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November 14, 2022

Borough of Leonia Planning Board
312 Broad Ave
Leonia, NJ 07605

**Re: 131 Fort Lee Road LLC.
Preliminary and Final Site Plan with Use Variance
Block 802, Lot 16
131 Fort Lee Road
H2M Project No.: LEON2106**

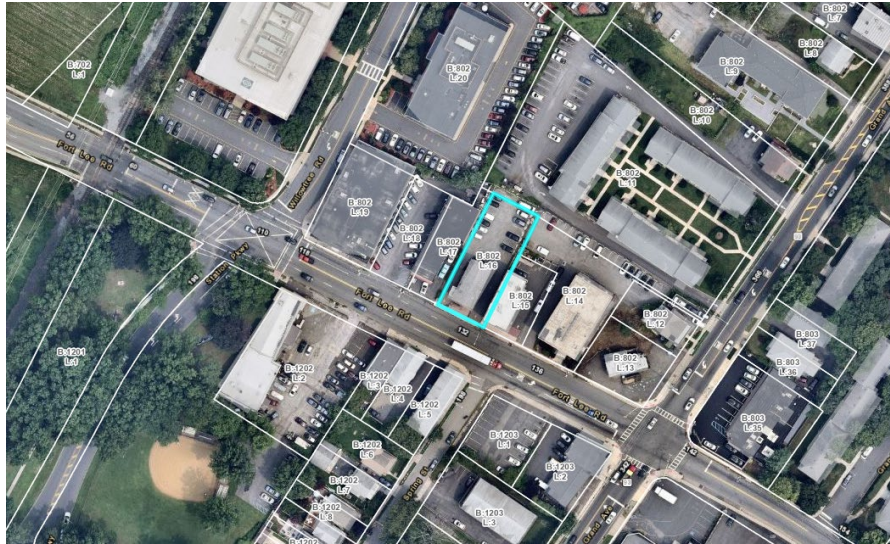
Dear Borough of Leonia Zoning Official:

In preparation of this review letter, I have reviewed the application materials provided to our office below, reviewed the Borough Land Use Ordinance and Master Plan. H2M reserves the right to continue to review and provide additional technical comments as the application progresses through the process. **Updates to this review letter since the updated review letter dated April 22, 2022 are denoted in BOLD font.**

I am in receipt of the following items submitted in connection with this application:

- Site Plan for Residential Apartments at 131 Fort Lee Road, prepared by Michael Hubschman PE, PP of Hubschman Engineering P.A., dated May 14, 2021
- Notice to Appeal Before the Borough of Leonia Planning Board for a Variance Application, dated July 2021
- Architectural Elevations, prepared by Robert Zaccone & Associates P.C., dated March 31, 2021
- Architectural Drawings, prepared by Robert Zaccone & Associates P.C., dated July 22, 2021,
- Site Plan for Proposed Residential Apartments at 131 Fort Lee Road, Revised, prepared by Michael Hubschman PE, PP of Hubschman Engineering P.A., dated January 5, 2022
- Proposed Residential Apartments, prepared by Robert Zaccone & Associates P.C., dated January 10, 2021
- Site Plan for Proposed Residential Apartments at 131 Fort Lee Road, Revised, prepared by Michael Hubschman PE, PP of Hubschman Engineering P.A., dated April 5, 2022
- Proposed Residential Apartments, prepared by Robert Zaccone & Associates P.C., dated April 7, 2022
- **Site Plan for Proposed Residential Apartments at 131 Fort Lee Road, Revised, prepared by Michael Hubschman PE, PP of Hubschman Engineering P.A., dated November 3, 2021**
- **Proposed Residential Apartments, prepared by Robert Zaccone & Associates P.C., dated October 19, 2022**

This revised iteration has reduced the total number of units from 17 to 14. This revision has resulted in the reduction of building height, number of stories, and minimum required number of off-street parking spaces. Nevertheless, variance relief is required as discussed in this review.



The subject site is located mid-block between Grand Ave and Willow Tree Road on the north side of Fort Lee Rd. The area is mixed use in nature with the adjacent uses being a carwash to the west, a multi-family apartment to the east, commercial uses located across Fort Lee Road to the south, and multi-family apartments to the north. The site is currently occupied by a commercial use and a residential use. The existing building is two (2) stories in height and the site is completely impervious with approximately 14 parking spaces located at the rear of the site.

PROJECT OVERVIEW

The applicant, 131 Fort Lee Road LLC, has submitted a preliminary and final major site plan application with use variances for Block 802 Lot 16, consisting of 0.2 acres and located in the D Business Zone. The site is a rectangular-shaped lot located at 131 Fort Lee Road with much greater depth than width. The site is currently used as a conforming mixed-use building with commercial on the ground floor and residential on the second floor. The parking area is located to the rear of the building with approximately a total of 14 parking spaces with separate ingress and egress lanes.

The applicant is proposing to tear down the existing mixed-use structure to replace it with a multifamily building with accessory parking for residents. The proposed development will have ~~five (5)~~ **four (4)** floors with the ground floor being dedicated primarily to parking with a small lobby that includes a stairwell and an elevator to the residential units on the upper floors. The proposed multifamily building would have ~~47~~ **14** units, three (3) of which should be affordable units to comply with the Borough's mandatory set-aside ordinance of 15% for rental units. The unit breakdown consists of ~~two (2)~~ **one (1)** three-bedroom unit on the ~~first~~ **fourth** floor; three (3) two-bedroom units with one (1) two-bedroom unit on each floor; and ~~twelve (12)~~ **ten (10)** one-bedroom units with two (2) one-bedroom units on the fourth floor and four (4) one-bedroom units on the second and third floor. **This represents a decrease in the total number of units from 17 units and a decrease in the number of three-bedroom units from two (2) proposed three-bedroom units in the previous iteration.**

The site plan has been updated to reflect the change in the proposed height of the building from five (5) stories to four (4) stories and from 61.27 feet to 50 feet. The variance table has been updated to reflect this updated measurement.

The applicant is maintaining the number of parking spaces at 19 spaces. The updated plans also include two (2) electric vehicle charging stations, two (2) Make-Ready spaces, and a handicap accessible space to comply with the updated state statute regarding electric vehicle charging stations.

Based on the site plans provided, the applicant proposes to install five (5) electric vehicle (EV) parking spaces. According to Section D.1. of the NJDCA's model ordinance pursuant to P.L. 2021, c.171:

- 1. As a condition of preliminary site plan approval, for each application involving a multiple dwelling with five or more units of dwelling space, which shall include a multiple dwelling that is held under a condominium or cooperative form of ownership, a mutual housing corporation, or a mixed-use development, the developer or owner, as applicable, shall:**
 - a. prepare as Make-Ready parking spaces at least 15 percent of the required off-street parking spaces, and install EVSE in at least one-third of the 15 percent of Make-Ready parking spaces**

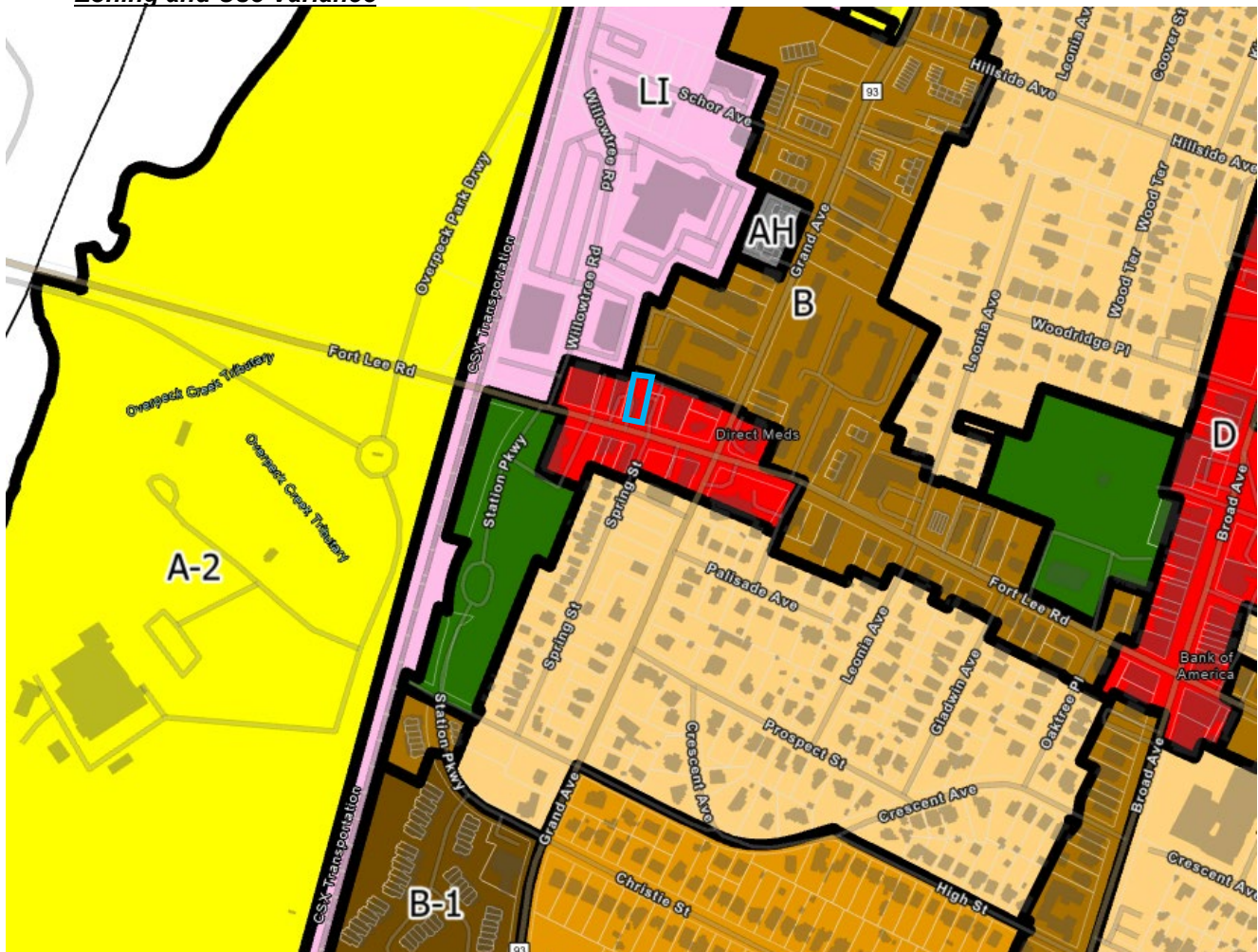
Based on the model ordinance, the applicant shall provide five (5) Make-Ready parking spaces (28 required spaces * 15% minimum). The site plans indicate that the applicant intends to comply with the ordinance.

Furthermore, Section E.2. of the NJDCA's model ordinance states:

"A parking space prepared with EVSE or Make-Ready equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement. This shall result in a reduction of no more than 10 percent of the total required parking."

Based on Section E.2., the number of off-street parking spaces that the applicant is required to provide is reduced by 2 spaces (28 required spaces * 10% reduction). As a result, the applicant is required to provide 26 off-street parking spaces. The parking deficit that the applicant faces is now 7 spaces (26 required - 19 proposed). Further discussion of off-street parking is located in the Other Planning Comments section of this report.

Zoning and Use Variance



1. The site is in the D Business Zone. As per Leonia Borough zoning regulations, Business uses of a strictly retail sales and service type, conducted entirely within the confines of a building and involving the sale of goods or rendering of services directly to the ultimate consumer and limited to the following:
 - (1) Stores for retail sale and display of goods and products, provided that the area devoted to storage of such goods and products does not exceed the area devoted to sales and display.
 - (2) Shops, including personal services and repair shops, such as beauty and barber shops; shoe repair; bicycle sales and repair; upholstery shops; print shops; florists; television and radio sales and service; locksmiths; photographers; the sale of food products prepared, cooked or baked on the premises, including delicatessens; and laundries and dry-cleaning and/or laundry establishments, but not including wholesale laundries and dry cleaners.
 - (3) Restaurants, but not including drive-in restaurants.
 - (4) Business, professional and executive offices and personal business service establishments, such as travel agencies, auto driving schools, taxi businesses, telephone answering services, educational facilities, dance, martial arts, yoga, gym, and exercise facilities, provided that such uses shall be limited to the upper floors only of mixed-use buildings.
 - (5) Banks and similar financial institutions. Bank drive-in facilities are permitted only as special exceptions in accordance with the provisions of Article XIX.

- (6) A building containing a retail business establishment on the first floor may contain dwelling units or apartments in stories above the first story, provided that the minimum floor area requirements of § 290-20E(2) are met.
- (7) Public buildings and structure, including public schools of the schools district, private schools not operated for profit of elementary and high school grade, and public parks and playgrounds.
- (8) Places of worship subject to § 290-7G.

APPLICATION VARIANCES AND EXCEPTIONS

Ordinance Requirement	Regulation	Required	Existing	Proposed	Status
Use	§290-23A	Business uses with accessory apartments	Mixed-use with ground floor commercial	Multifamily	Requires use variance d(1)
Minimum Living Floor Area	§290-20E(2)	825 square feet	N/A	610 square feet	Requires bulk variance
Minimum Lot Area	§290-24	5,000 square feet	9,000 square feet	9,000 square feet	<i>Compliant</i>
Minimum Front Yard Setback	§290-24	0 feet	N/A	2.61 feet	<i>Compliant</i>
Minimum Rear Yard Setback	§290-24C	50 feet	N/A	3 feet	Requires bulk variance
Minimum Side Yard Setback	§290-24D(2)	10 feet	N/A	3 feet	Requires bulk variance
Maximum Building Height	§290-24A	3 stories/36 feet	2 stories/N/A	4 stories/50 ft	Requires use variance d(6)
Parking Requirements	§290-96A	(2/unit) – 10% EV reduction = 26 spaces¹	14 spaces	19 spaces	Requires bulk variance
Parking Location	§290-20G(2)	10 feet from principal building/5 feet from lot line	0 feet	14 feet from building/0.9 feet from lot line	Requires bulk variance
Access Drive	§290-97H	Aisle width 24 feet for 90 degree parking	N/A	23 feet wide	Requires bulk variance
Size of Parking Stalls	§290-97K	200 square feet	N/A	157.5 square feet	Requires bulk variance
Parking Stall Width	§290-97K	10 feet	N/A	9 feet	Requires bulk variance
Driveway Aisle Width	§236-28C(1)(b)	24 feet	N/A	23 feet	Requires bulk variance

¹ See detailed discussion of the EV reduction based on Section E.2 of the NJDCA model ordinance pursuant to P.L. 2021, c.171 on page 3 of this review letter.



VARIANCE COMMENTS

- d(1) Use Variance 290-20E(3)** – The applicant is proposing to redevelop the site located on Block 802 Lot 16 into a multifamily building. Section 290-23 states that only the uses stated in the section are permitted in the D Zone District. The list of permitted uses does not include multifamily buildings. As such, the proposed use requires a d(1) Use Variance. While this office defers to the Board attorney in advising the Board on the application of relevant variance criteria; this report identifies the variance criteria for the purposes of establishing a framework for review. For a Board to consider an application for a d(1) variance the use has to be inherently beneficial or the site shall be peculiarly suitable to contain the proposed use. The applicant has to satisfy both the positive and negative criteria.

Positive Criteria: To satisfy the positive criteria, also known as “special reasons”, the applicant must demonstrate that a proposed project carries out a purpose of zoning OR that there is a substantial practical hardship to the development of a conforming structure on the property. The board must keep in mind that only “special reasons” that can be considered are those which promote the general purposes of zoning.

“Special reasons” – *Burbridge v. Mine Hill Twp* the court instructed that the term “special reasons” takes its definition from the purposes of zoning.

- Promotes purposes of MLUL
- Promotes purposes of Master Plan
- Promotes purposes of SDRP
- Site must be particularly suited to the proposed use.

Negative Criteria: Should the applicant satisfy the positive criteria; it must also be demonstrated that the granting of the variances can be accomplished without resulting in substantial detriment to the public good and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan. Impact to the public good, typically relates to any substantial detriment to the adjoining neighbors or within the surrounding neighborhood. Substantial detriments are usually nuisance related such as noise, dust, trash, parking, traffic, visual distraction, light and aesthetics that cannot be adequately mitigated. The applicant should address any impacts to the character of the neighborhood resulting from the proposed development of the multifamily building.

- Will not cause a substantial detriment to the public good.
- Impacts on the surrounding properties and the character of neighborhood should be evaluated.
- Will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

It should be noted that the multifamily residential units are permitted in conjunction with first floor retail or commercial in the D Zone District.

- d(6) Height Variance 290-23A** – The applicant is proposing to construct a multifamily building that is ~~5~~ **four (4)** stories and approximately ~~64~~ **50** feet in height in the D zone that allows for a maximum number of stories of 3 and a maximum height of 36 feet. **Although there is a reduction by 11 feet from the previous iteration, it is still 14 feet higher than the maximum permitted height.** This represents more than 10ft and more than 10% over what is permitted in the zone. **Testimony should be provided regarding impacts to the neighborhood and the enjoyment of light and air.** It should be noted that when these variance are being considered in conjunction with a d(1) variance generally these variances should be considered against a more relaxed standard which requires the applicant to demonstrate that the site will accommodate the problems associated with the greater height than what is required.

3. **Bulk and Area Variances “c” variances.** The applicant requires **nine (9)** bulk and area variances as outlined in the table above. While this office defers to the Board attorney in advising the Board on the application of the relevant variance criteria, this report identifies the variance criteria for the purposes of establishing a framework for review. The applicant bears the burden of proof, which is divided into two parts, in the justification of the “c” variance. When the bulk variances are sought with variance relief pursuant to NJSA 40:55D-70d, the required bulk variances are subsumed in the considerations of the use variance.
4. Positive Criteria. The applicant bears the burden of proof (which is divided into two parts – positive criteria and negative criteria) in the justification of the “c” variance. To satisfy the positive criteria for a “c” variance, the applicant has two choices. First, known as “c(1)” variance relief, the applicant may demonstrate that strict application of the regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship due to one of the following:
 - A. By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
 - B. By reason of exceptional topographic conditions or physical features uniquely affecting the specific piece of property; or
 - C. By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

The applicant should provide testimony regarding any peculiar and exceptional practical difficulties or exceptional and undue hardship if seeking c(1) variance relief for the proposed variances.

5. Alternatively, and known as “c(2)” variance relief, the applicant may demonstrate the following positive criteria in support of the request for relief:
 - A. Where in an application or appeal relating to a specific piece of property the purposes of the Act (N.J.A.C. 40:55D-2) would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.
 - B. The applicant should provide testimony regarding any public benefits of the project if seeking c(2) variance relief.
6. Negative Criteria. Should the applicant satisfy the positive criteria, it must also be demonstrated that the granting of the variance can be accomplished without resulting in substantial detriment to the public good and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan.
 - A. Negative Criteria: Impact to the public good. Impact to the public good, typically relates to any substantial detriment to the adjoining neighbors or within the surrounding neighborhood. The applicant should provide testimony regarding any potential negative impacts to the character of the neighborhood resulting from the proposed variance relief and any proposed mitigation measures to reduce potential negative impacts to the public good.
 - B. Negative Criteria: Impact to the zone plan. In considering the potential negative impacts to the zoning ordinance and zone plan, the Board should consider potential impact of the variances on the zoning standards the D zone.
 - C. The Board should consider the extent to which the variances may result in any substantial impairment of the intent and purpose of the D Zone. The applicant should also address including any potential impacts and proposed mitigation measures

related to the proposed rear and side yard setback encroachments as well as buffering to single residential uses

Other Planning Comments

1. *General.* The applicant should indicate the width of the columns as well as the width of the parking spaces that would be affected by the locations of the columns that are intended to hold up the structure. The applicant previously addressed this issue in the updated plans. According to the plans, the bollards are four (4) inches wide. The applicant should also testify whether the width of the bollards still allows for residents to be able to enter and exit the parking stalls with their vehicles.
2. *Architectural.* There are no specific architectural design standards for this zone, however the applicant has provided architectural drawing depicting the proposed styling of the multifamily units. The applicant should consider adding some more architectural interest on the facades including potentially adding some diversity of elements such as architectural such as additional windows, spandrels, awnings, porticos, pediments, cornices, pilasters, columns and/or balconies. The applicant should also consider the existing architectural character of the Borough when designing the proposed building. The applicant should also consider the architectural vernacular of the business districts in Leonia when formulating the façade design. It would seem that this proposal is not in line with style of buildings in the business districts. The applicant previously provided an updated rendering of the proposed multifamily building that provides a diverse array of architectural elements and an improved streetscape with expanded sidewalks and street trees. **The applicant has not provided an updated rendering to accompany the updated engineering site plans and architectural plans. It is assumed that the rendering previously submitted is still relevant.**
3. *Affordable Housing.* The applicant is proposing to comply with the Borough's set aside ordinance for affordable housing by providing three (3) affordable housing units, which is greater than the required 15% for rental units. This is a change from the four (4) proposed units in the initial application. However, this is primarily a result in the reduction of the overall number of units being proposed. **The update revision does not indicate whether or not the applicant intends to comply with the Borough's set aside ordinance. Testimony should be provided as to whether the applicant intends to comply with the set aside ordinance.**

Additionally, the applicant has updated the bedroom mix of the proposed multifamily building to comply with Section 5:80-26.3 of the Uniform Housing Affordability Controls (UHAC). UHAC requires the following:

1. The combined number of efficiency and one-bedroom units is no greater than 20 percent of the total low- and moderate-income units;
2. At least 30 percent of all low- and moderate-income units are two-bedroom units;
3. At least 20 percent of all low- and moderate-income units are three-bedroom units; and
4. The remainder, if any, may be allocated at the discretion of the developer.

However, the applicant does not specify in the plans which of the units are being designated as affordable units. The applicant should testify as to which units are being designated as affordable in accordance with Section 5:80-26.3 of the Uniform Housing Affordability Controls (UHAC). **With the new iteration, the applicant is required to provide one (1) three-bedroom and two (2) two-bedroom units to comply with the UHAC regulations.**

4. *General.* The applicant should indicate whether the proposed development is designed to shield the ground floor parking area to create a more walkable environment. The rendering that the applicant has provided shows that much of the parking area is open from the street view. The applicant should indicate the aspects of the proposed development that improves the walkable environment of the area. **The applicant has not provided an updated rendering to accompany the updated**

engineering site plans and architectural plans. It is assumed that the rendering previously submitted is still relevant.

5. *General.* For all other aspects of this application regarding the site layout and design, this office defers to the Board Engineer.
6. *General.* The applicant has provided off-street parking calculations, as shown on the site plans, based on RSIS standards. However, the Borough's ordinance regulating off-street parking for multifamily dwellings requires that for each dwelling unit proposed, two (2) parking spaces must be provided regardless of the number of bedrooms in the proposed unit. Consequently, the applicant is required to provide ~~thirty-four (34)~~ **twenty-eight (28)** parking spaces instead of the ~~thirty-two (32)~~ **twenty-seven (27)** spaces per RSIS standards. The applicant should provide updated calculations based on the Borough's standard. **As mentioned earlier, the applicant requires variance relief for the number of off-street parking spaces provided. With the new proposal, there is a deficit of seven parking spaces from the prior 12 parking space deficiency. Testimony should be provided regarding the adequacy of off-street parking, especially with respect to visitor parking.**
7. *General.* The site plan included has a revision date of November 3, 2021, which has been revised since then with the last iteration being dated April 4, 2022. This included height and EV parking calculations. An assumption is made that the building footprint has not been revised. The applicant should provide an updated site plan delineating the updates to the site plan.

131 Fort Lee Road LLC.

November 14, 2022

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H2M reserves the right to provide additional comments as we continue through the review of this application. If you have any further questions regarding the above letter, please contact the undersigned at (862) 207-5900 extension 2232.

Very truly yours,



Sanyogita Chavan PP, AICP
Practice Leader
H2M Associates, Inc.

