



KRIS NELSON COMMUNITY-BASED RESEARCH PROGRAM

. . . a program of the Center for Urban and Regional Affairs (CURA)

Lessons from a Commercial Community Land Trust Pilot

**Prepared in partnership with
Rondo Community Land Trust**

**Prepared by
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Lessons from a Commercial Community Land Trust Pilot

*The Opportunities and Challenges of
Developing Affordable Commercial Space*

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Introduction

Rondo Community Land Trust (CLT) has been providing affordable homeownership in Ramsey County, Minnesota using a ground-lease community land trust model since 1993. Rondo CLT began planning what is now known as the Selby-Milton-Victoria (SMV) project in 2009, and the development was ongoing at the time this report was published. The SMV project includes two sites along central Selby Avenue in St. Paul, one on Selby and Milton Avenues and one on Selby and Victoria Avenues. The building on each of these sites will be a mixed-use new construction project with affordable commercial space on the ground floor and affordable senior rental above.

When the SMV project began, very few CLTs across the country were dealing in commercial property. There were no clear commercial CLT models in practice nor any written “best practices” for the model as there is for residential CLTs. Even in the larger nonprofit arena, there is relatively little effort made towards creating and preserving long-term affordable commercial space.

Providing affordable commercial space in a community can create jobs, increase wealth, and build the capacity of a community. Rondo CLT recognized a need for this in its community, which led to the pursuit of an affordable commercial development. With the SMV project, Rondo CLT seeks to prototype the commercial community land trust model for other nonprofit organizations to learn from in their pursuit of providing affordable commercial space in their communities.

This report is intended to provide insight for nonprofit organizations on the opportunities and challenges of developing affordable commercial

space. Policymakers, governmental staff, funders, and community organizations interested in supporting the development of affordable commercial space will also find this report useful. After providing context and background information on the SMV project, this report will outline the “key questions” surrounding the implementation of a commercial community land trust model. This report will also summarize the lessons learned by Rondo CLT from the SMV project to date. This report will not detail the development of this project except where necessary. From a development standpoint, developing affordable commercial space is in many ways the same as developing any other type of property.

The information in this report was gathered by holding interviews with people involved in the project and stakeholders of the project in order to document Rondo CLT’s experience with affordable commercial development. When necessary, the report will call on past research that Rondo CLT commissioned during the planning and development of the SMV project. Much of this research is included in the appendices of this report for reference.

About Rondo Community Land Trust

Rondo CLT is a community based affordable housing land trust operating in Ramsey County, Minnesota since 1993. Rondo CLT serves households below 80% of the area median income and strives to serve individuals and families who have historically been excluded from homeownership. Rondo CLT provides permanently affordable homeownership by separating the ownership of the building and the land with a ground lease. Rondo CLT home buyers purchase only the building and enter into a 99-year ground lease with Rondo CLT for the exclusive use of the land. To ensure affordability for future generations of home buyers, Rondo CLT's ground lease includes a limited appreciation formula that is used upon the resale of the home. When a homeowner decides to sell their house, they ground lease requires them to sell it to another household of low- to moderate-income for the original sales price plus up to 25% of any appreciation in the home's value. This formula allows the home to remain affordable for future home buyers while also allowing the original buyer to gain equity.

Rondo CLT's work is not limited to providing housing for low- to moderate-income families. Rondo CLT also seeks to preserve the economic and cultural diversity of the community. See Rondo CLT's vision and mission statements, to the right, from its 2015-2020 strategic plan. This expanded mission stems from the historical context of Rondo CLT's service area.

A Brief History of Rondo

Rondo CLT's original service area was limited to the Summit-University and Lexington-Hamline neighborhoods in St. Paul, which represents the area of the historic Rondo neighborhood.



Rondo Community Land Trust

Rondo CLT Vision Statement

The Rondo community, along with targeted areas of Ramsey County, has an adequate supply of high quality, permanently affordable housing choices for low and moderate-income, multi-generational households as a result of the Rondo CLT. The Rondo community has a growing economic and cultural diversity due to targeted commercial and residential strategies supported by Rondo CLT.

Rondo CLT Mission

To strengthen and preserve communities by providing and advocating for permanently affordable, sustainable housing for families and individuals with low to moderate incomes.

To promote the utilization of the land trust model as a method of preserving affordable housing and economic growth and neighborhood stabilization.

To support and celebrate cultural diversity by providing affordable business opportunities to increase community economic wealth, property values and jobs.

Rondo was St. Paul’s largest African American neighborhood through the 1960s. Rondo had a thriving business corridor and was in many ways and for many reasons completely independent of white society that surrounded the neighborhood—in part due to a discriminatory housing market and redlining but also due to the economic vitality and diversity of the Rondo community.

The construction of Interstate 94 through the Rondo neighborhood in the 1960s displaced thousands of African Americans, and hundreds of

American population has remained in this area. Through the 1980s and 1990s, an epidemic of drugs and crime coupled with continuous disinvestment left the neighborhood in near shambles. Today, Central Selby is lined with a mix of housing, businesses, community institutions such as churches and a music academy, and a considerable amount of vacant land. Many of the houses and businesses are owned, occupied, and/or operated by members of the African American community.

PHOTOS FROM THE RONDO NEIGHBORHOOD, CIRCA 1940-1960



Source: Minnesota Historical Society

African American businesses were lost. When this economic corridor was destroyed, there was no known support provided to relocate businesses or compensate business owners for their loss, and the development of African American wealth in St. Paul and beyond was destroyed.

Selby Avenue became a landing point for many African Americans displaced by the interstate construction to the north, and a large African

Rondo CLT’s Economic and Cultural Mission

Rondo CLT has long served to provide affordable homeownership in this area for those historically disadvantaged in the housing market since the destruction of the Rondo neighborhood, preserving African American homeownership in this historically African American neighborhood.

Similarly, Rondo CLT seeks to assist community members who have been denied access to capital and the ability to build wealth, both historically and presently, in order to develop the cultural and economic diversity of the area.

Rondo CLT has supported its cultural and economic vision in the following ways and more:

- Acting as the fiscal agent for the Central Selby Association, a community economic development organization for Central Selby
- Acting as the fiscal agent for New Lens Urban Mentoring Society, a cross-generational and culturally congruent black male mentoring organization based in St. Paul
- Participating in apprenticeship and transitional work programs to provide on-site home renovation and construction training opportunities
- Partnering with the Neighborhood Development Center and the Neighborhood Development Alliance for entrepreneurial training and small business development
- Developing a commercial land trust model focused on providing affordable commercial space and promoting an African American Cultural Corridor on Central Selby (SMV project)

To date, Rondo CLT's economic work has been focused on developing an African American Cultural Corridor along Selby Avenue between Lexington Parkway and Dale Street (Central Selby). Rondo CLT has partnered with the Central Selby Association to help preserve and expand the node of African American businesses along Central Selby. This mission will be increasingly important as gentrification pressures on the neighborhood threaten to increase rents and force the existing small businesses with small profit margins to close or move from the neighborhood.

These gentrification pressures have been imminent for years, as Selby Avenue is the halfway point between the destination commercial district of Grand Avenue to the south and the recently redeveloping University Avenue light rail corridor to the north. Anecdotally, the number of white residents living in the neighborhood has increased in recent years. At the time of this report, two trendy restaurants had recently opened on Central Selby with resounding success. The Central Selby Association and Rondo CLT seek to be proactive towards reducing the effects of gentrification on the original African American population and businesses of this area.

TRIBUTE TO THE ORIGINAL RONDO AVENUE



Source: Minnesota Public Radio

The Selby-Milton-Victoria Project

RENDERING OF THE VICTORIA SITE OF THE SMV PROJECT



Source: Rondo Community Land Trust

Rondo CLT's SMV project is a key component of its cultural and economic mission. Rondo CLT's SMV project began in 2009. It was then that Mychael Wright, a business owner on Central Selby and Rondo CLT board member, wondered aloud to Greg Finzell, executive director of Rondo CLT, if the residential CLT model could be applied to commercial property to keep it affordable. Mr. Wright was worried about the economic viability of his own business and others on the street if and when rents rise in the neighborhood. Several years of research and several more years of planning later, the SMV project developed into what will likely be its final form (closing and ground breaking are not anticipated until several months after this report is published): a two-site, mixed-use new construction project with long-term affordable commercial space on the ground floor and affordable senior rental above.

The two sites are just a block apart, a smaller building at Milton and Selby and a larger building at Victoria and Selby, and are treated as one project. The senior housing will be developed using Low Income Housing Tax Credits in

partnership with a local affordable housing development corporation (Community Housing Development Corporation) and managed by a local property management company (BDC Management Co.). The commercial space will be developed and managed by Rondo CLT. There will be six commercial spaces of various sizes. The marketing of the space will target African American and neighborhood-based small businesses, whether new, existing, or expanding. Rents will be set at affordable rates for small businesses with small profit margins. Several of the commercial spaces are designated as live-work units.

Central Selby was selected as the target area for this project because of the historic lack of investment in this neighborhood with a large African American population and African American business node. The two sites for the project sat vacant for decades. Additionally, the impending gentrification of the neighborhood threatens to potentially displace the small businesses in this neighborhood. For example, small businesses that are currently housed on

Grand Avenue are finding rents increasingly difficult to keep up with as they have to compete with national chains like Walgreens, J. Crew, and Starbucks. At the time of this report, Central Selby is home to only one national chain, making it an attractive place for a small business to locate. In all likelihood, without any long term affordable commercial space reserved for them, the existing small businesses along Central Selby would find it difficult to compete with incoming higher margin and better-capitalized businesses.

While Rondo CLT first explored the viability of the commercial CLT model along University Avenue, which also has a large African American population and African American business node, the organization ultimately decided that Central Selby had a greater need for this type of project. University Avenue, with its public investment of the light rail along the corridor, has been able and will be able to attract support from many other organizations. Central Selby will, in all likelihood, not.

With the SMV project, Rondo CLT hopes to demonstrate a model of long-term affordable commercial space for other organizations and communities to pursue. During the development of this project, Rondo CLT, its community, and its partners had to grapple with several large, key questions that defined the project. These questions are outlined in the remainder of this report, including Rondo CLT's answers to these questions and other paths that can be taken. Before that, however, the concept of the commercial CLT and the various forms it can take to provide long term affordable commercial space will be detailed.

STEPHANIE AND MYCHAEL WRIGHT, OWNERS OF GOLDEN THYME COFFEE AND CAFE ON CENTRAL SELBY

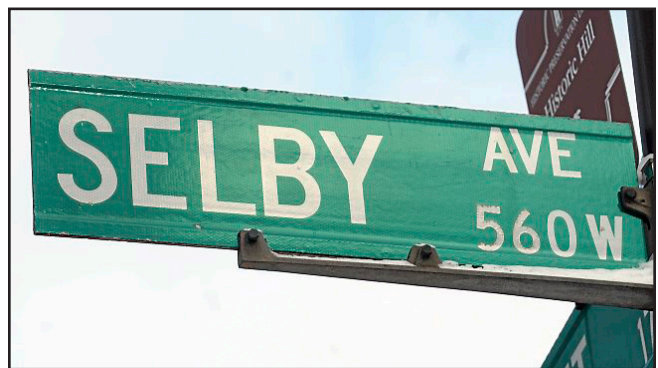


Source: The Growler Magazine

“If not Selby now, then when?”

-Mychael Wright, Central Selby business owner and Rondo CLT board member

GENTRIFICATION PRESSURES ARE IMMINENT ON SELBY



Source: Pioneer Press

The Commercial CLT Model

The primary goal of a commercial CLT is to provide stable, affordable commercial space to a community. There are many different forms that the pursuit of this goal could take, and few of them translate perfectly from the residential CLT model. This presents challenges for existing CLTs interested in holding commercial property, but also creates the opportunity for different types of nonprofit organizations to develop long term affordable commercial space.

There are, however, three principles of a residential CLT that are crucial to the success of a long term affordable commercial development. These three CLT principles make affordable commercial space most similar to a CLT in concept, regardless of the actual structure.

The principles that any long term affordable commercial development must uphold include the holding of the property, stewardship of the property, and community ownership of the property.

The holding of the property. The organization must in some way maintain a permanent interest in the property to ensure it remains affordable in the long term.

The stewardship of the property. Support of the property and its tenants is necessary to ensure the success of the space.

The community ownership of the property. Community ownership is a crucial piece of affordable commercial space. The space should be affordable for the community it is intending to serve, and community ownership will ensure as much.

An organization may want to structure its commercial CLT differently depending on its other

Many nonprofits already develop commercial space. How is a commercial CLT different?

Nonprofits developing commercial space as part of a mixed-use affordable development is nothing new. Often, though not always, this commercial space is made available for tenants that serve some public purpose. Providing affordable commercial space, however, is rarely a goal of these developments, and rents are set at market rate.

goals. Possible structures of a commercial CLT include a lease model, an ownership model, or another model like a cooperative.

Lease Structure

At the time of this report, Rondo CLT had decided to use a lease structure for their affordable commercial space, owning both the ground and the building and leasing out the space. During planning and development, this model proved to serve Rondo CLT's goals for the project and to be the most economically feasible. Choosing this structure also allows Rondo CLT some flexibility to change the structure if they determine that there would be a better model more suited to the project once in operation.

A commercial CLT with a lease structure has many benefits. A lease requires little up-front investment from the tenant beyond build-out costs, which helps ensure affordability especially for those populations which have historically been denied access to capital. Leases can also easily be tailored to meet the needs of each

individual tenant. For these reasons, a lease structure provides a clear path for ensuring affordability and stability for tenants. Leases are also common and fairly straightforward for commercial real estate so the commercial CLT does not have to necessarily break new ground with a leasing structure.

A lease structure does not, however, lend itself well to equity building for commercial tenants. Equity development is a key part of many CLT's residential model, but this feature is financially more complex with commercial property, as will be explained below.

Ownership Structure

There are several structures of a commercial CLT where the tenant purchases and owns their commercial space. Such structures include ground leasing, condominiums, and lease-to-own/option-to-purchase. Each of these options has similar advantages and complications.

A ground lease structure would most resemble the standard residential CLT model. In this structure, a qualifying small business owner would purchase the space at an affordable price and lease the land from the organization. The ground lease would require that if and when the owner sells the space, they receive a limited portion of equity from the sale and that they sell to a qualified buyer. The same concept can be applied to a condominium or lease-to-own structure.

Ownership structures provide tenants with the two key benefits of stable, affordable commercial space and equity building. Ownership also has community benefits, both ensuring that the business owners have a vested stake in the community and that the business owners develop standing in the community. However, there are several disadvantages to an ownership structure for the purposes of a commercial CLT, and many unknowns about this structure remain.

An ownership structure requires an investment up front from the tenant for a down payment in order to get the purchase financed. Depending on the organization's goals for the commercial space, this may not necessarily be a deal breaker, but it can affect the affordability of the space. For example, an organization with a goal of getting established businesses into their own space may not be deterred by this problem. However, Rondo CLT's goal for the SMV project is to serve African American business owners. African Americans have long been discriminated against in the capital lending market and have been systemically prevented from building the wealth necessary to make a down payment. Because of this, they are often forced to make unfavorable financial deals for the sake of their business, such as a taking out a loan with a high interest rate or taking out a second mortgage on their home. Rondo CLT seeks to avoid these situations for its tenants.

While ownership of the commercial space presents the opportunity for ground leaseholders to build equity in the property, the equity building formula is not as straightforward for commercial property as it is for residential for several reasons. In theory, the commercial model could work exactly like the residential model, as described above. However, the commercial market is more volatile than the residential market, and appreciation is far from guaranteed.

In addition, there are more risks and expenses inherent in developing and operating commercial property that make ownership and equity building less feasible from an affordability perspective. For example, for an affordable commercial project that houses several tenants, the commercial CLT takes out a loan on the whole project. Each tenant would then take out a loan on the portion of the project that they purchase. Issues arise if one of these tenants were to default on their loan. First, the bank would seize their portion of the project, and then any subsidy that the commercial CLT invested into keeping that space affordable is lost. Now,

because the commercial CLT has one loan for the whole project, the burden of paying off the defaulted tenant's portion of its debt service is placed on the remaining tenants and affordability is compromised. There is much more risk in a commercial CLT deal than in a residential CLT deal, where each property has its own isolated financing and the outcomes of one property do not impact the outcomes of another in the trust.

Among all of these potential issues, there is the added complexity of leasing the land for a multi-story building. As will be described in this report, it may not be financially feasible to develop a small commercial space, and developing a building a multi-story building may be the only way to provide affordable commercial space. Structuring ground leases for a multi-story building may be too complex or not possible.

When grappling with the opportunities and challenges that an ownership structure provides, a commercial CLT should consider the needs of its community. Target tenants may not be interested in owning their space. Ownership of commercial space can often become a second business, where the tenant must not only manage their business but also their property. Along with that management comes the cost of maintaining a property, which can at times be staggering. This can be especially troublesome for target tenants of affordable commercial space if their margins are small. These businesses may have a smaller safety net for the major expenses of ownership.

While Rondo CLT has chosen a lease structure over an ownership structure at the time of this report, it plans to continue exploring ways to allow ownership and/or equity building in its model. This will be more easily explored once the project is completed and cash flows are realized.

Other Structures

Because the commercial CLT is relatively new and uncharted territory, organizations maintain

flexibility to be creative and find a structure that will work best for them and their community. There are many other structures that can provide affordable commercial space while also meeting the three tenants of a commercial CLT. Among these are cooperative models and co-working space.

In a cooperative structure, business owners become members by buying shares which entitle them to the use of the property. A cooperative model, whether lease-based or ownership-based, would have the same advantages and challenges as the structures described above. A cooperative structure, however, has its own legal structure which can be tailored to the needs of the community and offer an innovative approach to providing affordable commercial space. In this structure, the organization could maintain ownership of the land and write a 99-year lease for all the commercial space to the cooperative, which would lease it out. Alternatively, after the project is completed, a cooperative could be formed as a separate entity from the original developing organization. The original organization can then serve as a steward. An existing cooperative may be interested in pursuing a cooperative model of affordable commercial space.

Co-working space is another structure that can be well suited to providing affordable commercial space to a community. With this structure, members of the co-working space pay an affordable rate to use the shared space provided by the organization. This includes space for working, hosting meetings and events, and networking with other members. Co-working spaces do not have to be limited to desk and service based jobs. Workshops, commercial kitchens, and outdoor spaces are all well suited to co-working arrangements for a variety of professions. Co-working can be a useful structure in markets where commercial space or the ability to develop commercial space is unavailable or prohibitively expensive.

Key Questions

This section of the report will outline several of the important questions an organization must consider when developing affordable commercial space. These questions stand regardless of structure and may help determine the proper structure to use.

What are the goals of the project? What greater mission is the project serving?

Is the project legally feasible? How does the project fit into the bylaws and articles of incorporation?

What form will the project take? New construction? Rehab? Mixed-use?

How will the project be funded? How many private loans can be taken out?

What if the project needs gap funding while in operations? How will the gap be met?

How will the commercial CLT be operated? Who will make decisions? How will decisions be made? How will rents be set?

How will tenants build equity? How will an equity formula affect long-term affordability?

What are the goals of the project?

The first and most important question that an organization must ask themselves is why it wants to develop affordable commercial space. It is important to understand the goals of the project in order to answer the remaining questions.

A commercial CLT does not have to be limited to a general economic development goal. Such a goal is almost inherent in the project itself. Rather, an

organization should dig deeper. What is driving the need for this type of project? Is there a specific area that needs the development? Why? Is there a specific population that needs to be targeted? Why? Why develop now? What other functions or services can the development provide? Answering these questions will help ensure that the project is purposeful and well-rounded.

Rondo CLT began exploring a commercial CLT with the goal of providing affordable commercial space to African American business owners in St. Paul. Through the exploratory and planning phases of the project, several additional goals were realized. These goals have helped shape the SMV project and its development.

Rondo CLT's goals include:

- Provide long-term affordable commercial space for African American owned small businesses in a gentrifying area
- Promote an African American Cultural Corridor along Central Selby
- Increase street vitality by developing vacant lots along Central Selby
- Serve as a pilot demonstration of developing long term, self-sustaining affordable commercial space
- Provide senior community members with affordable rental housing

Is the project legally feasible?

When considering a commercial development, a nonprofit organization must determine if they are legally allowed to deal in commercial property. Organizations should consult their articles of incorporation and by-laws for potential conflicts. Organizations should also determine how affordable commercial development will affect their tax-exempt status, if applicable.

To review its articles of incorporation and by-laws, Rondo CLT partnered with the William Mitchell College of Law's Community Development Clinic to have law students research whether the organization could legally use the land trust model for affordable commercial space (see Appendix A). The students found that Rondo CLT's articles listed out several housing-related activities that serve its charitable purpose, which did not explicitly or implicitly include or exclude any commercial-related activities. The list of Rondo CLT's charitable activities is stated as *including but not limited to* housing-related activities, leaving the possibility of commercial-related activities open for Rondo CLT. A review of Rondo CLT's bylaws found that they did not restrict the organization to housing-related activities, although much of the language outlines only the management and regulation of their housing activities which may not translate to any commercial-related activities the organization pursues. The students recommended that the bylaws be amended to include the management and regulation of commercial activities.

Nonprofit organizations should perform a similar review and make any necessary amendments to these documents to allow for commercial activities. Organizations may also want to review their mission and vision statements to include commercial activities.

A nonprofit must ensure that any new commercial activities will not threaten any tax-exempt status for federal and state income, business, or property taxes. Rondo CLT, as a 501(c)(3) nonprofit organization, must ensure that its commercial project will primarily serve its exempt purpose, "charitable," in order to continue to be exempt from federal and state income taxation. The William Mitchell law students recommended that the organization seek professional nonprofit legal counsel for advisement on structuring an affordable commercial project without violating 501(c)(3) requirements.

Throughout the planning and development process, Rondo CLT consulted with their attorney to provide them with advice on the SMV project. Rondo CLT also enlisted a development lawyer to join the project team to provide insight and guidance throughout the process.

What form will the project take?

An organization must consider what type of commercial development they want to pursue. This decision will be highly intertwined with the question of funding, which will be covered further below. An organization must choose to either pursue a new construction project or purchase and rehab an existing building. An organization must also decide between pursuing a mixed-use project or limiting the project to commercial.

These decisions must be rooted in the goals of the project. For example, one of Rondo CLT's goals for the SMV project was to develop vacant lots along Central Selby. This goal could only be achieved with a new construction project. Pursuing a mixed-use development also allows Rondo CLT to provide affordable senior rental housing in the community and accomplish an additional goal. In addition, some development costs can be spread across the two uses of a

mixed-use project, which can make the project more economically feasible. If the commercial space costs less to develop, it can be sold or leased for a lower rate.

Is a bigger better?

Pursuing a larger project with more housing or more commercial space will be more cost effective. However, a very large project may not suit the needs and desires of the community. A commercial CLT must balance keeping a project small and community oriented, ensuring there are enough units and/or space to be economically feasible, and being able to raise enough funding to keep debt service costs feasible.

An organization interested in revitalizing a community that has stagnant development and vacant lots may want to pursue a new construction project as Rondo CLT did. However, an organization interested in revitalizing a community with many vacant buildings may be better suited to rehabbing an existing building. An organization that recognizes a need for housing in the community may determine that a mixed-use project would be most beneficial to the community and worth pursuing.

An existing organization with experience rehabbing may be reluctant to pursue a new construction project or an existing organization without housing experience may be reluctant to pursue a mixed-use project, but these fears can be mitigated by bringing on partners to complete the project. Rondo CLT partnered with a local affordable housing development corporation to develop and manage the housing aspect of the project so Rondo CLT could focus on the development and management of the commercial aspect.

How will the project be funded?

Funding a commercial development in a way that ensures affordability for tenants is one of the biggest challenges of a commercial CLT. With the SMV project, Rondo CLT seeks to create a commercial CLT model that will be self-sustaining and not require any regular funding to keep the commercial space affordable. Rondo CLT found that funding the project almost completely with public and philanthropic grant money from the beginning would help ensure self-sustained long-term affordability.

This may differ on a case-by-case basis, but in most markets, an organization will want to seek out as much philanthropic funding as possible and take out very few loans that have very low or no interest rates. Every dollar that must be paid out in principal and interest reduces the affordability of the space for small business owners. The goal of funding the project should be to keep debt payments to an absolute minimum in order to keep rents affordable.

For example, if the common area maintenance fees, insurance, reserves, and utilities will cost \$9.00 per square foot per year to keep 10,000 square feet of commercial space operating, that is the bare minimum price the organization can charge for rents. Now, if a loan was used to fund the project and required a \$10,000 annual debt service payment, the bare minimum rent rises to \$10.00 per square foot. For a small business with small profit margins, this increase can make a big difference.

Because the presence of debt service payments can greatly affect the affordability of the commercial space, organizations must rely heavily on public and philanthropic dollars. However, because affordable commercial development is not yet a widespread practice, there are very few dollars dedicated to funding these types

of projects. This forces organizations to spend a significant amount of time garnering interest in the project and securing the funding for it. Organizations must be creative when piecing together funding for a new, innovative project such as a commercial CLT. Rondo CLT learned many lessons from this process, the most important of which will be shared in the second half of this report under Lessons Learned.

Depending on the market and the costs of operating the commercial space, the balance of grants to loans will differ for every project. Some organizations may be able to fund half or more of their project with loans and still keep commercial rents affordable. Producing financial projections early and often will help ensure that the project remains on a path to affordability as the development progresses.

What if the project needs gap funding while operating?

While Rondo CLT believes it is possible for an affordable commercial project be completely self-sustaining, there remain many unknowns about operating affordable commercial space. For this reason, an organization must not only create a plan to fund the project up front but also create a plan for covering an affordability gap, if necessary, once in operation.

The model Rondo CLT seeks to pilot is a self-sustaining model. Once the initial investment by the organization is made, it should not need any operating subsidy. This is similar to the model of a residential CLT. Once the property is purchased, it should need no further investment from the organization. However, this did not prove to be the case during and immediately after the 2008 foreclosure crisis. At that time, Rondo CLT had to reinvest in some of its properties and had to seek extra funding to do so.

Organizations should ask themselves how they will handle any potential need for affordability gap funding once the project is complete. One option is to fund a reserve account up front and/or over time for this purpose. An organization should also develop a “crisis plan” for responding to an affordability gap. A reserve account may reduce affordability, and a crisis plan may put too much pressure on the organization and tenant in the presence of an affordability gap. These options should be carefully considered.

How will the commercial CLT be operated?

The question of how to operate affordable commercial space so that it is effective and successful remains almost wholly unanswered. The challenges associated with operating a commercial CLT are characterized by the following dynamic: “For a commercial development to succeed, a CLT must balance the tension between fulfilling its mission to the community it serves while embracing the often difficult business decisions” (Paul A. Sand, see Appendix B). This section will outline the questions that an organization must answer in preparation for successfully balancing those tensions.

Who will make decisions about the commercial space?

An organization should make very clear who has the authority to make decisions regarding the commercial operations. One way to do this is to form a committee to oversee the operations of the commercial CLT. This committee can be formed as a committee of an existing board or can be created as a separate entity. It is important that there is at least one person on such a committee who has professional experience with small businesses. A committee like this should also include community members to ensure the commercial CLT remains owned by the community.

Rondo CLT will be forming an advisory committee separate from its board, which will include board members, community members/stakeholders, professional experts, and commercial leaseholders. The advisory committee will be responsible for reviewing applicants for the commercial space, determining the terms of the lease or purchase agreement, and providing strategic direction for the commercial CLT as a whole. All major commercial CLT decisions will go through the advisory committee, who will then make a recommendation to the Rondo CLT board, which is made up of community members, professional experts, and residential ground leaseholders. The Rondo CLT board will have the final say on all major commercial CLT decisions. Less consequential operating decisions relating to maintenance and assisting tenants on a day-to-day basis can be delegated to a staff person.

An alternative form of commercial CLT decision-making may be to hire a consultant to perform the review process. There may be an existing organization in the community that provides small business expertise and would be well suited to performing the types of activities that an advisory committee would. For example, the Neighborhood Development Center is a community development organization that provides entrepreneurial training and support for neighborhood-based small businesses in St. Paul, particularly for people of color and low-income entrepreneurs. Reviewing applicants and making recommendations to the Rondo CLT board could fall within the scope of their services and an arrangement could be made with them for a fee. During this pilot period, Rondo CLT chose not to pursue that path because best practices for this process had not yet been determined.

If the commercial CLT model becomes widespread, more organizations may be created that can provide these types of services for

commercial CLTs. If choosing to hire the review process out, a commercial CLT should be sure to select an organization who understands the vision of the project and can uphold the values of the CLT.

Operating decisions for a commercial CLT must be made both flexibly and objectively, in order to serve its target community and to ensure transparency in doing so. The decision-making body should have clear responsibilities, priorities, and guidelines. The decision-making body should also allow any affected person or organization to be involved in the decision-making process.

How will tenants be selected?

A commercial CLT should have a clear set of criteria to guide priorities when selecting tenants. These criteria should be based on the goals that the organization has established for the commercial project, but the criteria can also expand on those goals. Being clear about the selection criteria while also maintaining flexibility for the decision-making body to choose tenants beyond the criteria will maintain both accountability to the community and community ownership over the outcomes.

For example, one of Rondo CLT's goals is to develop an African American Cultural Corridor along Central Selby. Therefore, they will target African American owned small businesses to fill the space. Beyond that goal, Rondo CLT would also like to prioritize other features of the commercial space. For example, Rondo CLT wants the project to house businesses that are not already available in the community and that will increase street vitality. The advisory committee will have the flexibility to determine what businesses meet these goals. Rondo CLT will also prioritize tenants based on the soundness and feasibility of their business plan, their existing connections to the community, and their use of entrepreneurial services provided by the Neighborhood Development Center.

“A CLT must balance the tension between fulfilling its mission to the community it serves while embracing the often difficult business decisions.”

-Paul A. Sand

Organizations may need to be proactive in recruiting and developing the types of small businesses they would like their commercial CLT to house. Well before Rondo CLT broke ground on the SMV project, it partnered with the Neighborhood Development Center to create the Black Apprentice Program to provide business training and support to minority business owners. This program has since evolved into Plan It! An Entrepreneur’s Guide to Success, a twice-annual, 12-session training that covers business planning, marketing, management, and more. The businesses that go through this training are then, in theory, prepared to lease an affordable commercial space from Rondo CLT or in another underutilized building in the community.

How will affordable rents or purchase prices be determined?

Setting an affordable rent or purchase price is of fundamental importance to the development of affordable commercial space. A commercial CLT can have all the best intentions, but it will not matter if the space is not affordable for the target tenants.

The determination of rents or purchase prices will go hand in hand with the question of how the project will be funded. If a project uses a large amount of private debt to fund the project,

the rent or purchase price needs to cover that debt service. If rents or purchase prices that are considered affordable cannot cover the cost of the organization’s debt, then the funding structure needs to be revisited.

For a commercial CLT to be self-sustaining, the rents or ownership fees must be able to cover at least common area maintenance fees, insurance, debt service, reserves, utilities, and any other regular costs of running the building itself (these costs may differ if the space is leased or owned). Organizations should be creative in finding ways to lower these costs. For example, Rondo CLT committed early in the development phase to make the building energy efficient, which will reduce utility costs, both for the building as a whole and the tenants. Because Rondo CLT is funding its commercial project up front with mostly public and philanthropic dollars, the increased costs associated with building an energy efficient building will not be reflected in a higher debt service payment. Other organizations relying heavily on private debt may not want to make these types of expensive improvements.

In order to set affordable rents or purchase prices and ownership fees, organizations must determine what is considered affordable in their community. Affordability may be determined based on market rents or prices. For Rondo CLT,

the current market rates in this area at the time of development are considered affordable—the rents or purchase prices that local businesses have been able to afford before the area gentrifies. During development, Rondo CLT surveyed businesses along Central Selby to learn more about their rents and costs and determine what baseline rents should be for its project. For organizations developing in already unaffordable areas, affordability may be based on a certain percentage of market rates.

Alternatively, an organization may decide that affordability in its community is simply the bare minimum cost of the space. Rents or fees could be set to just cover the basic costs to keep the building running, making the space as inexpensive to rent or own as possible. Purchase prices could be set at the bare minimum amount to cover the organization's debt on the project. If affordability in a community is simply the lowest possible price, organizations will have to be diligent in their development to keep costs low.

Another option for defining affordability is to determine the affordability level on a business-by-business basis. Rents or purchase prices could be based on a percentage of the projected revenue of each business. Rent or purchase prices could also be set at varying levels depending on the type of business and that industry's standard margins. Adjusting rent levels and purchase prices depending on the affordability needs of each business allows for the possibility of housing a business that needs an extremely affordable space by covering their share of the cost with another business that can afford to pay a slightly higher price. However, such an arrangement requires maintaining a very delicate balance that can easily be disturbed by a small change in one of the businesses.

Each of these options for establishing affordability has its own drawbacks. The first option may be too open-ended for already unaffordable areas—what percentage of market rate is affordable? The

second option assumes that the bare minimum costs are affordable. The third option requires a delicate balance and can raise questions of fairness and favoring certain businesses. Principles from each of these options should be considered in combination to determine what definition of affordability will best suit the goals of the commercial CLT. For example, an organization may determine both a baseline level of affordability based on a certain market at a certain time and also the absolute minimum price they can afford to charge for their space. Then, they can allow rents or fees and prices to float between or above those values depending on the needs of an individual business.

When determining affordable rents and prices, it is important to remember that the cost of a commercial space for a small business is more than just the rent or mortgage payments—it also costs to build out their space. Build out costs can be extraordinary and can be enough to make an affordable space unaffordable for certain businesses.

What type of support will you provide tenants?

One of the principles of a commercial CLT is stewardship, of both the property and the tenants. This means that a commercial CLT must provide support to its tenants to ensure that they are successful, beyond just providing affordable space. The following is a sampling of ways that an organization can provide support to their commercial CLT tenants.

Acting as a Resource

At the very least, an organization should make itself available as a resource for the tenants of the commercial CLT for any questions they may have or assistance they may need. An organization may want to assign a staff person as the contact for their tenants. An advisory committee or board may be able to provide strategic direction and

community input for the tenants. Partners on the project may be able to provide specific business-related assistance. Bear in mind that some tenants will require a lot of support and some tenants will rarely be heard from.

Harnessing Community Partnerships

One organization does not have to do it all. Commercial CLTs should partner with other organizations in the community that can help support tenants. Rondo CLT, for example, has partnered with the Neighborhood Development Center to provide training and support for small business management and operations. A funding organization that will provide low-interest loans with favorable terms to tenants may also make a good partner.

Assisting with Build Out Costs

As mentioned above, build out costs can make commercial space prohibitively expensive for a

small business, even if their rent or mortgage payments are considered affordable. A commercial CLT should explore ways to provide their tenants with grants or no-/low-interest loans to assist in funding their build out costs so that the costs of their commercial space remain affordable.

Marketing the Development

A commercial CLT should consider advertising and marketing the development and the businesses within it. Small businesses with small margins likely do not have a large advertising budget, but the commercial CLT could harness the collective power of all the businesses in the development. The organization could promote the development to local publications, organize events at the site of the development, and publish and display targeted advertisements in the community and beyond.

Successful Businesses in a Commercial CLT

A commercial CLT may be questioned on its plan in the event that a tenant is successful. Behind this question is the assumption that if providing affordable commercial space, only businesses which *require* affordable space should have access to it. Affordable commercial space is one goal of a commercial CLT, but it is not the only goal. For Rondo CLT, it wants to provide affordable commercial space to small businesses with small profit margins, but they also want to support an African American Cultural Corridor and increase street vitality. If a small business with small margins is granted space in the commercial CLT, and it becomes successful and no longer technically requires affordable space, Rondo CLT will consider this a success.

This outcome resembles the residential CLT model—if a low-income household purchases a CLT house and then their incomes rises, this is a success and not a situation that needs to be mitigated. It does not incentivize success to make a successful business vacate in order to give the space to another small business with small profit margins, or to increase rents with no ceiling as a business becomes successful. These situations are also not ideal for the commercial CLT, the tenant, or the community.

A commercial CLT is not designed to be an incubator, where tenants are meant to get their business up and running and then move on. It is designed to be a place to foster success for tenants and build capacity in the community. If a tenant is successful and there are other small businesses that need affordable commercial space, consider another development.

Supporting Struggling Tenants

A commercial CLT will have to decide how much time and money it is willing to invest to assist a tenant who is failing to pay their rent or mortgage. It is in the organization's best interest to provide support and emergency funding, if available, to help the business be successful but also to cut ties with any businesses that will not be able to make their payments in the long term. The specific needs of the struggling business should be addressed as needed by the staff and advisory committee or board, but hard limits for how much support the organization will provide should be established before the tenant signs a lease or purchases the space.

Supporting Other Small Businesses

A commercial CLT does not exist in a vacuum. The need for support for small business owners with small margins is not limited to the tenants of one project. An organization will likely want to provide support not just to its tenants but also to other small businesses in the community to serve their greater mission. This assistance could support potential tenants or other businesses whose success will reflect well on the community and its other businesses.

Rondo CLT has provided this kind of support by partnering with the Neighborhood Development Center to provide small business training targeted to minority entrepreneurs and business owners in the area. Rondo CLT has also created a small fund to assist other small business owners in the area, including African American business owners who still have limited access to traditional streams of capital.

Other ways to support small businesses in the community include hosting events that spotlight the community and its businesses, creating business mentorship or apprenticeship programs, and participating in community business associations.

How will tenants build equity?

A key function of the residential CLT model is providing the CLT's ground leaseholders with an equity payout at the time of sale. In a commercial CLT, providing equity to its business owners is more challenging, although still the most desirable outcome. While at the time of this report Rondo CLT had decided to postpone any plans for an equity payout until cash flows are realized in operations, Rondo CLT still believes that a commercial CLT structure that allows for an equity payout is possible. Rondo CLT will continue to explore that structure once its project is complete and some unknowns, such as if the model works at all, become known. Until then, other organizations can get creative with this question of how to provide tenants with equity and help them build wealth.

Beyond the traditional formula for limited-equity at sale discussed earlier in this report, a commercial CLT can find other ways to provide a pay out to its tenants. For example, in a lease structure, a tenant could elect for the organization to put a small portion of their rent into a reserve to be distributed back to the tenant when they leave (alternatively, a tenant may elect to forgo this and pay a slightly lower rent). Another option may be for the commercial CLT to develop a "profit-sharing" system, where any additional cash from a good year with low vacancies and low costs could be distributed back to the tenants. A profit-sharing system can also create additional incentives for tenants to be accountable and work together to make the whole project a success.

Lessons Learned

While the SMV project is not yet completed, let alone in operations, several important lessons can be gleaned from the exploratory, planning, and development phases of the project. These lessons will be further detailed below.

Conduct due diligence.

Don't be afraid to expand the scope of the project.

Engage the community early and often.

Frame the project beyond economic development.

Create a strong team with strategic partnerships.

Secure *some* tenants early.

Conduct Due Diligence

The recommendation to conduct due diligence was given to Rondo CLT at the beginning of its planning phase, when they commissioned a William Mitchell law student to study the presence of commercial land trust models nationally (see Appendix B). This recommendation was referring specifically to acquiring land, but the lesson can be applied to every step of the process: meeting with stakeholders, applying for funding, selecting partners, gathering community support, performing market studies, understanding local regulations, and more. Conducting due diligence means that an organization should not pursue an affordable commercial development in the quickest or easiest way but in the way that will best serve the goals of the commercial CLT and its community.

For example, the sites that Rondo CLT ultimately chose for the SMV project are both considered small from a development and funding perspective. This is one of the reasons the sites sat vacant for decades—market rents in this area would not be able to cover the cost of building on a small site. It would have been easier and less expensive for Rondo CLT to choose a different site, but one of its goals was to revitalize Central Selby specifically by developing vacant lots. These sites were chosen after studying the feasibility of a project on University Avenue with its new light rail but also considering where the project will have the greatest impact.

In a similar vein, it is important to spend time engaging with stakeholders (including community members and potential funders) to gain a wide range of support. With a new concept like the commercial CLT, it can take a lot of time to convince people that it is worth supporting, but support from key stakeholders will attract more support from other stakeholders. Be sure to maintain good relationships with all these stakeholders over the length of the project by listening and responding to their concerns. This can be especially important with government stakeholders who have the power to influence the fate of the project. When performing interviews for this report, Rondo CLT was consistently praised for its patience and commitment to its stakeholders, which was also cited as a major factor in the project's success to date.

Engage the Community Early and Often

Engaging the community ensures that the project remains community owned and also helps

prevent any development roadblocks that can come from community members during the local approval process. Engaging the community often can be particularly important if the planning and development phases last several years in order to keep the community engaged and interested. Beyond the support of the board which is comprised of community members, Rondo CLT met with community members beyond the local requirements to share proposals, gather feedback, and learn more about community needs and interests.

A commercial CLT must keep in mind that its project does not exist in a vacuum. It exists within an existing community with its existing issues. Think about how the project will relate to these issues and try to mitigate them early on. For example, during the early development stage of the SMV project, two popular restaurants opened across the street from one of the vacant sites. These new restaurants raised parking concerns among nearby residents, and Rondo CLT understood that their project would also contribute to these problems. Rondo CLT chose to deal with these issues immediately as they arose and hosted a meeting with residents, business owners, landlords, and city staff to mitigate parking concerns early and solicit feedback for keeping parking concerns managed when the SMV project is complete.

Create a Strong Team with Strategic Partnerships

Putting together a strong team with deep knowledge on the various pieces of your project and making strategic partnerships with other organizations who can provide their services and expertise will take a project far. This is especially important for small organizations or organizations who do not have much experience developing property. Creating a strong team with credible partners can inspire goodwill and interest from funders, the community, and other stakeholders.

It is important that this team include not just professional experts but also community members that can speak to the importance of the project. In addition, partnerships should only be made with organizations that can appreciate and uphold the commercial CLT's mission and values. When bringing on large, experienced partners, a commercial CLT should also be sure to maintain a high degree of leadership and control over the project to ensure it remains community owned.

Rondo CLT's committee for the SMV project is comprised of several board members, including a community member, a local small business owner, and an experienced economic development lawyer, as well as a Rondo CLT staff person. It hired an architect, Cermak Rhoades Architects, who specializes in nonprofit projects. It brought on an experienced housing consultant, Barb Broen of Broen Housing Consultants. It partnered with a reputable affordable housing development corporation, Community Housing Development Corporation, who specializes in financing multi-family housing with Low Income Housing Tax Credits. Its lawyer, Angela Christy, is one of the most respected housing and community development lawyers in the state. Throughout the interviews for this report, Rondo CLT was lauded for putting together an impressive team that is also grounded in the community and mission.

Frame the Project beyond Economic Development

In the early stages of the SMV project, when meeting with potential funders, one funder recommended that Rondo CLT put its social mission at the forefront of this project: to provide affordable commercial space for African American owned businesses. This extends the project beyond just an economic development project and gives it a more unique impact that can attract more interest from funders. In interviews for this report, many interviewees insisted that the

emotion the SMV project carries makes people interested and excited about it. This is the first step to gaining support and/or funding.

Don't Be Afraid to Expand the Scope of the Project

A commercial CLT project will be more impactful if the organization pursues more than just the bare minimum. Utilize partnerships. Apply for existing pools of money. Include an art component. Include programming. Try new things. Chart new territory. The novelty of your ideas may be what funders are attracted to.

Secure *Some* Tenants Early

Recruiting and securing potential tenants during the planning and development phase can provide a huge benefit to the project in many ways. First, knowing that there are real people with real businesses awaiting affordable commercial space takes the project from theory to reality for funders. Rather than reviewing reports that describe the demand for affordable commercial space and reading narratives about the disadvantages that certain areas or populations face, funders can be introduced to the very people who will benefit most from the project.

Additionally, securing tenants early takes some of the guesswork out of developing commercial space. You will be able to change the plans based on the needs of the tenant. This can help reduce build out costs to the tenant and organization by including those costs in the original development.

At the same time, a commercial CLT should be sure to leave several spaces available when the project is completed so that other small business owners in the community can demonstrate their interest and be considered for the project, ensuring that there is a chance for them to be included.

From a development standpoint, developing affordable commercial space is in many ways the same as developing any other type of property.

Looking Forward

Rondo CLT believes the commercial CLT model can be used successfully in a variety of situations and for a variety of reasons. This includes revitalizing a depressed area, whether in an urban neighborhood or rural small town. The model can also be used to create opportunity for excluded populations in booming areas. Governments, nonprofits, religious institutions, and other organizations can find value in pursuing a commercial CLT for their communities.

In any form, a commercial CLT can provide a number of benefits to a community, including but not limited to:

- Providing affordable commercial space for small businesses
- Gaining community control over the future of the neighborhood
- Building wealth for small business owners
- Creating jobs
- Revitalizing a neighborhood
- Increasing the tax base
- Pursuing a social mission

In order for the commercial CLT model to be most successful and widespread, the following policy changes need to be enacted. Without the addition of these types of structural support, many organizations may find the commercial CLT model too challenging and expensive to even begin exploring its possibilities.

- The tax code can be used both to incentivize organizations to provide affordable commercial space and to lessen the tax burden on small businesses with small margins.

- The approval process for development can be streamlined at the local level. This is particularly important in the development of affordable commercial space. Longer development processes cost more money and that will affect the bottom line affordability for tenants.
- Government and philanthropic institutions can create separate pots of funding reserved for creating affordable commercial space, entrepreneurial development, and small business assistance.

While developing a commercial CLT is challenging and will not change the face of our neighborhoods as we know them, the model is another tool that governments, nonprofits, and other organizations can use to shape their community. The commercial CLT model helps fill the gap in any community's power to impact its economy. While the model is new, Rondo CLT has received near unanimous enthusiasm for its SMV project, and with a combination of public support and ingenuity, it is determined to establish a working model and prove its value.

Acknowledgements

Thank you to the following people for their time and support in creating this report:

- Rondo Community Land Trust and Board
- Greg Finzell
- Mychael Wright
- Charles Bradley
- Steve Bubul
- Terri Cermak
- Heidi Rathmann
- Barb Broen
- Angela Christy
- Sarah Hernandez
- Ross Currier
- Andrew Tran
- Golden Thyme Coffee and Cafe

Other Resources

For more information on the historic Rondo neighborhood, see the Minnesota Historical Society (<http://libguides.mnhs.org/rondo>).

Rondo CLT partnered with the Greater Frogtown Community Development Corporation and Donjek to study the commercial land trust feasibility along University Avenue in St. Paul. This report was one of the very first steps towards Rondo CLT's SMV project and outlined the possible structures and issues for commercial land trusts. This report, titled "Commercial Land Trust Feasibility," can be found online (<http://cltnetwork.org/wp-content/uploads/2013/12/2012-Commercial-Land-Trust.pdf>).

The Institute for Local Self-Reliance published an article in 2016 titled "Affordable Space: How Rising Commercial Rents Are Threatening Independent Businesses, and What Cities Are Doing About It." This report examines the causes of rising commercial rents and outlines the various ways that governments and organizations can respond. This report can be found online (<https://ilsr.org/affordable-space/>).

Photos, business records, oral histories and more about the historic Rondo neighborhood of St. Paul are being compiled and presented at RememberingRondo.org. This website includes a map of documented businesses in Rondo prior to the construction of the highway.

Additional documents from Rondo CLT's planning and development process have been attached for reference. These documents include:

- Appendix A: Legal Feasibility Study Memo. This memo details a study done by law students on the legal feasibility of Rondo CLT pursuing commercial development.
- Appendix B: CLT Commercial Development Research Memo. This memo details a study done by a law student on commercial developments by CLTs at the time.
- Appendix C: 20 Questions for a Commercial CLT. This document is Rondo CLT's response to a funder's questions about a commercial CLT development.
- Appendix D: Sample Tenant Selection Criteria. This document is a sample of Rondo CLT's tenant selection criteria, which will be used by the committee to review candidates and make recommendations to the board.
- Appendix E: Sample Memorandum of Understanding. This document is an example of the kind of strategic partnership that can be established between a commercial CLT and other community organizations.
- Appendix F: Flyer for "Plan It!: An Entrepreneur's Guide to Success." This is a flyer for the entrepreneurial training program provided by Neighborhood Development Center in partnership with Rondo CLT.
- Appendix G: Sample Community Engagement Flyer. This document is an example of the community engagement that Rondo CLT practiced early in the development process.

Appendix A: Legal Feasibility Study Memo



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January 14, 2010

www.wmitchell.edu

Rondo Community Land Trust
626 Selby Avenue
St. Paul, MN 55104

Attn: Greg Finzell
Subject: Rondo CLT Small Business Initiative

Dear Mr. Finzell:

The Rondo Community Land Trust asked the Community Development Clinic to research whether the Rondo Community Land Trust could use the land trust model for affordable space for small businesses.

During this past semester, we researched this topic under the supervision of Attorney Diane Dube, gave a presentation to the board of directors and wrote the enclosed memorandum. We examined the Rondo CLT's Articles of Incorporation and Bylaws, researched tax exemption issues, and identified several existing community land trusts that use the land trust model for small businesses.

The memorandum outlines this research and suggests some next steps and items for consideration.

We enjoyed working with you and researching this topic and hope to work with you again in the future.

Sincerely,

THE WILLIAM MITCHELL COMMUNITY DEVELOPMENT CLINIC

Halla Elrashidi
Certified Student Attorney

Breanne Johnson
Certified Student Attorney

Diane Marie Dube
Supervising Attorney



Date: January 14, 2010

To: Rondo Community Land Trust

From: WILLIAM MITCHELL COMMUNITY DEVELOPMENT CLINIC
Breanne Johnson and Halla Elrashidi, Certified Student Attorneys
Diane Marie Dube, Supervising Attorney

Re: Use of the land trust model for affordable business space

The Rondo Community Land Trust ("Rondo CLT") has asked the Community Development Clinic at William Mitchell College of Law to research whether it may use the land trust model for affordable business space. Currently, Rondo CLT uses the land trust model as a way to create affordable homeownership for community members by separating ownership of the land from the house and other improvements on the land. Rondo CLT is interested in using the land trust model for the purpose of creating affordable commercial space for small businesses within the community. We examined the corporate and tax laws that govern Rondo CLT and researched what different CLT's have done with commercial space in the land trust model.

CORPORATE AUTHORITY TO UNDERTAKE A MIXED-USE OR COMMERCIAL PROJECT

Rondo CLT was created under the Minnesota Nonprofit Corporation Act (Minnesota Statute, Chapter 317A) and is a tax exempt organization under both federal and state law. Rondo CLT must satisfy three criteria to be in compliance with these governing laws: the activities must be lawful, tied to its purposes as stated in its Articles of Incorporation and Bylaws, and permitted activities to maintain its tax exempt status.

ARTICLES OF INCORPORATION

A corporation has a general purpose of engaging in any lawful activity unless otherwise limited in its articles.¹ The Rondo CLT Articles of Incorporation identify its purpose as

¹ Minn. Stat. § 317A.101

“organized *exclusively* for *charitable purposes*.”² The articles go on to identify a list of activities in furtherance of these charitable purposes. The list of activities includes *but is not limited to* the following:

- “Operate programs to provide low-income individuals with decent, safe and sanitary rental and/or ownership *housing*;
- Acquire distressed housing units and related facilities and rehabilitate into livable, rental and/or home ownership *housing*;
- Construct new home ownership and/or rental housing, including cooperative *housing*, for occupancy by low-income persons;
- Address community deterioration by rehabilitating poorly-maintained *residential* units;
- Encourage tenant and ownership participation in the management of their *housing*, including through the formation of housing cooperatives; and
- Participate in *housing* incentives which will help stabilize neighborhoods.”³

This list identifies activities that address housing-related concerns. The list does not explicitly or implicitly include or exclude commercial or business-related activities, but each time a phrase could be construed as a commercial or business activity, the phrase describes a housing activity as the focus. For example, “addressing community deterioration” could include community revitalization and economic development efforts. However, the phrase goes on to say that such deterioration is to be addressed through the rehabilitation of residential units.

However, taken as a whole, the “but not limited to” language does not limit Rondo CLT’s activities to those stated purposes.⁴ This language expressly states that the organization is not limited to the identified activities so long as the activity is for a *charitable purpose*.

BYLAWS

A corporation may, but is not required to, have bylaws which govern the management or regulation of the corporation, consistent with the law and the articles of incorporation.⁵ The

² Articles of Incorporation of The Rondo Community Land Trust, Article II

³ *Id.*

⁴ See Minn. Stat. § 317A. 101

⁵ Minn. Stat. § 317A.181, subd. 1

Bylaws for Rondo CLT state that the purpose of the organization is to “provide housing for low income persons in the community and *to promote the betterment of the community* and shall include acquisition, holding, development, owning, and leasing of real estate *for the benefit of the community and its residents* as further detailed in the Trust’s Articles of Incorporation.”⁶

[emphasis added] “Promoting the betterment of the community” can be accomplished in a myriad of ways and is not achieved solely through housing-related activities. Likewise, the real estate activities (i.e. acquisition, holding, etc.) are to be done “for the benefit of the community and its residents,” language that is not limited to housing-related activities.

However, language in other parts of the Bylaws focuses on housing-related activities: there is a category of membership (leasehold membership) in the CLT for individuals who reside in a land trust house⁷; the board is to include four persons who are leasehold members;⁸ and land conveyance shall “facilitate access to land and affordable housing by low-income and disadvantaged people”.⁹ The land use principles also include conveyance of land use rights “in a manner that will promote the long-term well-being of the community and the long-term health of the environment”.¹⁰

CONCLUSION

Reading the Articles of Incorporation and Bylaws as a whole, it is our conclusion that Rondo CLT has the legal corporate authority to undertake this project. The “but not limited to” language contained in the articles identifies types of activities but permits Rondo CLT to engage in other purposes so long as they are charitable in nature. Rondo CLT can promote the

⁶ See Bylaws of The Rondo Community Land Trust, Article II

⁷ Article IV, Sec. 4.1 - Membership

⁸ Article V, Sec. 5.2c – Number, term & qualifications of board of directors

⁹ Article XI, Sec. 11.1 – Principles of land use

¹⁰ Article XI, Sec. 11.1 – Principles of land use

betterment of the community in furtherance of its charitable purposes by using the land trust model for affordable small business space.

However, the mission statement of the Rondo CLT specifically states, “*promote the land trust model as a method of preserving affordable housing.*” If the Rondo CLT chooses to move forward with this initiative, the mission statement will have to be expanded to include mixed-use and commercial land trust projects.

Also, we recommend the Bylaws be amended to include provisions for the management and regulation of these kinds of projects.

TAX CONSIDERATIONS FOR MIXED-USE AND COMMERCIAL PROJECTS

We researched three taxation considerations for mixed-use and commercial land trust projects: federal and state income taxation of the CLT; unrelated business income taxation; and state property taxation.

FEDERAL AND STATE INCOME TAXATION

Rondo CLT is currently exempt from federal income taxation under 26 U.S.C. §§ 501 (a) and (c)(3) and state income taxation exemption under Minn. Stat. § 290.05, subd 2 because it meets the requirements for those exemptions. Rondo CLT must be careful to continue to meet these requirements or risk losing its tax exempt status.

The Internal Revenue Code outlines two tests that organizations must satisfy in order to be a tax exempt organization: the organizational test and the operational test. An organization that is organized and operated exclusively for a charitable purpose is considered an exempt purpose.¹¹ Rondo CLT would lose its tax exempt status if it fails to meet both the organizational

¹¹ See 26 CFR § 1.501(c)(3)-1(d)

and the operational test¹² or engages in substantial lobbying or political activities.¹³ In general, the organizational test is met if:

- a) An organization is organized exclusively for one or more exempt purposes; and
- b) Its articles of organization so limits its purpose to one or more exempt purposes; and
- c) Do not expressly empower the organization to engage, otherwise than in an insubstantial part of its activities which do not further their exempt purposes.¹⁴

The operational test is met if the organization engages primarily in activities which accomplish one or more exempt purposes.¹⁵ Rondo CLT's exempt purpose is "charitable." The term "charitable" is used in section 501(c)(3) in its generally accepted legal sense and is not limited by the separate enumeration in section 501(c)(3).¹⁶ The term "charitable" includes organizations designed to provide relief of the poor and distressed or of the underprivileged, lessen the burden of government or promote social welfare.¹⁷ These organizations promote social welfare in these ways or by lessening neighborhood tensions, eliminating prejudice and discrimination, combating community deterioration, and other activities enumerated in the federal regulations.¹⁸ Attached as Appendix A is a copy of the regulation defining "charitable" as that term relates to §501(c)(3) exempt organizations.

In creating the structure for and in operating a commercial land trust project, Rondo CLT must stay within the definition of "charitable purpose" in order to satisfy both the organizational

¹² See 26 CFR § 1.501(c)(3)-1

¹³ See 26 U.S.C. § 504

¹⁴ See 26 CFR § 1.501(c)(3)-1(b)

¹⁵ See 26 CFR § 1.501(c)(3)-1(c)

¹⁶ 26 CFR §1.501(c)(3)-1(d)(2)

¹⁷ *Id.*

¹⁸ *Id.* The regulation does not define "promotion of social welfare" as applied to organizations exempt under §501(c)(3). The term is defined for civic organizations and local associations of employees which are exempt under §501(c)(4): "Promotion of social welfare" is defined as an organization that is "operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community." 26 CFR §1.501(c)(4)-1(a)(2). The regulation also states that a social welfare organization will qualify for exemption as a charitable organization if it falls within the definition of charitable set forth in §1.501(c)(3)-1(d)(2).

and operational tests and maintain its federal tax exempt status by creating and operating a project that meets the definition of “charitable purpose”. Rondo CLT’s activities must be organized and operated exclusively for its charitable purpose and must primarily benefit the community.¹⁹ If the Rondo CLT maintains tax exempt status under federal law, it maintains that status under state law.²⁰

Therefore, we recommend that legal counsel with expertise in nonprofit tax law advise Rondo CLT as it creates the structure for this project.

TAXATION OF “UNRELATED BUSINESS INCOME”

Under federal law, an organization otherwise not subject to taxation is taxed on any “unrelated business taxable income”.²¹ “Unrelated business taxable income” is any income that is derived from any “unrelated trade or business” -- that is, “any trade or business the conduct of which is not substantially related . . . to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501. . . .”²² Under Minnesota state law, a tax exempt organization is exempt from taxation of unrelated business income if the income is exempt under federal law.²³

Rondo Community Land Trust would not have “unrelated business taxable income” by using the land trust model for small business purposes if it structures the project so that the income from sales or rents is from an activity that is substantially related to its core purposes.

STATE PROPERTY TAXATION

In Minnesota, all institutions of purely public charity are exempt from property tax if they are exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code

¹⁹ 26 USC §501(c)(3) and 26 CFR §1.501(c)(3)-1

²⁰ See Minn. Stat. § 290.05 Subd. 3

²¹ See 26 U.S.C. § 511

²² See 26 U.S.C. § 513

²³ See Minn. Stat. § 290.05, subd. 3

and if they meet the requirements set out in Minn. Stat. § 272.02, subd. 7.²⁴ The statute lists criteria, first outlined in a Minnesota Supreme Court case,²⁵ which are to be used to determine if an organization qualifies for this exemption.²⁶ In order to be exempt from property taxes, the organization must meet all six factors unless there is a “reasonable justification” for failing to meet factors 2, 3 or 5, and the organization provides to the county assessor the factual basis for that justification.²⁷ For-profit businesses do not qualify for this exemption.

AUTHORITY TO DECIDE TO CREATE A MIXED-USE OR COMMERCIAL LAND TRUST PROJECT

Under its Articles of Incorporation, the Rondo CLT Board of Directors has the authority to manage and direct the organization’s activities.²⁸ Similarly, the Bylaws state that “the business and the property of the Trust shall be managed and controlled by its Board of Directors.”²⁹ The Bylaws give members authority to participate in membership meetings and to vote on *all matters properly put before the membership for consideration*. Neither the Articles nor the Bylaws lists specific matters that *must* be put before the membership. It would be up to Rondo CLT’s Board of Directors to determine if this matter is put before the membership.

²⁴ See Minn. Stat. § 273.19 & § 272.02, subd 1

²⁵ *North Star Research Institute vs. County of Hennepin*, 306 Minn. 1, 236 N.W. 2d 754 (1975)

²⁶ The factors are the following:

- (1) whether the stated purpose of the undertaking is to be helpful to others without immediate expectation of material reward;
- (2) whether the institution of public charity is supported by material donations, gifts, or government grants for services to the public in whole or in part;
- (3) whether a material number of the recipients of the charity receive benefits or services at reduced or no cost, or whether the organization provides services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government;
- (4) whether the income received, including material gifts and donations, produces a profit to the charitable institution that is not distributed to private interests;
- (5) whether the beneficiaries of the charity are restricted or unrestricted, and, if restricted, whether the class of persons to whom the charity is made available is one having a reasonable relationship to the charitable objectives; and
- (6) whether dividends, in form or substance, or assets upon dissolution, are not available to private interests.

²⁷ See Minn. Stat. § 272.02 subd. 7

²⁸ See Articles of Incorporation of The Rondo Community Land Trust, Article VII

²⁹ See Bylaws of The Rondo Community Land Trust, Article V, Section 5.6(b)

If the Board makes that decision, all members have the right to vote and equal rights and preferences.³⁰ The Bylaws describe the process and circumstances for membership meetings: they are open to all members; notice of the date, location and purpose of these meetings must be provided at least 7 days prior to such a meeting; membership meetings are either annual meetings or special meetings. In both types of meetings, matters on the proposed agenda are considered and acted upon.

Read together, the Articles and Bylaws grant Rondo CLT's Board of Directors the authority to decide whether to proceed with a land trust project that includes commercial space. However, we recommend that the matter be discussed with the membership for two reasons:

First, the Articles and Bylaws, as discussed above, contain extensive discussion and guidance for housing projects. Although the Articles of Incorporation do not limit the projects to housing, a commercial project would be a departure from Rondo CLT's traditional work.

Second, Rondo CLT's Board of Directors may want its members to weigh in on the decision to move forward with this project in order to solicit support and ideas from its members, particularly ideas on structure, development and options going forward.

EXAMPLES OF MIXED-USE AND COMMERCIAL LAND TRUST PROJECTS

We identified a number of mixed-use and commercial projects that have some type of land trust involvement.³¹ There is considerable diversity in the roles that CLTs play in these projects.

LOCATION OF THESE PROJECTS

Mixed use and commercial land trust projects seem to be located in either urban areas where there is a need for low-income housing and revitalization of the current economic

³⁰ Minn. Stat. § 317A.111, subd. 3 (19)

³¹ See Appendix B for a list of these land trusts, a brief description, and contact information.

community, or in non-urban areas where there is a need for both low-income housing and a vital economic community for its residents. In both instances, these projects are a way to preserve long-term affordable business space and support entrepreneurs who want to serve the area. Land trusts have also been involved in acquiring vacant buildings and redeveloping underused properties.

REASONS FOR THESE PROJECTS

We identified several reasons community land trusts are taking on these types of projects. Among these reasons is the belief that a strong and vital community needs a healthy commercial district. In addition, these types of land trust projects are being used as a mechanism to create affordable space to jumpstart economic development by drawing in a business or two with the hopes that additional businesses will be drawn to the area. The land trust reduces the risk of investing in an area by providing lower-cost space for small business owners and entrepreneurs and provides an incentive for these businesses to locate and serve an area they otherwise would not consider serving. Through mixed-use development, land trusts can provide residential areas with easy access to nearby businesses, goods and services. This is particularly useful in areas where residents have limited transportation. Commercial uses, in turn, provide jobs to community residents.

Some land trusts acquire office space for their own use or use by non-profit organizations. Some land trusts have been involved in incubator programs providing both affordable space and personnel who guide business entrepreneurs through the start-up process. Finally, some land trusts acquire commercial properties in an effort to restore and preserve historic areas and landmark buildings.

For example, the Anchorage Community Land Trust in Alaska saw a community need for an arts and culture district, and is currently buying up properties in a concentrated area for such uses as galleries, artist workspaces, and places for artists to gather. This project has drawn in a number of small businesses that would not have otherwise been able to take on such an endeavor. Even more encouraging is that others have followed close behind.

The Dudley Street Neighborhood Initiative in Boston began with the goals of creating a community plan and providing affordable home ownership to community residents. It has since acquired commercial properties in order to meet the economic needs of the neighborhood, including jobs and improved access to consumer goods. One project is a community commercial greenhouse.

The Durham Land Trust in Durham, North Carolina owns one commercial property and currently uses it as office space for its organization.

Several years ago, the Westerly Land Trust in Rhode Island voted to start acquiring commercial properties in order to maintain commercial landmark properties with historic significance in downtown Westerly.

Appendix B has information about land trusts that have mixed-use or commercial projects.

PROJECT STRUCTURES

A mixed-use or wholly commercial land trust project could be structured in a number of ways:

- It could be set up similar to the housing projects with the CLT owning the land and the buyer owning the building and other improvements on it.
- The buyer could be the sole occupant of the building, one of several occupants in the

building, or a non-occupant manager of the building.

- Rondo CLT or the buyer of the building could structure the building as office condominiums or a cooperative.
- Rondo CLT could partner or participate in a joint venture with another organization that is currently involved in the buying and leasing of commercial space to area businesses.
- In setting up a mixed-use project, Rondo CLT could handle the residential part of the project and partner with another entity to handle the commercial part.

Regardless of the legal structure for a project, the criteria for eligible occupants, the purchase and re-sale price restrictions, and the affordable rent structure must meet the underlying purpose of the CLT in order to maintain long-term affordability. The purpose and operational activities of each project must be carefully crafted to maintain the CLT's tax exempt status.

NEXT STEPS

If Rondo CLT decides to go forward with this idea, it should first determine its reason(s), particularly the charitable purpose, for creating mixed-use or commercial land trust projects. Detailed above are some reasons other land trusts have developed these types of projects. Many of these reasons and others would fit the geographic area served by the Rondo CLT. There are a large number of nonprofits currently located on University Avenue. For those entities that want to remain on the corridor, finding affordable space may become a challenge after the Central Corridor LRT is constructed and land values increase. For residents along the corridor who are dependent upon mass transit, having affordable homes and accessible businesses and services is also needed. The Central Corridor Development Strategy aims to link and foster inclusive economic activities. Among the objectives of this strategy are to encourage an increased range of building types to accommodate a broader range of business interests and to strengthen and

foster local businesses along the Corridor.³² Another objective of the strategy is to protect and enhance the existing neighborhood character as a core asset.³³ The strategies of Saint Paul's Land Use Plan for the city as a whole are intended to capitalize on Saint Paul's historic use of its land and contemporaneous economic forces to create a city that is sustainable. The land trust model can help achieve this goal by providing long-term affordable space for small business and residential uses. By ownership of the land and control of the building, the land trust can insure that historic structures are not destroyed.

One way to achieve these multiple objectives is to make commercial projects incidental to housing projects through mixed-use development.

We also recommend the purpose(s) selected by Rondo CLT be incorporated into its mission statement and Bylaws.

After determining the purpose(s) for mixed-use or commercial land trust projects, we recommend additional research on three topics:

- The legal structure of mixed-use and commercial projects developed by other land trusts;
- The terms of purchase, re-sale and rent contained in the documents for these projects;
- The eligibility criteria and selection methods for buyers and renters of these projects.

As this project goes forward, there are additional considerations which are outlined in Appendix C. Some of these considerations apply to all projects undertaken; some apply to the particular building acquired.

³² Central Corridor Development Strategy, Objectives 3.2 & 3.3, p. 14

³³ Central Corridor Development Strategy, Objective 2.5, p. 13

APPENDIX A: REGULATION DEFINING "CHARITABLE"

26 CFR § 1.501(c)(3)(d)(2)

(2) *Charitable defined.* The term *charitable* is used in section 501(c)(3) in its generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of *charity* as developed by judicial decisions. Such term includes: Relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

**APPENDIX B: INFORMATION ABOUT OTHER LAND TRUSTS
WITH MIXED-USE OR COMMERCIAL PROJECTS**

1. *Cape Fear Development Corporation, Wilmington, North Carolina*

CFDC is a community-based organization dedicated to providing information, education & counseling in homeownership & business start-up to the low to moderate income community, & facilitating partnerships in economic development with other community organizations & local units of government.

CONTACT: 508 Compton Street, Wilmington, NC 28401□
Phone: 910.762.7555, Fax: 910.762.7565, Email: www.info@cfrcdc.org

2. *Anchorage Community Land Trust, Anchorage, Alaska*

According to its CEO, Jewel Jones, it didn't make sense to duplicate all of the other housing programs in the area, so the land trust instead elected to invest its time and resources in the economic development of the community.³⁴ According to Ms. Jones, in order for there to be economic development, you have to have both public and private sector investment. As a "hybrid" organization, the Trust works both as a land trust and as a community development organization. ACLT's mission is to "develop healthy and prosperous communities in Anchorage by acquiring, developing, and planning for the land and projects necessary to bring about sustainable neighborhood revitalization and economic development." It focuses its efforts on the Mountain View neighborhood to concentrate its impact in an area of high need. ACLT acts through real estate acquisition and development, land holding for community benefit, and providing low-cost rental space for area businesses and non-profits. ACLT also provides support and oversight for community revitalization efforts. Since its founding, ACLT has acquired key pieces of property in Mountain View to promote positive community development in keeping with the vision of a vibrant arts and culture district and to improve the quality of life for Mountain View residents. ACLT also strives to build the "human capital" in Mountain View, helping residents to make a personal investment in their community. ACLT has recently engaged with the community to review and confirm the results of earlier neighborhood planning efforts. ACLT has conducted interviews and focus groups with land owners, business owners and residents to gauge current interest in neighborhood revitalization and identify priority projects. This process has identified these focus areas: human capital, residential, commercial, arts and culture and community image.

CONTACT: 3142 Mountain View Dr., Anchorage, AK 99501; Main phone: (907) 748-5848
Jewel Jones, Chief Executive Officer; Email: jjones@anchorage.landtrust.org
Websites: <http://www.anchorage.landtrust.org/>; <http://www.mountainviewplan.com/>

³⁴ Telephone interview of Jewel Jones, Chief Executive Officer, Anchorage Community Land Trust, Anchorage, Alaska (Dec. 7, 2009).

3. ***Durham Community Land Trust, Durham, North Carolina***

Durham Community Land Trust is a nonprofit, community-based organization committed to providing permanently affordable housing for low to moderate income people and promoting community revitalization in the neighborhoods in which it operates.

CONTACT: 1208 W. Chapel Hill Street, Durham, NC 27701; Phone: 919-490-0063

4. ***Sawmill Community Land Trust, Albuquerque, New Mexico***

SCLT is a private non-profit corporation (501(c)(3)) created to acquire and hold land for the benefit of the community and provide secure affordable access to land, housing and jobs for community residents. Located in the Sawmill neighborhood, SCLT serves the Albuquerque metropolitan area residents who are least served by the prevailing market. The community land trust model accomplishes several goals: Gain control over local land use & reduce absentee ownership; Provide affordable housing for moderate to lower income residents in the community; Promote resident ownership & control of their neighborhood; Keep housing affordable for future residents; Capture the value of public investment for long-term community benefit; Build a strong base for community action. SCLT was developed to protect low-income residents from gentrification & to enable them to make decisions & to benefit from redevelopment of the area. Sawmill is adjacent to the downtown business district & the historic Old Town area. The encroachment of these interests have caused real estate values in the surrounding neighborhoods to spiral upwards, pushing land & housing costs beyond the affordability of families that have lived here for decades.

CONTACT: 904 19th Street Northwest, Albuquerque, NM 87104-2025
Phone: (505) 764-0359; Website: www.sawmillclt.org

5. ***Aeon, Minneapolis, Minnesota***

From 1986 through 2007, Aeon operated as Central Community Housing Trust of Minneapolis. In October 2007, it changed its name to Aeon and adopted the "Homes for Generations" tagline. Its new name reflects the timelessness of its vision and its commitment to create long-term assets that forever strengthen the community.

CONTACT: 1625 Park Ave., Mpls., MN 55404; Phone: 612.341.3148; www.aeonmn.org

6. ***Northern California Land Trust, Berkeley, California***

NCLT is a community-based not-for-profit committed to making homes and community facilities permanently affordable through the community land trust model. It rents to nonprofits & small businesses at below-market rents. It is now expanding both its housing & commercial space. The commercial space is used by artists & small business owners. Rent is based on low-income renters (less than 80% of AMI). Lessees with income over 80% AMI will pay their portion of property tax on the unit.

CONTACT: 3122 Shattuck Avenue Berkeley, CA 94705; Phone: 510-548-7878; www.nclt.org

7. *Dudley Street Neighborhood Initiative, Boston, Massachusetts*

DSNI's mission is "To empower Dudley residents to organize, plan for, create and control a vibrant, diverse and high quality neighborhood in collaboration with community partners."

CONTACT: 504 Dudley Street, Roxbury, MA 02119; Phone: 617-442-9670
Jason Webb, Director of Operations

8. *Westerly Land Trust, Westerly, Rhode Island*

The Westerly Land Trust has become a thriving, dynamic and effective organization designed to protect and enhance the physical environment of the Town of Westerly and its sense of place. Its leaders are engaged in attracting the talent and resources necessary to sustain and expand the organization's programs to effectively achieve its mission.

CONTACT: P.O. Box 601 □ Westerly, RI 02891-0601; Phone: (401) 315-2610;
<http://www.westerlylandtrust.org/>

9. *San Francisco Community Land Trust, San Francisco, California*

In June, the Land Trust celebrated the Grand Opening of its first project -- Columbus United Cooperative -- a 21-apartment, mixed-use building at the edge of San Francisco's Chinatown.

CONTACT: P.O. Box 420982, San Francisco, CA 94142; Phone: 1-415-399-1490;
<http://www.SFCLT.org>

10. *Lopez Community Land Trust, Lopez Island, Washington*

Lopez Community Land Trust's first commercial space will provide a more visible and accessible office space for the land trust. LCLT has created a resource room to demonstrate how to maintain perpetually affordable operational costs through the introduction of energy and resource conservation techniques.

CONTACT: PO Box 25, Lopez Island, WA 98261; Phone (360) 468-3723;
Sandy Bishop, Executive Director; Website: www.lopezclt.org

11. *Chaska Community Land Trust, Chaska, Minnesota*

Chaska Community Land Trust played a major role in the Clover Ridge mixed-use project in Chaska, MN. It is a 255-acre development project that consists of commercial retail space and a community commons on the ground level and housing above. Through a public-private partnership with the City of Chaska, the Chaska CLT created permanent affordable

housing opportunities in Clover Ridge. Chaska CLT retained ownership of the land and leased lots to homeowners. One of its purposes under the bylaws is "To make land available for non-residential projects, activities and improvements that serve the target clientele and that improve the quality of life in the community." As you can see item "e" allows the CLT to deal with non-residential projects that would serve the target clientele and improve the quality of life in the community.

CONTACT: One City Hall Plaza, Chaska, MN, 55318: Phone: (952) 227-7514 □
Bob Roepke, President, bobr@klingelhutz.com

APPENDIX C: ADDITIONAL ITEMS FOR CONSIDERATION

- Will the Rondo CLT projects involve building leases, building ownership or both?
- Would an individual tenant have a commercial lease with Rondo CLT or with another entity?
- Should the building be structured as a condominium or cooperative?
- What are the incentives for a small business or investor to purchase a land trust building which contains re-sale and rent restrictions?
- How can the capital needs of the small business be met for build out requirements?
- Long-term affordability component: how can Rondo subsidize the initial cost of the structure?
- One source for properties could be the new Twin Cities Community Land Bank which may acquire and hold commercial buildings.
- A mixed-use project could be set up in such a way that it is compatible with housing and provides benefits to those residents.
 - Housing could carry a portion of the costs thereby improving the project's financial viability.
 - Tenants of the retail space on the ground level could provide goods and services needed by residents occupying the housing on the higher levels.
- Zoning issues:
 - The property must be zoned or re-zoned for the intended uses.
 - In TN2--TN3 traditional neighborhood districts, retail sales and services are intended to be of a moderate size compatible with neighborhood-level retail, and a conditional use permit is required for establishments of more than 10,000 square feet in gross floor area.³⁵

³⁵ Saint Paul Code of Ordinances, § 65.510

Appendix B: CLT Commercial Development Research Memo

William Mitchell Law Clinic

875 Summit Avenue
St. Paul, MN 55105-3076
Telephone: 651.290.6351
Facsimile: 651.290.6407

www.wmitchell.edu

May 4, 2010

Rondo Community Land Trust
626 Selby Avenue
St. Paul, MN 55104

Attn: Greg Finzell
Subject: Community land trust (CLT) commercial development research

Dear Mr. Finzell:

In January, the Rondo Community Land Trust asked the William Mitchell Community Development Clinic to research CLTs around the United States that have used the community land trust model to develop commercial properties.

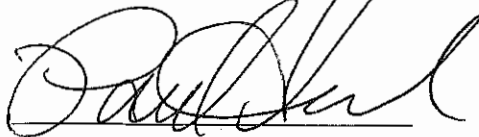
Over the past four months, I researched this topic under the supervision of attorney Diane Dube. I drafted a survey, conducted phone interviews, and—most significantly—created and hosted a first-of-its-kind webinar on CLT commercial development.

The memorandum attached to this letter outlines my research and findings. The memorandum also suggests some next steps for Rondo CLT to consider.

I enjoyed working with you, researching this topic, and hosting the webinar. We hope you choose to work with the Community Development Clinic again soon.

Sincerely,

WILLIAM MITCHELL COMMUNITY DEVELOPMENT CLINIC



Paul A. Sand
Certified Student Attorney



Diane Marie Dube
Supervising Attorney



WILLIAM MITCHELL
COLLEGE OF LAW

Date: May 4, 2010

To: Rondo Community Land Trust

From: WILLIAM MITCHELL COMMUNITY DEVELOPMENT CLINIC
Paul A. Sand, Certified Student Attorney
Diane Marie Dube, Supervising Attorney

Re: Community land trusts and commercial development

The Rondo Community Land Trust (“Rondo CLT”) asked the Community Development Clinic at William Mitchell College of Law to research commercial development efforts by community land trusts (CLT) across the United States. Rondo CLT uses the community land trust model to provide affordable residential housing. In anticipation of possible land speculation and rising commercial rents on and near University Avenue after the Central Corridor light rail train begins to operate in 2014, Rondo CLT is interested in applying the community land trust model to create affordable space for small businesses.

I gathered information¹ on commercial development of six CLTs through a multi-page survey and phone interviews. Additionally, I partnered with the National Community Land Trust Network (“National Network”) to host a webinar² in which three CLTs shared their commercial development experiences and thoughts with more than 80 participants.

SUMMARY OF FINDINGS

Only a small number of CLTs have developed commercial properties, and the vast majority of CLTs have developed only one or two commercial properties. Unlike the more mature CLT residential development arena, no one has written “best practices” guidelines for CLTs to develop commercial properties. The National Network is leading efforts to start a

¹ Appendix A contains a complete list of contact information for organizations that participated in the research.

² A webinar is Internet shorthand for a web-based seminar. A webinar is a lecture delivered over the Internet. The lecture might be either a one-way program or include interaction between the presenters and the audience. The webinar I hosted on behalf of Rondo can be found here: <http://ncb.na6.acrobat.com/p72889920/>.

broader discussion about commercial development and identify the best ways to develop commercial properties. The webinar I created and hosted on behalf of Rondo CLT, with great assistance from the National Network, was another important step towards gathering information about CLT commercial development and educating CLTs that are considering the development of commercial property.

Even with only a small number of CLT commercial development projects completed or in development, one dynamic stands out: for a commercial development to succeed, a CLT must balance the tension between fulfilling its mission to the community it serves while embracing often-difficult business decisions. This underlying dynamic encompasses seven lessons that can be gleaned from CLTs that have, or are considering, commercial development. This report expands on those seven lessons, presented in no particular order, and then suggests next steps Rondo CLT might take to development commercial properties on or near University Avenue.

LESSONS LEARNED

In interviews, surveys,³ and the webinar, CLTs shared a variety of challenges and lessons learned from developing commercial properties. The lessons arose from those interactions, either because the lessons appeared to be commonly shared by the CLTs or because the lessons could be critically important to other CLTs planning commercial developments. Some lessons could be separated into two categories, development and management of commercial properties. Other lessons span both categories.

1. Remember your mission, embrace your strengths, and know your limitations

A scarcity of funding, staff, and other resources means that a CLT simply cannot take on all aspects of a commercial development alone. A CLT must make difficult choices to design and

³ Appendix B is an uncompleted copy of the survey I created and distributed to CLTs.

develop a successful commercial project. To guide and help make these difficult choices, a CLT should remember its mission, embrace its strengths, and know its limitations.

In New Orleans, CLT consultant Michael Brown and a group of planners have been sketching the details of a new, unnamed CLT for the past six months. The most striking feature of the group's planning so far has been the limits placed by the CLT's mission and function. The new CLT will focus solely on preserving commercial properties through stewardship alone: the new CLT will focus on ground leasing only – own the land and lease the land to the building owner – and will leave the risk, difficulties and complications of the actual development to nonprofit and for-profit entities that deal in development. Brown said this is a niche that no other organization has filled in New Orleans. The emphasis on stewardship plays to a general strength of CLTs, or what Brown described during the webinar as “what distinguishes us from every other approach out there.”

To make the difficult choices necessary to develop a commercial project, Rondo CLT should remember its mission and know its strengths and limitations. Rondo CLT's mission statement is: “To strengthen communities by providing permanently affordable, sustainable housing for families and individuals at or below 80% of the area median income; and, to promote the land trust model as method of preserving affordable housing.” Rondo CLT's strengths are its history of successfully providing affordable housing in St. Paul and Ramsey County, and its understanding of the financial, practical, and political forces in providing affordable housing. Rondo CLT's limitation is its lack of experience in commercial development, including financing, development, and management.

Rondo CLT should identify opportunities in which it could still provide affordable housing to low-income people in the community while partnering with an organization or entity

with experience and a deep understanding of the challenges necessary to develop and manage a commercial property. The result could be a mixed-use property that includes affordable housing and affordable commercial space for small businesses and nonprofit organizations. This action would satisfy Rondo CLT's mission and play to its strengths as a developer of affordable residential properties, while, at the same time, recognize its limitation as an inexperienced commercial developer. After Rondo CLT has developed a number of mixed-used properties, the organization could reconsider this point and reevaluate its decision.

2. Choose partners with experience your CLT does not have

Choosing the right partners to design, develop, and manage a CLT commercial development can be critical to the initial and ongoing success of a project. Because of the often-limited mission of a CLT to provide affordable housing, a CLT should look for partners who can provide expertise that a CLT would not necessarily have, including experience in commercial financing, developing and managing commercial projects, or providing training and other support for small businesses. And a CLT should take a broad view of potential project partners—each commercial project might require a different set of talents and contributions. For example, the Champlain Housing Trust in Burlington, Vermont, will become partners with whomever or whatever entity makes sense for each particular commercial development project, said Michael Monte, the organization's chief financial and operating officer. The Champlain Housing Trust is the most experienced CLT in commercial development in the country, holding and managing 116,000 square feet of commercial space in Vermont.

In 2005, the San Francisco Community Land Trust (SFCLT) began to fight the eviction of poor Chinese-American residents from an apartment building on the edge of Chinatown. The

apartment building was set to be demolished. But the SFCLT fought back—although not by itself.

According to SFCLT's organizational director Amy Beinart, three partners were critical to the successful redevelopment of this apartment building into a mixed-use building: the Chinatown Community Development Center provided community outreach and property management services; the Asian Neighborhood Design supplied architectural services; and the Asian Law Caucus contributed legal services to tenants who were at risk of conviction. The Asian Law Caucus became a long-term partner in the project, occupying one of the building's commercial spaces in a 30-year lease with an option to buy. Without the Asian Law Caucus' commitment to the building, Beinart said, financing would not have been possible. The result is Columbus United Cooperative, a 21-unit, mixed-used building that allowed people to stay in their neighborhood—and even allowed new people an affordable place to live.

Rondo CLT should choose its partners wisely and creatively at all stages of commercial development—community outreach, design, development, management, and as long-term tenants. To build on the philosophy of the Champlain Housing Trust, Rondo CLT should keep an open mind when identifying, asking, and selecting organizations and entities to create partnerships to further a commercial development. Additionally, Rondo CLT should look for partners who bring skills, connections, and talents to the partnership that Rondo CLT simply does not have, including commercial development and commercial financing experience.

3. Commercial development financing differs from residential financing

Financing a commercial development presents challenges that differ greatly from those faced by a CLT that develops residential projects. The costs to purchase and redevelop a commercial property are likely to be much higher than costs to buy and rehabilitate a residential

property. Ongoing costs and expenses to operate a commercial building are likely to exceed those of a residential building. And the financing tools and sources available to fund commercial projects typically differ from those in the residential arena.

Monte, of the Champlain Housing Trust, said his organization has used a wide variety of tools and sources to finance commercial development, including local, state, and federal money, as well as charitable campaigns and bonding. Monte listed eleven financing tools and sources during his webinar presentation,⁴ highlighting the opportunities and complexities of financing a commercial development.

Another consideration is the shorter term available in a commercial loan versus a residential loan. CLTs could get a competitive rate on a commercial bank loan for fifteen years instead of the thirty-year term typically associated with residential loans, said Brenda Torpy, executive director of the Champlain Housing Trust.

Rondo CLT should be aware of the vast differences in financing a commercial development versus financing the purchase and rehabilitation of a residential property or single-family home. These differences could have major implications on the financial feasibility and scope of a Rondo CLT commercial development.

Rondo CLT should partner with an organization or entity that understands the sources, tools, and challenges of financing commercial developments. This would minimize the cost to Rondo CLT of the staffing and resources necessary to understand and obtain commercial financing. Rondo CLT should look for a partner that not only understands commercial financing, but also appreciates Rondo CLT's mission as a community land trust and its desire to provide affordable commercial space.

⁴ Monte listed the following financing tools and sources: NMTC, CDBG, Tax Exempt Bonds, Charitable Capital Campaign, Bank Financing, Rural Development, Federal Reserve Bank, Section 108, Development Fees, NeighborWorks, and Historic Rehabilitation Tax Credits.

4. Even with best-laid plans, commercial development is risky

Commercial development is risky. Much more so than residential development, commercial development and consumer spending depends heavily on the strength of the market. Designing and developing a commercial property involves understanding where the market is and where it will be in the long term. This type of prediction is not always easy to make. Most people did not predict the collapse of the residential real estate market in late 2008 or the struggling national and international economy that followed. Many commercial projects suffered after that collapse, leaving developers to scrap plans or drastically change their mission and scope.

Additionally, commercial development requires a much riskier outlay of money than residential development. For instance, the “build out”—or orientation of walls and amenities in a commercial space—may suit one tenant but not the next tenant. Unlike residential properties, transferring title or possession of commercial space might involve extensive remodeling by the owner, which in turn would require extensive costs. Additionally, tenant attraction to and retention in the building turns in part on the mix of tenants, the perceived vibrancy or success of the building, and the maintenance of the common areas

“Remember, you’re at the whims of the market,” said Torpy, of the Champlain Housing Trust. Even though a CLT may rehabilitate or develop a property with a particular mission that involves certain tenants or uses, Torpy said, a difficult commercial market might force a CLT to quickly change course simply to sustain the project and pay the mortgage.

The Northern California Community Land Trust (NCCLT) had a plan: take a warehouse with artists already living and working there, rehabilitate and legalize the space as a live-work project, and turn it into a for-sale condominium project with limited long-term involvement by

the NCCLT. The plan worked until the stock and real estate markets seized up in September 2008, just as the NCCLT needed to sell units, said Ian Winters, NCCLT executive director. The abrupt market shift forced the NCCLT to change its plans. Now, the NCCLT runs the live-work property as a commercial rental. The property is completely leased, but it will be perhaps five to ten years before the NCCLT can convert the project to the original plan of affordable for-sale condominiums, Winters said.

Rondo CLT should remember its mission in all stages of development, but know that plans and ideas may have to change to accommodate swings in the commercial market. Before Rondo CLT changes its mission statement to reflect a broader focus that includes commercial development, Rondo CLT should consult with an expert on real estate commercial development. The expert could answer questions and provide Rondo CLT with a precise understanding of the risks, challenges, and opportunities of commercial development and management.

5. Never forget to conduct due diligence

Beware the “perfect” piece of property. CLTs should not be seduced by land or buildings that carry a cheap purchase price. CLTs must remember to do their homework when buying—including investigating zoning, title issues, potential pollution, financing options, and other lurking problems to be sure it can develop the property for the intended use at a cost that is manageable and appropriate.

To redevelop the Mountain View neighborhood of Anchorage, the Anchorage Community Land Trust (ACLT) purchased six strategically located parcels of land with the goal of re-selling the land to developers to provide services not found in the neighborhood. The ACLT bought one high-visibility parcel on which the Color Creek building sat. Originally a

department store warehouse, the building had been used as a Union 76 gas station and Jiffy Lube before housing Color Creek, a fiber arts retail store.

A credit union wanted to build a branch on the Color Creek site but did not want to buy the land until the ACLT paid for the environmental remediation necessary to clean up the parcel, said Jewel Jones, ACLT executive director. The ACLT knew the land would need environmental remediation but never guessed it would need so much—more than \$650,000 in clean-up costs. Chevron agreed to pay for the clean-up, Jones said, but only after much lobbying by the ACLT. Without Chevron's involvement, the parcel "probably would have become a parking lot or a park," not Mountain View's first financial institution in more than twenty years, Jones said. The credit union will open this year, and Jones said the ACLT is fortunate that Chevron got involved. But it is easy to imagine a much different ending to this story.

Rondo CLT should remember to conduct due diligence before purchasing any building or land. Rondo CLT should take these steps, including, but not limited to:

- Land
 - Is the title clear of defects or encumbrances?
 - Is the land zoned for or can it be rezoned for Rondo CLT's planned use?
 - Does the land contain environmental hazards?
 - What redevelopment limitations, if any, are on the land?
- Buildings
 - Does the building contain environmental hazards?
 - What is the building's structural condition?
 - Can the building be rehabilitated for Rondo CLT's planned use and at what cost?

- Does the building have any outstanding code violations?
- What redevelopment limitations, if any, are on the building?
- Other considerations
 - Can insurance be obtained for the land/building?
 - Can financing be obtained to buy the land/building?
 - Can financing be obtained to redevelop land/building?

These are some of the important considerations before determining whether to acquire a building; Rondo CLT should work with its attorneys in determining what due diligence is necessary for any given project.

6. Nonprofit tenants are probably less risky than retail tenants

The tenant mixes of several CLT commercial developments indicate that nonprofit organizations might be a more stable tenant than retail tenants. Unlike retail shops, which are subject to the daily ebb and flow of the market, nonprofit funding streams are generally less volatile and affected only on an annual or bi-annual basis because of grants and other common nonprofit funding sources. At the Champlain Housing Trust, which rents to nonprofit organizations and retail businesses, Torpy said renting to retailers is far riskier and that she would prefer to rent to nonprofits.

Other examples of CLT commercial developments with nonprofit tenants that provide a significant portion of rent include:

- The mixed-use building developed by the San Francisco Community Land Trust (SFCLT) houses the SFCLT and the Asian Law Caucus. The 30-year lease of 9,200 square feet by the Asian Law Caucus enabled the SFCLT to secure financing for the project.

- The Northern California Community Land Trust (NCCLT) operates a 6,000-square-foot building as a commercial rental that houses only nonprofits and community services organization, including the CLT's own office space, an anarchist information center, and a homeless advocacy group.
- In Anchorage, the Anchorage Community Land Trust (ACLT) leases space in its 53,000-square-foot building to three nonprofits groups: a jobs-training organization that provides skills in construction trades; a youth development agency; and an entity that helps nonprofits and tribal groups succeed.

Like these CLTs, Rondo CLT should consider nonprofits organizations as potential long-term tenants. Nonprofit organizations, such as a legal aid organization, could also be used as anchor or magnet tenants to draw people to the development. Rondo CLT could use nonprofit organizations, and their relatively more secure funding, to help secure cash flow for a commercial development and offset the risks posed by leasing or renting space to small retail shops and businesses.

7. Commercial development might require tougher business decisions than residential

Some CLTs involved in this research cautioned that commercial development might require a CLT to make business decisions more difficult to make than those involving residential development. This advice goes directly to the heart of the tension involved in a CLT developing a commercial property—balancing the interaction between fulfilling the organization's mission to the community it serves while embracing and reconciling sometimes-harsh business decisions. For instance, a CLT that rents or leases a commercial space to a small, local business that struggles to pay the rent will have a difficult choice between helping the business and operating a

successful commercial property that meets the mortgage payments. “You can’t rescue a business,” said Torpy, of the Champlain Housing Trust. “Somebody’s got to pay the rent.”

Even though a CLT might have a mission-specific use for commercial space, Torpy said difficult market conditions might force a CLT to rent to a business that does not fit the mission simply to sustain the overall commercial development.

Alan Arthur, president of Aeon, a nonprofit community development corporation in Minneapolis,⁵ takes a similar pragmatic view of commercial tenants. Arthur said that Aeon—which developed and effectively owns about 36,000 square feet of commercial space in mixed-use only buildings—favors renting to local businesses, but the ability to consistently pay the rent is a key factor Aeon relies on when selecting tenants.

“It made long-term community planning sense to include the commercial space, even though it is challenging to implement and a pain in the rear to operate,” Arthur wrote in his survey. “Why is it a pain to operate? Because most small businesses are not particularly good at their business – like most things in life: 20% are good to great, 60% are mediocre or average, and 20% are very, very dysfunctional (stay far, far away from the bottom 20%, and provide some assistance to the middle group).”

Rondo CLT should be aware that developing and managing a commercial property will require it to make difficult decisions that it has never before made. To balance Rondo CLT’s mission with the need to operate a commercial development, Rondo CLT should focus on planning steps that would help guide the difficult balance between helping the community while maintaining a viable commercial development. These steps might include:

- Identifying potential partners who can assist in making difficult decisions

⁵ Although not technically a CLT, Aeon was included in this research because of the organization’s experience in commercial development, knowledge of the Minneapolis-St. Paul commercial market, and willingness to provide survey responses.

- Creating guidelines that are supportive but realistic to handle tenants that cannot pay rent
- Drafting a policy that specifically empowers Rondo CLT to deviate from its mission, such as in tenant selection, to ensure the long-term financial stability of a commercial project

NEXT STEPS

Now that Rondo CLT has a general understanding and background of the basic challenges that face CLT commercial development, I recommend Rondo CLT consider four next steps.

1. Seek Rondo CLT member support, and amend Rondo CLT mission statement to reflect an expanded focus that includes commercial development

Rondo CLT should seek member support to begin the process of amending its mission statement to expand the organization's mission to engage in CLT commercial development.

Rondo CLT could use the webinar to educate its members on commercial development and why the organization wants to develop commercial property on or near University Avenue. (See next step #2 below).

In a January 14, 2010, memorandum, the Community Development Clinic indicated that Rondo CLT, under its Articles of Incorporation and Bylaws, has the legal corporate authority to undertake a commercial project. But, the memorandum stated, Rondo CLT's mission statement will have to be expanded for the organization to engage in commercial development.

Appendix C contains the mission statement of the Champlain Housing Trust, which encompasses the organization's ability to develop and manage commercial properties to benefit

the community. This document could provide guidance for Rondo CLT to amend its own mission statement.

2. Educate the community, potential partners, and decision makers about CLT commercial through the webinar

Rondo CLT should use the recording of the April 16 webinar to educate and raise CLT commercial development awareness to community members, potential partners, funders/financiers, and other decision makers.⁶ It is possible to skip from section to section on the webinar, which allows a viewer to significantly shorten or edit the ninety-minute webinar for particular audiences and time limitations.

There are several options to disseminate the webinar to spur interest and elicit reaction from the community that could be valuable in shaping the development. First, Rondo CLT could distribute the webinar link to interested people and groups so they could watch on their own time. Second, Rondo CLT could invite key people to an event in which the webinar would be played, followed by a group discussion led by Rondo CLT. The Community Development Clinic held a similar event for the webinar on April 16. About twelve to fifteen people attended, including William Mitchell students and members from these organizations and offices: St. Paul Mayor Chris Coleman's office; West Bank Community Development Corporation; SPARC; Minnesota Center for Environmental Advocacy; Preserve and Benefit Historic Rondo Committee; and Greg Finzell and Mychael Wright of Rondo CLT. Hearing directly from experienced CLTs via the webinar spurred a robust, hour-long discussion about CLT commercial development possibilities in St. Paul.

⁶ The webinar is available at: <http://ncb.na6.acrobat.com/p72889920/>. To play the webinar, a person needs only an Internet-connected computer that has audio speakers and an up-to-date web browser.

3. Visit the Champlain Housing Trust to gather ideas and learn from the most-experienced CLT

Rondo CLT should visit Burlington, Vermont, to learn from the Champlain Housing Trust's vast amount of experience with commercial development. As mentioned above, Champlain Housing Trust controls and manages 116,000 square feet of commercial space throughout Vermont. Champlain Housing Trust is undoubtedly the most-experienced commercial development CLT in the United States, with properties that house a wide variety of tenants located in differing locations and settings.

4. Research possible legal structures for a Rondo CLT commercial development

After Rondo CLT makes significant progress on the suggested next steps, Rondo CLT should research possible legal structures that a commercial development might use on or near University Avenue. Through my research, CLTs briefly touched on this topic, but much more detailed analysis must be conducted to choose the proper structure for a Rondo CLT commercial development. When Rondo CLT is ready to take this step, Greg Finzell may wish to contact the William Mitchell Community Development Clinic to research this issue.

APPENDIX A: RESEARCH AND WEBINAR CONTACTS

WEBINAR CONTACTS

Michael Brown, Burlington Associates partner and helping found commercial-only CLT in New Orleans
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APPENDIX B: CLT COMMERCIAL DEVELOPMENT SURVEY

Please respond to questions in full sentences and with as much detail as possible. If you have questions, please email paul.sand@wmitchell.edu or call 612-819-7410.

Please return your completed survey to paul.sand@wmitchell.edu.

Background

- How old is your CLT?
- What were your CLT's reasons for creating space for small businesses and commercial tenants?
- Did you look at other options, besides a CLT, to develop the commercial property?
- What concerns, if any, were raised when your CLT initially discussed developing a commercial property?
- What particular steps did you take in planning to develop a commercial property?
- Did your CLT develop benchmarks/goals to define the project's success? If so, is the project meeting those goals?

Project Set-Up

- Is the building/project held in community land trust?
- Is the building in an urban or rural setting?
- Did your CLT purchase an existing building or build a new structure?
 - If existing, how did you acquire the structure?
 - If existing, what improvements did you make to the commercial space?
- How large is the building (square footage, number of commercial spaces, etc.)?
- What was the cost of building?
 - What were the cost of improvements/renovations, if any?
- How did you finance the purchase/renovation of the building?
- Did your CLT partner with other organizations or government to complete any aspect of the project?

- Were there any tax implications of renting to commercial tenants (e.g. impact on the community land trust's tax status)?

Management

- What criteria do you use to select tenants (local, small businesses, chains, income/sales guidelines, etc.)?
- What criteria do you use to set rents for tenants?
- What is the development's organizational/management structure (CLT manage building? Condominium-style management?)
- What is the composition of building tenants (mixed-use, commercial only, etc.)?
 - Does your CLT have guidelines for retaining a particular mix of tenants? If so, what are the guidelines?
- Does your CLT have rules in which successful tenants must relocate to make room for new businesses? If so, what are those rules?
- What is the current makeup of businesses in your building?
- What types of businesses are best suited to this model?
- What is your occupancy rate as of February 1, 2010?

Lessons Learned

- What would you do differently on the project?
- What actions/steps is your organization glad it took in building the project?
- Are there any other legal challenges/implications that arose from a CLT developing a commercial property?
- Overall, how successful has the development been and why?
- Do you plan to do another commercial development?
- Anything else I have not asked about but should know?

APPENDIX C: CHAMPLAIN HOUSING TRUST MISSION STATEMENT (EMPHASIS ADDED)

The Champlain Housing Trust is a community land trust that supports strong, vital communities in northwest Vermont through the development and stewardship of permanently affordable homes and *associated community assets*.

Appendix C: 20 Questions for a Commercial CLT

The Rondo Community Land Trust Affordable Commercial Project

How will the Rondo CLT Commercial Land Trust Work? Twenty Frequently Asked Questions.

1. Who will own the land? Why will the Limited Partnership own the land and not Rondo CLT?

The land and the buildings will all be owned by a Limited Partnership. Rondo CLT and Community Housing Development Corporation (CHDC) will be general partners in the limited partnership and be responsible for major decisions.

The largest share of the funding comes from Low Income Housing Tax Credits. The structure of that funding mechanism means that limited partners (the investors) will only put up the funds if their risk is minimized. It would be difficult, probably impossible, to attract the investors if they had a long term lease rather than outright ownership of the land. As stated immediately above, Rondo CLT and CHDC as general partners will be responsible for major decisions.

2. Why the Master Lease for the commercial space?

The goal of Rondo CLT is to provide long-term affordable commercial space. A long-term, no cost, Master Lease from the Limited Partnership will assure that Rondo CLT has control of the commercial space and can assure its long-term affordability. This long-term lease will mimic the land leases used on the residential land trust houses. The terms of the lease will allow Rondo to make improvements, borrow funds against the property and, most important, lease out the commercial spaces to tenants at affordable rates.

3. Who will decide which tenants are selected for the commercial space?

The Rondo CLT board will establish a committee that will be responsible for selecting the commercial tenants. This committee will be made up of Rondo CLT board members and stakeholders from the community. The committee's decisions will be guided by tenant selection criteria, a pre-determined set of criteria that will be publicly available. This open system will ensure that the tenant selection process will be fair and unbiased and will target businesses that accomplish the community goals.

4. Who will pay the commercial part of the property taxes and the utility costs?

Commercial leases typically include two types of payments, the base lease rate and the Common Area Maintenance (CAM) payment. We are proposing to include a number of expenses including property taxes and common area utilities in the CAM payment rather than in the base lease payment. Therefore, the taxes will be paid by the tenants through their proportionate share of the CAM payment. Each commercial space will have its own utility services and utility meters and will pay directly for the utilities each commercial tenant uses.

5. Will commercial tenants have the ability to purchase their space?

The over-riding goal of the commercial part of this project is to provide long-term affordable commercial space and this is accomplished by minimizing the amortizing debt on the project and using public and private funds to cover the majority of the capital costs. This structure severely limits the opportunity for a private owner to sell his/her commercial space at a profit, even under some equity sharing formula could

be devised. Rondo CLT has been exploring ideas but has not come up with an acceptable model for the sale of commercial space that balances the long term affordability with the equity appreciation for the seller.

Using public and foundation funds to finance much of the project has the effect of minimizing the amount of amortizing debt. This benefits the project because monthly mortgage payments are small; most of the monthly costs to the business owners are operating costs. This is how the commercial space is kept affordable. If a business owner were able to realize a profit by selling his/her share, the sale would require increased debt on the property, thereby reducing affordability for the next business.

6. How will the cost of the commercial space remain affordable into the future?

Rondo Community Land Trust, a non-profit 501(c)(3) organization, has as part of its mission to “support and celebrate cultural diversity by providing affordable business opportunities to increase community economic wealth, property values and jobs.”

As noted in the answers above, Rondo will maintain long-term affordability of the commercial space through the financing tools used to develop the project. In addition, the buildings are being built to be very energy efficient, thereby reducing the annual utility costs. Finally, Rondo as a non-profit does not need to take profits from the project and will keep the lease payments as low as is practical in fulfillment of its mission.

7. How was the monthly commercial tenant lease payments determined? Can the monthly lease payments be increased?

Each commercial tenant pays a share of the following costs based on their share of the total commercial square footage in the buildings. Costs included in the Base Lease Payment:

- *Mortgage payments*
- *Annual deposit into the replacement reserve*
- *An allowance to cover vacancies*
- *Marketing and management costs*
- *A "debt service coverage factor" equal to about 20% of the monthly mortgage payment. This is a cushion required by the mortgage lender to insure that the mortgage payments can still be made even if there are unexpected expenses.*

In addition, commercial tenants will pay their proportionate share of the following common expenses (the CAM payment explained in question 4). The CAM payment will cover:

- *Snow plowing*
- *Taxes*
- *Insurance*
- *Common area utilities*
- *Parking lot and exterior maintenance*
-

These common area expenses will also be shared with the residential portion of the project.

The monthly lease payments will need to increase as costs increase. But over half of the Base Lease Payment is the mortgage payment, which is fixed (will not increase). As a result, the lease payments will increase at a slower rate than costs increase.

8. How long will the commercial space be affordable for small businesses?

The commercial space will be permanently affordable for small businesses. This is ensured by the non-profit ownership and the project financial structure.

9. Who will be the owner of the first floor commercial space?

The first floor commercial space will be owned by a Limited Partnership. The Limited Partnership will have Rondo CLT and Community Housing Development Corporation as the general partners (thus, the decision-makers). Rondo CLT will enter into a long-term master lease with the Limited Partnership for all of the first floor commercial space. This long term master lease will give Rondo CLT rights and obligations similar to out-right ownership. This is further explained in the answer to question 2.

10. What makes this project different from other mixed-use project that includes affordable housing and commercial space?

When an affordable housing project includes commercial space, the businesses there often (not always) are selected with some public purpose criteria, such as neighborhood desires. Others are only limited by zoning requirements. This project has a primary goal of providing long-term affordable commercial space, which is rarely, or never, an expressed goal.

Typically, in those other projects the financing is structured so that the commercial leases will cover both the original commercial development costs and the on-going commercial operating costs. Given the cost of new construction, these lease payments usually end up at the very upper end of the market. Without the expressed goal of maintaining long term affordability, other mixed-use commercial projects are free to increase the commercial rents based on what the market will bear, rather than limiting the rental increases to a level that is sufficient to cover increased costs.

The escalating cost of leasing commercial space that is occurring in many cities in Minnesota and throughout the nation threatens the future of small, independent businesses, especially in their early stages. As the Institute for Local Self-Reliance noted in a report released in April 2016, “Just as there’s a public stake in the availability of affordable housing, so too is there a public interest in the commercial side of the built environment. Having a healthy independent business sector is closely tied to other municipal policy priorities, including reducing climate emissions, expanding jobs, lessening economic inequality, and strengthening the social fabric of neighborhoods.” The report identifies “community ownership” as a strategy that “offers viable opportunities for local entrepreneurs and continues to house businesses that suit the surrounding neighborhood.”

11. Why two buildings and not just one large building with underground parking?

There are several reasons:

- 1) Creation of affordable commercial space is a primary goal. If the project were a single building it would reduce the amount of affordable commercial space by more than one third.*
- 2) Another goal is to revitalize the neighborhood. There are two long-vacant parcels of land which have been a blighting influence on the neighborhood. A single building would only address one of the two parcels and would lessen the impact on neighborhood revitalization.*

- 3) *Design that fits the community fabric is important. A single building would have to be at least 4 stories in order to get the same number of residential units. Most of the mixed use buildings in the community are 2 stories. There are a few three story buildings, but four stories is really out of character for the community. A few years ago a developer proposed a four story building which was roundly rejected by the neighborhood.*
- 4) *Finally, underground parking is very expensive. The additional cost of the underground parking would offset most of the potential savings gained through building just one structure.*

12. Does the neighborhood support this project?

Yes - this project has been reviewed and approved by the Summit University Planning Council on several occasions. In addition, Rondo has met with the immediate neighbors several times to get their feedback on the plans, and these neighbors have been supportive. We have formal letters of support from the Summit University Planning Council and other neighborhood organizations, including the St. Paul Chapter of the NAACP, Walker West Music Academy, the Selby Avenue Action Coalition, Neighborhood Development Center, and Mississippi Market. The project also has the expressed written support of the City Councilmember for the area, Dai Thao.

13. Who will own the buildings and how will the ownership be divided?

As noted in the answer to question #1, the land and the buildings will all be owned by a Limited Partnership. Rondo CLT and Community Housing Development Corporation (CHDC) will be general partners in the limited partnership and be responsible for major decisions. The land and both buildings will be held by one ownership entity. Ownership will not be divided.

14. Who are the partners in the development and what are their roles?

Rondo CLT and Community Housing Development Corporation (CHDC), two 501(c)(3) non-profit organizations, will be general partners in the limited partnership and be responsible for major decisions. The Limited Partners have hired BDC Management to manage both the housing and commercial space, and they have and Neighborhood Network for seniors to provide on-going services to the senior housing residents.

CHDC will have primary responsibility for the housing portion and RCLT for the commercial space.

15. How long will the housing units be affordable for low-income seniors?

The senior housing units will remain affordable for a minimum of 30 years under the terms of the Low Income Tax Credit Program. Any time after year 15 the non-profit general partners (Rondo CLT and CHDC) will have the first right to purchase the housing and keep it affordable to low-income seniors. Both are non-profits whose missions revolve around provision of affordable Housing.

16. What happens once the tax credit investors are no longer a part of the project? Who will own the project and will it remain affordable?

The General Partners will have the first right to purchase after the investors are no longer a part of the project. The goal is to have them exercise their option and purchase the senior housing to keep it

affordable for low-income seniors. Both Rondo CLT and CHDC are committed to keeping both the housing and commercial space affordable for the long term, in keeping with their missions.

17. How is the project being funded?

The project will be funded through a combination of City of St. Paul funds, State of Minnesota, Foundation and Corporate Foundation funds, Metropolitan Council funding, Capital Area Watershed District and Federal Tax Credits. The total project costs will be 12,217,300.

18. Who will live in the live-work units and why are they a part of the project?

The live-work units are designed for persons that have a small business that will benefit from 'store front' access and a small amount of work space. Some of the existing buildings on Selby have retail space on the first floor and living units on the second floor. The creation of live-work units on Selby is included in both the Summit-University Planning Council's Small Area Plan and the City of St. Paul's Long Range Plan.

19. Who will manage the project once it is completed?

Both the residential and the commercial portions of the project will be managed by BDC Management Company. BDC was established in 1990, and currently manages 46 developments. Their extensive portfolio includes townhomes, apartments, cooperatives, and commercial space, including several mixed use commercial and residential properties.

20. Can this type of project be replicated in other neighborhood commercial corridors?

Yes. We think the model could be replicated in other neighborhood commercial corridors. We have started to document the project with lessons learned to-date and how decisions were made and why. After the first tenants have moved in, we will have a better idea of how keeping the commercial space affordable over time is working and what adjustments may be required to keep it affordable.

Appendix D: Sample Tenant Selection Criteria

SELBY-MILTON-VICTORIA BUSINESS SELECTION PLAN

SELECTION CRITERIA

The commercial space is being developed with the goals of creating an African American business node with affordable commercial space for new, expanding and relocating businesses. The selection criteria are designed to prioritize leasing the commercial space to those businesses that will contribute to this goal. The following criteria will be used in order to determine if a business contributes to these goals.

- Increasing vitality and street traffic
- Business owners with connections to the community
- African American business owners
- The financial soundness and feasibility of the business plan
- No chains or franchises
- Compatible with the Senior Housing which will be built upstairs
- Has participated/is participating in the NDC program
- Providing goods/services needed by the community – that are not already in the community – for example:
 - o Copy shop
 - o Professionals
 - Accountant
 - Therapist
 - Attorney
 - o Restaurants
 - o Hardware store
 - o Electronics repair
 - o Shoe repair
 - o Tailor
 - o Artists
 - o Optical Store
 - o Book store (new and/or used)
 - o Animal groomer

WHO MAKES THE DECISION?

- The Rondo Board will appoint an advisory committee of 5-7 members, including community members, stake holders, professionals with knowledge about small businesses and at least one member of the Rondo CLT board.
- The committee will review applicant information, interview applicants, make a recommendation which they write up.
- Recommendation will go to the board for final approval.
- Rejected applicants request a meeting with the board for a listening session.

Applicants who are rejected should be told why they are rejected. They can reapply at a later date as circumstances change.

Applications will need to include the following information

- New businesses will have to document that they have been through the NDC training program
- New businesses need to show us their business plan
- Existing businesses 3 years of financials
- A statement – why do they want to locate in this community

Appendix E: Sample Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

New working relationship between
Merriam Park Living At Home/Block Nurse Program, d.b.a. Neighborhood Network for Seniors
and
CHDC Rondo Limited Partnership
Agreement Period: Thirty Six Months - From August 1, 2017 to July 31, 2020
(Renewal as needed and mutually agreed)

The following pertains to the planned Selby Avenue senior housing communities known as Selby Milton Victoria.

The undersigned Neighborhood Network for Seniors (NNFS) representative agrees to provide the following as a member of this on-going partnership.

During the pre-development phase NNFS will assist Rondo Community Land Trust during the pre-occupancy stages with planning for initial services and resources that will be available to residents.

Once the building has been completed NNFS will provide the following services:

1. **Health Care Services** - Provide the services of our Outreach Nurse for wellness services (blood pressure checks, foot care clinics, etc.) as requested by staff of Rondo Community Land Trust (RCLC) or Community Development Housing Corporation (CDHC).
2. Work with resident groups to identify programming needs and interests and organize **Community Building Activities**.
3. **Self - Reliance & Life Skills** - Collaborate with RCLC and CDHC to provide evidence based programs, workshops and educational opportunities that support the health, wellness and independence of their residents. Examples of these programs include: Chronic Disease Self-Management groups for individuals with diabetes or heart disease, Walk with Ease Matter of Balance exercise programs, workshops on internet safety, an introduction to local resources, etc.
4. **Volunteer Opportunities** - Provide opportunities for residents to volunteer to help local seniors and/or assist with or lead programs and activities.
5. **Information and Referral** - Provide access assistance, care coordination services, volunteer services, and outreach nursing visits to seniors and caregivers living at the Selby Avenue communities.
6. **Case Management** - work with residents to assess their current and near future needs related to Health, Personal care, caregiver services and engagement (work, volunteering and socializing) and develop a plan to help the individual achieve their goals in any of these areas.
7. **Transportation** - coordinate transportation to health related appointments.
8. **Assist residents** in completing paperwork for public assistance programs (Elderly Waiver, Alternative Care, SNAP, etc.) as requested by the individual.
9. **Collaborate** with the licensed home care provider we partner with (currently Recover Health) **to provide skilled RN and Home Health Aide services** on an affordable/sliding scale basis.
10. Assist the staff of RCLC and CDHC with information and resources related to resident needs

The undersigned CHDC Rondo Limited Partnership representative agrees to provide the following as a member of this on-going partnership.

1. Provide residents with information regarding services available from Neighborhood Network for Seniors
2. Collaborate with Neighborhood Network for Seniors' staff to provide evidence based programs, workshops and educational opportunities that support the health, wellness and independence of their residents.
3. Provide meeting space for collaboratively planned programs and wellness services.

Neighborhood Network for Seniors

CHDC Rondo Limited Partnership

By: _____

By: _____

Alison Schaub

Elizabeth Flannery,

Title: Executive Director

Title: Chief Manager/President, CHDC Rondo GP
LLC, General Partner

Date: _____

Date: _____

Appendix F: Flyer for “Plan It!: An Entrepreneur’s Guide to Success”



WANT TO START YOUR OWN BUSINESS?

Plan It! An Entrepreneur's Guide to Success will help you research, write and confidently articulate a strong business plan.

This program helps you create a solid foundation for your business by giving you essential knowledge and tools to implement your idea. Your business plan will maximize your efforts and help to secure financing from Neighborhood Development Center. Through group sessions and one-on-one consultations you can make your business idea a reality!

12-Session Course Outline:

- Attributes For Success
- Planning For Business Success
- The Market - Customers And Competition
- Marketing And Branding
- Web-Based Marketing
- Credit And Financing
- Management And Operations
- Alumni Speaker/Competition Reporting
- Financial Planning: Part 1
- Financial Planning: Part 2
- Are You Ready?
- Graduation!



Neighborhood Development Center is a nonprofit that works with entrepreneurs to maximize their business potential. We offer low-cost business services to start-up and existing businesses in targeted neighborhoods. Our services include:

- 1 ENTREPRENEUR TRAINING
- 2 SMALL BUSINESS LOANS
- 3 BUSINESS SERVICES
- 4 INCUBATORS & REAL ESTATE

NDC-MN.ORG | 651-291-2480

Let's Get Started!

To apply, visit ndc-mn.org/planit or call us at 651-291-2480. To pick up or drop off an application in person, you may also visit Rondo Community Land Trust at 626 Selby Ave, St. Paul, MN 55104.



Appendix G: Sample Community Engagement Flyer



Meeting with Neighbors and the Rondo Community Land Trust to Review and Discuss the Redevelopment Proposal for 838 Selby and 940 Selby.

DATE: Friday, January 23rd
PLACE: Golden Thyme Café (Corner of Milton & Selby)
TIME: 5:30 pm to 6:30PM

The Rondo Community Land Trust (CLT) is proposing to develop the two City owned (HRA) vacant sites at 838 Selby and 940 Selby. The project will include long term affordable commercial space on the first floor and provide affordable housing units on the second and third levels. The project will include 35 units of affordable senior housing at or below 60% of HUD medium incomes. The project will be 2 building located about one block apart along Selby Avenue in St. Paul. The building at 940 Selby will have 10 units and about 3150 square feet of commercial space. The building at Victoria and Selby will have 23 units and about 1,922 sq. ft. of commercial. Total project costs are projected to be \$8,114,000.

The project is being led by two neighborhood residents, Mychael Wright, and Charles Bradley. Both are life-long residents of the Summit-University Community and are Rondo Community Land Trust Board Members.

As a neighbor adjacent to the project, Rondo staff and Development Team members want to discuss with you the proposal and get your feedback and concerns.

The experienced Development Team is creating a new model that provides an effective, equitable and sustainable approach to maintaining and supporting local, minority owned businesses. The small business participants will enroll in the Neighborhood Development Center's (NDC) business training and education programs. Additionally, a Black Apprentice Project is being developed to form a base of Selby Avenue small business owners.

This project is one component of the broader African American Heritage Corridor Commercial District (AHC-CD), a community economic development initiative that celebrates the Rondo community's heritage. The concept for the project was developed by community members who understand that small minority owned businesses play a central role in the economic health of the community. In order to reduce the risk of gentrification, the commercial land trust will secure long-term, affordable small business space and affordable housing units on Selby, specifically targeted to benefit historically disadvantaged groups

If you have any questions before the meeting, please feel free to contact Greg Finzell, staff at Rondo CLT at 651-221-9884 or Mychael Wright at -----.