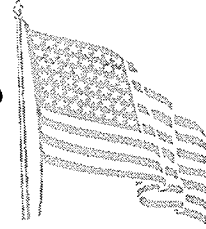


BC Community Housing, LLC
P.O. Box 1335, Burlington, VT 05402
802-861-3000 fax 802-861-3003

RECEIVED
APR 10 2017

DEPARTMENT OF
PLANNING & ZONING



Memo

To: Austin Hart, Esq., Chairman, Development Review Board
City of Burlington, Vermont

From: Eric Farrell

CC: Scott Gustin, Mary O'Neill, David E. White
Michael Monte, CHT, Amy Demetrowitz, CHT, Cindy Reed CSC, Kathy Beyer, HVT
Owiso Makuku; Judy Zullo, Esq.

Date: March 21, 2017

Re: Cambrian Rise

It is my understanding that when the DRB made corrections to the Findings of Fact for 329-375 North Avenue, and re-issued them on Wednesday, March 8, which Findings were originally issued on February 14, 2017, it specifically did not change the approved hours and days of construction. It has come to my attention that the restrictions placed upon the allowed hours of construction were made in reliance upon a mistaken recitation at the deliberative session by one or more Board members of the hours and days which I expressly, and the Board implicitly, agreed to at the Public Hearing.

For clarification on this important point, I invite the DRB to review the CCTV video recording (<https://www.cctv.org/watch-tv/programs/burlington-development-review-board-257>) of the January 31, 2017 Public Hearing for an accurate record of the dialogue that took place between me, as Applicant, and certain members of the Board. The exchange can be found at approximately 160:50 of the tape. Unfortunately, as you may recall, the Public Hearing was very rushed due to severe time limitations on the room, much to the detriment of my project and the Board.

I believe you will find from a review of the tape that, in fact, during the Public Hearing, there was an amicable exchange between myself and the Board which ended with a clear understanding that we had agreed to the following hours of construction: Monday through Saturday, 7am to 6pm; and interior work, and "non-obtrusive" exterior work, on Sunday. Our original proposal for work hours followed the City's Noise Ordinance, i.e. Sunday through Saturday, 7am to 9pm.

Accordingly, we hereby request DRB reconsideration of Condition #13 of our Cambrian Rise permit #ZP16-0623CA/MA that addresses our allowable hours of construction for our impending development on North Avenue, based on the following information.

We believe that, while a number of the Board members extensively discussed the allowable hours of construction during the deliberative session, the discussion centered around a mistaken recollection of the hours that were discussed at the final Public Hearing on January 31, 2017. Specifically, the discussion at that particular hearing was in response to a request by DRB member Alexandra Zipparo whether I would reconsider more limited days/hours of construction than those set forth in the final Staff Report, which days/hours she believed to be too broad. I responded to the question by saying that I could live with Monday through Saturday, 7am to 6pm; and interior work, and "non-obtrusive" exterior work, on Sunday.

During your deliberative session on February 6, 2017, the subject of construction hours comes up at approximately 18:32 of the recording. In response to a request for some recollection of what was discussed at the Public Hearing, we hear various voices piecing together the 1.31.17 discussion, ultimately concluding that "Eric said he could live with no construction on Sunday and interior only construction Saturday...." It was in reliance upon that inaccurate recollection that the members agreed to limit the hours accordingly. Of course, your review of the CCTV video will confirm that I was misquoted.

The restricted hours present a significant financial burden on all of the partners at Cambrian Rise, as we collaborate to deliver desperately-needed, cost-effective housing to the City. I attempted to illustrate the extent of that burden in an email to the Planning Staff dated 3/6/17 (copy attached).

For the record, I have attached a list of other City projects recently approved by the DRB that have allowed work hours on Saturday. The DRB should take into particular consideration the fact that Cambrian Rise is surrounded on three sides by public open space, the result of which is significantly less impact on the surrounding neighborhood than in a typical City project.

Also, for the record, I have attached an excerpt from the Staff report published on 1.30.17, wherein it is referenced that the "Days and hours of construction are limited to Monday - Sunday 7:00 AM - 9:00 PM." I mention this to highlight the fact that we did not proposed any other hours in our application, which we agreed to modify at the 1.31.17 Public Hearing, as set forth above.

It is my sincere hope that the DRB will take this opportunity to review the CCTA video of the 1.31.17 Public Hearing and the tape of the deliberative session on February 6, 2017 and conclude that this is a simple matter of a mistaken recitation of what actually took place at the Public Hearing and officially correct the record, thereby obviating the need for a costly appeal of this condition.

Attachments

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MAR 08 2017

Owiso Makuku

DEPARTMENT OF
PLANNING & ZONING

From: Eric Farrell
Sent: Monday, March 06, 2017 7:29 AM
To: SGustin@burlingtonvt.gov; MConil@burlingtonvt.gov
Cc: DEWhite@burlingtonvt.gov; Michael Monte; Amy Demetrowitz; KBeyer@hvt.org; Owiso Makuku
Subject: Cambrian Rise DRB conditions

Hi Scott & Mary,

Mary related on Friday that the DRB did, in fact, restrict the work hours at Cambrian Rise, as a condition of our approval. As we discussed when we met last week, this is not an established community standard that has been consistently applied to other projects, nor was it requested by anyone, including our immediate neighbors. Therefore, I see no justification for such limits. It will, however, have a direct and consequential negative effect on the cost of construction of the new housing units that we have collectively worked so hard to make as affordable as possible. Here is how the impact will be felt. Not working on Saturday's eliminates 52 days per year from the construction schedule, representing 16.7% of the usual and customary 6-day construction work week or 1.733 months per year. A typical project of the size and nature of the buildings that I, CHT and CSC will be constructing, carry "General Conditions" costs (supervision, security, utilities, builders risk insurance, etc.) that run about \$50,000 per month and which are directly correlated to the duration of construction. In other words, stretching out the same amount of construction work over more months, costs more in General Conditions. Increasing these costs does not add to the value of the completed building, and quite to the contrary, at 1.733 months, it will add about \$1,000 to the cost of each and every housing unit for no one's benefit. Likewise, stretching out the construction period will add another \$1,000 to each and every housing unit for construction period interest expense, which also adds no value nor benefits no one. Consequently, we respectfully ask that the DRB honor our request for the following reasonable work hours: 7 am - 6 pm, Monday-Saturday, interior-only work on Sundays. This schedule is particularly appropriate at Cambrian Rise, as the property is surrounded on three sides by open space and only 3 of 12 new buildings front on North Avenue.

Regarding bonding of the public improvements (street & infrastructure within the public ROW), Wright & Morrissey's (our general contractor) bonding agent, Hickok and Boardman Insurance, advises that it is absolutely not possible to bond for future work, as suggested in the DRB approval. We can, however, require W&M to provide a bond for each section of the public improvements, when and as we contract with them to construct such improvements per phase. Regardless, we still do not believe this to be an effective method of ensuring the full buildout of these improvements, as their construction is a necessary component of each and every phase of construction of the various buildings, which building approvals represent considerable investment and value to us, providing ample motivation and security for their development. I believe that the details of a covenant, as referenced in the DRB approval, can be worked out such that the city and the public is more than adequately protected without any bonding requirement. Similar to restricted work hours, bonding will simply add unnecessary costs to each and every housing unit for no one's benefit.

Please advise how we can secure relief from these two conditions of approval without having to resort to an appeal the the Environmental Court, which, by itself, will add to the cost of each and every housing unit.

Many thanks,

Eric

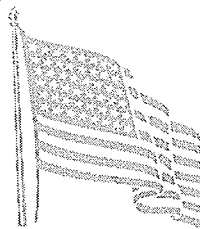
Sent from my iPad

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APR 10 2017

DEPARTMENT OF
PLANNING & ZONING



Memo

To: Scott & Mary
From: Owiso
Date: 2/3/17
Re: Confirmation/clarification of DRB testimony on 1/31/17

We thought it would be useful to provide a summary of what was presented at the last DRB meeting, given that the time available at the meeting was so short.

West View From Liberty House

For over two years, we have expressed our commitment to maintain a view corridor west from Liberty House to the Lake by not siting any new buildings that would block the westerly view from Liberty House. Our agreement was not a commitment to pure open space in that corridor, meaning site amenities (pool, greenhouse, grilling areas, playground, gardens, etc.) and infrastructure improvements are acceptable and encouraged. The agreement is not legally binding on us, because it's not memorialized in the Development Agreement or any other document. It is simply a principle we agreed to uphold in deference to the historic former orphanage. We have more than met our commitment by not placing any buildings above the grade behind Liberty House. For the record, the grade drops 58 feet; 224' immediately behind Liberty House to 166' at the boundary line with the Public Park.

On a related matter, any suggestion of eliminating surface parking behind Liberty House is a non-starter for us and simply not a fair and reasonable request. The surface parking in that location (representing a part of the only 21.9% of our total parking provided) is consistent with our aforementioned commitment to maintain the view corridor. Also, it should be noted that the "surface" parking spaces behind Liberty House are actually "structured" parking spaces. The parking field closest to Liberty House has one level of structured parking below; and the west field (above Building D) is structured parking with two levels below (see attached plans EX5a "Surface parking" and EX5c "P1 Parking"). It is also important to note that the City discourages "front yard" parking, in favor of parking behind buildings, thereby screening it from the public street. You can't have it both ways (Article 6).

Parking

As set forth, in part, on the Parking Summary & Analysis spreadsheet I handed out at the DRB meeting on 1/31/17, there are several important metrics that should be highlighted:

- Number of parking spaces required by market demand: 1,430 (usual and customary in our local market)
- Number of parking spaces required by the City's CDO: 930 (insufficient to support the mix of uses without compensating mitigation)
- Difference: 500 spaces (35% reduction)
- Number of parking spaces provided: 1,092
- Parking provided relative to market demand: 76%
- Parking provided relative to CDO requirement: 117%
- Maximum number of surface parking spaces allowed per the CDO: 1,163
- Maximum number of structured (garage) parking spaces allowed per the CDO: unlimited
- Number of surface parking spaces provided: 239
- Surface spaces as a percentage of total spaces provided: 21.9%
- Number of structured (garage) parking spaces provided: 853
- Structured (garage) spaces as a percentage of total spaces provided: 78.1%

Phasing + Unified Certificates of Occupancy

The revised Sequencing Plan submitted recently specifically references our need to secure Unified Certificates of Occupancy upon the completion of each building or Phase.

Phase I, Liberty House, will necessarily open with temporary parking on the north side of the building (see attached plan). We will need Staff to work closely with the Code Enforcement Office and the Building Inspector to guide them through the process of the issuance of CDO's.

Construction Hours

We request the following clarification in the allowable work hours:

- Monday thru Saturday - Exterior Work: 7:00 am – 6:00 pm
- Monday thru Saturday - Interior Work: no restriction
- Sunday - Exterior Work: Not allowed
- Sunday – Interior Work: no restriction
- Federal Holidays – Exterior Work: Not allowed on buildings fronting on North Avenue; unrestricted on the balance of the site.
- Federal Holidays – Interior Work: no restriction

Future Plan Changes that can be Reviewed & Approved by Staff

We request that the following changes to the final plan can be approved by Staff without returning to the DRB:

- A decrease in the total number of residential units or an increase that does bring the total to more than 770.
- A change in the sequencing of phases, provided such change does not materially delay the construction of project amenities. It's important for the DRB to understand that the amenities are even more important to us than to them, as they represent a significant selling feature of the neighborhood.
- A reduction of the total amount of non-residential area or an increase that does not exceed 15%.
- A reduction of the total lot coverage or an increase that does not exceed 5%.
- An increase in surface parking that does not exceed 5%.