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MEMORANDUM

TO: Manchester-by-the-Sea Zoning Board of Appeals
CC: Geoff Engler, George Pucci
FROM: Jason Talerman
RE: Sanctuary at Manchester by the Sea – 40B Project
DATE: March 2, 2022

Dear members of the Zoning Board of Appeals:

As you will recall, I represent the Applicant SLV School Street, LLC in the above-referenced matter. In that capacity, I am providing this Memorandum to address certain legal issues relative to the adequacy of the project driveway for emergency access. As you are aware, Attorney Daniel Hill, who represents the Manchester Essex Conservation Trust (MECT), has opined in a letter dated February 13th, that the Board may rely on certain cases to deny the proposed project due to allegedly inadequate emergency access. The Board has excellent legal counsel that can adequately advise it on this subject. Accordingly, this memo is not intended to be an exhaustive treatise that rebuts Attorney Hill's letter, point-by-point. Rather, this memo is simply intended to highlight a few key issues that warrant a conclusion that Attorney Hill's reasoning is flawed. To wit:

- Attorney Hill discusses cases wherein the Housing Appeals Committee concluded that lengthy single access roadways were insufficient to provide safe and adequate emergency access. Those cases, while not binding, remain important guideposts for zoning boards in the deliberation on c. 40B projects. However, each such case is distinguishable from the current situation. Most notably, in the situation before the Board, unlike the situation in each other case cited by Attorney Hill, the Fire Chief has fully and emphatically endorsed the adequacy of emergency access along with other features in the development that are intended to facilitate emergency response. The fire chief did so in a clear and concise manner, despite withering questions and examination at the Board's last hearing session. Both from an evidentiary and legal perspective, this fact alone supports the conclusion that the cases cited by Attorney Hill are distinguishable. Moreover, this clear-eyed testimony by the Chief warrants a conclusion that the project, as designed, complies with all applicable codes and will provide safe and adequate emergency access.
- Attorney Hill repeatedly cites to the length of the project driveway to support an argument that the matter before the Board is similar to the facts of the cases he cites. However, such comparison is unwarranted. In those cases, there was a substantial linear distance before the local fire truck could reach the buildings. That is simply not the case here. In this case, the driveway was carefully designed to provide various points of access where a fire truck could safely park to fight a fire, if necessary.
- Third, Attorney Hill's efforts to distinguish the case of Sunderland Zoning Board of Appeals v. the Housing Appeals Committee (464 Mass. 166 (2013)) are misplaced. Indeed, the Sunderland case, which is a binding appellate precedent, is

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directly applicable to the project currently before you. In the Sunderland case, the Housing Appeals Committee concluded, and the Superior Court and Supreme Judicial Court both affirmed, that the inclusion of a compliant and comprehensive sprinkler system was sufficient to mitigate concerns raised by the local fire department. As you know, my client's project includes a fully compliant and comprehensive sprinkler system. In addition to complying with every other fire safety code, as confirmed by your fire chief, the provision of a sprinkler system here warrants applicability of the precedent set by the Sunderland case.

We look forward to continuing to work with the Board on this vital issue. In the interim, please do not hesitate to contact me with any questions you may have.

Sincerely,

/s/ Jason Talerman

Jason Talerman