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September 13, 2017

Mayor Steve Chirico and
Members of City Council
City of Naperville
400 S. Eagle St.
Naperville, IL 60540

RE: Consideration for designation of 110 S. Washington Street (old Nichols Library) as a Landmark in accordance with the Naperville municipal code.

Dear Mayor Chirico and Members of City Council,

Landmarks Illinois is in full support of local landmark designation for the old Nichols Library at 110 S. Washington Street, built in 1898 as the city's first public library. While we understand that the owner does not consent to this proposed designation, we think protection of this extremely important property is merited and will send a strong message that new development is desired, but must respect the city's heritage.

The library building meets the majority of possible landmark criteria required by ordinance and it is viewed by many as the city's best example of Romanesque-Revival architecture. It has important local significance, not only for its style of architecture, but for its connection to an early Naperville family, its design by a significant architect and in that it contains locally quarried stone. It is also a prominent building in the Naperville Historic District, listed in the National Register of Historic Places. It is undoubtable one of the most recognizable historic buildings in downtown Naperville.

As we understand it, the owner has submitted plans to the Planning and Zoning Commission that includes demolition of the old Nichols Library and a proposal to rebuild a portion of its façade on a new structure. This is not in keeping with the intent of the city's covenant, which was put in place to protect the entire façade and vestibule of the building in its current location. It would seem that when the city placed a covenant on the building's most prominent features, the purpose was to indicate its importance and value to the public. However, it appears from the developer's proposal this protective tool is not being honored and it is now necessary to recommend full landmark protection.

We also understand that the owner, in his response to the landmark nomination, stated the building "has deteriorated and is now in poor repair." Yet, on August 9, on behalf of Save Old Nichols and Landmarks Illinois, the Association for Preservation Technology - Western Great Lakes Chapter (APT) produced an assessment report that states, "Generally, the Old Nichols Library building is in good to serviceable condition. Isolated repairs and continued maintenance are recommended to limit water infiltration and associated minor deterioration."

Lastly, the owner states that landmark designation would "take the Property from the Owner without its consent." The *Penn Central Transportation Co. v. New York City* case on this topic has held as rule of law since 1978. The Supreme Court found that the city's landmarking of Grand Central Terminal did not amount to a taking. Landmark designation by any municipality, in this case as well, does not constitute a taking of the property as claimed by the owner of the old Nichols Library.

A good local example of a court upholding a local municipality's decision to landmark a property against an owner's consent is the case of the International College of Surgeons v. Chicago – *International College of Surgeons v. City of Chicago*, 522 U.S. 156 (1997). Chicago began proceedings to designate the Surgeons' mansions on Lake Shore Drive. The mansions were used as a museum and offices. While the designations were pending, the Surgeons entered a contract to sell the properties to a developer. The developer submitted an application to demolish the mansions while retaining the historic facades, and construct an apartment tower. The City then finalized the landmark designation. The City denied the owner's application to demolish the parts of the mansions other than the facades. The City also denied a waiver based on a claim of economic hardship. The owner appealed and the case reached the United States Supreme Court. The Supreme Court rejected the owner's claim that the case should not be heard in federal court and remanded the case to the United States Court of Appeals for the Seventh Circuit. The Seventh Circuit upheld the City on the merits, affirming the denial of the demolition permit and the denial of the certificate of economic hardship. The court stated that the owner had no claim for a taking under the Illinois or federal constitutions.

Landmark designation of the old Nichols Library will not only protect one of Naperville's most architecturally distinctive and important buildings, but will also demonstrate sound land-use planning by the city. Landmark designation acknowledges that a building that could never be built again today should have the opportunity to be reused and wholly integrated into a larger development. If the building is rehabilitated for an income-producing use, the developer has the choice to use the federal historic tax credit as a financing tool as well.

The developer bought the library knowing of the covenant and its stipulations, as well as of the importance of this building to the public. It is disingenuous to claim otherwise. We hope you accept the Historic Preservation Commission's recommendation for local landmark designation for this irreplaceable historic building.

Sincerely,

Bonnie McDonald

Bonnie McDonald
President

cc: Doug Krieger, City Manager
Allison Laff, Deputy Director, TED Business Group
Mark V. Urda, Presiding Chair, Historic Preservation Commission
Gabrielle Mattingly, Assistant Planner