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January 17, 2018

Members of the Planning Board  
Department of Development and Planning  
200 Henry Johnson Blvd.  
Albany, New York 12210

Re: 363 Ontario Street – Playdium Redevelopment Project  
Albany, New York 12208  
Project No. 00035

Dear Members of the Planning:

I am writing with regard the application to develop the Playdium bowling alley site by demolishing the existing buildings and replace them with three 4-story apartment buildings with a total 109 apartments and some commercial space. While there is near universal agreement that the Playdium site in its current condition would benefit from a substantial renovation and possibly a complete redevelopment, the current proposal is at odds with the best interests of the City, the neighborhood and property owners and residents in the immediately surrounding area, and is inconsistent with the Planning Board's mission.

I note that the City's website states that the Planning Board's mission

***“is to ensure that development proposed within the City *is compatible with the orderly development of the immediate neighborhood and surrounding areas*, that the proposed development will be planned so *not to discourage the appropriate development or lessen the value of other parcels of land in the vicinity*, and that development proposed for *environmentally, aesthetically or ecologically sensitive areas of the City will reflect and consider the same.*”***

The proposed development is clearly inconsistent with the Planning Board's mission and should be disapproved because: 1. The proposed project is excessively massive and dense in comparison to the residences and building immediately surrounding the project (and larger than virtually all structures in the surrounding area), will be an aberration in this location, and *is not compatible with the orderly development of the immediate neighborhood and surrounding areas*; 2. The six parking spaces allocated to the commercial businesses are insufficient to sustain and ensure the viability of the proposed commercial enterprises that are an important part of this project; and 3. The plans and economic and other information presented to the community and City boards has been a moving target – changing significantly since the initial proposal was presented to the community - and are significantly and artificially skewed to the applicant's advantage and to the community's disadvantage.

I expand on each of these points below.

- 1. The proposed project is excessively massive and dense in comparison to the residences and building immediately surrounding the project (and larger than virtually all structures in the surrounding area), will be an aberration in this location, and *is not compatible with the orderly development of the immediate neighborhood and surrounding areas*.**

While I know most residents of the area would welcome improvements to this site if it were to be designed to be to the scale of the surrounding properties, the current proposal is excessively large and dense, with no real green space and completely inconsistent and incompatible with the immediate neighborhood and surrounding areas. In a word, this project is MASSIVE.

The entire design is clearly solely focused on maximizing the space available for development, and then building as high as possible with little regard to its relation to the adjoining properties and the character of the neighborhood. While some minor concessions have been made since the original proposal (while at the same time increasing the number of stories to 4), nothing has changed the fact this entire project will be completely out of character with the neighborhood, will do nothing to spur improvements to the neighborhood that are consistent with its orderly development – and will adversely impact the value of the many well-kept, single story, one-family homes in the immediate vicinity.

Before addressing the context of this development and its impact further, I want to highlight the fact that the Planning Board cannot possibly understand the full impact of this proposal because it has not yet seen elevation drawings for the Park Avenue and Warren Street buildings in context that would drive home how large these buildings would be. If the Board were to request elevation drawings showing the entrances of these buildings in context, I believe such drawings would show that these buildings will actually be many more feet taller than the Board and the public have been led to believe. I note, for example, the site plans currently show stairs leading to the Warren Street building and similar markings by the entrance to the Park Avenue building. I have noted in my brief opportunity for public comment that while the developer has indicated that the garages will be completely “underground,” it is likely that the topography will result in the Warren Street building in particular in being as much as a full

story higher (6-12 feet) from the street and sidewalk levels than the Board currently anticipates. This building has the same issues as the south side of the Ontario Street building in that Warren Street is significantly lower than the property to the north of Warren on which this building will sit. I note that the site plan shows the corner of Warren and Ontario is at “190” while the entrance to the building appears to be at “201” or thereabouts. This suggests an 11 foot increase in the height of the building as compared to Warren and Ontario – and suggests this building will be as high as the full 4 stories on the Ontario building (not the portion reduced by a story). Since the Park Avenue building is at “203” it appears that the first floor of the Warren Street building will be almost at the same level as Park Avenue although the entire property slopes down towards Warren Street. It is difficult to imagine how this building will not create at least somewhat similar issues as the Ontario Street building in terms of its visual impact. Although the Ontario Street building has been modified in recognition of the substantial impact this additional elevation will create from the southeast side of Warren and Ontario, nothing has been done to address the same issue for the building facing Warren Street and not only the Hibernian Hall, but also a series of single family homes along Mercer Street. This building will tower over them all. I implore the Planning Board to insist on seeing elevation drawings that show the entrances of both the Warren Street building and the Park Avenue building from their respective curbs, showing the levels of the sidewalks, the height of the stairs/number of steps, the landscaping, any berms that will be created, the entrances, landscaping, and full height of the buildings...along with actual measurements. I believe it is impossible for the Board and the public to begin to understand the full impact and level of discordance these buildings will create in the neighborhood without seeing these types of renderings.

Regardless of whether the buildings are just 4 stories from street level, or more as I expect, there is simply NOTHING like this proposed development in the immediate neighborhood and surrounding areas. **Consequently, it is impossible to conclude that this project will be compatible with the orderly development of the immediate neighborhood and surrounding area.**

A majority of the neighborhood immediately around 363 Ontario are single-story, single-family homes. Aside from Park Row apartments and some office building space behind the Hibernian Hall, more than **two-thirds of the buildings on the blocks of Park, Mercer, Ontario and Partridge that face or are adjacent to this property are single family, 1 story buildings – and mostly owner-occupied.** The remaining 1/3 are all, 2 - 2½ story buildings (including Park Row, and the office building space which is designed to look more like town homes.) Park Row and the office buildings are hardly imposing structures – but, the proposed Playdium buildings will be massive and completely inconsistent with the rest of the immediately surrounding neighborhood and will dwarf the single story homes around it.

The incompatibility of this proposed development is evident from the fact that the **nearest 4 story building** (a dormitory for which there was a great deal of consternation when it was proposed) is almost a half mile away from this proposed development. That building is located on Madison Avenue - a well-traveled major thoroughfare with a wide array of commercial, not-for-profit and academic buildings. Unlike 363 Ontario, there are NO owner-occupied buildings across the street or adjoining the dormitory and NO single story residences in the area. Instead, the College of St Rose 4 story dormitory is nestled in amongst the St. Rose campus and a host of buildings that are 2 ½ to 3 stories. As a result,

the 4 story building does not stand out and is not dramatically different from the buildings around it. It is reasonably compatible with the buildings around it.

It is noteworthy that even on this major thoroughfare, the academic, classroom, lecture hall and administrative buildings **are no more than 3 stories high** except for this one dormitory. Furthermore, most of the buildings along Madison Avenue are set back more than 15 feet from the sidewalk. Thus, while the entire area is significantly different than the area around 363 Ontario Street in that almost none of the residential buildings in the area are owner-occupied and NONE of them are single-story buildings, efforts were made to help ensure the design of the 4 story building, its size and the set backs were compatible with the rest of the streetscape. That is simply not the case with regard to this proposed Playdium development.

The only other 4 story buildings in the vicinity of 363 Ontario are more than a half mile away and not part of the immediate surrounding neighborhood fabric or streetscape. They are essentially irrelevant to this section of Ontario and the immediate neighborhood. However, it is important to note that ALL of the other buildings that are 4 stories or more anywhere near this development are located in institutional settings AND are set back more than 40 feet from the sidewalk. Additionally, with the exception of CDPC, none of the other buildings that are 4 stories or more have owner-occupied homes across the street from them. Unlike this proposed development, the 4 story building on the CDPC campus has a significant buffer from the residential buildings across the street in the form of a sprawling lawn, a 50-150 foot setback, and layers of mature trees both along the sidewalk and throughout the campus grounds that conceal most of the building from the roadway and homes across the street.

I urge the Planning Board to seriously consider the visual and other impacts this particular huge, dense project will have on the streetscape – on Park and Warren, as well as on Ontario. The Eleftheria and St. Vincent Apartments are structures that provide a reasonable comparison, but are generally not considered to be assets to their neighborhoods. Residents in the area of the Eleftheria continue to complain that this particular building is **too massive for the space** – even though it is only 3 stories tall and is set back from the street in an attempt to soften the impact of its size. The St Vincent apartments are considered to be a decent re-use of a former school building, but are a visual eyesore because the imposing building is built right up to the sidewalk and the building lacks any visual interest. This is not unlike the impact the Warren and Park buildings in particular will have due to the limited set back and planned buffers – and lack of interesting features at the pedestrian level. I emphasize that neither the Eleftheria nor the St Vincent Apartments are 4 stories tall – and yet, they are not considered assets to their respective streetscapes.

I also note that the New Scotland Village proposal only involved 3 story buildings in proximity to single family homes and was met with an uproar in part because it was too large and loomed over nearby residences. Why would the residents surrounding the Playdium site not be given the same due consideration.

The closest comparison to the actual Playdium buildings is 22 New Scotland Avenue across from Albany Medical Center. That particular building is 4 stories tall and built on a similar incline to that of

Ontario Street so that the downhill section winds up being a full story taller than the uphill portion of the building. This building gives people an idea of how massive the Playdium buildings will be. However, it varies from the Playdium development in three important respects. First, 22 New Scotland is about half the length of any of the 3 buildings planned for the Playdium site. Consequently, the buildings will be far more visually imposing than 22 New Scotland Avenue is. Second, the Playdium site will include not one, but 3 buildings of this magnitude in a tightly confined spot. Third, and most importantly, 22 New Scotland Avenue is located in a commercial/institutional setting where most of the buildings are taller than 22 New Scotland Avenue, whereas the Playdium buildings are located in an almost exclusively residential neighborhood and will be **a full story and a half taller than ANY building within a half mile of it, and 3 stories taller than the vast majority of owner-occupied homes in the area.** Consequently, unlike the building at 22 New Scotland Avenue *which is compatible* with the orderly development of the immediate neighborhood and surrounding neighborhood, the Playdium development is completely out of scale to the immediate neighborhood and is simply not compatible.

In addition to this development not being compatible with the existing neighborhood, it is hard to imagine how this development will not discourage the appropriate development or lessen the value of other parcels of land in the vicinity. The development is likely to detract from the desirability of property owners wanting to live in the neighborhood – and we all know that neighborhoods that have a significant owner-occupied component are less likely to be neglected and become run down. The reality is most of the single story residences in the immediate neighborhood are owner occupied and well-cared for. With the exception of a couple duplexes on Park, vacant buildings are not a problem for this neighborhood – yet. Since there are no large vacant parcels of land in the neighborhood to be developed, it is hard to imagine how this development will spur other appropriate development in the area. Hibernian Hall leadership has made it clear that they are not interested in selling their property. The only other property that might be redeveloped is the property adjoining the Hibernian Hall. However, that property appears to be in sufficiently good shape to make it cost-prohibitive to tear it down and start anew. And if so, it likely would need to be another massive project built-out to the max that would not be welcomed by home owners living across Mercer – and will undoubtedly decrease the value of such properties in the immediate vicinity. Most importantly, such development is likely to erode our home-owner occupied base in the neighborhood.

Finally, with regard to the appropriateness of this development, I want to emphasize that this project is proposed to be built right along one of the most environmentally challenged areas of the city because of the significant flooding that took place on August 5, 2014 in which all of Warren Street was so flooded by the Beverwyck sewer main being overwhelmed *that cars parked on the street had water up to the windows and the basement apartments in Park Row wound up with 6 feet of water.* We need to be cognizant of the fact that “100 year floods” are happening with increasing frequency and the sewer main along Warren Street will be further taxed by this development regardless of the amount of protections we put in place to protect against such eventualities.

In sum, it is impossible to conclude that this project is *compatible with the orderly development of the immediate neighborhood and surrounding areas*, that the proposed development will be planned

so as *not to discourage the appropriate development or lessen the value of other parcels of land in the vicinity*, and that the development is sensitive to the environmental issues the neighborhood faces.

**2. The six parking spaces allocated to the commercial businesses are insufficient to sustain and ensure the viability of the proposed commercial enterprises that is an important part of this project.**

The proposal currently only includes 6 spaces reserved for use by the two commercial businesses planned to be located in the Ontario building. One resident aptly noted that most of those parking spaces would probably be taken up by employees of the proposed commercial enterprises. Although the plans call for each apartment having an underground parking space, many residents of these new properties are likely to opt for the convenience of on-street parking at times rather than driving into a garage. We can also expect that many of the apartments will have more than one resident with a car that will opt for no-cost on-street parking and that residents will have visitors who may also have a preference for on-street parking. As I have driven down this block many times over the past year, I have noticed that a majority of the on-street parking along Park Avenue is taken up by people who already live on the street, and apparently, others who use Ridgefield Park. I have also regularly observed 10 or more cars parked outside the laundromat and convenience store. As a result of a combination of these factors, we should expect that on-street parking will be scarce once this development is built and fully occupied.

The proposed continuation of the existing commercial purposes and the inclusion of a coffee shop is one of the major reasons why this project has any support whatsoever. If we want these businesses to be successful and not just become empty promises, then the plans should include adequate parking for patrons of the intended commercial purposes. Certainly more than 6 parking spaces are required for employees and patrons of these businesses if the businesses are to adequately supported to ensure their viability.

**3. The information presented to the community and City boards has been a moving target and significantly and artificially skewed to the applicant's advantage – and to the community's disadvantage.**

There are two primary points I want to make here: 1. This project does not enjoy the support of residents and property owners immediately surrounding the Playdium property – and the information provided to residents and property owners was substantially different than what is now being proposed; and 2. The financial information provided by the applicant has been skewed excessively to garner city agency support for a 4 story project, as opposed to a 3 story project. I believe, on this later point, that if reasonable rents were used in the calculations, it would be apparent that this project would be financially viable at only 3 stories and the 4<sup>th</sup> story is unnecessary to ensure a reasonable return. I expand here on both of these points:

- a. **This project does not enjoy the support of residents and property owners immediately surrounding the Playdium property – and the information provided to residents and property owners was substantially different than what is now being proposed;**

On November 3, 2017, the applicant submitted a project description to the Planning Department and the BZA stating

*“Immediate neighboring property owners have expressed enthusiasm for the development of this site as proposed and appear to be eagerly awaiting the improvements it will bring. The [sic] see no detrimental issues with the construction of these buildings. Their letters are being provided to the Board.”*

The question is: **where are those letters?** Where is the enthusiastic support for this project? I feel the need to dispel this comment made by the developer and the insinuation made during Board presentations that the developer has engaged the community in discussions about this project and responded to their concerns.

The above November 3<sup>rd</sup> comment by the developer surprised me so much, I asked the Planning Department for copies of the letters provided to the Board by the applicant.

As of November 15<sup>th</sup> and during subsequent requests I made to the Planning Department, I have obtained just two letters indicating support from people with an interest in immediately adjoining properties, and only one of those letters is actually from an “immediate neighboring property owner” (the other appears only to be a business tenant in the commercial building behind the Playdium site).

The one letter in the file expressing support by a property owner is from Mr. Messina, who lives in Delmar, but owns 686 Park Avenue right behind the Playdium building. It is apparent that Mr. Messina has submitted his letter of support as a quid pro quo in order to get an easement over the Playdium property so that he and his tenants can continue to have access to the parking in the rear of his property. The easement attached to the letter explicitly says that if the developer agrees to provide an easement

*“Upon receipt [of the signed easement] I shall provide a letter to the appropriate municipal planning board indicating my issues regarding the project have been resolved and that I support and look forward to the development.”* (emphasis supplied)

It is no surprise, therefore, that Mr. Messina’s July 31, 2017 letter to the Planning Department and the Board says he has received

“an access easement to my property from Ontario Street. This agreement has resolved my concern, and **I look forward to the proposed improvement** of 363 Ontario.”

It is also hardly a surprise that Mr. Messina has shown up to support this project – he obviously wants to make sure that if this project is built, he will have an easement that allows him to have access to the parking in the rear of his property.

The correspondence file I received from the Planning Department includes no other letters that could be said to indicate that immediate neighbors are “enthusiastic” and that they see “no detrimental issues with the construction of these buildings.”

The question the Planning Board should be asking itself is why would the developer state that he is providing letters from “*immediate neighboring property owners*” who have “*expressed enthusiasm*” for the development of this site as proposed and “*appear to be eagerly awaiting the improvements*” it will bring and see “*no detrimental issues*” with the construction of these buildings, but has only provided ONE letter from an immediate neighboring property owner that has been extracted from an adjoining property owner in exchange for him being able to access the parking in the rear of his property?

Is the developer’s statement in his application not a gross misrepresentation of the support for this project?

Presumably, the developer made the claim believing he would be able to find other nearby property owners who are supportive of this project, but he has found he is sorely mistaken. The Board should take note of this. They apparently tried to get immediately adjoining property owners to support this project, but failed.

The Planning Department file actually reflects a fair amount of opposition and consternation about this project. The developer – and the Board - is also aware that residents, owners and representatives of owners of properties in the immediate area have appeared at public meetings to express concerns about this project - and some, outright opposition. I have also continued to hear from residents in the area who are concerned about this project and it being too large, and not compatible with the neighborhood.

More recently, I have learned that well over 30 individuals – most of them owners of properties in the immediate neighborhood – have signed petitions expressing opposition to the design and size of this project.

None of the property owners and residents I have heard from in the immediate neighborhood have expressed “enthusiasm for the development of this site as proposed” to me or indicated that they have concluded that they will be “no detrimental issues” as the developer has represented in his filings.



While a community meeting was held on September 14, 2017 to present the plans and there was some level of support for the project at that time, it needs to be emphasized that the project presented is substantially different from what is now before the Board and that there has been NO community meeting regarding the current proposed plans for this project.

On September 14th, residents were shown drawings of a 3 ½ story building facing Ontario with a Mansard roof design that lessened the visual impact of the top story. The drawings were flat elevation designs that did not show the buildings in the context of the slope of Ontario – nor otherwise give any indication that the buildings would be further raised above street level. Attendees were also told by the project engineer that the project did not require a variance. As some put it to me afterwards “it is a done deal.” Now, those in the know, refer to this as a “bait and switch” – in which one design arguably complying with zoning and of a design residents thought was appealing is shown to the community in a well-attended community meeting, but then another one, increasing the building to a full 4 stories and changing the design is being presented to the Board.

While the developer has represented to the Board that he has engaged in outreach to the community, I am only aware of them engaging people at this one meeting in September and having conversations with the President of the Pine Hills Neighborhood Association (and possibly having conversations with some immediate neighboring property owners who have declined to support this application – as can be deduced from the aforementioned comment in the file and lack of documented support.) There have been NO presentations to the community of this 4 story development and its current plans – including NO presentations to the Pine Hills Neighborhood Association membership or board.

The question is: where is the community outreach? Is this what the Board and the Planning Department intend when developers engage in outreach, i.e., that they can present one set of plans to the community, but then change them substantially without ever doing further community outreach?

While I have included information about this project in my “updates” to constituents, I want to make sure that Board members understand that those updates do not reach most of the residents in the area immediately surrounding the Playdium site and that cannot be said to substitute for real community outreach. In fact, I am not aware of any residents who live around the Playdium that receive my updates. They are sent out electronically and my email address book does not contain any email addresses for any of the residents or property owners in that immediate area except for Elizabeth Wright who has actively opposed this project. I am also not aware of any of the residents or property owners in that area being members of the Pine Hills Neighborhood Association - so I have no idea if any information has been forwarded to any residents or property owners in that area through their membership list. This is why, when we scheduled the September 14<sup>th</sup> meeting, my husband and I personally distributed over 300 flyers to each residence within the 9<sup>th</sup> Ward within 2 ½ blocks of the Playdium site. It is not possible to be assured that residents are informed about the project and any community meetings/discussions about the project without doing such direct contact. I believe that for there to be any suggestion that there is adequate community outreach on this project another community meeting should be held in which the revised plans and drawings are presented.

While the Pine Hills Neighborhood Association Board has provided a letter of “conditional support,” I want to make sure the Planning Board clearly understands this letter is not based upon a discussion with residents or property owners in the immediate neighborhood surrounding the Playdium, nor is it based upon any presentation made to the PHNA membership. I do not dispute the prerogative of the PHNA Board to determine how and when it will comment on any proposed developments. I just want to make sure the Planning Board does not read the PHNA’s “conditional support” letter as expressing the views of any residents in the immediate vicinity of this project or an indication of a broader range of support for this project in the community. Additionally, I note that this letter of “conditional support” is expressing significant reservations about the project being 4 stories – as well as about whether the design “truly integrates itself into that particular site.” The PHNA Board asks whether the buildings “truly have to be four stories” – clearly indicating that the PHNA Board believes the project would be more compatible with the immediate surrounding area if it was not 4 stories.

In sum, there is NO evidence of unconditional community support for this project at 4 stories. And there is NO evidence of support of the residents and property owners in the area immediately surrounding the Playdium site for this development as currently proposed with 4 stories in its current design. And there is actually a substantial amount of opposition to the development of these MASSIVE buildings in that particular location by residents and property owners in the immediately surrounding neighborhood.

That being the case, why would the Planning Board approve this particular project in its current form?

- b. **The financial information provided by the applicant has been skewed excessively to garner city agency support for a 4 story project, as opposed to a 3 story project.**

Any time it has been suggested that the project is too large, or that nearby property should be purchased to increase green space, the applicant and his agents have summarily concluded that any changes to address those concerns would make this project not economically viable. Here are some significant observations I hope the Board will study carefully:

1. The pro forma analysis of the costs of construction, operation and cash flow provided by the developer for each scenario (3 story vs 4 story) is based upon the assumption the rent for a **1 BR apartment will be \$1,200 per month rent and \$1400 for a 2 BR.** However, the “Apartment Building Comparisons” chart the developer provided shows “**planned” rents for 363 Ontario of \$1250 per month for a 1 BR apartment and \$1600 for a 2 BR apartment.**

The question must be asked: why did the developer prepare and submit to the Planning Department, the Board of Zoning Appeals and the Planning Board pro forma cash flow analyses that are based upon rents that are much lower than they have stated they plan to charge?

2. Using the revised rents the developer has actually stated he proposes to charge of \$1,250 for a 1 BR and \$1,600 for a 2 BR increases the cash flow for a 90 apartment (3 story) project by \$118,000 and increases the cash flow for the 109 apartment project with commercial space by \$140,400. This, alone, would bring the total cash flow for the 90 unit (3 story) project to within \$15,000 of what the developer found to be adequate cash flow in the 109 unit (4 story) proposal.
3. However, the Apartment Building Comparison Chart provided by the developer clearly shows that even the “planned” rents for this project set forth in that chart (\$1,250 and \$1,600) are way too low for a proper analysis and the “planned rents” should be increased to fully evaluate the need for the Planning Board to approve a 4 story building or the IDA, a tax abatement.
  - a. The 1 BR apartments for the Playdium project are 900 sq. feet which is larger than the 1 BR apartments in any of the other apartment buildings included in the chart:
    - i. a 1BR apartment in the Alexander is 721 sq. ft. and rents for \$1,605;
    - ii. a 1BR in Park South Brownstones is 735 sq. ft. and rents for \$1,450; and
    - iii. a 1 BR in the Park South high rise is 864 sq. ft. and rents for \$1,558.

Since the Playdium 1 BR apartments are larger than any of the other comparables *by 35 to 179 sq. feet* and the developer plans to include *all of the upgrades and amenities* provided in these other apartment buildings AND *plans to include basic cable and internet, heated garage space, bike storage and other amenities (such as a fitness room) in the rent*, it is absurd to base the financial analysis regarding the viability of this project on *rents that are \$200 to \$355 lower than these other apartments*. At a minimum, the financial analysis should be based upon a rent that is at least the average of these apartments or **\$1,538 per month**. Considering the large size of the 1BR apartment, desirable location, added amenities and cable being included, it would likely be appropriate to **estimate rents for a 1 BR to be \$1600** – especially taking into consideration inflation because the first rentals are at least a year away. However, for the purposes of this analysis, I am proceeding with the lower amount – the average of \$1,538 to show how we need not even shoot for the maximum to demonstrate the financial viability of a 3 story project.

- b. The Apartment Building Comparison Chart provided by the developer compares the Playdium 2BR, 1 bath apartments to other apartments that are either 2BR or a BR and a den and 1 bath apartments. Again, the Playdium apartments will be larger than any of their competitors at 1,250 sq. feet:
      - i. a 1BR/den in the Eleftheria is 1,052 sq. ft. and rents for \$1,450;
      - ii. a 2BR/1 bath in Park South Brownstones is 990 sq. ft. and rents for \$1,650; and
      - iii. a 2 BR/1bath in Park South Highrise is 1,209 sq. ft. and rents for \$1,975.

Again, since the Playdium 2 BR apartments are larger than any of the other comparables provided *by 41 to 260 sq. feet* and plans to include *all of the upgrades and amenities* provided in these

other apartment buildings AND *plans to include basic cable and internet, heated garage space, bike storage and other amenities (such as a fitness room) in the rent*, it is absurd to base the financial analysis regarding the viability of this project on *rents that are \$50 to \$575 lower than these other apartments*. At a minimum, the financial analysis should be based upon a rent that is at least the average of these apartments or **\$1,692 per month** – although the developer likely will be able to charge much more.

c. Using these revised rents in the pro forma provided by the developer:

- i. **The cash flow for a 90 apartment (3 story) project would increase by \$345,168** ( $\$338 \text{ additional per 1BR} \times 54 = \$18,252$ ) + ( $\$292 \text{ additional per 2 BR} \times 36 = \$10,512$ ) =  $\$28,764 \text{ per month} \times 12 = \$345,168$
- ii. **The cash flow for a 109 apartment project would increase by \$414,864** ( $\$338 \text{ additional per 1BR} \times 66 = \$22,308$ ) + ( $\$292 \text{ additional per 2 BR} \times 42 = \$12,264$ ) =  $\$34,572 \text{ per month} \times 12 = \$414,864$

The developer's pro forma analysis using rents of \$1,200 for a 1BR apartment, and \$1,400 for a 2 BR apartment yielded a cash flow of \$74,073 for a 90 unit project, and \$207,319 for a 109 unit project with commercial space. Presumably, the proposed \$207,319 cash flow set forth in the 109 unit project pro forma analysis was acceptable to the developer, assuming that the developer would get a tax abatement of some sort.<sup>1</sup>

**Using the revised, more accurate rent projections for this project, the actual cash flow for a 90 unit – 3 story project would be \$419,241. This cash flow is over \$210,000 more than the developer considered acceptable to proceed with under the proposal for a 4 story building!** – and that is without fully taking into consideration the anticipated tax abatement in the initial years. It also does not take into consideration that the developer apparently anticipates the project cost will be \$1 million less than anticipated in the pro forma documentation (based upon a revised total project cost of \$16,289,000 included in its application to the IDA).

As a result of the foregoing, it is clear that this project would be financially viable as a 3 story building. As such, the project does not meet the condition for support by the Pine Hills Neighborhood Association Board. It is clear this project is not supported by the community and residents and property owners in the immediate neighborhood – but most likely would if the project were scaled down to be compatible with the neighborhood. Without such support, and based upon the financial viability of this

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<sup>1</sup> I note too that the pro forma analysis estimates real estate taxes for the 109 unit project at \$130,000 which is \$40,000 more than estimated by the IDA for tentative PILOT payments – and that PILOT payments would not exceed \$130,000 until year 11 of the proposed PILOT schedule – so the initial cash flow for either project option would be about another \$40,000 per year.

project at 3 stories when appropriate rents are used for the analysis, it is unclear why the Planning Board would approve this project as proposed in light of its state mission.

### **The Current Zoning – Content and Context**

Finally, I believe it is appropriate for me to provide the Board with some background and context for the current zoning for 363 Ontario Street.

As you know, an important purpose of revamping the city's zoning laws was to reduce the number of properties that were out of compliance with existing zoning codes, reduce the need for property owners and developers to apply for variances, and identify appropriate zoning classifications for properties and areas that are compatible with the current uses and overall character of the neighborhood. I certainly had no expectation that following the adoption of the ReZone ordinance and the extensive discussions involved regarding that entire process that the Board of Zoning Appeals would immediately grant a variance, or that the Planning Board would seek to promote plans for a project that violated the zoning code.

As the legislator representing the 9<sup>th</sup> Ward, my overriding concern/intent was that the new zoning code protect and preserve the neighborhood while allowing and encouraging appropriate development and services that would enhance living in the neighborhood.

During the rezoning process, the property at 363 Ontario Street, Hibernian Hall, and the commercial space behind it on Warren Street presented a particular challenge because it was a commercial property located in a predominantly residential district. It had been zoned C-1, the equivalent of MU-NC (Mixed Use, Neighborhood Center) in the prior zoning ordinance. We don't know the history of why this particular property was zoned for a commercial use, but the Playdium provided popular indoor recreational activity for the families and residents in the area for decades that was a complement to the healthy activities and social opportunities provided by the nearby Little League field, Ridgefield Park, the tennis courts and basketball courts, and the Elks Club/Hibernian Hall. In other words, the Playdium should be seen as part and parcel of a comprehensive recreational and social complex that brought the community together and provided a sort of anchor for the neighborhood. In that regard, the Playdium and its commercial designation wasn't perceived as being "out of place" or in need of potential re-development until bowling became less popular and the parking lot and landscaping fell into disrepair and started being considered an eyesore. Indeed, in this regard, the **Playdium was compatible with the orderly development of the immediate neighborhood and surrounding areas.**

During the ReZone process in the past two years, the initial rezoning maps proposed this area to be re-zoned to Mixed-Use, Community Urban (MU-CU). This would have allowed for 5 story buildings (and expanded commercial and residential uses). Prior to receiving this proposed re-zoning map, a developer who had proposed a 5 story apartment complex designed for students met with about ten

representatives of the neighborhood to get feedback on the proposal which was readily rejected by these community leaders as being too large and inappropriate for the neighborhood.

It was in this context (following the rejection of one development that included a 5 story building) that the Planning Department and I - with input from community leaders and residents - discussed the appropriate zoning for this area. Unfortunately, there was no zoning classification that was felt to be ideal or clearly appropriate for this area. While Residential Village (R-V) and Residential Multi-family were suggested, it was noted that both of these categories would have allowed for taller buildings than desired (5 and 4 story buildings respectively) and would **not** have authorized the Playdium and other stores to exist on the property. Thus, it would have defeated one of the primary purposes of the ReZone ordinance which was to eliminate concerns that potential purchasers of properties who might want to improve the current building configuration and maintain the bowling alley and other enterprises that were convenient for nearby residents, would have difficulty getting financing for a property that did not allow commercial uses. Additionally, because there were no 4-5 story buildings in the immediate vicinity, no input from immediate neighbors regarding this particular proposed change in zoning, and because the prior proposal for a 5 story building had no support, it seemed inappropriate to zone this isolated area within a predominantly 1 and 2 family home neighborhood to allow the building of 4-5 story buildings.

It is important to point out that during discussions about the proposed zoning code and the proposed map, many residents in the city balked at allowing R-V near residential areas to build as tall as 5 stories as of right with limited setbacks. Traditionally this R-V designation anticipates 2-3 story buildings. Due to the outpouring of opposition to this proposed zoning change, the Planning Department agreed to reduce the height for R-V to 3 stories for any buildings within 500 feet of a property line that is zoned R-1M or R-1L.

I make this point because there are so many single-story, 1 family owner-occupied homes in the immediate area of the Playdium – **many that are within 500 feet of this property**. And, in fact, the opposite side of Mercer Street with approximately 10 tidy, single family brick ranches that face the Playdium site and will be looking directly at the proposed 4 story Warren Street building **is zoned R-1M and is within 500 feet of the Warren Street building and would have been entitled to the protections to keep that building at 3 stories or less if the same standards were applied to this area as are afforded other R-1M districts bordering R-V districts**. Significantly, the City has provided the residents of Guilderland with a far more protections and a substantial buffer from the planned 5 story apartment buildings off of Fuller Road than is even being considered for our own residents and property owners in the Playdium neighborhood.

Additionally, I note the only reason home owners along Park Avenue and Partridge are not afforded similar protections is because those homeowners happen to live in an area where some or the residences are 2 family homes and under the principles we were applying in the ReZone initiative, we kept the zoning 2 family to not have these other residences be considered non-compliant with the new zone. This is something I think the Planning Board should take a close look at both with regard to the

equity in this proposed project and also with regard to potential recommendations for changes to the USDO.

I want to further note that during all of our discussions regarding the zoning changes, I, and other Council members, were repeatedly reminded that the designation of a property did not mean that a particular proposal falling within the specifications for a particular zone would automatically be approved. It was emphasized that even if a proposed project or renovation would technically be allowed under the zoning code, developments still needed to fit with the character of the neighborhood.

Ultimately, it was decided that this property should be kept as the equivalent of the prior C-1 zoning, i.e. MU-NC to allow it to have the current commercial use *and to prevent a 4-5 story building being built as of right*. I also advised Mr. Spencer and Mr. Glass that if an appropriate development was proposed for that area that received general support from the residents/property owners in the immediate area (after appropriate notice) and was compatible with the orderly development of the neighborhood, I would introduce legislation supporting a change in the zoning.

I also want to note during discussions regarding the new zoning ordinance, I raised questions about whether it is really appropriate for MU-NC to be allowed to have 3 ½ stories in any location since that seemed unduly large as compared to what most MU-NC zones currently have, i.e., 1-2 ½ story buildings. I was told that the *half story* has been included because so many people have added living space in their attic areas (which is the case in a lot of areas of the city) or have buildings that have an extra half story in the rear of their townhomes (many exist like this in Center Square and other older areas of the city). These types of additions to the height of a building have a distinctly different visual impact on the streetscape than the initially proposed Mansard roof style building. Consequently, in evaluating the extent to which this particular project deviates from the intention of the zoning ordinance, the Planning Board should compare the project not to the initial proposed Mansard style roof, but to the intention of a half story being out of site in the rear of a building, or being a pitched roof that provides visual interest and does not give the impression of a full additional story.<sup>2</sup>

As you consider the project as currently designed and determine whether the addition of a 4<sup>th</sup> floor is at all in keeping with what the Council passed as the zoning ordinance which was intended to establish the definitive guidance for the orderly development of this parcel of land – fully taking into consideration its impact on nearby properties and the character of the neighborhood. I further encourage the Board to review the drawings for MU-NC zones included in the USDO and consider whether this project as currently designed meets the intent of the zoning code.

I am hoping that the developer will further consider the reservations and concerns many have about this proposed development in its current form and provide further modifications so that this project will be wholeheartedly welcomed by the majority of residents in the area.

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<sup>2</sup> I note that I asked, but never received, clarification as to whether the prior Mansard roof style proposal met the strict requirements of the code for a half story as it seemed that angles proposed allowed more than 70% of the top floor to be useable space.

In the absence of such modifications, I respectfully ask that the Planning Board disapprove the application in its current form as not being supported by the community, not being compatible with the orderly development of the neighborhood, and the 4 story design not being necessary for the redevelopment of this site.

On behalf of my constituents and myself, I thank you for your time and consideration of the concerns raised in this letter, and for your service to the City of Albany.

Please feel free to call me at 518-459-2889 or 518-461-9802 if you would like to discuss this proposal and concerns with me.

Sincerely,

*s/ Judy L. Doesschate*

Judy L. Doesschate, Member,  
Albany Common Council, 9<sup>th</sup> Ward

cc: Brad Glass  
Lauren Alpert  
David Gonzalez  
Council Member Owusu Anane  
Virginia Hammer, President, Pine Hills Neighborhood Association  
Julie Elson, President, New Scotland-Woodlawn Neighborhood Association  
Eric Huntington, President, Helderberg Neighborhood Association