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January 8, 2020

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McClellan, VA 22102-4217

Zoning Case 1119M HRVC

Applicant/Protestant Schwartz

Exhibit # 1 Date 1/29/20

Re: Hickory Ridge Village Center Amendment or Modification of Residential Restriction

Dear Ladies and Gentlemen:

This office represents several private residential property owners in the Clemens Crossing Neighborhood of the Hickory Ridge Village, Columbia, Maryland. These owners are New Town residents (under Howard County Zoning Regulations) whose properties are subject to

Arianne H. Monroe, Esquire
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Thomas M. Meachum, Esquire
Sang W. Oh, Esquire.
SZR Columbia, LLC
January 8, 2020
Page 2

the lien and charges of the Columbia Association. Their properties are also covered by the same Final Development Plan, No. 205, as the Hickory Ridge Village Shopping Center (the "Shopping Center").

The Shopping Center (and other parcels) are subject to the Hickory Ridge Village Center (the "HRVC") Declaration of General Covenants, Restrictions and Liens dated April 20, 1992, recorded in the Howard County, MD, land records at Liber 2522, folio 515 (the "Declaration"), subsequently amended by Modification of Covenants dated October 20, 1995, recorded at Liber 3597, folio 473 (the "Amended Declaration").

Pursuant to section 3.01(a) of the Declaration, "No portion of any parcel, nor any building or other structure erected thereon shall be used or permitted to be used temporarily or permanently, for a residence." Pursuant to section 1 of the Amended Declaration, the construction and operation of a group care facility, housing for the elderly and/or handicapped persons, nursing home, or sheltered housing was deemed to be a permitted "commercial use." In addition to HRVC Limited Partnership (whose site is managed by Kimco), I note that the Columbia Association and SZR Columbia, LLC ("SZR," the owners of Sunrise), own property subject to the Declaration and the Amended Declaration. The Columbia Association consented to the Amended Declaration, but I do not comment on the validity of that consent.

In August 2017, HRVC Limited Partnership (as noted above, owners of a part of the HRVC subject to the Declaration and Amended Declaration) petitioned the Howard County Zoning Board to amend the Columbia Maryland Preliminary Development Plan (ZB Case No. 1119M) to permit up to 230 residential apartments that are presently prohibited by the aforementioned use restriction in section 3.01(a) of the Declaration.

The applicability of the restrictions contained in the Declaration is of tremendous importance to my clients who relied upon those restrictions in deciding to move to the area near the Shopping Center. Clemens Crossing is a neighborhood of single family dwellings at a low density land use. Columbia is a "floating" zone meaning that the land use is regulated by adoption of a comprehensive plan and by a successor more definitive Final Development Plan working in concert with private declarations of covenants (i.e., the Declaration) which are clearly intended for the benefit of owners of property in the New Town ("NT") floating zone and specifically the Clemens Crossing neighborhood.

Howard County adopted the NT floating zone, now largely codified in Section 125 of the Howard County Zoning Regs., on May 4, 1965. This regulation provides for the creation of a Preliminary Development Plan for the entirety of Columbia showing the relationships of generalized land uses for all villages and commercial areas. This plan was approved on August 10, 1965, and designated the HRVC land as "employment commercial" use, and the immediately surrounding neighborhood as single family low density use.

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SZR Columbia, LLC
January 8, 2020
Page 3

On December 17, 1991, Final Development Plan ("FDP") 205A Part 1, known as Clemens Crossing West, was approved and, as required, the land uses shown on this plan were consistent with the Preliminary Development Plan ("PDP"). Further securing that the single family low density residential use would be protected in the development of this neighborhood, the Declaration was made four months later on April 20, 1992, recording in the land records the private land use control prohibiting residential use of the HRVC parcels.

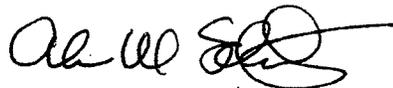
Based, upon the above historical development of the Clemens Crossing neighborhood, and pursuant to applicable law developed on this issue, my clients are beneficiaries under the Declaration for, including but not limited to, the following reasons: (1) by their acquisition and ownership of parcels in Clemens Crossing and the NT Zoning District pursuant to the use descriptions in the PDP, the FDP, and the Declaration; (2) by their shared interest in Columbia Association's parcels including those in the HRVC; and (3) by virtue of the fact that their properties were subdivided along with the Shopping Center under a uniform or common scheme or plan of development and they acquired and/or own their parcels in reliance upon such a common scheme or plan. Accordingly, my clients are, as intended beneficiaries, able to enforce the restrictive covenants contained in the Declaration.

As beneficiaries under the Declaration my clients hereby object to any modification of the Declaration that removes the use restriction prohibiting residences. Accordingly, my clients deem any release, alteration, or modification of the residential prohibition to be against their best interest and against the best interest of all of the property owners in Clemens Crossing, Village of Hickory Ridge.

It is unclear why the Howard County Department of Planning and Zoning (and the Planning Board) recommended the approval of the ZB Petition pending in ZB Case No. 1119M when there exists a recorded restriction prohibiting the requested residential use. Notwithstanding, my clients have entered the ZB case as opponents and insist that their consent, the consent of all other intended beneficiaries of the Declaration, and the consent of the Columbia Association, must be obtained prior to any further modification of the Declaration.

Please contact me if you have any questions. A copy of this notice letter will be presented to the Zoning Board.

Sincerely yours,



Alan M. Schwartz

AMS:ssw