

August 3, 2018

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**VIA E-MAIL & HAND DELIVERY**

City of Aurora  
Planning & Development Services  
Attn: George Adams, Department Director  
15151 E. Alameda Parkway  
Aurora, Colorado 80012

**RE: Development Application DA-1502-03, Case Number 2018-4009-00 Appeal of Planning Commission Denial of Providence at the Heights Site Plan with Waivers**

Mr. Adams:

I am a representative of BlueLine Development, Inc., ("**Applicant**"), the applicant of Development Application DA-1502-03, which is associated with Case Number 2018-4009-00 (the "**Site Plan & Waivers Application**"). Pursuant to Section 146-204(E)(2) of the City of Aurora (the "**City**") Building & Zoning Code (the "**Code**"), this letter constitutes Applicant's appeal of the decision of the City's Planning Commission ("**Planning Commission**") denying approval of the Site Plan & Waivers Application.

**I. Background**

Applicant has submitted the Site Plan & Waivers Application in order to receive approval of a site plan (the "**Site Plan**") permitting Applicant to construct and develop a 3-story affordable housing facility to provide housing for qualified low income and disabled individuals (the "**Project**") on a portion of real property (the "**Property**") located adjacent to the existing Elevation Christian Church (the "**Church**"). The Church's address is 15600 E. Alameda Parkway. The Property is owned by the Church. The Project's proposed use is multi-family residential, which is a permitted use under the Property's current zoning and the Code. The Site Plan & Waivers Application also requests approval of two site plan waivers which will be incorporated into the Site Plan. Specifically, Applicant is requesting the following waivers: (a) a waiver of the parking area design standard under Code Section 146-1509(F) permitting a minimum of 25% of the resident parking to be covered via carport of similar structure, rather than requiring that 35% of parking be contained in garages, and (b) a waiver of the lot frontage requirement under Code Section 146-502 (collectively, the "**Waivers**").

It should be noted that, in addition to requesting these waivers, the Project is also making concessions for the benefit of the community. The Project initially explored adding attached parking as required by the Code, but the designs incorporating this would have increased the building height and created additional massing in proximity to the existing neighbors to the south. The current carport design, which requires a waiver, was created in order to minimize visual encroachment on the southern neighbors. Additionally, in order to mitigate the request for a waiver of frontage along Alameda, the Project has agreed to build out Joplin Street to City street standards. Finally, the Project incorporates a minimum setback ranging from 38.6 feet to 56.6 feet at the widest point, far in excess of the minimum required 25 foot setback.

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Applicant and Applicant's design team presented the Project to the Planning Commission during its regular meeting on July 25, 2018 to request approval of the Site Plan & Waivers Application (and an amendment to the current site plan permitting improvements which are largely unrelated to the Project on the portion of the Property which contains the Church (the "Site Plan Amendment")).

In the Site Plan & Waivers Application and during its presentation before Planning Commission, Applicant explained how the Site Plan complied with the technical approval criteria set forth in Code Section 146-405(F), and the justification for each of the Waivers under Code Section 146-405(G). Applicant also explained in detail the screening criteria and process which will be used to select the Project's residents. Specifically, the Project will be open to anyone at or below 30% of the area's median income and targeted towards low income individuals with disabilities. Although the Second Chance Center, Inc. will be a partial owner of the Project, resident screening and selection will be performed by Aurora Mental Health Center and an on-site property manager. Despite explaining in detail these and other aspects of the resident screening and selection process and emphasizing that the Project is geared towards low income individuals with disabilities and not just the formerly incarcerated, Planning Commission asked numerous questions regarding the types of individuals who will be permitted to reside at the Project and heard testimony from community members who voiced similar concerns. Ultimately, although Planning Commission approved the Site Plan Amendment, Planning Commission denied the Site Plan & Waivers Application.

## **II. Grounds for Appeal**

Pursuant to Section 146-204(E)(2) of the Code, Applicant wishes to appeal Planning Commission's denial of the Site Plan & Waivers Application to City Council on the following grounds:

1. Planning Commission did not address and consider the applicable and proper criteria for approving the Site Plan as set forth in Code Section 146-405(F), or for approving the Waivers as set forth in Code Section 146-405(G) (collectively, the "Applicable Criteria"), when it denied the Site Plan & Waivers Application.
2. As explained in the Site Plan & Waivers Application and as demonstrated by Applicant during its presentation to Planning Commission, the Site Plan & Waivers Application complies with all the Applicable Criteria.
3. Planning Commission's denial of the Site Plan & Waivers Application constituted an abuse of discretion and resulted in Planning Commission exceeding its jurisdiction pursuant to Section 106(a)(4) of the Colorado Rules of Civil Procedure.
4. Planning Commission violated the Religious Land Use and Institutionalized Persons Act (RLUIPA) by failing to treat the Church, an owner of the Property, and Applicant, the Church's partner with respect to the Project, at least as well as nonreligious persons and institutions, discriminating against a religious institution and denomination, and unreasonably limiting religious institutions and structures within the City.
5. In denying the Site Plan & Waivers Application, Planning Commission discriminated against qualified individuals with disabilities and failed to provide equal services, programs and activities to an entity which serves individuals with disabilities in violation of Title II of the Americans with Disabilities Act (ADA).
6. In denying the Site Plan & Waivers Application Planning Commission drew a classification between disabled future residents of the Project and other community members and such classification and Planning Commission's denial of the Site Plan & Waivers Application demonstrated improper bias and were not reasonably related to a legitimate governmental interest in violation of the Equal Protection Clause of the 14<sup>th</sup> Amendment to the United States Constitution.

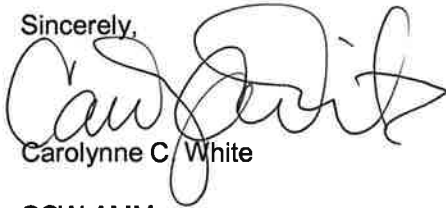
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7. Planning Commission did not follow applicable laws, rules and regulations and made an improper decision when it denied the Site Plan & Waivers Application.

### III. Conclusion

Considering the foregoing, Applicant is appealing the decision of Planning Commission denying approval of the Site Plan & Waivers Application, and Applicant respectfully requests that City Council overturn Planning Commission's decision and approve the Site Plan & Waivers Application.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carolynne C. White', written over a light gray circular stamp.

Carolynne C. White

CCW:AMM

cc: Brandon Cammarata, via email: [bcammara@auroragov.org](mailto:bcammara@auroragov.org)