SPECIAL PERMIT STATEMENT IN SUPPORT OF APPLICATION TO AMEND CONDITIONS 40 AND 50

In June 2016 M2 Partners LLC (hereinafter “Merritt”) filed applications for Special Permit and Site Plan Approvals (hereinafter “Approval”) to build a multi-family residential housing development in the Pedestrian Oriented Multi-Family Overlay Zone. On November 29, 2016 the Planning and Zoning Commission (hereinafter “Commission”) granted the applications subject to the Conditions set forth in a Resolution of Approval. (See Exhibit A attached.)

In January 2017 Merritt filed an Application to Modify some of the Conditions of the original Approval which included modification to conditions concerning an old Burial Ground, the number of underground parking spaces and a six-foot temporary site security barrier fence. The Application to Modify the Conditions was approved by the Commission on April 25, 2017. (See Exhibit B attached.)

Construction of the Merritt project is now well underway and issues have arisen with respect to two other Conditions of the Original Approval which the property owner submits need to be amended in order to provide adequate fire and emergency access to the property and also to ensure the long-term viability and durability of an important aspect of the construction.

More specifically, the Applicant seeks the modification of Conditions 40 and 50 of the Original Approval. Specific discussion of these two Conditions is set forth below.

Condition No. 40:

Condition No. 40 provides: “A permanent fence shall be installed between the accessway and Mead Commons as approved by the Zoning Inspector prior to installation.”

At the time of the original application, on information and belief, a representative of Mead Commons requested the Applicant to install a fence along the length of a 12- foot wide accessway that leads into the Merritt property from Mead Street. Mead Commons abuts this accessway immediately to the east for a stretch of approximately 205 feet. (See Site Plan attached as Exhibit C.) The Applicant notes there is a dense landscape buffer that screens the existing accessway from Mead Commons (See photographs attached as Exhibit D) and the topography along the property line is relatively steep. While it was approximately four years ago, the Applicant’s best recollection was that because Mead Commons was concerned that the accessway was going to be used as a pedestrian accessway easement to allow pedestrians to have a mid-block connection into downtown, the representative of Mead Commons requested that a fence be installed in order to ensure that people would not access the easement from the Mead Commons property.

Merritt did not object to the Condition requiring the fence because it did not think it would have any negative impact and wanted to appease the concerns of the neighbor. However, Merritt has recently learned that the installation of the fence will result in significantly impairing emergency access to the
property. Specifically, within approximately the last month or so representatives of Merritt have been in contact with Fred Baker, the New Canaan Fire Marshal, about trying to ensure adequate and safe fire access to the property through the Mead Street accessway. Attached is an email from Fire Marshal Fred Baker stating his opinion that the emergency accessway from Mead Street is already very restrictive and that construction of the fence “would reduce the width further yet, making the driveway all but useless for emergency access.” (See email from Fred Baker attached as Exhibit E).

A representative of Merritt, Paul Stone, reached out to the President of Mead Commons to discuss this concern and was originally hopeful that Mead Commons would agree to the modification of the condition. However, recently Mr. Stone received an email from Mead Commons stating that “we are very much in favor of a fence.” The Applicant submits that the installation of the fence is unnecessary because current landscaping and topography provide more than adequate screening and deterrence to trespassers who might be tempted to gain access to the pedestrian walkway through Mead Commons. The attached photographs (see Exhibit D) clearly show that even in winter, the existing landscape buffer and topography provides more than adequate screening and will serve as a significant deterrent to walkers seeking to gain access to the pedestrian accessway from Mead Commons.

In any event, the applicant submits that the installation of the fence is unnecessary and for reasons of safety Condition 40 must be removed.

**Condition of Approval No. 50:**

Condition No. 50 provides as follows: “The Maple Street parking courtyard shall be a stamped, decorative concrete, as stated by the Applicant. Final materials for the walkway, excluding asphalt, shall be reviewed and approved by the Zoning Inspector prior to the issuance of a zoning permit.”

As the Condition notes it was the Applicant who originally decided that stamped decorative concrete would be a good material for this area of the project. However, since the original application was filed and approved, Merritt has determined that the use of stamped decorative concrete for the parking surface would be inadvisable for the construction of the Maple Street Parking Courtyard. (Labelled “Proposed Driveway and Parking Area” on Exhibit C). On further investigation, Merritt has determined that this material is of very low durability and is subject to crumbling and disintegration. An example of this kind of installation can be found on Elm Street in the downtown shopping district. The material used in the crosswalks is “stamped concrete” and, as can be seen, is subject to significant cracking, crumbling and disintegration. (See photographs attached as Exhibit F) The use of the stamped decorative concrete also poses an unnecessary tripping hazard due to the fact that it deteriorates rapidly in comparison to asphalt. Merritt proposes to substitute smooth black asphalt for the stamped, decorative concrete for the parking surface. The black asphalt will be much more durable, safer and will fit in aesthetically with the significant and abundant plantings adjoining the brick walkways and stonework on the buildings. (See Rendering attached as Exhibit G.)

**Conclusion:**

This Application is submitted under Section 8.2.B.6.d. of the New Canaan Zoning Regulations and constitutes, in the opinion of the Applicant, an amendment of a minor nature which does not materially alter the Special Permit. One of the Conditions to be amended is purely based on safety and the other is a small aesthetic change which certainly will not have any material impact on the project or any
neighbors. The Applicant respectfully submits that due to these minor changes this Application meets all the Special Permit criteria for the same reasons that the Original Special Permit Application met the criteria. Moreover, since the proposed changes will increase safety, aesthetics and durability, they more easily meet the Special Permit criteria than the Original Application as well as Plan of Conservation and Development.

The Applicant respectfully submits that this Application should be granted.