

**Before the  
Plan Commission  
Village of Oak Park  
May 4, 2023**

**In the matter of the application for text amendments to Zoning Code**

**Objections of Rush Oak Park Hospital**

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**Objections of Rush Oak Park Hospital**

Rush Oak Park Hospital, by its attorney Richard F. Friedman of Neal & Leroy, LLC, submits these objections to the application of certain applicants for zoning text amendments affecting the Rush Oak Park Hospital medical campus.

**Rush Oak Park Hospital**

RUSH Oak Park Hospital, a part of Rush University System for Health, has provided exceptional health care in Chicago's western suburbs for more than a century. ROPH occupies a preeminent position among Oak Park-River Forest area hospitals and health providers and is one of two major hospitals serving Oak Park and surrounding communities. ROPH offers a full-service health care facility with expert physicians and staff utilizing modern technology. It combines the convenience and personal touch of a community hospital with the technology and expertise of one of the nation's top academic health centers. The hospital has an experienced emergency care staff that handles approximately 40,000 emergencies each year, including 5,000 pediatric emergencies.

ROPH has 185 licensed inpatient beds (171 medical/surgical and 14 intensive care) and employs 956 physicians, nurses and other medical and administrative personnel. An additional 669 physicians, podiatrists, nurse anesthetists, physician assistants, nurse practitioners and pharmacists are on ROPH medical staff. Over 40% of employed staff live within a 5-mile radius of the campus. The campus is also home to the 135,000-square-foot RUSH Medical Office Building, which houses approximately 30 medical offices and an advanced magnetic resonance imaging (MRI) system, the Rush Pain Management Center and the Rush Outpatient Pharmacy. A community education area provides space for patient health screenings, lectures and community gatherings.

**The proposed text amendments are not demonstrably necessary and will inhibit future improvements for the delivery of medical services**

The application, filed by four individuals who do not live or own property in the area proposed to be rezoned, would severely hamper future hospital development by reducing the height of any new structure to fifty feet and increasing the setbacks in places to fifty feet. The application should be denied because it does not meet the standards for a zoning amendment set out in Section 14.1E.2 of the Oak Park Zoning Code. The proposal's failure to meet these standards is shown in detail in the report of Okrent Kisiel Associates, Inc., which is attached hereto. Further, the proposal will limit and discourage any future improvement to the hospital, thus limiting the medical services that can be provided to Oak Park and surrounding areas from this location. Moreover, the text amendments would transform certain hospital buildings into nonconforming uses.

The application does not purport to take into account the general welfare of the Village, but is in effect anti-hospital, singling out the ROHP hospital campus for special treatment. It seems primarily for the purpose of benefiting the applicants, who have addresses within sight of the campus.

The proposed text amendments are premature, because ROPH has no pending application for development. There is no demonstrable need to impose these restrictions on future hospital campus development. But the impact of the proposal will be to inhibit future hospital improvements. The text amendments will limit flexible planning and hamstring the ability to adapt future development to unforeseen needs. Future improvements are likely to require a planned development, a process that will allow Village staff input, provide advance public scrutiny and permit adaptations beneficial to both the hospital and the community. The planned development process is the proper forum to consider hospital campus development.

The Okrent. Kisiel report observes that “Limiting a significant portion of the campus to 50 feet may completely foreclose the opportunity to modernize and/or expand the campus.”

### **The application should be denied for lack of standing**

The application should also be denied because the applicants have no standing. The changes proposed are not for their property, but are being imposed on third parties, The Zoning Code was not intended to provide a citizen initiative. The applicants seek text amendments, not for the benefit of their own property, but to burden the property of others. The application claims no benefit to the applicants’ property or allege any damage to their property by reason of the existing zoning.

Such persons do not have standing to ask for a zoning change to another person’s property. Unless they can demonstrate that they suffer special damage that differs from that suffered by the general public, they have no standing. This is the holding of the Illinois Supreme Court in *Garner v. Du Page County*, 8 Ill. 2d 155, 158-59 (1956).

It makes no difference that the applicants have addresses near the hospital property. Their application impacts not only the hospital property adjoining their addresses, but also affects hospital property facing other streets and hospital property hundreds of feet away. Their addresses do not give the applicants the right to complain about zoning affecting the hospital property facing other streets and far distant from their addresses.

It should be noted that the application does not identify any special harm to the applicants resulting from the existing zoning. Nor do the applicants even identify any interest in property in proximity to the hospital, other than to provide their addresses. The Oak Park Zoning Code, Section 14.1B requires at the least that applicants be property owners, but the text amendment application provides no information that they qualify under the terms set forth in the Zoning Code.

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The zoning code is not intended to provide the means for a citizen initiative that would permit any person not specifically affected to initiate a zoning amendment affecting the property of other persons. To consider this application is to open the door to citizen requests to rezone property anywhere in the Village. This kind of initiative would force any owner, anywhere in the Village, to defend a rezoning initiative which sought to impose upon them the development vision of strangers. The Plan Commission should deny this application on standing; to do otherwise invites applications from anyone who would seek to rezone someone else's property irrespective of distance or damage.

Respectfully submitted,

Rush Oak Park Hospital

By: /s/Richard F. Friedman  
Its attorney

Enclosure

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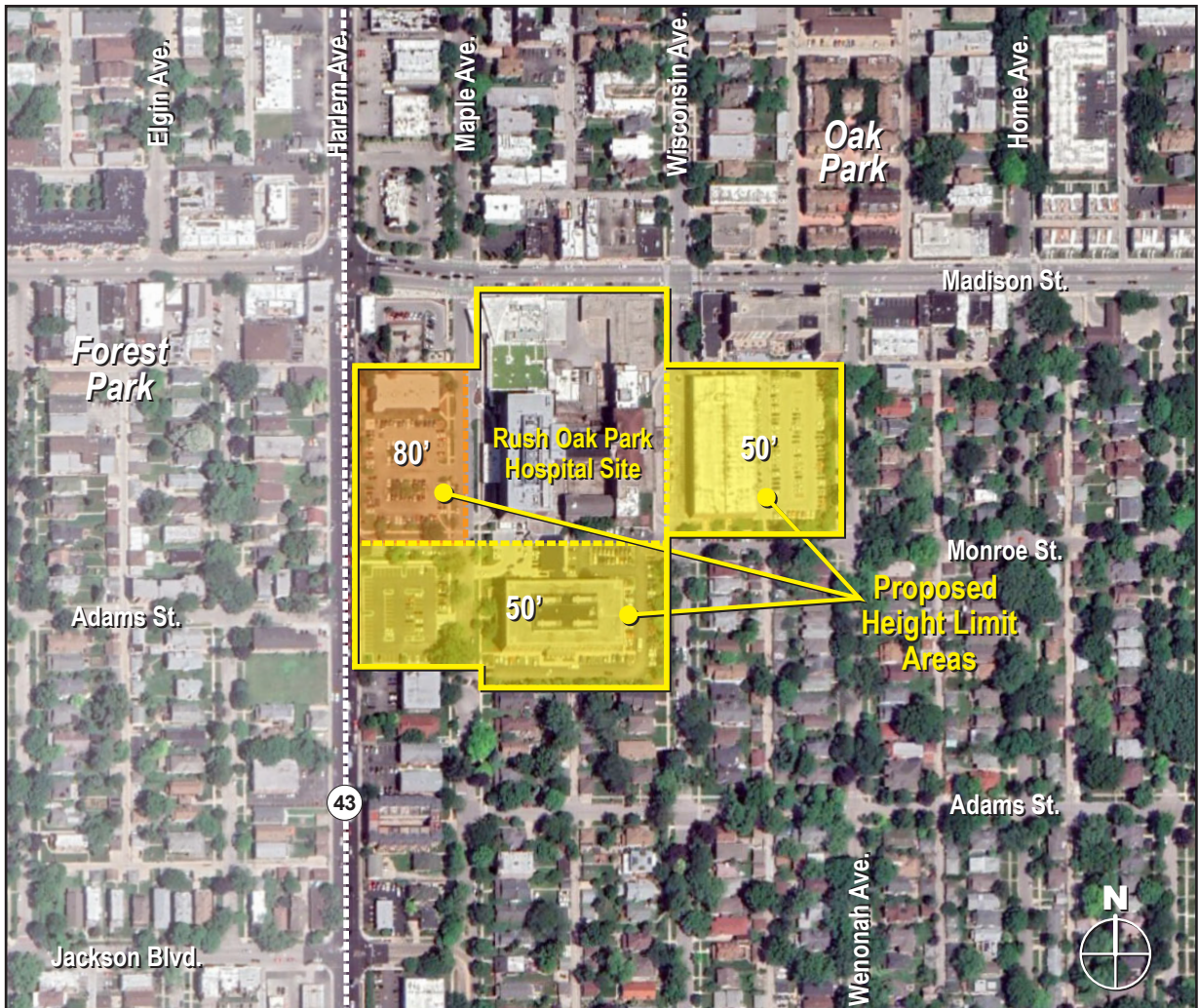
# Proposed Text Amendment to the Oak Park, IL Zoning Ordinance Affecting Height Limits and Setbacks in the H-Hospital District

Rush Oak Park Hospital Campus, Oak Park, IL

By: George V. Kiesel, AIA, AICP

President  
Okrent Kiesel Associates, Inc.

Date: April 24, 2023



Subject Property

## Introduction

I am a licensed architect and a certified planner. I am a member of the American Institute of Architects, the American Planning Association, and the American Institute of Certified Planners. I am the president and owner of Okrent Kisiel Associates, Inc., where I have been employed for over 40 years. I have been accepted as an expert witness in planning and zoning in the courts of Cook, Lake, Will and DuPage Counties, Illinois and have appeared before numerous planning and administrative review boards throughout the Chicago metro area. My resume is attached as an addendum to this report.

## Purpose

The purpose of this report is to state my opinions and conclusions regarding a proposed text amendment to the Oak Park Zoning Ordinance increasing setbacks and reducing allowable height in the H-Hospital affecting properties in the Rush Oak Park Hospital Campus. All of the opinions and conclusions contained herein are from the perspective of an architect and a planner. The bases of my opinions are contained in this report, my file, discussions with other individuals, and my professional background, qualifications, and experience. Should additional information become available I reserve the right to amend and/or update this report to reflect that additional information.

## Opinion

Based on my review and analysis of the data referenced in this report and contained in my file, and my professional experience and qualifications, it is my professional opinion that:

- The proposed text amendment places a significant burden on the property affected by the reduction in height and the increase in setbacks.

- The incremental increase in setbacks and reduction in allowable height has minimal impact on promoting the health, safety and general welfare of the Village.
- The proposed text amendment significantly burdens the property affected with minimal gain to the general public.
- The proposed text amendment is inconsistent with the only specifically applicable goal of the Village's current Comprehensive Plan.
- The proposed text amendment is inconsistent with the purposes and intent of the Zoning Ordinance as its provisions are unreasonable and over-burdensome.
- The proposed amendment does not correct any error or omission, nor does it add clarification to existing requirements or reflect a change in policy.
- The proposed text amendment renders two existing structures non-conforming with respect to building height.
- As a result of the foregoing, the proposed text amendment does not satisfy the criteria for evaluating text amendments contained in §14.1-E-2 (a-g) of the Oak Park Zoning Ordinance.

## Background

Rush Oak Park Hospital, first established in 1906, is a 10.63-acre hospital campus located in Oak Park, Illinois. The campus is bounded generally by Harlem Avenue on the west, Madison Street on the north, Wenonah Avenue on the east, and a line mid-block between Monroe Street and Adams Street on the south. In total, the campus includes approximately 595,000 gross square feet of area under roof.

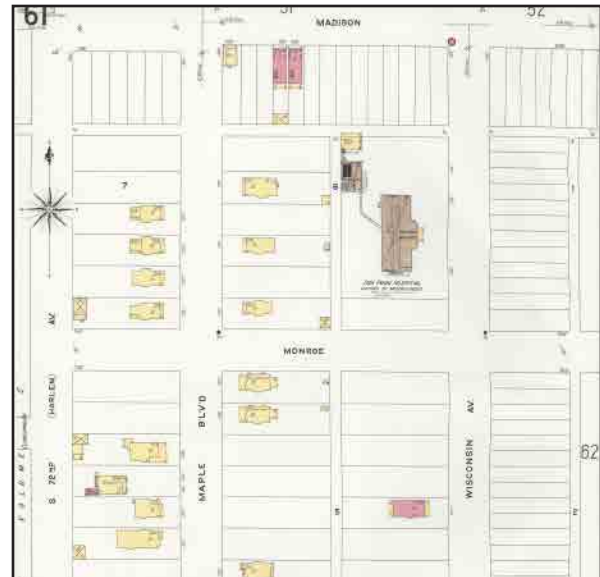
Opened in 1907 by John W. Tope, MD, a Civil War veteran from New Philadelphia, Ohio, and the Sisters of Misericordia, a French-Canadian order that had successfully built and managed a number of hospitals in the U.S. and Canada, Rush Oak Park Hospital was the first medical facility in the area.

The Sisters of Misericordia ran ROPH up until 1986, when ownership was transferred to the Wheaton Franciscan Sisters, Inc. In 1997, the hospital partnered with Rush University Medical Center, adding to its renowned services, programs and physicians while continuing to provide exceptional and compassionate health care service that promotes the dignity and well-being of the community it serves.

The hospital was renamed Rush Oak Park Hospital in 2003, to strengthen its ties to the Medical Center. In 2013, Rush University Medical Center acquired the hospital outright, solidifying its continued investment in community health care. Rush Oak Park Hospital offers the same specialists, equipment and high standards of care as Rush University Medical Center. The partnership provides patients with collaborative care at the highest level.

The ROPH campus has grown over the years to include the Breast Imaging Center, state-of-the-art interventional radiology and surgical suites, and a comprehensive Center for Diabetes and Endocrine Care with an American Diabetes Association-recognized education program and board-certified endocrinologists.

The campus is also home to the 135,000-square foot Rush Medical Office Building, which houses approximately 30 medical offices as well as an advanced magnetic resonance imaging (MRI) system operated in cooperation with Oak Park Imaging Services. The Rush Medical Office



Building also houses the Rush Pain Management Center and the Rush Outpatient Pharmacy.

The East Wing of the hospital, located on the west side of Wisconsin Avenue, was initially constructed in 1907, with expansions in 1929 and 1955. The building is five stories (60') in height and totals 111,120 gross square feet, primarily used for ambulatory care and offices. This portion of the campus has reached the end of its useful life and is approaching replacement.

The Center Wing of the hospital, centrally located within the main hospital complex, was constructed in 1955. It totals 42,672 gross square feet, primarily used for clinical care and includes the chapel.

The West Tower of the hospital, located at the northeastern corner of Monroe Street and Maple Avenue, was constructed in 1969. It is eight stories (96') in height and totals 232,517 gross square feet, primarily used for clinical care and patient rooms. The eighth floor is entirely mechanical, while the seventh floor houses existing operating rooms.

The Power Plant and Receiving Wing were both built in 1980. The power plant is located along the eastern side of Harlem Avenue, is 30' in height, and totals 19,488 gross square feet in area. The receiving wing is located at the southwestern corner of Madison Street and Wisconsin Avenue and is 18' in height.

The Medical Office Building, located on the southern portion of the campus, was constructed in 1999. It is five stories (58') in height and totals 139,200 gross square feet, primarily used for medical offices. This structure is leased by Rush but owned by a private developer.

The Emergency Department, built in 2019, is located at the southeastern corner of Madison Street and Maple Avenue. The building is one story (16') in height and totals 50,000 gross square feet, primarily used for ambulatory care. Approval of the Emergency Department structure included zoning approval and structural design to accommodate three additional floors and an additional mechanical level.

Parking areas, including a parking structure (404 spaces) 51' in height located along the eastern side of Wisconsin Avenue, have been developed over the years. Parking is primarily located in surface lots along the eastern side of Harlem Avenue (170 spaces) and the Western side of Wenonah Avenue (117 spaces). The current campus plan includes a total of 836 parking spaces.

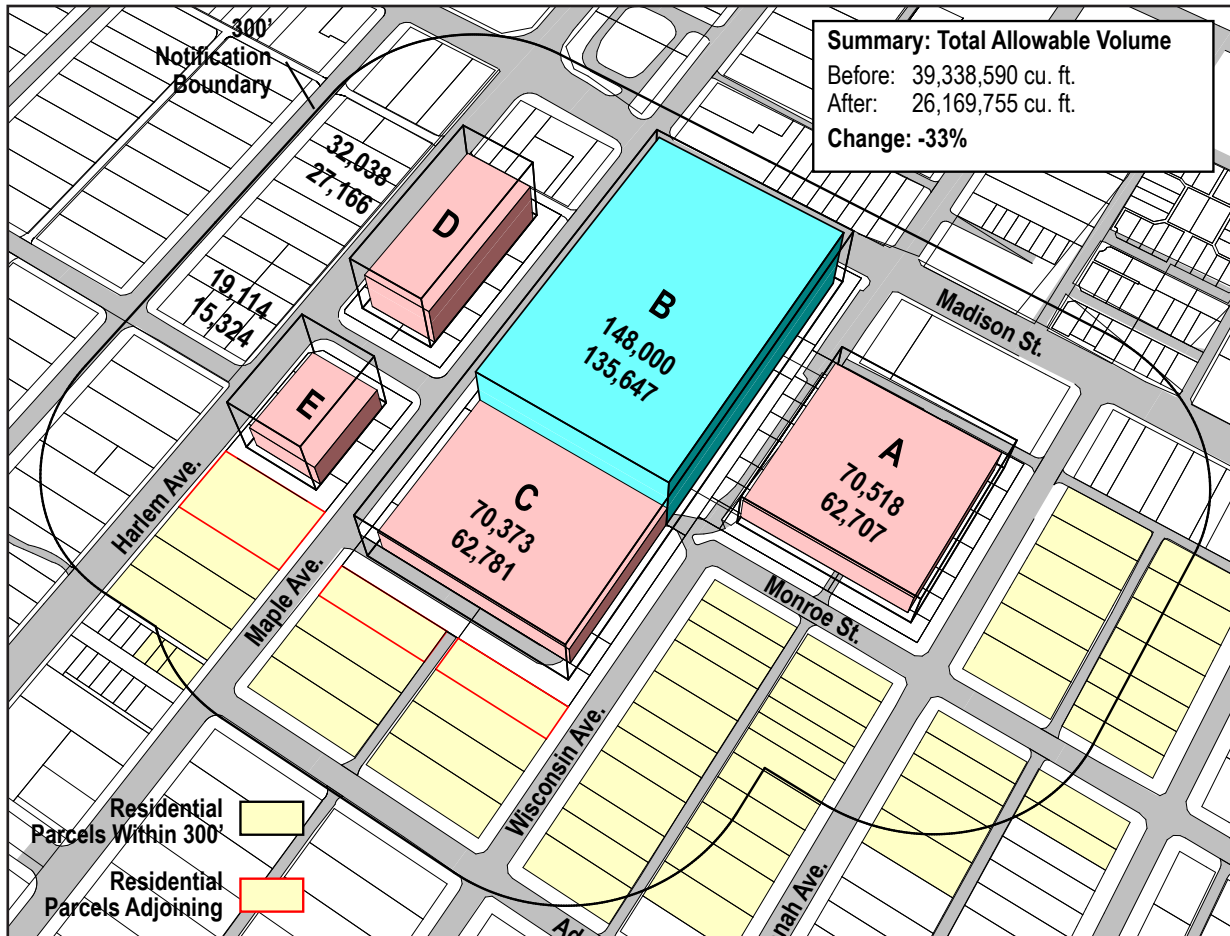
## Context

Uses on the west side of Harlem Avenue, adjacent to the campus, are a mixture of commercial uses, single family residential, and multi-family residential. Uses on the north side of Madison Avenue, adjacent to the campus, are predominately commercial in nature, including a Wendy's restaurant and Jiffy Lube. Uses to the east and south of the campus are predominately residential in nature, with a mix of multi-family residential and single-family residential uses, with multi-family uses generally located closer to Madison Avenue and Harlem Avenue.

## Proposal

The proposed text amendment seeks to increase setbacks and height limits in the H-Hospital District for properties within the Rush Oak Park Hospital Campus. It proposes a reduction in height from 80 feet to 50 feet for the area bounded by the alley south of Madison St. on the north, Wenonah Ave. on the east, Monroe St. on the south and the center line of Wisconsin Ave on the west; a reduction in height from 125 feet to 50 feet for the area bounded by the center line of Monroe St. on the north, Monroe St. on the east, the southern boundary of the H-Hospital District on the south and Harlem Ave. on the west; and a reduction in height from 125 feet to 80 feet for the area bounded by the alley south of Madison St. on the north, Maple Ave. on the east, the center line of Monroe St. on the south and Harlem Ave. on the west. In addition, the proposal increases the required front setback from 20 feet to 30 feet; increases corner side setbacks from 20 feet to 30 feet; interior side setbacks from 20 feet to 30 feet; interior side setbacks adjoining residential districts from 30 feet to 50 feet. The amendment is proposed by four private citizens who have no ownership interest in the properties being affected by the proposed text amendment.





**Analysis**

The proposed amendment’s increased height limits affect 6.41 of the 10.63 acres – 60% – of property within the Rush Oak Park Hospital Campus. The proposed setbacks increase the requirement by 50% for front, interior side and corner side situations and by 66% for interior side setbacks adjoining residential districts. As Oak Park’s zoning ordinance regulates allowable bulk through a combination of setbacks and height limits (as opposed to limiting bulk by floor area ratio) the combined effect of reducing allowable height and increasing required setbacks is a reduction in allowable building volume of 33%. This amounts to a significant reduction in development rights for the property within the Rush Oak Park Hospital Campus.

The applicants provide a narrative that cites its rationale for the proposed amendment. It references only general provisions of the prior 1990 Comprehensive plan and a single, general statement from the introduction to the current 2014 Envision Oak Park Comprehensive plan that bears no specific relationship to an amendment that increases setbacks and reduces height within an existing hospital campus.

The narrative also references the 50 foot height limit applicable to the western portion of the H-Hospital District encompassing the West Suburban Hospital Campus and a need for a similar limit on the subject property to provide a “holistic approach to development”. The fact of the matter



is that the context surrounding the West Suburban Hospital Campus is significantly different than that of the Rush Oak Park Hospital Campus. The vast majority of the Rush Oak Park Hospital Campus is separated from residential uses by 66 foot wide rights of way (with the exception of three parcels). In fact the area subject to the 50' height restriction within the West Suburban Hospital Campus is separated by only an alley width and adjacent to the private rear yards of the adjoining residential uses.

The applicants also cite the City of Denver CO zoning ordinance. It should be noted that Denver is a city of over 755,000 people in a completely different climate that followed a completely different development pattern than that of Oak Park IL. Notwithstanding these facts, the applicant cites passages from the "Urban Edge Neighborhood Context". The Denver Ordinance describes this type of neighborhood in Section 4.1.1 as:

*The Urban Edge Neighborhood Context is characterized by a mix of elements from both the Urban and Suburban Neighborhood Contexts. The Urban Edge Neighborhood Context is primarily single-unit and two-unit residential uses. Small-scale multi-unit residential*

*uses and commercial areas are typically embedded in residential areas. Single-unit residential structures are typically the Urban House and Suburban House building forms. Multi-unit building forms are typically the Row House, Garden Court, Town House or Apartment building forms embedded with other residential uses. Commercial buildings are typically the Shopfront and General building forms that typically contain a single type of use. Single and two-unit residential uses are primarily located along local and residential arterial streets. Multi-unit residential and commercial uses are located along local streets, arterials, and main streets.*

These provisions are intended to govern residential areas surrounding smaller scale commercial streets. Furthermore, the Urban Edge Neighborhood Context and the regulations that apply limit the height to 45 feet within these areas. This is not consistent with the standards of the Rush Oak Park Hospital Campus where heights of up to 125 feet are allowed. A more appropriate citation would be a review of the provisions of Section 9 of the Denver Ordinance which covers "Special Contexts and Districts" including Healthcare Campuses in Section 9.2.3

The applicants cite provisions that imply a stepped approach to transitions between larger structures and "protected" residential areas in the Urban Edge Neighborhood Context. The passages cited indicates an initial setback of 10 feet between structures and an additional setback of between 15 feet and 25 feet (depending on whether there is an intervening alley) where height is limited to 27 feet. The diagrams that are included however are not related to the regulations cited. Those diagrams show additional setbacks and height limits which are not indicated in the regulations cited. A review of the provisions of Section 9.2.3 provide a clearer picture of the intent of the Denver Ordinance with respect to transitional setbacks in the appropriate Healthcare Campus Neighborhood Context.



Denver Zoning Ordinance §9.2.5.3 C-1 p.9.2-4: CMP-H Healthcare Campus Regulations

<b>HEIGHT</b>		CMP-H
<b>A</b>	Feet, (max)	200'
<b>A</b>	Feet, within 125' of Protected District (max)	75'
<b>SITING</b>		CMP-H
<b>SETBACKS</b>		
<b>B</b>	Primary Street (min)	10'
<b>C</b>	Side Street (min)	7.5'
<b>D</b>	Side Interior (min)	7.5'
	Side Interior, adjacent to Protected District (min)	10'
<b>E</b>	Rear, alley/rear no alley, (min)	10'/20'
<b>PARKING</b>		
	Vehicle Access, 3 or more side-by-side dwelling units in one structure	From Alley; or Street access allowed when no Alley present (Sec. 9.2.7.4)
	Vehicle Access, all other permitted uses	Access determined as part of Site Development Plan Review
<b>DESIGN ELEMENTS</b>		CMP-H
<b>F</b>	Upper Story Setback Above 40', Side Interior (min)*	15'
<b>G</b>	Upper Story Setback Above 65', Rear, alley/rear, no alley and side interior (min)*	20'/30'
<b>H</b>	Upper Story Setback Above 27' adjacent to Protected District, Side Interior (min)	25'
<b>H</b>	Upper Story Setback Above 40' adjacent to Protected District, Rear, alley/ Rear, no alley (min)	30'/40'
<b>I</b>	Upper Story Setback Above 51' adjacent to Protected District, Side Interior (min)	40'

Denver Zoning Ordinance §9.2.5.3 C-1 p.9.2-5: CMP-H Hospital Campus Regulations

The proposal by the applicant bears no resemblance to the type of incremental, stepped setbacks illustrated in Denver's Zoning Ordinance. Instead is a blanket reduction in height over a large area that significantly and unnecessarily burdens the affected properties.

Modern hospital design requires a minimum of 14'-0" floor to floor height to accommodate the required mechanical spaces. A limit of 50 feet constrains building design to three stories which is unacceptably inefficient for an urban hospital with a constrained footprint. Limiting a significant portion of the campus to 50 feet may completely foreclose the opportunity to modernize and/or expand the campus.

### Evaluation of the Proposed Text Amendment with Regards to §14.1-E-2(a-g)

Section 14.1-E-2 (a-g) of the Oak Park Zoning Ordinance contains the standards for approval of text amendments. Each standard is referenced below in italics with a response that follows each provision.

*a. The extent to which the proposed amendment promotes the public health, safety, and welfare of the Village.*

**Response:** The amendment as proposed has minimal effect on promoting the public health safety and welfare of the Village. Height and setback regulations do not have the capacity to protect the public from disease, physical danger or vice and brutality. They have no impact on traffic congestion, noise, vibration, particulate matter, danger of fire or explosion, hours of operation, etc...nor does it regulate businesses or signage that may be contrary to the morals of the community. The proposed amendment affects a very limited geographic area (6.41 acres or 0.2% of the Village's 4.7 square miles) and alters existing setback and height limits which have been in existence for a significant period of time and have provided adequate protection of access to light and air for adjacent properties.

*b. The relative gain to the public, as compared to the hardship imposed upon the applicant.*

**Response:** In this case, given the context, the evaluation focuses on the comparison of the relative gain to the public and hardship imposed on the property affected rather than the applicant as the applicant has no ownership interest in the subject properties. As mentioned earlier, the proposed amendment affects a small geographic area – a bit more than six acres. There are a total of 57 residentially-zoned properties within 300 feet of the land affected by the height reduction and set-

back increase with only three of those properties abutting the affected land. The remaining 54 properties are separated from the affected properties by a 66 foot wide right of way or a 50 foot wide intervening property. Any alleged public benefit caused by the reduction in allowable height and increase setbacks is limited to those few properties.

As indicated earlier in this evaluation, the proposed amendment reduces the development rights for the property within the Rush Oak Park Hospital Campus by 30%. Furthermore, the properties most affected – the Harlem Ave. frontage which would be the most likely sites for additional development – would have its development capacity (as measured by allowable building volume) reduced by 54%.

Given the foregoing, the hardship imposed on the properties affected by the proposed amendment is indeed significant whereas any alleged benefit to the public is de minimis and limited to a very small number of nearby and adjoining properties.

*c. The consistency of the proposed amendment with the Comprehensive Plan and any adopted land use policies.*

**Response:** The most recent and relevant Village Comprehensive Plan Document is Envision Oak Park drafted in 2014. The document is mute on the status of the Rush Oak Park Hospital Campus but for a few mentions regarding healthcare assets in the community. The only relevant passage regarding the proposed amendment and its context is contained in Chapter 4: Land Use and the Built environment where transitions between uses is discussed:

### Creating Transitions Between Uses

*Objective 4.1.4. Ensure that residential areas have adequate buffering and/or screening from incompatible adjacent land uses.*

The Land Use Plan identifies a land use arrangement that seeks to minimize land use conflicts, promoting appropriate buffers between residential areas and incompatible uses. In some instances; however, these land use arrangements are already well established. Village government should review and amend zoning regulations as necessary to ensure that appropriate buffers and screening are provided that both preserve residential areas and allow for on-going non-residential activities to thrive.

The passage asks *Village government* to review and amend zoning regulations. Not private citizens. It should be noted that in the decade that has passed since this Comprehensive Plan was drafted and adopted, Village government *has* revised the zoning regulations governing the subject property reducing the maximum height from 125 feet to 80 feet for the eastern portion of the property. This is an indication that the Village sees the *existing* revised standards as providing “adequate buffering and/or screening” between the hospital use and nearby residential uses.

Furthermore, this provision seeks to strike a balance between the creation of buffers and allowing on-going non-residential uses to thrive. The proposed amendment as drafted fails to provide that balance and over-burdens the non-residential use (the Rush Oak Park Hospital Campus) by significantly reducing its development rights and its ability to develop or re-develop its property as may become necessary.

*d. The consistency of the proposed amendment with the intent and general regulations of this Ordinance.*

**Response:** The amendment as proposed bears some relation to several of the stated

purposes of the Zoning Ordinance including:

§1.2-B: *...secure(ing) adequate light, air, privacy, and convenience of access to property.*

§1.2-G: *To classify, regulate and restrict the location and use of buildings, structures, and land...*

and;

§1.2-H: *To divide the Village into zoning districts, according to use of land and structures, height and bulk of structures...*

However due to the onerous burden placed on the affected properties, it is inconsistent with key purposes of the Ordinance such as:

§1.2-C: *To promote the orderly development of Oak Park in accordance with the Comprehensive Plan*

and, most importantly;

§1.2-I: *To set reasonable standards to which structures must conform.*

With respect to §1.2-C, the prior analysis of how the proposed amendment relates to the Village's Comprehensive Plan indicates that it is inconsistent with the only relevant Comprehensive Plan goal regarding the notion of balance between providing adequate buffers and allowing on-going non-residential uses to thrive. Similarly, the degree to which the development rights of the Rush Oak Park Hospital Campus are impacted goes beyond reasonability and violates purpose §1.2-I.

Given the foregoing, the proposed amendment is inconsistent with key purposes of the Oak Park Zoning Ordinance.

*e. Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, or reflects a change in policy.*

**Response:** The proposed amendment does not correct any error or omission, nor does

it add clarification to existing requirements or reflect a change in policy.

*f. The extent to which the proposed amendment creates nonconformities.*

**Response:** The existing Medical Office Building rises to a height of 58 feet and the existing parking structure rises to a height of 51 feet. The height limit of 50' for the southern and eastern portions of the affected area would make those existing structures non-conforming as to building height.

*g. The extent to which the proposed amendment is consistent with the overall structure and organization of this Ordinance.*

**Response:** The amendment as proposed is consistent with the overall structure and organization of Oak Park's Zoning Ordinance.