Nebraska Avenue Neighborhood Association
5126 Nebraska Avenue, N. W.
Washington, D C 20008

November 19, 2001

16716

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

Re: Response to the November 15, 2001, letter (the "Letter") from Sunrise Connecticut Avenue Assisted Living, LLC ("Sunrise") regarding Sunrise's motion to strike issues raised in the Nebraska Avene Neighborhood Association ("NANA") November 9, 2001 letter to the Zoning Commission (the "Commission")

Dear Chairperson Mitten and Members of the Commission:

We are writing this letter in response to the above-referenced letter from Sunrise to the Commission dated Nov. 15, 2001.

Please note that we disagree with Sunrise's narrow interpretation in the Letter of the two issues under review by the Zoning Commission ("ZC"). With respect to the first issue raised in the Letter, Sunrise's interpretation deals only with mechanical equipment located inside an architectural embellishment, not with the underlying issues of roof structure setback from all exterior walls, multiple roof structures and height of roof structures.

Please also note that we disagree with Sunrise's assertion that all references to the Environmental Impact Screening Form ("EISF") should be struck from the record. In particular, we believe that the EISF is relevant and directly on point with respect to the issues under review by the Commission. In fact, the Office of the Zoning Administrator ("OZA") has made specific reference to the EISF with respect to an examination of the roof structure plans. The OZA also testified that all plans were available to the Office of Planning as part of the EISF evaluation. We are incorporating herein by reference a copy of the relevant portions of the Board of Zoning Adjustment August 3, 2001 hearing transcript, attached hereto as Exhibit A.

We therefore respectfully request that the Commission allow the NANA letter of November 9th, 2001 be admitted to the record in its entirety. We believe that it is under the purview of the Commission to evaluate all relevant issues in order to come to a well-reasoned conclusion to this matter. At such time that the Commission finds items appropriate or inappropriate for its consideration, it may include or exclude such items from the record as it determines under its own motion.

ZONING COMMISSION
District of Columbia
Case 01-26
Exhibit 9

ZONING COMMISSION
District of Columbia
CASE NO.01-26
EXHIBIT NO.9

We also note that the November 9, 2001 response submitted by Sunrise to Commission contains new building designs not submitted to the Department of Consumer and Regulatory Affairs ("DCRA") as part of the building permit process or to the Board of Zoning Adjustment as part of the appeal process. Not only do the new designs fail to address all of the issues at hand, we believe it would be an error and set unfortunate precedent for the Commission to accept new building plans into the record without their official submission to and evaluation by all appropriate components of DCRA.

Should you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Very sincerely, on behalf of Nebraska Avenue Neighborhood Association,

Page Chiapella

Page Chiapella, President

Martha Thompson

Martha Thompson, Vice President

Attachment

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

FRIDAY

AUGUST 3, 2001

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Sheila Cross Reid, Chairperson, presiding.

ORIGINAL

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
GEOFFREY GRIFFIS	Board Member
DAVID LEVY	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Commissioner

limit?

MR. BELLOW: The scale drawings provided by the applicant reflected a height less than 18-1/2 feet and the height measurement would not include the roof over and above the penthouse, which will be considered an architectural embellishment.

MR. BENNETT: There was also a question as to the submission of the plans to the Office of Planning and were those plans submitted to the Office of Planning?

MR. BELLOW: In the course of the Environmental Impact Statement review the Office of Planning was privy and had full access to complete plans of the proposal.

MR. BENNETT: I want to go to the floor area ratio and how that was calculated because there was quite a bit of testimony as to the calculation of the FAR. And if you could just describe to the Board the -- what went into your determination that the floor area ratio met the requirements in the regulations.

MR. BELLOW: The calculation for floor area ratio is based on the definition of gross floor area and the regulations and in sum, it is the sum of the gross horizontal areas of several floors of all

not be contiguous to each other, we have applied the interpretation that a connection between those two structures with a structure which a mansard roof qualifies for would actually reflect one penthouse --

COMMISSIONER MITTEN: So --

MR. BELLOW: -- because of the physical connection.

COMMISSIONER MITTEN: So let me just be clear. The mansard goes around the perimeter of the roof.

MR. BELLOW: That is correct.

COMMISSIONER MITTEN: And even though they are totally different parts of the roof, that because they're connected by this perimeter mansard, that is -- your interpretation is that those constitute one structure.

MR. BELLOW: That is correct. And, in fact, I think that a review of the plans would indicate that a portion of the stairway enclosure is actually hidden under the mansard roof.

COMMISSIONER MITTEN: Okay, the issue about the referral to the Office of Planning, I want to be clear on what you said and then what's required. I believe that what you said when Mr. Bennett was asking you was that the Office of Planning had access

to the plans in the Environmental Impact Review process which my reading of 411.10 is that there's a slightly different standard required. It says that, "Before taking final action on a roof structure plan, the Zoning Administrator shall have submitted the plan to the Director of the Office of Planning for review and report", which strikes me as something a little bit more pro-active than just saying "Here's a roll of drawings, do whatever, you know, whatever you're required to do".

It strikes me that there is supposed to be a specific referral saying, "Look, here is this roof structure plan, you know, per Section 411.10 for your review". Can you tell me what's the practice of the Office, of your office? Is it that you just send them the whole roll of drawings or do you make a specific referral?

MR. BELLOW: Well, making a specific referral hasn't been the practice for many years.

COMMISSIONER MITTEN: How about lately?

MR. BELLOW: Not lately. We're working on reinstituting that. And the reason for that and, you know, I'll have to apologize for saying this probably, was that the Office of Planning for a long time was in a disarray.

Nebraska Avenue Neighborhood Association
5126 Nebraska Avenue, N. W.
Washington, D.C. 20008

Certificate of Service

I hereby certify that a copy of the foregoing letter from the Nebraska Avenue Neighborhood Association to the Zoning Commission, dated November 19, 2001 was delivered by hand on November 19, 2001.

Delivered to:

Maureen E. Dwyer, Esq
Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037-1128

William Bennett, Esq.
Office of the Corporation Counsel
441 4th Street, NW
Washington, DC 20001

Page Chiapella
Page Chiapella