



DONOHUE & STEARNS, PLC

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January 9, 2019

Via IZIS

Board of Zoning Adjustment for the
District of Columbia
441 4th Street, N.W., Suite 200S
Washington, D.C. 20001

Re: BZA Application No. 19823 – 3920 Alton Place, N.W.
Applicants' Proposed Findings of Fact and Conclusions of Law

Dear Members of the Board:

On behalf of Wisconsin Avenue Baptist Church (“WABC”) and Sunrise Senior Living (“Applicants”), we hereby submit the enclosed proposed Findings of Fact, Conclusion of Law and Order. The proposed order includes a summary of the Memorandum of Understanding (“MOU”) between the Applicants and the ANC 3E, and specifically the terms pertaining to implementation of the construction management plan. A copy of the MOU can be found at Exhibit 119A in the record. Additionally, the Applicants provide rebuttal to the post-hearing submission filed by the Tenleytown Neighborhood Association (“TNA”) on December 17, 2018, as permitted by the Board of Zoning Adjustment (“Board” or “BZA”) at the conclusion of the hearing. (Tr. 544).

1. TNA Materials Exceed the Scope of Permitted Response. First, the Applicants note that much of TNA’s response exceeds the scope of the Applicants’ December 10 submission. As such, the Board should strike or disregard the extraneous materials. Specifically, TNA’s Exhibit 136D2 is a geotechnical engineering report prepared for Sunrise Senior Living as part of its coordination with the Washington Metropolitan Area Transit Authority (“WMATA”) on the Metrorail tunnels located 100 feet below the development site. The Applicant never discussed soil conditions or geotechnical findings in its post-hearing submission, and the Board never invited party opponents to provide such information for the record. Similarly, Exhibit 136D1 critiques the construction management plan described in the MOU even though the Applicants’ post-hearing submission did not address that issue. These exhibits amount to new evidence submitted after the close of the hearing and the Board should either strike or disregard them accordingly.

2. Inaccuracies in the TNA Height Diagrams. In response to the perspective renderings submitted by the Applicants, TNA supplied what purported to be a comparison of heights of the proposed WABC/Sunrise building and adjacent homes on 39th Street. Notwithstanding TNA’s statements to the contrary, the comparisons are significantly distorted and

out of scale. The photographs of the houses do not indicate building height measuring points (“BHMP”) or which part of the house constitutes its highest point, *i.e.*, the ceiling of the top floor or the ridge of the roofline. The houses do not align properly with the proposed WABC/Sunrise building and are “photoshopped-in” at a smaller scale. This is evident when comparing the floor-to-floor heights of the CCRC/church building, which are approximately 10.5 feet, with the adjacent houses. While the houses purportedly range in heights from 22.5 feet to 28 feet, 11 inches, they barely reach the second level ceiling of the CCRC/church, which is approximately 20 feet in height. The TNA’s photo renderings also fail to consider the significant setback of the proposed building from the property line and intervening the street widths when comparing houses located across the street from the development. Likewise, the photo rendering of the 39th Street houses with the CCRC/church in the background inaccurately characterizes the relationship between the existing and proposed buildings. In contrast, the perspective renderings submitted by the Applicants and prepared by abSketches, a professional company trained to prepare to-scale visual representations of proposed developments, accurately portray the relationships between the CCRC/church building and the surrounding houses.

3. Inaccurate Assumptions Pertaining to Applicants’ AutoTURN Diagrams. TNA wrongly asserts that WABC site will have delivery trucks longer than 30 feet because such larger trucks were observed at another Sunrise facility. This leads to TNA’s faulty conclusion that trucks cannot make the turns at the WABC site. In fact, as clearly stated in the Applicants’ transportation study, the AutoTURN diagrams and the MOU, delivery trucks to the WABC site will be no more than 30 feet in length. The AutoTURN diagrams plainly show that turns into and out of the WABC site are feasible by the 30-foot trucks that Sunrise has committed to use.

4. Other Inaccuracies in TNA Submission. TNA incorrectly asserts that the green buffer on east property line is intended as a sound buffer but will fail in that regard. While the green buffer is designed primarily as a visual and safety buffer, it will have sound-reduction benefits for the 39th Street neighbors, as well. TNA also asserts that the Applicants were to provide a matter-of-right rendering for a CCRC/church use rather than a church use. TNA is mistaken. As the transcript reflects, the Board requested a rendering of a matter-of-right project on the site, which the Applicants provided. Because a matter-of-right CCRC/church building is economically infeasible, as demonstrated by the unrebutted testimony at the hearing, it would be disingenuous for the Applicants to depict a project that cannot be built.

Respectfully submitted,

DONOHUE & STEARNS, PLC

By: 
Mary Carolyn Brown

Attachment

cc: Maxine Brown-Roberts, OP (via email)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing letter and attachments were served
January 9, 2019, via email, on the following:

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