

# **Pat Mellen Law LLC**

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**BY ELECTRONIC MAIL ONLY**

October 14, 2024

Travis Parker – Planning Director  
c/o Lauren Stanek  
Senior Assistant City Attorney - City of Lakewood  
Lakewood Civic Center  
480 S. Allison Parkway  
Lakewood, CO 80226

RE: Letter of Concern – Major Site Plan Review – 1515 Whippoorwill

Dear Mr. Parker,

I am writing on behalf of my client, Applewood Heights Community Organization, Inc., (“Applewood”) regarding the most recent Major Site Plan (“MSP”) submitted for approval by Metro West Housing Solutions (“Metro West”) for its project Williams Pointe at 1515 Whippoorwill Dr., Lakewood, CO.

The Applewood advocates have many concerns about the City Staff’s review of this project, some are long-standing, and some are very recent. They include but are not limited to:

1. You were present for the comments made on the record by members of the Planning Commission at the subdivision approval appeal hearing on August 21, 2024. Steven Buckley (“Mr. Buckley,”) the ranking member of the Planning Commission at that hearing, made a compelling and detailed argument that the MSP as submitted included deal-breaker components that were unfair to the neighbors. Other Planning Commission members, in voting “no” to the subdivision plan, objected to failure of the project to properly address connectivity and walkability issues. Mr. Buckley expressly stated that if Metro West had been asking for the MSP to be approved the answer would be “no.” Clearly the expectation was set that Metro West would take the Planning Commission’s comments seriously and incorporate solutions into the next submittal of the MSP. It did not.
2. Instead, the MSP as submitted for the fifth time on September 18, 2024, contains no changes to address the specific feedback provided by the Planning Commission about its concerns, including but not limited to:

- a. The absurd, arbitrary and capricious changes being unilaterally dictated to the Mitjans/Helm's existing driveway, which still include an angle in the middle on a steep north-facing grade. The Planning Commission said the proposed design is not safe and unacceptable. The MSP still contains this design.
  - b. The lack of Connectivity and Walkability, especially for future Williams Pointe residents with mobility issues, ADA needs and children. The planned on-property sidewalks still lead to nowhere, ending on the top of a steep hill, and access to the public bus lines on W. Colfax Avenue has not been included in the newest MSP. The target demographic for Williams Pointe is low-income families. The MSP provides no safe connectivity/walkability to nearby public transportation, schools or school bus stops or places of employment. Metro West has misrepresented the site's proximity to public transportation on multiple Federal and State funding applications.
3. The reviews conducted by referral agencies, including but not limited to the West Metro Fire Department ("WMFD"), evaluate the property only to its parcel borders in a vacuum. The referral may be returned as approved without any consideration of how that agency's aspect of the project affects the existing neighborhood in which it will be placed. For example, issues already exist near this property that impede WMFD response, and the referral does not address how this project will compound those issues. It became obvious at the appeal hearing that the walkability and connectivity evaluation stopped at the border of the parcel – as if Williams Pointe is simply a self-contained island where the residents will never have to use public transportation or a school bus or walk anywhere.
4. It has become public knowledge that City of Lakewood staff have provided design services to Metro West. This kind of interaction only exacerbates the existing conflict of interest between the City of Lakewood and Metro West, which is the housing organization of the City of Lakewood.
5. Vehicle access to Williams Pointe through Youngfield Drive, W. 15<sup>th</sup> Place, and Youngfield Street will have an unreasonable negative impact on the function, purpose, capacity, operation and safety conditions of these and other local and major connector streets. The MSP includes a narrowing of W. 15<sup>th</sup> Place that routes all traffic onto the 10% grade portion of that road and only exacerbates the existing open and obvious grade issues, particularly during winter conditions. The current MSP arbitrarily and capriciously ignores unmitigated increases in the traffic volumes on Youngfield Street resulting from other recent developments, including but not limited to the August 2024 opening of the new Intermountain Health Lutheran Hospital and the reconfiguration of related exits on I-70.

6. City staff and Metro West personnel are misrepresenting the Colorado Department of Transportation's ("CDOT") position about including ingress/egress to the property from W. Colfax Avenue.
  - a. The newly developed canned response from City staff that ingress/egress from W. Colfax Avenue would be granted only IF "**reasonable access** cannot be obtained from the local street system" is partially true but misleading. Until now the City has stated that W. Colfax Avenue was the only acceptable ingress/egress point, acknowledging that trying to force an additional 300 trips per day onto Youngfield Drive and W. 15<sup>th</sup> Place is **NOT REASONABLE**. The City has not yet offered any credible support for abandoning its prior position that W. Colfax Avenue is the only acceptable ingress/egress point for this property.
  - b. CDOT has been clear that the City has not asked for CDOT to evaluate the W. Colfax Avenue option, presumably because of the increased cost. This reeks of conflict of interest because this developer, Metro West, is a closely held part of the City's organization. The question becomes why would the City prioritize saving any developer money and shifting the **COST** and **SAFETY RISKS** of the ingress/egress decision onto the existing neighborhood, which has no voice in this decision? Also, any increased cost of that design is NOT a criterion that the zoning ordinances state is relevant for evaluating the MSP for approval. Metro West knew what it was buying at this property decades ago, and the costs of developing this particular piece of land were easily foreseeable.
7. Public concern about this project is significant, with more than 1,000 people signing the online petition opposing the Williams Pointe development. Metro West has misrepresented the community's position in multiple Federal and State funding applications, where it has stated that the neighborhood was in favor of the development and/or omitting reference to any opposition.
8. Metro West has demonstrated its contempt for the citizens and leadership of the City of Lakewood by doing work at the site without obtaining permits and ignoring instructions from the City to stop unpermitted work.

Under the Lakewood Zoning Ordinances, the Williams Pointe project as submitted is an MSP subject to approval solely by the Planning Director, who may at his discretion may refer the approval to the Planning Commission. Any major variances must be approved by the Board of Adjustment. Appeals of any minor variance(s) approved by the Planning Director are heard by the Board of Adjustment. Major waivers must be approved by the Planning Commission.

Appeals of minor waiver(s) approved by the Planning Director are heard by the Planning Commission. Information is unavailable at this time if the variances and waivers necessary for this MSP to be approved as submitted will be major or minor in character.

The Applewood advocates are requesting that you apply the same criteria considered for the review of the Kairoi project at 711 S. Yarrow St. and refer the review and approval of the Williams Pointe MSP to the Planning Commission. Although the Planning Commission's decision to affirm the City Staff's approval of the Williams Pointe subdivision plan was not appealed further, the same will not be true of the MSP. The adjacent owners fully intend to aggressively exhaust all appeal options within the City of Lakewood for any variances and/or waivers granted in support of the Williams Pointe MSP, which under Lakewood Ordinances is their right. Applewood also will appeal to the Jefferson County District Court to overturn any decision by the City to approve the MSP in its current form.

Please consider the controversy, the strong opinions expressed by the Planning Commission, the rights of the neighbors and Applewood, the community's interests and the public's notice and comment rights and refer this decision to the Planning Commission for a full and fair public hearing.

Thank you for your time and consideration.

Best regards,



Patricia A. Mellen  
Attorney-at-Law

Cc: Gus Schenck  
Applewood Heights Community Organization