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August 10, 2023

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By Email and Federal Express

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.

Based on the most recent appearance before the Zoning Board of Appeals ("ZBA") on June 27, 2023, it is now understood among the Director of Strategic Planning & Municipal Codes, the ZBA, and the Applicants 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



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Maximum building height (stories/feet) codified in the Schedule of Dimensional Regulations for Nonresidential Districts for the SC zoning district.

More particularly, the Applicants are first seeking 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.

Second, the Applicants are requesting an area variance as to the Density standard set forth in the Supplementary Special Permit Use 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." Based on the net lot area devoted to the residential component of the Mixed Use here being 16.06 acres (i.e., 17.26 acres – 1.2 acres), 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

Materials Submitted in Support of This Application

Consistent with the ZBA's request during the June 27, 2023 public meeting and in anticipation of the public hearing the ZBA scheduled that night for August 22, 2023 relative to this Application, the Applicants have prepared a Revised SEQRA Full EAF Part I and Part II (dated August 2023) as well as Civil/Site Drawings from Benesch Engineering consisting of Sheets C2.0, C3.0, C4.0, C4.1, and C4.2. It is also worth noting that Dakota contacted the Dutchess County Public Transit Authority (the "Authority") about Alpine Commons. The Authority was very receptive to the project. Indeed, the Authority has provided a signed letter of support for the project and for a more accessible dedicated bus stop on Route A at the project site for the residents and the customers of the Alpine Commons shopping center. All of these materials as well as the extensive record relative to this application, which began with the November 14, 2022 submission by the Applicants to the ZBA, has been uploaded to an FTP website for the public to access and the Town to download materials, accordingly. The credentials to access

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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that FTP site are set forth below. Kindly note that the username and password are case sensitive:

Web Site: <http://cuddyfeder.ftptoday.com>

Username: Dakota

Password: Dakota39891

In addition, we have appended to this letter the Table of Contents for the Items 1 – 27 uploaded to the FTP in furtherance of this Application for Area Variances pursuant to Zoning Code Section 240-107B(2)(b)[2] and New York State Town Law Section 267-b(3).

Ultimately, the record relative to this application is uncontroverted and substantiates that the requested area variances will not produce an undesirable change in the character of the neighborhood, nor act as a detriment to nearby properties, nor will they have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.²

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 August 22, 2023 for a public hearing on this application, and respectfully submit that adoption of a SEQRA Negative Declaration and approval of this area variance application is warranted pursuant to Zoning Code Section 240-107B(2)(b)[2] and New York State Town Law Section 267-b(3). Should

² See *WEOK Broad. Corp. v. Planning Bd.*, 592 N.E.2d 778, 783-84 (N.Y. 1992) (stating that "generalized community objections" alone do not rise to the level of substantial evidence upon which to make SEQRA decisions); and *In re: Hells Kitchen Neighborhood Association*, 81 A.D.3d 460, 915 N.Y.S.2d 565 (N.Y. App. Div. 2011)(holding that a Board's responsibility under SEQRA must be viewed in light of a "rule of reason" where not every conceivable environmental impact, mitigating measure or alternative, need be addressed in order to meet the agency's responsibility").



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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 that reads "Neil J. Alexander". The signature is fluid and cursive, with a long horizontal stroke at the end.

Neil J. Alexander

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