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HUTT SHIMANOWITZ & PLOCKER

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STEWART M. HUTT (1929-2013)
RONALD L. SHIMANOWITZ ♦
DAVID M. HUTT +
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JANICE K. SCHERER ∞
THOMAS J. PERRY ♦
DAVID T. FERRARA ♦
KEVIN M. KILLMURRAY ∞
CHRISTOPHER M. WALL ∞

459 AMBOY AVENUE
P.O. BOX 648
WOODBIDGE, NEW JERSEY 07095

TEL: (732) 634-6400

FAX: (732) 634-0718

♦ ALSO ADMITTED NY BAR
+ ALSO ADMITTED FL BAR
∞ OF COUNSEL

July 18, 2024

VIA EMAIL AND REGULAR MAIL

Ms. Jamilet Baquerizo Vite
Township of West Orange Planning Board
66 Main Street
West Orange, NJ 07052

**Re: West Essex Highlands, Inc.
Application No. PB 24-01
Block 179, Lot 32
Written Request for De Minimis Exception from RSIS**

Dear Ms. Vite:

This firm represents the applicant, West Essex Highlands, Inc. (“Applicant”), in connection with the above-referenced matter, in which public hearings are scheduled before the West Orange Planning Board on July 30 and July 31, 2024. Please accept this correspondence in support of the Applicant’s request for a de minimis exception from New Jersey’s Residential Site Improvement Standards (“RSIS”) to allow the closure of Kuzik Drive except for emergency access, pursuant to N.J.A.C. 5:21-3.1.

By way of background, Applicant’s proposed site plan provides full, regular access to the proposed development via Kuzik Drive and Warner Road, with emergency access provided to the north via two single-family lots which are presently vacant. Pursuant to Applicant’s settlement agreement with the Township of West Orange (the “Township”) and the West Essex Highlands Condominium Association, Inc. (the “Association”) in connection with the Township’s third round affordable housing litigation, Applicant agreed to seek relief from any RSIS requirement in order to have Kuzik Drive closed to regular traffic and provide emergency access only.

Statement of the RSIS Requirement From Which an Exception is Sought

Applicant seeks a de minimis exception from N.J.A.C. 5:21-4.1 (Table 4.2). With Warner Road and Kuzik Drive open, each street would constitute one-half of a loop configured “minor collector.” With such a configuration, RSIS provides that the total traffic volume conveyed on the entire loop (both streets) should not exceed 3,500 ADT and the traffic on any half of the loop should not exceed 1,750 ADT. As will be testified to by Applicant’s traffic engineer, of the

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anticipated total daily vehicle trips of 2,728, at least 1,000 trips would pass through Kuzik Drive, thereby satisfying the RSIS standard.

If Kuzik Drive was closed to regular traffic and left open for emergency access only, then Warner Road would be classified as a “multifamily access cul-de-sac” with a maximum of 1,000 ADT allowed under RSIS. Accordingly, the number of vehicle trips with Kuzik Drive closed would exceed the RSIS maximum by 1,728 trips. Hence, the need for a de minimis exception.

Manner By Which Strict Compliance Would Result in Practical Difficulties, and the Nature and Extent of Those Practical Difficulties

The Applicant recognizes that the opening of Kuzik Drive to the normal flow of traffic to and from the proposed residential community will exact an unnecessary and undue hardship on the existing residents of the West Essex Highlands Condominium along Kuzik Drive. This was a major point of discussion with the Association and the Township in connection with the negotiation of the Court-approved settlement agreement, which was vetted by the Township’s professionals, including a traffic engineer.

The requested de minimis exception to provide only emergency access gated control on Kuzik Drive meets the intents and purposes of RSIS. The connection is not needed to accommodate the normal daily flow of traffic to and from the new community as sufficient access is provided via the Warner Road extension, but public safety is not compromised because Kuzik Drive will accommodate emergency access. Moreover, as part of its obligations to the Association, Applicant will be installing improvements to existing Warner Road, converting Warner Road to a boulevard, thereby allowing Warner Road to better service both the proposed development and the Condominium.

At the public hearing before the Planning Board, Applicant’s traffic engineer and professional planner will address the foregoing request for a de minimis exception.

Very truly yours,

/s/ Bryan D. Plocker
BRYAN D. PLOCKER, ESQ.
Bplocker@huttshim.com

cc: Diana McGovern, Esq. (via email)