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June 27, 2023

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By Email and Hand

Chairperson Peter Galotti and
Members of the Zoning Board of Appeals
Town of Wappinger
20 Middlebush Road
Wappingers Falls, NY 12590

RE: Dakota Partners, Inc. & DP 123 LLC
ZBA Appeal No. 22-7772
Application: Area Variances for Multifamily Workforce Housing
Premises: 1404 Route 9, Town of Wappinger
Parcel ID: 135689-6157-02-707773-0000
Lot Area: 86.818 acres
Property Owner: DP 123 LLC
Zoning District: Shopping Center "SC" District

Dear Chairperson Galotti and Members of the Zoning Board of Appeals:

This letter is respectfully submitted on behalf of Dakota Partners, Inc. ("Dakota") & Diamond Properties through its business affiliate DP 123 LLC (collectively, the "Applicants") in furtherance of their application for area variances to construct a multifamily workforce housing development (the "Project") within the Alpine Commons Shopping Center ("Alpine Commons") located at 1404 Route 9 in the Town of Wappinger, consisting of approximately 86.818 acres, classified in the SC (Shopping Center) zoning district, and bearing a tax parcel identification of 135689-6157-02-707773-0000.

First, the Applicants appreciate that the Zoning Board of Appeals honored the Applicants' recent request of an adjournment from June 13, 2023 to tonight's June 27th agenda.

Second, it is worth reiterating that reference to the June 9, 2023 letter of Director of Strategic Planning & Municipal Codes reveals that it does not take into consideration the Applicants' June 8, 2023 submission, particularly the amended and reduced nature of the pending area variances.



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Third, in her June 9, 2023 letter, on the second page, the Director of Strategic Planning & Municipal Codes sets forth that the “actual net lot area needs to be confirmed before any variance can be granted.”

Consequently, the Applicants hereby provide the attached analysis of the net lot area by Benesch Engineering. Consistent with the ALTA/NSPS Land Title Survey for the Alpine Commons Shopping Center, signed and sealed by Nickolas Fusco of Republic National, dated November 22, 2019, the Gross Lot Area is 3,781,780 square feet / 86.818 acres. Benesch Engineering has calculated the **Net Lot Area as 49.458 acres** (i.e., 86.818 acres – 37.36 acres). Further, the Residential Parcel Area is denoted as 751,958.6 square feet / 17.26 acres of which 1.2 acres are deducted due to steep slopes for a **Net Lot Area attributable to residential use of 16.06 acres** (i.e., 17.26 acres – 1.2 acres).

Thus, the Applicants respectfully submit to the Director of Strategic Planning & Municipal Codes that only 2 area variances are required in order for the Applicants to develop multifamily workforce housing along with related amenities and parking facilities as part of a Mixed Use within the existing Alpine Commons Shopping Center, namely from: (i) the Density standard set forth in the Supplementary Special Permit Use Regulations for Mixed Uses in Section 240-81.7 of the Town of Wappinger Zoning Code (“Zoning Code”), and (ii) the Maximum building height (stories/feet) codified in the Schedule of Dimensional Regulations for Nonresidential Districts for the SC zoning district.

More particular, the Applicants are seeking for all the reasons previously enunciated since its initial application in November 2022, an area variance from the 2.5 stories / 35-foot height limit where each of the proposed five (5) residential buildings are three stories, and every building exceeds the 35-foot height limit. Indeed, the height limit varies from building to building with a range from 42’0” feet to 49’10” based on the way height is measured in the definition of Building Height in the Zoning Code. The Applicants have documented that here the granting of the requested stories / height area variance will NOT be a detriment to the health, safety and welfare of the neighborhood or community as these buildings are not readily visible to the neighborhood.

Further, the Applicants also have asserted since the outset that the Project required an area variance as to the Density standard set forth in the Supplementary Special Permit Use



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Regulations for Mixed Uses in Zoning Code Section 240-81.7, which provides in sub-section A(1) that the *“residential density in a mixed-use development shall not exceed three dwelling units per acre of net lot area devoted to the residential component of the mixed use.”* In the Applicants’ November 14, 2022 cover letter and all materials thereafter, the Applicants have asserted that pursuant to the residential density standard of three dwelling units per acre of Net Lot Area devoted to the residential component of the mixed use, Alpine Commons is limited to 93 multifamily units (i.e., 31.3 acres X 3 dwelling units/acre = 93.9 dwelling units rounded downward to 93 multifamily units), where the Project proposes 144 multifamily units. The Applicants have previously asserted that by allocating 16 of the 49.458 Net Lot Area acres, Alpine Commons meets the commercial density standard for its 209,000 square feet of commercial area per the SC zone’s FAR of 0.3 (i.e., 43,560 s/f X 0.3 FAR x 16 acres = 209,000 s/f). This leaves a remaining Net Lot Area of 31.3 acres for the residential area. The Director of Strategic Planning & Municipal Codes has taken a more conservative approach to this calculation and provides that here the *net lot area devoted to the residential component of the mixed use* should include “areas for multifamily buildings, roadways, parking, landscaping, and other improvements for the residential development.” As a result of her position, Benesch Engineering has determined that the net lot area devoted to the residential component of the Mixed Use is 16.06 acres (i.e., 17.26 acres – 1.2 acres). Therefore, deploying the residential density standard of three dwelling units per acre of Net Lot Area devoted to the residential component of the mixed use, **Alpine Commons is limited to 48 multifamily units** (i.e., 16.06 acres X 3 dwelling units/acre = 48.18 dwelling units rounded downward to 48 multifamily units), **where the Project proposes 144 multifamily units.**¹

And, even with this most conservative approach, the Density the Applicants are proposing here is comparable with projects in the Town and the nearby Village of Wappinger Falls as substantiated by the previously submitted analysis of comparable properties. Indeed, the density proposed by the Applicants is consistent with the character of the community.

It is also noteworthy that the requested density will not affect traffic along State Route 9 per the previously submitted traffic information.

¹ It is important to note that the Gross Commercial FAR for the Property is 1,134,537.624 square feet (i.e., 43,560 s/f X 0.3 FAR x 86.818 acres = 1,134,537.62 s/f).



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Additionally, public school enrollment is down with actual K-12 enrollment for 2021/22 at 10,176 students where historic enrollment for 2011/12 was 11,964 students and 2026/27 enrollment is projected as 9,572 (i.e., a decrease of 2392 student or 20%).

Thus, the requested density variance will not produce an undesirable change in the character of the neighborhood, nor acts as a detriment to nearby properties, nor will it have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Accordingly, it is respectfully submitted that approving these area variances relative to the Maximum building height (stories/feet) codified in the Schedule of Dimensional Regulations for Nonresidential Districts for the SC zoning district and the Density standard set forth in the Supplementary Special Permit Use Regulations for Mixed Uses in Section 240-81.7 of the Zoning Code will not result in any significant adverse environmental impacts and will not pose a detriment to the health, safety and welfare of the neighborhood or community, particularly given the documented and pronounced need for workforce housing in the State of New York, County of Dutchess, and Town of Wappinger per numerous housing needs assessments.

Conclusion

The Applicants look forward to appearing before the Zoning Board of Appeals on June 27, 2023, and respectfully submit that adoption of a SEQRA Negative Declaration and approval of this area variance application as amended, after a public hearing in July 2023, is warranted pursuant to Zoning Code Section 240-107B(2)(b)[2] and New York State Town Law Section 267-b(3). The Applicants also respectfully request that the Director of Strategic Planning & Municipal Codes revisit her June 9, 2023 letter in view of the Applicants' submissions of June 8, 2023 and June 27, 2023 to verify that only the 2 aforementioned variances are required and only at the intensity as noted above. Should the Zoning Board of Appeals, its consultants, or Town Staff have any questions or comments in the interim, please feel free to contact me. Thank you in advance for your cooperation and consideration in this matter.

Very truly yours,

A handwritten signature in blue ink, reading 'Neil J. Alexander'. The signature is fluid and cursive, with the first name 'Neil' being particularly prominent.

Neil J. Alexander



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Enclosures

cc: Barbara Roberti, CEO
James Horan, Esq., Town Attorney
Malcolm Simpson, Town Planner
Timothy Moot, PG, and Jon Bodendorf, PE, Town Engineer
Ronald Roth, Senior VP of Acquisitions and Finance, Diamond Properties
Brian Donato, Vice President of Real Estate Development, Dakota Partners
Brenden Lloyd, Project Manager, Dakota Partners
Steve Schoch, AIA, LEED AP, Principal, Kitchen & Associates
Will Walter, PE, Civil/Site Group Manager, Benesch