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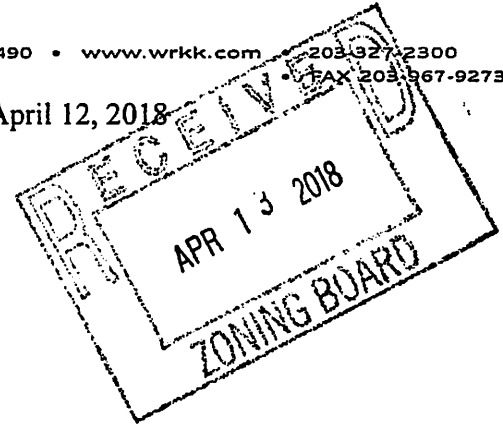
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April 12, 2018



**Via First-Class Mail and E-Mail**  
**(TMills@StamfordCT.gov and**  
**TBriscoe@StamfordCT.gov)**

Thomas Mills, Chair  
Stamford Zoning Board  
888 Washington Boulevard  
7th Floor  
Stamford, CT 06901

**Re: Application # 217-01, Lifetime Fitness**

Dear Mr. Mills:

My office represents Paul and Nan Gordon and other members of the Sterling Lake Homeowners Association (the "Association"), who own property adjacent to that affected by the above-referenced proposed text change. At the previous public hearing on this application before Zoning Board (the "Board") on April 2, 2018, Attorney Steven Grushkin of my office did not have time to complete his arguments in opposition to the text change. Accordingly, as suggested by the Board, I am writing to supplement my office's arguments. Attorney Grushkin and I will also be available at the next public hearing on April 16, 2018 to respond to any questions the Board may have. For the following reasons, the proposed text change should be denied.

**1. The Zoning Board Should Deny the Application Just as the Planning Board Unanimously Denied the Application**

As this Board is aware, the Planning Board denied the application by a vote of 5-0, and the Board would have to vote by a supermajority in favor of the application in order to override the Planning Board's denial. The Planning Board sent a strong message to this Board with its unanimous denial. The Applicant makes much of the fact that the Planning Board's denial letter contained language that "the 'Gymnasium & Physical Culture Establishment' use is appropriate" in the C-D zone; that language, however, does not help the Applicant. Put simply, the Applicant's proposed definition of "gymnasium/physical culture establishment" is *not* what the Planning Board considered might be "appropriate" in the C-D zone. The Planning Board was clear that while *some* gymnasium/physical culture establishment use might in theory be

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appropriate in the C-D zone, both the Applicant's definition of "gymnasium/physical culture establishment" and the scope of what the Applicant seeks to include in that use *are not acceptable* in the C-D zone. As the Planning Board stated in its letter: "the Planning Board recommends removing the 'and/or outdoor uses' in C-D zones" (emphasis added). In combination with this clear statement that no outdoor uses should be permitted in the C-D zone, the Planning Board's comments at the February 20, 2018 meeting make clear that the only type of gymnasium/physical culture establishment use the Planning Board could potentially consider appropriate in the C-D zone would be one that was self-contained in a single building, with no outdoor presence whatsoever, like the LA Fitness facility in Ridgeway Shopping Center. *See* 2/20/18 Planning Board Video at 1:32:50 ("There's the strong feeling that out of the definition" we should "strike outdoor" uses); *id.* at 1:27:10 ("We are looking at no outside activity at all."); *id.* at 1:05:22 ("[S]omething like an LA Fitness or a Planet Fitness... would be much more appropriate for here. I think to put a large fitness center that might have other ramifications to the neighbors [is] out."). At the April 2, 2018 hearing, this Board gave the Applicant ample opportunity to retreat from its insistence on outdoor facilities that the Planning Board had so thoroughly rejected, but the Applicant declined. This Board should accordingly deny the Applicant's request to change the zoning code to permit outdoor sports facilities in office parks, as the Planning Board rightfully did.

**2. The Applicant Cannot Come Close to Demonstrating "Superior Traffic Management" as Required by Master Plan Category 8**

At prior hearings, this Board heard a steady drumbeat of concerns from the public about the traffic impact necessarily generated by a fitness complex with 5,000 members, many of whom will attempt to use the facilities around rush hour, with only the narrow, already overburdened Turn of River Road and Buxton Farm Roads to accommodate them. There was ample testimony about how the proposed fitness complex would generate traffic on days and at times when office parks do not – such as early mornings, late nights, and weekends, necessarily having a detrimental effect on the surrounding residential neighborhood. Common sense dictates that traffic will inevitably be overburdened, for example, during morning rush hours in the summers when parents are dropping off their children for the proposed day camps.

These are not idle concerns to be dismissed with the Applicant's empty platitudes about how traffic will be addressed in the special exception process. One of the key requirements of Master Plan Category 8 that must be met in order for a

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proposed use to be consistent with the Master Plan is “superior traffic management.” Thus, the Master Plan requires the Applicant to demonstrate superior traffic management as a precondition for approval of its text change; the Applicant has not met and cannot meet that heavy burden. As demonstrated in the prior public hearings, the Applicant’s traffic study is not based on an anticipated 5,000 members (or any number of members at all).<sup>1</sup> The study also relies on the dubious assumption of a 35% rate of “internal capture” of Lifetime trips from workers in the rest of the office park, suggesting that more than a third of the Lifetime facility’s 5,000 memberships will come from an office park that employs only about 1,300 workers total.<sup>2</sup>

### **3. The Special Exception Process Cannot Protect Against the Harms to the Community from the Proposed Text Change**

Moreover, as discussed at prior hearings, if this Board were to adopt the text change proposed by the Applicant, the special exception process would be far too little, too late to address the serious concerns raised by the Board and the public about traffic, noise, and numerous other negative impacts on the community. Under well-established case law, on a special exception application:

Acting in [an] administrative capacity, the zoning commission's function is to determine whether the applicant's proposed use is expressly permitted under the regulations, and whether the standards set forth in the regulations and the statute are satisfied. The zoning commission has no discretion to deny the special exception if the regulations and statutes are satisfied. *Id.*

*Rackowski v. Zoning Comm'n of Town of Naugatuck*, 53 Conn. App. 636, 639-40 (1999) (quoting *Connecticut Resources Recovery Authority v. Planning & Zoning Commission*, 46 Conn. App. 566, 569 (1997)) (emphasis added). If this Board approves the proposed text change, the Board will have made a legislative

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<sup>1</sup> If each of the facility’s anticipated 5,000 members (potentially at least 7,000 people, since memberships can consist of families) visited the facility even once a week, at least 1,000 weekly trips would be generated.

<sup>2</sup> Notably, the Applicant’s traffic study purports to demonstrate improved traffic flow with a Lifetime Fitness facility, as compared to an office building filled with medical offices, by not assuming any rate of “internal capture” by the medical offices whatsoever – as though workers would all inevitably join a Lifetime complex in their office park but would never choose to see a doctor steps from their office.

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determination once and for all that it is consistent with public welfare to have indoor and outdoor fitness complexes in all C-D zones. No conditions that this Board could possibly impose on a future special exception would be able to change that.

For the foregoing reasons, respectfully, the Board should deny the proposed text change. Thank you for your service to the City and for your attention to this matter.

Sincerely,  
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By:

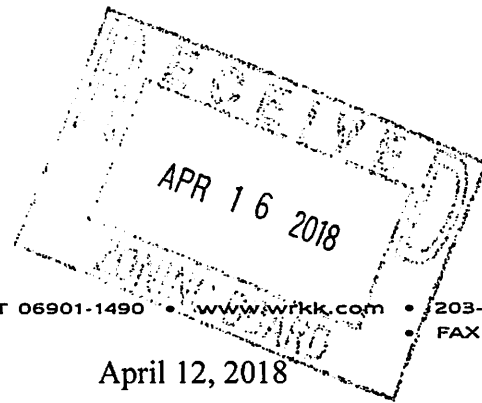


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cc: Steven D. Grushkin, Esq.  
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