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Weston Zoning Board of Appeals
Weston Town House
11 Town House Road
P.O. Box 378
Weston, MA 02493

Re: New proposed comprehensive permit project for 518 South Avenue, Weston

Dear Members of the Board:

The public hearing for this matter reopened just over six months ago on April 7, 2021, following the safe harbor proceedings at HAC. Throughout the past six months, the Board has been vetting the Applicant's proposal for a 200-unit project, including attention to issues of local concern such as architecture, hydrology, stormwater, traffic, wastewater, and wetlands. During the public hearing, problems and challenges arose in each of those areas for the 200-unit project.

As a result, Applicant has submitted a two-page site plan depicting a new proposed project that has changed considerably from the current proposal. Not only have the metrics changed, reducing the number of units by ten percent (200 units to 180) and garage parking by 17.5% (343 spaces to 283), the configuration of the site infrastructure has shifted as well. For example, from the preliminary new site plan it appears that all stormwater and wastewater will be infiltrated in a single location to the east of the site near the stream and wetlands, eliminating the front leaching area in the earlier iteration of the project. This new single point of infiltration will cause interaction and interference between these two discharges that must be fully evaluated.

The new two-page site plan was submitted less than two weeks ago on September 30, 2021. No new engineering plans, stormwater report, or groundwater model (MODFLOW) have been submitted in support of that proposal. Applicant has updated its construction management plan, fiscal impact analysis and traffic report, but has yet to submit a new hydro study, which has been pending for over three months since August. Without that critical information, it is impossible for the Board and its peer review experts – who include an engineer, wetlands scientist and hydrogeologist – to vet this new proposal properly.

Accordingly, before undertaking to review the new proposal from Applicant, the Board should take two preliminary steps at its hearing tomorrow night. First, as a condition of

considering the new proposal, Applicant must withdraw its current proposal. The Board cannot properly vet two different projects simultaneously, particularly where it has been proven that the 200-unit project simply did not work on this site. If Applicant refuses to make this modest concession by withdrawing its current 200-unit project and substituting the new 180-unit project, then the Board can simply deliberate and vote on the current project that has been the subject of its scrutiny over the past six months.

Second, if Applicant elects to proceed with its new proposal and withdraws its current one, it will need to submit fully engineered plans, along with a new hydro study (including MODFLOW modeling). With only six weeks until Thanksgiving, there is not enough time to complete the review process, especially since the new proposal so far is nothing more than a two page concept plan. Under the regulations, public hearings generally do not extend more than 180 days, but that limitation is “presuming that the Applicant has made timely submissions of materials in response to reasonable requests of the Board”. 760 CMR 56.05(3). Here, flaws in the initial hydro study were first exposed back at the May 4 hearing. Three months later at the August 3 hearing, further problems with the modeling undercut the Applicant’s revised hydro report. Now, another two months have gone by with no new hydrology report to support the new proposal. As a direct result of Applicant’s delay in updating its hydrology report and related materials, the Board is stuck where it was over five months ago on May 4.

For this reason, a strong case can be made under the regulations for a new 180 day public hearing period to review the new proposal from Applicant. Applicant, not the Board, is solely responsible for the delays to date, which have continued to today. Without the new hydro report to show groundwater mounding effects of the new configuration, the Board has no way to assess whether the new project exceeds the carrying capacity of the site. Therefore, in addition to withdrawing the current 200-unit proposal – and waiving all rights to that unworkable project – the Board should require Applicant to agree to a new public hearing period of 180 days so its new proposal can be evaluated properly by the public and the peer review experts. Should Applicant refuse to agree to a reasonable time period to vet its new proposal, the Board can simply decline to do so and proceed to deliberate and vote on the current 200 unit proposal that has already been studied and proven to be unworkable.

Very truly yours,

/s/ Dennis A. Murphy

Dennis A. Murphy

Encl.

cc: Luke Legere, Esq.
James Ward, Esq.
Jon Witten, Esq.
Clients