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September 8, 2025

Via Email: landuse@salisburyct.us
Dr. Michael Klemens, Chairman
Town of Salisbury
Planning & Zoning Commission
27 Main Street
P.O. Box 548
Salisbury, CT 06068

RE: Aradev, LLC Special Permit Application for 104 & 106 Sharon Road & 53 Wells Hill Road – Map 47 – Lot 2 & 2-1
Our File No.: 1308.0001

Dear Chairman Klemens:

We represent Aradev, LLC ("Aradev") in the above-referenced application (the "Application") before the Town of Salisbury Planning and Zoning Commission (the "Commission"). We write in response to the Commission's request for a response to the September 4, 2025 letter brief submitted by Perley H. Grimes, Jr., counsel to Angela and Willam Cruger (the "Letter Brief").

The Letter Brief asserts two arguments: First, the Crugers assert that the Application "impermissibly seeks to expand a prior-non-conforming use." Second, the Crugers assert that "approval of the Application would constitute spot-zoning." As set forth more fully herein, both arguments are fundamentally flawed.

I. Hotels Are Permitted in RR-1 Zoning

As a threshold mater, and as this Commission is aware, the Application is made pursuant to*, inter alia*, Section 213.5 of the Town of Salisbury's Zoning Regulations (the "Regulations"), which is entitled "Hotels in Residential Zones" and provides in relevant part as follows:

> **Hotels are permitted in the RR-1 Zone subject to a special permit in accordance with Article VIII – Site Plans and Special Permits.**

This fact, conspicuously absent from the Letter Brief, is dispositive of the Crugers' patently incorrect argument that the Application seeks to expand a prior non-conforming use. By extension, the cases relied upon by the Crugers in the Letter Brief exclusively concerning the expansion of prior non-conforming uses are inapplicable and can be easily distinguished, as follows:

- *Wells v. Zoning Bd.*, 180 Conn. 193 (1980): Concerns the expansion of an existing nonconforming trailer park.

- *Bauer v. Waste Management*, 235 Conn. 221 (1995): Concerns expansion of an existing nonconforming waste landfill.

- *High Watch Recovery Center v. Planning & Zoning Comm'n*, 352 Conn. 1 (2025): Concerns expansion of a nonconforming use to include a seasonal greenhouse for agricultural therapy (impermissible use).

- *Woodbury Donuts v. Zoning Bd. of Woodbury*, 139 Conn. App. 748 (2012): Concerns expansion of a seasonal nonconforming use to a year-round nonconforming use.

- *Crabtree Realty Co v. Planning and Zoning Comm'n*, 82 Conn. App. 559 (2004): Concerns expansion of a nonconforming car dealership parking area.

- *Selbert v. Shelton Planning & Zoning Comm'n*, 2020 WL 8765933 (2020): Concerns expansion of an existing nonconforming use by moving and then replacing an existing nonconforming building.

- *Kleinsmith v. Planning and Zoning Comm'n*, 157 Conn. 303 (1968): Concerns application to serve alcoholic beverages (an impermissible use) in an existing non-conforming hotel.

- *Town of Stonington v. Liberty Ent*., 24 Conn. L. Rprt. 620 (1999): Concerns changing one prior nonconforming use to another nonconforming use (an adult-themed restaurant).

The Crugers spend considerable time in the Letter Brief on *Raffaele v. Planning and Zoning Bd. Of Appeals of Town of Greenwich*, 157 Conn. 454 (1969), which presents an entirely distinct set of facts and has no application here. In *Raffaele,* unlike the Application at hand, the applicant club specifically and expressly applied to the building inspector *for a permit to expand its existing nonconforming property*, which application was denied. (*Id.* at 456-57.) Following the denial of the club's application – which on its face bears no resemblance the subject Application in terms of facts or process – the club appealed the building inspector's decision to the ZBA. *Id.* The appeal itself solely concerned the club's initial application to expand its prior nonconforming property. In the wake of the appeal there was a flurry of procedural machinations, including a motion by the board and the club "to open and vacate the judgment on the ground that the court had misconstrued the application as one requesting an extension of a nonconforming use when, in fact, it sought a special exception for an additional tract which the club wished to utilize as an expressly permitted use." *Id*. at 459. Ultimately, the Court took umbrage with the fact that the

ZBA ignored the appeal entirely, improperly granted the request for a special exception and imposed conditions not authorized by the applicable zoning regulations.

Subsequent cases have distinguished *Raffaele* where, like here, the applicant sought a special permit for a use specifically permitted under the application regulations. For example, in *Kulos v. Commission of City Plan of Town of Norwich*, No. 563965, 2003 WL 22705516, at *12 (Conn. Super. Ct. Nov. 5, 2003), the Court distinguished *Raffaele* and upheld the commission's approval of a special permit, as follows:

> Accordingly, it is found that because the commission determined that Slater's application satisfied the requirements as set forth in § 17.2.3, then the commission could have implicitly found that the proposed parking lot was not an illegal expansion of a nonconforming use. A review of the record reveals that there was no evidence submitted into the record demonstrating that Slater was seeking to expand or add to a nonconforming use. Furthermore, a review of the regulations reveals that Slater could properly seek the requested relief because the proposed parking lot is a permitted use pursuant to the zoning regulations referenced above in part II, Section B of this decision.

The *Kulos* court's analysis makes plain that an application for a special permit for a permitted use – like Aradev's Application – does not constitute an illegal expansion of a prior non-confirming use. This is both logical and instructive. By contrast, "[i]n *Raffaele,* the status of the club as nonconforming was the primary issue that had been submitted to the board, which chose to ignore it and rule only on the club's application for a special exception." *Id.*

The Crugers' extensive reliance on *Raffaele*, reveals a continued effort on their part to obfuscate the Application process by making irrelevant arguments, which do not serve any apparent legitimate purpose. Indeed, like the plaintiffs in *Pfister v. Madison Beach Hotel, LLC*, 3412 Conn. 702, 723–24 (2022), here, the Crugers' primary argument is "predicated on a fundamental misunderstanding of the law governing nonconforming uses." In commentary applicable to the matter at hand, the Court in *Pfister* agreed with defendants noting that "in all of the cases cited in the plaintiffs' appellate brief, the landowners were seeking to use their property in a manner categorically prohibited under the zoning regulations such that the courts were required to identify and delineate the precise scope of the nonconforming use being claimed and that, in the present case, by contrast, parks are not only a permitted use in a residential zone, but the Madison zoning regulations specifically define the type of activities that may occur in them . . ." *Id.*

This is precisely the scenario here wherein Aradev is seeking a special permit pursuant to zoning regulations specifically permitting the activities in question. In other words – and entirely unlike the cases the Crugers rely upon – Aradev's Application seeks to bring a prior existing nonconforming use into conformity.

II. An Approval of the Application Would *Not* Constitute Spot Zoning

The Crugers' argument that approval of the Application would constitute spot zoning should be dismissed out of hand for several independent reasons: *First*, the Application does not request a zoning change or reclassification such that it could even be considered spot zoning under the broadest possible definition of that term. *Second,* even if there were a zoning reclassification at issue – and there is none – the Wake Robin Inn is just one of several hotels in the RR-1 district, the owners of which may – now or in the future – seek a special permit to expand and develop their properties pursuant to the Regulations. That Aradev's is the first such Application before this Commission does not mean that Aradev is the sole beneficiary of any zoning change. *Third*, Aradev's Application is not only consistent with the Regulations, but also with the Town of Salisbury's 2024 Plan of Conservation and Development, which provides:

> To support the vision of vibrant villages, the Town must address the limitations imposed on commercial development by outdated Zoning Regulations. Sustaining business and incentivizing the establishment of new commercial enterprises is essential to village vibrancy. Sufficient infrastructure exists to support dense mixed-use villages. Additional investments in infrastructure will yield dividends, encouraging people to live, work, and spend time in our villages, rather than speeding through seeking another destination.

As such, there is no legitimacy whatsoever to the argument that an approval of the Application would result in spot zoning. Aradev respectfully submits that the Commission move forward with the Application, without entertaining additional baseless diversionary and delay tactics by the Crugers.

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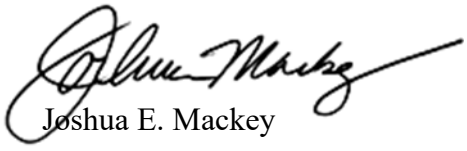
Sincerely,

MACKEY BUTTS & WHALEN, LLP



Joshua E. Mackey

cc: ARADEV LLC
Perley H. Grimes, Esq.