



**SECOND RESOLUTION RE SUNRISE AT KIRBY ROAD
(SPECIAL EXCEPTION 2016-DR-001)**

February 1, 2017

Whereas, Sunrise Development, Inc. (“Sunrise”) is seeking a Medical Care Facility Special Exception permit to construct and operate an assisted living facility at 1988 Kirby Road; and

Whereas, 1988 Kirby Road (“the Subject Property”) is 3.7 acres in the R-3 Residential District, situated in the northwest corner of the intersection of Kirby Road and Westmoreland Street; and

Whereas, this project was the subject of a prior McLean Citizens Association (“MCA”) Resolution dated July 6, 2016 (“the Prior MCA Resolution”) which opposed the Sunrise proposal as it existed at that date (“the Prior Proposal”); and

Whereas, Sunrise subsequently filed a revised Statement of Justification for this project with Fairfax County on November 15, 2016, which was further revised by Sunrise in a Statement of Justification filed on December 22, 2016 (“the Current Proposal”); and

Whereas, the Current Proposal now before the Planning Commission differs in certain respects from the Prior Proposal; and

Whereas, the Planning and Zoning Committee of MCA (“P&Z”) has held hearings concerning the Current Proposal on November 29, 2016 and January 24, 2017, in which the representatives of both Sunrise and its opponents ably presented their respective positions; and

Whereas, a hearing on this Special Exception before the Planning Commission is presently scheduled for March 8, 2017; and

Whereas, the Prior MCA Resolution concluded that:

“... on the basis of the building mass and the insufficient lot size for the use and as required by the Fairfax County Zoning Ordinance, the McLean Citizens Association opposes Special Exception Application SE 2016-DR-001 as being incompatible with the neighborhood and urges the Board of Supervisors to deny the application.”; and

Whereas, the Prior MCA Resolution was based on the provisions of the Zoning Ordinance regarding Special Exceptions for this type of use, including “insufficient lot size”, “building mass”, and other factors relating to “compatibility with the neighborhood”; and

Whereas, Section 9 of the Zoning Ordinance is directed to the grounds and the types of uses for which such Special Exceptions may be granted; and

Whereas, as the applicant for a Special Exception, Sunrise bears the burden of showing why its application complies with all provisions of Section 9: and

Whereas, Section 9-001 states the “Purpose and Intent” of Special Exceptions, among which are that the Special Exception should “be *compatible with the existing or planned development in the general area*” and not have “undue impact or be *incompatible with other uses of the land*”, and, further, that the Board of Supervisors should “*ensure that the use will be compatible with the neighborhood in which it is proposed to be located*” (emphasis added); and

Whereas, these directives are also embodied in Section 9-006, whose requirements include that any Special Exception should be “compatible” with both the Comprehensive Plan and the applicable zoning district regulations, as well as “in harmony with the neighborhood”; and

Whereas, Section 20-300 of the Zoning Ordinance includes assisted living facilities within the definition of Medical Care Facility (as well as hospitals, nursing homes, etc.); and

Whereas, the grant of a Special Exception for a Medical Care Facility in an R-3 District must comply with all the relevant provisions of Article 9 of the Zoning Ordinance, including the “additional standards for Medical Care Facilities” set forth in Section 9-308; and

Whereas, Section 9-308(6) states that, with respect to Medical Care Facilities:

“In R-E through R-5 Districts, *no use shall be located on a lot containing less than five (5) acres.*” (emphasis added); and

Whereas, since the Subject Property is in an R-3 Residential District and is only 3.7 acres, Section 9-308(6) would appear to bar the proposed use; and

Whereas, despite Section 9-308(6), the Board of Supervisors has previously granted Special Exceptions for this type of use on properties of less than five acres; and

Whereas, as pointed out in the Prior MCA Resolution, no Special Exception has ever been granted by the Board of Supervisors for an assisted living facility on a property of less than five acres that is directly and completely surrounded by residential development; and

Whereas, Sunrise’s Prior Proposal had three (3) fully exposed floors along the Westmoreland Street side of the Subject Property having a height of 35 feet as measured from the average grade (35 feet being the maximum height permitted for by-right houses under the Zoning Ordinance for the Subject Property); and

Whereas, Sunrise’s Current Proposal reduces that portion of the building to two (2) stories having a height of only 22.17 feet, mainly by putting more of the building underground and thereby

reducing the “non-cellar” square footage of the building from about 40,000 square feet to about 21,000 square feet; and

Whereas, Sunrise’s Current Proposal also places 33 of its 55 parking spaces underground; and

Whereas, the Current Proposal shifts the sole entrance to the facility from Kirby Road to Westmoreland Street, which allows Sunrise to lower the site along Kirby Road so that it is now one floor above street level on that side; and

Whereas, the Current Proposal’s shift in the entrance allows Sunrise to eliminate the retaining wall along Westmoreland Street so that the facility’s elevation rises by 17 feet in accord with the grade of that section of Westmoreland Street; and

Whereas, the facility described in the Current Proposal would be 45 feet above Westmoreland Street and over 20 feet higher than the homes across Westmoreland Street from the Subject Property, and a wall having a maximum height of 26 feet would face the Crosswoods community and be visible from Westmoreland Street; and

Whereas, the Current Proposal reduces the setback on the Kirby Road side (from 86 to 45 feet) and on the Westmoreland Street side (from 87 feet to 68 feet); and

Whereas, Sunrise stated that “[t]he building presents a visible mass of approximately 33,190 square feet”; and

Whereas, the net reduction of mass is not sufficient to overcome MCA’s fundamental concern that the mass of this proposed development is incompatible with the neighborhood in which it would be located; and

Whereas, based on the foregoing, and as stated in the Prior MCA Resolution, “given the prominence of the subject property due to its shape, topography, and the geometry of the Kirby/Westmoreland intersection, and given the height and mass of the proposed building, the building would be out of character with the neighborhood”; and

Whereas, the Current Proposal is vigorously opposed by the following homeowner groups from the surrounding communities, as well as the great majority of residents in the adjacent Crosswoods community, who believe that the Current Proposal does not remedy the concerns raised by the Prior Proposal:

1. Autumn Chase HOA
2. El Nido Civic Association
3. Foxhall Road neighborhood
4. Franklin Area Citizens’ Association
5. L’Ambiance HOA
6. Marlborough-Nantucket Citizens’ Association
7. Mayfair of McLean HOA
8. McLean Province
9. Westmoreland Square; and

Whereas, in addition to the concerns about insufficient lot size and building mass, there are continuing community concerns about the impact of this facility on traffic at this location; and

Whereas, the Subject Property is located at the intersection of Westmoreland Street and Kirby Road, which intersection has particularly severe traffic congestion; and

Whereas, the Current Proposal critically depends on re-locating the entrance to the facility from Kirby Road to a point on Westmoreland Street that is slightly north of Kirby Road and slightly off-set from Youngblood Street and Poole Lane, both of which are major entrances to the El Nido community on the east side of Westmoreland Street; and

Whereas, Sunrise submitted a letter from VDOT dated December 17, 2016 offering “comments” on the Current Proposal but neither approving nor objecting to the change, including a “comment” that “sight distance (vertical and horizontal) should be verified/provided for the entrance along Westmoreland Street”; and

Whereas, it is believed that the proposed new entrance would have a sight distance which is considerably less than that recommended by a national association of state transportation officials for roads having the posted (not actual) speed on that section of Westmoreland; and

Whereas, the new entrance may also increase the difficulty for cars turning in or out of the El Nido community into and across traffic on Westmoreland Street; and

Whereas, while the MCA recognizes that McLean has a large number of senior citizens and an increasing need for assisted living facilities for the elderly or disabled who wish to remain within the McLean community, it does not believe that this need outweighs the need for compliance with the requirements of the Zoning Ordinance.

Now, therefore, be it resolved that the McLean Citizens Association **remains opposed** to Sunrise’s Special Exception Application SE 2016-DR-001, and urges the Planning Commission to deny the application.

*Approved by the Board of Directors of the McLean Citizens Association
February 1, 2017*

McLean Citizens Association, P.O. Box 273, McLean, Virginia 22101

cc: John Foust, Dranesville District Supervisor
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