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November 10, 2016

William McCusker, Chairman  
Grafton Zoning Board of Appeals  
Grafton Memorial Municipal Center  
30 Providence Road  
Grafton, MA 01519

RE: Elmrock Estates/Case # 827

Dear Chairman McCusker and Members of the Board:

Please be advised this office represents a number of abutters and interested parties to the proposed Elmrock Estates Subdivision presented to the Grafton Zoning Board of Appeals (the "**Board**") pursuant to provisions of Massachusetts General Laws Chapter 40B. We look forward to working with you and Field Stone Realty, LLC (the "**Applicant**") to ensure that the proposed development is consistent with local needs and the surrounding neighborhood.

Elmrock Estates represents a significant deviation in land use from that otherwise permitted under local zoning and appears to create any number of adverse impacts upon abutting and surrounding properties. As such, it will be incumbent upon your Board to carefully review the proposed impacts and to work with interested parties and the Applicant to modify the proposed plan in a manner that renders same both consistent with local needs and economically viable for the developer.

We suggest that prior to commencing a detailed review of the Applicant's proposed development, that the Zoning Board of Appeals retain the appropriate consultants to assist the Board in that review. The retention of outside consultants at the expense of the Applicant is specifically provided for in Section 4.3.1 of the Rules and Regulations governing Comprehensive Permit Applications under General Laws Chapter 40B as adopted by the Town of Grafton (the "**Rules**") and, further, as specifically provided by the Regulations adopted by the Executive Office of Housing and Economic Development regulating Comprehensive Permits in 760 CMR 56.05(5). The engagement of such consultants and the opportunity for those consultants to review the Elmrock Estates Comprehensive Permit Application dated October, 2016 (the "**Application**") should occur prior to any consideration of the various waivers requested by the Applicant as part of its Application. The Applicant has submitted a twenty three (23) page waiver request seeking one hundred twenty (120) separate waivers from Rules and Regulation otherwise governing development land in Grafton and the Board will surely benefit from having expert consultants advise as to the appropriateness of any such waivers.

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For a project of this magnitude we would suggest that the initial group of consultants needing to be retained by the Board at the expense of the Applicant would include the following:

1. Registered Civil Engineers conversant in the subdivision of land to provide guidance as to the preliminary plans submitted by the Applicant, including without limitation earth disturbance, earth removal and stormwater management and impacts.
2. Wetland consultants conversant with development of land in Central Massachusetts to evaluate the applicable wetland resource areas upon the proposed site and surrounding areas, including evaluation of wildlife habitat and other environmental features.
3. Traffic consultants to provide peer review of the Parsons Brinckerhoff memorandum of August 30, 2016 included in the original Application including in the scope of services evaluation of mitigation requirements for the failed intersection reflected in the memorandum at Wheeler Road and Route 122.
4. A Certified Public Accountant generally familiar with cost certification methodologies required by the Executive Office of Housing and Economic Development to provide feedback to the Board regarding the development and operational proforma to be provided by the Applicant. Such review will become critical as any conditions imposed by the Board as part of an approval will need to meet the test that such conditions do not render the proposed development uneconomic.
5. A MIA Certified Appraiser who can provide to the Board a fair market appraisal for the property in its "as is" condition. The primary issue with the appraisals provided to date is the assumption that the Applicant, if the Applicant were to proceed with an "as of right" use, can reasonably anticipate receiving a waiver from the provisions of 4.1.6.3 of the Rules and Regulations Governing Subdivision in the Town of Grafton which limits the length of dead-end streets and their extension of segments to no longer than five hundred (500) feet. We believe that such a waiver would not be granted and therefore the appraisals to date are flawed. The "as is" value of the land is an integral part of the development proforma and the determination as to whether the Applicant can obtain a Reasonable Return as defined in 760 CMR 56.02.

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Meaningful review of the Application would be thwarted by commencing such review without the engagement of such consultants and the consultants having had a reasonable opportunity to review the materials submitted and provide guidance to the Board as to both those materials and additional requirements.

The foregoing is to not concede that the Application is submitted by the Applicant comports to the Rules. The Rules granted the Board the opportunity to deny the Application after giving the Applicant an opportunity to remedy the defect. Even without the assistance of the consultants referred to below, there appears to be a failure by the Applicant to provide critical information as required by Section 3 of the Rules including without limitation the following:

- A. Section 3.8 – Drainage Calculation
- B. Section 3.9 – Earth Removal Calculations
- C. Section 3.10 – Water Balance Calculations
- D. Section 3.12 – Master/Affordable Housing Plan Consistency Report
- E. Section 3.17 – Development Proforma
- F. Section 3.18 – Market Study

In addition, there appears to be any number of deficiencies in the Plans submitted by the Applicant to meet with all of the requirements of Section 3.13 of the Rules.

The development of affordable housing is important to the Town of Grafton; however, the preservation of open space and consistency with other important community goals cannot be trumped by the Applicant's desire to maximize the available land. On behalf of our clients, we look forward to working with the Board to strike an appropriate balance through the public hearing process.

Very truly yours,



Mark L. Donahue

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