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November 16, 2021

To: Property Owners Within 200 Feet of
815 South Aurora Street, Ithaca, and Other Interested Persons

RE: Zoning Board of Appeals Hearing
Appeal No. 3202
Regarding 815 South Aurora Street, Ithaca

Dear Property Owners Near 815 South Aurora Street:

We represent South Hill Living Solutions, LLC; which, along with Susanne Dennis is appealing a determination of the City of Ithaca Zoning Administrator. The appellants' request for this interpretation was initially filed on September 16, 2019 and we expect it to come before the Board of Zoning Appeals ("BZA") on December 7, 2021 at 6 p.m. We expect that the hearing will be conducted by remote link; check the BZA's website for more information or contact me. We also request that you make arrangements in advance to make comments at the hearing, or to submit written comments. Please review this letter and the enclosed notice of appeal.

At the City, Zoning Administrator Megan Wilson can be reached at (607) 274-6560 or at mwilson@cityofithaca.org.

We disagree with determinations made by a separate City Zoning Administrator, that that no area variances are required for the project. We request that the BZA determine that variances would be required; and that the appropriate city official or board revoke the building permit, or issue a restraining order prohibiting the continued construction of the three apartment buildings, consisting of about 66 apartments and parking facilities. The property is owned by 815 S Aurora QOZB, LLC. The developer at the time of the permit application was Visum Development Group, LLC.

On or about May 13, 2021, the City purportedly issued a permit for the construction of three new multi-family buildings. The permit was limited to foundation work until written approval from the Building Department was received. We believe that the initial permit was issued

in error. We believe that the City is claiming that authorization for further construction of two of the buildings, known as Building A and Building B, had been issued over the summer. We believe that those authorizations were issued in error.

On October 28, 2021, the Building Department issued a permit for complete construction of the third building, known as Building C, notwithstanding the fact that an appellate court had determined that the City should have considered our application for a Board of Zoning Appeals review of the matter more than two years ago. We believe that the Building Department's issuance of the third permit was an error, as the others were.

We believe that at least five variances were required, and request that the Board of Zoning Appeals rule as follows:

First, the BZA should determine that rear setback variances are required. Ithaca City Code Section 325-8(14)(b), buildings in the zoning district must have a rear yard of at least 20% of the average lot depth, which in this case is slightly greater than 50 feet. In 2019, the Zoning Administrator miscalculated the average lot depth and instead measured from an arbitrary point. The result was an error of approximately 8.5 feet in the developer's favor. Proposed "Building C" requires a variance of approximately 8.5 feet. Since no variance was issued, the construction violates the building setback requirement.

Second, the BZA should determine that the project includes a congregation area within a cell tower fall zone, in violation of Ithaca City Code. Ithaca City Code Section 329.9 prohibits congregation areas within cell tower fall zones. The parking area of the 815 South Aurora Street development is within a cell tower fall zone.

Third, the BZA should determine that a front yard variance is required. Ithaca City Code Section 325-20(E)(3) requires a maximum of 25% lot coverage for front yard parking. The 815 South Aurora Street construction would consist of 28.9% lot coverage.

Fourth, the BZA should determine that a variance is required for a driveway grade. Ithaca City Code Section 325-20(D)(2)(e)(2)(a) prescribes a maximum driveway grade of 8%. The 815 South Aurora Street driveway grade would exceed 10%.

Fifth, the BZA should determine that a variance is required because the parking area contains insufficient green space. The fifth error relates to construction of a parking area that has less than the required 25% area coverage for plantings as required by Ithaca City Code Section 276-7(C)(4).

We urge you to participate in the Board of Zoning Appeals hearing on December 7 at 6 p.m. and to voice your opinion regarding this project. We request that the BZA require a variance, and that the applicant's variance application be heard at a later date.

If you wish to view additional documents relating to this appeal, please free to contact me or to view my firm's website, in the blog relating to this appeal. We look forward to seeing you at the BZA hearing.

ALLEN & MAINES

Russell E. Maines

Digitally signed by Russell E.
Maines
Date: 2021.11.16 12:52:19
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By: Russell E. Maines

Enc:

Notice of Appeal



CITY OF ITHACA
108 East Green Street — 3rd Floor Ithaca, New York 14850-5690

DEPARTMENT OF PLANNING, BUILDING, ZONING & ECONOMIC DEVELOPMENT
Gino Leonardi, Secretary to the Board of Zoning Appeals
Telephone: 607-274-6550 Fax: 607-274-6558 Email: gleonardi@cityofithaca.org

— NOTICE OF APPEAL —
REGARDING ZONING OR SIGN ORDINANCE
CITY OF ITHACA, NEW YORK

APPEAL NO. 3202

TO: Owners of Property within 200 feet of 815 S. Aurora Street and others interested.
(property address)

FROM: South Hill Living Solutions, LLC & Susanne Dennis applicable to property named above, in R-3b zone.
(name of person or organization making appeal)

REGARDING: (check appropriate box)

Area Variance Use Variance Sign Variance Action, Decision, or Interpretation of Zoning Officer

City regulations require you be notified of this appeal to the Board of Zoning Appeals (BZA), as described in the **attached letter** and provide the opportunity for you to comment on it and/or attend the meetings listed below. Anyone considered an interested party may speak for or against the appeal at the meetings listed below, or submit a written statement to the BZA before its designated meeting. There is a time limit of three (3) minutes for each interested party to address the BZA during the Public Hearing portion of the meeting.

The Board of Zoning Appeals bases its decision primarily on the written evidence submitted and presented to it, the testimony of interested parties, and zoning and legal considerations. The written case record will be available for review on the City’s website (<http://www.cityofithaca.org/368/Board-of-Zoning-Appeals>) under “Most Recent Agenda,” beginning one week before the scheduled BZA meeting. This case has also been referred to the City’s Planning and Development Board that will advise the BZA, if granting the relief sought by the appellant will affect long-term planning objectives. The date of the Planning Board’s meeting regarding this appeal is also listed below.

The **PLANNING BOARD** will consider this case on 11/23/2021 at 6:00 P.M. via the online platform Zoom. A live stream is available at https://www.youtube.com/channel/UC7RtJN1P_RFaFW2IVCnTrDg. To provide comments to the Planning Board on this appeal, please submit written comments to Anya Harris at aharris@cityofithaca.org, and your comments will be forwarded to the Board members for their review.

The **BOARD OF ZONING APPEALS** will consider this case on 12/7/2021 at 6:00 P.M. via the online platform Zoom. There will be a public hearing on this appeal, and there are two options to participate in the public hearing:

1. Submit comments by email no later than 4 p.m. on the day of the meeting to zoningdivision@cityofithaca.org and they will be read into the record. Each comment is limited to three minutes. Indicate in your email that the comment is for a public hearing. You must provide your name and address.
2. To speak at the meeting, sign up and receive instructions by contacting zoningdivision@cityofithaca.org or Anya Harris at (607) 274-6550 or aharris@cityofithaca.org. You must provide your name and address.

Russell E. Maines
Digitally signed by Russell E. Maines
Date: 2021.10.29 10:16:31 -04'00'

Allen & Maines
417 N. Cayuga Street, Ithaca, NY 14850

10/29/21

Signature of Appellant

Address

Date

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