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June 1, 2022

Orangetown Town Board
26 Orangeburg Road
Orangeburg, NY 10962

Attn: Orangetown Supervisor Kenny and Members of the Orangetown Town Board

Re: Gatto Lane Site Plan, Section 68.07, Block 2, Lot 1
Response to Rockland County GML review letter dated May 16, 2022
BE #20267

Dear Supervisor Kenny and Members of the Town Board:

We have the following responses to the comments contained in the County of Rockland Planning Department GML review dated May 16, 2022:

- Comment:** *Our department had previously reviewed a request in 2006 to rezone the subject parcel from R-40 to R-15 to create a 15-lot residential subdivision. The subject site is bound on the north by R-22 zoning, the east by R-15, the south by R-40, and the west by R-35. We had recommended in order to protect the adjacent residents from denser zoning, the Town should either allow only a rezoning to R-22, to better conform to all of the surrounding zoning districts or allow the R-15 zoning with the guarantee that only a maximum of 15 building lots will be allowed. Based on 2004 aerial imagery available to our department, the character of residential development in the neighborhood has changed very little since the previous application was submitted. We realize that the R-15 zoning district will allow significantly more density than the existing R-40 designation, thus we concur with part of our previous recommendation that only R-22 rezoning be permitted to act as a transitional district between the adjoining lower density zones and the existing R-15 district to the east.*

Response: We request the Town Board override this Rockland County Planning GML comment. The comment that "the character of the residential development in the neighborhood changed very little since the previous application was submitted" further supports the zone change as the current R-40 zoning is not feasible for a private developer to construct the infrastructure necessary to build at R-40. The zone change will be consistent with the existing 16.3 acres to the east that are zoned R-15. The lands to the north on Bradl Lane are zoned R-22 and half of the shared property line along the south side of Bradl Lane already abut the existing R-15 zoning district. The R-40 zoned land to the south is undeveloped. There are no existing nearby lots in the Town of Orangetown in the R-35 zone. The R-35 zoned lands to the west are located in the Village of Chestnut Ridge. The PAC zoning already includes measures for transitioning between different uses by implementing the use of buffer zones. We note the project could be developed at a more intensive land disturbance criteria if the PAC zoning required buffer regulations and minimum open space requirements were not implemented. The residential zoning districts do not have bulk regulations in place for building coverage and green space, as opposed to the PAC overlay district.

2. **Comment:** *In addition to the request for R-15 zoning, the applicant is also requesting to implement a Planned Adult Community (PAC) floating zone. While part of the intent of the PAC zone is to allow a range of housing types and prices for senior citizens, the district must be utilized in areas to give seniors convenient access to local amenities. According to Section 4.62 of the Orangetown zoning code, PAC sites shall have access to or frontage along a major or secondary roadway. The subject parcel is deeply embedded within a suburban area and is isolated from any major roadways. Section 4.62 also states that the PAC floating zone is allowed in districts other than R-80, R-40, R-22, or LI, with exception of conversions of existing buildings. The site currently being zoned R-40 and undeveloped are further indications that the property is not the Zoning Code's intended candidate for the PAC floating zone. The PAC must be disapproved.*

Response: We request the Town Board override this Rockland County Planning GML comment. The full section 4.62 states:

“Eligible sites. Rezoning to PAC may be considered for any property meeting requirements set forth herein, provided said property is located within a zoning district other than an R-80, R-40, R-22, or LI District With the exception of conversions of existing buildings, PAC developments shall be prohibited in designated historic districts. Eligible sites shall be defined and regulated as "hamlet sites" or "other sites," as specified in § 4.69 herein. All potential PAC sites shall either have access to or frontage along a major or secondary roadway, defined herein as roads with state or county jurisdiction, or shall have other suitable access as determined by the Town Board during the rezoning process.”

In discussions with the Town Board, Town Highway Department, and Town DEMA, improvements have been identified that the applicant would make to Gatto Lane in order to improve access for the proposed development and the existing residents. The improvements would consist of a road widening and additional emergency access to Grotke Road.

The site being in an R-40 zone and undeveloped has no bearing with respect to the intention of the zoning code as it relates to the PAC floating zone. Rather, the fact that the site has been privately owned and not developed as per the R-40 designation indicates the site is not well zoned. By nature of the site abutting a larger area of R-15 zoned already developed lots supports a zone change designation to conform to the current adjacent area. The zoning code does not infer “intended candidates” with respect to land use. The zoning code provides for zoning districts, permitted uses, and bulk requirements. If a particular lot is a candidate for a zone change that allows the implementation of the PAC zone, then the site is qualified pending obtaining the required zone change. Zoning codes do not prohibit zone changes.

We question the relevance of the site being “deeply embedded” in a suburban area. The surrounding area is developed in a residential manner and the subject application is for development in a residential use; this is not a mixed use application.

3. **Comment:** *According to the project narrative dated March 31, 2022, it is the applicant's intention to construct 40 two-bedroom, attached units for residents aged 55 years and older. Section 4.62 of the Orangetown Zoning Code categorizes potential PAC sites as "hamlet sites" and "other sites." Per Section 4.69-A, hamlet sites shall be located within one-quarter-mile walking distance of the Pearl River, Orangeburg, Blauvelt, Sparkill or Tappan hamlet centers. Sites outside of these parameters are classified as "other sites." Being that the subject property is a significant distance from these hamlet centers, it can not be classified as a hamlet site. The bulk regulations listed in Section 4.69-A indicate that other sites, while containing stricter regulations than hamlet sites, are permitted at a base density of four dwelling units per-acre, amounting to 40 dwelling units on a 10.05-acre parcel. As previously stated, the PAC zone is not permitted in an R-40 zoning district. While a PAC can be allowed in an R-15 district, the existing R-15 zoning district to the east of the subject site is approximately 16.3 acres and is comprised of 37 lots primarily used for detached single-family dwellings. This calculates to a density of approximately 2.27 dwelling units per acre. Furthermore, the ability of the existing infrastructure to accommodate increased residential density on parcels intended for a much lower density is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Town Board must consider the cumulative and regional impacts of permitting such development before approving a rezoning. It is evident that the implementation of this PAC zone will lead to a significant increase in density and is out of character with the surrounding neighborhood.*

Response: We request the Town Board override this Rockland County Planning GML comment. The plans previously submitted were developed as per the bulk requirements of "other sites"; it was never suggested that this was a PAC "hamlet site". The PAC Zone will not lead to an increase in density and is not out of character with the surrounding neighborhood. There are 16.3 acres immediately adjacent to the subject property zoned R-15; rezoning to the same R-15 zoning district is entirely consistent with the adjacent developed areas. The PAC zoning bulk requirements specifically allow a density greater than single family development, but in doing so provides provisions to mitigate the change in use. This includes providing limitations with respect to developable areas by requiring buffer areas along all property lines. The PAC zone also includes requirements limiting the number of attached units and limiting the height of structures to the same as that which is allowed in the single-family zoning district. The "increase in density" is offset by a more clustered development and the future use by active adult community, which typically results in less vehicular traffic, fewer cars per person, and no school age children to impact the school district. The townhouse style development with attached units reduces sprawl and spread of a single family development, which typically results in land disturbances and lot coverages over the entire parcel. For the current submission, the applicant has reduced the number of units to 38 units (with no three bedroom units), which is a reduction of 5% of what is allowed by the zoning code.

We also note the PAC zone has a provision for bonus density if half the bonus units are designated as affordable units. This is at a density of one unit per acre, which would result in an additional ten units, or 50 total units. The application does not include bonus housing and at 38 units is less than the potential 50 units allowed by the PAC code.

The Town Board has reviewed the traffic impacts as per their traffic consultant, Town Engineer, and Town Highway Department. Through these discussions, it was recommended that Gatto Lane be widened, not for increases in traffic for the proposed development, but for existing conditions. The applicant has agreed to perform this work. Impacts with respect to utility demand and stormwater are typically handled during site plan review when detailed analyses are performed. It is the applicant's responsibility to address these potential impacts, which will be addressed during the Planning Board review.

We therefore request an override of this comment. The project will not lead to a significant increase in density and is not out of character with the surrounding neighborhood.

4. **Comment:** *The subject site is identified in the most recent Town of Orangetown Comprehensive Plan (adopted May 12, 2003) as part of the Orangetown Park Development Advisory Committee's (OPDAC) Proposed Open Space Acquisition and Protection List (Table 111-1). Furthermore, Exhibit 7 (Parks and Open Space Areas) of the Town of Orangetown Comprehensive Plan, indicates that the subject site is within a "Proposed Transitory Open Space." Orangetown is in the process of updating its Comprehensive Plan for 2022. It is recommended that if rezoning is to be considered, it be postponed until after the new Comprehensive Plan is adopted and it is determined that the proposed zoning change is consistent with the new plan's vision for this parcel. Currently, the proposed rezoning does not correlate with the Comprehensive Plan and shall be disallowed.*

Response: We request the Town Board override this Rockland County Planning GML comment. There is no building or planning moratorium in place to prevent landowners from seeking to redevelop their lands while the Comprehensive Plan is being updated, which typically takes a long period of time to become officially adopted. The Draft Land Use and Zoning Recommendations memorandum, dated April 25, 2022, prepared by AKRF for the Town of Orangetown states on page 2 under Draft Implementation Strategies: "R-40. There are four isolated R-40 zoning districts nestled within higher-density residential districts. These isolated R-40 zones, which consist of three or fewer parcels, could be rezoned to conform with the immediately adjacent zoning district to increase consistency in the zoning regulations." Based on the preliminary Comprehensive Plan, the proposal is consistent with the initial recommendations.

5. **Comment:** *Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. Bulk variances, including maximum floor area ratio (FAR) and minimum front yard are required for the proposed site plan. The maximum permitted floor area ratio (FAR) under the PAC floating district is 0.35, which the proposed development exceeds by 11 %. It should be noted that the maximum FAR for the base R-15 zoning district and existing R-40 district are only 0.20 and 0.15, respectively, which this development exceeds by 95% and 160%. Additionally, the minimum front yard is deficient by 8%. Oversized structures will result in a neighborhood characterized by greater building mass and less green space. This department is not in favor of granting zone changes and then allowing development that does not conform to bulk standards of the new zoning designation. As previously stated, the Town Board must consider the cumulative and regional impacts of the zone change. Approving a conceptual site plan that do not meet the minimal bulk requirements will set a precedent that may result in nearby property owners seeking the same relief. The proposed zone change and conceptual site plan must not be permitted.*

Response: We request the Town Board override this Rockland County Planning GML comment. The current Site Plan has reduced the unit count from 40 units to 38 units, which represents a reduction of 5% of the maximum density permitted by the PAC zone, not including bonus units. Based on the bonus units, the 38 unit application is 24% less than the density permitted in the PAC zone. Furthermore, the Applicant has agreed to limit the number of bedrooms per unit to two bedrooms, and not utilize the portion of code that allows three-bedroom units. The revised Site Plan has eliminated the requested front yard variance and this portion of the GML comment no longer applies.

Land use precedents are the responsibility of the local land use boards and each application is unique; it is up to the applicant to demonstrate the variance being requested meets the criteria for approval. For this application, the only variance that may be required is for floor area ratio. The applicant reserves its option of requesting what would be a minor variance for floor area ratio based on the final design of the units. The final design is based on massing the floor plans and living spaces in a thoughtful manner to best market the product to the anticipated purchasers. A reduction in townhouse unit dimensions of approximately two feet in width and six feet in depth would most likely meet the floor area requirement. However, this minor reduction would largely be imperceptible to the surrounding areas, especially combined with the buffers and landscaping.

The PAC zone specifically has a bulk requirement for building coverage and open space. R-zoned districts do not. The maximum building coverage allowed in the PAC zone is 40%; the current application proposed a building coverage of 18.7%. The Minimum Open Space requirement is 40%; the current application proposes 58.2% open space. The proposed density is lower than that allowed by PAC zoning and significantly meet the requirements for other key indicators with respect to intensity of development, namely open space and building coverage. There are no bulk requirements for building coverage and green space in the R-15, 22, and 40 zoning districts. The PAC development results in more green space than what could be built by the current use of right.

6. **Comment:** *Approval of a PAC requires a conceptual site plan that includes all items listed under Section 4.612-A. (2) of the Town of Orangetown Zoning Code. The Town Board must evaluate and confirm that each item under this section is satisfied before a PAC can be approved. Some of these items are not provided with the application, including, but not limited to the open space system and proposed recreation facilities and schematic water, sanitary sewer and stormwater management systems. Additional Requirements listed under Section 4.610, such as lighting of walkways and parking requirements (Section 4.61 OD), and landscaped areas and buffers (Section 4.510E and F) cannot be evaluated without the respective lighting plan and landscape plan. The application shall not be approved until these missing components are provided and evaluated. In addition, a full-sized conceptual site plan must be submitted.*

Response: We request the Town Board override this Rockland County Planning GML comment. The current site plan includes open space and recreation facilities and schematic water, sanitary sewer, and drainage facilities. However, full Lighting Plans and Landscaping Plans have not been developed for the petition. The buffer area surrounding all four property lines will remain and be enhanced with additional landscape screening. A Lighting Plan will be developed for the Site Plan approval process that demonstrates no light close to adjacent property lines. The new road is contained between the buildings and the majority of lighting will be screened from adjacent residential properties by the buildings themselves. Implementation of buffers and yards further increase the development the locating the light poles near the property lines. Section 4.612-D. (1) allows the Town Board to review the site plan again, prior to Planning Board preliminary approval in order to ensure the plans to be approved are in conformance with the original concept plans. The Town Board can review detailed landscaping and lighting plans to ensure they are satisfactory as part of the ongoing the approval process. Additionally, 4.612-A requires a market analysis to be provided. No formal market analysis was performed by Toll Brothers; however, their vast nationwide development experience and knowledge of the demographics of the Town of Orangetown has led them to commit to developing this site for an over 55 community.

7. **Comment:** *As previously indicated, there are no recreational areas illustrated on the site plan. According to Section 4.69-A of the Orangetown Zoning Code, "other sites" in the PAC district need 250 square feet of indoor and/or outdoor recreation per unit, thus requiring this development a total of 10,000 square feet of recreational area. Per Section 4.610-A, the design and location of all recreational facilities shall be consistent with the ultimate purpose of achieving pleasant living arrangements for persons 55 years of age or older and shall contemplate the desires and need of such persons for privacy, participation in social and community activities and accessibility to all community facilities. Sufficient recreational area must be provided, as it is an integral part of the PAC floating zone. The letter from Brooker Engineering, PLLC, dated February 22, 2022 (Comment 7) states that more "passive recreation" areas will be provided for a development of this size, such as a walking path, gazebo, barbeque areas, and patios; however, these elements are not delineated on the site plan drawing. Until such amenities are depicted that effectively meet the code requirements, the conceptual site plan cannot be approved.*

Response: No override necessary, the revised plans show passive recreation areas (gathering areas, patios, and walking paths) that exceed the 250 SF per unit requirement.

8. **Comment:** *The Village of Chestnut Ridge is the reason this proposal was referred to this department for review. The municipal boundary is adjacent to the western boundary of the site. New York State General Municipal Law states that the purposes of Sections 239-1, 239-m and 239-n shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner that is supportive of the goals and objectives of the general area.*
The Village of Chestnut Ridge must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Village of Chestnut Ridge must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.
Response: No override necessary; the petition for amendment was circulated to the Village of Chestnut Ridge and no comments were received.
9. **Comment:** *A review must be done by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.*
Response: No override necessary; review will be done by the Rockland County Department of Health with respect to Mosquito Control during the Site Plan approval process.
10. **Comment:** *A review must be completed by the County of Rockland Office of Fire and Emergency Services, the Village of Spring Valley Fire Inspector, or the Pearl River Fire District to ensure that the site is designed in a safe manner and there is sufficient maneuverability on the site for emergency vehicles. The parking area near the north end of the site appears to pose a challenge for a firetruck to properly maneuver. A firetruck turning radius plan must be provided.*
Response: No override necessary; review will be done by the Town Engineering Department.
11. **Comment:** *Prior to the start of demolition, construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition (November 2016) of the New York State Standards for Urban Erosion and Sediment Control.*
Response: No override necessary; review will be done by the applicable fire districts during the Site Plan approval process.
12. **Comment:** *There shall be no net increase in the peak rate of discharge from the site at all design points.*
Response: No override necessary; a drainage analysis will be performed during the Site Plan approval process that demonstrates no net increase in peak runoff rates.
13. **Comment:** *A stormwater pollution prevention plan (SWPPP) was not provided. The SWPPP, if required, shall conform to the current regulations, including the New York State Stormwater Management and Design Manual (August 2010) and local ordinances.*
Response: No override necessary; a Stormwater Pollution Prevention Plan will be developed during the Site Plan approval process.

14. **Comment:** *Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed and approved by the Rockland County Department of Health prior to construction in order to ensure compliance with Article II (Drinking Water Supplies) of the Rockland County Sanitary Code and Part 5 of the New York State Sanitary Code.*
Response: No override necessary; the Rockland County Department of Health will review the Site Plan for compliance with the applicable Sanitary Codes.
15. **Comment:** *For installation of a sanitary sewer system, engineering plans and specifications shall be reviewed and approved by the Rockland County Department of Health prior to construction.*
Response: No override necessary; the Rockland County Department of Health will review the Site Plan for compliance with respect to sanitary sewers.
16. **Comment:** *The Rockland County Sewer District No. 1 boundary is coincident with the Town boundary that abuts the subject property. If a sewer main extension from the subdivision connects to the Ramapo Sewer on Grotke Road in Chestnut Ridge, it would be an out-of-District connection, for which the fee is \$3,700 per connected unit.*
Response: No override necessary; comment noted. Suez will determine if a connection to Grotke Road will be required during the Site Plan approval phase.
17. **Comment:** *All proposed building entrances, exterior stairways, decks, window wells, and walkways must be delineated on the site plan demonstrating that they will not impact yard and setback requirements, or increase the development coverage.*
Response: No override necessary; all proposed building entrances, decks, and walks, and window wells are shown on the Site Plan.
18. **Comment:** *A Landscape Plan, indicating the species of plants to be used and where they will be planted, must be provided. The 50-foot buffer along the perimeter of the site shall either be supplemented with high evergreen trees or the existing trees be retained to obscure the proposed development from the adjoining properties, as the proposed density is inconsistent with the character of the surrounding area.*
Response: No override necessary; a Landscape Plan that provides additional screening in the buffer will be provided during the Site Plan approval phase.
19. **Comment:** *Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. Providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by visitors, tenants, or maintenance. In addition, this will help to protect the any landscaping from damage due to the weight of the snow and salt intrusion.*
Response: No override necessary; a snow stockpiles will be provided on the Layout Plan during the Site Plan approval phase.
20. **Comment:** *A lighting plan shall be provided that shows fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.*
Response: No override necessary; a Lighting Plan with footcandles will be provided during the Site Plan approval phase.
21. **Comment:** *All proposed signage shall be indicated on the site plan and shall conform to the Town's sign standards.*
Response: No override necessary; signage will be added to the Site Plan during the Site Plan approval phase.

22. **Comment:** Both parts of Question C.2 on the Full Environmental Assessment Form must be answered as "yes." Specific information is provided in the most recent version of the Orangetown Comprehensive Plan regarding the intentions for this property.

Response: An updated EAF Part 1 is included for this submission, which checks the boxes in C.2. as "yes". The site is included in Table III-1, "OPDAC Open Space Recommendations. This does not affect the application as the site was not acquired by the Town of Orangetown.

23. **Comment:** The following additional comments are offered strictly as observations and are not part of our General Municipal Law (GML) review. The board may have already addressed these points or may disregard them without any formal vote under the GML process:

Response: No override necessary; no response necessary.

23.1 **Comment:** A site plan drawing printed in proportion to the graphic scale must be sent to this department for review so that it can be evaluated in detail.

Response: No override necessary; a graphic scale will be provided on the Site Plan during the Site Plan approval phase.

Very truly yours,



BROOKER ENGINEERING, P.L.L.C.

Kenneth DeGennaro, P.E.

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