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September 29, 2023

Final Subdivision 2023-13—Hillview Heights LLC

Dear Messrs. Sunshine, Osborne and Machia,

Please provide this letter to the members of the Development Review Board as our written comments concerning this Final Subdivision application, which is on the October 11, 2023, agenda. We also request that you provide us with copies of any submissions in response to this letter.

We have resided at 21 Bates Farm Rd. for thirty-six years. Our property abuts the southern end of Hillview Rd. We intend to participate as full parties in any proceeding related to this application. Travel from vacation, however, may prevent us from attending the scheduled meeting.

Our Interest

Our interest in the application focuses upon: 1) the failure of the developer to disclose its full plans for the parcel; 2) the traffic and town road impacts of the development, including the impacts of any future undisclosed development.

Overview of Project

The application depicts an eighty-five acre parcel. Six “new” residential lots cover 24.7 acres, although each of the seven lots depicts new residential development. Lot 7 and its 60.78 acres are the “remaining lands.” There are no plans provided for these “remaining” acres, other than the depiction of a proposed residence and accessory dwelling on Lot 7. Thus, this project will yield eight new dwelling units. There is already an existing residence on Lot 7, which is adjacent to Hillview Rd but in disrepair. Most of the “remaining” acres are depicted as meadow or

wooded land, without any restriction for future development. A note states that the so-called “Remainder” is for a single-family home and agricultural activities. The applicant proposes a two-lane highway designed to support a larger development for access to lots four, five, six, and the “remaining acres.”

### The Failure to Disclose a Development Plan for The Entire Parcel

Richmond’s Subdivision Regulations require applicants to submit a comprehensive plan as part of an application for a subdivision on a large parcel such as Hillview Heights:

For any portion of the parcel or LOT not proposed for LAND DEVELOPMENT in the SUBDIVISION as of the application date, a master development plan is required. The master development plan shall conceptually show future roads, future stormwater infrastructure, future building areas, future open areas, and future uses on such remaining land, including those that the SUBDIVIDER expects to offer to the Town of Richmond.

Town of Richmond Subdivision Regulations, Section 610.1 (Emphasis added).

This requirement is specific and mandatory. No application can result in a permit without submitting a master development plan. Despite this requirement, the applicant proceeded to final subdivision without submitting a master development plan. While preliminary subdivision is an interlocutory order, and therefore did not authorize any development, now the Board confronts the request for a final permit. A permit cannot be legally issued without the submission of a master development plan.

Significantly, Exhibit F demonstrates that the applicant is reserving the ability to use all of the infrastructure in this project for future development, and to incorporate that future development into a common community through an amendment to the Declaration. This is exactly the circumstance that the master plan requirement in our Subdivision Ordinance addresses.

It is impossible to evaluate the full impacts of this project without a master development plan. If the developer wishes to limit development on the “remaining” acres to the residence now depicted on Lot 7, that proposed restriction must be in a master development plan as part of the preliminary subdivision review. If, however, the developer wishes to preserve the option of further subdividing or developing the “remaining” acres, those plans must be disclosed so that their impacts can be considered as part of this application.

### Zoning Regulations for Trip Ends

All subdivisions must also comply with the Richmond Zoning Ordinance. Under the Richmond Zoning Ordinance, “Land Development” is a defined term. It specifically includes the division of a parcel into two or more parcels. Ordinance at page 99. For the Agricultural/Residential District, Land Development may not generate more than ten vehicle “trip

ends” during the peak evening hour. Zoning Ordinance at Section 3.1.5. The Zoning Ordinance defines trip ends as: “Each time a vehicle comes to or leaves a site it is a trip end.” Ordinance at page 104.

Thus, if the subdivision—not each individual lot—generates more than ten vehicle trip ends, the subdivision fails. If the master development plan yields more than ten vehicle trip ends for the entire parcel, the master development plan fails.

This restriction makes sense. Richmond’s highway infrastructure in the Agricultural/Residential District is limited and not designed to support large subdivisions. Other districts in Richmond have much more generous trip allowances, which recognize the capacity of highway infrastructure in those districts.

The applicant’s traffic study is silent on the trip generation from any future development of the “remaining” land. The study asserts the seven lots (plus an appurtenant dwelling) will only generate seven additional evening trip ends. The only explanation for this assertion is that the “ITE land use code (LUC)” yields only seven evening trip ends.

The applicant bears the burden of proof. This Board is obligated to independently evaluate evidentiary claims. And this claim by the applicant is at best suspect, and at worst incredible.

Anyone who lives in a rural part of this community knows that a development with seven single-family homes plus an appurtenant dwelling will generate more than seven trip ends in a peak evening hour. Just add up the obvious: commuters (generally two working per household) returning home; kid trips to and from events; UPS and Fed Ex deliveries; shopping and evening errands. We live on a small private road with just four residences, and our observation is that these four residences alone easily exceed seven trip ends in the peak hour most evenings.

The Board should not accept the applicant’s claims on trip ends without an actual traffic study in this district of the number of trip ends generated by eight residences.

#### The Limitations of Hillview Road

Hillview Road is problematic to support a large development. It has narrow sections, blind curves, and steep grades. There are only three points where its residents can access the arterial road system (two on the Main Rd. and one on the Hinesburg Rd.). Each of those points is a dangerous intersection with limited visibility. Mud season imposes substantial limitations. Segments of the road are difficult to maintain because of inadequate space to install roadside ditching. There are multiple locations where two vehicles traveling from opposite directions can barely pass each other. Pedestrian and bicycle users already encounter dangerous conditions.

The applicant must demonstrate that its entire project—including all improvements in the required master development plan—will not burden Town taxpayers or create unsafe conditions. Subdivision Ordinance at Sections 500 (6) and (10).

Messrs. Sunshine, Osborne and Machia,

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The limitations of Hillview Rd. should be a major concern for both the applicant and this Board. The Board should direct the applicant to address these limitations. The Board should also obtain an independent expert on the limitations of Hillview Rd.; its capacity to support additional large developments; and the costs to the Town of addressing the impacts of this project.

#### Conclusion

We appreciate the Board's consideration of these concerns.

Very truly yours,

*/s/ Michael Marks and Sally McCay*

Michael Marks and Sally McCay

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