ShawPittman LLP

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November 15, 2001

Ms. Carol Mitten, Chairperson
District of Columbia Zoning Commission
441 4th Street, NW, Room 210
Washington, DC 20001

Re: Sunrise Connecticut Avenue Assisted Living, LLC ("Sunrise")
Motion to Strike Issues Raised in the Nebraska Avenue Neighborhood Association ("NANA") Comments That Are Outside the Scope of the Zoning Commission's *Sua Sponte* Review

Dear Chairperson Mitten and Members of the Commission:

Sunrise, the owner of 5111 Connecticut Avenue, N.W., hereby moves to strike from the record of this case those portions of NANA's November 9, 2001 response that are outside of the Zoning Commission's clearly established grounds for *sua sponte* review of BZA Appeal No. 16716.

In exercising its *sua sponte* authority, and as outlined in a letter from the Office of Zoning to NANA, Advisory Neighborhood Commission ("ANC") 3G, Sunrise and the Office of Corporation Counsel dated October 22, 2001, the Commission has raised only two narrowly defined issues for review. The two issues are as follows:

1. Whether the Board ruled correctly when it accepted the Zoning Administrator's conclusion that mechanical equipment can be located inside an architectural embellishment; and

2. Whether the Board was correct in upholding the building permit although the roof plan had not been referred to the Office of Planning for comment as required by Section 411.10 of the Zoning Regulations.

The November 9, 2001 NANA response to the Zoning Commission's *sua sponte* review in this case includes information that is outside of the scope of review established by the Zoning Commission. In particular, all references to the Environmental Impact Screening Form ("EISF") on pages 3 and 4 of NANA's November 9th submission, as well as Attachment C, should be stricken from the record. During the public hearing in this appeal the Board of Zoning Adjustment ("Board") determined that the EISF process was outside the scope of the Board's review authority. This information, along with the information included in footnote 2

ZONING COMMISSION
District of Columbia
Case 01-26/16716
Exhibit 6

ZONING COMMISSION
District of Columbia
CASE NO.01-26
EXHIBIT NO.6

on page 4 of the NANA response, is clearly outside of the Zoning Commission's intended *sua sponte* review and should therefore, be stricken from the record in this case.

If you have any questions or comments regarding this motion to strike, please call the undersigned.

Respectfully submitted,

Maureen E. Dwyer

Allison C. Prince

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Paul A. Tummonds

Paul A. Tummonds

ShawPittman LLP

Certificate of Service

I hereby certify that a copy of the foregoing letter regarding Sunrise's motion to strike the comments of NANA that are outside the scope of the Zoning Commission's sua sponte review, was delivered by hand on this 15th day of November, 2001, to the following:

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