

## Response to LH and FL Appeal:

In its appeal, Listening House asks the City Council to modify the Zoning Administrator's Determination of Similar Use as outlined in the Zoning Administrator's March 20, 2017 Statement of Clarification. At the stage of an appeal to the City Council, Listening House now seeks to completely change the description of their land use as that which is, "similar to other principal uses permitted in a house of worship." The initial application, completed by Listening House, reflects that the parties sought a Determination of Similar Use under a "home occupation status." The Zoning Administrator granted the variance according to Listening House's request; and Listening House opened its doors in reliance on the grant of their request. Inasmuch, the opportunity they have had to operate for upwards of five months, in the space they currently rent, has been based on Listening House's own characterization of their land use practices. So, it strains all notions of fairness and logic to suggest that at this stage in the process, they seek to be heard according to a completely different characterization of land use.

First, this request undermines the hours of significant efforts already expended by Listening House and the Neighbors who have had to absorb the detrimental impacts of Listening House's land use. Both invested substantial time in meetings and mediation, to arrive at common understandings of each other's concerns and to identify the conditions under which they could more peacefully co-exist. Those several hours of discussion were predicated on a certain foundation, a foundation that Listening House and First Lutheran constructed through the language it used in its application. To request a different justification for the reason they should be allowed to operate in a residential neighborhood, following an appeal to the Zoning Committee, a subsequent appeal to the Planning Commission, and several weeks of mediation, would result in the waste a great deal of thought, coordination, time, and effort. It would not be fair to the Neighbors, who arrived at the table for countless meetings, in good faith, with suggestions, feedback, legitimate concerns, hope and sincere solutions, to have the basis for all those efforts shifted now that Listening House is faced with the possibility of having their detrimental land use reigned in through the Planning Commission's conditions.

Second, granting this request would signal to any conflicted parties going forward that they can change the basis for the request that gave rise to the conflict before the City Council, at any point, even at the appeal hearing before the Council. Such a practice would leave the citizens with little cause to trust in the processes of alternative dispute resolution, like the mediation to which we were directed, by the Zoning Commission. None of the Neighbors would have engaged in the long arduous process of mediating this dispute with Listening House, had we known that at the appeal hearing, Listening House would seek to completely change the basis for their license to operate. Ultimately, granting this request, would eliminate the integrity and reliability of the civil process for resolving disputes throughout the city, going forward.

Moreover, allowing an agency to apply for special permission to operate outside the land uses contemplated under the zoning code, is a significant concession in densely populated urban areas with competing land interests. The City certainly has the discretionary authority to allow and grant code variances. But with that authority comes a responsibility to uphold the spirit of the zoning code. At a bare minimum such special allowances for agencies to operate outside the code must be permitted in a manner that allows for the provision of services to those in need,

without gutting the nearby residents' quiet enjoyment of their homes. The opportunity for Neighbors to enjoy quiet repose in their homes, to which they are entitled, under the Nuisance Ordinance outlined below, has been severely infringed upon by the Listening House guests. The City has before it, reams of incidents, carefully documented by Listening Houses' neighbors, which demonstrate how this variance, in very practical ways, eliminated the Neighbors' quiet enjoyment of their homes and neighborhood. These incidents demonstrate that the City should now exercise its discretionary authority to remediate the detrimental impact Listening House's land use practices have caused, and which Listening House refuses to address through reasonable conditions. The City should most certainly not at this point, allow Listening House to shift the basis for determining how to proceed from the quagmire the neighborhood is in, to a completely different land use analysis.

Families need a place to let their guards down. Like any neighborhood, ours consists of women living alone and who are sometimes out in the community on their own. And, due to the many responsibilities most families already have in their lives, heads of household must sometimes leave minor children alone in their homes. Since Listening House opened, these otherwise typical moments have been accompanied with the threats immediately apparent in the following scenarios: an acutely psychotic man sitting on a Neighbor's porch in broad daylight at a moment when a fifteen year child in that household is due home from school; a small child under six, leaving her home with her mother to see a man, wildly intoxicated, remove his penis from his pants in broad daylight and urinate within full view of the child; on this same block, a woman is followed home while out on what should have been a leisurely walk; and yet another woman on the block returns from a night out to find an intoxicated man sitting in front of the only door to the apartment where she lived alone, after he had trashed the produce she had grown on her deck and carved a desperate expletive into her deck.

These situations may not immediately represent the same horror as a child abduction or sexual assault, but the activity does establish an atmosphere that is completely unpredictable and out of control for those of us who live there. This sense of chaos is underscored by Listening House's refusal to screen for even the most serious sexual or otherwise predatory offenders, since its arrival in Dayton's Bluff. Allowing a party to shift the characterization of their land use to one they perceive to be less susceptible to conditions, restrictions, or oversight, at any point in the process where they are held accountable, would establish a terrible precedent. It would be particularly alarming for the city to allow such an abuse of the process when the land use under consideration has included detriments to the neighbors' quiet enjoyment of their private property, through the types of incidents described here, in addition to many others.

The City has a responsibility to its citizens. And, that responsibility includes making zoning decisions that keep us all not only safe. These decisions should also allow people living in an RT1 zoning district access to moments in our homes that do not include the lingering experiences of ongoing nuisance behaviors and the threat of such significant harms that the incidents before the Council represent. The services Listening House provides to people in need are important. But they are not site specific; they can absolutely be made available to people outside the context of this particular Lutheran Church campus. They can just as surely be provided in a way that does not undermine the safety and security of an otherwise thriving and diverse neighborhood. And they should not be allowed to shift the focus of their land use to that

of a house of worship's typical use, in order to force the City's hand in prolonging these completely incompatible land uses.

Listening House has the right to appeal the Planning Commission's conditions, which the Commission imposed as a means of attempting to remediate the detrimental impact LH has had on the neighborhood. However, Listening House should not be allowed to morph the City Council's grant of a hearing, into a forum in which it publicly litigates against its own foundation for opening. It is the end of the line of a certain request that was granted and that is not compatible with the neighborhood in which they chose to operate. The appeal is a forum to hear whether this special chance for them to operate outside of the zoning code, in a specific grant from the Zoning Commissioner, in a neighborhood radically different from the one where they previously operated, has been successful. It has been a failure; and Listening House should not be allowed to shift the entire analysis to divert attention from what a tremendously negative impact their land use has had on the Neighbors around them.

The first enumerated item under Listening House's Grounds for Appeal, reflects one of many attempts Listening House made to conflate their identity with First Lutheran. To be clear: Listening House is not First Lutheran and First Lutheran is not Listening House. The two entities have separate governing boards, articles of incorporation, and registrations with the Secretary of State. And, despite some overlap in their concern for the homeless, they have radically different daily use practices of the 464 Maria address. What they do have is a contractual lease agreement with one another. Listening House pays First Lutheran a specific amount of money for space to provide services for a limited period of time. The two parties are engaged in a business deal. Listening House operated in downtown St. Paul for years before renting the space located in First Lutheran's basement. First Lutheran operated for decades prior to renting space in its basement to Listening House.

If First Lutheran *needed* to provide the services that Listening House provides, in addition to the programs they already offered (Wellness Wednesdays, etc.) then they likely would not impose the barrier of a financial burden, in the form of a ten year lease commitment. They would simply make these services available, free of charge on their campus, if it was necessary, integral to their mission. They would be the same entity. They are not the same entity. Listening House is not a religious institution. Nothing on their website references any spiritual practices or religious ceremony offered there. If First Lutheran needed Listening House, so desperately, it would be a fee for service arrangement; First Lutheran would *be paying Listening House to provide the services*. Listening House would certainly not be paying out a ten year lease to be there.

A place of worship is defined as, "a specially designed structure or consecrated space where individuals or groups come to perform acts of devotion, veneration or religious study." Churches exist to spread the word of God, to provide specific services to people, to support one another, to provide a place for worship and to practice the sacraments of their respective faith traditions. They exist to make a change in individuals, and ultimately in the broader community. Listening House has made it very clear that they are not here to fix anyone. They are not advancing a particular religious practice or specific theological mission. They will not screen for Level III sex offenders, even in an attempt to show compassion to concerned neighbors. They will not set any expectations for sobriety or abstinence from drug use prior to entering their rented space, so

that whatever gospel they now purport to promote can be coherently received. They do not seek to foster a relationship between their guests and any God. Listening House does not meet the criteria for a house of worship by anyone's definition.

On its website, Listening House characterizes itself as, "a sanctuary from the streets where practical assistance, counsel and a friendly ear are offered for people who are homeless, disadvantaged, or lonely." ([www.listeninghouse.org](http://www.listeninghouse.org), November 29, 2017) Based on this broad description Venne Diagram intersections between what Listening House offers and many hospitable organizations, private parties, businesses and Churches could reflect many common areas. However, that does not establish a necessity that the City treat Listening House, as a place of worship. Such an outcome would be absurd and would allow all kinds of parties to avoid most forms of civic oversight, regulation or control, by merely invoking religious protection.

Items one and two under Listening House's grounds for appeal are remarkable in their quick reinvention of themselves as a Church. Being a tenant in a Church basement does not convert an agency into a religious institution any more than being an alcoholic at an A.A. meeting held in a synagogue converts that person to Judaism.

To be clear, Listening House's presence in the Dayton's Bluff neighborhood has been the source of a 450% increase in police calls to 464 Maria, First Lutheran's address. Perhaps Listening House should survey the addresses of the actual places of worship in St. Paul and demonstrate a similar uptick in required police intervention from any specific religious institution's address over a year's time. If the "principle uses" Listening House referenced in item one of its grounds for appeal, led to such a significant increase in problems in all the bonafide churches in the area in just one year, the burden on the St. Paul Police would be completely overwhelming. This is not the case, because the actual churches in St. Paul, are not open to provide services that are so incompatible with the neighborhoods in which they exist. Radical compassion certainly has its place, but not at the expense of nearby families and singles, entitled to their own respite from life's challenges, responsibilities and struggles.

The second item under Listening House's grounds for appeal includes a citation to the Religious Land Use and Institutionalized Persons Act of 2000, providing that, "no government entity shall impose or implement a land use regulation that puts a substantial burden on the religious exercise of a person, religious assembly or religious institution, unless the government can show that the burden furthers a compelling government interest and is the least restrictive means of furthering that interest." Again, Listening House is not a religious institution. And if, by mere virtue of their move from an entirely secular location in downtown St. Paul where they operated for twenty plus years, to the basement of First Lutheran, the City is inclined to treat them as a Church under RLUIPA, the City still has a compelling interest here. Specifically, then the precedent is set for anyone seeking to avoid regulation to claim that their kind deeds and good intentions amount to a worship service.

Should the City adopt such a loose definition of a place of worship, it most certainly has a compelling interest to intervene on properties in RT1 neighborhoods that require a 450% increase in police calls to a specific site. Failure to intervene would represent a dereliction of the City's duty to its citizens, religious or not. The impact on the neighborhood, and the intensity of

the examples noted above in conjunction with the volume of ongoing nuisance behaviors since Listening House arrived in Dayton's Bluff, represent a compelling interest.

The conditions the Planning Commission imposed are not a restriction on religious expression or assembly. Providing a warm room for a person to escape the elements, enjoy a cup of coffee or take in the comfort of a caring listener, are not religious practices. They are human expressions of compassion. The City's conditions are an attempt to establish the parameters that might bring an unnecessarily chaotic presence in an RT1 neighborhood under control. Furthermore, these conditions are narrowly tailored to the goal of establishing some semblance of compatibility between Listening House and the Neighbors. Listening House is open for twenty five to twenty-six hours per week. Their land use practices have translated to a detrimental impact on the neighborhood that persists for twenty-four hours a day, seven days per week, in Dayton's Bluff. This is a compelling interest and the City was right to place some expectations on them.

Under item three, Listening House complains the "home occupation" standards applied to them are inappropriate and a source of confusion in the proceedings. This is a baffling claim, as the actual church from which they rent, First Lutheran, requested that the Planning Commission apply this standard. If it is incorrect, or if it presents an undue burden to Listening House, then they should not have rented the basement of the church in the first place. This claim also contradicts the page and half leading up to item three, wherein Listen House makes every effort to eliminate any points of differentiation between their day drop in center and a religious institution (First Lutheran.) And, if the basis for the "home occupation" standards were appropriate for St. Mary's Episcopal, in their offers of yoga, home health care, travel planning, counseling, massage, and piano teaching business endeavors, then they are certainly the appropriate requirements for First Lutheran and Listening House, who self-identifies on their website as, "the living room for the homeless."

Additionally, Listening House reasserts its claim that it is entitled to be treated as a place of worship. The Neighbors certainly wish that we were interacting with people who were bound for, or fresh from, an experience of worship or spiritual enrichment. However, in reality, the Listening House guests are bound for an experience of respite from the difficulties of their lives. And, in many cases, this respite seems limited in temporal impact. Many resume chaotically yelling, fighting, intimidating, drinking or using almost immediately upon their departure from the time spent at Listening House; and it immediately becomes the responsibility of the Neighbors to protect their properties, families, and selves. This is certainly not the typical experience of most neighbors living in close proximity to a place of worship. Finally, nothing on their website or in any of their published articles includes their own staff or directors, referring to their agency as a place of worship. In fact the history section of their website reflects that their aspiration from the beginning has always been, "Listen, do not preach. Do not try to fix, just listen." This rebranding of their site as a place of worship is a disingenuous attempt to evade regulation.

Under item four, Listening House objects to the control of the "behavior of the individuals First Lutheran Church and Listening House serve, not land use." Land use *is* human behavior. Aside from the building construction restrictions cited at this point in Listening Houses' appeal, it is

difficult to imagine actual land use that is absent some form of human behavior in an urban setting over which St. Paul's zoning ordinances would apply.

The code is clear in its authorization to hold people accountable for nuisances deriving from land use. Specifically, the zoning code defines public nuisance under Chapter §231.101 accordingly: "Whoever by his or her act or failure to perform a legal duty intentionally does any of the following maintains a public nuisance and is guilty of a misdemeanor: ... (1) Maintains or permits a condition **which unreasonably annoys, injures or endangers the safety, health, morals comfort or repose of any considerable number of members of the public...**" The specific incidents referenced herein reflect the clear dangers to public safety that Listening House's guests have presented at times since the move to 464 Maria. Also, the Council has before it a raft of specific, incidents of public urination, defecation, carelessly discarded garbage, carelessly discarded drug paraphernalia, discarded, as well as used feminine and sexual hygiene products, which pose a threat to the health and safety of the Neighbors. At many times since Listening House opened, a parade of loudly yelling people in crisis, in conflict with one another or the neighbors, at an extreme level of intoxication or in a state of significant emotional dysregulation, has reduced the concept of a quiet repose during free time at home, a distant memory for the Neighbors.

The Planning Commission's conditions on Listening House's land use are also wholly appropriate, as such regulation is contemplated under the code at Section 231.02, Permitting Public Nuisances. Here, the responsibility to eliminate nuisance conduct, under threat of a misdemeanor, is squarely placed on the person(s), "having control of real property who knowingly permit(s) it to be used to maintain a public nuisance or lets the same knowing will be so used is guilty of a misdemeanor." Under this subsection of the code, the person having control of the property is defined as, "the owner or owners of the freehold of the premises or lesser estate therein, or other person, firm, corporation, association or partnership in control of a building."

The same subsection ascribes the same meaning to public nuisance as that defined under state law, "...and shall include, but not be limited to, **noise complaints, litter or sanitation complaints, increased vehicular or foot traffic, parking problems associated with the property, sale or possession of controlled substances, illegal gambling, prostitution or acts of prostitution, or any other acts or incidents showing all that the peace comfort or decency of the neighborhood or any considerable number of members of the public has been repeatedly disturbed.**" Section 231.02(2). The City Council members could easily find many people from the Neighborhood surrounding 464 Maria who experienced multiples of the nuisance behaviors described under chapter 231. Please see the log of incidents submitted with the Neighbors' appeal.

Additionally, the code contemplates required responses to abate the nuisance or prevent further public nuisance behaviors, noting that, "**It is a defense against a proceeding under this section that the person(s) having control of the property made every reasonable attempt to abate the public nuisance by evicting the tenant(s) from the premises by filing and completing an unlawful detainer action against them before the second conviction under this section.**" Inasmuch, the code clearly takes aim at land use behaviors, defines those which are forbidden,

and proscribes a manner of enforcing those who fail to better control the impact their detrimental land use has on those around them. The Neighbors do not have a problem with people who are homeless. They do not have a problem with people who are displaying symptoms of mental illness or signs of chemical dependency. The “who” referenced in Listening House’s appeal is not the Neighbors’ concern. The issue is “how” the land is used. The Neighbors ask that the City Council enforce the ordinance against the public nuisance behaviors that Listening House has allowed to engulf the blocks closest to 464 Maria according to the procedures outlined in the code.

On page three, Listening House enumerates, “Specific Objections to Proposed Conditions.” In reference to the first condition, they claim that the term low profile, generate limited traffic,” is vague and not relevant to the operation of the Church or Listening House. Representatives from Listening House spent hours with us, and have received a large volume of detailed concerns citing to specific dates, times, behaviors, and parties. They have no genuine basis for claiming confusion about whether we are concerned about foot or auto traffic. We have discussed, ad nauseum, the increased foot traffic, the parties leaving Listening House walking, yelling, stumbling, urinating and defecating their way to Swede Hollow park, East Seventh Street, or nearby businesses, where they have done damage to a restroom in a coffee shop and tossed condiments about.

“Low profile” most decidedly is not a reference to signs, as Listening House suggests in their appeal. I think any one of the concerned neighbors would be pleased to be wrestling with considerations of advertisement height and width considerations, over the concerns of psychotic people trespassing on our property, following our women when they walk alone, and exposing their bare genitals to our children. “Low profile” in the context of a day drop in center for the homeless on a city street that is home to fifteen minor children, is not a terribly exotic concept. If Listening House had any measure of the compassion for the Neighbors as they reserve for the twenty-five hours per week they listen to the homeless, they might apply common, contextual understandings to terms like “high profile.” They may not request that we prove that it was one of their clients who dropped a hypo-dermic needle on the sidewalk in front of a family’s home. They might, observe their guests after they leave the building at 464 Maria to consider how their behavior might be received by their own neighbors during their scant free time. They might place themselves in a position of having the produce and flowers they grew in their yards ripped out, stolen, or smashed for sport by the guests. They might wonder what it would be like to come home for lunch at home and repeatedly encounter drunk people fighting with one another as they amble down the middle of the road. These might be violations of the low barrier expectation that Listening House might set out to remediate.

Item two under the specific objections is absurd for the reasons explained in the first several pages of this response document. Additionally, it is not Listening House’s place to tell the City that a “home occupation” is not appropriate. They are certainly a not for profit business. They have chosen to drop themselves down into an RT1 neighborhood. And, since 2004, the Home Occupation Standard has been the standard by which the City analyzed situations in which Churches sought to provide services. This is not an attack on Listening House. Rather, it is the means by which the City has attempted to bring some uniformity to parties asking to operate outside of uses contemplated under the code for a specific zoning purpose.

Under item four Listening House then objects to having their hours limited to 9:00 a.m. to 5:00 p.m. Interestingly, on this issue, Listening House seeks to differentiate itself from First Lutheran. In fact, Listening House wants to ensure that any agreement to adhere to the hours required under the new conditions, would not translate to any infringement on the Church's operating hours. This is a bold departure from the sustained attempts throughout their appeal to disintegrate any perceivable differences between Listening House and First Lutheran.

Of additional note is the request for flexibility in hours of operation, to allow fluctuation with the seasons. Based on the substance of the appeals surrounding this issue, it would seem that if the City asked for any fluctuation, Listening House would decry the condition as vague and wonder about the meaning. The Neighbors view Listening House's response to a simple request for defined hours that remain predictable for a very unpredictable population, as further evidence of their unwillingness to sacrifice anything that would effectively accommodate the Neighbors' concerns. Setting hours is what bars, restaurants, non-profits, public utilities and schools do. It is not an unreasonable expectation.

In its objection to Item Five on page five, Listening House refuses a critical condition, which seeks to ameliorate the detrimental impact their land use has on the neighborhood. Listening House invited guests, as many as two hundred per day, according to their website, to this neighborhood. They have repeatedly claimed that many of the people they serve live in this neighborhood, but they have not provided any information to substantiate those claims. The people who come to Listening House come into the neighborhood in all sorts of distress and disorientation. The particular site of 464 Maria affords guests close proximity to acres and acres of a large public park, Swede Hollow, where they can resume drinking or using drugs and become even more intoxicated, psychotic or disoriented.

And, as the Neighbors have expressed to Listening House many times, the incompatibility of their presence in this neighborhood is largely due to what happens with their guests upon their departure, or shortly before their arrival, at Listening House. We have recounted in passionate detail the situations which have interrupted our abilities to meet the responsibilities we chose for our lives, to be suddenly in the midst of situations for which we are not prepared. These are situations we did not choose to become part of. These are situations for which we are not prepared to intervene. In some of them, we have been faced with crises of consciences when we have merely been attempting to squeeze in a leisurely run following a long day of work.

Aside from the interruptions and disruptions, the Neighbors simply do not feel well equipped to handle volatile verbal aggression directed at us by people whom we know have been at Listening House, but not screened, ever, for violent or criminal sexual assault histories. We are not equipped to encounter a man who is so intoxicated that he falls over and begins to demonstrate seizure symptoms, then inexplicably pops up and walks until he falls over and resumes more seizure symptoms, only to pass out at the door of Listening House at 7:30 at night. We are not equipped to handle the hostility that has been turned back on us by Listening House guests in the form of a complete disregard for how we might experience their conduct. We are not equipped for this deluge of intense, disquieting, sometimes very dangerous conduct. Presumably the agency which invited them into their living room after situating it in this RT1 Neighborhood,



does have some expertise in de-escalating aggressive and violent guests, managing psychiatrically symptomatic people, and minimizing the risk of harm to self and others posed by significant states of intoxication. And, if anyone should have to diminish the issues that their detrimental land use practices have caused, it should be the staff of Listening House. This is their mission.

At mediation, we discussed the concern of the spillover into the adjacent blocks and the tendency for Listening House to serve as a speedbump for dozens of people in need of intense social services interventions. Listening House asked us to clarify with some specificity what we think they could do to remediate this problem. We discussed that they should take on community outreach workers, to provide more thorough services to their guests and to diminish the harm that their presence has had in the Neighborhood. They asked for more details and indicated that they were willing to consider this proposal, but kept coming back at us with many questions on how to make this work. At a certain point, it again became clear that Listening House simply would not accept responsibility for the negative impact that they were having on our Neighborhood. They were the experts in addressing the plight of the homeless, the unwell, the lonely. But their expertise was limited to the confines of the physical plant of Listening House's leased space. They were utterly dumb-founded at the prospect of addressing the concerns of this population they claim to have such a deep interest in, outside of their business hours and outside of their rented living room.

As such, the responsibility fell to those of us in the throes of meeting our own daily living needs, with no particular interest in, or capacity for, managing the spill over which so deeply impacted the quality of our lives throughout the term of Listening House's presence in Dayton's Bluff. They offer to make guests understand that the Neighbors do not want them in the Neighborhood, and to use socially acceptable behavior. This offer falls flat, in that this practice did not obviate the need for over a 450% increase in police calls to the address in the time they have been here. And, that is likely because the people who need these reminders and instructions are in such a state of psychiatric decompensation or active intoxication that instruction is not enough. Their guests need an intervention that comes with some formal training, skills and experience. The Neighbors should not be expected to have to problem solve such a staggering problem hatched upon them in the midst of their broader responsibilities.

On page five, Listening House objects to item 8, saying that the request that they give notice to the Neighbors of serious incidents observed involving their guests via a shared Google site, is too vague and unenforceable. Again, none of us, the Neighbors, had any idea how to organize or immediately respond to the chaos that ensued with Listening House's arrival. We considered what each of us might want to know to protect our safety and that of our loved ones. We considered what we would need to know on arrival at home, for example, if people who seemed to be unwell and who seemed to have no prior connection to one of our addresses was loitering, if people were observed dumping garbage, feces, needles, or other paraphernalia associated with mood altering chemicals, if people seemed to be particularly vulnerable or in a position where they were being exploited, if people seemed overtly hostile, according to common understandings of that term. We put one another in each other's positions and tried to share information we thought we each might need to avoid harm, mitigate disturbances, identify messes we needed to address, and if necessary, help people who appeared to be in trouble. These

are the types of information we would like Listening House to share, because these considerations have a direct impact on the quality of our lives in the neighborhood for the times beyond the twenty-five hours per week that they are open. But Listening House deems these considerations too vague and unenforceable.

On page six, item nine, Listening House mischaracterized the intent of the condition. By claiming that the “apparent purpose” is to keep Listening House guests out of sight,” they again fail to actually listen to the substance of the neighbors’ concerns. The gathering of people outside is the beginning of the problems outlined herein and at great length in the many materials before the City Council. We are not an antagonistic group of people who resist “seeing” homeless people, or those otherwise in need. The Neighbors have lived for years among many sober houses, homes for single mothers, apartment buildings rented entirely to Level Three Sex Offenders and other seriously dangerous people recently released from the Department of Corrections.

However, those living situations have clear and regularly enforced behavioral expectations built into their programming (i.e., strict requirements for sobriety, curfews, and other expectations in sober living environments), strong oversight and behavioral controls including curfews, onsite drug and alcohol testing, and home searches in place through Intensive Supervised Release agents (for the apartments full of dangerous Department of Corrections releases), and other structural supports in place (for single mothers living together.) It is well understood that Dayton’s Bluff has always been an affordable neighborhood for low income people, while also being home to some seriously entrenched criminal populations. The Neighbors are not people who hold their noses in the face of economic diversity or people living profoundly different lives than them.

But they are objecting in this instance because the Neighbors have been thrust into the position of managing the problems of the people Listening House invites into the Neighborhood but simultaneously refuses to manage while they are in the neighborhood. On the eve of Listening House’s arrival, a community meeting was held. The St. Paul Police attended and participated. At this first airing of concerns and trepidation, the Police pointed to the options of executing citizens arrests. When Neighbors expressed concerns about that process, we were encouraged to call for police responses as often as we felt we needed. Part of the problem is that the responses we need are a hybrid of law enforcement, social services, and emergency medical services. This complex combination of issues, that the Neighbors have been trying to address, is beyond the scope of what a typical Neighbor should have to manage in an RT1 setting. The complexity of the circumstances and conditions with which Listening House guests present, are not always a perfect fit for law enforcement, social services or paramedics. They are certainly beyond our capacities, and that is the source of our concern when we observe what we have from the front 464 Maria. The etiology of our disinterest in allowing the loitering outside the church should not be allowed to be mischaracterized as bourgeois snobbery. It is rooted in the frustrating experiences we have had, and which we can frequently trace back to the initial moments of outside gatherings near the Church.

Further, the stated mission of Listening House is to give their guests *respite from the elements* and some time to be heard. For people who are the subject of concern in large part because of

their homelessness, it is difficult to understand why it is impossible for Listening House to agree to this simple concession. Homeless guests and the underprivileged without access to their own vehicles are subject to the fresh air and out of doors, most of the time. This seems contrary to the very living room concept they offer in their online materials and through their neighborhood presence.

Under item fourteen, Listening House objects to the condition limiting their guest count to twenty people per day. They claim that this wholly reasonable expectation would be impossible to enforce, because guests come and go all day. This claim is nonsensical, because, in their next breath, they acknowledge a requirement to abide by the fire code census limitations. If they can keep track of guests' census to meet the fire code requirements, they can meet the twenty person limit.

Alternatively, assigning staff the responsibility of counting the number of people who access their services on a given day, is not a complicated or onerous expectation. Counting to twenty, is the requirement. When twenty people, who are not staff, have entered the building for services, they have fulfilled the quota. They have done their mission for the day. This expectation appears more difficult than it would actually be, because Listening House has already rejected the notion that they should do any community outreach, support or monitoring of guests after they have left 464 Maria but before they leave the neighborhood. Their wholesale rejection of the most substantive attempts to bring their presence into some semblance of resonance with the goals of the zoning code, should not serve as a basis to make each condition on its own, sound "impossible."

Under "Other Considerations" at item one, Listening House details all of the preliminary efforts the engaged as they prepared for their move to Dayton's Bluff. This is not the concern of the Neighbors. If this was a private residence, the application for a mortgage, the application for building permits, the costs of purchasing and improving on the property would not be of primary consideration. The party's detrimental land use would be. And, it should not be the primary consideration for the City Council at this point. What matters is that the Zoning Administrator allowed a land use that fell squarely outside the zoning code. And Listening House's land use has perfectly demonstrated why a code needs to exist and needs to be enforced. It needs to be enforced because the allowance for them to operate in this neighborhood has eliminated the opportunity for neighbors to access quiet repose in their own homes, to feel safe on their streets, to casually go about their typical life activities including walking their dogs, seeing their kids off to and back from school, tending to their gardens, or trusting that their property will remain on site.

It is unfortunate that Listening House is in the position in which they find themselves. But that hard position does not make them compatible with an RT1 Neighborhood. It does not eliminate the behavior which fits squarely within the city code's definition of misdemeanor level nuisance conduct. And perhaps, most disconcerting, it has not inspired in Listening House any demonstrated, genuine interest in engaging solutions that will meet the most serious concerns of the Neighbors.

Under item two of Other Considerations, Listening House described what they seem to think are proactive efforts to better navigate the residential milieu. They first noted that they changed the primary entrance on the first day they opened. The Neighbors requested that at condition a meeting, just days before they opened. They next note that the “Eliminated plans for a patio on the North side.” This is wonderful. They note that they installed security cameras to monitor their property. However, late into September at a mediation session, neighbors asked the Listening House staff how often they reviewed the camera footage. No one knew. It was only at this point that they agreed to review the conduct captured on the camera. However, as their other objections to the conditions note, they are not willing to discuss with Neighbors issues noted in that footage, which may be important to their senses of safety or serenity in the neighborhood. This makes the concession ring hollow and does very little to advance the confidence of the Neighbors.

They next note that they have agreed to “monitor numbers of guests using services, to ensure appropriate staff and volunteer levels.” In large part, they note in their own appeal that they consider monitoring the number of people accessing their program to be impossible. They will not commit to limiting their guests to twenty people per day. Monitoring for good staff to guest ratios seems wildly more complicated than counting to twenty.

The focus of the condition they have trotted out here, is on what works for Listening House. Their concern does not exit the basement of 464 Maria to address the cardinal concerns of their detrimental impact on the Neighborhood.

Further down their list, they noted that they have invited neighbors into Listening house and to reach out to them with concerns. Again, they place the onus on the Neighbors to seek solutions. Listening House has been in this business for upwards of thirty years. This is their area of expertise, not ours. They are not neophytes to the problems that arise when an attraction culminates in the pooling of people who have many of the issues that have caused such problems in our neighborhood. Listening House should be watching, they should be intervening, they should be seeking to understand what this has been like for the Neighbors, to better understand how to, or whether they can ever, become good neighbors.

They also note that they remain open during the lunch hour. This is a request that the Neighbors had to make for months before it was granted. It is surprising to the Neighbors that they offered this concession as something they chose to do, when they met our request with great resistance for many months. Similar to their responses to so many other conditions they have balked at herein, they immediately and repeatedly threw up their hands. They did not see any means of making this concession work. The Neighbors had to suggest increased staffing levels and staggered lunch breaks. Again, this is not the responsibility of the Neighbors.

At this point, it appears that Listening House is not willing to engage real solutions to the detrimental impact their land use has had on the Neighborhood, the ongoing nuisance conduct of their guests, and their own reluctance to concern themselves with our experience of their presence in Dayton’s Bluff. The conditions that the Planning Commission required for Listening House to continue operating in this RT1 Neighborhood, have been met with great resistance by Listening House. They have argued strenuously against the most critical components of the

conditions that have the best chances for striking a better balance of rights and responsibilities between the Neighbors and their agency.

This posture does not bode well for the development of a collaborative relationship in which Listening House discontinues its practice of shifting all the responsibilities for managing the nuisance behaviors they have invited into the Neighborhood. Inasmuch, the Council should, at a bare minimum be require Listening House to follow all the conditions laid out by the Planning Commission.

However, at this point, they have demonstrated, through their reluctance, that outside enforcement mechanisms and review processes must be in place, with specific goals, guidelines and consequences in place. Otherwise, the 450% uptick in police activity can be expected to continue. The risk of harm to the fifteen children and even more women who live on the closest blocks to Listening House, can continue to fester until the tragedy of gutting the relative peace and quiet of this neighborhood advances to an even more politically charged crisis situation occurs. We do not need to play chicken with all the variables and potentials for tragedy at play here. The City can take control of this situation and impose the zoning code. It can remediate the detrimental impact, and return the neighborhood to the balanced, diverse, thriving, creative community it was before Listening House's arrival, and this is what the Neighbors ask them to do.

Sincerely,

Tim Carey  
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