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May 17, 2022

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Shelley DeHart, Planning Director
City of Belmont
P.O. Box 431
Belmont, NC 28012

Re: 310 Todd Street, Denial of Zoning Permit
Notice of Appeal to the Board of Adjustment

Dear Shelley:

Pursuant to Sections 18.2(5), 18.4 -1(C), or other applicable provisions of the LDC, please consider this letter as the Applicant's Notice of Appeal of the Denial of a Zoning Permit for the above property. We respectfully believe the Applicant is entitled to a Zoning Permit, including approval to cap and/or relocate an existing sewer line on the grounds that

- (i) testing completed to date adequately demonstrates that the existing line does not serve the subject property or any adjoining property;
- (ii) the City does not have a recorded easement rights allowing it to maintain the existing line, and even if the City has an implied right to maintain the line, it cannot do so in a way that unreasonably interferes with the use of the property; and
- (iii) the City has been provided a reasonable opportunity to re-test the line in order to demonstrate active service but has failed to take action necessary to demonstrate the need for or use of the line within a reasonable time.

Based on the above, we do not believe that adequate grounds or just cause exist to deny the requested Zoning Permit. In addition, the denial of the zoning permit based solely on the existence of the sewer line constitutes a taking of private property prohibited by Chapter 40A of the North Carolina General Statutes, Article I, Section 19 of the North Carolina Constitution, and the Fourth Amendment of the Constitution of the United States.

Pursuant to the above-referenced provisions of the Land Development Code, we respectfully ask that this matter be set for Hearing by the Board of Adjustment.

Should you have any questions about this letter or requests contained, please do not hesitate to contact me.

Best regards,

MULLEN HOLLAND & COOPER P.A.

A handwritten signature in black ink, appearing to read "John H. Russell, Jr." with a stylized flourish at the end.

John H. Russell, Jr.
N.C. State Bar No. 20115

JHRjr/mwd

cc: Parks Wilson, City Attorney
Cynthia Hegler