July 29, 2019 9:48 AM  
To: Gino Leonardi  
Cc: JoAnn Cornish; Mike Niechwiadowicz  
Subject: FW: Fall zone 815
Hi Gino (and JoAnn and Mike),

I received the below question from Denny Grout - her brother in law is concerned about the fall zone and how it impacts people congregating in the parking lot of the 815 Aurora Street project. I wasn't really sure how to answer - what's your read of code on this one?

Thanks,

Seph

Seph Murtagh, Common Council
City of Ithaca, Second Ward
585-703-2582

From: Denise Grout [denny743@gmail.com]
Sent: Thursday, July 25, 2019 8:50 PM
To: Joseph Murtagh
Subject: Fwd: Fall zone 815

Hey Seph....my brother in law wanted me to ask you about this....the restricted use of the fall zone, how many people allowed to congregate in it (I believe none as it is a danger zone) etc....if 815 S. Aurora goes through there will definitely be people in this area..parking, exiting buildings, etc...
Thanks for any input you might have.
Denny 😁

Begin forwarded message:

From: Roger Dennis <roger@flytac.com>
Date: July 25, 2019 at 3:34:43 PM EDT
To: Denny Grout <denny743@gmail.com>
Subject: Fall zone 815

Denny
The question that I have about the fall zone is the use
The 815 project is taking advantage of this to put in parking (a lot of people) and the only exit out of some buildings in into the fall zone
So what was the intent back In 2016 when the fall zone was established
The word congregating I believe was to restrict people from being in fall zone
This project group and the city planing board is acting like this word doesn’t even exist

There needs to be a # of people allowed in zone at one time

Roger

Sent from my iPhone
City of Ithaca
FULL ENVIRONMENTAL ASSESSMENT FORM - Part III

Request to Revise City Zoning Ordinance, Article VA, “Telecommunications Facilities and Services” to Lower Required Fall Zone, April 6, 2016 (Prepared by J. Cornish, Director of Planning and Development) Revised April 15, 2016

PROJECT DESCRIPTION

The City is considering revising City Zoning Ordinance, Article VA, “Telecommunications Facilities and Services” (hereafter referred to as “TCO”), Section 325-29.9. A. (1) concerns the fall zone setback requirements for Tier III telecommunications facilities and applies to the siting of towers, monopoles, and lattice structures. The area of a fall zone is where: “No habitable structure or outdoor area where people congregate shall be within a fall zone of two times the height of the PWSF [personal wireless service facility] or its mount.”

Currently the City has one existing telecommunications tower located at 815 South Aurora Street. The tower is on a 2.5-acre parcel and has an estimated height of 170 feet. In accordance with the existing ordinance, this would require any development to be outside a radius of 340 feet from the base of the tower. The proposed revision to the zoning ordinance is to reduce the fall zone to 120% of the height of the tower. This would apply to any existing and any future tower constructed in the City. In the case of the existing tower on Aurora Street, Taitem Engineering physically surveyed the tower and determined the following:

- The tower height is 165 feet
- The tower height with antenna is 170 feet
- The tower height to the highest point of the lightning rod is 185 feet.
- Based on the Survey and engineer’s recommendations, the fall zone would be 195 feet.
- Providing and additional buffer would help to guarantee safety, such as allowing 35 feet for debris throw off, bring the fall zone to 120% the height of the tower.

Based on two engineering reports submitted to the city in regards to the existing tower, (available upon request) the worst situation, if all three-guy wires supporting the tower fail, the tower’s fall will be equal to the tower’s height, or 170 feet and that a debris field may extend beyond the collapsed tower an additional 10-15 feet.

IMPACT ON LAND
Much of the city is developed and there are
few places where a +/- 200’ diameter fall zone would not strike an existing building. However, should this amendment to the ordinance be passed, other areas in the city could be impacted. These areas could include; locations in Cass Park, Stewart Park, Inlet Island, West Hill, and areas in the Southwest, to name the most obvious. All telecommunication tower proposals need to be vetted through a fairly vigorous approval process and this change to the ordinance would not eliminate that process. Additionally, (See City Zoning Ordinance, Article VA, “Telecommunications Facilities and Services”.)

With the fall zone for the existing tower, (340’) the parcel cannot be developed. If the fall zone were reduce to 120% (170’) of the height of the tower it would leave developable land outside the proposed fall zone.

Should the ordinance be revised and a development project proposed, the project would be subject to site plan review, which would include environmental review.

**IMPACT ON WATER**
No Impact anticipated

**IMPACT ON DRAINAGE**
No Impact anticipated

**IMPACT ON AIR**
No Impact anticipated

**IMPACT ON PLANTS AND ANIMALS**
No Impact anticipated

**IMPACT ON AESTHETIC RESOURCES**
 Normally, the addition of a cell tower would impact aesthetics. This would be true if a cell tower were proposed for areas in the City where there is room to accommodate them (see Impact on Land above). However, only one cell tower exists in the City currently and it is not likely to be removed at any time in the near future. The existing tower is currently located on an asphalt parking lot adjacent to lawn area on three sides and Route 96B on the fourth side. The tower can be seen from many areas of the City and has a negative impact on views of South Hill as well as from South Hill to the north where one can see panoramic views of Cayuga Lake and the distant hills.

Several buildings exist in the fall zone of the existing tower, currently regulated by the Telecommunications Ordinance (340 feet). The addition of buildings and especially landscaping within the proposed fall zone of 170 feet will lessen the visual impact within the immediate vicinity of the cell tower but will have little to no impact on other longer distance views.

Should a new cell tower be proposed within the city limits, the ordinance does not allow PWSFs in avoidance areas including flood hazard zones, historically and culturally significant resource areas, unique natural areas and/or critical environmental areas. parks, greenways, and natural areas, scenic or visual corridors as defined by the City, wetlands.
lakeshores and waterways.

**IMPACT ON HISTORIC RESOURCES**
No Impact anticipated

**IMPACT ON OPEN SPACE AREA**
No Impact anticipated

**IMPACT ON TRANSPORTATION**
No Impact anticipated

**IMPACT ON ENERGY**
No Impact anticipated

**IMPACT ON NOISE AND ODORS**
No Impact anticipated

**IMPACT ON PUBLIC HEALTH**
The tower at 815 South Aurora Street is a non-conforming structure and would not be allowed under current zoning. The original tower was erected many years ago and residential buildings are within 180 feet of the tower and will be impacted if the tower fails. If the tower were to fall in a southerly direction, it would likely hit an existing apartment building. Were it to fall in a northerly direction, it would demolish the telecommunications facility building, including the exterior fuel tank located on its southern wall, and fall onto the concrete building on site. Were it to fall in a westerly direction, it would fall across Route 96B, taking down power lines. Because of the tower’s size and weight, anything it hits will likely be severely damaged.
Several structural analysis reports from New York State Licensed Engineering firms have been completed over the past several years. They include:

- Towerkraft Engineering, P.C. Design and Analysis of Communication Structures, Prepared by Steven Fehlhafer, P.E. and reviewed and certified by Alvin Kraft, P.E., August 14, 2007,
- Towerkraft Engineering, P.C. Design and Analysis of Communication Structures, Prepared by Steven Fehlhafer, P.E. and reviewed and certified by Alvin Kraft, P.E., May 29, 2008,
- Taitem Engineering, Letter/Report prepared by Javier E. Rosa, P.E., Partner and Senior Engineer, Structural Department, certifying the fall zone for the existing guy wire tower located at 815 S. Aurora Street, dated January 15, 2015,
- SPEC Consulting, Letter/Report prepared by Gary Bush, P.E., for the Tower Fall Zone, Cell Phone Tower, 815 S. Aurora Street, Ithaca, NY, dated February 3, 2016,

*(All reports available upon request in the City of Ithaca Planning Department.)*

Findings in the reports varied slightly but concluded:

- The tower height is 170 feet and has a steel lattice frame.
- The tower is supported at its base by a single point in a ball-and-socket configuration which allows rotational motion of the tower at the connection point and prevents undue stresses which would be present if this were a rigid connection.
- The tower is held upright by a set of guy wires which are anchored to concrete foundations set into the ground and sized to resist the wind loads expected by the tower and its appurtenances.
• The fall zone would be equal to the height of the tower.
• The debris field may extend beyond the collapsed tower an additional 10-15 feet although the engineering reports state this is unlikely because the communication components attached to the tower can withstand higher loads, and most likely will remain attached to the tower frame during and after collapse.
• Analysis was performed with a 70 MPH basic wind speed (the designated wind speed for Tompkins County, NY) as stated by ANSI EIA/TIA design standard 222-F (Electronic Industries Association Structural Standards for Steel Antenna Tower and Antenna Supporting Structures) and included loading of all tower members with an accumulation of 1/2” of radial ice accumulation.
• The tower is at or slightly above its capacity and at its maximum height per its structural load. Based on the structural capacity of the structure, the tower cannot physically go any higher. Therefore, reconstruction of the tower base would be required.
• Geotechnical information was not available so actual soil properties are not known. Assumptions were made that the soil type was “normal” and that the bearing pressure at the base is not considered a risk to failure since safety factors are included in the determination of allowable bearing capacity.

The reports did not investigate the potential hazards of burning and falling antenna arrays igniting nearby trees or buildings.

Any new tower proposed for locations within the city would be analyzed under the TCO, including regular inspections and monitoring of radio frequency radiation.

§325-29.8, Standards, D. Safety Standards, Personal wireless service facilities shall meet the following safety standards: (1) Hurricane and tornado design standards shall be those of the local building codes used in the City of Ithaca or EIA-TIA 22 (latest version), whichever is stricter, and (2) Roof mounts on buildings shall have railings, if necessary, to protect workers. Notices shall be posted, as directed by the Director of Planning and Development or designee to warn of radio frequency radiation.

§325-29.17, Registry, monitoring, inspection, abandonment and obsolescence, B. Inspection, (1). The owner or operator of PWSF shall provide for and conduct an inspection of mounts at least once every five years. A report shall be provided to the Department of Planning, Building and Economic Development verifying compliance with previous approvals and the City Code, and (2). The owner or operator of PWSF shall provide for and conduct an inspection of radio frequency radiation at least once every two years by a licensed radio frequency engineer. Three copies of a report shall be provided to the Department of Planning, Building and Economic Development, verifying that the radio frequency radiation is in compliance with FCC Guidelines.

**IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD**

No Impact anticipated
From: Javier E. Rosa
To: Todd Fox
Company:
Ce:

Re: Fall Zone for Communications Tower located at 815 S. Aurora St, Ithaca, NY

This letter is to certify the fall zone for the existing communications guy-wire tower at the mentioned above address.


In addition, a collapse/failure mode analysis was evaluated based on engineering principles, and historic tower collapse data.

Existing tower description: steel lattice frame, approximately 170'-0" tall, (3) guy-wires on (3) sides @ 57'-0", 103'-0" & 160'-0" respectively. Tower supported on poured concrete pier foundation. Guy-wires anchored to ground with concrete deadmen.

The results are as follows:

Three (3) modes of collapse:

1- Single side (3) guy-wire failure
2- Steel lattice frame failure
3- Single guy-wire failure
Explanation of failure modes:

1- Failure scenario - All (3) guy-wires from a single side break away. This would cause the tower to fall in the opposite direction of the failed guy-wires due to the pulling force from the remaining (2) sides, and collapse laterally. The fall zone would be equal to the height of the tower.

2- Failure scenario – Tower base collapsing onto itself. This would cause the tower to twist, buckle, and collapse in the vertical axis. The fall zone would have a radius of 60'-0" approximately.

3- Failure scenario – A single guy-wire from a single side break away. Tower frame folding and collapsing onto itself. This would cause the tower to bend and fold at the guy-wire break away point, and collapse laterally & on the vertical axis. The fall zone would have a radius of 75'-0" to 80'-0" approximately.

All the failure modes scenarios will have a fall zone no larger than the height of the tower. Furthermore, debris from the different communication components (i.e. antennas) can add approximately 15'-0" to the fall zone only in failure mode #1. However, the debris impact has a low probability due engineering design of such components attachment. They can withstand higher loads, and most likely will remain attached to the tower frame during and after collapse.

In conclusion, based on the above outlined data, analysis and results, construction of new buildings and/or structures can be located no closer than 180'-0" from the base of the tower in any direction.

Feel free to give me a call or e-mail if you have any questions.

Javier E. Rosa, PE
Partner - Senior Engineer
Structural Department
Taitem Engineering
x104
February 3, 2015

Prepared for:
Todd Fox
Modern Living Rentals
P.O. Box 6707
Ithaca, NY 14851

Background:
The purpose of this report is to document the required fall zone for the cell phone tower located at the address noted above in order to determine the extents of the property on this parcel that is available for further development.

As part owner of local wind turbine design and manufacturing company Weaver Wind Energy, I deal with towers on a regular basis, including designing them, climbing them, installing them, inspecting them and maintaining them.

Findings:
A site visit to the subject property, performed on January 22, 2015, revealed that the tower in question is known as a “guyed lattice tower.” This type of tower is supported at its base by a single point in a ball-and-socket configuration which allows rotational motion of the tower at this connection point and prevents undo stresses which would be present if this were a rigid connection. The tower is held upright by a set of guy wires which are anchored to concrete foundations set into the ground and sized to resist the wind loads expected by the tower and its appurtenances.

With guyed towers, if one guy wire fails, the tower will fail in a buckling mode in which it folds in on itself. If this happens, the affected area around the tower will typically be less than half of the tower height.

In order for the tower to simply fall over, one entire set of guy wires would have to fail simultaneously. This is possible if the guy wire foundations are improperly sized or improperly installed or if one of the anchors connecting the guy wires to the foundation fails. If this happens, the base of the tower will remain in place and the tower will simply fall over. In this
case, the affected area around the tower will be no more than the tower height plus the height of any appurtenances.

Summary:
Based on the site visit and the findings noted above, it is my professional opinion that the potentially affected area around the tower should be considered the height of the tower including any appurtenances. Oftentimes, an additional ten feet is added to this dimension as a factor of safety. The fall zone will then be a circle, centered at the centerline of the tower and with a radius equal to the tower height, including appurtenances, plus ten feet.

Respectfully Submitted,

[Signature]

Gary R. Bush, PE, LEED AP
Information Only — Not to be Considered Part of the Ordinance

In response to a request from Alderperson Brock (at the 4/13/16 Planning Committee meeting) to define congregate:

verb. | con*gre*gate | - gât
Definition of CONGREGATE
:to collect into a group or crowd :assemble
:to come together into a group, crowd, or assembly

Origin of CONGREGATE
Middle English, from Latin congregatus, past participle of congregare, from com- + greg-, grexflock

First Known Use: 15th century
See also:
congregate
WHEREAS: the City of Ithaca Planning and Development Board has one pending application for Site Plan Review for a new 66-unit student housing complex comprised of three buildings, located at 815 South Aurora Street by Stream Collaborative on behalf of the owner, and

WHEREAS: The project applicant proposes a new 66-unit student housing complex comprised of three buildings constructed on hillside on the east side of Route 96B, overlooking the proposed Chain Works District. The proposed buildings will contain (2) one-bedroom units, (41) two-bedroom units, and (23) three-bedroom units. Amenities will include a gym and media room, with access to an outdoor amenity space on the first floor of building B, and a roof terrace and lounge on the fourth floor of building B. The project shares the 2.85-acre site with an existing cell tower facility, garages, an office and a one-bedroom apartment. Site improvements will include walkways and curb cuts to be tied into a public sidewalk proposed by the Town of Ithaca. Fire truck access is proposed at existing site entry at the south end of the property, with a new fire lane to be constructed in front of the buildings A & B at the northern end of the site. The project will include 67 parking spaces, as required by zoning. The property is located in the R-3b Zoning District.

WHEREAS: this is Type 1 Action under the City of Ithaca Environmental Quality Review Ordinance §176-4(B)(1)(k), (n), (B)(2), and the State Environmental Quality Review Act (“SEQRA”) §617.4(b)(11), and

WHEREAS: New York State Department of Environmental Conservation, and the Tompkins County Department of Health, and the New York State Department of Transportation, all potentially involved agencies in this action, all consented to the Planning Board acting as Lead Agency for this project, and,

WHEREAS: the Planning Board, being the local agency which has primary responsibility for approving and funding or carrying out the Action, did, on March 26, 2019 declare itself Lead Agency for environmental review of the Project, and

WHEREAS: legal notice was published and property posted, and adjacent property owners notified in accordance with Chapter 290-9 C. (1), (2), & (3) of the City of Ithaca Code, and

WHEREAS: the Planning and Development Board held a required Public Hearing on April 23, 2019, and

WHEREAS: the Planning Board, acting as Lead Agency in Environmental Review, has on July 23, 2019 reviewed and accepted as adequate a Full Environmental Assessment Form (“FEAF”), Part 1, submitted by the applicant, and Parts 2 & 3, prepared by Planning staff and amended by the Planning Board, the following drawings: “Topographic Map, No. 815 South Aurora Street, City of Ithaca, Tompkins County, New York” dated 9-26-16 and prepared by T.G. Miller P.C; “Demolition Plan (C1.0)”, “Site Plan (C2.0)”, “Site Plan Future Access (C2.1) (showing bike parking)”, “Grading, Drainage and Erosion Control Plan (C3.0 & 3.1)”, “Lighting Plan (C5.0)”, “Rock Plan (C6.0)”, “Detail Sheet (C9.0, 9.1, 9.2, 9.3, 9.4 & 9.5)’and “Driveway Plan (C10.0, 10.1, 10.2 & 10.3) with a latest revision date of 5-21-19; ‘Truck Plan (C8.0 & 8.1)’ with a latest revision date of 5-23-19 and “Utility Plan (C4.0)” with a latest revision date of 6-14-19 all prepared by Marathon Engineering, and “Building A Unit Area Plans (A.00)”, “Building B Unit Area Plans (A.01)”, “Building A Exterior Elevations (A2.00)”, “Building B Exterior Elevations (A2.01)”, “Building A Sections (A3.01)” and “Building B Sections (A3.03)” dated 6-03-19 “Building C Unit Area Plans (A.00)”, “Building C Exterior Elevations (A2.00)”, “Building B Exterior
WHEREAS: the City of Ithaca Parks, Recreation, and Natural Resources Commission, Tompkins County Department of Planning & Sustainability, and other interested parties have been given the opportunity to comment on the proposed project and any received comments have been considered.

WHEREAS: the City Planning Board, acting as Lead Agency, has determined, as more clearly elaborated in the FEAF, that the proposed Project will result in no significant adverse impacts on the environment and did issue a Negative Determination of Environmental Significance, and

WHEREAS: 25% landscaping rationale

WHEREAS: the Planning Board did, on July 23, 2019 grant Preliminary Site Plan Approval to the project. Such approval applied to the major elements of the site layout including building placement and footprints, location and design of major routes of site circulation pertaining to emergency access, personal, commercial and service vehicles, and pedestrians and bikes, grading and demolition, and placement of major hardscape features such as walls, patios, stairways, etc. Preliminary approval does not apply to the placement and arrangement of building façade features, building and hardscape materials and colors, planting plans, lighting, signage, site furnishings and other site details, and

WHEREAS: Preliminary Approval for this project was subject to the following conditions:

Before Final Site Plan Approval:
  i. Submission to the Planning Board of colored and keyed building elevations for all facades, and
  ii. Submission to the Planning Board of documentation of the hours of operation of the exterior amenity spaces, and
  iii. Submission to the Planning Board of all site details including building materials and colors, signage, lighting, exterior furnishings, paving, wall and railing materials and details, and
  iv. Applicant to consider additional exterior bike racks, and
  v. Submission to the Board of the layout of covered bike parking, and
  vi. Acceptance of the SWPPP by the City Stormwater Management Officer, and

Before issuance of a Building Permit
  i. Confirmation from the City Transportation Engineer that all concerns have been addressed, and
  ii. Documentation of a binding commitment for winter sidewalk snow removal, and
  iii. Documentation from Ithaca Fire Department and DOT that all transportation and emergency access issues have been satisfied, and

Before Certificate of Occupancy
  iv. Any future changes should be submitted to the Planning Board for review and approval, and
  v. Bike racks must be installed before a certificate of occupancy is granted, and
  vi. Execution of an easement agreement between the City and the property owner for portions of the sidewalk on private property, and
  vii. This site plan approval does not preclude any other permit that is required by City Code, such as sign permits, tree permits, street permits, etc., and
WHEREAS: the applicant is requesting that the Planning Board review the proposed parking lot in the rear yard under the provisions of landscape compliance method in accordance with §325-20 F (3)(b) of the City Code. The Board has accepted the landscape compliance method in consideration of the following mitigating factors:

- The applicant is proposing fencing and landscape plantings to screen the parking from the adjacent property

WHEREAS: the Board has determined that 25% internal landscaping is not required within the parking lot due to the following reasons:

- 25% Internal plantings would require a significantly larger overall parking area, and
- There is a substantial amount of landscaped area surrounding the parking lot, and

WHEREAS: the Board did, on August 27, 2019, after reviewing elevations of the buildings instruct the applicant to explore ways to reduce the apparent height and massing of the building, particularly ‘Building A’ as it abuts the residential property to the north.

WHEREAS: the Planning Board, has on September 24, 2019 reviewed and accepted as the following new, and revised drawings: “1” showing the previous and proposed street level perspectives of the west façade of Building A, “2” showing the revised proposed street level perspectives of the west facades of Buildings A & B, “3” showing the revised proposed street level perspectives of the west facades of Buildings A, B and C, “4’ showing street level perspectives of the revised buildings A & B looking southeast, “Street View of Building A (5)”, “View of North Property Line (6)”, “View of Fire Lane Retaining Wall (7)”, “Building A Exterior Elevations (A2.00)”, “Building B Exterior Elevations (B2.00)” “Building C Exterior Elevations (A2.00)” and “Exterior Features” all dated 9-17-19 and “Enlarged Planting Plan (L302)” dated 8-6-19 and an undated and unattributed drawing showing the layout interior bike storage at “Site Plan (L001)” and ‘Site Layout and Building A & B (L101)”, ‘Site Layout and Building C (L102)”, “Grading Plan – Buildings A & B (L201)”, “Grading Plan – Buildings C (L202)” and “Planting Plan (301)”, all dated 8-19-19 and all prepared by Stream Collaborative and other application materials, and

WHEREAS: the Planning Board, agrees that the applicant reduced the apparent height and massing of the building, particularly ‘Building A’ as it abuts the residential property to the north by doing the following:

- The previously proposed cultured stone base of the buildings was replaced with brick which was wrapped around the north faced of Building A
- The previously proposed cornice was redesigned and located at the top of the 3rd story
- The materials and color of the exterior finishes on the top story has been changed
- A thinner wall profile was used on the top story of Building allowing for a slight recess

WHEREAS: the Planning Board has determined that the applicant has satisfied the following conditions imposed above Before Final Site Plan Approval:

i. Submission to the Planning Board of colored and keyed building elevations for all facades, and
ii. Submission to the Planning Board of documentation of the hours of operation of the exterior amenity spaces. The applicant has submitted a letter dated 8-5-19 stating quiet hours that will be in the lease as well as hours of the rooftop patio, and
iii. Submission to the Planning Board of all site details including building materials and colors, signage, lighting, exterior furnishings, paving, wall and railing materials and details, and
iv. Applicant to consider additional exterior bike racks. The applicant has submitted drawings showing additional bike racks in front of Buildings A & C, and
v. Submission to the Board of the layout of covered bike parking. The applicant has submitted a
drawing showing the layout, and
vi. Acceptance of the SWPPP by the City Stormwater Management Officer, *now therefore be it*

**RESOLVED**: the Planning Board does hereby grant final site plan approval subject to the following new
and unsatisfied conditions:

**Before issuance of a Building Permit**

i. Submission to the Planning Board of a monitoring plan by a qualified professional detailing
steps that will be taken to protect the structural integrity for the cell tower and any proximate
off-site structures, as needed, during foundation construction, and
ii. Noise producing construction activities will be limited to the hours between 7:30 A.M. and 5:30
P.M., Monday through Friday (or Saturday 9:00 A.M. to 5:30 P.M. with advance notification to
and approval by the Director of Planning and Development).
iii. Confirmation from the City Transportation Engineer that all concerns have been addressed, and
iv. Documentation of a binding commitment for winter sidewalk snow removal, and
v. Documentation from Ithaca Fire Department and DOT that all transportation and emergency
access issues have been satisfied, and

**Before Certificate of Occupancy**

vi. Any future changes should be submitted to the Planning Board for review and approval, and
vii. Bike racks must be installed before a certificate of occupancy is granted, and
viii. **Signage in parking lot pertaining to cell tower fall zone must be installed before a certificate of
occupancy is granted, and**
ix. Execution of a easement agreement between the City and the property owner for portions of the
sidewalk on private property, and
x. **Submission to the Planning Board of the tenant lease including language regarding the fall zone
of the cell tower, and**
xi. This site plan approval does not preclude any other permit that is required by City Code, such as
sign permits, tree permits, street permits, etc., and

Moved by: Jones
Seconded by: Petrina
In favor: Blalock, Elliott, Glass, Johnston, Jones, Lewis, Petrina
Against: None
Abstain: None
Absent: None
Vacancies: None
YARD
That part of a lot not occupied by the principal building or structure and which shall not be occupied by any other building or structure from the ground upward unless specifically authorized in this chapter or other provisions of the City of Ithaca Code.

REAR YARD
An open space extending the full width of a lot between the rearmost main building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as hereinafter specified, the depth of which shall be the least distance between the rear lot line and the rear of such main building.

Per 325-8(14)a:
Subject to the provisions of the following Subsection A(14)(b), buildings hereafter erected in each district must have a rear yard of at least the depth which is the percentage figure listed in this column. Such percentage shall be taken of the lot depth. If the two side lot lines are of unequal lengths, the rear yard percentage shall be taken of the average of the two lengths.

AVERAGE LOT DEPTH CALCULATION:

\[
\begin{align*}
183.52' + 342.81' &= 526.33/2 = 263.16 = \text{AVG. LOT DEPTH} \\
\times 20% &= 52.6' - \text{USE 50' MAX}
\end{align*}
\]

EXHIBIT E

---

**Rear Lot Line**
**Avg. Rear Lot Line**
84.53' + 55/2 = 70'
D = 33.7' per city graphic

**Required Rear Yard**
Measurement to actual rear line allowed to be less than required

**Example of actual yard greater than required**

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**City Zoning: Average Lot Depth**

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**Project #**
**Date**
**PRELIMINARY**
**NOT FOR CONSTRUCTION**
10. In accordance with Section 325-R(A)(14)(a) of the Zoning Ordinance, an average rear lot line must first be calculated by taking the average of two side lot lines to determine the average lot depth. The graphic depiction in the Zoning Ordinance provides that side lot lines should be drawn at a 90-degree angle perpendicular to the front lot line to determine the average lot depth. Accordingly, when a parcel is irregular in shape, the side lot lines are drawn by extending lines at a 90-degree angle perpendicular to the front lot line from each end point of the front lot line and extending to the furthest rear line.

11. That is precisely the method that I employed with respect to the Project, as evidenced by the following map prepared by Jason K. Demarest dated April 23, 2019, which depicts the calculation of the rear setback as approved by the City:

```
AVERAGE LOT DEPTH CALCULATION:

True and accurate copies of the foregoing map along with an email exchange regarding my conclusions about the rear setback are attached as Exhibit “A”.
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**Mr. Leonardi’s Average Rear Lot Line Explanation**

*Base Source: Affidavit of Gino Leonardi*

*Dated November 27, 2019*

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**Code Analysis For Appeal**

**Issue 1 - Zoning: Method of Calculating Rear Yard Setback**
Code Analysis For Appeal

Issue 1 - Zoning: Method of Calculating Rear Yard Setback

Keynote Legend For Sheet

1. Explanation Dimension and Placement of Dimension For Building Distance From Required Rear Yard Line Is Incorrect. Dimension Should Be Perpendicular From Required Rear Yard Line To The Closest Point Of The Structure Resulting In The Shortest Possible Dimension.

2. Location of “DEPTH 1” Is Incorrect. This Dimension Should Be Perpendicular From The End Point Of Front Lot Line. Therefore “DEPTH 1” as Shown Is Invalid.

3. This Should Have Been The Location of “DEPTH 1”.

4. Note That The Front Lot Line “A” is Composed of (3) Property Lines That Are Not Parallel. Sit Survey Confirms This.

5. Dimension From “Building B” To Required Rear Yard Line Correctly Shown.

6. Dimension From “Building C” To Required Rear Yard Line Not Shown. This Should Be Shown To Verify Compliance With Zoning Code.

7. “Building C” as Shown is Over Required Rear Yard Line. This is A Violation of The Zoning Ordinance. This Document Should Have Been Required To Be Corrected and Resubmitted (Which is Not Indicated in Any Available Public Documents) or Have Been Required To Seek a Variance.

Reviewer’s Note:
It Does Appear in Other Documents That “Building C” Footprint Was Changed To Be in Compliance With Incorrect Rear Yard Calculations. However an Updated Zoning Analysis Should Have Been Required. Also The New Footprint is Still in Violation Of The Required Rear Due To The Incorrect Placement of “DEPTH 1”. This Will Be Shown Later In This Document.
CODE ANALYSIS FOR APPEAL

ISSUE 1 - ZONING: METHOD OF CALCULATING REAR YARD SETBACK

PROJECT ARCHITECT PROVIDED VALUES & CALCULATIONS

DEPTH 1: 342.81’
DEPTH 2: 183.52’

Average Lot Depth (ALD) = (DEPTH 1 + DEPTH 2) / 2
ALD = (342.81’ + 183.52’) / 2
ALD = 263.17’

Required Rear Yard = ALD(20%) OR 50’ MAX
(Whichever Value is Smaller)
Required Rear Yard = 52.63’ OR 50’ MAX
Required Rear Yard = 50’ MAX

JSA ZONING ANALYSIS VALUES & CALCULATIONS

DEPTH 1: 325.69’
DEPTH 2: 183.52’

Average Lot Depth (ALD) = (DEPTH 1 + DEPTH 2) / 2
ALD = (325.69’ + 183.52’) / 2
ALD = 254.61’

Required Rear Yard = ALD (20%) OR 50’ MAX
(Whichever Value is Smaller)
Required Rear Yard = 50.92’ OR 50’ MAX
Required Rear Yard = 50’ MAX

REVIEWER’S NOTE:
PROJECT ARCHITECT’S INCORRECT “DEPTH 1” RESULTED IN:
8.56’ ERROR OF AVERAGE LOT DEPTH

“Building C” Further Violates Required Rear Yard. “Building B” is Approximately 3’ from Required Rear Yard. Later in this document it will be shown that the updated footprint of “Building C” is still in violation.
Code Analysis For Appeal

**Issue 1 - Zoning: Method of Calculating Rear Yard Setback**

AS THE PROJECT CURRENTLY STANDS, AN APPROVED ZONING VARIANCE WAS REQUIRED

Reviewer's Note:
“Building E” as Currently Presented in The Approved Site Plan Application Does Not Comply With Zoning. A Variance Was Never Granted. Given This Information It Appears That The Site Plan Application Was Approved was Issued in Error.
Updated Driveway Plan By Project Engineer Marked Up By JSA
Base Source: SPR Complete Application Updates
Dated July 3, 2019

Code Analysis For Appeal
 Issue 2 - Zoning: Driveway Access Requirements - REVISION 1

Board of Zoning Appeals: Appeal #3202
In Regards To The Project Located At:
815 S. Aurora Street, Ithaca, NY 14850
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AS THE PROJECT CURRENTLY STANDS, AN APPROVED ZONING VARIANCE WAS REQUIRED
Section 325-20 Off-street parking

E. Parking in front yards

(3) In all residential districts, parking in the front yard of lots which have a width at the street line of more than 50 feet shall be restricted to an area not greater than 25% of the total area of the front yard, including turnaround and other vehicle maneuvering areas and driveways leading to garages and parking areas. The setback for any such parking area must meet the minimum front yard setback dimensions specified in §325-8, District Regulations Chart.[9] for the zoning district in which the parking area is to be constructed.

City of Ithaca, NY / The Code / Chapter 325 Zoning

Section 325-3 Definitions and word usage.

B. Specific terms or words...(Section Abrivated For Clarity)

YARD
That part of a lot not occupied by the principal building or structure and which shall not be occupied by any other building or structure from the ground upward unless specifically authorized in this chapter or other provisions of the City of Ithaca Code.

(1) FRONT YARD
An open space extending the full width of the lot between a main building and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward, the depth of which shall be the least distance between the front lot line and the front of such main building.

Example of Front Yard
Base Source: Zoning Ordinance Section 325-3(Yard)

Code Analysis For Appeal

Issue 3 - Zoning: 25% Front Yard Parking Maximum - REVISION 1

City of Ithaca, NY / The Code / Chapter 325 Zoning

Keynote Legend For Sheet

1. Furtherest Extents of Front Yard Indicated By Black Dotted Line. The Location of This Line is Determined By “Concrete Block Building - Print Shop” As it is The Closest To The Front Lot Line at 22.08' Away.

2. Front Yard Not Encumbered With Parking Lot, Turnaround,Other Vehicle Maneuvering Areas, or Driveways Leading To Parking Is Indicated By Transparent Green Region.

3. Front Yard Encumbered With Parking Lot, Turnaround,Other Vehicle Maneuvering Areas, or Driveways Leading To Parking Is Indicated By Transparent Red Region.

Front Yard Parking Percentage
Green Region: 8,785 SF (72.7%)
Red Region: 3,301 SF (27.3%)
Total Front Yard: 12,086 SF (100.0%)

AS THE PROJECT CURRENTLY STANDS, AN APPROVED ZONING VARIANCE WAS REQUIRED

Reviewer's Note:
The Driveway and Some Parking Leading To The Required Parking For All (3) Building Exceeds The Allowable Coverage of The Front Yard.

Updated Site Plan By Project Engineer Marked Up By JSA
Base Source: SPR Complete Application Updates (Imaged Clipped)Dated July 3,2019
Board of Zoning Appeals: Appeal #3202
In Regards To The Project Located At:
815 S. Aurora Street, Ithaca, NY 14850
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Code Analysis For Appeal

Current Sequence of Events For The Project and Concerns
OLD 2015 NYS Building Code

Chapter 1 - Scope and Administration
Section 105 Submittal Documents

107.3.3 Phased Approval
The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filled complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder’s risk with the building operation and without assurance that a permit for the entire structure will be granted.

Reviewer’s Note:
This Code Section Was Apart of The Old Building Code However Has Been Removed From The Current Code. This Is Cause For Concern That This Practice Is No Longer Allowed.

City of Ithaca Code

City of Ithaca, NY / The Code / Chapter 146 Building Code Enforcement

Section 146-5 Building Permits

M. Permit to erect part of a building. Nothing in this chapter shall be construed to prevent the Code Enforcement Officer from issuing a permit for the construction of part of a building or structure, other conditions having been complied with, before the entire plans and a detailed statement concerning said building or structure have been submitted or approved, provided that, when a foundation permit is applied for, sufficient information shall be furnished about the superstructure to enable satisfactory determination of the strength of the proposed work.

Reviewer’s Note:
This code section implies that a partial permit can be issued based on partial construction documents. This is a less strict requirement compared to the current Uniform Code.

CURRENT 2020 NYS Building Code

2020 Building Code of New York State
Chapter 1 - Scope and Administration
Section 105 Building Permits, Construction Inspections, Stop Work Orders, Certificates of Occupancy, and Operating Permits
105.2.2 Applications for building permits
A person or entity applying for a building permit shall submit an application to the authority having jurisdiction. An application for a building permit shall include all of the following:

1. Construction Documents that satisfy the requirements of Section 106.2;
2. Any and all other submittal documents required by Section 106;
3. Any and all other information and documentation that may be required by the stricter of the authority having jurisdiction’s Code Enforcement Program or a Part 1203 - Compliant Code Enforcement.
4. Such other information and documentation as the authority having jurisdiction may determine to be necessary to allow the authority having jurisdiction to determine whether the proposed work conforms with the Uniform Code, the Energy Code, and other applicable laws.

Reviewer’s Note:
This indicates that New York State’s intent is municipalities can be more restrictive, not less.

105.2.4 Validity of building permit
The issuance or granting of a building permit shall not be construed to be a permit for, or an approval of, any violation of any provision of the Uniform Code, the Energy Code, or any other applicable law. A building permit purporting to give authority to violate or cancel any provision of the Uniform Code, the Energy Code, or any other applicable law shall not be valid. The issuance of a building permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data.

Reviewer’s Note:
This states that if the State is no longer allowing partial permits then the currently issued permits would be invalid.

Section 106 Submittal Documents
106.2.1 Information on construction documents
Construction documents (1) shall define the scope of the proposed work; (2) shall be of sufficient clarity to indicate the location, nature and extent of the proposed work; (3) shall show in detail that the proposed work will conform to the provisions of the Uniform Code, the Energy Code, and other applicable codes, laws, ordinances, and regulations; (4) shall include all information required by any provision of this code (including but not limited to the information described in Sections 106.2.2 through 106.2.8), all information required by any other application provision of the Uniform Code, and all information required by an application provision of the Energy Code; and (5) shall include any and all additional information and documentation that may be required by the stricter of the Code Enforcement Program of the authority having jurisdiction or a Part 1203 - Compliant Code Enforcement Program. [highlight, bold, and underline added]

Reviewer’s Note:
This indicates that a complete submission of documents must be made to get a permit as the construction documents “shall include all information required by any provision of this code”[Underline added]. Being that Section 105.2.2 refers to this section it appears that partial submissions or partial permits are not permissible.

Code Analysis For Appeal
Concerns With Issuing Partial Permits

The Original Building Permit Application Was For (3) Buildings, and Currently a Partial Permit Has Been Issued For Buildings “A” & “B” Only. It is Assumed This Is Because Construction Documents Have Been Provided and Approved For Only Those (2) Buildings. It Appears The City Code is Less Strict Than The Current NYS Uniform Code In Regards To Submission Requirements of Construction Documents. Based On These Items JSA Believe’s Seperately From The Zoning Violations That The Currently Issued Partial Building Permit For (2) Buildings When The Project Name on The Permit is “IC Overlook - 3 buildings” is Invalid. A Complete Submission of Construction Documents For All (3) Buildings and a Permit Issued For All (3) Buildings Would Be Required By The Uniform Code.
Data contained on this map was provided or derived from data developed or compiled by the City of Ithaca, and is the best available to date. The originators do not warrant the accuracy or completeness of the information portrayed by the data.
CITY OF ITHACA

Board of Zoning Appeals — Notice of Appeal

APPEAL # 3209

CATHERINE COMMONS

Appeal of Trowbridge Wolf Michaels on behalf of property owners Red Door Rental and AdBro Development for an area variance from Section 325-45.2E, Collegetown Residential 3 District Standards for Off-Street Parking and Rear Yard; Section 325-45.2F, Collegetown Residential 4 District Standards for Rear Yard; and Section 325-45.2G, Mixed Use District Standards for Building Height in Feet, Building Height in Stories, and Required Corner Chamfer or Setback in the MU-2 District requirements of the Zoning Ordinance. The applicant proposes to consolidate the parcels at 118 Cook Street, 202 College Avenue, 204 College Avenue, 206 College Avenue, and 210 College Avenue into a single parcel with primary frontage on College Avenue, forming the Catherine South project site. The applicant also proposes to consolidate 120 Catherine Street, 122 Catherine Street, 124 Catherine Street, 128 Catherine Street, 302 College Avenue, 304 College Avenue, and 306 College Avenue into a single parcel with primary frontage on College Avenue, forming the Catherine North project site. All existing structures will be demolished, and the applicant proposes to construct six new buildings along Cook Street, Catherine Street, and College Avenue, including (1) one three-story multiple dwelling in the CR-3 district; (2) two four-story multiple dwellings in the CR-4 district; (3) two seven-story multiple dwellings in the MU-1 district; and (4) one eight-story mixed use building in the MU-2 district. The project will require several variances to be constructed as proposed:

Catherine South

CR-3 (Building 4)
1. Off-Street Parking: Building 4 will contain 13 studio, 1-, 2-, and 3-bedroom dwelling units within the CR-3 zoning district, and a total of 13 off-street parking spaces are required. The applicants propose to construct 2 off-street spaces on site and seek a variance for the remaining 11 spaces or 84.6% of the required parking.
2. Rear Yard: The lot consolidation will create a rear yard between the current 118 Cook Street parcel and the neighboring property at 116 Cook Street; this space is currently a side yard. Building 4 will be sited 5’ from the rear yard, creating a rear yard deficiency of 15’ or 75% of the required yard.
3. Required Vegetative Buffer: The CR-3 district regulations require a 10’ vegetative buffer along the rear yard of all properties in the district. The project meets that requirement for a portion of the lot; however, Building 4 will be located 5’ from the rear property line and the vegetative buffer is reduced to 5’ in width for the full length of the building.

MU-1 (Buildings 3A and 3B)
4. Building Height: The Collegetown Area Form Districts regulates building height in both stories and feet; a building cannot exceed either requirement. Buildings 3A and 3B are designed to be 7 stories in height, which exceeds the 5 stories allowed by 40%. The buildings will be 78’ in height, which exceeds the 70’ allowed by 11.4%.
CATHARINE NORTH
CR-4 (Buildings 2A and 2B)

5. **Rear Yard:** The lot consolidation will create a rear yard between the current parcels at 120 & 122 Catherine Street and the neighboring property at 118 Catherine Street; this space is currently a side yard. Building 2B will be sited 5’ from the rear yard, creating a rear yard deficiency of 15’ or 75% of the required yard.

MU-2 (Building 1)

6. **Building Height:** The Collegetown Area Form Districts regulates building height in both stories and feet; a building cannot exceed either requirement. Building 1 is designed to be 8 stories in height, which exceeds the 6 stories allowed by 33.3%. The buildings will be 90’ in height, which exceeds the 80’ allowed by 12.5%.

7. **Siting Exceptions – Corner Lots in MU-2:** The Collegetown Area Form Districts require all buildings at corner lots within the MU-2 district to either (1) have a chamfered corner of at least 10’ from the ground to the top of the building or (2) be setback at least 5’ from both street frontages for the full building height. The intent of this requirement is to provide additional light and air within the dense Collegetown core and improve visibility at busy intersections. The first story of Building 1 is setback 25’ from College Avenue but the upper stories have a 0’ setback from both street frontages.

The Catherine Commons team gave an initial presentation of this project to the Board of Zoning Appeals at its January 4, 2022 meeting. The applicants have submitted a formal application for the required area variances, and the Board will begin consideration of the application at the February 1, 2022 meeting.

The Catherine Commons project site includes 12 parcels (118 Cook Street, 202 College Avenue, 204 College Avenue, 206 College Avenue, 210 College Avenue, 120 Catherine Street, 122 Catherine Street, 124 Catherine Street, 128 Catherine Street, 302 College Avenue, 304 College Avenue, and 306 College Avenue) located in the CR-3, CR-4, MU-1, and MU-2 districts in which the proposed uses are permitted. However, Section 325-38 requires that area variances be granted before a building permit is issued.
### Board of Zoning Appeals Worksheet

**Appeal Number:** CR-3  
**Address:** Catherine South  
**Use District:** CR-3  
**Applicant:** Trowbridge Wolf Michaels  
**Owner:** Cook Coll LLC  
**Application Type:** SPR Zoning Analysis

<table>
<thead>
<tr>
<th>Column Title</th>
<th>Use</th>
<th>Accessory Use</th>
<th>Off-Street Parking</th>
<th>Off-Street Loading</th>
<th>Lot Area (Sq. Feet)</th>
<th>Lot Width (Feet)</th>
<th>Number of Stories</th>
<th>Height in Feet</th>
<th>% of Lot Coverage</th>
<th>Front Yard</th>
<th>Side Yard</th>
<th>Other Side Yard</th>
<th>Rear yard: % of depth or number of feet, whichever is less</th>
<th>Minimum Building Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Condition and/or Use</td>
<td>Multiple Dwelling</td>
<td></td>
<td></td>
<td></td>
<td>8,007</td>
<td>62'</td>
<td>3</td>
<td>34' 10&quot;</td>
<td>39.7% Bldg. 35.2% Green</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>District Regulations for Proposed</td>
<td>1-2 Family</td>
<td>None Required</td>
<td></td>
<td></td>
<td>3000</td>
<td>30</td>
<td>3</td>
<td>35</td>
<td>40% Bldg. 30% Green</td>
<td>10</td>
<td>5</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Note Non-Conforming Conditions for Proposal</td>
<td>OK</td>
<td>Def</td>
<td>OK</td>
<td>OK</td>
<td>OK</td>
<td>OK</td>
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<table>
<thead>
<tr>
<th>Column Title</th>
<th>Structure Type</th>
<th>Doors &amp; Entries</th>
<th>Floor Height</th>
<th>Parking Setback</th>
<th>Porches</th>
<th>Primary Structure Spacing</th>
<th>Street Façade Length</th>
<th>Roof</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Condition and/or Use</td>
<td>Primary</td>
<td>Functioning entry on Cook Street</td>
<td>9'</td>
<td>9'</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>District Regulation for Proposed</td>
<td>Primary</td>
<td>Functioning entry: on street-facing façade 1 min. Corner lots: 1 functioning entry on street facing façade.</td>
<td>9' min.</td>
<td>9min.</td>
<td>20' min. from front façade</td>
<td>At front façade</td>
<td>Front Porch Required See: 325-42.2B(5)</td>
<td>10' Min. between primary structure on the same parcel</td>
</tr>
</tbody>
</table>

**NOTES:**

118 Cook Street is the only existing parcel within the CR-3 district that is part of the project. This parcel will be consolidated with 4 parcels in the MU-1 district along College Avenue to create the Catherine South project site. The existing zoning boundaries will remain. For the portion of the site within the CR-3 district, the consolidation creates a front yard along Cook Street; a rear yard at the property line between 118 Cook and 116 Cook (previously a side yard); and a side yard between 118 Cook and 125 & 127 Catherine (previously the rear yard).
<table>
<thead>
<tr>
<th>Column Number</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
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<th>10</th>
<th>11</th>
<th>12</th>
<th>13</th>
<th>14/15</th>
<th>16</th>
</tr>
</thead>
<tbody>
<tr>
<td>Column Title</td>
<td>Use</td>
<td>Accessory Use</td>
<td>Off-Street Parking</td>
<td>Off-Street Loading</td>
<td>Lot Area (Sq. Feet)</td>
<td>Lot Width (Feet)</td>
<td>Number of Stories</td>
<td>Height in Feet</td>
<td>% of Lot Coverage</td>
<td>Front Yard</td>
<td>2nd Front Yard</td>
<td>3rd Front Yard</td>
<td>Rear yard: % of depth or number of feet, whichever is less</td>
<td>Minimum Building Height</td>
</tr>
<tr>
<td>Proposed Condition and/or Use</td>
<td>Multiple Dwelling</td>
<td>0</td>
<td>0</td>
<td>19,945</td>
<td>221'</td>
<td>7</td>
<td>78'</td>
<td>68.4% Building 12.9% Green</td>
<td>5'</td>
<td>5'</td>
<td>5'</td>
<td>10'</td>
<td>7, 78'</td>
<td></td>
</tr>
<tr>
<td>Note Non-Conforming Conditions for Proposal</td>
<td>OK</td>
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<td>OK</td>
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**MU-1 FORM BASE REQUIREMENTS**

<table>
<thead>
<tr>
<th>Column Title</th>
<th>Structure Type</th>
<th>Doors &amp; Entries</th>
<th>Floor Height</th>
<th>Parking Location Setback</th>
<th>Porches</th>
<th>Primary Structure Spacing</th>
<th>Street Façade</th>
<th>Roof</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Condition and/or Use</td>
<td>Primary</td>
<td>Cook St - 1 entry; College Ave - multiple entries, Catherine St - 1 entry; 35’ apart;</td>
<td>10’</td>
<td>10’</td>
<td></td>
<td></td>
<td></td>
<td>Building 3A: 150’ Building 3B: 56’ 7” Blank Wall &lt;12’</td>
</tr>
<tr>
<td>District Regulation for Proposed</td>
<td>Primary</td>
<td>Distance between entries: 35’ max. At least 1 on each street façade</td>
<td>Res 10’ min. Com 12’ min.</td>
<td>10’min.</td>
<td>Internal or Underground not visible from Street</td>
<td>30’ min. from front façade</td>
<td>Recessed Entry Required</td>
<td>5’ Min.</td>
</tr>
</tbody>
</table>

**Note Non-Conforming Conditions for Proposal**

| OK | OK | OK | | OK | OK | OK | OK | OK | OK |

**NOTES:**

Catherine South includes 4 existing parcels in the MU-1 district that will be consolidated into a single lot, along with 118 Cook Street. The proposed consolidation creates three front yards along College Avenue (primary), Cook Street, and Catherine Street. The rear yard is interior to the lot.
# City of Ithaca Board of Zoning Appeals Worksheet

**Appeal Number**  
**Use District** CR-4  
**Applicant** Trowbridge Wolf Michaels  
**Application Type:** SPR Zoning Analysis  
**Address** Catherine North  
**Date** 1/13/2022  
**Owner** Coll-Cath LLC

<table>
<thead>
<tr>
<th>Column Number</th>
<th>2</th>
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<th>11</th>
<th>12</th>
<th>13</th>
<th>14/15</th>
<th>16</th>
</tr>
</thead>
<tbody>
<tr>
<td>Column Title</td>
<td>Use</td>
<td>Accessory Use</td>
<td>Off-Street Parking</td>
<td>Off-Street Loading</td>
<td>Lot Area (Sq. Feet)</td>
<td>Lot Width (Feet)</td>
<td>Number of Stories</td>
<td>Height in Feet</td>
<td>% of Lot Coverage</td>
<td>Front Yard</td>
<td>Side Yard</td>
<td>Other Side Yard</td>
<td>Rear yard: % of depth or number of feet, whichever is less</td>
<td>Minimum Building Height</td>
</tr>
<tr>
<td>Proposed Condition and/or Use</td>
<td>Multiple Dwelling</td>
<td>0</td>
<td>19,698</td>
<td>147' 8''</td>
<td>4</td>
<td>44' 8''</td>
<td>49.9% Bldg. 36.7% Green</td>
<td>10' 6''</td>
<td>5'</td>
<td>5'</td>
<td>4, 45'</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>District Regulations for Proposed</td>
<td>1-2 Family</td>
<td>None with TDM Plan</td>
<td>None Required</td>
<td>3000</td>
<td>30</td>
<td>4</td>
<td>45</td>
<td>50% Bldg. 25% Green</td>
<td>10</td>
<td>Row House- 0'</td>
<td>Row House- 0'</td>
<td>20'</td>
<td>20' Min. 2 Stories Min.</td>
<td></td>
</tr>
<tr>
<td>Multiple</td>
<td></td>
<td></td>
<td></td>
<td>3500</td>
<td>40</td>
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**Note Non-Conforming Conditions**  
OK
OK
OK
OK
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OK

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**CR-4 FORM BASE REQUIREMENTS**

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<thead>
<tr>
<th>Column Title</th>
<th>Structure Type</th>
<th>Doors &amp; Entries</th>
<th>Floor Height</th>
<th>Parking Setback</th>
<th>Primary Structure Spacing</th>
<th>Street Façade Length</th>
<th>Roof</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Condition and/or Use</td>
<td>Primary</td>
<td>Building 2A: 3 entries (1 per rowhouse module) Building 2B: 1 entry</td>
<td>9' 4'' 9' 4''</td>
<td>Recessed Entries Proposed</td>
<td>13'</td>
<td>2A: 73' 6'' 2B: 42' 7''</td>
<td>Flat Roof Proposed</td>
</tr>
<tr>
<td>District Regulation for Proposed</td>
<td>Primary</td>
<td>Functioning entry: on street-facing façade 1 min. Corner lots: 1 functioning entry on street facing façade.</td>
<td>9' min. 9'min.</td>
<td>20' min. from front façade</td>
<td>At front façade</td>
<td>Front Porch, Stoop or Recessed entry Required</td>
<td>5' Min. between primary structure on the same parcel</td>
</tr>
<tr>
<td>Note Non-Conforming Conditions Proposal</td>
<td></td>
<td>OK</td>
<td>OK</td>
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</tbody>
</table>
## City of Ithaca Board of Zoning Appeals Worksheet

<table>
<thead>
<tr>
<th>Column Number</th>
<th>2</th>
<th>3</th>
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<tbody>
<tr>
<td>Column Title</td>
<td>Use</td>
<td>Accessory Use</td>
<td>Off-Street Parking</td>
<td>Off-Street Loading</td>
<td>Lot Area (Sq. Feet)</td>
<td>Lot Width (Feet)</td>
<td>Number of Stories</td>
<td>Height in Feet</td>
<td>% of Lot Coverage</td>
<td>Front Yard</td>
<td>2nd Front Yard</td>
<td>Side Yard</td>
<td>Rear yard: % of depth or number of feet, whichever is less</td>
<td>Minimum Building Height</td>
</tr>
<tr>
<td>Proposed Condition and/or Use</td>
<td>Commercial &amp; Multiple Dwellings</td>
<td>0</td>
<td>0</td>
<td>13,334</td>
<td>153'</td>
<td>8</td>
<td>90'</td>
<td>86% Bldg.</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>8, 90'</td>
<td></td>
<td></td>
</tr>
<tr>
<td>District Regulation for Proposed</td>
<td>Mixed Use</td>
<td>None</td>
<td>None</td>
<td>2500</td>
<td>25'</td>
<td>6</td>
<td>80'</td>
<td>100% except as required for rear yard Green: 0%</td>
<td>0' Min. 2' Max.</td>
<td>0' Min. 2' Max.</td>
<td>0</td>
<td>10' Minimum</td>
<td>45’ min. 4 Stories</td>
<td></td>
</tr>
<tr>
<td>Note Non-Conforming Conditions for Proposal</td>
<td>OK</td>
<td>OK</td>
<td>OK</td>
<td>OK</td>
<td>OK</td>
<td>Def.</td>
<td>Def.</td>
<td>OK</td>
<td>OK</td>
<td>OK</td>
<td>PL</td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

### MU-2 FORM BASE REQUIREMENTS

<table>
<thead>
<tr>
<th>Column Title</th>
<th>Structure Type</th>
<th>Doors &amp; Entries</th>
<th>Floor Height</th>
<th>Parking Location Setback</th>
<th>Primary Structure Spacing</th>
<th>Street Façade</th>
<th>Roof</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Condition and/or Use</td>
<td>Primary</td>
<td>3 recessed entries, spaced less than 57’ apart</td>
<td>12’</td>
<td>10’</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>District Regulation for Proposed</td>
<td>Distance between functioning entries: 60’ max. At least 1 on each street façade</td>
<td>12’ min.</td>
<td>10’min.</td>
<td>Underground not visible from St.</td>
<td>30’ min. from front façade</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Note Non-Conforming Conditions for Proposal</td>
<td>OK</td>
<td>OK</td>
<td>OK</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
BOARD OF ZONING APPEALS (BZA) APPLICATION

1. TYPE OF APPEAL:
   - [X] AREA VARIANCE
   - [ ] SPECIAL PERMIT
   - [ ] USE VARIANCE
   - [ ] SIGN VARIANCE
   - [ ] ACTION, DECISION, OR INTERPRETATION OF ZONING OFFICER

   APPEAL #: 3209 [FILLED IN BY STAFF]
   HEARING DATE: Feb. 1, 2022
   BUILDING PERMIT #: 41826: 41827 [REQUIRED]
   RECEIPT #: [ ] [FILLED IN BY STAFF]

2. Property Address: See attached list of properties
   Use District: MU-1, MU-2, CR-3, CR-4

   Owner’s Name: Coll-Cath Associates, LLC
   Owner’s Address: 15 Thornwood Drive
   Cook Coll, LLC

   City: Ithaca
   State: NY
   Zip: 14850

3. Appellant’s Name: Kathryn Wolf, TwM a Fisher Assoc.
   Appellant’s Address: 1001 W. Seneca Street, Suite 201
   Landscape Architecture Studio

   City: Ithaca
   State: NY
   Zip: 14850

   Telephone: (607) 277-1400
   E-Mail: kwolf@fisherassoc.com

4. Attach Reason for Appeal (see “Zoning Appeal Procedure Form”)

5. Appellant Certification: I certify the information submitted with the appeal is true to the best of my knowledge/belief; and I have read and am familiar with City of Ithaca Zoning Ordinance sections that apply to this appeal (incl. Section 325-40, describing the powers and duties of the Board of Zoning Appeals). I also acknowledge the Board of Zoning Appeals may visit the property and I specifically permit such visits.

   [ ] I have met/discussed this application with Zoning Division staff prior to submission.

   Appellant Signature

   [ ] Notary Public available at City Hall.

   MELINDA D. MILLER
   Notary Public, State of New York
   Reg. No. 01M63966239
   Qualified in Tompkins County
   Commission Expires 08/12/2023

IMPORTANT: INCOMPLETE applications will be returned to the applicant and the applicant will have to reapply.

If ANOTHER CITY APPROVAL is required (e.g., Site Plan Review, Subdivision Review, Ithaca Landmarks Preservation Commission Review), this application will likely not be considered at the next scheduled BZA meeting date.

If an application is submitted and subsequent CHANGES are made to the proposal/project, a revised application will be required. The original application will not be considered a placeholder for the original BZA hearing date. Zoning Division staff will also not remove contents from earlier applications to complete a revised application. Applicants are responsible for ensuring all information necessary for processing a Zoning Appeal is submitted by the application deadline for a given BZA hearing date.
1. Ordinance Section(s) for the Appeal:

<table>
<thead>
<tr>
<th>Zoning Ordinance Section Being Appealed</th>
<th>Sign Ordinance Section Being Appealed</th>
</tr>
</thead>
<tbody>
<tr>
<td>• §325- 45.2E, F, G</td>
<td>• §272-</td>
</tr>
<tr>
<td>• §325-</td>
<td>• §272-</td>
</tr>
<tr>
<td>• §325-</td>
<td>• §272-</td>
</tr>
<tr>
<td>• §325-</td>
<td>• §272-</td>
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2. Application of SEQR determination: ☒ Type 1 ☐ Type 2 ☐ Unlisted

3. Environmental Assessment form used:

- ☐ Short Environmental Assessment Form (SEAF)
- ☐ Full Environmental Assessment Form (FEAF)
- ☒ Completed by Planning Division at preliminary hearing for Site Plan Review
- ☐ Not Applicable (Type 2 Action)

4. A previous appeal ☐ has / ☒ has not been made for this proposal:

   Appeal No. ________, dated ____________
   Appeal No. ________, dated ____________
   Appeal No. ________, dated ____________
   Appeal No. ________, dated ____________

5. Notes or Special Conditions:

   - Appeal §325-45.2E requirements for: Off-Street Parking and Rear Yard.
   - Appeal §325-45.2F requirements for: Rear Yard.
   - Appeal §325-45.2G requirements for: Building Height in Stories; Building Height in Feet; and Required Corner Chamber or Setback in MU-2.
ONLY SUBMIT THIS FORM IF ZONING APPEAL APPLICATION IS BEING SUBMITTED/SIGNED BY SOMEONE OTHER THAN CURRENT RECORD PROPERTY OWNER.

OWNER'S AUTHORIZATION FORM

ZONING APPEAL #: 3209

DATE: 1/21/2022

TO: BOARD OF ZONING APPEALS (Ithaca, NY):

I (We) Coll Cath Associates & Cook Coll LLC of 15 Thornwood Drive
(Name)

Ithaca, N.Y. 14850
(City/Municipality) (State & Zip Code)

Owner of the property at See attached list of addresses
(Street & Number)

[ ] I am the sole owner of the above-mentioned property.

[ ] This property is also owned by ____________________________ and I have a Power of Attorney to authorize this appeal (attach POA).

I do hereby authorize Kathryn Wolf to appeal or request a Variance or Special Permit on my (our) behalf. I (we) understand the appeal will be heard at the 2/1 & 3/1 meeting of the Board of Zoning Appeals.

(Signature)

STATE OF NEW YORK)
COUNTY OF TOMPKINS)

Sworn to this 18th day of
January, 2022

Notary Public

(1) Owners authorizing another to present an appeal on their behalf should be aware the Board may, in granting relief, add reasonable conditions which then become binding on the property.

(2) Especially where a Variance is being sought, the owner may be the only person with detailed information about the property that is essential to the appeal. In such a case, authorizing another person to appeal may be detrimental to the appeal, unless the owner is either present at the hearing or sends another person fully prepared to answer questions about the property and the feasibility of using it consistent with the Zoning Ordinance.
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NOTICE OF APPEAL

REGARDING ZONING OR SIGN ORDINANCE
CITY OF ITHACA, NEW YORK

APPEAL NO. 3209

TO: Owners of Property within 200 feet of see attached list of properties and others interested. (property address)

FROM: Kathryn Wolf as Agent for Owner applicable to property named above, in MU-1, MU-2, CR-3, CR-4
(name of person or organization making appeal)

REGARDING: (check appropriate box)

☐ Area Variance ☐ Use Variance ☐ Sign Variance

City regulations require you be notified of this appeal to the Board of Zoning Appeals (BZA), as described in the attached letter and provide the opportunity for you to comment on it and/or attend the meetings listed below. Anyone considered an interested party may speak for or against the appeal at the meetings listed below, or submit a written statement to the BZA before its designated meeting. There is a time limit of three (3) minutes for each interested party to address the BZA during the Public Hearing portion of the meeting.

The Board of Zoning Appeals bases its decision primarily on the written evidence submitted and presented to it, the testimony of interested parties, and zoning and legal considerations. The written case record will be available for review on the City’s website (http://www.cityofithaca.org/368/Board-of-Zoning-Appeals) under “Most Recent Agenda,” beginning one week before the scheduled BZA meeting. This case has also been referred to the City’s Planning and Development Board that will advise the BZA, if granting the relief sought by the appellant will affect long-term planning objectives. The date of the Planning Board’s meeting regarding this appeal is also listed below.

The PLANNING BOARD will consider this case on Feb. 22, 2022, at 6:00 P.M. via the online platform Zoom. A live stream is available at https://www.youtube.com/channel/UC7RtJN1P_RFaFW2IVCnTrDg. To provide comments to the Planning Board on this appeal, please submit written comments to Anya Harris at aharris@cityofithaca.org, and your comments will be forwarded to the Board members for their review.

The BOARD OF ZONING APPEALS will consider this case on 2/1 & 3/1 at 6:00 P.M. via the online platform Zoom. There will be a public hearing on this appeal, and there are two options to participate in the public hearing.

1. Submit comments by email no later than 4 p.m. on the day of the meeting to zoningdivision@cityofithaca.org and they will be read into the record. Each comment is limited to three minutes. Indicate in your email that the comment is for a public hearing. You must provide your name and address.

2. To speak at the meeting, sign up and receive instructions by contacting zoningdivision@cityofithaca.org or Anya Harris at (607) 274-6550 or aharris@cityofithaca.org. You must provide your name and address.

Signature of Appellant

2001 West Seneca Street, Suite 201 Ithaca, NY 14850

Address

Date
January 18, 2022

TO: Property owners within 200’ feet of the Proposed Catherine Commons Project
FROM: Kathryn Wolf, Principal, TWMLA
Re: BZA Appeal for the Proposed Catherine Commons Project – Area Variance

Summary of Project Proposal

This letter summarizes the proposed Catherine Commons project and the request for an area variance before the Zoning Board. Catherine Commons is a proposed approximately 360-unit residential development located in the City of Ithaca in central Collegetown at the intersection of College Avenue and Catherine Street. Twelve parcels have been aggregated on the west side of College Avenue to form the 1.45-acre Catherine Commons site. In addition to the residential use, the project also includes approximately 2600 SF of commercial space, a fitness center for residents of the project and extensive streetscape and public realm improvements. The construction of this high-quality project will focus density on College Avenue in the heart of Collegetown. Streetscape improvements, open space and pedestrian amenities will be provided extensively throughout the project. Portions of the proposed buildings along College Avenue will step back as much 40 feet from the curb line for the first two floors to increase sidewalk widths and create public plazas on private property. A new bus stop will be located on College Avenue near Cook Street and a covered, protected plaza space will be incorporated into the architecture to function as a public bus stop.

Figure 1: Location Map
Zoning

The project is designed to be in substantial conformance with existing zoning. The properties are zoned Mixed Use (MU2 and MU1) and Collegetown Residential (CR4 and CR3). The requested variances pertain primarily to the College Avenue frontage in the MU2 and MU1 zones. The principal variances being sought are to allow an increase in the number of floors (2 additional floors) and an increase in building height (10 feet and 8 feet) along College Avenue. Due to the fact that a 5-foot parapet is allowed in addition to the codified building height, the actual visual difference resulting from the variance will be 6 feet and 4 feet as compared to what is allowed under existing zoning. The requested additional floors within the proposed height is an imperceptible change within the overall building height.

The proposed buildings in the CR4 and CR3 zones on Catherine and Cook streets are in conformance with the existing zoning and no height variances are being sought for the buildings in these zones. A variance is being sought to allow fewer than the required number of parking spaces in the CR3 zone. Parking will be made available to residents at the Collegetown Terrace project. Minor rear yard setback variances are being sought in the CR3 and CR4 as a result of the consolidation of lots.

Figure 2: Zoning Diagram
SUMMARY OF AREA VARIANCES REQUESTED
The following chart summaries the zoning per the City Code and the requested variances.

<table>
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<tr>
<th>ZONE</th>
<th>CODE REQUIREMENT</th>
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<th>VARIANCE REQUESTED</th>
<th>NOTES</th>
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<tbody>
<tr>
<td>CR-3</td>
<td>Off-Street Parking 1 space per unit = 13</td>
<td>2</td>
<td>-11</td>
<td>Shuttle provided; parking available at Collegetown Terrace and TCAT stop incorporated</td>
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<tr>
<td>CR-3</td>
<td>Rear yard setback/veg buffer 20'/10'</td>
<td>5'/0'</td>
<td>15'/10'</td>
<td>Will appear as a side yard consistent w/existing neighborhood character.</td>
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<tr>
<td>CR-4</td>
<td>Rear yard setback 20'</td>
<td>5'</td>
<td>15'</td>
<td>Will appear as a side yard consistent w/existing neighborhood character</td>
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<td>MU-1</td>
<td>Max Bld 5 stories 70 feet</td>
<td>7 stories 78 feet</td>
<td>+ 2 stories + 8 feet</td>
<td>Additional 5’ parapet allowed which results in only 4’ actual visual differential</td>
</tr>
<tr>
<td>MU-2</td>
<td>Max Bld 6 stories 80 feet</td>
<td>8 stories 90 feet</td>
<td>+ 2 stories + 10 feet</td>
<td>Additional 5’ parapet allowed which results in only 6’ actual visual differential</td>
</tr>
<tr>
<td>MU-2</td>
<td>Chamfered Corner</td>
<td>Open at ground floor/corner windows above</td>
<td>Relief from chamfer</td>
<td>Proposed design solution yields intent of chamfer</td>
</tr>
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</table>

Grounds Upon Which the Variance Should be Granted
The Applicant’s objective is to create a project that implements the 2006 Collegetown Vision Statement, the 2009 Collegetown Urban Plan, and the 2015 PLAN ITHACA as it relates to Collegetown. The 2006 Collegetown Vision Task Force concluded there is a unique opportunity to build on Collegetown’s proximity to Cornell University to create a “diverse, commercially viable, dense, mixed-use community characterized by notable urban design, high quality architecture, vibrant public spaces and pedestrian amenities.” The Catherine Commons project aspires to be transformational for Collegetown consistent with this stated vision and other City plans. Implementing the vision and transforming the public realm will not happen with the construction of a single building. To transform the public realm of Collegetown in a meaningful and impactful way requires the assembling of multiple parcels and the development of a comprehensive urban plan such as the Catherine Commons proposal. However, this wholistic approach to the urban plan results in a loss of rentable building area in locations where the SF value is the greatest. Given the width of the existing street ROW and sidewalks, the only way to create wider sidewalks and vibrant public plazas is to create it on private property. The comprehensive approach to achieving the
greatest benefits to the public realm results in the current project design and the height is integral to the viability of the overall project. The slight increase in height above the technical code requirement comes at no cost to the neighborhood without any cognizable negative visual impacts.

To further enhance the project and mitigate any impacts the developer has proposed an exterior façade that uses higher quality materials than are typically used in Collegetown. These materials and systems will enhance the overall appearance and character of the buildings and provide increased longevity, but come with a premium cost impact.

Beyond the materials, the façade composition and detailing on the Catherine North and South buildings contribute to the increased cost of the project. The exterior wall details are developed to create relief and to emphasize the perceived depth of the exterior wall. This is achieved by offsetting adjacent wall panels of varying materials, recessing and projecting windows, and detailing projecting trim closure profiles. This attention to detail will result in an architectural façade that enhances the overall aesthetic quality of the Collegetown neighborhood. These materials which are incorporated into the design act to reduce the perceived overall height of the structures and eliminate any cognizable impacts of the building height.

These public benefits to the urban fabric of the Collegetown neighborhood result in a substantial economic cost to the developer. The variances are needed in order to construct a building of an architectural quality that is greater than typically seen in Collegetown and which achieves the overall benefits to the public realm. The project’s design team has worked diligently to propose and conceive a project that accomplishes the intent of the development to be transformational for Collegetown while limiting the number and extent of variances required for a successful project.

1. **The Project is Consistent with the Subject Zoning Districts**
   The Catherine Commons site is located at the intersection of College Avenue and Catherine Street. The properties which front on College Avenue are within the City’s Mixed-Use Zoning Districts - MU1 and MU2, where the proposed apartment project is a permitted use as of right and therefore the zoning regulations already anticipate that such a use is in character with the neighborhood. “The purpose of the Mixed Use Districts is to create a dynamic urban environment in which uses reinforce each other and promote an attractive, walkable neighborhood. Located in central Collegetown, the Mixed Use Districts allow the highest density within the Collegetown Area Form Districts. Redevelopment is anticipated and encouraged (with the exception of designated local landmarks), and the intent is to concentrate the majority of additional development within these districts.” See City of Ithaca Zoning Ordinance 325-45.2.

2. **The Project Is Compatible with Nearby Historical Resources**
   There are two existing local landmarks located near the project. The Grandview House is located on the east side of College Avenue across from the project, and the John Snaith House is located on the south side of Cook Street across from the project. The East Hill Historic District is located downhill, to the west of the project. The project site itself does not include any historic resources and no changes to historic resources are proposed. The Catherine Commons Preliminary Site Plan Review Application Report, August 17, 2021; Updated December 7, 2021 documents these historic resources. Visual simulations are provided that illustrate the Catherine Commons project in
context with the nearby historic resources and demonstrate that there are no adverse effects or impacts on the physical or environmental conditions of the neighborhood. Moreover, the Guiding Principles of the City of Ithaca Collegetown Design Guidelines, March 2017, states “The guidelines...promote maintenance of traditional character while encouraging architectural creativity and contemporary design.” Numerous elements of the design of Catherine Commons contribute to a project that is contemporary while being compatible with the nearby historic resources.

3. **The Project Complies with the City of Ithaca’s Operative Planning Documents**
   Significantly, the development is consistent with the 2009 Collegetown Urban Plan & Conceptual Design Guidelines, the adopted City of Ithaca 2015 Comprehensive Plan (PLAN ITHACA), and the 2017 Collegetown Design Guidelines. The redevelopment of Collegetown has been a longstanding economic development goal of the City of Ithaca. In 2006 the City created the Collegetown Vision Task Force to evaluate the Collegetown environment and provide recommendations for new development, infrastructure needs, improving the pedestrian experience, vehicular access and parking. In the report to Common Council the Task Force concluded that there is a unique opportunity to build on Collegetown’s proximity to Cornell University and create a “diverse, commercially viable, dense, mixed-use community characterized by notable urban design, high quality architecture, vibrant public spaces and pedestrian amenities.”

4. **The Requested Additional Floors and Height will be Virtually Imperceptible**
   Although the applicant is requesting height variances of 8’ and 10’ and 2 stories for buildings 1 and 3a, the actual height differential between what is allowed as of right and what is proposed is only 4’ and 6’ (due to the allowable 5’ parapet) respectively. Given the existing topography and proposed orientation of the buildings, the visual difference between what is allowed and what is proposed is, in all respects, virtually imperceptible.

5. **The Requested Rear Yard Setback Variance will be Virtually Imperceptible**
   The rear yard setback variance for a requested 5’ setback is a function of the consolidation of multiple parcels. The unique circumstance of having frontage on two streets creates a ‘technical non-conforming’ condition that, practically speaking, as viewed from the street, is not perceptible. Standing on either Catherine or Cook Streets one would view this condition as a side yard (which has a required setback of 5’ and matches the requested setback) not a rear yard. The required 10’ vegetative buffer in located within the rear yard and so is not possible given the reduction to 5’.

6. **The Requested Reduction in Parking is Minimal**
   Only one of the 12 parcels has a parking requirement – this is the CR3 parcel off of Cook Street. The reduction in parking is minimal (13 space required by zoning vs. 2 proposed spaces). The overall goals of the City’s planning documents favor less parking in Collegetown, walkability and multi-modal transportation options. The project complies with these overall goals and provides plans for a bus stop along College Avenue incorporated into the project. The Applicant operates
a private shuttle between Collegetown Terrace and campus which will be available to residents of the complex. Parking will be made available at the Collegetown Terrace Apartments for those residents seeking parking.

7. **The Required Chamfer at the Corner of Building 1 Is Replaced With a Design Solution That Achieves the Same Goals of a Chamfer**

The chamfer at the corner has been replaced by windows that wrap the corner of the building for the full height and the building has been pulled back at the ground floor to create an open plaza. These design elements diminish the mass of the building at the corner (as the chamfer would) open views, increase light and facilitate circulation at the street level.

**Conclusion**

The Catherine Commons project complies with all of the foundational planning documents of the City of Ithaca and provides an opportunity for transformational change in the Collegetown neighborhood, all while seeking the minimum variances necessary to bring the project to fruition.
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</tbody>
</table>
500700 67.-1-8  Steel, Anna Katharina
500700 68.-6-5  Sunset View Properties, LLC
Mailing Address

131 Haller Blvd  Ithaca NY  14850
PO Box 751  Ithaca NY  14851
PO Box 81  Ithaca NY  14851
310 Taylor Pl  Ithaca NY  14850
427 N Cayuga St  Ithaca NY  14850
226 Cecil A Malone Dr, Ste 2  Ithaca NY  14850
427 N Cayuga St  Ithaca NY  14850
575 Nelson Rd  Ithaca NY  14850
1001 W Seneca St  Ithaca NY  14850
826 Cayuga Heights Rd  Ithaca NY  14850
15 Thornwood Dr  Ithaca NY  14850
PO Box 4860  Ithaca NY  14850
15 Thornwood Dr, PO Box 4860  Ithaca NY  14852
5 Cherry Rd  Ithaca NY  14850
24 Ladoga Park  Lansing NY  14882
211 Hudson St  Ithaca NY  14850
11 Stone Creek Dr  Ithaca NY  14850
24 Ladoga Park  Lansing NY  14882
24 Ladoga Park  Lansing NY  14882
24 Ladoga Park  Lansing NY  14882
418 N Tioga St  Ithaca NY  14851
108 E Green St  Ithaca NY  14850
PO Box 4860, 15 Thornwood Dr  Ithaca NY  14852
PO Box 642, Suite 200  Ithaca NY  14851
PO Box 7058  Ithaca NY  14851
PO Box 642  Ithaca NY  14851
1001 West Seneca St  Ithaca NY  14850
PO Box 501  Ithaca NY  14851
8 Glenford Lane  East Northport NY  11731
405 Eddy St  Ithaca NY  14850
154 Honness Ln  Ithaca NY  14850
204 Glenside Rd  Ithaca NY  14850
155 Westview Lane  Ithaca NY  14850
PO Box 81  Ithaca NY  14851
PO Box 7058  Ithaca NY  14851
PO Box 392  Ithaca NY  14851
405 Eddy St  Ithaca NY  14850
PO Box 7058  Ithaca NY  14851
441 Floral Ave  Ithaca NY  14850
307 Bostwick Rd  Ithaca NY  14850
307 N Tioga St  Ithaca NY  14850
82A Shelter Valley Rd  Newfield NY  14867
408 College Ave  Ithaca NY  14850
18 Smugglers Path  Ithaca NY  14850
1115 Manasota Beach Rd  Englewood FL  34223
155 Westview Lane  Ithaca NY  14850
ZONING APPEAL CERTIFICATION OF MAILING

RE: City of Ithaca Board of Zoning Appeals

I, ________________ ________________, affirm all property owners within two hundred (200) feet of the boundaries of the lot(s) under consideration have been mailed a copy of the enclosed notice on or before ________1/18/2022_____. I affirm the notice was mailed to the property owners at the addresses shown on the attached list of owners, by depositing the copy in a post-paid properly addressed envelope, in a post office or an official depository under the exclusive care and custody of the United States Post Office. I further affirm the names and addresses of the property owners are the same as the most recent assessment roll.

______________________________
(Appellant’s Signature)

PLEASE SUBMIT THIS FORM TO:

City of Ithaca Zoning Division
108 E. Green St., 3rd Fl.
Ithaca, NY 14850

Phone: (607) 274-6550
Fax: (607) 274-6558
January 21, 2022

Marshall McCormick, Acting Chair  
Members of City of Ithaca Board of Zoning Appeals  
108 East Green Street  
Ithaca, NY 14850

RE: APPEAL # 3209 - Catherine Commons Variance Application

Dear Acting Chairman McCormick and Members of the Board of Zoning Appeals:

Thank-you for this opportunity to submit this application for certain area variances to allow for the development of the proposed Catherine Commons project. This project proposal consists of the following properties:

<table>
<thead>
<tr>
<th>PROJECT SITE</th>
<th>ADDRESS</th>
<th>TAX MAP - PARCEL NO.</th>
<th>OWNER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Catherine North</td>
<td>306 College Avenue</td>
<td>68.-4-6</td>
<td>Coll-Cath Associates, LLC</td>
</tr>
<tr>
<td></td>
<td>304 College Avenue</td>
<td>68.-4-7</td>
<td>Coll-Cath Associates, LLC</td>
</tr>
<tr>
<td></td>
<td>302 College Avenue</td>
<td>68.-4-8</td>
<td>Coll-Cath Associates, LLC</td>
</tr>
<tr>
<td></td>
<td>128 Catherine Street</td>
<td>68.-4-9</td>
<td>Coll-Cath Associates, LLC</td>
</tr>
<tr>
<td></td>
<td>124 Catherine Street</td>
<td>68.-4-10</td>
<td>Coll-Cath Associates, LLC</td>
</tr>
<tr>
<td></td>
<td>122 Catherine Street</td>
<td>68.-4-3</td>
<td>Coll-Cath Associates, LLC</td>
</tr>
<tr>
<td></td>
<td>120 Catherine Street</td>
<td>68.-4-11</td>
<td>Coll-Cath Associates, LLC</td>
</tr>
<tr>
<td>Catherine South</td>
<td>210 College Avenue</td>
<td>68.-5-10</td>
<td>Cook Coll, LLC</td>
</tr>
<tr>
<td></td>
<td>206 College Avenue</td>
<td>68.-5-11</td>
<td>Cook Coll, LLC</td>
</tr>
<tr>
<td></td>
<td>204 College Avenue</td>
<td>68.-5-12</td>
<td>Cook Coll, LLC</td>
</tr>
<tr>
<td></td>
<td>202 College Avenue</td>
<td>68.-5-13</td>
<td>Cook Coll, LLC</td>
</tr>
<tr>
<td></td>
<td>118 Cook Street</td>
<td>68.-5-14</td>
<td>Cook Coll, LLC</td>
</tr>
</tbody>
</table>

The proposed Catherine Commons project was initially presented to the City of Ithaca Planning Board for Sketch Plan Review on April 27, 2021. The design was revised in response to Planning Board comments and a complete Preliminary Site Plan Review (SPR) application was submitted to the Board on August 17, 2021. The Planning Board declared itself the Lead Agency for purposes of SEQRA on September 28, 2021 and held a public hearing on October 26, 2021 to obtain public comment on the project. The project is located in Collegetown and is subject to the Collegetown Design Guidelines. On December 15, 2021 a
Design Review Application was submitted demonstrating that the project is consistent with the Collegetown Design Guidelines. The Planning Board conducted their Design Review of the project at the December 21, 2021 Planning Board meeting as well as at the special meeting of the Planning Board on January 13th, 2022. The Planning Board has responded favorably to the project and has also made numerous recommendations and suggestions for improving the project which the Applicant has incorporated. The project has undergone extensive design modifications since it was initially presented to the City. Revisions made in response to Planning Board comments include:

- Design revisions to increase the transparency/amount of glass at the ground floor
- Design revisions related to façade treatments to increase the articulation and modulation of the architectural façade with projecting and recessed windows and other elements
- Buildings 2a and 2b on Catherine Street were substantially redesigned to create a distinction between the Catherine Street and College Avenue architecture so that the Catherine Street buildings provide a better relationship with the surrounding neighborhood.
- The architectural bridges that connect buildings 2a and 2b were changed from enclosed architectural connections to open air bridges to reinforce the sense of transparency between the buildings, thereby breaking down the scale so that the buildings are in character with the surrounding neighborhood.

On January 18, 2022 the project was presented to the Ithaca Landmarks Preservation Commission (ILPC). The Commission largely responded favorably to the project.

In addition, the Applicant has been working closely with the City of Ithaca Engineering Department to coordinate the Catherine Commons project with the City’s reconstruction of College Avenue. The Applicant undertook the following:

- Attended approximately 10 meetings with City of Ithaca staff to discuss how the design of College Avenue could be optimized to meet the City’s goals and how this project could contribute to those goals including expanded sidewalks and public space and the establishment of street trees.
- The Applicant’s design team evaluated the City of Ithaca’s plans for reconstruction of College Avenue and made recommendations for curb realignments and stormwater changes in order to increase the number of street trees and provide an improved overall aesthetic for the character of the neighborhood.
- The proposed bus stop was relocated to be adjacent to building 3b and the Applicant agreed to incorporate a covered seating area that can serve as a bus waiting area for use by the general public.

The Applicant submits this correspondence along with the following attachments, to address the “balancing test” and the 5-point criteria for area variances as required under the General City Law and the City of Ithaca Zoning Law. In support of the requested variance the Applicant has submitted extensive documentation and information for the Board’s consideration including:

1. Completed Zoning Appeal Application Form, Fee and List of all properties within 200’ of the perimeter.
2. Drawings titled “Catherine North Side Yard Comparison Diagram” and “Catherine South Side Yard Comparison Diagram” prepared by ikon.5 architects, 1/18/2022 illustrating the location of new and former building footprints in relation to the new rear yard.

3. Preliminary Site Plan Review Application dated August 17, 2021 and updated December 7, 2021 (previously submitted). This application includes:
   a. Narrative describing the project proposal
   b. Part 1 of the Full Environmental Assessment Form
   c. Site plan and 3D renderings of site improvements prepared by TWM Landscape Architects and ikon.5 architects
   d. Building elevations, shade analysis and 3D renderings prepared by ikon.5 architects
   e. An analysis of Impact on Aesthetic Resources with simulated views of new buildings within the context of the surrounding neighborhood prepared by TWM Landscape Architects
   f. Transportation Demand Assessment prepared by SRF Associates Transportation Planning and Traffic Engineers
   g. Stormwater analysis and report prepared by T.G. Miller Engineers
   h. Geotechnical report prepared by Stopen Engineering
   i. Zoning analysis prepared by ikon.5 architects

BACKGROUND AND PROPOSED USE OF PARCEL

Catherine Commons is a proposed approximately 360-unit residential development in the City of Ithaca in Central Collegetown. Twelve parcels have been aggregated on the west side of College Avenue to form the 1.45-acre Catherine Commons site. In addition to the residential use, the project also includes approximately 2600 SF of commercial space, a fitness center for residents of the project and extensive streetscape and public realm improvements. The new development will replace 12 older wood frame buildings which are in extremely poor condition, which are currently being salvaged and demolished. The construction of this high-quality project will enhance the surrounding neighborhood by focusing density in the heart of the Collegetown neighborhood, providing forward thinking, modern and notable architecture and design elements that elevate the environment and character of Collegetown, providing numerous improvements to the streetscape and public realm which contribute to the redevelopment of Collegetown into a unique, diverse, commercially viable and mixed-use community.
SUMMARY OF AREA VARIANCES REQUESTED

The following chart summaries the zoning per the City Code and the requested variances.

<table>
<thead>
<tr>
<th>ZONE</th>
<th>CODE REQUIREMENT</th>
<th>PROPOSED BY APPLICANT</th>
<th>VARIANCE REQUESTED</th>
<th>NOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td>CR-3</td>
<td>Off-Street Parking 1 space per unit = 13</td>
<td>2</td>
<td>-11</td>
<td>Shuttle provided; parking available at Collegetown Terrace and TCAT stop incorporated</td>
</tr>
<tr>
<td>CR-3</td>
<td>Rear yard setback/veg buffer 20’/10’</td>
<td>5’/0’</td>
<td>15’/10’</td>
<td>Will appear as a side yard consistent w/existing neighborhood character.</td>
</tr>
<tr>
<td>CR-4</td>
<td>Rear yard setback 20’</td>
<td>5’</td>
<td>15’</td>
<td>Will appear as a side yard consistent w/existing neighborhood character</td>
</tr>
<tr>
<td>MU-1</td>
<td>Max Bld 5 stories 70 feet</td>
<td>7 stories 78 feet</td>
<td>+ 2 stories + 8 feet</td>
<td>Additional 5’ parapet allowed which results in only 4’ actual visual differential</td>
</tr>
<tr>
<td>MU-2</td>
<td>Max Bld 6 stories 80 feet</td>
<td>8 stories 90 feet</td>
<td>+ 2 stories + 10 feet</td>
<td>Additional 5’ parapet allowed which results in only 6’ actual visual differential</td>
</tr>
<tr>
<td>MU-2</td>
<td>Chamfered Corner</td>
<td>Open at ground floor/corner windows above</td>
<td>Relief from chamfer</td>
<td>Proposed design solution yields intent of chamfer</td>
</tr>
</tbody>
</table>

AREA VARIANCE INFORMATION

As demonstrated below, the benefit to the Applicant greatly outweighs any perceived detriment to the health, safety and welfare of the neighborhood should the requested variances be granted. We therefore ask the Board to consider the following relative to the standards applicable to the requested variances:

1. **THERE WILL BE NO UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR ANY DETRIMENT TO NEARBY PROPERTIES CREATED BY THE GRANTING OF THE VARIANCES.**
The Project is Consistent with the Subject Zoning Districts

The Catherine Commons site is located at the intersection of College Avenue and Catherine Street. The properties which front on College Avenue are within the City’s Mixed-Use Zoning Districts - MU1 and MU2, where the proposed apartment project is a permitted use as of right and therefore the zoning regulations already anticipate that such a use is in character with the neighborhood. “The purpose of the Mixed-Use Districts is to create a dynamic urban environment in which uses reinforce each other and promote an attractive, walkable neighborhood. Located in central Collegetown, the Mixed-Use Districts allow the highest density within the Collegetown Area Form Districts. Redevelopment is anticipated and encouraged (with the exception of designated local landmarks), and the intent is to concentrate the majority of additional development within these districts.” See City of Ithaca Zoning Ordinance 325-45.2.

The parcels that have frontage on Catherine Street and Cook Street are located in the Collegetown Residential Zones CR3 and CR4, where the proposed apartment project is also a permitted use as of right and therefore the zoning regulations already anticipate that such a use is in character with the neighborhood. With regards to the CR-4 District on Catherine Street “The intent is this will be a medium-density residential district, consistent with the vision outlined in the 2009 Collegetown Urban Plan and Conceptual Design Guidelines to concentrate additional development in the central areas of Collegetown.” See City of Ithaca Zoning Ordinance 325-45.2. Regarding the CR-3 District on Cook Street “The Collegetown Residential 1-3 Districts accommodate single-family, two-family and multifamily uses, depending on the district. Denser residential uses are permitted in those areas closer to central Collegetown.” See City of Ithaca Zoning Ordinance 325-45.2. The proposed project is consistent with the stated goals and purpose of these zoning districts.

The proposed project is located within the greater Collegetown neighborhood and the requested variances must be reviewed in relation to the character of this overall neighborhood and the established dynamics of the area. The neighborhood is largely mixed-use commercial and multi-family residential. The proposed apartment complex with some commercial space will not alter the essential character of the neighborhood, which has been permitted by adjoining zoning regulations. New high density residential projects have been developed within the area over the last two decades including the following: 312 College Avenue, College Townhouse at 119-125 College Avenue, The Lofts at 201 College Avenue, Collegetown Crossing with Greenstar Grocery, the new Student Agencies Building at 409 College Avenue, and Dryden South Collegetown at 205 Dryden Road. The proposed project and requested variances are compatible with the Collegetown neighborhood and existing built character of the surrounding area.

The Project Is Compatible with Nearby Historical Resources

There are two existing local landmarks located near the project. The Grandview House is located on the east side of College Avenue across from the project, and the John Snaith House is located on the south side of Cook Street across from the project. The East Hill Historic District is located downhill, to the west of the project. The project site itself does not include any historic resources and no changes to historic
resources are proposed. The Catherine Commons Preliminary Site Plan Review Application Report, August 17, 2021; Updated December 7, 2021 documents these historic resources. Visual simulations are provided that illustrate the Catherine Commons project in context with the nearby historic resources and demonstrate that there are no adverse effects or impacts on the physical or environmental conditions of the neighborhood.

Moreover, the Guiding Principles of the City of Ithaca Collegetown Design Guidelines, March 2017, states “The guidelines...promote maintenance of traditional character while encouraging architectural creativity and contemporary design.” Numerous elements of the design of Catherine Commons contribute to a project that is contemporary while being compatible with the nearby historic resources and include, in part, the following:

- The overall quality of the architectural and urban design will result in an overall enhancement to the Collegetown environment. The area is currently characterized by poorly maintained student housing and a deteriorated streetscape. There are few street trees and there is no overall coherent streetscape design. Streetlights are missing or damaged. This project will include the complete reconstruction of the streetscape for the extent of the project, and it is being coordinated with the City of Ithaca’s College Avenue reconstruction project so that the end result will be a coordinated, visually cohesive environment. This will result in an improved aesthetic environment for the historic resources.

- The Catherine Commons project will utilize high quality architectural materials that are compatible with the surrounding context and will be durable. Primary materials include terra cotta tiles, pre-finished standing seam wall panels, diamond-shaped pre-finished metal wall and roof shingles, and composite metal panels.

- Architectural detailing creates modulation and articulation of the façade surfaces, resulting in shadows, and visual interest. Varying solid to void and window patterns provides further visual interest.

- The Catherine South building 3a – located across from the Grand View House - includes individual unit entrances with metal stoops and canopies. This is a contemporary interpretation and reference to the stoop at the Grand View House.

- The John Snaith House is located on the south side of Cook Street. An open space which is used for socializing by the residents of the John Snaith House is located on the north side of the House, resulting in a substantial setback from Cook Street and providing distance and separation from the new development. The Catherine South building 3b is set back to a 2-story height at the street level to create an open public plaza. The setback, combined with the extensive use of transparent glass, mitigates and breaks down the building mass at this location. The stepped terraces of the public plaza space facing Cook Street expresses permeability and openness and creates a human scale at the street level.
The Project Complies with the City of Ithaca’s Operative Planning Documents

Significantly, the development is consistent with the 2009 Collegetown Urban Plan & Conceptual Design Guidelines, the adopted City of Ithaca 2015 Comprehensive Plan (PLAN ITHACA), and the 2017 Collegetown Design Guidelines. The redevelopment of Collegetown has been a longstanding economic development goal of the City of Ithaca. In 2006 the City created the Collegetown Vision Task Force to evaluate the Collegetown environment and provide recommendations for new development, infrastructure needs, improving the pedestrian experience, vehicular access and parking. In the report to Common Council the Task Force concluded that there is a unique opportunity to build on Collegetown’s proximity to Cornell University and create a “diverse, commercially viable, dense, mixed-use community characterized by notable urban design, high quality architecture, vibrant public spaces and pedestrian amenities.”

Compliance with the 2009 Collegetown Urban Plan & Conceptual Design Guidelines

A Collegetown Vision Implementation Committee was established and the 2009 Collegetown Urban Plan & Conceptual Design Guidelines was the result. The final plan recommended the concentration of high-density development on College Avenue with decreases in the intensity of development as one moves away from the core of Collegetown. This recommendation has been implemented as the project focuses density along the College Avenue street frontage. The density of the project decreases as one moves west down Catherine and Cook Streets.

Compliance with the 2015 Comprehensive Plan

In the City’s 2015 Comprehensive Plan, the land use section sets out goals for Collegetown including encouraging increased development, providing mixed-use development and allowing a higher density of development, including providing more housing per acre. Two important reasons cited for promoting increased density is to lighten the overall tax burden and protect surrounding neighborhoods from potential sprawl and the pressures of student housing. The proposed Catherine Commons project directly aligns with these goals. The land use section also calls for an active streetscape and additional greenspace. The proposed plan for Catherine Commons provides for an activated, attractive public realm. Building frontages are stepped back from the property line, expanding the public realm, and creating additional green space and amenities on private property. Ground floor spaces are proposed as largely transparent with inside active spaces that will contribute to an energized streetscape.

The Comprehensive Plan’s goals for transportation include providing adequate sidewalks in Collegetown, creating streets that are attractive public space, providing pedestrian lighting and supporting multimodal transportation. The location of the proposed project, walkable to services and Cornell, adjacent to bus service and in close proximity to Ithaca Car Share, supports these goals. The proposed streetscape design provides wider sidewalks, urban plazas, lighting and an overall enhanced pedestrian experience. A new TCAT bus stop will be developed adjacent to the project and covered seating for the bus stop will be integrated into the architecture. The Applicant operates a private shuttle from Collegetown to the Cornell Campus and Wegmans, including on weekends, and this will be available to tenants. Given the extreme walkability and multi-modal offerings, it is expected that many residents will not bring vehicles.
Compliance with the 2017 Collegetown Design Guidelines

The 2017 Collegetown Design Guidelines’ “Guiding Principles” call for maintaining “Collegetown as a cohesive, livable place with an attractive and pedestrian-oriented environment” (pg. 23). The Guidelines identify three different character areas and the proposed project is located in each of these three areas. They are the Collegetown Core character area, the Residential Transition character area, and the Neighborhood Periphery character area.

In the Collegetown Core character area (zones MU2 and MU1), the guidelines require orienting buildings to the street and placing buildings as close to the property line as possible. The guidelines further note that additional setbacks can be appropriate to allow for greater sidewalk widths or plazas, which may require variances (Collegetown Design Guidelines, 2017 p.27).

Additionally, “specialized corner elements” to accentuate key intersections are recommended and the project design incorporates these elements. Likewise, “the Mixed-Use District regulations have been designed to encourage exceptional urban design and high-quality construction.... An objective of both Mixed-Use Districts is to create an urban form that gives priority to pedestrians and encourages year-round commercial activity at the street level.” See City of Ithaca Zoning Ordinance 325-45.2. The majority of the project is within this character area, and the proposed project aligns with these guidelines, notably, by incorporating architecturally distinct treatments at the corners of College Avenue and Catherine Street and College Avenue and Cook Street.

Guidelines for the Residential Transition character area (Zone CR4) include setting back the building to be within the range of setbacks established within the block, providing landscaping in the front yard setbacks, minimizing paving in front yards and minimizing curb cuts for driveways. Providing porches, stoops or recessed entries is recommended. Buildings 2a and 2b on Catherine Street at the Catherine North site are within this character area. The buildings have been designed and are sited to respect the residential setbacks and to create alignment with their neighbors. The buildings also include details reflecting traditional residential architecture. Buildings 2a and 2b are sited and designed to complement the residential neighbors to the west, while creating a bridge between the old and the new. These buildings are set back from the street and appropriately landscaped, and include a variety of residential building elements, including sloped roofs, dormers, bay windows, porches, stoops, and recessed entries. A premium modern-day material palette is used with traditional residential detailing and proportions to enhance the overall street character and to emphasize human scale. (See page 17, Figure 10: Catherine North-South Elevation Along Catherine Street of the Preliminary Site Plan Review Application dated August 17, 2021 and updated December 7, 2021).

Guidelines for the Neighborhood Periphery character area (Zone CR3) include setting back the building to be within the range of setbacks established within the block, providing landscaping in the front yard setback, minimizing paving in front yards, minimizing curb cuts for driveways, and providing a front porch that is architecturally consistent with the primary structure and compatible to the context. Building 4 on Cook Street at the Catherine South site is within this character area. Building 4 is sited to be consistent
with the neighboring setbacks, provides a transition in height between the buildings on College Avenue and the residential buildings on Cook Street, and includes a pitched roof, a landscaped front yard and a front porch thereby implementing the guidelines of the Neighborhood Periphery character area. (See page 20, Figure 14: Catherine South - South Elevation Cook Street - Materials of the Preliminary Site Plan Review Application dated August 17, 2021 and updated December 7, 2021).

As extensively detailed above and in the submissions included with the application, the requested variances will conform to the existing character of the surrounding area as well as the planning envisioned for the area and, thus, there will be no undesirable change in the character of the neighborhood or any detriment to nearby properties if the variances are granted.

Request for Additional Height and Floors:

- A review of the practical realities of the requested variances demonstrate that although the applicant is requesting height variances of 8’ and 10’ and 2 stories for buildings 1 and 3a/3b, the actual height differential between what is allowed as of right and what is proposed is only 4’ and 6’ (due to the allowable 5’ parapet) respectively. Given the existing topography and proposed orientation of the buildings, the visual difference between what is allowed and what is proposed is, in all respects, virtually imperceptible. The Catherine Commons Preliminary Site Plan Review Application Report, August 17, 2021; Updated December 7, 2021 includes a description on the Impact on Aesthetic Resources (p. 50) and also includes visual simulations from 10 viewpoints around the City where the project will be most visible. For each viewpoint, the view of existing conditions is provided, along with simulations that illustrate the proposed buildings in the context of the urban setting, as well as an indication of the height allowed by zoning as compared with the proposed height. These simulations illustrate that the buildings are compatible with the surrounding neighborhood context and that there will be no undesirable change in the character of the neighborhood or any detriment to nearby properties created by the granting of the variances.

- The increase in buildable floors in MU-1 and MU-2 zones is intended to provide additional residential density in the Collegetown Core, consistent with PLAN ITHACA’s goals for increased housing per acre, with no adverse impacts to the neighborhood and minimal actual impact to actual visual height, per above.

Request for Rear Yard Setback/Vegetative Buffer Variances:

- The rear yard setback variance for a requested 5’ setback is a function of the consolidation of multiple parcels. The unique circumstance of having frontage on two streets creates a ‘technical non-conforming’ condition that, practically speaking, as viewed from the street, is not perceptible. The CR-3 zone additionally requires a 10’ vegetative buffer from the rear property line – as this is coincident with the proposed 5’ rear yard - no vegetative buffer is possible or warranted. Standing on either Catherine or Cook Streets one would view this condition as a side yard (which has a
required setback of 5’ and matches the requested setback) - not a rear yard and therefore there will be no undesirable change in the character of the neighborhood or any detriment to nearby properties created by the granting of the variances. (See attached drawings titled “Catherine North Side Yard Comparison Diagram” and “Catherine South Side Yard Comparison Diagram” prepared by ikon.5 architects illustrating the location of new and former building footprints in relation to the new rear yard).

Chamfer at Corner

- The chamfer at the corner has been replaced by a completely open building at the ground floor near the street in order to open views, increase light at the sidewalk level and facilitate circulation. There will be no undesirable change in the character of the neighborhood or any detriment to nearby properties created by the granting of this variance and the proposed corner design elements actually provide a greater character enhancement to the neighborhood than the required chamfer under the code.

Reduction in Parking in the CR-3 Zone

- The reduction in parking is minimal (11 space reduction) and there will be no undesirable change in the character of the neighborhood or any detriment to nearby properties created by the granting of the variances. The overall goals of the City’s planning documents favor less parking in Collegetown, walkability and multi-modal transportation options. As further explained below, the project complies with these overall goals. The project provides plans for a bus stop along College Avenue adjacent to the project area and the applicant operates a campus shuttle - factors which in combination will meet the transportation demands for the project.

2. THE BENEFIT SOUGHT CANNOT BE ACHIEVED BY ANOTHER METHOD THAT IS FEASIBLE TO THE APPLICANT

In this particular matter, the benefit sought to be achieved by the Applicant is to create a project that implements the 2006 Collegetown Vision Statement, the 2009 Collegetown Urban Plan, and the 2015 PLAN ITHACA as it relates to Collegetown. The 2006 Collegetown Vision Task Force concluded there is a unique opportunity to build on Collegetown’s proximity to Cornell University to create a “diverse, commercially viable, dense, mixed-use community characterized by notable urban design, high quality architecture, vibrant public spaces and pedestrian amenities.” The Catherine Commons project aspires to be transformational for Collegetown consistent with this stated vision and other City plans. Implementing the vision and transforming the public realm will not happen with the construction of a single building. To transform the public realm of Collegetown in a meaningful and impactful way requires the assembling of multiple parcels and the development of a comprehensive urban plan such as the Catherine Commons proposal. However, this holistic approach to the urban plan results in a loss of rentable building area in locations where the SF value is the greatest. Given the width of the existing street ROW and sidewalks, the only way to create wider sidewalks and vibrant public plazas is to create it on private property. The comprehensive approach to achieving the greatest benefits to the public realm results in the current
project design and the height/scale is integral to the viability of the overall project. The slight increase in height above the technical code requirement comes at no cost to the neighborhood without any perceptible negative visual impacts.

The project is designed to substantially expand the sidewalk zone and create public plazas, seating areas, and streetscape amenities by extending the public realm onto the developer’s private property. Due to the nature of the proposed development (housing), economies of scale are a major driver for the success of the project. One of the primary reasons for the requested variances is the existing site characteristics, specifically, the existing narrow sidewalk widths within the public ROW and the extremely steep slopes. Due to minimal existing sidewalk widths within the public ROW, the only way to achieve these benefits to the public realm is by displacing buildable area and constructing the pedestrian plaza spaces and amenities on private property for the use and benefit of the larger public. The AOR scenario was analyzed and determined to not meet the objectives of the project. See Figure 17: Proposed Additional Streetscape Enhancements and Figure 18: AOR Full Buildout to ROW in the Catherine Commons Preliminary Site Plan Review Application Report, August 17, 2021; Updated December 7, 2021.

The existing severely steep slopes along College Avenue and Catherine and Cook Streets exaggerate the building height, making it particularly difficult to meet technical building height restrictions across aggregated properties. This has a significant impact on the usable space at grade for Residential and Commercial occupancies. As lot coverage increases to provide the additional density desired in the mixed-use zones, the slope of the street frontage can significantly reduce the amount of above grade zone at the ground floor. In addition, changes in grade across the building, front to back, results in unusable below grade areas. With the dramatic steep slopes in Collegetown, these challenges can adversely impact multiple floors within a single facade. While smaller buildings reduce the impact of the grade changes, the reduced density in these zones does not align with the goals of the City and the issues are further exacerbated due to additional building separations, stairs and elevators.

To further enhance the project and mitigate any impacts the developer has proposed an exterior façade that uses higher quality materials than are typically used in Collegetown. These materials and systems will enhance the overall appearance and character of the buildings and provide increased longevity but come with a premium cost impact.

Beyond the materials, the façade composition and detailing on the Catherine North and South buildings contribute to the increased cost of the project. The exterior wall details are developed to create relief and to emphasize the perceived depth of the exterior wall. This is achieved by offsetting adjacent wall panels of varying materials, recessing and projecting windows, and detailing projecting trim closure profiles. This attention to detail will result in an architectural façade that enhances the overall aesthetic quality of the Collegetown neighborhood. These materials which are incorporated into the design act to mask the perceived overall height of the structures and eliminate any cognizable impacts of the building height.
These public benefits to the urban fabric of the Collegetown neighborhood result in a substantial economic cost to the developer. The variances are needed in order to construct a building of an architectural quality that is greater than typically seen in Collegetown and which achieves the overall benefits to the public realm. The project’s design team has worked diligently to propose and conceive a project that accomplishes the intent of the development to be transformational for Collegetown while limiting the number and extent of variances required for a successful project. Thus, the requested variances are the minimum necessary to accomplish the benefit sought by the Applicant.

Request for Additional Height and Floors:
- The comprehensive approach to achieving the greatest benefits to the public realm results in the current project design and the height (and change in floors therein) is integral to the viability of the overall project. Therefore, the benefit sought cannot be achieved by another method that is feasible to the Applicant. In addition, as noted below, the imperceptible height increase creates no objective adverse impact on the neighborhood.

Request for Rear Yard Setback/Vegetative Buffer Variance:
- The comprehensive approach to achieving the greatest benefits to the public realm requires consolidating multiple parcels, resulting in a technical non-conforming condition. Therefore, the benefit sought cannot be achieved by another method that is feasible to the Applicant.

Chamfer at Corner
- The building is set back from the corner at the ground floor in order to create expanded sidewalks, plazas and public open space near the street. The open ground floor both achieves and exceeds the intended benefits of the chamfer. The benefit sought cannot be achieved by another method that is feasible to the Applicant.

Reduction in Parking in the CR-3 Zone
- The comprehensive approach to the redevelopment of the aggregated parcels emphasizes benefits to the public realm in favor of private parking. The benefit sought cannot be achieved by another method that is feasible to the Applicant.

In total, the requested variances allow the project to achieve the goals expressed by the City with no negative impacts to the neighborhood or surrounding properties. There are no feasible alternatives that would deliver the desired quality of the development without the minor variances requested here.

3. THE REQUESTED AREA VARIANCES ARE NOT SUBSTANTIAL
When considered in the context of the existing site conditions and the benefits provided to the character of the Collegetown neighborhood and the provisions of enhanced public realm amenities, the variances sought are insubstantial. The Preliminary Site Plan Review Application dated August 17, 2021 and updated December 7, 2021, includes visual simulations that illustrate the development within the context of the
neighborhood and City and further illustrate that the area variances are not substantial (pages 52-73). In addition, it is important to note that under this factor of the area variance balancing test, it is well settled that the substantiality of a variance is not solely a mathematical formula. Rather, the magnitude or substantiality of the variance is only relevant in relation to any actual impacts of the variance(s) on the neighborhood or nearby properties. Here, there are no perceptible or identifiable negative impacts associated with the requested variances as the granting of the same will permit the development of a project that furthers the redevelopment of Collegetown in conformance with the City’s foundational planning documents.

Request for Additional Height and Floors:

• The existing MU-2 zone allows 6 stories and 80-foot building height, plus an additional 5-foot parapet resulting in a total allowable 85-foot-high building. The applicant is seeking 8 stories, a 10-foot height variance (90-foot building height) with only a 1-foot parapet, resulting in a total building height of 91 feet. However, the actual perceptible visual difference would be a minor 6-foot increase in height. The requested additional floors within the proposed height is an imperceptible change achieved by managing the floor-to-floor height within the structure of the building.

• The MU-1 zone allows 5 stories and 70-foot building height, plus an additional 5-foot parapet resulting in a total allowable 75-foot-high building. The applicant is seeking 7 stories, an 8-foot height variance (78-foot building height) with only a 1-foot parapet, resulting in a total building height of 79 feet. The actual visual difference would be a 4-foot increase in height. The requested additional floors within the proposed height is, again, an imperceptible change achieved by managing the floor-to-floor height within the structure of the building, making this an insubstantial request for relief.

• In summary, the two requested height variances and floor variances will result in an actual visual difference of 6 feet and 4 feet as compared to what is allowed under existing zoning and is insubstantial in the Collegetown context. The requested additional floors within the proposed height is also an imperceptible change, managed by superior design and project elements that fully mitigate any potential impacts.

Request for Rear Yard Setback/Vegetative Buffer Variance:

• Development of this project requires the aggregation and consolidation of seven lots at Catherine North and five lots at Catherine South. College Avenue will be the front yard for the two sites. The rear yard setback/vegetative buffer variances are a function of consolidating parcels that front on Catherine and Cook Streets with parcels that front on College Avenue. The proposed development on Catherine or Cook streets will appear as a side yard consistent with the existing surrounding neighborhood. Thus, this is not a substantial variance request.
Chamfer at Corner

- The original intent of the chamfer as described in the Collegetown Urban Design Plan is the desire to ‘open’ the intersection of College Avenue and Dryden Road. When codified, the requirement was extended to all intersections in the MU-2 zone. The proposed building design meets the intent of this requirement by pulling the building back away from the sidewalk at the ground floor and allowing views and pedestrians to circulate through at the ground floor level. Therefore, the intent of this provision is met and the variance request is not substantial.

Reduction in Parking in the CR-3 Zone

- The CR-3 zone requires 13 parking spaces for the proposed development on Cook Street. The MU-1 and MU-2 zones have no parking requirement and parking is not required in the CR-4 zone when a Transportation Demand Management Plan is provided. The Transportation Demand Management Plan is outlined in the Catherine Commons Preliminary Site Plan Review Application Report, August 17, 2021; Updated December 7, 2021.

- The reduction in the number of required parking spaces in the CR-3 zone from 13 to 2 parking spaces is fully mitigated by several factors. These are documented in the Catherine Commons Preliminary Site Plan Review Application Report, August 17, 2021; Updated December 7, 2021. Included in the Site Plan Review Application Report is a Transportation Demand Assessment for this project, prepared by SRF Associates Transportation Planning, Engineering and Design. A summary of the mitigations is included here:

  - Students choose to live in Collegetown because of its proximity to campus and supporting services that are all within a comfortable walking distance and it is expected that the project will be attractive to many students who do not wish to bring cars to Ithaca.
  - Extensive enhancements to the pedestrian environment will encourage walking.
  - The Applicant operates a private shuttle service between Collegetown Terrace Apartments, the apartments at 119-125 College Avenue and the Cornell Campus. The shuttle also provides service to Wegmans on weekends. The shuttle will be available to Catherine Commons residents and they can utilize the shuttle stop at 119-125 College Avenue.
  - A new TCAT stop is being designed into the project with a covered protected waiting area. An existing TCAT stop is located directly across the street from the project.
  - There is a Car Share located directly across the street from the project.
  - Given these mitigation factors, the granting of the parking variance is not substantial.

4. THERE WILL BE NO ADVERSE EFFECTS OR IMPACTS ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS OF THE NEIGHBORHOOD

As demonstrated through the submitted plans, documents and professional opinions/reports, there will be no physical or environmental adverse effects as a result of the requested variances or improvements proposed by the Applicant.
The Proposal is Consistent with the Character of the Area

As discussed extensively above, the property is located within the Collegetown neighborhood which is defined by numerous other student housing/apartments and commercial and mixed uses. The proposed project is consistent with the existing built character of the neighborhood.

There are two existing local landmarks located near the project. The Grandview House is located on the east side of College Avenue across from the project, and the John Snaith House is located on the south side of Cook Street across from the project. The East Hill Historic District is located downhill, to the west of the project. The project site itself does not include any historic resources and no changes to historic resources are proposed. The Catherine Commons Preliminary Site Plan Review Application Report, August 17, 2021; Updated December 7, 2021 documents these historic resources. Visual simulations are provided that illustrate the Catherine Commons project in context with the nearby historic resources and demonstrate that there are no adverse effects or impacts on the physical or environmental conditions of the neighborhood. Moreover, the Guiding Principles of the City of Ithaca Collegetown Design Guidelines, March 2017, states “The guidelines....promote maintenance of traditional character while encouraging architectural creativity and contemporary design.” Numerous elements of the design of Catherine Commons contribute to a project that is contemporary and enhances the overall aesthetics of the neighborhood while being compatible with the nearby historic resources and include, in part, the following:

- The overall quality of the architectural and urban design will result in an overall enhancement to the Collegetown environment. The area is currently characterized by poorly maintained student housing and an aging deteriorated streetscape. There are few street trees and there is no overall coherent streetscape design. Streetlights are missing or damaged. This project will include the complete reconstruction of the streetscape for the extent of the project, and it is being coordinated with the City of Ithaca’s College Avenue reconstruction project so that the end result will be a coordinated, visually cohesive environment. This will result in an improved aesthetic environment for the historic resources.
- The Catherine Commons project will utilize high quality architectural materials that are compatible with the surrounding context and will be durable. Primary materials include terra cotta shingles, pre-finished standing seam wall panels, diamond-shaped pre-finished metal wall and roof shingles, and composite metal panels.
- Architectural detailing creates modulation and articulation of the façade surfaces, resulting in shadows, and visual interest. Varying solid to void and window patterns provides further visual interest.
- The Catherine South building 3a – located across from the Grand View House - includes individual unit entrances with metal stoops and canopies. This is a contemporary interpretation and reference to the stoop at the Grand View House.
- The John Snaith House is located on the south side of Cook Street. An open space which is used for socializing by the residents of the John Snaith House is located on the north side of the House, resulting in a substantial setback from Cook Street and providing distance and separation from
the new development. The Catherine South building 3b is set back to a 2-story height at the street level to create an open public plaza. The setback, combined with the extensive use of transparent glass, mitigates and breaks down the building mass at this location. The stepped terraces of the public plaza space facing Cook Street expresses permeability and openness and creates a human scale at the street level.

**Stormwater Management Will be Improved From Existing Conditions**

In addition to the foregoing, redevelopment of the site will provide an opportunity to significantly improve stormwater runoff and conveyance of drainage within the surrounding area by installing an on-site stormwater conveyance system and including bioretention which will comply with local and state regulations. The stormwater plan prepared by TG Miller Engineers states:

“A reduction in site imperviousness will reduce the amounts and rates of discharge of stormwater runoff from the site thus reducing impacts to the City storm sewer collection system. Permanent stormwater protection practices to be installed by the project will provide quality treatment of runoff and reduce the amount of pollutants leaving the site. The site grading and drainage improvements will significantly reduce or eliminate runoff from the site that currently flows overland onto properties located west and down-grade of the project site. In short, the project will result in significant improvements for this area of the City related to stormwater runoff.”

**The Landscape Design Will Add Greenery and Complements the Neighborhood**

Landscape and pedestrian amenities will be installed throughout the site along with additional streetscape improvements along all street frontages to provide an expanded public realm that will benefit neighboring properties and the Collegetown neighborhood as a whole. Streetscape improvements include expanded sidewalks, public plazas, a variety of seating options including covered seating for the bus stop, pedestrian lighting, landscaping, tree grates, and structural soil to ensure the success of street trees in a challenging environment. The Applicant has worked diligently to coordinate these efforts with the City of Ithaca’s Engineering division’s planned College Avenue reconstruction project. The Applicant has worked with the City to ensure an overall coordinated and cohesive aesthetic between the City of Ithaca’s College Avenue project and the Catherine Commons project.

**The Proposal Will Not result in Any Negative Impacts on Traffic but Will Enhance Public Transportation Opportunities and the Walkability of Collegetown**

The proposed project also will not result in any adverse traffic impacts to the neighborhood. Parking on-site will actually be reduced from approximately 40 existing spaces to 2 ADA/service/loading spaces. The location of the proposed project, walkable to services and Cornell University, adjacent to bus service and in close proximity to Ithaca Car Share, combined with access to the Applicant’s private shuttle service to Cornell and Wegmans, collectively create an environment that will minimize the use of personal vehicles. The proposed streetscape design provides wider sidewalks, urban plazas, lighting and an overall enhanced
pedestrian experience. A new TCAT bus stop will be developed adjacent to the project and covered seating for the bus stop will be integrated into the architecture.

A Transportation Demand Assessment was prepared by SRF Traffic Consultants which outlines TDM strategies to reduce parking demand. These strategies will be implemented by the Applicant and no impacts are expected as a result of granting the variance.

Shadows from the Proposed Buildings Will Create No Negative Impacts to Surrounding Properties

A building shadow study was conducted for the proposed project and is included in the Catherine Commons Preliminary Site Plan Review Application Report, August 17, 2021; Updated December 7, 2021, pages 24 – 27. Shadows to be projected by the new buildings are illustrated for four different times of year: March 21rst (Vernal Equinox), June 20th (Summer Solstice), September 22nd (Autumnal Equinox), and December 21rst (Winter Solstice). For each of these dates, shadows are projected at 3 different times of day: 9 AM, 12 PM and 3 PM. The shadow study illustrates that nearby historic buildings – the John Snaith House and the Grandview House – will not experience shading impacts from the project. Four houses on the south side of Catherine Street immediately west of the project, and one on the north side will be shaded at 9 AM on December 21st, the shortest day of the year. On this date, the darkest day of the year, these buildings are no longer in shadow by noon. As a result, shading is not considered an impact of the project.

Request for Additional Height and Floors:

- The 8’- and 10’-height variances, along with the 2 additional floors, will result in an actual visual height difference of only 4’ and 6’ which will be almost imperceptible. Building shadow studies demonstrate a minimal increase in shadows resulting from the increased height of the proposed buildings. There will be no adverse effects or impacts on the physical or environmental conditions of the neighborhood by the granting of the variances.

Request for Rear Yard Setback/Vegetative Buffer Variance:

- The building locations will be similar to what they would be if no variance were granted. There will be no adverse effects or impacts on the physical or environmental conditions of the neighborhood from the granting of the variance.

Chamfer at Corner

- The building is set back from the corner at the ground floor in order to create expanded sidewalks, plazas and public open space near the street. These can be considered positive impacts of the project. There will be no adverse effects or impacts on the physical or environmental conditions of the neighborhood.

Reduction in Parking in the CR-3 Zone

- The project will result in an actual slight reduction in impervious surfaces and a slight increase in greenspace. This also can be appropriately considered a positive impact of the project. There will
be no adverse effects or impacts on the physical or environmental conditions of the neighborhood from the approval of the requested variance.

5. THE DIFFICULTY IS SELF-CREATED BUT IS A FUNCTION OF EXISTING SITE CONDITIONS AND THE GOAL OF REALIZING THE COLLEGETOWN VISION AND URBAN PLAN

One of the primary reasons for the requested variances is the existing site characteristics, specifically, the existing narrow sidewalk widths within the public ROW and the extremely steep slopes. Due to minimal existing sidewalk widths within the public ROW, the only way to achieve these benefits to the public realm is by displacing buildable area and constructing the pedestrian plaza spaces and amenities on private property for the use and benefit of the larger public. The AOR scenario was analyzed and determined to not meet the objectives of the project. See Figure 17: Proposed Additional Streetscape Enhancements and Figure 18: AOR Full Buildout to ROW in the Catherine Commons Preliminary Site Plan Review Application Report, August 17, 2021; Updated December 7, 2021.

The existing severely steep slopes along College Avenue and Catherine and Cook Streets exaggerate the building height, making it particularly difficult to meet technical building height restrictions across aggregated properties. This has a significant impact on the usable space at grade for Residential and Commercial occupancies. As lot coverage increases to provide the additional density desired in the mixed-use zones, the slope of the street frontage can significantly reduce the amount of above grade zone at the ground floor. In addition, changes in grade across the building, front to back, results in unusable below grade areas. With the dramatic steep slopes in Collegetown, these challenges can adversely impact multiple floors within a single facade. While smaller buildings reduce the impact of the grade changes, the reduced density in these zones does not align with the goals of the City and the issues are further exacerbated due to additional building separations, stairs and elevators.

Request for Additional Height and Floors:

- The Applicant is committed to implementing the vision expressed in the 2006 Collegetown Vision Statement, the 2009 Collegetown Urban Plan, and the 2015 PLAN ITHACA. The 2006 Collegetown Vision Task Force concluded there is a unique opportunity to build on Collegetown’s proximity to Cornell University to create a “diverse, commercially viable, dense, mixed-use community characterized by notable urban design, high quality architecture, vibrant public spaces and pedestrian amenities.” This vision has not been realized to date. The Catherine Commons project provides a unique opportunity to be transformational for Collegetown consistent with this stated vision and other City plans. Implementing the vision and transforming the public realm will not happen with the construction of a single building. To transform the public realm of Collegetown in a meaningful and impactful way requires the assembling of multiple parcels and the development of a comprehensive urban plan such as the Catherine Commons proposal. This holistic approach to the urban plan results in a loss of rentable building area in a location where the SF value is the greatest. Given the width of the existing street ROW and sidewalks, the only way to create wider sidewalks and vibrant public plazas is to create it on private property. The
comprehensive approach to achieving the greatest benefits to the public realm results in the current project design and the height/scale is integral to the viability of the overall project.

Request for Rear Yard Setback/Vegetative Buffer Variance:
• The rear yard setback/vegetative buffer variance is a function of the assemblage of multiple parcels and is necessary to achieve the goals of the Collegetown Urban Plan.

Chamfer at Corner
• The chamfer at the corner has been replaced by a completely open building at the ground floor. While it is self-created, it exceeds the benefits envisioned by the requirement of the chamfer.

Reduction in Parking in the CR-3 Zone
• The reduction in parking is self-created but is mitigated by the location of the project in a high-density walkable neighborhood, the integration of a new TCAT bus stop into the project, the provision of a private shuttle to campus, and extensive pedestrian enhancements. Additionally, only the CR-3 parcel has a parking requirement so the actual number of spaces for which relief is sought (11 spaces) is small.

Conclusion
The applicant has presented a project that complies with all foundational planning documents of the City of Ithaca and provides an opportunity for transformational change in the Collegetown neighborhood, all while seeking the minimum variances necessary to bring the project to fruition. The positive attributes of the project far outweigh any detriments to the health, safety and welfare of the area – indeed, no negative impacts to the community have been identified. The applicant has satisfied its burden under the applicable balancing test in this instance and accordingly, it is respectfully requested that the Board grant the variances in this matter.

Sincerely,

Kathryn Wolf, RLA
Principal
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