EXPLANATORY STATEMENT

Manhattan Motorcars, the new owner of the Volvo dealership located at 556 Post Road East, makes this application for certain Text Amendments as set forth in the application documents in order to facilitate renovations and an addition to the existing Volvo dealership located on the premises.

By way of background, in November of 2016 the prior owner of the dealership filed an application for certain text amendments to the Regulations. The purpose of the proposed text amendments were to authorize contemplated improvements to the site and an addition to the building. A public hearing was held with regard to the application and on March 16, 2017 the Commission voted to approve the text amendments. This decision was appealed to the Superior Court pursuant to the provisions of Connecticut General Statutes Section 8-8 and by Memorandum of Decision dated March 13, 2019 the Court sustained the Plaintiffs' appeal finding that the text amendments as approved violated the provisions of Connecticut General Statutes 8-6 and 8-2. More specifically as noted in the decision the Court found that the amendments as proposed violated the holding of the Mackenzie v. Planning and Zoning Commission of the Town of Monroe, 146 Conn.App. 406 (1913) in that the text amendments authorized the Commission to adopt regulations empowering itself to vary the application of the regulations when acting on a special permit request thereby usurping the authority granted to the Zoning Board of Appeals pursuant to the provisions of Connecticut General Statutes 8-6. The Court concluded "...the proposed amendment provides the Commission with the ability to waive or vary certain provisions of the regulations on a case by case basis....if the regulation confers authority on a commission to vary,

modify or alter the requirements or accept other uses, the regulation impermissibly assigns to a zoning commission a power which it cannot validly exercise". The Court also found that the amendment as approved violated the uniformity requirement of Connecticut General Statutes 8-2.

Our client believes that the improvements to the site as originally proposed will provide a substantial benefit to the immediate area by improving the appearance and functioning of the Volvo dealership and eliminating negative impacts on the surrounding residential area. The proposed improvements will have a significant aesthetic benefit with regard to the property and will provide for all automotive service activities to be relocated inside the building. The Commission has previously found the proposal to be consistent with the interests of the dealership, neighborhood and town in general. The current owner is committed to making those improvements as previously contemplated by the prior owner and the Commission.

In an effort to address the legal infirmities noted by the Court so that the much needed renovations to the dealership can move forward we are proposing certain text amendments as set forth in the material submitted herewith. These proposed text amendments address the legal concerns raised by the Court. The essence of the amendments are to qualify automobile dealerships existing within the GBD zone as of the effective date of the amendment to be permitted uses thereby eliminating the constraints otherwise imposed with regard to site improvements due to the pre-existing nonconforming status of these uses. There are only three other automobile dealerships in the zone that would be impacted by this amendment (Honda, Lexus and Toyota). Qualifying these existing dealerships as permitted uses is consistent with the long established goals of zoning regulations to

eliminate nonconforming uses wherever possible. The site improvements as previously proposed that our client wishes to proceed with are generally compliant with the applicable design requirements of the GBD zone. The text amendments address minor modifications to existing regulations involving coverage and FAR calculations that will render the proposal in conformance with all existing provisions of the zone.

The improvements and enhancements to the dealership as previously approved by the Commission will have a very positive effect aesthetically while providing much needed modifications benefitting customer convenience. The text amendments as proposed address the legal considerations which led to sustaining of the appeal and will ensure that the improvements contemplated will be compliant with applicable provisions of the Zoning Regulations.

MANHATTAN MOTORCARS

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