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July 3, 2019

Kenneth Kovalchik, AICP
Town Planner
Guilderland Town Hall – 2nd Floor
5209 Western Turnpike
P.O. Box 339
Guilderland, NY 12084

**RE: Rapp Road Residential Development
Response to Albany County Planning Board General Municipal Law §239-m
Recommendation**

Dear Mr. Kovalchik:

This firm represents the applicant, Rapp Road Development, LLC, in connection with an application for site plan approval pending with the Town Planning Board for the development of 222 residential units on Rapp Road in the Town of Guilderland (the “Project”).

This letter responds to the recommendation of the Albany County Planning Board dated May 13, 2019 issued pursuant to NYS General Municipal Law §239-m. Pursuant to GML §239-m, the County Planning Board is required to report its recommendations to the Town Planning Board, accompanied by a statement of the reasons for such recommendations.

- The County Planning Board commented, erroneously, that the Project is inconsistent with the Town’s Transit Oriented Development District (“TOD”). This observation by the County Planning Board does not constitute a “recommendation” to the Town Planning Board pursuant to GML 239-m. Rather, it simply is the County misinformed opinion concerning local zoning requirements. In any event, to the contrary, the Project is the only use authorized in the TOD at this location and requires no variances. The design of the buildings, including the location of the structures further away

from the residential properties, is consistent with the enhanced setback requirements in the TOD for this use.

The Project is also consistent with the 2016 Westmere Corridor Study. The Westmere Corridor Study recommended Transit Oriented Development zoning for this area and included a map showing the proposed boundaries. The Westmere Corridor Study map and the TOD overlay map are entirely consistent with each other. See, Westmere Corridor Study Page 62; Figure 8: Proposed TOD District Boundary. The Town Planning Board should find that the Project is consistent with the Westmere Corridor Study and the TOD zoning for the site.

With respect to transportation connectivity, the site plan depicts multi-use pedestrian and bike routes, and pedestrian crossings. In addition, the site is proximate to and provides convenient access to the highest usage bus stop on CDTA's route map, with connectivity to the SUNY and Harriman campuses and downtown Albany. Most importantly, and consistent with the theme of the TOD, the direct connection to the Mall ring road provides access to the interstate highway system without increasing traffic on Western Avenue or other area roadways.

- The County Planning Board mistakenly observed a potential traffic alternative (to close Rapp Road at Gipp Road) which is designed to and does effectively protect the historic neighborhood on northern Rapp Road from increases in traffic, to be "problematic". Such a conclusion also does not represent a GML §239-m "recommendation" to the Town Planning Board. It appears that the County Planning Board may have misunderstood the content of the Maser traffic report regarding the alternative traffic design. Particularly, the County's statement that "it remains unclear if dead-ending the Road at Gipp will result in less traffic through the Historic District". Obviously, if north-south traffic is discontinued, there will be less traffic through the Historic District. In fact, the supplemental traffic analysis requested by the County Planning Board, provided by Maser, found 135 vehicles during the Weekday Peak AM Hour and 260 vehicles during the Weekday Peak PM Hour (north of Pine Lane) would be eliminated from northern Rapp Road. Since the traffic volumes are lower than previously analyzed, operating conditions in this area would be improved. This traffic report is un rebutted in the record.

In any event, the record contains an expert traffic report prepared by Maser Consulting (John Collins, PhD) which unequivocally establishes that there will be a de minimus impact on traffic on north Rapp Road as a result of the Project with only 20-25 new trips in the AM/PM peak hour periods. In other words, during peak hour traffic, only approximately one additional car every three minutes is anticipated. This is accomplished through a proposed new connector/diversion road for vehicles to access the Crossgates Mall northern ring road as opposed to travelling north to access to Washington Avenue Extension.

- The County Planning Board recommendation quotes NYS General Municipal Law §96-a and provides background information concerning the Rapp Road Historic District. This quote and background information are not a recommendation, pursuant to GML §239-m. In any event, the applicant agrees that the Town and City should work together to devise

an acceptable resolution of issues important to this historic area. However, the record does clearly establish that there will be no potential significant adverse environmental impacts on cultural resources as a result of the Project.

- The County Planning Board mistakenly suggests that the Project is inconsistent with current character of the area. Such a finding does not represent a GML §239-m “recommendation” to the Town Planning Board. Rather, it simply is the County misinformed opinion concerning local zoning requirements and the Town’s vision for this area. To the contrary, the Project is consistent with the Town’s vision for the community within the TOD area. As noted above, the Project as proposed is the only use permitted for this site under the TOD zoning district, and requires no variances. In addition, in order to address potential impacts on properties on adjoining and/or adjacent streets, the applicant has proposed and incorporated into the site plan extensive buffer areas, substantial setbacks, berms and screening to provide satisfactory protection for residential areas on the south and west property boundaries. To the north, the 200-foot wide wooded area will continue to provide buffer to the north of the site.

- The EAF will be updated to address site plan changes and public comments.

- The County Planning Board suggests that the application should include the results of a coordinated SEQRA review after a positive declaration and environmental impact statement process. Once again, such a finding is not within the scope of a GML §239-m “recommendation” to the Town Planning Board. Rather, it simply is the County misinformed opinion concerning legal requirements concerning SEQRA. Pursuant to SEQRA, the Project has undergone a coordinated review, including extensive analysis of expert reports regarding traffic, archeological, wildlife and engineering reports demonstrating that no significant adverse impacts are anticipated as a result of the Project. Therefore, the expert reports and record establish that a “hard look” has been taken by the Town Planning Board, and it is appropriate that the Planning Board may adopt a negative determination of significance pursuant to SEQRA. The County Planning Board’s recommendation does not change the procedural and substantive requirements for a lead agency to review a project.

Sincerely,



Robert L. Sweeney

cc: Jim Soos