EXHIBIT LOG

CASE NO. 16716

EXHIBIT NO.	NATURE OF EXHIBIT	EXHIBIT DATE	NO. PAGES	DATE REC'D
1.	BZA Appeal 16716	3/16/01	2 (Front + Back)	3/16/01
2.	List of Attachments	-	1	"
3.	Bldg. Permit Application 590AA	7/10/00	4	"
4.	Rev. Bldg. Permit Application 590AA	"	4	"
5.	Environmental Impact Screening Form		7	"
6.	Building Permit	3/8/01	1	"
7.	Copy of check + copy of BZA Receipt	3/16/01	1	"
8.	Acknowledgement Ltr.	"	1	"
9.	Ltr. to Sunny + Louis Reyes, et al, RE: Appeal Application filed	3/26/01	1	-
10.	Memo to Michael D. Johnson-DCRA, RE: Appeal Application filed	"	1	-
11.	Memo to Charlotte Parker-Corp. Counsel, RE: Appeal Application filed	"	1	-
12.	Memo to Ellen McCarthy-OP, RE: Appeal Application filed	"	1	-
13.	Memo to ANC-3G, RE: Appeal Application filed	"	2	-

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 01-26/16716
EXHIBIT NO. 1

ZONING COMMISSION
District of Columbia
CASE NO.01-26
EXHIBIT NO.1A1

EXHIBIT LOG

CASE NO. 16716

EXHIBIT NO.	NATURE OF EXHIBIT	EXHIBIT DATE	NO. PAGES	DATE REC'D
14.	MEMO to ANC-3G07, RE: APPEAL Application filed	3/26/01	2	–
15.	MEMO to City Council for Ward THREE, RE: APPEAL Application filed	"	1	–
16.	LTR. from JOSEPH L. BISHOP, VICE CHAIR ANC-3G, RE: EXPEDITED CONSIDERATION REQUESTED	4/9/01	2	4/13/01
17.	LTR. from SHAW PITTMAN, RE: JULY HEARING DATE	4/18/01	1	4/19/0
18.	MOTION TO RECUSE BOARD MEMBER ANNE RENSHAW	5/7/01	4	5/7/01
19.	LTR from ALLENE BEACH, ANC-3G REQUESTING LATER date for PUBLIC HEARING	5/21/01	1	5/21/01
20.	MEMO to the FILE, RE: REQUEST TO RESCHEDULE the PUBLIC HEARING	5/22/01	1	–
21.	P.H. Prep. Notices to ANC-3G	5/31	3	5/31/0
22.	P.H. Prep. Notices to Applicant and ANC	–	1	" "
23.	P.H. Prep. Notices to Agent for Applicant	–	2	5/31/0
24.	Memo to Renshaw, Dwyer, McCarthy, Johnson, Bergstein re: Motion to recuse Renshaw	6/27	9	6/27/0
25.	REQUEST for PARTY STATUS from ANNE PAGE CHIAPELLA, PRES. NEBRASKA AVE. NEIG. ASSOC.	7/3/01	1	7/3/01
26.	LTR. from Martha A. Thompson	6/28/01	2	6/28/0

EXHIBIT LOG

CASE NO. 16716

EXHIBIT NO.	NATURE OF EXHIBIT	EXHIBIT DATE	NO. PAGES	DATE REC'D
27.	MEMO to the FILE, RE: SERVICE OF MOTION to RECUSE BZA MEMBER ANNE M. RENSHAW	7/3/01	1	-
28.	Applicant's appeal of the Administrative Decision of the Zoning Administrator to Issue Building PERMIT No. 435464	-	BOOKLET	7/3/01
29.	LTR. from JOSEPH L. Bishop, VICE CHAIR, ANC 3G with attachments (A+B)	6/25/01	8	7/5/01
30.	LTR. from ALLEN E. BEACH, SECRETARY, ANC 3G, RE: MOTION to RECUSE BZA MEMBER ANNE M. RENSHAW	7/7/01	1	7/6/01
31.	LTR. from NEBRASKA AVE. Neighborhood Assoc., Page Chiapella, President, RE: MOTION TO RECUSE BZA MEMBER ANNE M. RENSHAW	-	12	"
32.	SUBMISSION FROM MAUREEN DWYER, ETAL. RE: SUNRISE ASSISTED LIVING - RESPONSE TO ANC 3G STATEMENT OF JULY 06, 2001 RE MOTION TO RECUSE BOARD MEMBER ANNE RENSHAW	07/09/01	03	07/09/01
33.	Witness Card	-	1	7.10.01
34.	LTR. from Shaw Pittman w/ATTACHED COPY of SUNRISE'S STATEMENT	7/12/01	BOOKLET	7/12/01
35.	LTR. from Shaw Pittman, RE: EXPERT WITNESS qualifications	7/13/01	10	7/13/01
36.	REQUEST for clarification, REQUEST to STRIKE from RECORD, and MOTION for PARTICIPATION of four BOARD MEMBERS from NEBRASKA AVE. Neighborhood Assoc.	-	3	7/16/01
37.	Witness Cards	-	1	7/11/01
38.	Ltr to Marilyn Holmes	7/26/01	1	-
39.	BZA Order - Recusal of BZA Member A.M. Renshaw	7/24/01	7	-

(SEE FOLDER #2)

EXHIBIT LOG

CASE NO. 16716

EXHIBIT NO.	NATURE OF EXHIBIT	EXHIBIT DATE	NO. PAGES	DATE REC'D
40.	Attestation	7/24/01	1	—
41.	LTR. from Joseph L. Bishop, Vice Chair, ANC-3G, re: Witnesses	7/20/01	8	7/24/01
42.	Nebraska Ave. Neighborhood Association Vol 2 & Vol. 1 Contents	—	48	7/26/01
43.	Submission from John W. Gill, Sr.	—	19	8/3/01
44.	DC Act 13-297	—	36	8/3/01
45.	Testimony of ANC 3G Summary of References	—	8	8/3/01
46.	Witness Cards	—	2	8/3/01
47.	Large-Scaled Plans Discussed/Presented on Aug. 3rd.	—	3	8/3/01
48.	Memo from Page Chiapella Nebraska Ave. Neighborhood Assoc, re: Materials Requested by the BZA on 8/3/01	8/10/01	4	8/10/0
49.	Memo from Michael D. Johnson, Zoning Administrator-DCRA	8/15/01	8	8/15/01
50.	Findings of Fact submitted by the Nebraska Avenue Neighborhood Association	8/28/01	19	8/28/1
51.	Ltr. from Shaw Pittman w/attached Proposed Findings of Fact & Conclusions of Law	8/28/01	26 pgs. + Elevator Design Plan	11
52.	Proposed Findings of Fact submitted by ANC-3G	—	5	8/29/1

EXHIBIT LOG

CASE NO. 16716

EXHIBIT NO.	NATURE OF EXHIBIT	EXHIBIT DATE	NO. PAGES	DATE REC'D
53.	MEMORANDUM from Page Chiapella, NANA, RE: NEW substantive material submitted by INTERVENOR on 8/28/01	8/30/01	6	8/30/01
54.	Ltr. from Shaw Pittman LLP, RE: lastest filing by the Nebraska Neighborhood Association	~~8~~/	~~13~~	—
55.	Final BZA Order 16716A	10/~~11~~12/01	19	—
56.	Attestation	4	2	—
57.	Motion for Reconsideration submitted by ANC 3G	—	4	10/25/01
58.	Ltr. from ANNE Page Chiapella, PH.D. PRES.-Nebraska Ave. Neig. Assn. requesting the BZA to reopen the record + require further hearing on designated issues	10/25/01	7	10/25/01
59.	MEMO to BZA from JERRILY R. KRESS, FAIA, RE: Motion for Reconsideration/ Rehearing	10/26/01	8	10/26/01
60.	Ltr. to Joseph L. Bishop, Vice Chairman, ANC-3G + Marilyn Holmes, ANC 3G07, RE: Motion for Reconsideration	10/26/01	1	—
61.	Certification of Service from ANC 3G-Allen E. Beach	10/29/01	2	10/29/01
62.	Ltr. from Shaw Pittman on behalf of the applicant, RE: Opposition to Motion for Reconsideration	11/5/01	8	11/5/01
63.	Nebraska Avenue Neighborhood Association Statement in Support of the Sua Sponte Review	MOVED to Z.C. File # 01-26/16716	13	11/9/01
64.	Ltr. from Shaw Pittman, RE: Sua Sponte Review of BZA Appeal	MOVED 11/9/01	10	10/9/01
65.	Statement by ANC 3G in Support of Sua Sponte Review	MOVED —	9	10/9/01-FAX 10/13/01

BZA Form 1
(Revised 7/17/95)

Docket No. 16716
EB

BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

APPEAL

NOTE: See reverse side of this form for filing instructions, filing fees and information required by the Board.

DO NOT MAIL DO NOT MAIL

TO THE BOARD OF ZONING ADJUSTMENT:

Pursuant to Sections 3105 and 3106 of the Zoning Regulations of the District of Columbia, an appeal is hereby taken from the administrative decision of Denzil L Noble Acting Administrator BLRA
(Name of administrative officer and title)

made on 3/8/01 (Date of decision), to the effect that Sunny and Louis Reyes are issued building permit No. B435464 to construct a 7-story cast in place concrete structure. CRF housing for the handicapped,

Premises affected are located at 5111, 5113, 5117, 5119, 5121, 5123 & 5125 Connecticut Ave NW (Street Address) 5201, 5203, 5205 Chevy Chase Parkway NW

Lot(s) 49-57 and 161, Square(s) 1989

in the District of Columbia, in Zoning District R5D and R2.

Present Use of Property: residential - occupied and vacant rental/homeowner

Proposed Use of Property: CRF housing for the handicapped: 102 units

Owner of Property: Sunny and Louis Reyes, et al.

Address of Owner: 5201 Chevy Chase Parkway NW, Washington DC 20015.
or 5111 Connecticut Ave. NW, WDC

Name and address of appellant, if other than owner:
Nebraska Avenue Neiborhood Association,
Page Chiapella, President, 5126 Nebraska Ave NW.

State manner in which appellant is aggrieved by administrative decision: Construction of a building which does not comply fully with Title 11 zoning regulations would have significant adverse impact on the neighborhood.

State briefly the allegations of error in administrative decision: Issuance of a building permit in spite of (1) significant inaccurate and incomplete information presented by applicant in building permit application materials; (2) application significantly incomplete before October 16, 2000, →

Relevant Sections of the Zoning Regulations: 330.5(i), 358, 402.4 404, 2101.1, 2200, 2204, 3202

Date: 3/16/01 Signature: Nebraska Avenue Neighborhood Association Anne Page Chiapella President
(Appellant)*
Day 301-443-4715

*If appeal is filed by agent of the appellant, Form 1 (notice of appeal) shall be accompanied by a letter signed by the appellant authorizing the agent to act on his behalf in this appeal.

BZA Case No. 16716
Exhibit No. 1

TO BE NOTIFIED OF HEARING AND DECISION:

Name: Dr. Page Chiapella, President, Nebraska Ave. Neighborhood Assn.

Address: 5126 Nebraska Ave NW, Washington DC

Zip Code 20008 Phone No. H: 202-966-9619 W: 301-443 4715

ANY APPEAL THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

2. cont.
setdown date for zoning district map revision. Application must comply with most restrictive zoning district

3. Noncompliance of building permit application with Title 11 regulations, including setback (rear yard), FAR, parking. loading.

4. Noncompliance of proposed building use with Title 11 regs.

5. Various DCRA and other agency reviews were based on significan inaccurate and incomplete information, including misrepresentation on the application and EISF.

6. Lack of DCRA and/or applicant responses to external agency concerns.

7. Lack of DCRA to provide access to many relevant materials to allow neighbors of proposed building to be informed of zoning issues of the application.

Page Chiapella
1726 Nebraska Ave NW
Washington DC 20008
202-966-9619
301-443-4715

ATTACHMENTS :

A. **Allegations of error, Building Permit No. B435464:**

Issuance of a building permit in spite of:

1. **Significant inaccurate and incomplete information presented by applicant in building permit application materials**

2. **Application significantly incomplete before October 16, 2000, setdown date for zoning district map revision (Case No. 00-23P). Appliction must comply with most restrictive zoning district.**

3. **Noncompliance of application with Title 11 regulations, including setback, FAR, parking, loading.**

4. **Noncompliance of building use with Title 11 regulations.**

5. **Various DCRA and agency reviews were based on significantly inaccurate and incomplete information, including misrepresentations on the application and EISF.**

6. **Lack of DCRA and/or applicant responces to agency concerns.**

7. **Lack of DCRA to provide access to many relevant materials to allow neighbors of proposed building to be informed of zoning issues of the application.**

B. **Copy of building permit application 590AA, dated July 10, 2000.**

C. **Copy of rev. building permit application 590AA, dated February 5, 2001.**

D. **Copy of Environmental Impact screening Form (EISF).**

E. **Copy of issued Building Permit, No. B435464.**

F. **Check for $800.**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

NOTE: The $800 Fee should not apply to this appeal. PLEASE HOLD CHECK until ANC3G votes to join the appeal.

Because the owners of the property have applied to start construction immediately, an expedited appeal is requested.

BZA
Case No. 16716
Exhibit No. 2

★★★ GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION; PERMIT PROCESSING DIVISION (727-7

BLRA-33 (Rev. 10/91)

APPLICATION FOR CONSTRUCTION PERMITS ON PRIVATE PROPERTY

SQ 1989 Lot 21333

(PRINT IN INK OR TYPE; DO NOT WRITE IN SHADED AREAS OR ON PAGE 4)

ERASING, CROSSING OUT, WHITING OUT, OR OTHERWISE ALTERING ANY ENTERED INFORMATION WILL VOID THIS APPLICATIO

(A) ALL APPLICANTS MUST COMPLETE ITEMS 1 THRU 27

1. Address of Proposed Work:	Suite No.:	2. Lot:	3. Square:	4. Application Date:
5111 Connecticut Ave., N.W.		(Site per Sub)	1989	July 10, 2000

5. Owner of Building or Property:	6. Address: *(include Zip)*	7. Phone:
Sunny & Louis Reyes et AL (See Attached Page)	5111 Connecticut Ave. Washington, D.C. 20015	Work: 703-744-1830 Home: 703-627-4985
8. Agent for Owner: *(if applicable)*	**9. Address: *(include Zip)***	**10. Phone:**
Mario Escalante	P.O. Box 501 College Park, MD 20741 - 0501	Work: 301-474-5327 Home: 301-382-2427

11. Type of Proposed Work *(check all applicable boxes):*

- ☒ New Building
- ☐ Addition
- ☐ Alteration and Repair
- ☐ Raze Building
- ☐ Retaining Wall
- ☐ Fence
- ☐ Shed
- ☐ Awning
- ☐ Garage
- ☐ Sign
- ☐ Other *(Specify)* _____

12. Description of Proposed Work:

A seven story cast in place concrete structure containing Assisted Living Residences with underground parking.

BZA
Case No. 16716
Exhibit No. 3

RECEIVED
D.C. OFFICE OF ZONING
2000 JUL 19 PM 3:

13. Existing Use(s) of Building or Property:	14. Ex. No. of Stories of Bldg.:	15. Ex. No. of Dwelling Units:	
~~Residential~~ Vacant land			
16. Proposed Use(s) of Building or Property:	**17. Prop. No. of Stories of Bldg.:**	**18. Prop. No. of Dwelling Units:**	
Residential	7 + Pent	102	

19. Starting Date of Work:	20. Completion Date of Work:	21. Method of Removing Construction Debris:	22. Does the proposed work involve **disturbing the earth** or razing a building?
Oct. 1, 2000	Oct. 1, 2001	☐ Pick-up Truck ☒ Dumpster ☐ Other *(specify):*	☒ Yes, answer **q. 23** ☐ No, SKIP **q. 23-27**

23. Is the area of disturbed earth more than 50 sq. ft.?	24. Soil Erosion Control Methods:	25. Area of Offsite Drainage:	26. No. of Footings or Columns:	27. Size of Footings of Columns:
☒ Yes, answer **q. 24-25** ☐ No, SKIP **q. 24-25**		0 sq. ft.		22 x 22 sq. ft.

ALWAYS SIGN THE APPLICATION ON PAGE 3 (SECTION I).

Complete Section B if the proposed work is **new building, addition or alteration.** (Page 2)
Complete Section C if the proposed work is **razing a building.** (Page 2)
Complete Section D if the proposed work is a **retaining wall.** (Page 2)
Complete Section E if the proposed work is a **fence.** (Page 3)
Complete Section F if the proposed work is a **shed/garage.** (Page 3)
Complete Section G if the proposed work is an **awning.** (Page 3)
Complete Section H if the proposed work is a **sign.** (Page 3)

ad-375

(B) NEW BUILDING, ADDITION, & ALTERATION (COMPLETE ITEMS 28 THRU 60)

28. Architect's Name:	29. Lic. No.:	30. Architect's Address: *(include Zip)*	31. Phone:
Steven H. Ruiz	ARC4553	Beery, Rio & Associates 8001 Braddock Rd., 4th Fl.	703-249-7660
32. Engineer's Name:	**33. Lic. No.:**	**34. Engineer's Address: *(include Zip)***	**35. Phone:**
Clyde G. Hurst, Jr.	3456	Springfield, VA 22151 308 Hillwood Ave.	703-534-7872
36. Building Contractor's Name:	**36A. Lic. No.:**	**37. Contractor's Address:**	**38. Phone:**
To Be Selected		Falls Church, VA 22046	

39. Type of Construction	40. Fire Suppression:	41. Booster Pump:	42. Total Lot Area:	43. Breakdown of Lot Area (= 100%
☐ Masonry ☐ Steel ☐ Wood ☐ Other: ☒ Concrete	☒ Fully Sprinklered ☐ Standpipe System ☐ Partially Sprinklered ☐ None ☐ Other:	☒ New ☐ Existing ☐ None	23,106 sq. ft.	a. Building: 57 % b. Paved Area: % c. Greenery: %

44. Present Gross Floor Area of Bldg.:	45. Proposed Gross Floor Area of Bldg:	46. Floors involved in this permit:	47. **Projection beyond building line?**
sq. ft.	80,800 sq. ft.	☒ All ☐ Floors	☐ Yes, answer **q. 48-52** ☒ No, SKIP **q. 48-52**

48. Number and type of **projection:**	49. Distance of **projection:**	50. Width of **projection:**	51. Width of building frontage: ft 52. Signature of Owner **(projection only):**

53. Water or Sewer Excavation?	54. Driveway Construction?	55. Sheeting/Shoring Necessary?	56. Elevators involved?	57. No. and type of elev.:	58. Plans Certified by Engineer?
☒ Yes ☐ No	☒ Yes ☐ No	☒ Yes ☐ No	☒ Yes, answer **q. 57** ☐ No, SKIP **q. 57**	Geared 2(35001b)	☒ Yes, cert. is attached ☐ No

59. Estimated Cost of Work:
(a) New/Add.: $ 10 Million
(b) Alt/Rep.: $
Total: $ 10 Million

60. Volume of New Bldg. or Addition:
1,048,615 cubic ft.

OFFICIAL USE ONLY

Alter/Repair FEE	New Const. FEE	Filing Fee	TOTAL PERMIT FEE
$	$	$	$
By: Date:	By: Date:	By: Date:	By: Date:

(C) RAZING A BUILDING (COMPLETE ITEMS 61 THRU 83)

61. Raze Contractor's Name:	62. Contractor's Address: *(include Zip)*	63. Phone:

64. Insurance Company:	65. Policy or Certif. No.:	66. Expir. Date:	67. Raze Method:

68. Building Material:	69. Raze Entire Building?	70. Building Condemned?	70A. Building Vacant?	71. Public Space Vault?	72. Disconnect Water and/or Sewer?	73. Size of Water Connection
	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	in.

74. Plumber's Name:	75. Lic. No.	76. Length:	77. Width:	78. Height:	79. Volume:	80. Party Wall?
		ft.	ft.	ft.	cu. ft.	☐ Yes ☐ No

81. Asbestos in the Building?	82. Raze Contractor Signature:	OFFICIAL USE ONLY
☐ No ☐ Yes, Location _____	83. Owner's Signature:	

(D) RETAINING WALL (COMPLETE ITEMS 84 THRU 93)

The retaining wall will not obstruct any accessible parking required by D.C. Zoning Regulations

84. Cost of Work:	85. Material:	86. Height:	87. Color:	88. Location:
$		ft.		☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land*

* If party wall, the owner of the adjoining property must agree to the erection of the retaining wall and this application.

89. Signature of Adjoining Owner:	90. Phone: Work / Home	OFFICIAL USE ONLY
91. Address of Adjoining Owner:	92. Lot: / 93. Square:	FEE / DATE

(E) FENCE (COMPLETE ITEMS 94 THRU 102)

The fence will not obstruct any accessible parking required by D.C. Zoning Regulations

94. Material and type:	95. Height: ft.	96. Color:	97. Location: ☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land *

* If party fence, the owner of the adjoining property must agree to the erection of the fence and this application.

98. Signature of Adjoining Owner:	99. Phone: Work Home	OFFICIAL USE ONLY FEE BY Date
100. Address of Adjoining Owner:	101. Lot:	102. Square:

(F) SHED OR GARAGE (COMPLETE ITEMS 103 THRU 113)

103. Number:	104. Length: ft.	105. Width: ft.	106. Area: sq. ft.	107. Height: ft.	108. Volume: cu. ft.	109. Estimated Cost of Work: $	OFFICIAL USE ONLY FEE BY Date
110. Material of Roof:	111. Material of Sides:	112. Wall thickness:: ☐ External ( ) inches ☐ Party ( ) inches				113. Color:	

(G) AWNING (COMPLETE ITEMS 114 THRU 123)

114. Number:	115. Color:	116. Type: ☐ Folding ☐ Fixed	117. Projections: Beyond bldg. line _____ in. Beyond pt. of attachm. _____ in.			118. Height of lowest part of awning: (a) _____ ft above sidewalk (b) _____ ft above parking (c) _____ f t above grade	OFFICIAL USE ONLY FEE BY Date
119. Material of Frame:	120. Material of Covering:	121. Lettering on Awning? ☐ Yes ☐ No	122. Fixed posts? ☐ Yes ☐ No	123. Over sidewalk cafe? ☐ Yes ☐ No			

(H) SIGN (COMPLETE ITEMS 124 THRU 144)

124. Number:	125. Electric Signs? ☐ Yes, answer q. 126-132 ☐ No, SKIP q. 126-132	126. Type: ☐ Incandes. ☐ Fluoresc. ☐ Neon	127. Power _____ VA	128. Electrical Contractor: Lic. No.:	
129. Address of Electrical Contractor *(include Zip)*	130. Signature of Licensed Electrician:	131. Phone:	132. License No.:		
133. Height relative to building and ground: (a) _____ ft _____ in above sidewalk (b) _____ ft _____ in above roof (c) _____ ft _____ in is bldg height (d) _____ ft _____ in above projection or window (e) _____ ft _____ in from roof to sign's bottom	134. Material of Sign:	135. Type of Sign:	136. Color:		
	137. Width: ft.	138. Length: ft.	139. Area of Sign: sq. ft.	140. Width of Business Frontage: ft.	
141. C of O Number for Building:	142. Sign Contractor Lic. No.:				
143. Sign Contractor's Address:	144. Phone:				

OFFICIAL USE ONLY — Total FEE $ — Elect. FEE $ — Total FEE $ — BY Date — BY Date — BY Date

(I) APPLICANT'S SIGNATURE:

A. **OWNER:** I hereby certify that I am the owner of the property; that the application and plans are complete and correct to the best of my knowledge; and that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Owner: _____ Address: _____ Date: _____

B. **AGENT:** I hereby certify that I have the authority of the owner to make this application. I declare that the application and plans are complete and correct to the best of my knowledge. The owner has assured me that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Agent: [signature] Address: 8605 Cunningham Dr Date: 7-10-00

(J) APPROVALS (DO NOT WRITE ON THIS PAGE; OFFICIAL USE ONLY):

A. PERMIT CONTROL

- ☐ 1. Fine Arts by: _____ Date: _____
- ☐ 2. Historic by: _____ Date: _____
- ☐ 3. PADC by: _____ Date: _____
- ☐ 4. Cap. Gateway by: _____ Date: _____
- ☐ 5. W.H./ Obs. Precinct by: _____ Date: _____
- ☐ 6. Flood Control by: _____ Date: _____
- ☐ 7. WMATA by: _____ Date: _____
- ☐ 8. Condem. by: _____ Date: _____
- ☐ 9. RLA by: _____ Date: _____
- ☐ 10. Rental Accom. by: _____ Date: _____
- ☐ 11. Chinatown Distr. by: _____ Date: _____
- ☐ 12. Utility Clearance by: _____ Date: _____
- ☐ 13. General Liability Ins. Policy Clearance by: _____ Date: _____

B. CLEARANCE TO FILE PLANS

- ☐ 1. Zoning by: _____ Date: _____
- ☐ 2. DPW — Permit and Records Division
  Access to Parking Street ☐ Street ☐ Alley
  Cleared by: _____ Date: 7/10/00
- ☐ 3. DPW - Consumer Engineer
  Cleared by: _____ Date: 7/10/00
- ☐ 4. ERA - Erosion Control
  Cleared by: _____ Date: 7-10-00

Restrictions of the Permit:

C. PLANS AND APPLICATION APPROVAL

- ☐ 1. Information Counter by: _____ Date: 7/10/00
- ☐ 2. Information Center by: _____ Date: _____
  - ☐ (a) ABC Board by: _____ Date: _____
  - ☐ (b) Noise Control by: _____ Date: _____
  - ☐ (c) Industrial Safety by: _____ Date: _____
  - ☐ (d) Vector Control by: _____ Date: _____
  - ☐ (e) D.C. Animal by: _____ Date: _____
  - ☐ (f) Police Dept. by: _____ Date: _____
- ☐ 3. Zoning by: _____ Date: _____
  Zoning Update by: _____ Date: _____
- ☐ 4. DPW - Permit and Records Division/Deposit #
  Sidewalk Deposit $ _____ Driveway Deposit $ _____
  by: _____ Date: 7/10/00
- ☐ 5. Water/Sewer Design Branch
  Consumer Eng. by: _____ Date: _____
- ☐ 6. Environmental Regulation Administration
  - ☐ Environmental Policy Review
    Control No.: _____
    by: _____ Date: _____
  - ☐ Erosion Control by: _____ Date: _____
  - ☐ Storm Water Mgmt. by: _____ Date: _____
  - Plan No. _____
- ☑ 7. Mechanical Eng. Review by: _____ Date: _____
- ☑ 8. Plumbing Eng. Review by: _____ Date: _____
- ☑ 9. Electrical Eng. Review by: _____ Date: _____
- ☐ 10. Health Plan Review
  - ☐ (a) Food Plan Review by: _____ Date: _____
  - ☐ (b) Medical X-ray Plan Rev. by: _____ Date: _____
- ☑ 11. D.C. Fire Dept. (Fire Prevention Plan Review Section) by: _____ Date: _____
- ☑ 12. Elevator Plan Rev. Sec. by: _____ Date: _____
- ☐ 13. Plumbing Insp. Rev. by: _____ Date: _____
- ☐ 14. Construction Insp. Branch (Field Check) by: _____ Date: _____
- ☐ 15. Historic Pres. Div. by: _____ Date: _____
- ☑ 16. Structural Eng. by: _____ Date: _____
- ☐ 17. Permit and Certificate Issuance Counter By: _____ Date: _____
- ☐ 18. Q.C. By: _____ Date: _____

TO REPORT WASTE, FRAUD, OR ABUSE BY ANY D.C. GOVERNMENT OFFICE OR OFFICIAL, CALL THE D.C. INSPECTOR GENERAL AT 1-800-521-1639

ZONING

C of O Number _____ Date _____
Existing Use(s) _____

☐ New bldg.
☐ P.O.D.
☐ File in room 329

Job No.:	BZA Case No.:	PUD Order No.:

DPW — PUBLIC SPACE

Street Name: _____
Street Width: _____
Road Width: _____
Sidewalk Width: _____
Parking: _____
Restrictions: _____

PRE-FILE NUMBERS		ZONING DISTRICT	FILE NUMBER	PERMIT NUMBER	
P.A.D.C. No.:	O.G. No.:				By:
H.P.A. No.:	S.L. No.:	Ward No.:	Receipt No.:	Date:	Receipt No.:

★ ★ ★ GOVERNMENT OF THE DISTRICT OF COLUMBIA

BLRA-33 (Rev. 10/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION; PERMIT PROCESSING DIVISION (727-7050)

APPLICATION FOR CONSTRUCTION PERMITS ON PRIVATE PROPERTY

(PRINT IN INK OR TYPE. DO NOT WRITE IN SHADED AREAS OR ON PAGE 4)

Rev 590AA

CLEARANCE TO FILE
By: _____ Date _____

ERASING, CROSSING OUT, WHITING OUT, OR OTHERWISE ALTERING ANY ENTERED INFORMATION WILL VOID THIS APPLICATION

(A) ALL APPLICANTS MUST COMPLETE ITEMS 1 THRU 27

1. Address of Proposed Work:	Suite No.:	2. Lot: Site Persub	3. Square:	4. Application Date:
5111 Conn Ave. N.W.			1989	July 16, 2001

5. Owner of Building or Property: (see attached Pages)	6. Address: (include Zip)	7. Phone: 703 Update
Sunny + Louis Reyes, et al.	5111 Conn Ave. N.W.	Work: 744-1830 Home:

8. Agent for Owner: (if applicable)	9. Address: (include Zip)	10. Phone: 301
Mario Escalante	4920 Niagara Rd 101	Work: 986-0020 Home:

11. Type of Proposed Work (check all applicable boxes):

- ☒ New Building
- ☐ Addition
- ☐ Alteration and Repair
- ☐ Raze Building
- ☐ Retaining Wall
- ☐ Fence
- ☐ Shed
- ☐ Awning
- ☐ Garage
- ☐ Sign
- ☐ Other (Specify) _____

RECEIVED
JUL 16 PM 2001
D.C.R.A.

12. Description of Proposed Work:

5 story cast in place concrete structure containing ~~Assisted~~ Living Residences (CRF, housing for the handicapped as the term is defined by the Fair Housing Act) with underground parking.

13. Existing Use(s) of Building or Property:	14. Ex. No. of Stories of Bldg.:	15. Ex. No. of Dwelling Units:	Official Use Only Miscellaneous FEE $
Residential, Partially vacant Facilities			By: Date:
16. Proposed Use(s) of Building or Property:	17. Prop. No. of Stories of Bldg.:	18. Prop. No. of Dwelling Units:	
CRF (housing for the handicapped as the term is defined by the Fair Housing Act)	7 + Pent	102	

19. Starting Date of Work:	20. Completion Date of Work:	21. Method of Removing Construction Debris:	22. Does the proposed work involve disturbing the earth or razing a building?
ASAP	Feb 15, 2002	☐ Pick-up Truck ☐ Dumpster ☐ Other (specify):	☒ Yes, answer q. 23 ☐ No, SKIP q. 23-27

23. Is the area of disturbed earth more than 50 sq. ft.?	24. Soil Erosion Control Methods:	25. Area of Offsite Drainage:	26. No. of Footings or Columns:	27. Size of Footings of Columns:
☒ Yes, answer q. 24-25 ☐ No, SKIP q. 24-25		0 sq. ft.		22X22 sq. ft.

ALWAYS SIGN THE APPLICATION ON PAGE 3 (SECTION I).

Complete Section B if the proposed work is **new building, addition or alteration.** (Page 2)
Complete Section C if the proposed work is **razing a building.** (Page 2)
Complete Section D if the proposed work is a **retaining wall.** (Page 2)
Complete Section E if the proposed work is a **fence.** (Page 3)
Complete Section F if the proposed work is a **shed/garage.** (Page 3)
Complete Section G if the proposed work is an **awning.** (Page 3)
Complete Section H if the proposed work is a **sign.** (Page 3)

BZA
Case No. 16716
Exhibit No. 4

2-0307 wd-375

OFFICIAL USE ONLY	R	P	H	A	
M					
P					
E					W: ☐ Yes ☐ No
F					PLANS:
S					☐ No ☐ Sm. ☐ Lg.

(B) NEW BUILDING, ADDITION, & ALTERATION (COMPLETE ITEMS 28 THRU 60)

28. Architect's Name:	29. Lic. No.:	30. Architect's Address: *(include Zip)*	31. Phone:
RAI2	4553		349-76
32. Engineer's Name:	**33. Lic. No.:**	**34. Engineer's Address: *(include Zip)***	**35. Phone:**
HURST	3456		534-781
36. Building Contractor's Name:	**36A. Lic. No.:**	**37. Contractor's Address:**	**38. Phone:**
TBD			

39. Type of Construction	40. Fire Suppression:	41. Booster Pump:	42. Total Lot Area:	43. Breakdown of Lot Area (= 10
☐ Masonry ☑ Steel ☐ Wood ☐ Other: ☑ Concrete	☑ Fully Sprinklered ☐ Standpipe System ☐ Partially Sprinklered ☐ None ☐ Other:	☑ New ☐ Existing ☐ None	sq. ft.	a. Building: 57 b. Paved Area: c. Greenery:

44. Present Gross Floor Area of Bldg.:	45. Proposed Gross Floor Area of Bldg:	46. Floors involved in this permit:	47. Projection beyond building lin
sq. ft.	80,800 sq. ft.	☒ All ☐ Floors	☐ Yes, answer q. 48-52 ☒ No, SKIP q. 48-52

48. Number and type of **projection:**	49. Distance of **projection:**	50. Width of **projection:**	51. Width of building frontage: 52. Signature of Owner **(projection only):**

53. Water or Sewer Excavation?	54. Driveway Construction?	55. Sheeting/Shoring Necessary?	56. Elevators involved?	57. No. and type of elev.:	58. Plans Certified by Engineer?
☒ Yes ☐ No	☒ Yes ☐ No	☒ Yes ☐ No	☒ Yes, answer q. 57 ☐ No, SKIP q. 57	GEARED 2(3500 lb)	☒ Yes, cert. is attache ☐ No

59. Estimated Cost of Work:	OFFICIAL USE ONLY			
(a) New/Add.: $ 10 mil	Alter/Repair FEE	New Const. FEE	Filing Fee	TOTAL PERMIT FEE
(b) Alt/Rep.: $	$	$ 20,972.30	$ 2000.00	$ 18,972.30
Total: $ 10 mil	By: Date:	By: 2/15/01	By: Date:	By: 3/5/01

60. Volume of New Bldg. or Addition: 1,048,615 cubic ft.

(C) RAZING A BUILDING (COMPLETE ITEMS 61 THRU 83)

61. Raze Contractor's Name:	62. Contractor's Address: *(include Zip)*	63. Phone:

64. Insurance Company:	65. Policy or Certif. No.:	66. Expir. Date:	67. Raze Method:

68. Building Material:	69. Raze Entire Building?	70. Building Condemned?	70A. Building Vacant?	71. Public Space Vault?	72. Disconnect Water and/or Sewer?	73. Size of Wate Connection:
	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	in.

74. Plumber's Name:	75. Lic. No.	76. Length:	77. Width:	78. Height:	79. Volume:	80. Party Wall?
		ft.	ft.	ft.	cu. ft.	☐ Yes ☐ No

81. Asbestos in the Building?	82. Raze Contractor Signature:	OFFICIAL USE ONLY		
☐ No ☐ Yes, Location	83. Owner's Signature:	FEE	By:	Date:
		$		

(D) RETAINING WALL (COMPLETE ITEMS 84 THRU 93)

The retaining wall will not obstruct any accessible parking required by D.C. Zoning Regulations

84. Cost of Work:	85. Material:	86. Height:	87. Color:	88. Location:
$		ft.		☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land*

* If party wall, the owner of the adjoining property must agree to the erection of the retaining wall and this application.

89. Signature of Adjoining Owner:	90. Phone: Work / Home	OFFICIAL USE ONLY		
		FEE	By:	Date:
91. Address of Adjoining Owner:	92. Lot:	93. Square:		

(E) FENCE (COMPLETE ITEMS 94 THRU 102)

The fence will not obstruct any accessible parking required by D.C. Zoning Regulations

94. Material and type:	95. Height: ft.	96. Color:	97. Location: ☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land *

* If party fence, the owner of the adjoining property must agree to the erection of the fence and this application.

98. Signature of Adjoining Owner:	99. Phone: Work Home	OFFICIAL USE ONLY: FEE $	By:	Date:
100. Address of Adjoining Owner:	101. Lot:	102. Square:		

(F) SHED OR GARAGE (COMPLETE ITEMS 103 THRU 113)

103. Number:	104. Length: ft.	105. Width: ft.	106. Area: sq. ft.	107. Height: ft.	108. Volume: cu. ft.	109. Estimated Cost of Work: $	OFFICIAL USE ONLY: FEE $	By:	Date:
110. Material of Roof:	111. Material of Sides:	112. Wall thickness:: ☐ External ( ) inches ☐ Party ( ) inches				113. Color:			

(G) AWNING (COMPLETE ITEMS 114 THRU 123)

114. Number:	115. Color:	116. Type: ☐ Folding ☐ Fixed	117. Projections: Beyond bldg. line _____ in. Beyond pt. of attachm. _____ in.	118. Height of lowest part of awning: (a) _____ ft above sidewalk (b) _____ ft above parking (c) _____ ft above grade	OFFICIAL USE ONLY: FEE $	By:	Date:

119. Material of Frame:	120. Material of Covering:	121. Lettering on Awning? ☐ Yes ☐ No	122. Fixed posts? ☐ Yes ☐ No	123. Over sidewalk cafe? ☐ Yes ☐ No

(H) SIGN (COMPLETE ITEMS 124 THRU 144)

124. Number:	125. Electric Signs? ☐ Yes, answer q. 126-132 ☐ No, SKIP q. 126-132	126. Type: ☐ Incandes. ☐ Fluoresc. ☐ Neon	127. Power _____ VA	128. Electrical Contractor: Lic. No.:

129. Address of Electrical Contractor *(include Zip)*	130. Signature of Licensed Electrician:	131. Phone:	132. License No.:

133. Height relative to building and ground: (a) _____ ft _____ in above sidewalk (b) _____ ft _____ in above roof (c) _____ ft _____ in is bldg height (d) _____ ft _____ in above projection or window (e) _____ ft _____ in from roof to sign's bottom	134. Material of Sign:	135. Type of Sign:	136. Color:

137. Width: ft.	138. Length: ft.	139. Area of Sign: sq. ft.	140. Width of Business Frontage: ft.

141. C of O Number for Building:	142. Sign Contractor Lic. No.:	43. Sign Contractor's Address:	144. Phone:

OFFICIAL USE ONLY					
Sign FEE		Elect. FEE		Total FEE	
$		$		$ 110	
By:	Date:	By:	Date:	BY:	Date:

(I) APPLICANT'S SIGNATURE:

A. **OWNER:** I hereby certify that I am the owner of the property; that the application and plans are complete and correct to the best of my knowledge; and that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Owner:_____ Address:_____ Date:_____

B. **AGENT:** I hereby certify that I have the authority of the owner to make this application. I declare that the application and plans are complete and correct to the best of my knowledge. The owner has assured me that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Agent: Mario Contente Address: 4920 NIAGARA RD Date: 2-5-00

(J) APPROVALS (DO NOT WRITE ON THIS PAGE; OFFICIAL USE ONLY):

A. PERMIT CONTROL

- ☐ 1. Fine Arts by: _____ Date: _____
- ☐ 2. Historic by: _____ Date: _____
- ☐ 3. PADC by: _____ Date: _____
- ☐ 4. Cap. Gateway by: _____ Date: _____
- ☐ 5. W.H./ Obs. Precinct by: _____ Date: _____
- ☐ 6. Flood Control by: _____ Date: _____
- ☐ 7. WMATA by: _____ Date: _____
- ☐ 8. Condem. by: _____ Date: _____
- ☐ 9. RLA by: _____ Date: _____
- ☐ 10. Rental Accom. by: _____ Date: _____
- ☐ 11. Chinatown Distr. by: _____ Date: _____
- ☐ 12. Utility Clearance by: _____ Date: _____
- ☐ 13. General Liability Ins. Policy Clearance by: _____ Date: _____

B. CLEARANCE TO FILE PLANS

- ☐ 1. Zoning by: _____ Date: _____
- ☐ 2. DPW — Permit and Records Division
  Access to Parking Street ☐ Street ☐ Alley
  Cleared by: _____ Date: 2/7/01
- ☐ 3. DPW - Consumer Engineer
  Cleared by: _____ Date: _____
- ☐ 4. ERA - Erosion Control
  Cleared by: _____ Date: _____

Restrictions of the Permit:
NOTIFY DEPARTMENT OF PUBLIC WORKS
48 HOURS PRIOR TO START OF CONSTRUCTION
DC WASA, WATER SVC, SEWER SVC
RALPH JORDAN, MARTIN WALLACE
AREA CONSTRUCTION ENGINEER, WASUA
TELEPHONE PLUMBING AND MECHANICAL
PERMITS ARE REQUIRED. (202) 787-2393
(202) 612-3460

TO REPORT WASTE, FRAUD, OR ABUSE BY ANY D.C. GOVERNMENT OFFICE OR OFFICIAL, CALL THE D.C. INSPECTOR GENERAL AT 1-800-521-1639

C. PLANS AND APPLICATION APPROVAL

- ☑ 1. Information Counter by: [illegible] Date: 2/5/01
- ☐ 2. Information Center by: _____ Date: _____
  - ☐ (a) ABC Board by: _____ Date: _____
  - ☐ (b) Noise Control by: _____ Date: _____
  - ☐ (c) Industrial Safety by: _____ Date: _____
  - ☐ (d) Vector Control by: _____ Date: _____
  - ☐ (e) D.C. Animal by: _____ Date: _____
  - ☐ (f) Police Dept. by: [illegible] Date: 2/14/01
- ☑ 3. Zoning by: [illegible] Date: _____
  Zoning Update by: _____ Date: _____
- ☑ 4. DPW - Permit and Records Division/Deposit # D02984
  Sidewalk Deposit $ 10,000 Driveway Deposit $ _____
  by: _____ Date: 3/5/01
- ☑ 5. Water/Sewer Design Branch
  Consumer Eng. by: [illegible] Date: 3-8-2001
- ☐ 6. Environmental Regulation Administration
  - ☐ Environmental Policy Review
    Control No.: 00-00014
    by: [illegible] Date: 3/8/01
  - ☑ Erosion Control by: [illegible] Date: 3-06
  - ☐ Storm Water Mgmt. by: [illegible] Date: 3-06-01
  - Plan No. N/A
- ☐ 7. Mechanical Eng. Review by: [illegible] Date: 2/4/01
- ☐ 8. Plumbing Eng. Review by: [illegible] Date: 2/2/01
- ☐ 9. Electrical Eng. Review by: [illegible] Date: 2/27/01
- ☒ 10. Health Plan Review
  - ☒ (a) Food Plan Review by: [illegible] Date: 2/7/01
  - ☐ (b) Medical X-ray Plan Rev. by: _____ Date: _____
- ☐ 11. D.C. Fire Dept. (Fire Prevention Plan Review Section) by: [illegible] Date: 2/26/01
- ☐ 12. Elevator Plan Rev. Sec. by: [illegible] Date: 2-07-01
- ☐ 13. Plumbing Insp. Rev. by: _____ Date: _____
- ☐ 14. Construction Insp. Branch (Field Check) by: _____ Date: _____
- ☐ 15. Historic Pres. Div. by: _____ Date: _____
- ☐ 16. Structural Eng. by: [illegible] Date: 3/8/01
- ☐ 17. Permit and Certificate Issuance Counter By: _____ Date: _____
- ☐ 18. Q.C. By: [illegible] Date: 3/8/01

ZONING

C of O Number _____ Date _____
Existing Use(s) POD NEW BUILDING

- ☐ New bldg.
- ☐ P.O.D.
- ☐ File in room 329

Job No.:	BZA Case No.:	PUD Order No.:

DPW — PUBLIC SPACE

Street Name: _____
Street Width: _____
Road Width: _____
Sidewalk Width: _____
Parking: _____
Restrictions: _____

DISTRICT OF COLUMBIA GOVERNMENT
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
ENVIRONMENTAL REGULATION ADMINISTRATION

ENVIRONMENTAL IMPACT SCREENING FORM
(EISF)

The Environmental Impact Screening Form (EISF) is designed to help applicants and District government agencies determine, in a orderly manner weather, a "major action", as defined in the District of Columbia Environmental Policy Act of1989, would likely result in significant adverse environmental impacts, either during the construction or operation phase of the project. The question of whether an impact is significant is not always easy to answer. Frequently there are aspects of a project which are subjective or unmeasureable. The EISF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to specific project or action.

The Environmental Impact Screening Form is comprised of three parts:

Part 1: Provides objective data and information about a given project and its site. By identifying basic project data, it assists the government reviewers in the analysis that takes place in Parts 2 and 3. This part must be filled out by the applicant.

Part 2: Identifies the range of possible impacts that may occur from a project during construction or afterwards. It provides guidance (by example) as to whether an impact is to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced. This part is filled out by the lead agency reviewers.

Part 3: If any impact in Part 2 is identified as potentially-large, even if it can be mitigated, then Part 3 is used to evaluate whether or not tbe impact is significant. This part is completed bv tbe lead agency reviewers.

PART 1 - PROJECT INFORMATION

NOTICE: This document is designed to assist in determining whether the action proposed will likely have a significant adverse impact on thc environment. The applicant must answer all the questions in Part 1. Answers to the questions will bc considered as part of the application for approval and will be subject to further verification. Further information may be required. Provide any additional information you believe will be needed to complete Parts 2 and 3 of this form.

Name of Project 5111 Connecticut Ave., N.W.		
Location of Project (Street Address) 5111 Connecticut Ave., N.W.	Lot 49-57 & 161	Square 1989
Name of Applicant Mario Escalante	Telephone 703-744-1830	
Mailing Address 5111 Connecticut Ave., N.W.		
City Washington	State DC	Zip 20015
Name of Owner Sunny & Louis Reyes, Et. Al.	Telephone	
Mailing Address P.O. Box 501		
City College Park	State MD	Zip 20741-0501

BZA
Case No. 16716
Exhibit No. 5

Please Complete Each Question – Indicate N.A. if not applicable

A. SITE DESCRIPTION

1. Present land use: a. ☐ Industrial ☐ Commercial ☒ Residential
☐ Public/Institutional ☐ Other _____
b. Percent of impervious area 85 %; Percent of previous area 15 %

2. What is the current zoning classification(s)of the site? R-5-D

3. What are the predominant land uses and zoning classifications within a 1/4 mile radius of the project site?
Residential

4. Total size of project land area: 27,650/0.634 Square feet/Acres

5. What is predominant soil type(s) on project site? Urban Land

6. What is the Federal Emergency Management Administration (FEMA) flood zone designation for the project site?
Zone C

7. Approximate percentage of project site with slopes: ☐ 0-10% 92 % ☐ 10-15% 5 %
☐ greater than 15% 3 %

8. List all adjacent properties and describe the current usage of each:
North – Chevy Chase Parkway
East – Lot 122 Residential and Public Alley
South – Lot 48 Residential
West – Connecticut Avenue

a. List any of the adjacent properties or buildings on the adjacent properties which are listed on the National Register of Historic Places:

9. What is the depth of the water table? 25-33 (in feet, if known)

10. Does the project site contain any species of plant or animal that is identified as threatened or endangered?
☐ Yes ☒ No Identify each species per Ira Palmer at D.C. Deptarment of Health Fisheries & Wildlife Division
Note: If you answer YES to this question, you most contact the U.S. Fish and Wildlife Service office in Annapolis, Maryland at (410) 573-4542.

11. Are any streams within or contiguous to the project site? ☐ Yes ☒ No
a. Name of the stream and the river to which it is a tributary _____

12. Are any lakes, ponds, springs or wetlands within or contiguous to the project site? ☐ Yes ☒ No
a. Name _____ b.Size _____

13. Is the site served by existing public utilities? ☒ Gas ☒ Electric ☒ Water
☒ Sanitary sewer ☒ Storm Sewer ☒ Combined Sewer

a. Does sufficient capacity exist to allow connection? ☒ Yes ☐ No
b. Will improvements be necessary to allow connection? ☐ Yes ☒ No

14. Has the site ever been used as a landfill, construction fill or for the disposal of solid wastes? ☐ Yes ☒ No

B. PROJECT DESCRIPTION

1. Physical dimensions and scale of project (fill in dimensions as appropriate)
   a. Project area to be developed: 27,650/0.634 (sq. ft./acres)
   b. Project area to remain undeveloped: 0 (sq. ft./acres)
   c. Dimensions of proposed structure: 23'-2" height; 70'-11" width; 168'-2" length
   d. Gross floor acre of proposed structure: 80,620 sq. ft.
   h. Depth of any escavation: 13' average; 15' maximum

2. Does the proposed action involve a planning or zoning decision? ☐Yes ☒No
   If Yes indicate decision requared:
   ☐zoning variance ☐special exception ☐special use permit
   ☐subdivision ☐large tract review ☐other_____

3. a. Will the proposed project contain residential premises, apartment dwellings, housing subdivisions or other housing complexes designed to house fifty (50) of more families? ☐Yes ☒No

   b. Will the proposed projects consist of shopping and/or office and/or commercial facilities having 50,000 or more square feet of gross floor space? ☐Yes ☒No

   c. Will the proposed project consist of entertainment and/or recreational facilities including but not limited to theaters, auditoriums, sports stadiums, bowling alleys, etc. having a capacity to accommodate more than 400 persons at one time? ☐Yes ☒No

   d. Will the proposed projects consist of or include parking facilities (garages, surface lots, etc.) having a capacity of 50 or more vehicles? ☐Yes ☒No

   e. Will the proposed project increase traffic volume which would result in a street volume-to-capacity ratio of 0.90 or greater (Street Level-of-Service E or F)? ☐Yes ☒No 6 a.m. peak hour trips 17 p.m. peak hour trips

   f. Will the proposed project increase traffic volume which would result in a vehicle delay of 40.1 or more seconds at any signalized intersection (Intersection Level-of-Service E or F)? ☐Yes ☒No

   NOTE: If you answered YES to any of the questions 3. (a. through f.) you are required to submit an air quality analysis of emissions (in pounds or tons of pollutants per day) of Carbon Monoxide (CO), volatile organic compounds (VOCs), and nitrogen oxides (NO_x) resulting from the operation of mobile sources associated with the proposed project. The most current version of the U.S. Environmental Protection Agency's (EPA's) "MOBILE" emissions factor model must be used in deriving the emissions estimates. In addition, an analysis of the impact from mobile sources on CO concentrations (in parts per million) in the vicinity of the proposed project must also be provided. This analysis, at a minimum, must be conducted in accordance with the procedures identified in the EPA guidance document entitled Guidelines for Air Quality Maintenance Planning and Analysis Volume 9: Evaluating Indirect Sources (Publication No. EPA-450/4-74-10) using an approved air quality dispersion model and must include a comparison of the resulting air quality with both the one (1) hour average and eight (8) hour average National Ambient Air Quality Stantards (NAAQS) for CO.

4. Will the proposed project result in an emission into the atmosphere of odorous or other air pollutants from any source, in any quantity and of any characteristic and duration which is or is likely to be injurious to the public health or welfare or which interferes with the reasonable enjoyment of life and property? ☐Yes ☒No
   a. If Yes descsibe:_____

5. How much natural material (rock, earth, etc.) will be removed from the site? 11,700/7,000 tons/cubic yards

6. How much vegetation will be removed from the site? 0.16 sq.ft./acres

7. Will any mature trees or other locally important vegetation be removed from the site? ☐Yes ☒No

8. Will construction be on land where tbe depth to the water table is less than 3 feet? ☐Yes ☒No

9. Will construction be on land where the bedrock is exposed or is within 3 feet of tite existing ground surface? ☐Yes ☒No

10. Will the construction disturb more than 5,000 square feet of soil? ☒Yes ☐No

11. Will disturbed trees be reclaimed? ☒Yes ☐No ☐N/A
    a. If Yes, for what intended purpose is the site being reclaimed? Building Construction

12. If project is single-phase: Period of construction 14 months (induding demolition)

13. If project is multi-phased:
    a. Total number of phases anticipated:_____
    b. Anticipated date of commencement of phase 1_____month____year
    c. Approximate date of completion of final phase_____month____year
    d. Is phase 1 functionally dependent on subsequent phases? ☐Yes ☐No

14. Will blasting occur during construction? ☐Yes ☒No

15. Will the surface area of an existing water body be increased or decreased by the project? ☐Yes ☒No
    a. If Yes,explain_____

16. Is the project or any portion of the project in a 100 year flood plain? ☐Yes ☒No
17. Will liquid waste be generated, either during construction or afterwards? ☐Yes ☐No
    a. If Yes, indicate type of waste (chemical, industrial, sewage, etc.) and amount_____
    b. How will this waste be disposed of?_____

18. Will the project generate solid, medical, infectious, radioactive or hazardous waste? ☐Yes ☒No
    a. If Yes, what is tbe type and amount per montb?_____type; _____amount
       Will an existing waste disposal facility be used? ☐Yes ☒No
       Give name_____ ; location_____
    b. Will any wastes not go into a waste disposal facility? ☐Yes ☒No
       If Yes, explain_____
19. Will the project produce odors? ☐Yes ☒No
    a. If Yes, describe source of odors and duration_____

20. Will the project produce noise, either during construction or afterwards, exceeding the existing ambient noise levels? ☐Yes ☒No

21. Will any underground storage tanks be installed? ☐Yes ☒No
    a. If Yes, how many tanks will be installed?_____
    Contents:_____Capacity:_____(gallons)

22. Will pesticides (herbicides, insecticides, etc.) be used? ☐Yes ☒No

23. Will the proposed project require the issuance of any permits or other approvals (Certificate of Occupancy, Public Space Pemit, Air Pollution Permit, Stormwater Management Permit, Pretreatment Permit, Zoning Approvals, etc.) from the District Government, in addition to a Construction Pemit? ☐Yes ☐No
    a. If Yes, list alll required permits: Public Space Permit, Stormwater Management Permit, Sediment Control

24. Will the proposed project require the issuance of any permits or other approvals (NPDES, Section 404 Dredge and Fill Permit, etc.) from the Federal Govenment? ☐ Yes ☒ No

a. If Yes, list all required permits:_____

25. What is the Standard Industrial Classification (SIC) Code for the proposed facility? 6513 see attached description

C. INFORMATIONAL DETAILS

Attach any additional information as may be needed to clarify your project. This information could be in the form of a narrative description of the project, brochures describing the project or processing equipment, geotechniacl reports, soil surveys, Phase I and Phase II Environmental Assessments, traffic surveys, air quality asalysis, or any other information which may be available which will assist the reviewers in making their determinations. Use separate sheets, if necessary, to expand on any answers or esplainations given in Part 1 of this EISF.

D. VERIFICATION

I CERTIFY THAT THE INFORMATION PROVIDED IN THIS ENVIRONMENTAL IMPACT SCREENING FORM IS TRUE TO THE BEST OF MY KNOWLEDGE.

Applicent/Representative:

Name (Print) Steven H. Ruiz Date September 13, 2000

Signature _____ Title Partner Beery Rio & Associates

Adress 8001 Braddock Road, 4th Floor, Springfield VA 22151

Telephone Number (703) 426-9057

BEERY RIO &
ASSOCIATES
ARCHITECTS
8001 BRADDOCK ROAD, 4th FLOOR
SPRINGFIELD, VIRGINIA 22151
(p) 703.426.9057 (f) 703.426.9280
www.beeryrio.com

DISTRICT OF COLUMBIA
ATTACHMENT
B. PROJECT DESCRIPTION 3.A

Dear Reviewer:

The assisted living residence at 5111 Connecticut Avenue, N.W. contains 102 units that provide assisted living services to seniors. Assisted living services include a small living unit (approximately 400 – 600 sq. ft.) with a private bathroom. Meals are provided in a common dining room with a centralized kitchen. The facility has large common areas in which patients spend the majority of their time. Most patients require assistance with several activities of daily living (e.g., bathing, dressing, eating, etc.) as well as medication assistance and/or administration. Many receive physical therapy and other medical services and a significant number suffer from dementia, Alzheimer's or related disorders. A recent national survey found approximately 40% of patients in assisted living facilities had Alzheimer's disease or a related disorder. All patients are monitored and assisted by staff on a 24 hour basis. As a patient's condition changes, the patient is often moved to a different unit to better meet his/her needs. A resident may change units several times during their stay.

These residents are not able to drive and parking facilities on our site do not have spaces for that use. In fact, there are only 31 parking spaces and two loading berths. The use of the spaces are for employees and guests.

DEPARTMENT OF HEALTH
ENVIRONMENTAL HEALTH ADMINSTRATION
BUREAU OF HAZARDOUS MATERIAL AND TOXIC SUBSTANCES
RISK ASSESSMENT, REMEDIATION, AND CERTIFICATION DIVISION (RARCD)
LEAD HAZARD CONTROL QUESTIONNAIRE

Project Address: 5111 Connecticut Ave., N.W.
Sunny & Louis Reyes, Et. Al
Name of owner Address of owner

Phone # 703-744-1830 Square # 1989 Lot # 49-57 & 161 Ward #_____

Note: Please answer all questions by checking "YES" or "NO", If you answer "YES', to any question, contact the Risk Assessment, Remediation, and Certification Division at 51 N Street, N.E., 3rd Floor or call (202) 535-2637 for a lead abatement permit application.

SCOPE OF PROJECT	YES	NO	COMMENTS	*(For official use only)* RARCD REMARKS
Does the proposed project generate lead dust/ debris?		X		
Does the proposed project involve encapsulating lead-based paint?		X		
Does the proposed project involve dry sanding /scraping of painted surfaces?		X		
Does the proposed project involve the use of power washing?		X		
Does the proposed project involve welding on painted surfaces		X		
Does the proposed project involve door and window repairs/ replacement?		X		
Does the proposed project involve baseboard, siding, casing and trim replacement?		X		
Has a child, who resides ore regularly visits this address, been identified as lead poisioned?		X		

AFFIDAVIT

I hereby certify that I have the authority to represent the owner of the property and to answer this questionnaire. I declare that the answers to the above questions are accurate, true and complete to the best of my knowledge.

Signature Steven H. Ruiz Date 9.13.2000

Name (Print) STEVEN H. RUIZ A.I.A., O.A.A.

For Official Government Use Only

PERMIT REQUIRED ☐ YES ☐ NO

Reviewed By _____ Date _____

Case No. 16711
Exhibit No. 6

BZA

PERMIT

★★★ GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
(Rev. 9/30/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT PERMIT NO. B435464

Date 3/8/01 (Type) NEW BLDG.

Address of work 5111 CONN. AVE.N.W. Square 1989 Lot SITE PER PLAT

Permission is hereby granted to SUNNY AND LOUIS REYES, ET AL (Owner)
who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

TOTAL PERMIT FEE $ 20.972.30
FILING FEE $ 2000.00
DATE
FEE PAYABLE $ 18,972.30
FOR INSPECTIONS CALL 727-7562

Authorized work and conditions of performance thereof:

SEVEN STORY CAST IN PLACE CONCRETE STRUCTURE CONTAINING ASSISTED LIVING RESIDENCES (CRF, HOUSING FOR THE HANDICAPPED AS THE TERM IS DEFINED BY THE HOUSTON ACT) WITH UNDERGRD PARKING.

Builder
Width of Bldgs. Length Height Value $ No. of Bldgs.
Zone To be occupied as No. of Stories
Height of terrace above grade Projections
Address of owner SAME ASABOVE
Deposit No. Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

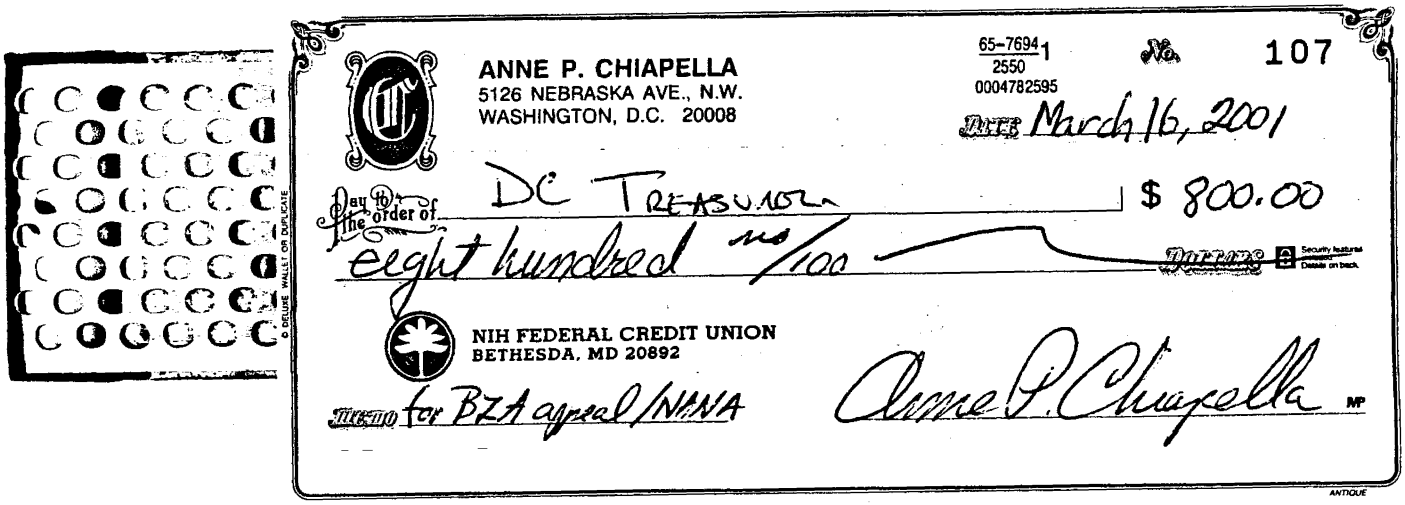
Chief, Permit Issuance Branch

D.MINOR
Permit Clerk

NOTIFY DEPT. OF PUBLIC WORKS 48 HOURS PRIOR TO START OF CONST. DCWASA, WATER SVC AND SEWER SVC, RALPH JORDAN, MARTIN WALLACE. AREA CONST. ENGINEER 2/7 Director3., 2/612-3460. SEPARATE ELECTRICAL, PLBG AND MECH INSTALLATION PERMIT IS REQUIRED.

NO. EB2000715 Reg# 148749 Amount $*18,972.30 Location: 5111 CONN AVE N.W. Storing 0001 D.C. GOVERNMENT BUILDING STRUCTURES CASHIER OFFICE

2001 MAR 16 PM 3:53



ANNE P. CHIAPELLA
5126 NEBRASKA AVE., N.W.
WASHINGTON, D.C. 20008

65-7694/2550 1 No. 107
0004782595

DATE March 16, 2001

Pay to the order of DC TREASURER $ 800.00

eight hundred no/100 DOLLARS

NIH FEDERAL CREDIT UNION
BETHESDA, MD 20892

Memo for BZA appeal/NANA

Anne P. Chiapella

D.C. OFFICE OF ZONING

BOARD OF ZONING ADJUSTMENT
WASHINGTON, D.C. 20001

RECEIPT

BZA CASE NO. 16716 **(DATE)** MARCH 16, 01

Name SUNNY AND LOUIS REYES, ETAL **Amount $** 800.00

Address 5201 CHEVY CHASE PARKWAY, N.W., WDC 20015

DESCRIPTION

APPEAL OF SUNNY & LOUIS REYES, ETAL FROM THE DECISION OF THE ZONING ADMINISTRATOR PERMIT NO. R435464 TO CONSTRUCT A 7-STORY CAST IN PLACE CONCRETE STRUCTURE CRE FOR THE HANDICAPPED IN A R-5-D & R-2 LOCATED AT 5111, 5113, 1517, 5119, 5121, 5123 & 5125 CONN. AVE NW & 5201, 5203, 5205 CHEVY CHASE PARKWAY NW., SQUARE 1989, LOTS 49-59 & 161

BZA-0100/9-98 98-0857

BZA
Case No. 16716
Exhibit No. 7

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Consideration of your Appeal No. 16716 **, filed on** 3/16/01 , will be governed by the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment, effective on August 27, 1982. Under these Rules, your appeal will be set for public hearing on the first available date. The Board holds at least **TWO HEARINGS** per month. Cases are set for hearing on a first come, first served basis. You will be notified of the date of the hearing approximately **FORTY (40) DAYS** in advance.

Please be advised that it is the responsibility of the appellant to carry the burden of proof for the appeal. That means that you must **demonstrate** to the Board **why the administrative decision for which this appeal is filed was in error.**

You are also advised that if you intend to submit materials in support of your appeal, any documentary evidence must be filed with the Office of Zoning at least **FOURTEEN (14) DAYS** prior to the **date of the hearing**. Documentary evidence includes statements, information, briefs, letters, reports, reports of experts and other witnesses, plans and other material.

The site of your appeal is within the jurisdiction of **Advisory Neighborhood Commission (ANC)** 3G . If that ANC submits written comments on your appeal, the Board will give those comments "great weight" in its decision. The Board encourages you to contact the ANC to discuss your appeal at the earliest practical time. The telephone number of ANC 3G is (202) 363-5803 .

If you should have any questions during the period your appeal is pending before the Board, please call the staff at **(202) 727-6311**.

Jerrily Kress

JERRILY R. KRESS, FAIA
Director

RECEIVED
D.C. OFFICE OF ZONING
01 MAR 16 PM 3:53

ACKNOWLEDGED: Carl A. Bergmann

on Behalf of Berner of Northern Ave Neighborhood Assoc

Pres Chairman, Rep

appealltr/LJP

BZA
Case No. 16716
Exhibit No. 8

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

MAR 2 6 2001

Sunny and Louis Reyes, et al
5201 Chevy Chase Parkway, N.W.
Washington, D.C. 20015

Re: BZA Appeal No. 16716

Dear Sunny and Louis Reyes, et al:

This is to advise you that the following appeal has been filed with the Board of Zoning Adjustment:

> Appeal of Nebraska Avenue Neighborhood Association, pursuant to 11 DCMR §§ 3105 and 3106, from the administrative decision of the Zoning Administrator, Department of Consumer and Regulatory Affairs, in the issuance of a building permit (No. B435464) issued on March 3, 2001, to Sunny and Louis Keyes, et al to permit the construction of a 102 unit handicapped assisted living apartment residence in an R-2 and R-5-D District at premises 5111, 5113, 5117, 5119, 5121, 5123, and 5125 Connecticut Avenue, N.W. and 5201, 5203, and 5205 Chevy Chase Parkway, N.W. (Square 1989, Lots 49-57 and 161).
>
> The appellant, alleges in part, that the administrative decision for which the appeal is brought will result in significant adverse impact on the neighborhood, and that the administrative decision is in violation of 11 DCMR Zoning Regulations.

This is not a notice of public hearing for the appeal. You will be notified of the actual public hearing date approximately 40 days in advance of the date set for the hearing. As a half-day is needed for the hearing, the public hearing will occur in July, 2001.

A copy of the appeal is enclosed for your information. If you have any questions about this matter, please call the Office of Zoning at (202) 727-6311.

Sincerely,

JERRILY R. KRESS, FAIA
Director

BZA
Case No. 16716
Exhibit No. 9

16716/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

MEMORANDUM

TO: Michael Johnson
Zoning Administrator

MAR 2 6 2001

FROM: Jerrily R. Kress, FAIA
Director

SUBJECT: BZA Appeal No. 16716

This is to advise you that the following appeal has been filed with the Board of Zoning Adjustment:

Appeal of Nebraska Avenue Neighborhood Association pursuant to 11 DCMR §§ 3105 and 3106, from the administrative decision of the Zoning Administrator, Department of Consumer and Regulatory Affairs, in the issuance of a building permit (No. B435464) issued on March 3, 2001, to Sunny and Louis Keyes, et al to permit the construction of a 102 unit handicapped assisted living apartment residence in an R-2 and R-5-D District at premises 5111, 5113, 5117, 5119, 5121, 5123 and 5125 Connecticut Avenue, N.W. and 5201, 5203, and 5205 Chevy Chase Parkway, N.W. (Square 1989, Lots 49-57 and 161).

The appellant, alleges in part, that the administrative decision for which the appeal is brought will result in significant adverse impact on the neighborhood, and that the administrative decision is in violation of 11 DCMR Regulations.

This is not a notice of public hearing for the appeal. You will be notified of the actual public hearing date approximately 40 days in advance of the date set for the hearing. As a half day is needed for the hearing, the public hearing will occur in July, 2001.

A copy of the appeal is enclosed for your information. If you have any questions about this matter, please call the Office of Zoning at (202) 727-6311.

BZA
Case No. 16716
Exhibit No. 10

16716/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

MEMORANDUM

TO Charlotte Parker
Corporation Counsel

MAR 2 6 2001

FROM: Jerrily R. Kress, FAIA
Director

SUBJECT: BZA Appeal No. 16716

This is to advise you that the following appeal has been filed with the Board of Zoning Adjustment:

Appeal of Nebraska Avenue Neighborhood Association pursuant to 11 DCMR §§ 3105 and 3106, from the administrative decision of the Zoning Administrator, Department of Consumer and Regulatory Affairs, in the issuance of a building permit (No. B435464) issued on March 3, 2001, to Sunny and Louis Keyes, et al to permit the construction of a 102 unit handicapped assisted living apartment residence in an R-2 and R-5-D District at premises 5111, 5113, 5117, 5119, 5121, 5123 and 5125 Connecticut Avenue, N.W. and 5201, 5203, and 5205 Chevy Chase Parkway, N.W. (Square 1989, Lots 49-57 and 161).

The appellant, alleges in part, that the administrative decision for which the appeal is brought will result in significant adverse impact on the neighborhood, and that the administrative decision is in violation of 11 DCMR Regulations.

This is not a notice of public hearing for the appeal. You will be notified of the actual public hearing date approximately 40 days in advance of the date set for the hearing. As a half day is needed for the hearing, the public hearing will occur in July, 2001.

A copy of the appeal is enclosed for your information. If you have any questions about this matter, please call the Office of Zoning at (202) 727-6311.

BZA
Case No. 16716
Exhibit No. 11

16716/LJP

D.C.-44
APRIL 1980

Memorandum ● Government of the District of Columbia

TO: Ellen McCarthy, Associate Director
Office of Planning
Development Review & Coordination

Department, Agency, Office: Office of Zoning

FROM: Jerrily R. Kress, FAIA
Director

Date: MAR 2 6 2001

SUBJECT: Appeal No. 16716

Attached hereto is a copy of the above-numbered appeal with related memorandum or a Notice of Certification from the Zoning Administrator's Office. This appeal was filed on MARCH 16, 2001.

APPROXIMATE HEARING DATE: July 2001

opappealrefLJP

BZA
Case No. 16716
Exhibit No. 12

D.C. - 44
APRIL 1980

Memorandum ● Government of the District of Columbia

TO: Advisory Neighborhood Commission 3G

Department, Agency, Office: BZA

FROM: Jerrily R. Kress, ~~FAIA~~ Director

Date: MAR 26 2001

SUBJECT: BZA Appeal No. 16716

In accordance with 11 DCMR 3112.7 and 3113.7, you are hereby advised that the above-numbered appeal, which falls within the boundaries of your Advisory Neighborhood Commission, was filed with the BZA on 3/16/01. A copy of the above-numbered appeal form is attached for your information and use. This is not a notice of public hearing on the appeal. You will receive notice of the hearing by mail and through the D.C. Register approximately forty (40) days in advance of the hearing. In accordance with 11 DCMR 3115, the written report of an ANC shall be filed at least seven (7) days before the date of the hearing, and shall contain certain information specified in that section. A copy of Section 3115 is on the reverse side. If you have any questions, please contact the Office of Zoning at (202) 727-6311.

APPROXIMATE HEARING DATE: July 2001

referralmemos/kjw

BZA
Case No. 16716
Exhibit No. 13

D.C.-44
APRIL 1980

Memorandum ● Government of the District of Columbia

TO: Single Member District/ANC 3G07

Department, Agency, Office: BZA Office of Zoning

FROM: Jerrily R. Kress, FAIA Director

Date: MAR 2 6 2001

SUBJECT: Notice of Filing Date: MARCH 16, 01 Case No. 16716 / APPEAL

This is to inform you that the above-numbered case has been filed before the Board of Zoning Adjustment for zoning relief. The property that is the subject of this case is within your Single Member District Boundary. Therefore, I am attaching a copy of the case, as your Single Member District may be affected. For additional information, please contact the Office of Zoning at (202) 727-6311.

APPROXIMATE HEARING DATE: July 2001

smancltr/LJP

(See reversed side)

BZA
Case No. 16716
Exhibit No. 14

D.C.-44
APRIL 1980

Memorandum ● Government of the District of Columbia

TO: City Council Member For Ward THREE

Department, Agency, Office: BZA Office of Zoning

FROM: Jerrily R. Kress, FAIA
Director

Date: ~~MAR 2 0 2001~~ MAR 2 6 2001

SUBJECT:

Notice of Filing Date: MARCH 16, 01 Case No. 16716 (APPEAL)

This is to inform you that the above-numbered case has been filed before the Board of Zoning Adjustment for zoning relief. The property that is the subject of this case is within your Ward. Therefore, I am attaching a copy of the case, as this will affect your Ward. For additional information, please contact the Office of Zoning at (202) 727-6311.

APPROXIMATE HEARING DATE: July 2001

councilrefer/LJP

BZA
Case No. 16716
Exhibit No. 15

Chevy Chase
Advisory Neighborhood Commission 3G
MAILING ADDRESS: P.O. BOX 6252 Northwest Station Washington, DC 20015

CHEVY CHASE OFFICE
5601 Connecticut Ave. NW
Washington, DC 20015
(202) 363-5803
FAX (202) 686-4366
E-Mail uppernwdc@juno.com

April 9, 2001

Mr. Robert Sockwell
Chairman, Board of Zoning Adjustment
441 4th Street, N.W. Room 210
Washington DC 20001

RE: BZA Appeal 16716 Building permit B435464 (seven story structure at 5111 et al Connecticut Avenue, N.W.)

EXPEDITED CONSIDERATION REQUESTED

Dear Mr. Sockwell:

At ANC 3G's publicly announced meeting of March 26, 2001, the Commission voted 6 - 0 (a quorum being four) to join in the appeal contesting the Zoning Administrator's decision to issue building permit number B435464. The Nebraska Avenue Neighborhood Association filed the appeal on March 16, 2001. ANC 3G asks that filing fees be waived for the ANC as well as for the Nebraska Avenue Neighborhood Association. Additionally, to minimize disruption and expense for all affected persons, we respectfully request that the consideration of this appeal be expedited.

The above-cited building permit was issued in early March, despite oral and written objections from ANC 3G and the Nebraska Avenue Neighborhood Association. ANC 3G and the Association identified numerous deficiencies in the permit application and pointed out serious violations of the Zoning Regulations. We believe that issuance of the building permit under these circumstances constitutes legal error and we therefore ask the Board of Zoning Adjustment to reverse the Zoning Administrator's erroneous decision to approve the permit.

Our appeal is based on the following grounds:

(1) The building permit allows construction of a building that violates the rear yard setback requirements for an R-5D zone, which is the current zoning classification for this property. A rear setback in an R-5D zone must be one foot for each three feet of building height, but the applicant's building meets the setback requirement only for one portion of the rear property line rather than for the entire rear property line.

(2) The building permit allows construction of a building that violates the FAR requirements for an R-5D zone, which is the current zoning classification for this property. The FAR calculations by the Zoning Administrator erroneously included a 4,000 square foot R-2 lot.

(3) The building permit was granted despite the building's failure to comply with the R-3 zoning requirements for building height, FAR, and density. The R-3 zoning requirements apply to this building

BZA
Case No. 16716
Exhibit No. 16

permit because no complete application was filed for the permit until February 2, 2001, well after the October 16, 2000 decision of the Zoning Commission to hold a hearing on ANC 3G's July14, 2000 written petition for down zoning of this property from R-5D to R-3.

4) The building permit was granted for an assisted living and/or community-based residence facility, even though no special use permit was sought or approved permitting the applicant to operate such a facility at this location, as is required.

5) The building permit was approved in violation of the restrictions on commercial use in an R-5D zone and without evidence of a real (as opposed to a sham) loading dock facility.

The Zoning Administrator's decision to grant this building permit in violation of the foregoing requirements was legally erroneous, violated the Zoning Regulations, and should be reversed. ANC 3G appoints Marilyn Holmes and/or Joe Bishop as our representative for any hearing on this appeal. We also request that this matter not be set for a hearing during the time period July 5 to 13, 2001.

Sincerely,

Joseph L. Bishop /kr/3

Joseph L. Bishop
Vice-Chair ANC 3G

Cc: Councilmember Kathy Patterson

ShawPittman

A Law Partnership Including Professional Corporations

By Hand Delivery

TO: Jerrily Kress
Office of Zoning

FROM: Maureen E. Dwyer

DATE: April 18, 2001

RE: BZA Case No. 16716

It is my understanding the above-referenced BZA application will be scheduled for a July hearing date. I will be out of town from July 21 – 31, and as attorney for Sunrise Development Inc., the Intervener in this case, I request the hearing is not scheduled during this time period. If you have any questions, please do not hesitate to contact me at (202)663-8834.

BZA
Case No. 16716
Exhibit No. 17

2300 N Street, NW Washington, DC 20037-1128 | 202.663.8000 Fax: 202.663.8007 | www.shawpittman.com

Washington, DC
Northern Virginia
New York
Los Angeles
London

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Appeal No. 16716 of the Nebraska Avenue Neighborhood Association challenging the building permit to construct an assisted living facility at 5111 Connecticut Avenue, NW

Hearing Date: July 10, 2001
ANC 3G

MOTION TO RECUSE
BOARD MEMBER ANNE RENSHAW

I.
Overview

Sunrise Assisted Living LLC ("Sunrise"), the party-in-interest in this appeal, hereby moves for the recusal of Board of Zoning Adjustment ("BZA") Member Anne Renshaw ("Ms. Renshaw"), Chair of ANC 3G, from any and all matters relating to this appeal, including but not limited to the hearing to be held on July 10, 2001. In this appeal, the Nebraska Avenue Neighborhood Association is challenging the Zoning Administrator's decisions in connection with the issuance of a building permit that would allow Sunrise to construct a 100-bed assisted living facility at 5111 Connecticut Avenue (the "Project"). At the same time, ANC 3G is endeavoring to have the Property downzoned in an effort to preclude Sunrise from building the much-needed assisted living facility.

The factual basis for the request is as follows:

BZA
Case No. 16716
Exhibit No. 18

1. Ms. Renshaw currently is a member and the Chairperson of ANC 3G, the seven-member ANC in which the Project site is located. She has served continuously on ANC 3G since 1991. The ANC consistently has opposed the Project.

2. Early on in its protracted efforts to obtain approval to construct the Project, Sunrise sought to have an alley stub behind the Project site closed. In the course of the ANC's lengthy consideration of the alley closing, concerns were raised about matters far beyond the scope of the alley closing such as the proposed use, building height and mass. In her capacity as an ANC Commissioner, Ms. Renshaw voted against Sunrise's proposed alley closing at a meeting on April 24, 2000. In voting, Ms. Renshaw expressed concerns about the entire Project. As a result of the ANC's opposition to the alley closing, Sunrise abandoned its plans to attempt to close the alley, and instead, redesigned its Project plans, at great cost, around the alley stub to accommodate the ANC's desire that it remain open.

3. Still not satisfied, a few vocal citizens began a campaign to have Sunrise's property downzoned. ANC 3G has come out strongly in support of both the pending effort to downzone the property and this appeal.

4. Ms. Renshaw has been present at many, if not all, of the ANC meetings at which the Project has been considered and discussed in great detail.

5. Ms. Renshaw attended the Zoning Commission hearing on March 29, 2001, at which the downzoning of the Project site was considered.

II.
Discussion

Ms. Renshaw must be recused from participating in this appeal on the ground of bias and prejudice. In light of Ms. Renshaw's pre-existing record of opposing the Project on behalf of the ANC, any reasonable person would have to conclude that she would be biased, and that her bias

stems from other than her consideration of the record in the appeal. Dupont Circle Citizens Association v. D.C. Alcoholic Beverage Control Board, 766 A.2d 5 (D.C. 2000). Rather, her bias stems from, and is evidenced by, her active participation in decisions that were reached by the ANC in opposition to the Project.

Since there are no standards for the recusal of board members, this Board is required to use the same standards that apply to judges. Morrison v. D.C. Board of Zoning Adjustment, 422 A.2d 347 (D.C. 1980). Under those standards, Ms. Renshaw must be recused once Sunrise identifies material facts stated with particularity that, if true:

1. would convince a reasonable person that a bias exists; and

2. show that the bias is personal rather than judicial in nature.

In re Bell, 373 A.2d 232, 234 (D.C. 1977).

The facts in this case clearly establish personal bias and a need for recusal. Ms. Renshaw's long history of opposition to the Project and close involvement in the ANC's actions directed at the Project are themselves clear indications of her pre-existing bias.

In addition to her involvement in the ANC's consideration of the alley closing, in the spring of 2000, the ANC held meetings to decide whether to petition for the downzoning of a three-block area including the Project site. The ANC's interest in downzoning was a direct result of its earlier discussions regarding the Project in connection with the alley closing. Ultimately, on June 12, 2000, the ANC voted to request the downzoning of the Sunrise site to R-3, reducing the permitted density by almost half. Ms. Renshaw attended numerous ANC meetings regarding this matter and even attended the Zoning Commission hearing on March 29, 2001, at which the downzoning was considered. Ms. Renshaw's presence at the meetings and the hearing demonstrates her continuing interest in its outcome.

Ms. Renshaw's history of involvement in opposition to this project in her capacity as an ANC Commissioner while she served on the BZA would convince a reasonable person that a bias exists. Her vote against the Project in connection with the alley closing, standing alone demonstrates a predisposition to grant the requested appeal. This vote, when considered along with her extensive and continuing involvement in community meetings regarding the Project, can lead to no other conclusion.

Finally, there is no question that the bias is "personal" in nature under the standards for recusal. The Court of Appeals has explained that such bias is considered "personal" and therefore grounds for recusal, if it results from any source other than the judge's (or here, Board Member's) perceptions from within "the four corners of the courtroom." In other words, the decision-maker's determination must result only from what he or she perceives during the proceeding at issue, not from his or her outside personal experience. In re Evans, 411 A.2d 984 (D.C. 1980). In the case at hand, it cannot be disputed that Ms. Renshaw's position on this appeal will result from factors extrinsic to the appeal and her service as a Board member because she has already made a record of her position as to the Sunrise Project before the appeal proceedings even began. (See Dupont Circle v. D.C. A.B.C. at page 14) Ms. Renshaw has gleaned extensive knowledge of the Project from outside the hearing room. If allowed to participate in the hearing, Ms. Renshaw will bring a level of knowledge far beyond that of her colleagues. This knowledge, combined with her established bias, would result in an inherently unfair hearing.

Recently, in Appeal No. 16646, this Board was faced with a similar situation. Ms. Renshaw attended numerous ANC 3G meetings regarding the appeal of a building permit affecting a residence on Northampton Street. Even though the ANC did not file a report in the

case, the Board concluded that "due to her knowledge of the facts of the case derived from earlier ANC meetings," she was required to recuse herself from the Board's decision meeting. The Board noted that:

> The Board's decision must be based on the exclusive record of proceedings before the Board (D.C. Code §1-1509(c)(1999)) and there is no practical means of affording the parties the opportunity to cross-examine or respond to matters discussed at the ANC meeting. (BZA Appeal No. 16646 at page 3.)

The Sunrise case is even more compelling because Ms. Renshaw actually voted against the Project in connection with the alley closing, participated in numerous meetings at which the decision to request the downzoning was reached, attended the downzoning hearing and attended the ANC meeting to discuss the appeal.

In Dupont Circle Citizens v. D.C. A.B.C., supra, the Court of Appeals recently upheld the recusal of an Alcoholic Beverage Control Board member and former ANC Chairman. In that case, Dennis Bass, in his capacity as an ANC Chairman, voted against the grant of a liquor license for an establishment. Later, when Bass was serving as a member of the Board that grants such licenses but after his ANC term had expired, the Board considered the license request for that establishment. The Court of Appeals held that the Board acting appropriately when it recused Mr. Bass after he declined to voluntarily recuse himself. In response to the citizens' claims on appeal that Mr. Bass' previous activities were irrelevant because they were undertaken in his capacity as ANC Chair rather than as a private citizen, the Court said that was "beside the point."

Again, this situation is more extreme because Ms. Renshaw continues to serve as the Chairman of ANC 3G, which has an established track record of opposition to the Project, while she serves on the Board. Recusal is the only means of addressing this situation.

For the foregoing reasons, we request the Board's disposition of the request at its next public meeting. Given the significance of this matter, this decision should not be deferred until the public hearing on July 10, 2001.

Respectfully submitted,

Maureen E. Dwyer

Maureen E. Dwyer

Allison C. Prince

Allison C. Prince

5/7/01

BZA APPEAL NO. 16716 – Motion for Recusal

As Director of the Office of Zoning, I hereby certify and attest that on JUN 27 2001, a copy of the foregoing motion was mailed first class, postage prepaid or sent by inter-agency mail, to each party and public agency who appeared and participated in the public hearing and who are listed below:

Dr. Page Chiapella, President
Nebraska Avenue Neighborhood Association
5126 Nebraska Avenue, N.W.
Washington, D.C. 20008

Anne M. Renshaw, Chairperson
Advisory Neighborhood Commission 3G
Regency House, P.O. Box 6252
Washington, D.C. 20015

Maureen E. Dwyer
Shaw Pittman
2300 M Street, N.W.
Sixth Floor
Washington, D.C. 20037

Ellen McCarthy
Deputy Director
Office of Planning
801 North Capitol Street, N.E.
Fourth Floor
Washington, D.C. 20002

Michael D. Johnson
Department of Consumer & Regulatory Affairs
941 North Capitol Street, N.E., Suite 2000
Washington, D.C. 20002

Alan Bergstein
Office of Corporation Counsel
441 4th Street, N.W.
Sixth Floor
Washington, D.C. 20001

ATTESTED BY: Jerrily R. Kress

JERRILY R. KRESS, FAIA
Director, Office of Zoning

3G Chevy Chase
Advisory Neighborhood Commission 3G
MAILING ADDRESS: P.O. BOX 6252 Northwest Station Washington, DC 20015

CHEVY CHASE OFFICE
5601 Connecticut Ave. NW
Washington, DC 20015
(202) 363-5803
FAX (202) 686-4366
E-Mail uppernwdc@juno.com

May 21, 2001

Ms. Jerrily Kress, Dir
Office of Zoning
441 4th Street, NE
Washington DC 20001

BY FAX 727-6072

RE: Appeal No 16716 (March 16, 2001)

Dear Ms. Kress:

This is to confirm that both appellants in this matter (ANC 3G and the Nebraska Ave Neighborhood Assn.) request a delay in the hearing in this matter from July 10 to a later date in July or a date in September 2001.

Sincerely

Allen E. Beach
ANC 3G
Secretary

cc. Richard Nero
Page Chiapella

BZA
Case No. 16716
Exhibit No. 19
FAX

Government of the District of Columbia
OFFICE OF ZONING

441 4TH STREET, N.W.
SUITE 210
WASHINGTON, D.C. 20001
(202) 727-6311

MEMORANDUM

TO: File (BZA Case No. 16716)

THRU: Jerrily R. Kress, FAIA
Director

FROM: Richard S. Nero, Jr. RSN
Special Assistant

DATE: May 22, 2001

RE: Request to Reschedule the Public Hearing

At the request of the appellant (Nebraska Avenue Neighborhood Association and Advisory Neighborhood Commission ("ANC") 3G) and the consent of the party-in-interest (Sunrise Assisted Living LLC) the public hearing originally scheduled for July 10, 2001 in this matter has been rescheduled to July 17, 2001, at 1:00 PM. The request was by telephone from Marilyn Holmes with ANC 3G, and consented to by Allison C. Prince, attorney for Sunrise.

BZA
Case No. 16716
Exhibit No. 20

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

☆ ☆ ☆

May 31, 2001

Anne M. Renshaw, Chairperson
Advisory Neighborhood Commission 3G
Regency House, P.O. Box 6252
Washington, D. C. 20015

Re: **BZA Appeal No. 16716**

Dear Ms. Renshaw:

This is to advise you that a public hearing has been scheduled by the Board of Zoning Adjustment to consider the following appeal which is located within the boundaries of your ANC area:

> **Appeal of Nebraska Avenue Neighborhood Association,** pursuant to 11 DCMR §§ 3100 and 3101, from the administrative decision of the Zoning Administrator, Department of Consumer and Regulatory Affairs, in the issuance of a building permit (No. B435464) issued on March 3, 2001, to Sunny and Louis Reyes, et al to permit the construction of a 102 unit handicapped assisted living apartment residence in an R-2 and R-5-D District at premises 5111, 5113, 5117, 5119, 5121, 5123, and 5125 Connecticut Avenue, N.W. and 5201, 5203, and 5205 Chevy Chase Parkway, N.W. (Square 1989, Lots 49-57 and 161).

This hearing will be held on Tuesday, July 17, 2001, in Suite 220, 441 4th Street, N.W., Washington, D. C. 20001. This case is scheduled to be heard between 1:00 p.m. and 6:00 p.m. A formal notice of public hearing will appear in the D.C. Register.

You are advised that 11 DCMR Section 3115 sets our certain requirements related to reports of the ANCs, and specifically that subsection 3115.1 requires

BZA
Case No. 16716
Exhibit No. 21

that the written report of the ANC be filed with the Board at least seven days in advance of the hearing. A copy of section 3115 is enclosed.

Information on the procedures which will govern consideration of this case are available from the Office of Zoning, Suite 210, 441 4th Street, N.W., Washington, D. C. 20001. The telephone number for the Office of Zoning is (202) 727-6311.

If you wish to forward comments in writing directly to the Board, such comments should be addressed to the Board of Zoning Adjustment at 441 4th Street, N.W., Suite 210, Washington, D. C. 20001.

Sincerely,

JERRILY R. KRESS, FAIA
Director

EXCERPT FROM TITLE 11 DCMR, "ZONING

3115 ADVISORY NEIGHBORHOOD COMMISSIONS

3115.1 The written report of the ANC shall be submitted to the Board at least seven (7) days in advance of the hearing and shall contain the following information:

(a) An identification of the appeal or application;

(b) When the public meeting of the ANC to consider the appeal or application was held;

(c) Whether proper notice of that meeting was given by the ANC;

(d) The number of members of the ANC that constitutes a quorum and the number of members present at the meeting;

(e) The issues and concerns of the ANC about the appeal or application, as related to the standards of the Zoning Regulations against the appeal or application must be judged;

(f) The recommendation, if any, of the ANC as to the disposition of the appeal or application;

(g) The vote on the motion to adopt the report to the Board;

(h) The name of the person who is authorized by the ANC to present the report; and

(i) The signature of the chairperson or vice-chairperson of the ANC.

3115.2 The Board shall give "great weight" to the written report of the ANC, as required by No. 1-261, D.C. Code, 1982 ed.

3115.3 In the event the ANC submits its report on the basis of understandings, agreements, or meetings with the appellant, or applicant which later are modified by appellant or applicant, the designated representative of the ANC may comment orally concerning the specific inconsistencies. No other new matters may be presented orally by the designated representative of the ANC.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

☆ ☆ ☆

May 31, 2001

Michael Johnson
Zoning Administrator
Department of consumer & Regulatory Affairs
941 North Capitol Street, N.E., Room 2127
Washington, D. C. 20002

Re: **BZA Appeal No. 16716**

Dear Mr. Johnson:

You are hereby notified to appear before the Board of Zoning Adjustment on Tuesday, July 17, 2001, at 441 4th Street, N.W., Suite 220, Washington, D. C., 20001 for a public hearing concerning the following appeal:

Appeal of Nebraska Avenue Neighborhood Association, pursuant to 11 DCMR §§ 3100 and 3101, from the administrative decision of the Zoning Administrator, Department of Consummer and Regulatory Affairs, in the issuance of a building permit (No. B435464) issued on March 3, 2001, to Sunny and Louis Keyes, et al to permit the construction of a 102 unit handicapped assisted living apartment residence in an R-2 and R-5-D District at premises 5111, 5113, 5117, 5119, 5121,5123, and 5125 Connecticut Avenue, N.W. and 5201, 5203, and 5205 Chevy Chase Parkway, N.W. (Square 1989, Lots 49-57 and 161).

This case is in Advisory Neighborhood Commission 3G. Cases in this area will be heard between 1:00 p.m. and 6:00 p.m. All cases will be heard in the order listed on the public hearing agenda.

If you have any questions or require additional information, feel free to call the Office of Zoning at (202) 727-6311)

Sincerely,

JERRILY R. KRESS, FAIA
Director

cc: Charlotte Parker, OCC

BZA
Case No. 16716
Exhibit No. 22

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

☆ ☆ ☆

May 31, 2001

Dr. Page Chiapella, President
Nebraska Avenue Neighborhood Assn.
5126 Nebraska Avenue, N.W.
Washington, D. C. 20008

Re: **BZA Appeal 16716**

Dear Dr. Page:

You are hereby notified to appear before the Board of Zoning Adjustment on Tuesday, July 17, 2001, at 441 4th Street, N.W., Suite 220, Washington, D.C., 20001 for a public hearing concerning the following appeal:

Appeal of Nebraska Avenue Neighborhood Association, pursuant to 11 DCMR §§ 3100 and 3101, from the administrative decision of the Zoning Administrator, Department of Consumer and Regulatory Affairs, in the issuance of a building permit (No. B435464) issued on March 3, 2001, to Sunny and Louis Keyes, et al to permit the construction of a 102 unit handicapped assisted living apartment residence in an R-2 and R-5-D District at premises 5111, 5113, 5117, 5119, 5121, 5123, and 5125 Connecticut Avenue, N.W. and 5201, 5203, and 5205 Chevy Chase Parkway, N.W. (Square 1989, Lots 49-57 and 161).

This case is in Advisory Neighborhood Commission 3G. Cases in this area will be heard between 1:00 p.m. and 6:00 p.m. All cases will be heard in the order listed on the public hearing agenda.

You should be aware that items may be submitted to the Board by other individuals, organizations, and government agencies both in support of and in

BZA
Case No. 16716
Exhibit No. 23

opposition to your appeal. Approximately one week prior to the public hearing, you should review the file in your appeal so that you are prepared to respond to any issues that may be raised regarding your appeal. Further, if you are not clear about what information you must present to the Board in support of your appeal, please contact the Office of Zoning as soon as possible.

If you have any questions or require any additional information, feel free to call the Office of Zoning at (202) 727-6311.

Sincerely,

JERRILY R. KRESS, FAIA
Director

cc: Sunny and Louis Keyes, et al
5201 Chevy Chase Parkway, N.W.
Washington, D. C. 20015

appeal16716/kjw

Government of the District of Columbia

OFFICE OF ZONING

441 4TH STREET, N.W.
SUITE 210
WASHINGTON, D.C. 20001
(202) 727-6311

MEMORANDUM

TO: Dr. Page Chiapella, President
Nebraska Avenue Neighborhood Association
Appellant

Anne M. Renshaw, Chairperson
Advisory Neighborhood Commission 3G
Appellant

Maureen E. Dwyer
Shaw Pittman
Attorney for Sunrise Assisted Living LLC
Party-in-Interest

Ellen McCarthy
Office of Planning

Michael Johnson
Zoning Administrator
DCRA

FROM: Jerrily ~~R.~~ Kress, FAIA
Director

DATE: June 27, 2001

RE: Motion to Recuse Board Member Anne Renshaw from Participation in All Matters Related to BZA Appeal Case No. 16716

On May 7, 2001, the Office of Zoning received a motion filed by Sunrise Assisted Living LLC, the party-in-interest in the above matter, requesting that Board of Zoning Adjustment member Anne M. Renshaw be recused from participation in all matters related to BZA Appeal Case No. 16716, including but not limited to the public hearing scheduled for July 17, 2001. A copy of the motion is attached for your review.

BZA
Case No. 16716
Exhibit No. 24

Please also be advised that the Board will consider the motion for recusal at a special public meeting to be held on Tuesday, July 10, 2001, in the afternoon. Responses to the motion by parties must be submitted to the Board by 12 noon on Friday, July 6, 2001. Please feel free to call Richard S. Nero Jr., Special Assistant, on (202) 727-6311, if we can be of further assistance in this matter.

Attachment
Certificate of Service
cc: Charlotte Parker

C

July 3, 2001 16716

To the Board of Zoning Adjustment
441 4th St NW 2nd Floor South
Washington DC 20001

I Anne Page Chapella request party status to represent the Nebraska Avenue Neighborhood Association in BZA Case No. 16716. I am currently president of the Nebraska Avenue Neighborhood Association.

Thank you

Anne Page Chapella
President
Nebraska Ave Neighborhood
5126 Nebraska Ave NW #551
Washington DC 20008

BZA
Case No. 16716
Exhibit No. 25

June 28, 2001

5120 Nebraska Ave. N.W.
Washington, D.C. 20008

Board of Zoning Adjustment
1 Judiciary Square
441 4th St. N.W. 2nd floor South
Washington, D.C. 20001

Re: Building Permit Appeal #16716

Dear BZA Commissioners:

Together with Nebraska Ave. neighbors I met with Mr. Denzil Noble on several occasions to discuss problems with Building Permit Application, 5111 Connecticut Ave. N.W. In December 2000 we met with Mr. Noble and presented documentation of inaccuracies and omissions in the building permit. At meetings in February 2001 with Mr. Noble and in March 2001 with Mr. Noble and Mr. Bello we discussed misinformation and inaccuracies in the Environmental Impact Screening Form (EISF) and inconsistencies between the building permit and the EISF — specific inconsistencies such as building height of 23'2" on the EISF and a 7 story + penthouse height on the building permit application. At these meetings we communicated profound concern about the misinformation on the EISF since this was the form sent to all of the city agencies for their response. At these meetings I specifically requested that the misrepresentations, inaccuracies, inconsistencies and omissions be addressed prior to issuing the building permit. On February 13th, 2001 Mr. Joseph Bishop, Vice Chair of our ANC 3G sent a letter to Mr. Denzil Noble requesting a full review of the EISF based on inaccurate information. A copy of his letter is attached. Despite this, the building permit was issued on March 8, 2001 without addressing these concerns.

Sincerely,
Martha A. Thompson
Vice Pres. Nebraska Ave. Neighborhood Assoc.

BZA
Case No. 16716
EXHIBIT NO. 29

February 13, 2001

Mr. Denzil L. Noble
Deputy Administrator, DCRA
941 North Capitol Street, NE
Washington DC 2002

Dear Mr. Noble

RE: Permit 590AA, 5111 Connecticut Avenue, NW

At ANC 3G's meeting of February 12, 2001, the Commission voted to (a quorum being four) to request that DCRA:

1) Conduct a full re-review of the environmental assessment, including the environmental impact screening form, based on inaccurate information such as height and costs;

2) Refrain from issuing a permit pending the environmental re-review; and

3) Include community involvement in this process.

We appreciate you help in this matter.

Sincerely

Joseph L. Bishop
Vice Chair
ANC 3G

Cc: Councilmember Kathy Patterson
Councilmember Phil Mendelson
Teresa Lewis

Feb 15 01 03:17p
p.1

Government of the District of Columbia
OFFICE OF ZONING

MEMORANDUM

To: THE FILE

Thru: Richard S. Nero, Jr. RSN
Special Assistant to the Director

From: Gerald N. Forsburg
Zoning Specialist

Date: July 3, 2001

Re: Service of Motion to Recuse Board of Zoning Adjustment Member Anne M. Renshaw filed by Sunrise Assisted Living LLC.

On July 3, 2001, Dr. Page Chiapella, President of the Nebraska Avenue Neighborhood Association, was contacted by phone and was faxed a copy of the above-referenced motion.

On July 3, 2001, Anne M. Renshaw, Chairman of ANC 3G, was given two copies of the motion in person.

On July 3, 2001, it was confirmed that Maureen E. Dwyer, Attorney for Sunrise Assisted Living LLC, had received the motion and a supplemental copy was given to her paralegal, Rob Larson, for hand delivery.

On July 3, 2001, Ellen McCarthy of the Office of Planning and Michael Johnson, Zoning Administrator, were faxed copies of the motion.

BZA
Case No. 16716
Exhibit No. 27

441 4th Street, N.W., Suite 210-S, Washington, D.C. 20001
Tel: (202) 727-6311 • Fax: (202) 727-6072
E-Mail: zoning info@dcoz.dcgov.org • Web Site: http://dcoz.dcgov.org/

Chevy Chase
Advisory Neighborhood Commission 3G
MAILING ADDRESS: P.O. BOX 6252 Northwest Station Washington, DC 20015

CHEVY CHASE OFFICE
5601 Connecticut Ave. NW
Washington, DC 20015
(202) 363-5803
FAX (202) 686-4366
E-Mail uppernwdc@juno.com

June 25, 2001

Ms. Sheila Cross Reid, Chairman,
Board of Zoning Adjustment
441 4th Street Room 210
Washington DC 20001

Re: BZA Appeal No. 16716 – Appeal of Building Permit No. B435464

Dear Ms. Reid:

ANC 3G has appealed the decision by the Zoning Administrator to issue Building Permit No. B435464 for a building at 5111 Connecticut Ave., N.W. ANC 3G held public meetings on March 26, 2001, and June 25, 2001, which were preceded by proper public notice. At the March 26, 2001 meeting, the ANC voted 6 to 0 (a quorum consisting of 4 Commissioners) to join in the appeal in Case No. 16716. At the June 25 meeting, the ANC voted 6 to 0 with one abstention (a quorum consisting of 4 Commissioners) to adopt this report of the Commission and authorize presentation of the report to the Board of Zoning Adjustment.

A copy of ANC 3G's initial statement joining in the appeal of this matter is attached. (Attachment A) The report in support of this petition follows.

REPORT OF THE COMMISSION

Building Permit No. B435464 authorizes construction of a seven-story, multi-sided building intended for use as an assisted living facility for over 100 residents. ANC 3G appeals the issuance of this building permit on three grounds: (1) the proposed building does not comply with zoning requirements applicable to either an R-5D or an R-5B zone; (2) the proposed use of the building does not comply with applicable requirements; and (3) necessary D.C. agency reviews of the building permit were not obtained, due to misrepresentations and omissions in the building permit application process. These substantial violations should have led to denial of the building permit. The decision of the Zoning Administrator to grant the permit was factually and legally erroneous.

ANC 3G respectfully requests that the Board of Zoning Adjustment revoke the issuance of this building permit, notify the applicant that the permit application is denied, and further notify the applicant that any building to be constructed at this location must comply with the

BZA
Case No. 16716
Exhibit No. 29

requirements applicable to an R-5B zone. Under applicable D.C. law, the views of the ANC are entitled to great weight.

I. Noncompliance with the Requirements for an R-5D Zone

The proposed building does not comply with at least three significant requirements of the zoning code relating to the rear-yard setback, the permitted floor area ratio (FAR), and loading dock requirements.

A. Building Setback

In an R-5D Zone, the applicable minimum rear yard setback requirement is the greater of 15 feet or one-third of the building height. See 11 DCMR Section 404.1. The rear-yard setback must extend across the entire rear property line, not just a portion of it.

It is the opinion of ANC 3G that the rear property line for this building extends along the entire length of the rear alley and alley stub, roughly parallel to and the same length as the front property line along Connecticut Avenue, which extends to the corner with Chevy Chase Parkway. However, the plans accompanying the building permit application show a rear-yard setback along only a portion of this rear property line. For a substantial segment of the rear property line, the proposed building will actually extend to the rear property line itself, with no setback provided. This does not comply with the applicable zoning requirement.

B. Floor Area Ratio

The floor area ratio (FAR) for an R-5D zone is 3.5. See 11 DCMR Section 402.4. The applicant submitted gross floor area estimates for each floor of the proposed building totaling 80,870 square feet, which were used by the Zoning Administrator to calculate an FAR of 3.49. However, the applicant's estimates understate the actual gross floor area of several of the building floors. The Zoning Administrator's reliance on the incorrect and understated square footage figures supplied by the applicant was factually and legally erroneous.

ANC 3G finds that the actual square footage of the proposed building is over 86,000 substantially higher than 80,870. Calculating the FAR with the correct square footage produces an FAR of 3.74, well in excess of 3.5, that greatly exceeds the FAR limit for an R-5D zone. See attached calculations (Attachment B).

C. Loading Dock

The applicant is required to include a loading dock in its building. Loading docks must be located on private property and not in public space. However, ANC 3G finds that the building plans submitted by the applicant contain a "sham" loading dock, located at the south end of the building, but that in reality the applicant will use the public alley stub, at the north end of the building, as its loading dock facility. This does not comply with applicable requirements for provision of a loading dock.

II. Noncompliant Proposed Use

The initial building permit application, submitted in July 2000, indicated that the proposed use of the building was residential. A subsequent submission, filed in February 2001, claimed that the building was to be a community-based residential facility (CBRF) for the handicapped, and further claimed that such a use was permitted as a matter of right in an R-5D zone. The materials submitted by the applicant indicate that the building is to have a restricted ward for Alzheimer's patients and will house over 100 residents.

ANC 3G finds that a CBRF in an R-5 zone may be built as a matter of right only to house 7 to 15 persons. Larger facilities such as this proposal must qualify under the neighborhood need/proximity test of 11 DCMR Section 350.4(f) and must undergo review and approval under the special exception process, 11 DCMR Section 358. This finding is supported by a memorandum from Andrew Altman, Director, Office of Planning, to Mr. Denzil Noble, Acting Zoning Administrator (Oct. 24, 2000). The applicant has failed to seek or secure a special exception for a large-scale CBRF, in violation of these requirements.

In addition, and in any event, the applicant fails to qualify as a CBRF. Under applicable regulations defining these facilities, residents must be cognizant of time and place. ANC 3G finds that Alzheimer's patients are not cognizant of time and place, and therefore that a structure designed to house such patients does not qualify as a CBRF.

Finally, the applicant's application proposes to provide a mere 17 parking spaces for this facility housing over 100 residents. In its initial application, the applicant claimed a residential use.[1] Subsequently, the applicant claimed it was building a CBRF. However, when a CBRF houses more than 35 residents, the necessary parking must be determined by the Board of Zoning Adjustment. The applicant has neither sought nor obtained approval for the lesser amount of parking proposed in conjunction with the permit application.

III. Noncompliance with the Requirements for an R-5B Zone

Last year, ANC 3G petitioned the Zoning Commission to revise the zoning for a three-block area including the property at 5111 Connecticut Ave., N.W. The matter was set down for a hearing on October 16, 2000. On June 11, 2001, the Zoning Commission voted to rezone the subject property from R-5D to R-5B.

[1] Parenthetically, parking for residential apartment buildings must be provided in a ratio of one parking space for each three units, which would require at least 33 spaces. The application should have been denied on this basis.

The applicant in this instance is required to comply with the R-5B zoning that was the subject of the Zoning Commission hearing and that has now been adopted by the Commission. Although applicants may take advantage of existing zoning in some circumstances, the applicant here did not meet the requirements to be "vested." In order to be vested, the applicant must file a complete permit application before a matter is set down for rezoning by the Commission. The completeness of an application is judged by 11 DCMR Section 3202.5, which requires submission of all "plans and information, which are required to permit complete review of the entire application under any applicable District of Columbia regulations."

The applicant's initial application was not complete within the meaning of Section 3202.5. As noted above, the initial application stated that it was for residential use; there was not a proper filing for use as a CBRF until February of 2001. As a consequence, the applicant is required to comply with the requirements for an R-5B rather than an R-5D zone.

As noted above, the applicant fails to satisfy the requirements for an R-5D zone, and even more flagrantly fails to meet the requirements for an R-5B zone.

IV. Misrepresentations and Omissions Led to Incomplete Reviews

The instant building permit is fatally flawed because it was issued based on the applicant's misrepresentations, and other omissions of information, which led to circumvention of required D.C. agency reviews. As one example, the applicant's Environmental Impact Screening Form asserted that the proposed building was 23 feet in height, when in fact it is a seven-story structure of at least 90 feet in height.

As a second example, the applicant's initial application stated, falsely, that the existing land was vacant. This misrepresentation permitted issuance of a raze permit that otherwise would be prohibited by 14 DCMR Section 4400.2 (which prohibits demolition of permanent housing for replacement with a transient residence of the sort proposed by the applicant).

As a third example, the applicant's initial filing claimed the building was to be for residential use but a later filing claimed it was to be for used as a CBRF. This extremely belated admission by the applicant had the effect of allowing the application to evade review by the Health Department, which would have identified the deficiencies described above in the proposed CBRF use.

As a fourth example, the Department of Public Works never received a plat map and thus its review of traffic issues failed to take into account the building's likely effect on the extremely narrow and overtaxed residential alley behind the property.

V. Conclusion

Based on the foregoing, ANC 3G respectfully requests appropriate relief from the Board of Zoning Adjustment, including the following: (1) revoke the issuance of this building permit, (2) notify the applicant that the permit application is denied, and (3) notify the applicant that any building to be constructed at this location must comply with the requirements applicable to an R-

5B zone. Under applicable D.C. law, the views of the ANC, as set forth above, and this written report, are entitled to great weight. See 11 DCMR Section 3115.2.

ANC 3G hereby authorizes Marilyn Holmes, Joseph Bishop and or Allen Baech to present this report to the Board.

Joseph L. Bishop
Vice Chair
ANC 3G

Attachments

Cc: Councilmember Kathy Patterson
Councilmember Adrian Fenty
Ms. Jerrily Kress

Attachment A

Chevy Chase
Advisory Neighborhood Commission 3G
MAILING ADDRESS: P.O. BOX 6252 Northwest Station Washington, DC 20015

CHEVY CHASE OFFICE
5601 Connecticut Ave. NW
Washington, DC 20015
(202) 363-5803
FAX (202) 686-4366
E-Mail uppernwdc@juno.com

April 9, 2001

Mr. Robert Sockwell
Chairman, Board of Zoning Adjustment
441 4th Street, N.W. Room 210
Washington DC 20001

RE: BZA Appeal 16716 Building permit B435464 (seven story structure at 5111 et al Connecticut Avenue, N.W.)

EXPEDITED CONSIDERATION REQUESTED

Dear Mr. Sockwell:

At ANC 3G's publicly announced meeting of March 26, 2001, the Commission voted 6 - 0 (a quorum being four) to join in the appeal contesting the Zoning Administrator's decision to issue building permit number B435464. The Nebraska Avenue Neighborhood Association filed the appeal on March 16, 2001. ANC 3G asks that filing fees be waived for the ANC as well as for the Nebraska Avenue Neighborhood Association. Additionally, to minimize disruption and expense for all affected persons, we respectfully request that the consideration of this appeal be expedited.

The above-cited building permit was issued in early March, despite oral and written objections from ANC 3G and the Nebraska Avenue Neighborhood Association. ANC 3G and the Association identified numerous deficiencies in the permit application and pointed out serious violations of the Zoning Regulations. We believe that issuance of the building permit under these circumstances constitutes legal error and we therefore ask the Board of Zoning Adjustment to reverse the Zoning Administrator's erroneous decision to approve the permit.

Our appeal is based on the following grounds:

(1) The building permit allows construction of a building that violates the rear yard setback requirements for an R-5D zone, which is the current zoning classification for this property. A rear setback in an R-5D zone must be one foot for each three feet of building height, but the applicant's building meets the setback requirement only for one portion of the rear property line rather than for the entire rear property line.

(2) The building permit allows construction of a building that violates the FAR requirements for an R-5D zone, which is the current zoning classification for this property. The FAR calculations by the Zoning Administrator erroneously included a 4,000 square foot R-2 lot.

(3) The building permit was granted despite the building's failure to comply with the R-3 zoning requirements for building height, FAR, and density. The R-3 zoning requirements apply to this building

permit because no complete application was filed for the permit until February 2, 2001, well after the October 16, 2000 decision of the Zoning Commission to hold a hearing on ANC 3G's July14, 2000 written petition for down zoning of this property from R-5D to R-3.

4) The building permit was granted for an assisted living and/or community-based residence facility, even though no special use permit was sought or approved permitting the applicant to operate such a facility at this location, as is required.

5) The building permit was approved in violation of the restrictions on commercial use in an R-5D zone and without evidence of a real (as opposed to a sham) loading dock facility.

The Zoning Administrator's decision to grant this building permit in violation of the foregoing requirements was legally erroneous, violated the Zoning Regulations, and should be reversed. ANC 3G appoints Marilyn Holmes and/or Joe Bishop as our representative for any hearing on this appeal. We also request that this matter not be set for a hearing during the time period July 5 to 13, 2001.

Sincerely,

Joseph L. Bishop

Joseph L. Bishop
Vice-Chair ANC 3G

Cc: Councilmember Kathy Patterson

Attachment B

FAR CALCULATIONS – 5111 Connecticut Ave., N.W.

Basement

Square footage = 16,054

Perimeter = 540 feet
Perimeter 4 feet above grade = 170 feet

170/540 = 31.5%

31.5% x 16,054 = 5,057

3d Floor

Square footage without balcony = 11,914

Balcony square footage = 940

8th Floor

Square footage, utility room = 828

Square footage, elevator machine room = 854

Total square footage = 1,682

Errors in Calculation of FAR

	Counted by DC	Should Be Counted	Difference
Basement	2,180	5,057	-2,877
3d Flr Balcony	-0-	940	-940
8th Floor	-0-	1,682	-1,682
Building Total	80,870	86,369	-5,499

Correct FAR Calculation:

86,369/23,107.51 = **3.74**

Chevy Chase
Advisory Neighborhood Commission 3G
MAILING ADDRESS: P.O. BOX 6252 Northwest Station Washington, DC 20015

CHEVY CHASE OFFICE
5601 Connecticut Ave. NW
Washington, DC 20015
(202) 363-5803
FAX (202) 686-4366
E-Mail uppernwdc@juno.com

July 7, 2001

Ms. Sheila Cross Reid, Chairman,
Board of Zoning Adjustment
441 4th Street Room 210
Washington DC 20001

Re: BZA Appeal No. 16716 – Appeal of Building Permit No. B435464

Dear Ms. Reid:

ANC 3G believes that the BZA may hold a hearing on July 10, 2001 on a motion by an attorney to recuse BZA Board member Anne Renshaw. This ANC has not received any notice (written or othersise) of the hearing or proposal and will not have a meeting prior to this hearing. Thus ANC 3G would not be able to form an official opinion on this matter.

ANC 3G urges that that this matter be deferred until July 17, 2001 when our representatives will be present and the views of this ANC can be heard.

Thank you for your assistance is this matter

Sincerely,

Allen E. Beach
Secretary
ANC 3G

Cc: Councilmember Kathy Patterson
Councilmember Adrian Fenty
Ms. Jerrily Kress

BZA
Case No. 16716
Exhibit No. 30

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Appeal No. 167 of the Nebraska Avenue Neighborhood Association challenging the building permit No. 16716 for 5111 Connecticut Avenue, N.W.

Appeal Hearing Date: July 17, 2001
Motion Hearing Date: July 10, 2001

D.C. OFFICE OF ZONING
RECEIVED
2001 JUL -6 PM 1:49

1. Introduction

This statement presents the Nebraska Avenue Neighborhood Association's response to a motion to recuse Board of Zoning Adjustment Member Anne Renshaw from participating in Case No. 16716. The motion was submitted by Sunrise Assisted Living LLC (Sunrise). On July 3, 2001, I received notice of this motion in a memorandum, dated June 27, 2001, from Jerrily R. Kress, Director of the Office of Zoning. I also received notice by phone on July 3, 2001. Sunrise, however, was obligated to notify interested parties of its motion. It did not do that.

The Motion as stated: Sunrise Assisted Living LLC ("Sunrise"), the party-in-interest in this appeal, hereby moves for the recusal of Board of Zoning Adjustment ("BZA") Member Anne Renshaw ("Ms. Renshaw"), Chair of ANC 3G, from any and all matters relating to this appeal, including but not limited to the hearing to be held on July 10, 2001.

Our main goal is to maintain the full voting strength of the Board. I asked Zoning Office staff whether recused votes could be replaced by substitutes. I was told that the BZA process does not allow that.

The process is significant: it is important to maintain a complete BZA panel. Balance unsubstantiated claims of bias against the unquestionable bias caused by non-participation of members. By recusing each a Member, you interfere with the process. The appellant must obtain three affirmative votes, or 60% of the full panel. A recusal is like a negative vote. With a recusal, the applicant is deprived of the opportunity to influence that vote.

The following is our assessment of and arguments countering Sunrise's Motion to Recuse Board Member Anne Renshaw from Participation in All Matters Related to BZA Appeal Case No. 16716 (sections I and II) our overall evaluation (III) and request (IV).

Case No. 16716
Exhibit No. 31

I. Addressing Sunrise's Overview section:

1. Ms. Renshaw has served on ANC 3G for several years and is currently chair of ANC 3G. Sunrise claims, "The ANC consistently has opposed the Project[1]." However, Sunrise does not present substantial evidence for the claim that the ANC consistently has opposed Sunrise development at the subject site. Sunrise equates opposing the alley-closing with opposing

Sunrise development on the subject property. This is incorrect.

2. Sunrise states: "Early on in its protracted efforts to obtain approval to construct the Project, Sunrise sought to have an alley stub behind the Project site closed." Sunrise claims rejection of their alley-closing application this was a vote against their project. However, this alley stub is critical to the functioning of the entire alley. This was the basis of rejecting the alley-closing application.

Ms. Renshaw voted against Sunrise's proposed alley closing at a meeting on April 24, 2000. ANC 3G voted unanimously to oppose the alley closing, not just Ms. Renshaw. This was a reasonable vote by reasonable people and it was based on the negative effect the alley closing would have on the neighborhood. It was not a move against any potential Sunrise project.

Important additional background:
We believe the alley-closing application (S.O. No. 99-69 --attachment) was inappropriate. The current owners of most of the property, Sunny and Louis Reyes, applied to close this same alley stub in 1986 (S.O. No. 8646 -- attachment). Not only did ANC 3G unanimously oppose the alley closing at that time, the City Council also unanimously rejected the alley closing. The reason: THIS ALLEY WAS DETERMINED TO BE NECESSARY AS PUBLIC ALLEY. The reasons for rejecting the alley-closing application were at least as strong in 1999 as in 1986: traffic flow, safety, access to residents houses, location of alley exits only on Nebraska Avenue, N.W. Access to the alley and parking on Nebraska Avenue are limited by rush hour and snow emergency restrictions.

Sunrise, acting in cooperation with Mr. and Mrs. Reyes, attempted to close the same alley stub for which the Reyes application had been denied before. Rejecting the alley-closing application showed good sense, not prejudice. The repeated alley-closing attempts have put the neighborhood, ANC 3G, city agencies and City Council through considerable effort and expense -- not once but twice!

3. Sunrise claims that ANC 3G is endeavoring to have the Property downzoned in an effort to preclude Sunrise from building the much-needed[2] assisted living facility.

Facts: ANC 3G proposed a downzoning of three blocks along the east side of Connecticut Ave., N.W. between Nebraska Ave. And Jocelyn Street – three blocks are included in the proposal. This covers most but not all of the property included in the building permit No. B435464.

Jeff Norman, ANC 3G member for the area including the subject property; had previously raised the issue of downzoning the east side – long before the proposed Sunrise project. In 1988, the west side of Connecticut Ave. N.W. was downzoned from R-5-C to R3, making it consistent with the Comprehensive Plan.

In their evaluation of the downzoning, the Zoning Commission noted that housing for seniors

could be built in all the zones that the Planning Office recommended for the area.

CONCLUSION: Sunrise's claim: "ANC 3G is endeavoring to have the Property downzoned in an effort to preclude Sunrise from building the much-needed assisted living facility is not substantiated.

II. Addressing Sunrise's Discussion section:

1. Sunrise has not made a reasonable case for Ms. Renshaw's prejudice. They have shown no evidence of her record of opposing the Project such that a reasonable person would have to conclude that she would be biased. On two alley-closing applications and a down-zoning proposal, the ANC votes were unanimous; on one alley-closing vote by the City Council and one rezoning vote by the Zoning Commission, the votes were unanimous -- all in the same direction as Ms. Renshaw's vote.

2. According to Sunrise, there are no standards for recusal of board members by the Board. Therefore, Sunrise claims, the Board is required to use the same standards that apply to judges: Morrison v. D.C. Board of Zoning Adjustment, 422 A.2d 347 (D.C. 1980). Sunrise claims that the rules that the Board must follow[3] are that Ms. Renshaw must be recused once Sunrise identifies material facts that:

1. would convince a reasonable person that a bias exists; and
2. show that the bias is personal rather than judicial in nature.

First, convincing evidence of bias has not been presented.

Second, material presented by Sunrise elsewhere states that the Board is not obliged to follow a court's rules of evidence (American University et al. v. Prentiss et al. Civ. No 931 133 F Supp. 389; 1953 U.S. Dist. LEXIS 2588 -- case presented by Sunrise attorneys in a previous motion). The Board is not a judicial body and is apparently not compelled to follow court rules and standards.

Third, the Corporation Council should address this issue if it is a legal matter.

III. Evaluation

Sunrise has not presented a sufficient case to establish that Member Anne Renshaw has a personal bias in this case that warrants her involuntary recusal. Sunrise presented incomplete

information about the background alley-closing applications (two, not one) and downzoning application. The current case is about evaluating whether a building permit followed 11 DCMR regulations; the issues are mainly technical.

IV. Request to deny motion

The Nebraska Avenue Neighborhood Association respectfully requests each Member of the Board of Zoning Adjustment to participate and allow all other Members to participate in this appeal. Do not approve the Sunrise Motion to Recuse a Board Member or recuse yourself without well documented justification.

Attachments: Material from Alley-closing applications S. O. Nos. 86-46 and 99-69.

NOTES

1. The term "the Project" is not defined in the motion. The term is used repeatedly. It appears to mean -- any Sunrise development at the site.

2. There are over 500 units for seniors located within about ½ miles from the proposed assisted living facility. These residences include community residence facilities (Chevy Chase House, The Methodist Home, Ingleside House), intermediate care facilities (The Methodist Home and Ingleside House) and subsidized housing for the elderly (Regency House). Within a mile there are several more.

At the Zoning Commission hearing (March 29, 2001), Sunrise testified that if local seniors did not need this facility, the facility would serve the city's priority to increase its population by bringing in residents from outside the city. Sunrise presents their project as "much-needed" assisted living based on the city's overall objectives (senior housing, increased population), not the needs of residents in the neighborhoods surrounding the location. These needs are already well served.

3. Sunrise references a case but presents no information to support their conclusion: Morrison v. D.C. Board of Zoning Adjustment, 422 A.2d 347 (D.C. 1980). We have not had time to review the case.

KLAUS KLATT

DIPL. ING., ARCH. T.U.

ARCHITECT PLANNER

OFFICES AT 3533 YUMA ST. N.W.
WASHINGTON, D.C. 20008
USA

TEL. 202 362-6610

WASHINGTON, D.C.

To the District of Columbia Government
Office of the Surveyor
614 H St. N.W.
Washiington, D.C. 20016

June 5, 1986

Gentlemen:

This letter is further to a letter submitted with the above application, dated Feb. 12, 1986.

The owners Louis and Sunny Reyes, of 5119 Connecticut Ave. N.W., also own the following lots:

161, 57, 56, 55, 54, 53,

These lots directly abut a dead-end public alley of 22 ft. in width and + or - 72 ft. in length, which they have requested to be closed.

Recent questions by the D.C. Public Works Department prompt this letter as an explanation for their main reasons for the above request:

The stub of alley klhas become a nuisance to the Reyes, since over the years unknown persons have left junked cars and a lot of larger debris within this area, trash has accumulated and the daily occurance of persons parking there illegally. All requires their calling the responsible District agencies on innumerably occasions, in order to request relief. The closing and subsequent permission to provide an appropriate fence at the suggested boundary line, will eliminate such nuisance and burden on all concerned. The remaining small triangle outside the proposed boundary line will also allow for the placement of all trash [illegible] the tenants and the Reyes for much easier pick-up [illegible] alley.
We do not wish to provide a "permanent" parking lot on this alley portion either, since same is only 22 ft. wide and therefore will only allow two cars to be parked side by side. Whose cars should therefore be privileged? We do to provide green and gardenspace instead.

Yours very truly,

Klaus Klatt
Architect
for the Reyes

[illegible]

JUN [illegible]

SURVEYOR, [illegible]

MARGARET PETTO

KLAUS KLATT

DIPL. ING., ARCH. T.U.

ARCHITECT PLANNER

OFFICES AT 3533 YUMA ST. N.W.
WASHINGTON, D.C. 20008
USA

TEL. 202 362-6610 WASHINGTON, D.C.

The President of the
ANC 3G
P. O. Box 6252
N. W. Station
Washington, D.C. 20015

Jan. 12, 1988

Subject: *S.O. No. 48-86, City Council Case No. 7-326*
Alley closing near Nebraska and Conn. Ave.

Gentlepersons:

Several years ago, the Reyes asked me to look into the possibitlies to curtail the nuisance in connection with a dead-end alley behind their properties. As you know, I made an application with the D.C. Surveyor to have same closed; same resulted in a round table City Council discussion late last year, at which time "unanimous" opposition was voiced by the ANC to my effort.
Other business prevented me from attending this meeting. Only last week, through the intervention of Mr. Nathanson, was I allowed to view the official records and found certain inequities, which must be corrected.

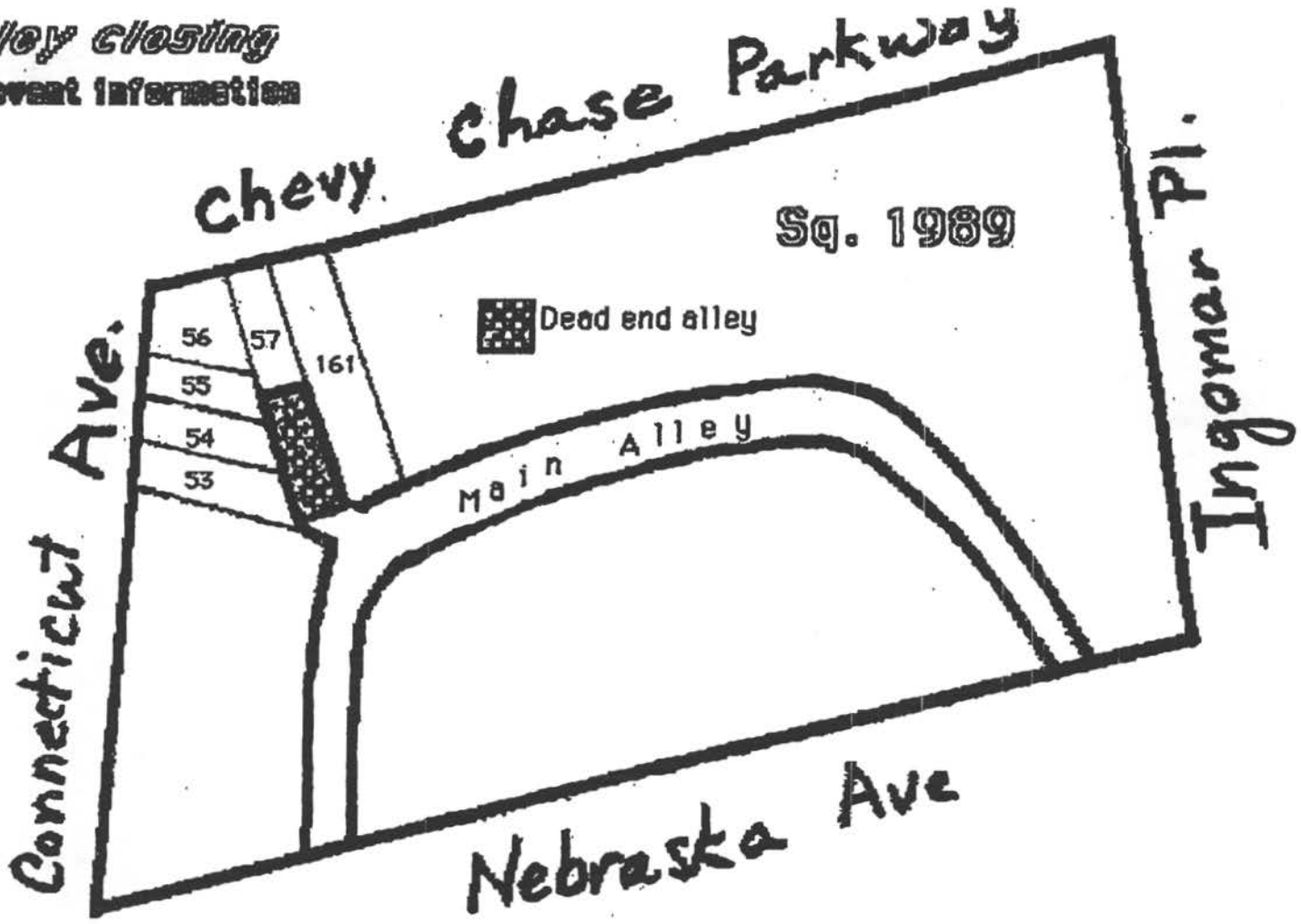
I herewith make the request to speak to the members of ANC 3G at your next scheduled meeting with regard to this above application. Would you be so kind to notify me as well as Page Chiapella, the president of Project 1989 of this, my intention and to let me know, when it may take place.

Yours very truly,

Klaus Klatt

KK/imk
cc.: Louis and Sunny Reyes
cc.: Russell A. Smith

Alley closing
Relevant information



Relevant Information

This factsheet presents information relating to Bill No. 7-326, to close the dead end public alley in Sq. 1989.

The proposed alley to be closed is an offshoot of the main alley in Sq. 1989 which has two openings onto Nebraska Ave: one near Connecticut Ave. and one near Ingomar Place. The dead end section is close to the exit near Connecticut Ave. This exit is our main access to Nebraska Avenue. It is a heavily congested area and is often totally blocked during rush hour traffic.

We often meet vehicles coming the other way in this section of the alley. Passing is difficult even when both vehicles are small; passing is impossible if one vehicle is wide or if there is another vehicle parked in the alley. The dead end section provides the only turn around for vehicles to head out the other end of the main alley or to move out of the way of larger vehicles in the main alley. Closing the dead end section would lead to hazardous traffic conditions.

The property owner-petitioner for this bill No. 7-326 requests the right to install a gate across the end of the dead end alley at it's intersection with the remaining alley. This gate would present further safety problems for our neighborhood. Emergency vehicles would have difficult access to lots nos. 53, 54, 55, 56, 57, and 161 in Sq. 1989 and would be limited in manouvering to service other parts of the alley. Garbage collection services would be affected. Etc.

We believe that the underlying reason for the closure request is to make this alley available for medium-high density development. The proposed bill vests (returns) the alley to the adjoining properites, all owned by a single property owner. Most of this dead end alley automatically reverts to RSC zoning: medium-high density residential. The property owner has been offering the adjacent land for development. The donation by the city of additional land (the alley) for development by the current property owner is inappropriate. It should not be casually

The Honorable David A. Clarke
Chariman, Council of the District of Columbia

Re: Bill No. 7-326, To close dead end public alley in Sq. 1989

Dear Chairman Clarke:

We the undersigned, as citizens of the District of Columbia and residents of Square 1989 bounded by Ingomar Place, Nebraska Ave., Conneticut Ave. and Chevy Chase Parkway, strongly oppose Bill #7-326 which would close the dead end alley in Sq. 1989. We do herein join to petition the Council to retain the public alley as it exists.

We feel that the closing of this alley would adversely affect the quality of life in our neighborhood for the following reasons:

Safety: Closing this alley would result in hazardous conditions due to
1) frequent blockage of traffic in the main alley of Sq. 1989,
2) limit access of emergency vehicles to a section of Sq. 1989,
3) traffic blockage at the adjacent intersection of the main alley with Nebraska Avenue up to Conneticut Avenue.

Development: The proposed action appears a move to consolidate additional land in order to increase the size of a large and unwarrented high-rise development. This enjoinder would severely increase the hazardous conditions listed above. In addition, increasing the scope of development would adversely affect parking, garbage storage and collection and local traffic congestion on Nebraska and Conneticut Avenues and Chevy Chase Parkway.

For these reasons, we request that the public alley remain open.

	Name	Address	Date
1.	Anne Page Chapelka	5126 Nebraska Ave NW	11/8/87
2.	Margaret L. Petito	5124 Nebraska Ave. N.W.	11-8-87
3.	Charles L. Phillips SR	5130 NEBRASKA AVE N.W.	11-9-87
4	Margaret I Phillips	5130 Nebraska Ave. N.W.	11/9/87
5.	Elizabeth McFaline	5134 Nebraska Ave. NW	11/9/87
6	[illegible]	5[illegible]	11/9/87
7	[illegible]	5138 Nebraska Ave NW	11/9/87

1 additional signature sheets - not attached.

S.O. 99-69

WILKES, ARTIS, HEDRICK & LANE
CHARTERED
ATTORNEYS AT LAW
SUITE 1100
1666 K STREET, N. W.
WASHINGTON, D. C. 20006-2897
(202) 457-7800

CABLE ADDRESS: WILAN
FAX: 202-457-7814

WRITER'S DIRECT DIAL:

ANNAPOLIS, MARYLAND
BETHESDA, MARYLAND
FAIRFAX, VIRGINIA
GREENBELT, MARYLAND
WALDORF, MARYLAND

August 2, 1999

Received
HSaab
08-02-99

Hand Delivery

Mr. Roland F. Dreist, Jr.
Office of the Surveyor
941 N. Capitol Street, N.E.
Second Floor
Washington, D.C. 20002

Re: Square 1989 – Alley Closing Application

Dear Mr. Dreist:

Attached please find an application, without a public hearing, for the closing of the 22 foot wide alley stub in the southern portion of Square 1989 adjacent to Lots 52-57 and 161. The subject square is bounded by Ingomar Place to the north, Connecticut Avenue to the south, Chevy Chase Parkway to the west and Nebraska Avenue to the east. Sunrise Connecticut Avenue Assisted Living, L.L.C. is the contract purchaser of Lots 52-57 and 161 in Square 1989 and the Applicant in this case.

This application may be processed without a public hearing due to the support of all of the record owners of the property abutting the dead-end alley stub proposed to be closed, pursuant to D.C. Code Annotated § 7-425(3) and 24 DCMR §1403.4. Statements evidencing the support of these property owners are attached to this application.

This proposed alley closing will permit the construction of a Sunrise Assisted Living Facility along Connecticut Avenue in Square 1989. This facility will have a gross floor area of approximately 110,000 square feet and a floor area ratio of approximately 3.72. The project will also include a multi-level parking garage with parking spaces for approximately 34 cars.

Access to the below-grade parking spaces will be from the proposed closed alley stub. Deliveries to the project will be made by accessing the loading area from the

proposed closed alley stub. The delivery trucks will then exit the facility via Ingomar Place and Nebraska Avenue. The facility includes one loading berth and one service/delivery space.

This application is filed for processing under the procedures for alley closings set forth in the Omnibus Regulatory Reform Act of 1998, effective April 29, 1998. Included with the alley closing application form are the following documents, as required by 24 DCMR §§ 1400 et seq.:

1. A sketch of the proposed closing;

2. A filing fee of $1,435.00;

3. A completed retail tenant displacement form;

4. Six copies of a vehicular tracking diagram drawn to scale of one inch equals 20 feet pursuant to Section 1400.8(j); and

5. Six sets of the site development plan for the project which includes:

   (a) A key location sketch showing the development and its relationship to the square and surrounding streets (with the streets identified), pursuant to Section 1400.8(b) and (d);

   (b) A footprint of the proposed building, pursuant to Section 1400.8(c);

   (c) The depiction of the alley proposed to be closed, pursuant to Section 1400.8(e);

   (d) The approximate gross floor area of the project (as previously described in this letter), pursuant to Section 1400.8(f);

   (e) Points of ingress and egress that vehicles will use for parking and loading purposes, pursuant to Section 1400.8(g);

WILKES, ARTIS, HEDRICK & LANE
CHARTERED

(f) Location of off-street parking spaces, the amount and size of the parking spaces, and the location and size of the loading and unloading facilities, pursuant to Section 1400.8(h) and (i); and

(g) Elevation views for each side of the building proposed for the site, pursuant to Section 1400.8(k).

Please begin the processing of the above-referenced application. If you have any questions, please do not hesitate to call Maureen Dwyer at (202) 457-7860 or Paul Tummonds at (202) 457-7854. Thank you for your prompt attention to this matter.

Sincerely yours,

Maureen Dwyer/PAT
Maureen E. Dwyer

Paul A. Tummonds
Paul A. Tummonds, Jr.

Enclosures

FAX

To: Board of Zoning Adjustment
FAX: 202-727-6072
Date: July 6, 2001
From: Nebraska Avenue Neighborhood Association
Page Chiapella, President

Re: Case No. 16716

Attached is our response to Sunrise's Motion to Recuse.
Total: 12 pages. (inc cover sheet)

RECEIVED
D.C. OFFICE OF ZONING
2001 JUL -6 PM 1:41

ShawPittman LLP

A Limited Liability Partnership Including Professional Corporations

July 9, 2001

Ms. Sheila Cross Reid, Chair
Board of Zoning Adjustment
441 4th Street, NW, 2nd Floor
Washington, DC 20001

Re: Sunrise Assisted Living - Appeal No. 16716
Response to ANC 3G Letter dated July 7, 2001, and Nebraska Avenue Neighborhood Association's Statement dated July 6, 2001, regarding the Motion to Recuse Board of Zoning Adjustment Anne Renshaw

Dear Ms. Reid and Members of the Board:

The purpose of this letter is to respond to the challenge of the Nebraska Neighborhood Association ("Appellant") to Sunrise's Motion to Recuse BZA Member Anne Renshaw from participating in Case No. 16716 (the "Motion")[1]. The Appellant's arguments are entirely without merit and are not supported by the legal standards that must guide the Board's decision on the pending Motion.

In its challenge of the Motion, the Appellant acknowledged that Ms. Renshaw participated in ANC 3G's unanimous vote to oppose Sunrise's application to close the alley adjacent to its property. The Appellant's suggestion that the opposition to the alley closing was not indicative of the ANC's or Ms. Renshaw's opposition to the entire project is simply not supported by the events that followed. Immediately after voting to oppose the alley closing application, the ANC decided to pursue the downzoning of three blocks including the subject site. Further, the Appellant and the ANC took numerous steps to attempt to stop the issuance of the building permit for the project including sending a letter to the Administrator of the Building and Land Regulation Administration demanding that the permit not be issued. The suggestion that the timing of downzoning request was purely coincidental and bore no relation to the Sunrise project is illogical in light of the sequence of events and the ANC's unrelenting opposition to the project.

BZA Case No. 16716 Exhibit No. 28 32

[1] Since by letter dated April 9, 2001, ANC 3G joined with the Appellant in this Appeal, the comments of the Nebraska Neighborhood Association presumably represent the views of ANC 3G. Further action by the ANC on the Motion is not necessary.

As cited in our previous Motion to Recuse, there is clear judicial guidance indicating the standard for the Board's review of this matter. (*Morrison v. D.C. Board of Zoning Adjustment*, 422 A.2d 347 (D.C. 1980)). Ms. Renshaw must be recused if: (1) a reasonable person would conclude that a bias exists and (2) the bias is personal rather than judicial in nature. The Appellant stated that since the other ANC members joined in Ms. Renshaw's opposition to the Sunrise project, she is not biased. The Appellant somehow has concluded that Ms. Renshaw would only be biased if she acted alone. Clearly, the Appellant has missed the point. The critical facts are: (1) Ms. Renshaw participated in and voted against Sunrise on matters relating to the project; and (2) Ms. Renshaw, acting as an ANC Commissioner, gleaned substantial information about the project from outside of the BZA hearing room. These facts are conceded by the Appellant. These facts, standing alone, establish bias.

For the foregoing reasons, we strongly object to the arguments raised in the Appellant's challenge and note that the Appellant has conceded the very facts that establish bias. Ms. Renshaw must be precluded from participating in this appeal.

Very truly yours,

Maureen E. Dwyer

Allison C. Prince

Paul A. Tummonds

cc: (Via Hand Delivery)
Paige Anne Chiapella
ANC 3G (all members)

Certificate of Service

I hereby certify that a copy of the foregoing Letter to Sheila Cross Reid dated July 9, 2001, was delivered by hand on this 9th day of July, 2001, to the following:

Paige Ann Chiapella
5126 Nebraska Avenue, NW
Washington, DC 20015

Joseph Bishop
3210 Chestnut Street, NW
Washington, DC 20015

Frank D. Buchholz
5877 Nebraska Avenue, NW
Washington, DC 20015

Anne M. Renshaw
2910 Military Road, NW
Washington, DC 20015

Allen E. Beach
3342 Stuyvesant Place, NW
Washington, DC 20015

Lesley T. Kowalski
3528 Northampton Street, NW
Washington, DC 20015

Robert Gordon
3711 Military Road, NW
Washington, DC 20015

Marilyn Holmes
3700 Military Road, NW
Washington, DC 20015

Marie Sansone, Esq.
Corporation Counsel
441 4th Street, NW
Washington, DC

Allison C. Prince

WITNESS ~~CARD~~ CASE NO. 16716

Proponent X OPPONENT

Name Page Chiapella

Address 5126 Nebraska Ave NW

City Washington ~~DC~~ Zip 20008

DAYTIME PHONE No. 301-443-4715



BZA
Case No. 16716
Exhibit No. 33

ShawPittman LLP
A Limited Liability Partnership Including Professional Corporations

July 12, 2001

BY HAND DELIVERY

Ms. Sheila Cross-Reid, Chairperson
District of Columbia Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210
Washington, D.C. 20001

Re: Sunrise Connecticut Avenue Assisted Living LLC ("Sunrise")
Statement of Property Owner - 5111 Connecticut Avenue, N.W.
BZA Appeal No. 16716

Dear Ms. Reid and Members of the Board:

Enclosed please find an original and nine copies of Sunrise's Statement in the above-mentioned BZA appeal. Sunrise looks forward to addressing this appeal at the Board's July 17, 2001 Public Hearing.

If there are any questions regarding the filing of the Statement, please contact the undersigned at (202) 663-8873.

Respectfully Submitted,

Paul A. Tummonds, Jr.

Enclosures

cc: ANC 3G
Nebraska Avenue Neighborhood Association

Document #: 1138192 v.1

BZA
Case No. 16716
Exhibit No. 34

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

NEBRASKA AVENUE
NEIGHBORHOOD ASSOCIATION
AND ADVISORY NEIGHBORHOOD
COMMISSION 3G,
APPELLANTS

APPEAL NO. 16716
PUBLIC HEARING: JULY 17, 2001

STATEMENT OF SUNRISE CONNECTICUT AVENUE
ASSISTED LIVING LLC, OWNER

I.
Introduction

The subject appeal was filed on March 16, 2001, by Page Chiapella on behalf of the Nebraska Avenue Neighborhood Association. The appeal challenges the decision of Michael D. Johnson, the District of Columbia Zoning Administrator, to approve the issuance of a building permit authorizing the construction of an assisted living facility at 5111 Connecticut Avenue, N.W., Lot 162, Square 1989, (the "subject property").

On April 9, 2001, Advisory Neighborhood Commission ("ANC") 3G filed a letter with the Board of Zoning Adjustment ("BZA" or "Board") noting that it had voted to join in the appeal filed by the Nebraska Avenue Neighborhood Association. Hereinafter, the Nebraska Avenue Neighborhood Association and ANC 3G are referred to as Appellants.

When the building permit application was filed on July 10, 2000, the subject property was owned by a number of individual property owners and Sunrise Connecticut Avenue Assisted Living LLC ("Sunrise"). Subsequent to the issuance of the building permit on March 8, 2001, Sunrise completed its purchase of all of the subject property. Pursuant to 11 DCMR 3199.1, as owner of the subject property, Sunrise is automatically a party in this case.

Sunrise fully supports the Zoning Administrator's decision to approve the building permit authorizing the construction of an assisted living facility on the subject property. More specifically, Sunrise believes that the Zoning Administrator properly applied the relevant portions of the Zoning Regulations in determining that the building permit application fully complied with the applicable zoning requirements for the subject property. Accordingly, Sunrise appears as a party in opposition to the appeal and requests that the appeal be denied.

II.
Summary Response to
Issues Raised By the Appellants

The appellants contend that the Zoning Administrator's decision to approve the building permit application was erroneous for the following reasons:

1. The approved building violates the building height, FAR and density requirements of the R-3 [R-5-B] zone;

2. The building permit was granted for an assisted living facility even though no special use permit was sought or approved; and

3. The approved building violates the rear yard setback requirements for the R-5-D zone;

4. The approved building violates the floor area ratio ("FAR") requirements for a building located in the R-5-D zone;

5. The approved building violates the loading dock requirements of the R-5-D zone, because the proposed loading dock is a sham.

In addition, the original filing of the appeal included references to the "lack of DCRA and/or applicant responses to external agency concerns," the contention that "various DCRA and other agency reviews were based on significantly inaccurate and incomplete information, including misrepresentations on the application and EISF", and "lack of DCRA to provide access to many relevant materials to allow neighbors of the proposed building to be informed of zoning issues of the application."

The issues raised by the Appellants do not support a reversal of the decision of the Zoning Administrator. As discussed in greater detail in Section V, each of the Appellants' arguments is flawed and should be rejected. The Zoning Administrator's decision to approve the building permit application was correct and is fully supported by the regulations as well as local and federal law.

1. The approved building is vested under the R-5-D zoning, the only zoning applicable to the subject property when the building permit was filed.

2. The approved assisted living facility is a matter-of-right use on the subject property, pursuant to 11 DCMR 330.5(i) and special exception approval is not necessary.

3. The approved building provides an adequate rear yard setback, as approved independently by the Zoning Administrator in a confirmatory letter dated May 16, 2000 and signed by the Zoning Administrator on July 8, 2000.

4. The approved building satisfies the FAR requirements of the R-5-D zone.

5. The approved building fully satisfies the loading requirements of the R-5-D zone.

With regard to the non-zoning issues raised by the Appellants, Sunrise notes that these issues are outside the scope of the BZA's review authority and should not be addressed in the appeal. The Zoning Act (D.C. Code Sec. 5-424(f) (2000)) provides for appeals to the BZA that are "based in whole or in part upon any zoning regulation or map." In implementing that provision of the Act, the Zoning Regulations (11 DCMR 3100.2) provide that the BZA may "hear and decide appeals where it is alleged by the Appellant that there is error in any order, requirement, decision, determination, or refusal made by any administrative officer or body, including the Mayor, in the administration or enforcement of this Title." The BZA has consistently confirmed that interpretation on many occasions. See, for example, BZA Orders No. 13917, 13967, 14424, 15941, and 16246. Accordingly, Appellants' allegations that DCRA

officials failed to address external agency concerns and did not provide full access to DCRA records are not zoning matters and are not properly before this Board.

III.
List of Witnesses

The following is a list of witnesses who will testify on behalf of Sunrise:

1) Sean Ambrose, Vice President and Senior Development Officer, Sunrise Assisted Living.

2) Armando Lourenco, Zoning Consultant.

3) Steven Ruiz, Beery Rio & Associates, Project Architects.

IV.
List of Exhibits

The following exhibits are included in support of Sunrise's case and to establish that the building permit was issued in full compliance with all zoning requirements:

Exhibit A	Letter signed by Gladys Hicks, Deputy Zoning Administrator, on December 17, 1998, confirming matter of right use.
Exhibit B	Letter signed by Gladys Hicks, Deputy Zoning Administrator, on March 9, 1999, confirming parking and loading requirements.
Exhibit C	Office of Planning Report in support of initial alley closing application.
Exhibit D	Chronology of meetings between Sunrise and the community.
Exhibit E	Letter signed by Michael Johnson, Zoning Administrator, on July 8, 2000, confirming the height, rear yard, side yard and court requirements.
Exhibit F	Copy of July 10, 2000, building permit application.
Exhibit G	Chronology of BLRA comments on building permit application and Sunrise's responses.

Exhibit H	Copy of Building Permit No. B43564 issued March 8, 2001.
Exhibit I	BZA Order No. 16604.
Exhibit J	Opinion of Corporation Counsel dated February 5, 1987, regarding the "setdown" rule.
Exhibit K	Office of Planning report stating that a Community Residence Facility is housing for the handicapped.
Exhibit L	Federal court decisions regarding the definition of handicapped.
Exhibit M	Reduced drawings demonstrating that the project meets the FAR, rear yard and loading requirements.

V.
History of Events Leading Up To the Appeal

Sunrise first identified the subject property as an appropriate location for an assisted living facility in 1997. On October 15, 1998, Sunrise met with the Deputy Zoning Administrator at that time, Gladys Hicks, to discuss the proposed use of the property as an assisted living facility. On December 17, 1998, Sunrise received written confirmation from Ms. Hicks that the proposed assisted living use would be permitted as a matter of right, once the proposed amendments to the Zoning Regulations were adopted regarding housing for the handicapped.[1] A copy of this letter is attached as Exhibit A. Sunrise received additional confirmation from Ms. Hicks on March 8, 1999, regarding the number of required parking spaces and loading berths for the assisted living facility. A copy of this letter is attached as Exhibit B.

[1] The D.C. Zoning Commission adopted these amendments to the Zoning Regulations in Zoning Commission Order No. 869, which became effective April 30, 1999. The amendment were required in order to bring the Zoning Regulations into compliance with the Federal Fair Housing Act. This action was mandated by the Settlement Agreement entered into between the District of Columbia Government and the U.S. Department of Justice.

Initially, Sunrise envisioned a building on the subject property that required the closing of the alley stub in Square 1989 that is surrounded by the subject property. An alley closing application was filed by Sunrise on August 2, 1999, to close the alley stub. All city agencies reviewed the alley closing application and had no objection, including the Office of Planning ("OP"). (See the OP Report attached as Exhibit C.) As part of the alley closing process, Sunrise met with ANC 3G regarding the proposed alley closing application at a regularly scheduled public meeting on February 14, 2000. Thereafter, Sunrise engaged in numerous meetings with individual ANC Commissioners and individual members of the community (including members of the Nebraska Avenue Neighborhood Association) to obtain their support for the closing. Sunrise also attended a meeting with all seven ANC Commissioners and numerous immediate neighbors of the subject property.[2] Despite the efforts of Sunrise, including offers to provide a public easement to better improve traffic circulation in the alley and a construction management plan to address issues related to the construction of the project, the ANC and the community decided to oppose the alley closing application. As a result of this opposition and despite the fact that none of the reviewing District of Columbia agencies had objected to the alley closing application, Sunrise decided to abandon the alley closing application and pursue a building design that did not require closure of the alley stub.

On May 2, 2000, Sunrise met with the current Zoning Administrator, Michael Johnson, to review the matter-of-right zoning requirements for the proposed building, including height, rear yard setback, side yard setback and court determinations. On July 8, 2000, Michael Johnson provided written confirmation of the appropriate development parameters for the proposed

[2] A more exhaustive chronology of Sunrise's history of dialogue with the ANC and the community is attached as Exhibit D.

assisted living facility on the site. A copy of this letter is attached as Exhibit E. In reliance on this determination as well as the two previous determinations of the Zoning Administrator, Sunrise filed its building permit application on July 10, 2000 (see the attached Exhibit F).[3]

The detailed working drawings that were filed with the building permit application included **178 pages** and showed the construction of an assisted living facility for seniors. Sunrise and its consultants followed the normal building permit application process and responded to comments raised by the technical reviewers of the Building and Land Regulation Administration (BLRA) as they became available.[4] After an exhaustive review process that took approximately **8 months**, Building Permit No. B43564 was issued on March 8, 2001, authorizing the construction of a "seven story cast in place concrete structure containing assisted living residences (CRF, housing for the handicapped as the term is defined by the fair housing act) with underground parking." (See the attached Exhibit H.) On March 16, 2001, the present appeal was filed.

[3] After the building permit application was filed by Sunrise, ANC 3G filed an application with the Zoning Commission to downzone the property from R-5-D to R-3. The Zoning Commission set down the case for hearing at its October 16, 2000 public meeting. A public hearing on the proposed downzoning application was held on March 29, 2001. At its June 11, 2001, public meeting the Zoning Commission took proposed action to downzone the subject property from R-5-D to R-5-B. While the project is fully vested, the proposed change in zoning for the subject property would render the approved building a non-conforming structure since the permitted density in the R-5-B District is approximately one-half the density permitted in the R-5-D District. Further, the maximum permitted height is 50 feet as opposed to 90 feet under R-5-D.

[4] A more exhaustive chronology of Sunrise's response to BLRA comments is attached as Exhibit G.

VI.

Detailed Response to Zoning Issues Raised by the Appellants

The Appellants' burden of proof is "to show by a *preponderance of the evidence* that the building permit was issued in error because the proposed building would violate the Zoning Regulations." (See p.3. of BZA Order 16604 dated November 22, 2000 (Exhibit I) in which the BZA upheld the issuance of a building permit for the Sikh Cultural Society at 3801 Massachusetts Avenue, N.W.) Accordingly, there is a strong presumption of the permit's validity and the BZA can overturn the Zoning Administrator's decision only if there is strong evidence of an error. In this case, Appellants have failed to meet their burden of proof.

1. The R-5-D Zoning Requirements Apply to the Subject Property

The Appellants have asserted that the building permit application should have been processed under the R-3 zoning that was being considered for the site pursuant to the downzoning petition setdown for hearing by the Commission on October 16, 2000. The so-called "setdown rule" states that if a building permit application is filed when the Commission has a rezoning application pending, a permit can be issued only if it is consistent with the most restrictive zoning being considered. As the Office of Corporation Counsel has determined, the setdown rule is inapplicable in the subject situation because the building permit application was filed before the downzoning was setdown for hearing. The setdown rule simply does not apply. This is consistent with prior opinions of Corporation Counsel. (See the attached Exhibit J.)

In their recent submission, the Appellants suggest that despite the filing prior to setdown, the more restrictive zoning applies because the plans were incomplete. On the contrary, the full set of working drawings and accompanying building permit application fully complied with the Zoning Regulations, were complete in all respects and provided adequate basis for the issuance

of the building permit. (See 11 DCMR 3202.5 which requires that plans be sufficiently complete "to permit processing without *substantial* change or deviation.") The minor clarifications that were made to the application and plans in response to requests by DCRA/BLRA reviewing officials were not substantial changes and in no way undercut Sunrise's vested rights.

2. An Assisted Living Facility is a Matter-of-Right Use

Section 330.5(i) of the Zoning Regulations permits Community Residence Facilities as a matter-of-right in the R-4 and higher zones as long as the facility serves housing for the handicapped. Handicap is defined in the Federal Fair Housing Amendments Act ("FFHAA") as a physical or mental impairment which substantially limits one or more of a person's major life activities. Sunrise secured a ruling from the Zoning Administrator that the individuals to be served by the proposed assisted living facility meet this definition.

The background of Section 330.5(i) of the Zoning Regulations is critical to a full understanding of this issue. Prior to the revision of Section 330.5(i) in 1998, the Zoning Regulations did not permit a Community Residence Facility ("CRF") in the residential zone regardless of whether it served handicapped people unless the facility served fewer than nine people. After the adoption of the Federal Fair Housing Amendments Act, the United States Justice Department determined that District of Columbia's Zoning Regulations did not provide equal housing opportunities for handicapped persons to reside in multi-family zones. In practice, many handicapped facilities were deemed CRFs and were subject to limitations that did not pertain to housing serving non-handicapped persons. The Justice Department threatened to sue the District Government to resolve this differential treatment.

On September 30, 1997, the District signed a "stipulated agreement" with the Justice Department agreeing to petition for a change to the Zoning Regulations by December 24, 1998,

to eliminate the unequal treatment. The change that is relevant in this case was to allow CRFs for handicapped persons in the multi-family zone as a matter-of-right, so that such facilities are not subject to a greater level of regulation than that applicable to housing for non-handicapped persons. Thereafter, the regulations were changed as shown in the current language in Section 330.5(i). The Office of Planning supported this change to the Zoning Regulations and stated in its report that:

> The most straightforward effect of this rule is that a Community Residence Facility (which is specifically intended and operated for handicapped persons) and any other CBRF specifically for occupancy by handicapped persons would no longer be subject to any restrictions, such as special exception, numerical occupancy limit or spacing requirements.

(See the attached Exhibit K, p.5.) (The regulations distinguish youth and adult rehabilitation homes and other facilities which are not housing for the handicapped.)

The proposed assisted living facility will also fully comply with the newly adopted Assisted Living Residence Regulatory Act of 2000 and will provide residents with assistance in activities of daily living such as eating, bathing, toileting, grooming, dressing, undressing and mobility. This particular facility will also serve individuals with cognitive impairment caused by Alzheimer's Disease. These residents clearly meet the definition of handicapped under the FFHAA and qualify as members of a protected class under the FFHAA by virtue of having "a physical or mental impairment which substantially limits one or more of such person's major life activities." 42 U.S.C. §3602(h). See, e.g., *Hovsons, Inc. v. Township of Brick*, 89 F.3d 1096, 1103 & n. 3 (1996); *Assisted Living Associates of Moorestown, L.L.C. v. Moorestown Township*, 996 F. Supp. 409, 435 (D.N.J. 1998) (Copies of relevant portions of these decisions are attached as Exhibit L.)

The Appellants' latest assertions in their filing dated June 25, 2001, are disturbing and demonstrate the Appellants' open hostility toward housing for the handicapped. The Appellants allege that a CRF is not a residential use, that the assisted living use is transient in nature and that because of the cognitive impairment of some of the future residents, the use does not qualify as a CRF. Essentially, they argue that the residents are too handicapped to be permitted to reside in a building designed to address their precise needs! This exact type of hostility was the basis for the federally-mandated changes to the Zoning Regulations to ensure that the handicapped are not victims of discrimination in housing. The Board cannot disregard the plain language of the Zoning Regulations and the FFHAA which establish that the proposed use is permitted as a matter of right.

3. Satisfaction of Rear Yard Setback Requirement

The proposed building fully complies with the rear yard setback requirement. Prior to finalizing the building design, Sunrise sought a written confirmation from the Zoning Administrator confirming the proposed method for computing the rear yard for this irregularly configured lot. Such confirmation was obtained in a confirmatory letter dated May 16, 2000 and signed by the Zoning Administrator on July 8, 2000. (Exhibit E.)

As shown in Exhibit M, while a typical square lot contains four sides (a front, a rear and two side yards) the subject lot is five-sided and hence, irregular. Further, an alley stub protrudes into the lot at an angle. In considering the lot's unusual configuration, the Zoning Administrator correctly determined that Connecticut Avenue was the front, the portion of the lot abutting the north-south alley to the rear, running roughly parallel to Connecticut Avenue, was the rear. Further, the Zoning Administrator concluded that the southern side yard abutted the property to

the south adjacent to the property at 5109 Connecticut Avenue and that the northern side yard abutted the alley stub. This determination was both reasonable and appropriate.

The Appellants have suggested a tortured interpretation of the rear yard requirement. Specifically, they have argued that the rear yard is not only that portion of the lot abutting the north-south alley to the rear but also, that portion of the lot that abuts the alley stub along the northern side of the proposed building. Such interpretation is not logical, appropriate or reasonable and simply cannot be supported by the Zoning Regulations. The portion of the building that abuts the alley stub cannot be considered the "rear line of the building."

4. The Project Satisfies the FAR Requirements

The building's FAR has been properly calculated and fully complies with the 3.5 FAR limit applicable in the R-5-D zone. In computing FAR, the architects carefully evaluated the definition of "gross floor area" contained in the regulations. The FAR computations correctly excluded a portion of the garage level of the building since only 11.9% of that level constitutes basement space. In determining the amount of the garage level that should count toward FAR, the architects applied the well-established and long-recognized "perimeter wall test." The percentage of the building perimeter that is more than four feet out of grade was applied to the square footage for the entire level. The resulting square footage was counted toward gross floor area as basement. (See Exhibit M which includes data regarding the correct computation of the building's FAR.)

In the submission dated June 25, 2001, ANC 3G sets forth its own computation of FAR. This computation was not performed by an architect and evidences a lack of familiarity with the regulations. For example, the computation states that the utility and elevator rooms in the penthouse count toward FAR while the regulations clearly provide that such non-habitable

penthouse space is not countable towards FAR. Further, ANC 3G's computations refer to the purported third floor balconies as countable toward FAR. These so-called balconies are actually roof terraces that are open to the sky and therefore are in fact not balconies, but rather roof terraces that are not countable toward FAR as they are open to the sky. The setbacks that occur at the third floor level allow for the provision of these roof terraces. Finally the square footage for the basement level was not calculated properly by ANC 3G. Only 11.9% of the building perimeter is more than four feet out of grade not 33% as alleged by the Appellants. Sunrise's FAR computations were prepared by licensed architects and reviewed by experienced zoning officials at the Office of the Zoning Administrator. The ANC's calculation is erroneous and cannot be used as a basis to overturn the city's and the architect's computations.

5. The Project Meets the Loading Requirement

The building permit drawings correctly show a fully compliant loading berth as required under the regulations. The parking and loading requirements were confirmed by the Zoning Administrator in a letter signed on March 9, 1999, attached as Exhibit B. The Appellants' statement that the loading berth is a "sham" is baseless. The allegation that Sunrise intends to use the alley stub that it sought to close in place of the loading berth that will be an integral part of the new building is illogical and pure conjecture by the Appellants. Moreover, the portion of the building along the alley stub does not include any doors that would allow access for deliveries and supplies. As shown in the drawings attached as part of Exhibit M, the loading dock for the building is situated on private property, in an area that is conducive to an efficient and orderly system of delivering supplies to the building.

VII.
Conclusion

For the above-mentioned reasons, Sunrise respectfully requests that the Board deny the appeal.

Respectfully submitted,

Maureen E. Dwyer

Allison C. Prince

Paul A. Tummonds, Jr.

7/12/01
Date

Document #: 1134414 v.4

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ANNAPOLIS, MARYLAND
BETHESDA, MARYLAND
FAIRFAX, VIRGINIA
GREENBELT, MARYLAND
WALDORF, MARYLAND

December 15, 1998

BY HAND

Ms. Gladys Hicks
Deputy Zoning Administrator
614 H Street, N.W.
Room 333
Washington, D.C. 20001

Re: 5111-5123 Connecticut Avenue, N.W.

Dear Ms. Hicks:

This letter is to confirm that use of the above referenced property as a new assisted living facility will fully comply with the use requirements of the Zoning Regulations once the Zoning Commission has taken final action on the proposed text amendments to the Zoning Regulations for community-based residential facilities (Zoning Commission Case No. 97-15(i)).

The site consists of Lots 49-56 in Square 1989 (see attached plat) and is currently improved with a mix of residential buildings. The property is zoning R-5-D. The plan is to raze the existing buildings and to construct a new assisted living facility consisting of approximately 100 units or 120 residents.

When we met with you on October 15, 1998, we discussed in detail the proposed use and the existing zoning requirements. (Enclosed is a copy of the agenda from our meeting, with attachments.) At that time, you confirmed that under current zoning regulations, the proposed assisted living facility would require special exception approval as a community-based residential facility given the nature of the services provided. We also discussed at that time the proposed text amendments to the Zoning Regulations for community-based residential facilities which will amend the Regulations by permitting

such facilities as a matter of right in the R-4 and higher districts. The proposed new subsection 330.5(i) reads as follows:

> 330.5(i) The following uses shall be permitted as a matter of right in an R-4 district: ...
>
> (i) Community based residential facility; Provided, that notwithstanding any provision in this title to the contrary, the Zoning Administrator has determined that such community based facility, which otherwise complies with the zoning requirements of this title that are of general and uniform applicability to all matter of right uses in an R-4 District, is intended for, license, and operated as housing the handicapped as that term is defined under Section 3602(h) of the Fair Housing Act, as amended, 42 U.S.C. Section 3601 et seq. (1955).

You confirmed at our meeting that once the Zoning Commission took final action on the proposed text amendments, the proposed assisted living facility would qualify as a facility operated as housing for the handicapped as that term is defined under the Fair Housing Act. The actual definition adopted in Section 802 of the Fair Housing Act Amendment defines handicap as, inter alia, "a physical or mental impairment which substantially limits one or more of such person's major life activities."

The Zoning Commission has now taken proposed action on the text amendments and NCPC has also indicated that it has no objection to the proposed text amendments. Once the Zoning Commission has taken final action on the proposed text amendments, the proposed assisted living facility which is located in an R-5-D district will be permitted as a matter of right and such use fully complies with the requirements of the Zoning Regulations.

If the above conforms with your understanding of the facts, please indicate your agreement by signing in the space provided below.

Thank you for your attention to this matter.

Sincerely yours,

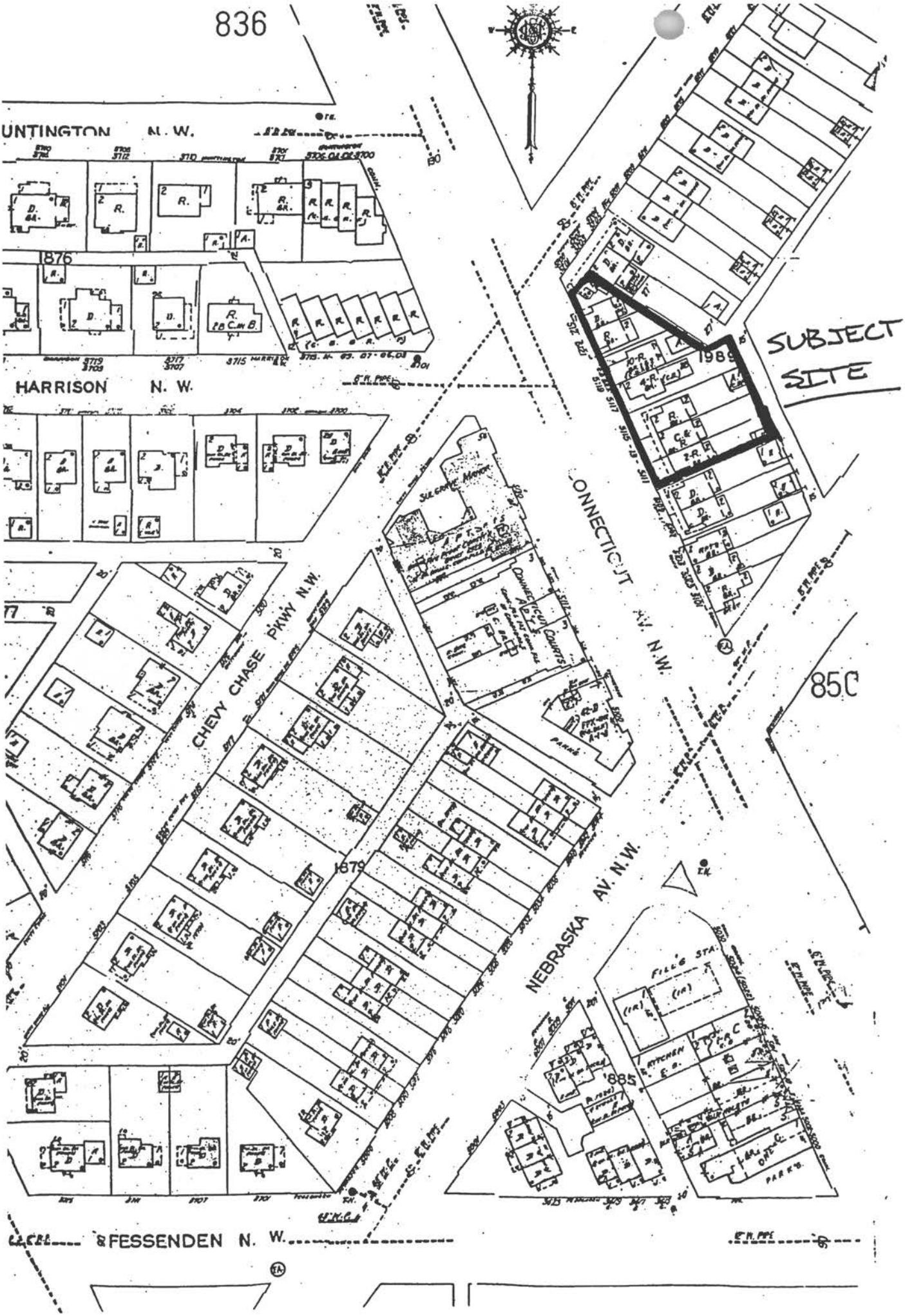
Maureen Ellen Dwyer

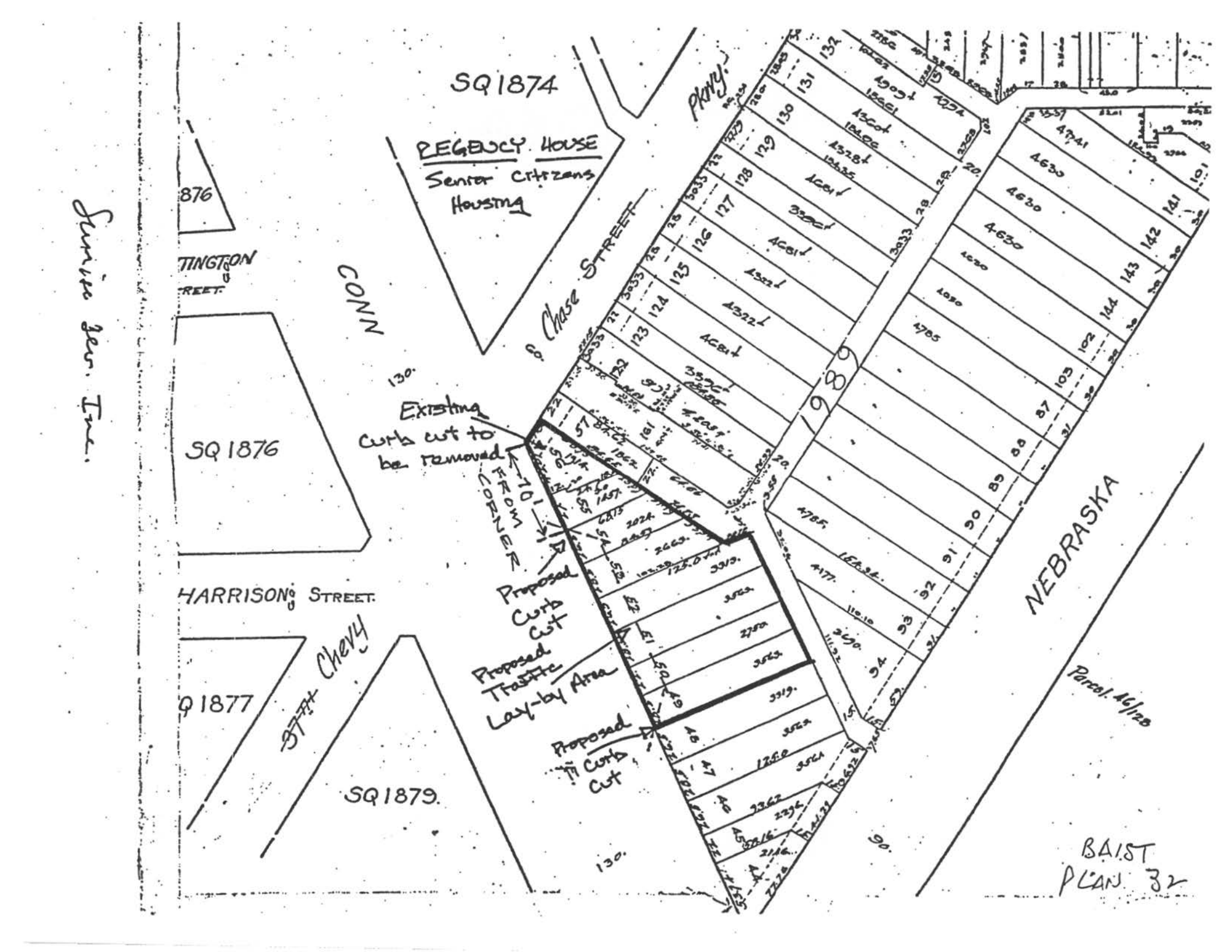
Richard S. Nero, Jr.
Urban Planner

MED/RSN:lm/120609

APPROVED:

Gladys Hicks
Deputy Zoning Administrator
Date: 12/17/98


836
UNTINGTON N. W.
HARRISON N. W.
1876
1879
1885
1989
SUBJECT SITE
CONNECTICUT AV. N.W.
CHEVY CHASE PKWY N.W.
NEBRASKA AV. N.W.
FESSENDEN N. W.
85C


SQ1874
REGENCY HOUSE
Senior Citizens Housing
876
TINGTON
REET.
CONN
Chase STREET
130.
Existing Curb cut to be removed
FROM CORNER
101
SQ 1876
HARRISON Ave STREET.
Proposed Curb Cut
Proposed Traffic Lay-by Area
Proposed 'E' Curb Cut
37th
Chevy
Q 1877
SQ1879.
130.
90.
989
NEBRASKA
Parcel A6/120
Sunrise Ins. Inc.
BAIST
PLAN 32

AGENDA

Meeting with Gladys Hicks Concerning the Proposed Development
of a New Assisted Living Facility
at 5111 - 5123 Connecticut Avenue, N.W.
(Lots 49 through 56, in Square 1989)

October 15, 1998

11:00 A.M.

I. Introduction - Sunrise Development Inc.

II. Description of the Proposed Use

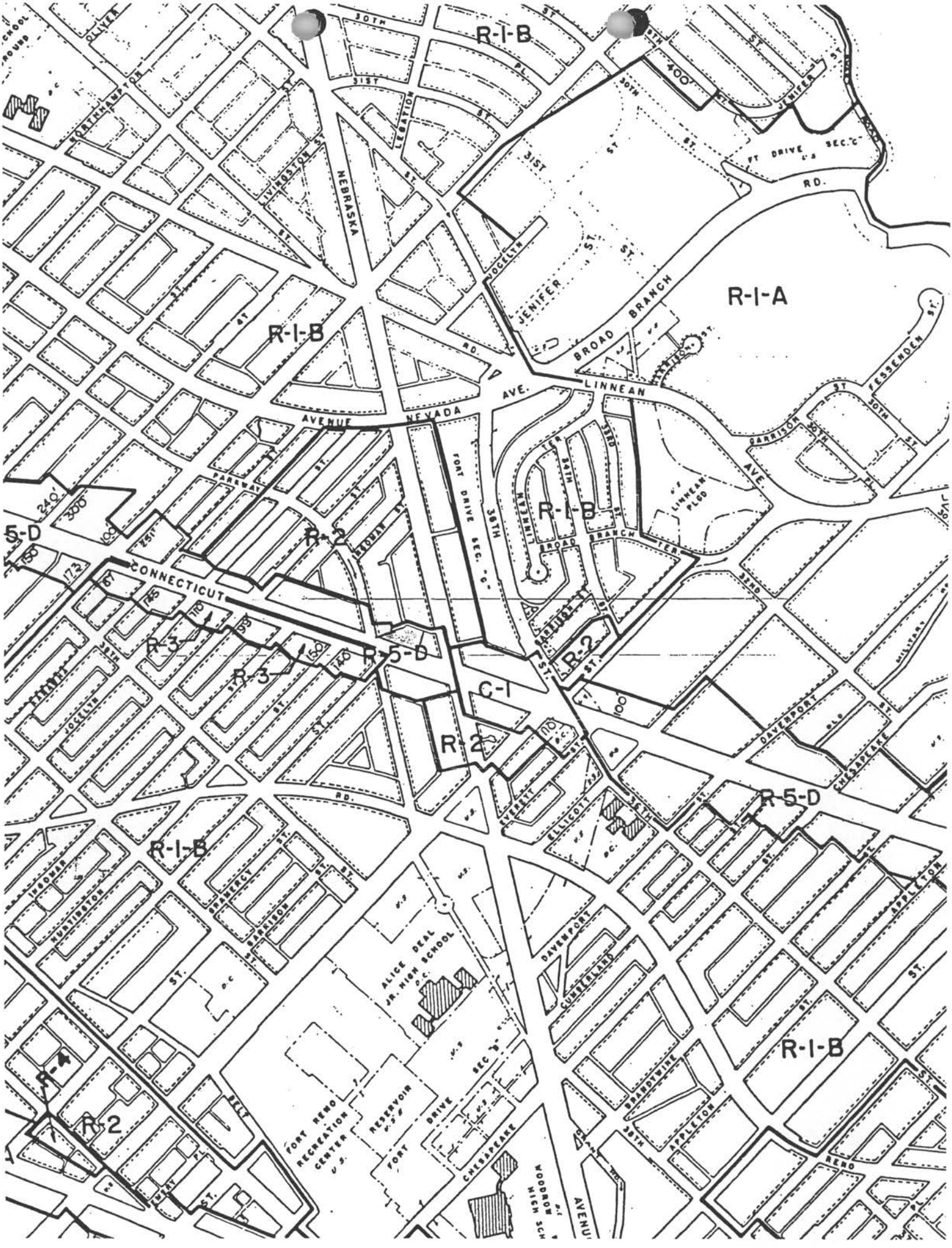
- A. 100 Units, 120 Residents
- B. Studios, One and Two Bedrooms
- C. Central Dining
- D. Licensed Nurses, No Doctors
- E. Administrative Offices
- F. Activity - Meeting Rooms

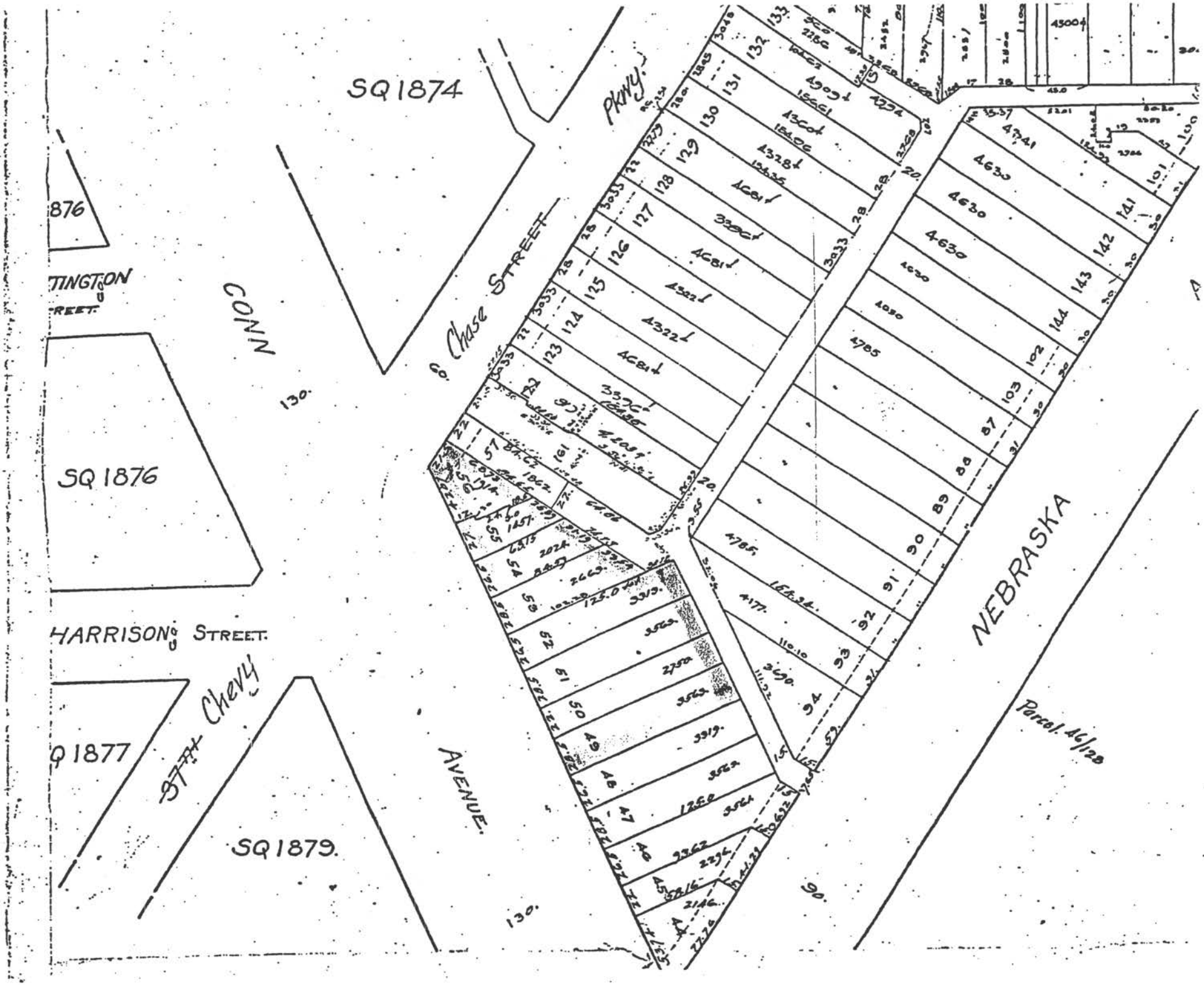
III. Zoning Requirements

- A. R-5-D District
  1. Use (Matter-of Right Apartment Building versus Special Exception CBRF)
  2. Height, FAR, Yard, Court, Lot Occupancy, Parking & Loading, Front Circular Driveway, etc.

IV. Other Issues

Attachments (Plats, Photos of Site, Zoning Map)


R-1-B
R-1-A
R-2
R-3
R-5-D
C-1
NEBRASKA AVE.
CONNECTICUT AVE.
NEVADA AVE.
LINNEAN AVE.
BROAD BRANCH RD.
FORT DRIVE SEC. "C"
ALICE DEAL JR. HIGH SCHOOL
FORT RENO RECREATION CENTER
RESERVOIR
FORT DRIVE SEC. "B"
WOODROW WILSON HIGH SCH
30TH ST.
31ST ST.
JENIFER ST.
QUEBEC PL.
LEGATION ST.
OLIVER ST.
NORTHAMPTON ST.
IVANHOE ST.
JOCELYN ST.
HARRISON ST.
GARRISON ST.
FESSENDEN ST.
DAVENPORT ST.
CHESAPEAKE ST.
APPLETON ST.
BRANDYWINE ST.
CUMBERLAND ST.
ELLICOTT ST.
EVERETT ST.
WISCONSIN AVE.
340'
300'
400'


SQ1874
PKWY.
Chase STREET
CONN
130.
SQ 1876
HARRISON Co STREET.
STH Chevy
AVENUE.
SQ1879.
NEBRASKA
Parcel 46/128
90.
130.
60.
876
TINGTON
REET.
Q 1877