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*Via E-Mail: schilcott@townofpembrokemass.org
And First Class Mail*

Frederick Casavant IV, Chairman
c/o Sabrina Chilcott
Pembroke Zoning Board of Appeals
100 Center Street
Pembroke, MA 02359

**Re: River Marsh – Comprehensive Permit Application
Water Street, Pembroke, MA
Comment 24, Ron Müller & Associates**

Dear Ms. Chilcott, Chair Casavant, and members of the Board:

This letter is in response to the Peer Review report from Ron Müller & Associates dated June 29, 2021. Shaun Kelly from VAI responded to Comments 1-16 by Memorandum dated July 27, 2021. Sue Spratt from McKenzie Engineering will be responding to Comments 17-23 and 25-27 when the updated plans are finalized and submitted to the Board. With respect to Comment 24, please see response below.

Comment 24: The proposed southerly site driveway will traverse over a portion of the existing residential driveway to the property at 248 Water Street. The updated site plan now shows what we presume to be a relocation of this driveway to intersect with the south site drive. **The applicant should confirm with the affected property**

owner that this driveway relocation is acceptable. The Town of Pembroke may want to consider requiring a written agreement between the two parties.

Response: The property at 248 Water Street has a written driveway easement over a portion of the project that was reserved by a prior owner. River Marsh is allowed to relocate the driveway under established easement law, and therefore no written agreement specifically authorizing relocation is required. The law in Massachusetts is that the owner of property burdened by an easement "is entitled to make reasonable changes in the location or dimensions of an easement, at the servient owner's expense, to permit normal use or development of the servient estate, but only if the changes do not (a) significantly lessen the utility of the easement, (b) increase the burdens on the owner of the easement in its use and enjoyment, or (c) frustrate the purpose for which the easement was created." MPM Buildings v. Dwyer, 442 Mass. 87, 90-91 (2004). Under this rule, River Marsh may relocate the 248 Water Street driveway to tie into Road B as such a relocation would be consistent with the use of the existing easement.

We look forward to discussing these and other matters with the Board.

Respectfully yours,

RIVER MARSH LLC

By its Attorney,



KIMBERLY KROHA