### Honorable City Planning Commission Cincinnati, Ohio

<u>SUBJECT:</u> A report and recommendation on a proposed Notwithstanding Ordinance to permit the development of a two-family dwelling at 932 McPherson Avenue in East Price Hill.

#### **GENERAL INFORMATION:**

Location: 932 McPherson Avenue, Cincinnati, OH 45205

Petitioner: Vice Mayor Christopher Smitherman

801 Plum Street, Cincinnati 45202

Owner: BLOC Ministries

911 West 8th Street, Cincinnati 45203

#### **EXHIBITS:**

Provided in addition to this report are the following exhibits:

Exhibit A Location Map

Exhibit B Proposed Notwithstanding Ordinance

• Exhibit C Renovation Plans

### BACKGROUND & PROPOSED NOTWITHSTANDING ORDINANCE:

The petitioner, Vice Mayor Christopher Smitherman, requests a Notwithstanding Ordinance to permit the development of a two-family dwelling at 932 McPherson Avenue in East Price Hill. The subject property is zoned Single-family (SF-2) and located a block south of the East Price Hill Neighborhood Business District along Warsaw Avenue. The property owner, BLOC Ministries (BLOC), purchased the property and the existing vacant building on the property in 2019 from the Hamilton County Land Reutilization Corporation. BLOC Ministries is a faith-based non-profit organization that focuses on healthy personal relationships and activities that help to build hope, purpose, and virtual life skills for students, families, and adults to thrive and succeed despite difficult circumstances. The organization has been active in the neighborhood for over 24 years.

BLOC proposes to renovate the interior of the existing building into a two-family dwelling to serve seven graduates of BLOC's recovery program. The existing building footprint is not proposed to be changed. Since the property is located in a SF-2 zoning district which does not permit two-family dwellings, a Notwithstanding Ordinance is requested to permit the renovation of the existing building into a two-family dwelling. The requested permission is notwithstanding the use limitations in Chapter 1403, "Single-Family Districts," and any other applicable zoning regulations that would prevent the property's development and use as a two-family dwelling, including, but not limited to, the off-street parking requirements set forth in Section 1425-19, "Off-Street Parking and Loading Requirements," of the Cincinnati Zoning Code.

#### **ANALYSIS:**

The Department of City Planning and Engagement has generally taken a position to not support Notwithstanding Ordinances for land use decisions because they do not comply with the Cincinnati Zoning Code that the department is charged with developing and enforcing. However, Cincinnati Municipal Code Section 111-5 establishes a list of factors by which a City Council committee may

consider a notwithstanding ordinance application. As such, the City Planning Commission shall consider the following when making a recommendation on notwithstanding ordinances to City Council:

1) Whether the proposed application will not have an adverse effect on the character of the area or the public health, safety and welfare;

The proposed use and rehabilitation of the building at 932 McPherson Avenue will not have an adverse effect on the area. There are no proposed changes to the existing building footprint and the use will remain residential which is consistent with the surrounding neighborhood.

- 2) Whether the proposed application is consistent with the purposes of this code and the zoning district where the subject property is located including but not limited to:
  - (a) Providing a guide for the physical development of the city.

    Not applicable to this application.
  - (b) Preserving the character and quality of residential neighborhoods.

The proposed Notwithstanding Ordinance would permit the renovation of an existing single-family dwelling into a two-family dwelling which is consistent with the surrounding neighborhood. The proposed renovation will be an interior renovation and the existing structure will not be changed substantially. Additionally, the proposed renovation will return a currently vacant property to a productive, residential use.

(c) Fostering convenient, harmonious and workable relationships among land uses.

The land uses surrounding the subject property are predominantly residential, including single-, two-, and multi-family dwellings, and commercial uses. The

proposed two-family dwelling is consistent with this land use pattern.

(d) Achieving the arrangement of land uses described in the comprehensive plan for the development of the city as may have been adopted by council.

The proposed Notwithstanding Ordinance is consistent with Plan Cincinnati (2012) (see "Consistency with Plans" for further analysis).

(e) Promoting the economic stability of existing land uses and protecting them from intrusions by inharmonious or harmful land uses.

The proposed two-family dwelling is consistent with the residential land uses in the area and will support the nearby commercial uses in the East Price Hill Neighborhood Business District along Warsaw Avenue which is one block north of the subject property.

(f) Providing opportunities for economic development and new housing for all segments of the community.

The proposed two-family dwelling will provide safe and quality housing for seven graduates of BLOC's recovery program.

- (g) Creating pedestrian-friendly environments to reduce reliance on the automobile for travel.

  The subject property is located within 0.12 miles walking distance of the East
  Price Hill Neighborhood Business District along Warsaw Avenue. The Route 33
  bus runs along Warsaw Avenue with bus stops located at the intersection of
  McPherson Avenue and Warsaw Avenue. Additionally, the subject property is less
  than 500 feet from a full-service grocery store.
- (h) Preventing excessive population densities and overcrowding of land or buildings.

  The proposed Notwithstanding Ordinance would permit a two-family dwelling to house seven individuals. Section 1401-01-F2 states that up to four persons unrelated to each other by blood, marriage, or legal adoption, may live together as a single housekeeping unit.
- (i) Ensuring the provision of adequate open space for light, air and fire safety.

  The proposed Notwithstanding Ordinance does not provide a variance from any other laws of the City of Cincinnati. The owner would need to abide by the building code and fire regulations outlined in the Cincinnati Municipal Code.
- (j) Ensuring that development is compatible with the environment, particularly on the hillsides and along the riverfront.

Not applicable to this application.

(k) Promoting the conservation, protection, restoration and enhancement of the historic resources of the city.

The subject property is not located within a historic district. The proposed Notwithstanding Ordinance would permit the rehabilitation of an existing building, preserving the built character on the street.

(l) Lessening congestion in the public streets by providing for off-street parking and loading areas for commercial vehicles.

Section 1425-19, Off-Street Parking and Loading Requirements, requires one offstreet parking space per unit in a SF-2 zoning district. The proposal does not provide any off-street parking, and thus seeks relief through the Notwithstanding Ordinance. The subject property one block away from the Route 33 bus which connects East Price Hill with Downtown to the east and Westwood to the northwest.

- (m) Providing effective signage that is compatible with the surrounding urban environment.

  Proposed signage for the building was not submitted as part of the application.

  However, a condition of the proposed Notwithstanding Ordinance is that the property shall remain subject to all other provisions of the Cincinnati Municipal Code, including the SF-2, "Single-family," zoning district, including any signage regulations.
- (n) Setting standards by which a nonconforming use may continue to function and to provide for the adaptive reuse of nonconforming buildings.

#### **PUBLIC COMMENT AND NOTIFICATION:**

Notice of the December 17, 2021 City Planning Commission was sent to property owners within a 400-foot radius of the subject property, as well as the East Price Hill Improvement Association and Price Hill Will, on December 2, 2021. BLOC Ministries, an organization that has been active in the neighborhood for over 24 years, has discussed the proposed project with neighbors. They have not received any concerns. Staff has not received any additional correspondence to-date.

#### **CONSISTENCY WITH PLANS:**

Plan Cincinnati (2012)

The proposed Notwithstanding Ordinance is consistent with *Plan Cincinnati* in the Live Initiative Area, specifically the Goal to "Provide a full spectrum of housing options and improve housing quality and affordability" (p. 164). Within that Goal, the proposal is consistent with two of the Strategies: "Provide quality healthy housing for all income levels" (p. 165) and "Offer housing options of varied sizes and types for residents at all stages of life" (p. 169). The proposed renovation will provide housing for graduates of BLOC's recovery program. Additionally, it is consistent with the Guiding Geographic Principle to "Focus revitalization on existing centers of activity" (p. 86). The subject property is located within the compact walkable quarter mile of the East Price Hill Neighborhood Business District.

#### Price Hill Plan (2014)

The proposed Notwithstanding Ordinance is consistent with the Future Land Use map (p. 16) in the *Price Hill Plan* (2015), which calls for residential uses with a transition to mixed-use along McPherson Avenue. It is also consistent with an Action Step within the Housing section of the plan which states, "Create desirable new and rehabbed homes that provide an attractive housing stock to meet a range of market demands" (p. 21).

#### **CONCLUSIONS:**

The proposed Notwithstanding Ordinance would permit a two-family dwelling use in a SF-2 zoning district at 932 McPherson Avenue and waive all associated parking requirements. The requested relief through the Notwithstanding Ordinance has been found to be reasonable since the proposed Notwithstanding Ordinance:

- Complements surrounding land uses
- Enhances the quality and character of the area by rehabilitating an existing vacant building that will fit within the neighborhood context
- Provides safe and quality housing for seven individuals within proximity of a bus route and Neighborhood Business District
- Is consistent with Plan Cincinnati (2012) and the Price Hill Plan (2014)

However, the Department of City Planning and Engagement has generally taken the position to not support Notwithstanding Ordinances for land use decisions because they do not comply with the zoning laws that the department is charged with developing and enforcing.

#### RECOMMENDATION:

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

**DENY** the proposed Notwithstanding Ordinance to permit the development of a two-family dwelling at 932 McPherson Avenue in East Price Hill.

1) The Department of City Planning and Engagement cannot support any Notwithstanding Ordinances for land use decisions because the ordinances do not comply with the zoning laws that the Department of City Planning and Engagement is charged with developing and enforcing.

If the City Planning Commission decides to recommend approval of the Notwithstanding Ordinance, the City Planning Commission should consider the following conditions:

- 1) The development and use of 932 McPherson Avenue as a two-family dwelling must be developed as per the plans on file with the Department of Buildings and Inspections under permit no. 2021P07766.
- 2) The Notwithstanding Ordinance does not provide a variance from any other laws of the City of Cincinnati, and the properties shall remain subject to all other provisions of the Cincinnati Municipal Code, SF-2, "Single-family," zoning district.

Respectfully submitted:

Samantha McLean, AICP, Senior City Planner Department of City Planning and Engagement Approved:

Therie Kengh-Jus

Katherine Keough-Jurs, AICP, Director Department of City Planning and Engagement

#### **EXHIBIT B**



Date: November 23, 2021

AWG/EESW

To:

Vice Mayor Christopher Smitherman

From:

Andrew Garth, City Solicitor

Subject:

Ordinance - 932 McPherson Avenue

Transmitted herewith is an ordinance captioned as follows:

AUTHORIZING the real property located at 932 McPherson Avenue in the East Price Hill neighborhood to be developed and used as a two-family dwelling NOTWITHSTANDING the use limitations contained in Chapter 1403, "Single-Family Districts," of the Cincinnati Municipal Code and any other applicable zoning regulations that would prevent the property's development and use as a two-family dwelling.

AWG/MEH/(ink) Attachment 35360

### AWG/EESW

## City of Cincinnati

# An Ordinance No.

- 2021

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AUTHORIZING the real property located at 932 McPherson Avenue in the East Price Hill neighborhood to be developed and used as a two-family dwelling NOTWITHSTANDING the use limitations contained in Chapter 1403, "Single-Family Districts," of the Cincinnati Municipal Code and any other applicable zoning regulations that would prevent the property's development and use as a two-family dwelling.

WHEREAS, BLOC Ministries, Inc. ("BLOC") owns the real property located at 932 McPherson Avenue in the East Price Hill neighborhood ("Property"), which it purchased from the Hamilton County Land Reutilization Corporation in 2019; and

WHEREAS, the Property is located in the SF-2, "Single-Family," zoning district, and it consists of a single parcel containing a vacant residential structure; and

WHEREAS, BLOC wishes to develop the Property for use as a two-family dwelling to serve graduates of its recovery program ("Project"), but two-family dwellings are not permitted in the SF-2, "Single-Family," zoning district; and

WHEREAS, the Project is compatible with the surrounding land uses in the vicinity of the Property, which land uses include other two-family dwellings, multi-family dwellings, and institutional and commercial uses; and

WHEREAS, reasonable deviations from zoning code provisions that would otherwise prevent the Property's use as a two-family dwelling will benefit the surrounding area by returning a vacant property to productive use and by providing safe and attractive housing to support graduates of BLOC's recovery program; and

WHEREAS, the City Planning Commission, at its regularly scheduled meeting on December 17, 2021, upon considering the factors set forth in Cincinnati Municipal Code ("CMC") Section 111-5, recommended the adoption of a notwithstanding ordinance authorizing the Project subject to certain conditions; and

WHEREAS, a legislative variance authorizing the Project is consistent with *Plan Cincinnati* (2012), specifically its Sustain and Live Initiative Areas that respectively seek to "[b]ecome a healthier Cincinnati" (page 81) and to "provide quality healthy housing for all income levels" (page 165); and

WHEREAS, the Council finds that the Project will enhance the quality and character of the area by rehabilitating an existing vacant building that will fit within the context of McPherson Avenue and the East Price Hill neighborhood; and

WHEREAS, the Council additionally finds that permitting the Project will not have an adverse effect on the character of the area or the public health, safety, and welfare, and the Project is in the best interests of the City and the public's health, safety, morals, and general welfare; now, therefore,

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

Section 1. That, following its own independent review and consideration, the City Council incorporates the foregoing recitals as if fully rewritten herein, and it hereby confirms that the legislative variance criteria set forth in Section 111-5 of the Cincinnati Municipal Code are satisfied in all respects.

Section 2. That the Council specifically finds that a legislative variance authorizing the development and use of the property located at 932 McPherson Avenue ("Property") in the East Price Hill neighborhood as a two-family dwelling, which Property is depicted on the map attached hereto as Exhibit A and incorporated herein by reference, will not have an adverse effect on the character of the surrounding area or the public's health, safety, and general welfare, and that it is consistent with the purposes of the Cincinnati Municipal Code and the zoning district within which the Property is located.

Section 3. That the Council authorizes the Property's development and use as a two-family dwelling, subject to the terms and conditions set forth in this ordinance. This authorization is granted notwithstanding the use limitations contained in Chapter 1403, "Single-Family Districts," of the Cincinnati Municipal Code, and any other applicable zoning regulations that would prevent the Property's development and use as a two-family dwelling, including, but not limited to, the off-street parking requirements set forth in Section 1425-19, "Off-Street Parking and Loading Requirements," of the Cincinnati Municipal Code.

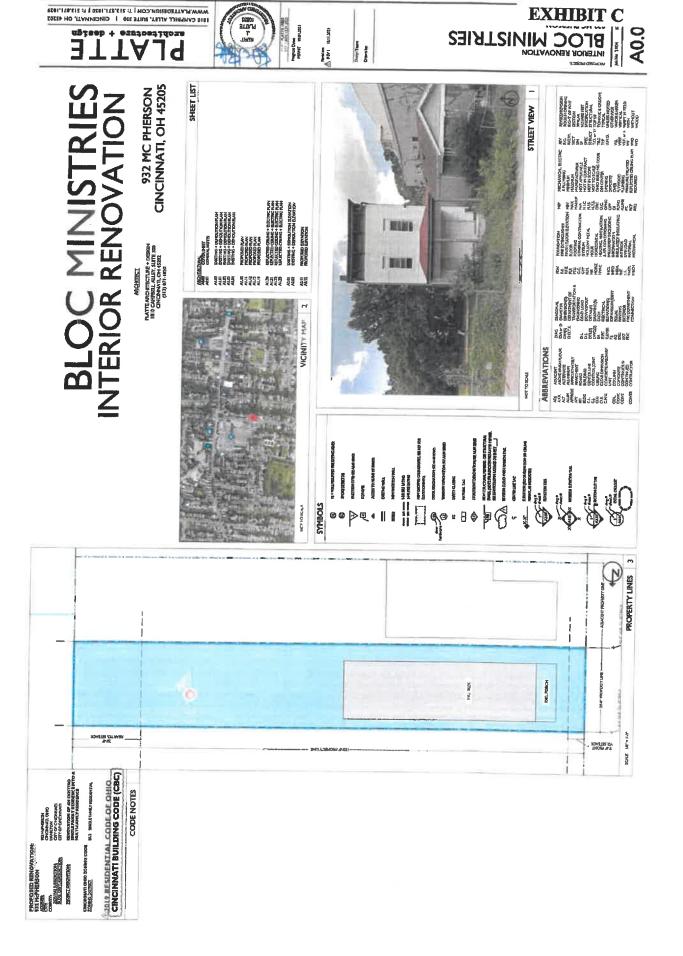
Section 4. That the Council authorizes the Property's development and use as a two-family dwelling on the condition that the Property is developed as per the plans on file with the Department of Buildings and Inspections under permit no. 2021P07766.

Section 5. That this ordinance does not provide a variance from any other laws of the City of Cincinnati, and the Property shall remain subject to all other provisions of the Cincinnati Municipal Code and the SF-2, "Single-Family," zoning district.

Section 6. That the City Manager and the appropriate City officials are authorized to take all necessary and proper actions to implement this ordinance, including by issuing building permits and related approvals provided they conform to applicable building codes, housing codes, accessibility laws, and other applicable laws, rules, and regulations.

Section 7. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed:		
	John Cranley, Mayor	
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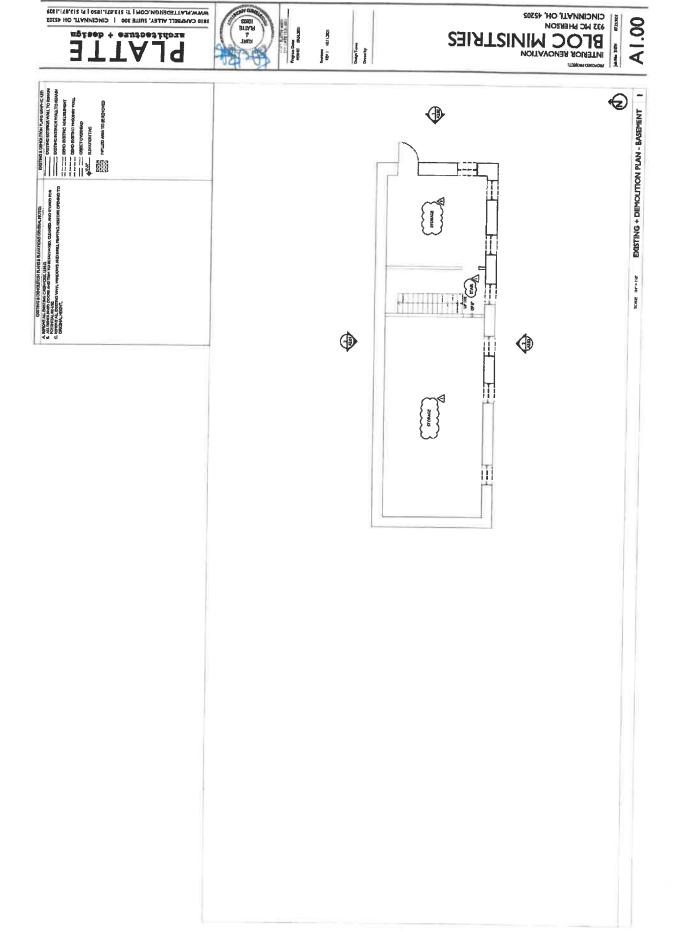
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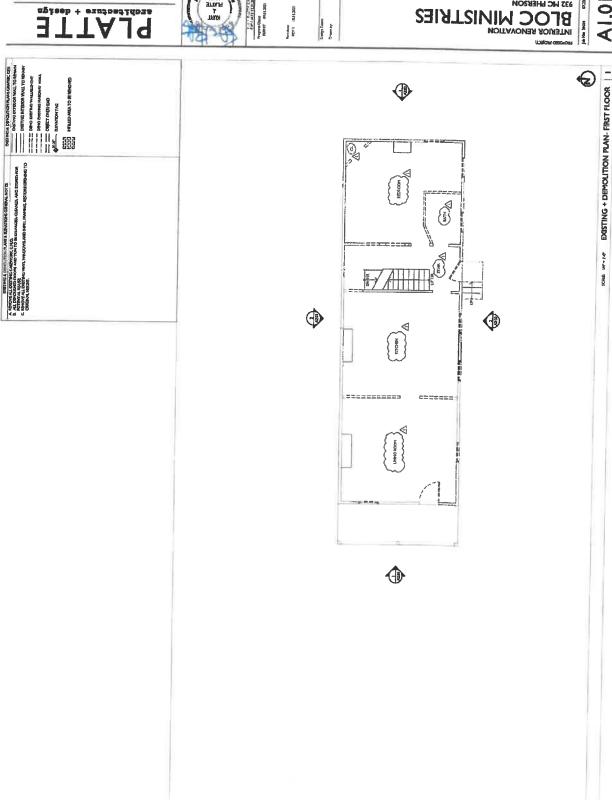
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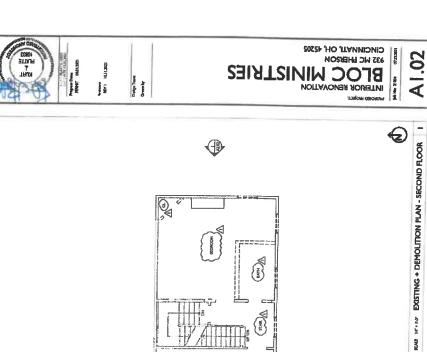
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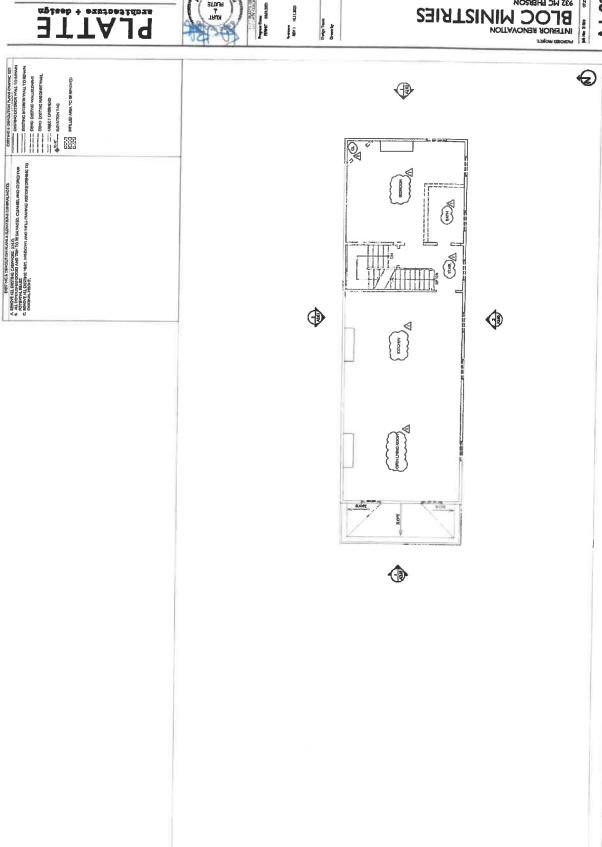


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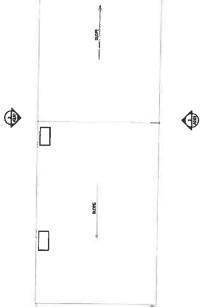


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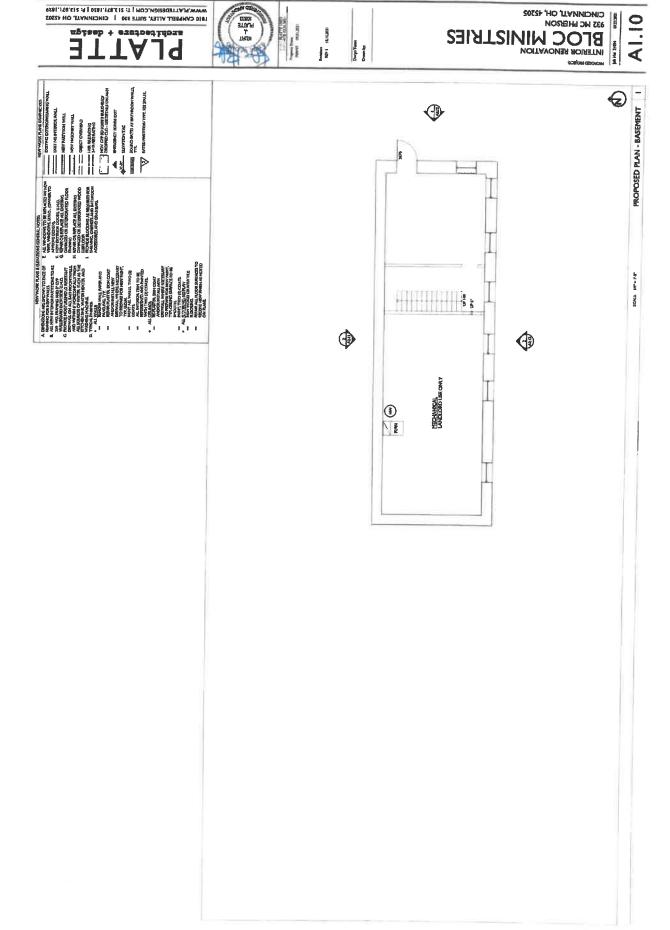
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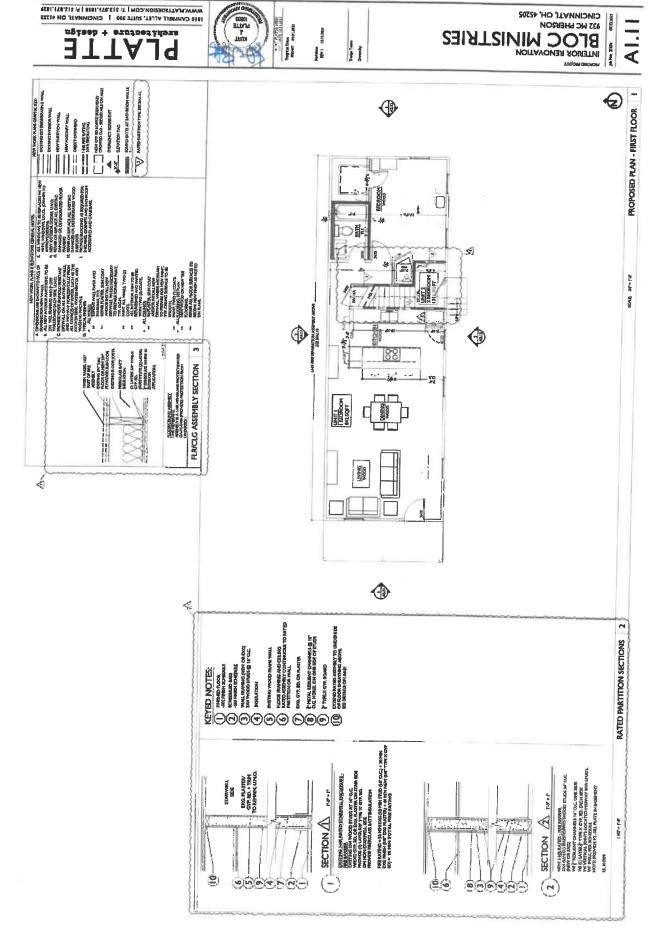
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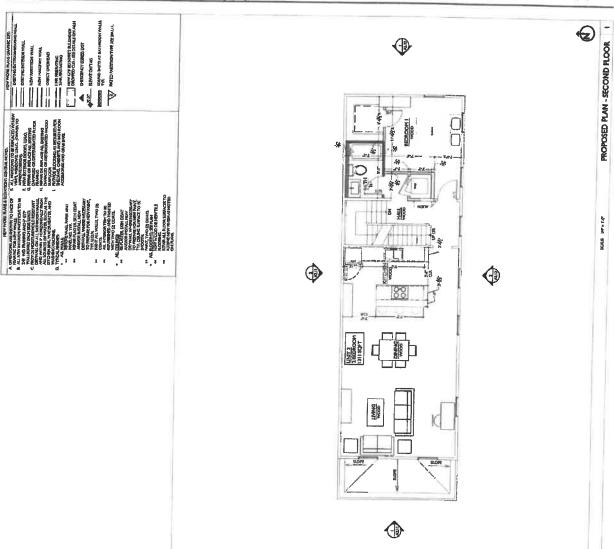


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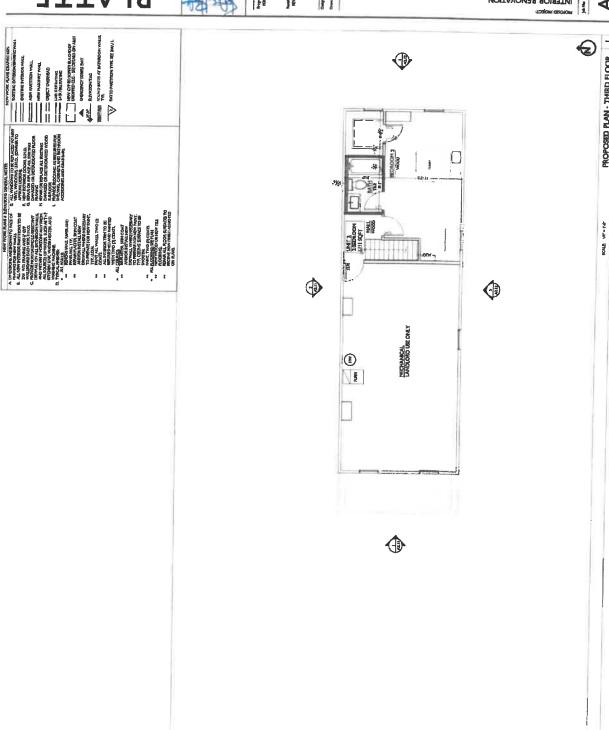




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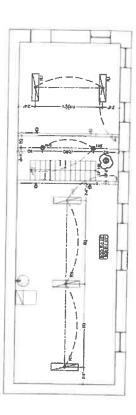
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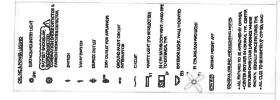
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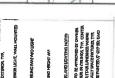
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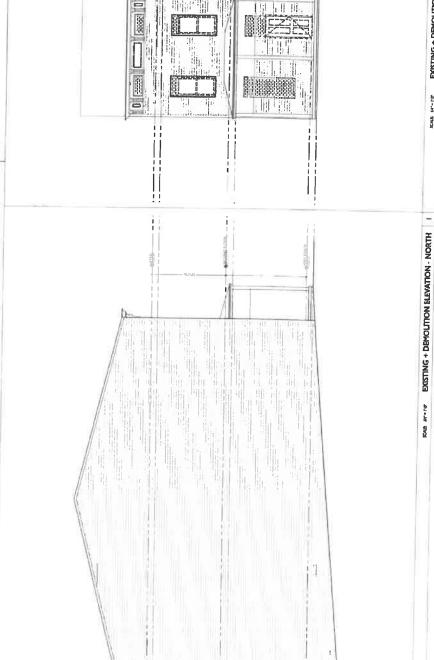
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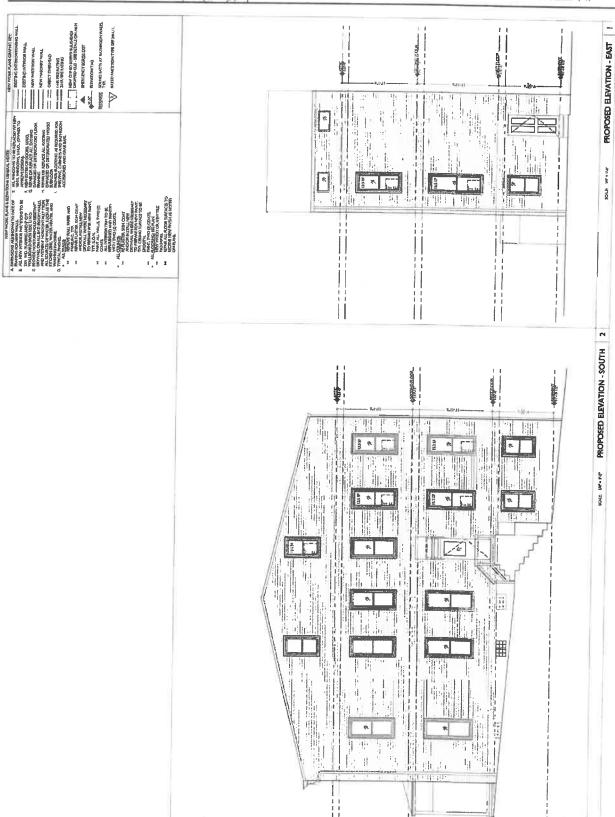
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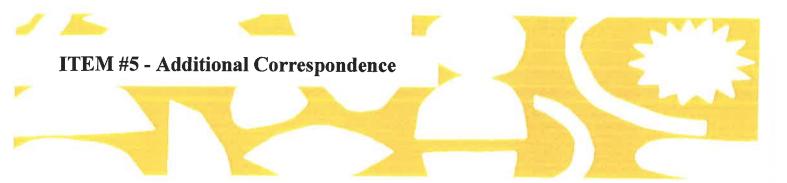




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**ATTE** 



December 13, 2021

City of Cincinnati City Planning Commission 805 Central Avenue Cincinnati, OH 45202 Attn: Samantha McClean

To Samantha McClean and the members of the Planning Commission,

On behalf of Price Hill Will, I am writing to advocate for the change of the one family residence at 932 McPherson Avenue to a two family residence by BLOC Ministries. The home will support women in our neighborhood by providing housing for women who are graduates of BLOC's long term recovery program. Each unit will be occupied by one woman. They each have full time employment and will be paying their way forward. Price Hill Will fully encourages and supports this much needed program that improves quality of life and provides further housing stability to our Price Hill communities.

Price Hill Will is a community development corporation dedicated to creating systemic change in Price Hill through equitable physical, civic, social, economic, and creative development that improves the quality of life for all families in our community. We help residents build on their assets and gain skills as we connect them with resources to improve their quality of life. We achieve this via community leadership development, community gardens, neighborhood business district planning and revitalization, residential and commercial real estate development, our MYCincinnati 120-member youth orchestra, arts and cultural events, and many other programs.

Thank you for your consideration. Please feel free to reach out to me if you have any questions – I can be reached at jay@pricehillwill.org.

Thank you,

Jay-Kratz, RA

Director of Real Estate Development

Price Hill Will







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903 AVE MCPHEARSON HOLDINGS LLC 24 E UNIVERSITY AVE #OFC CINCINNATI OH 45219	905 WELLS LLC PO BOX 11276 CINCINNATI OH 45211	923 FAIRBANKS AVE LLC 4270 IVY POINTE BLVD #225 CINCINNATI OH 45245
935 WELLS LLC	950 MCPHERSON LLC	AAA FAMILY 2 LLC
1317 HOPPLE ST	P O BOX 9422	3987 EBENEZER RD
CINCINNATI OH 45225	CINCINNATI OH 45209	CINCINNATI OH 45248
AFFORDABLE HOUSING CORPORATION	ALFREY CAROLINE A	ALVAREZ EUGENE & JOAN
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917 VOSS ST	846 MCPHERSON AVE	911 W 8TH ST
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BUSCH DONALD D SR & JOAN	CARNES ROSEMARY A	CARTHAGE CONTRACTORS LLC
904 WELLS ST	930 MCPHERSON AVE	6809 VINE ST
CINCINNATI OH 45205-1827	CINCINNATI OH 45205-1815	CINCINNATI OH 45216
C-DEVELOPMENT COMPANY LLC	CHILDRESS SHANAY L	CINCY HOUSE LLC
903 FAIRBANKS AVE	909 MCPHERSON AVE	PO BOX 14148
CINCINNATI OH 45205	CINCINNATI OH 45205	CINCINNATI OH 45250
CINVESTMENTS GROUP LLC 6457 GLENWAY AVE SUITE 112	DENSFORD WAYNE F & MELISA SUE 939 VOSS ST CINCINNATI OH 45205-1719	DGTH LLC P O BOX 32261 CINCINNATI OH 45232

**CINCINNATI OH 45211** 

P O BOX 5486		
MEYER MANAGEMENT INC	MS TEES PROPERTY GROUP 1123 FRONT ST	MUNOZ LUIS & SHANNON G 910 VOSS ST
NATIVED MAANIA CENAENIT INIC		
CINCINNATI OH 45205-1815	930 ENRIGHT AVE CINCINNATI OH 45205	MIDLOTHIAN VA 23113
924 MCPHERSON AVE	SARGENT	11211 BUCKHEAD CT
MCGUANE FRANCIS	MELLON VINCENT & SHAAKIRA	METCALF IGNACIO A
WEST CHESTER OH 45071	CINCINNATI OH 45205	CINCINNATI OH 45205
P O BOX 1812	1604 ROSE AVE	1702 QUEBEC RD
LUCERNE PROPERTIES LLC	MATEO ROSA MARTINEZ	MCCLURE JAMES P
CINCINNATI OH 45205-1826	CINCINNATI OH 45205	WEST CHESTER OH 45069
909 WELLS ST	932 WELLS AVE	7184 GREGORY CREEK LN
LASWELL JOHNNIE M	LEE CATHY LUCILLE	LOREN REAL ESTATE LLC
CINCINNATI OH 45205	CINCINNATI OH 45205	CINCINNATI OH 45202
920 VOSS ST	925 VOSS ST	1014 VINE ST
JOHNSON DEBRESHA	JONES LAQUEA	KROGER LIMITED PARTNERSHIP I
	CINCINNATI OH 45202	
CINCINNATI OH 45237	STE 300	
4910 PARA DR	3 EAST FOURTH ST	CINCINNATI OH 45205
CINCINNATI	REUTILIZATION CORPORATION	917 FAIRBANKS
HABITAT FOR HUMANITY OF GREATER	HAMILTON COUNTY LAND	HARMON JAQUNNA PATRICE
CINCINNATI OH 45205	HOLLYWOOD FL 33021	CINCINNATI OH 45245
939 WELLS ST	201 N 46TH AVE	4047 CEDARWOOD LN
FRYE MARJORIE	GALACTIC UNION GROUP LLC	GREY FOREST DEVELOPMENT LLC
CINCINNATI OH 45209	CINCINNATI OH 45205	CINCINNATI OH 45229
P O BOX 9731	941 FAIRBANKS AVE	PO BOX 24433
FAIRBANKS-SUNSET LLC	FOLEY DALON !	FOREVER REDEEMED PROPERTIES LLC
	1	
MIAMI FL 33161	CINCINNATI OH 45224	CINCINNATI OH 45223
P O BOX 610713	2131 LINCOLN AVE	PO BOX 23316
DIEM PHILANA	ESCOBEDO JULIAN	FAIRBANKS-SUNSET LLC

PACKER JAMES P JR 5764 GLENWAY AVE	PALACIO OSCAR 8340 RIDGEVALLEY CT	PHELPS BETTY A 958 MCPHERSON AVE
CINCINNATI OH 45238	CINCINNATI OH 45247	CINCINNATI OH 45205-1863
PRICE HILL WILL	REAL HANDYMAN SERVICE LLC	REDEEMED INVESTMENTS LLC
3301 PRICE AVE	963 WELLS ST	2343 PARK ROSE AVE
CINCINNATI OH 45205	CINCINNATI OH 45205	DUARTE CA 91010
RISING PHOENIX PROPERTIES LLC	ROBERTS RICHARD P & WILMA I	RUTLAND NAKIA N
11970 STREAMSIDE DR	940 WELLS ST	937 FAIRBANKS AVE
LOVELAND OH 45140	CINCINNATI OH 45205	CINCINNATI OH 45205
SCHLOSS MARGARET	SCHOLL JEFFREY W & ALISON M	SFR3 AIC LLC
4508 HECTOR AVENUE	4666 GLENWAY AVE	500 WESTOVER DR
CINCINNATI OH 45227	CINCINNATI OH 45238	#14104
		SANFORD NC 27330
SFR3-020 LLC	SIMS GREGORY P	SKIMORE JOSEPH & ROBERTA E
228 PARK AVE S	927 FAIRBANKS AVE	949 WELLS ST
STE 73833	<b>CINCINNATI OH 45205-1807</b>	CINCINNATI OH 45205
NEW YORK NY 10003		
SMITH LEROY	ST LEON MANAGEMENT LLC	STASER CHRISTOPHER J & KELSIE O
950 WELLS ST	8214 JORDAN RIDGE DR	942 MCPHERSON
CINCINNATI OH 45205	CLEVES OH 45002	CINCINNATI OH 45205
STEPHENS HEATHER	STOWELL PHILIP A & BARBARA J	STRAUGHN PAULA & FREDRICK
911 MCPHERSON AVE	928 MCPHERSON AVE	835 MCPHERSON AVE
CINCINNATI OH 45205	CINCINNATI OH 45205	CINCINNATI OH 45205
STRAYHORN VICTOR & CHAUNA	TAYLOR RONALD F JR & ELIZABETH A	VANDENBOSCH MARY
1380 MEREDITH DR	924 ENRIGHT AVE	2338 KENTON ST
CINCINNATI OH 45231	CINCINNATI OH 45205	CINCINNATI OH 45206
VINA REAL-ESTATE INVESTMENT	WALLS REAL ESTATE INVESTMENTS III	WEBER NANCY A
GROUP LLC	LLC	6885 WESSELMAN RD
P O BOX 32183	10 GREEN ST	CLEVES OH 45002
CINCINNATI OH 45232	CINCINNATI OH 45202	011 TJ002
WEINGARTNER JEFFREY T	WIGLE MICHAEL J	WOLF EMILIE
3030 JESSUP RD	922 ENRIGHT AVE	971 WELLS AVE
CINCINNATI OH 45239	CINCINNATI OH 45205-1704	CINCINNATI OH 45205

WYOMING DDL LLC 901 MCPHERSON AVE CINCINNATI OH 45205 YOUNG DWIGHT & STEPHANIE 3952 NORTHBEND RD CINCINNATI OH 45211

YOUNG STEPHANIE MOORE 831 ROSEMONT AVE CINCINNATI OH 45205

EAST PRICE HILL IMPROVEMENT
ASSOCIATION
PO BOX 5420
CINCINNATI OH 45205