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March 21, 2023

VIA – EMAIL: kbuchman@plantcitygov.com

Attn: Ken Buchman, City Attorney
City of Plant City
302 W. Reynolds Street
Plant City, FL 33563

**RE: Walden Lake, LLC’s Objections to Agenda Item 4: March 22, 2022 City of
Plant City Planning Board Meeting Regarding PB-2020-17**

Dear Ken:

Stearns Weaver Miller represents Walden Lake, LLC (the “Applicant”) in major modification application PB 2020-17. This letter constitutes the Applicant’s objections to Agenda Item 4, Findings and Recommendations regarding PB-2020-17, on the March 22, 2023 City of Plant City Planning Board’s agenda. We only received this two business days ago and reserve the right to object further. Please ensure that this letter is entered into the file for PB-2020-17 and provided to all Planning Board members before this item is heard.

It is difficult to read the Findings and Recommendations and not believe that the Applicant has wasted an entire year trying to address the Planning Board’s concerns. The document is not reflective of the actual vote at the hearing. In fact, every Planning Board member recognized that the Applicant worked very hard to improve the plan, including one who said that “I’ve never seen a developer take such drastic measures to try to improve their plan.”

As the Applicant explained in its objections at the hearing, the process used to formulate the Findings and Recommendations is not adequate to satisfy due process. Because the evidentiary phase of the hearing is closed, the Planning Board cannot bolster its denial recommendation by including facts not supported in the record by competent substantial evidence and by Comprehensive Plan and Land Development Code policies not discussed at the hearing or in the evidence. *See Bowman Transp. Inc., v. Arkansas-Best Freight System, Inc.*, 419 U.S. 281, 288 n.4 (1974). The only information that is appropriately included in the Findings and Recommendations at this stage would be those specifically stated on the record during the motion that was made to recommend denial. Specifically, the motion was “a motion to deny – to deny ‘PB 2020-17, Walden Lake, LLC, Major Modification of the Walden Lake Community District public hearing. Based – A request to modify approximately 319 acres within the Walden Lake Community Association, to

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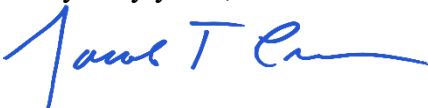
create new development pods, 154 single-family detached dwellings and 196 villas, and 200 townhomes for a total of 550 units.’ I find it inconsistent with the Plant City Comprehensive Plan.” The Findings and Recommendations inject many new issues that were not covered in the motion, and indeed some that were not even discussed in the hearing.

We do not believe it is appropriate at this juncture to explain in detail every point of disagreement in this eighteen-page document. The Findings and Recommendations incorrectly state that the Applicant did not address all of the concerns from the Planning Board’s last recommendation of denial. The Applicant eliminated the commercial uses, provided architectural renderings, removed the fencing from the entire Project and only proposes fencing in select areas, increased the lot size, eliminated all specific approvals, including the specific approval related to roadway design by Pods 57, 58, and 59, added a spine road to reduce traffic onto Clubhouse Drive, and added a master open space and recreation plan to provide additional detail on the recreational amenities, among other changes. With respect to traffic, the City is bound by Mr. Petritsch’s professional opinion, as his professional opinion was that the applicant met every requirement of the City’s code—how the Planning Board feels about his analysis beyond that is irrelevant.

Finally, we note that the Findings and Recommendations apply a patently incorrect legal standard to its evaluation of the evidence that was provided at the hearing. The Applicant proved its initial burden of demonstrating compliance and consistency. Florida courts have held that a prima facie case is established by either government staff reports or the findings of an independent expert reviewer of the application finding that a project is consistent with the comprehensive plan. *Balm Road Investment, LLC v. Hillsborough County Board of County Commissioners*, No. 2D21-1033 (Fla. 2d DCA Feb. 11, 2022). Consequently, the Applicant met its burden because the City’s own expert staff report recommended approval—and the Planning Board’s decision to deny must be based on clear and convincing evidence of the public necessity for a more restrictive use.

In conclusion, the Findings and Recommendations are seriously flawed and violate the Applicant’s due process rights. The Findings and Recommendations do not reflect the motion that was made, address items and issues not discussed in the hearing, and apply an incorrect legal standard. We object to the current draft and request that the Planning Board adopt a more appropriate recommendation that strictly reflects the actual decision made at the hearing.

Very truly yours,



Jacob T. Cremer, Esq.

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