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January 17, 2018

Carol Gumienny,  
Town Clerk Town of Ballston  
Ballston Town Hall  
323 Charlton Road  
Ballston Spa, NY 12020

**Re: Katz – Route 50 PUDD Proposed Legislation**

Dear Ms. Gumienny,

Enclosed please find Responses to the Public Comments received at the January 9, 2018 Town Board Hearing for the above matter as discussed at the Hearing, for consideration by the Town Board. Please note, we provide a summary of the comments based upon notes taken at the meeting but we do not represent that these are the exact comments.

RESPONSES TO COMMENTS at January 9, 2018 Public Hearing Continuation

Katz PUDD Project

**1. Discussion of the 2005 traffic study by the applicant was inadequate**

As discussed previously, the traffic study performed for the 2005 (Draft)/2006 (Final) Comprehensive Plan update contemplates impacts to existing road infrastructure based on two zoning scenarios under half (2011) and full (2016) buildout conditions. The 2006 traffic study specifically states that the intersection analysis and recommended improvements are “extremely conservative” and are based on the “very unlikely scenario of 100% build-out by 2016”. The report further states that specific development projects were not considered and that the needed improvements to address these very unlikely scenarios are generated by large development areas and “go well beyond those for which adjacent property owners can be expected to pay”. The traffic study suggested that the Town should encourage the implementation of appropriate transportation infrastructure improvements through multiple avenues, including private developers. This was considered in the traffic analysis conducted for this Project.

As also discussed previously, a Traffic Impact Study was prepared for this specific project in 2015. The study utilized actual turning movement counts collected in 2014 with a 0.5% increase in volume (as recommended in the NYSDOT 2012 Traffic Volume

Report) to represent existing conditions at the time of the 2015 report. The report also applied the 0.5% volume increase to the 2015 traffic volumes to analyze 2018 design year traffic volumes. In addition to the 0.5% annual increase, the 2018 traffic conditions included trips associated with other specific projects proposed at the time. As such, the data presented in the 2015 Traffic Impact Study prepared for this project more accurately reflects actual and anticipated traffic conditions and impacts to the Level of Service at the two intersections north (Route 50/Brookline Road) and south (Route 50/Charlton Road) of the project than what was considered in the 2006 study. The 2015 Traffic Impact Study stated that no mitigation was recommended for either the Route 50/Brookline Road or the Route 50/Charlton Road intersections. The Katz project proposes significant public infrastructure as part of the project, although transportation improvements are limited to the improvements on site and those providing access to the public highway. This level of improvement is appropriate for this Project on the basis of the traffic study conducted for the Project which concluded that the Project did not generate the need for new transportation infrastructure. This analysis is consistent with the recommendations of the broader 2005/2006 Traffic Study.

**2. This Project is not unique.**

The Project is unique on several levels – it proposes a mix of residential and commercial uses in a form not currently available in the Town. The Project is designed with both single family homes and apartments, with the anticipation of complementary commercial uses as part of the Project. It is expected that the units will service middle income families and residents, unlike many of the higher end, more expensive luxury units developed in Malta and Saratoga. Market studies for the Project indicate that this is a large, underserved portion of the community considering current options. Furthermore, unlike other projects, this Project reserves a very significant area of Open Space for the benefit of the immediate community and the Town at large. As discussed further below, this area will be deed restricted to perpetually protect the intent to reserve the space.

**3. This Project will bring change to this portion of Route 50**

In response to this concern, and the previously articulated concern about the impacts of an additional three story building with the Fire District's service area, the Applicant has decided to limit the construction of the proposed Flex Building in Area C of the PUDD, to a two story Structure. This modification of the proposal reduces overall impacts of the Project and mirrors the character of other existing structures in the general area.

**4. The PUDD is being considered without public input**

This Project has been the subject of public comment on no less than eight (8) separate occasions before the Town Board and Planning Board.

**5. Need to specify the location of the wetlands, where walking trails will be located and how access for the public will be accommodated**

The area of wetlands and wetland buffer area have been designated on the Project Plans. The exact location of walking trails has not been determined and would be reviewed with the Planning Board during any Site Plan review. Access for the public will be addressed at that time as well.

**6. The PDD does not address what will be done with the open space**

As indicated during the Public Hearing, the Applicant has committed to impose Deed Restrictions on the Open Space areas of the Project to fully protect those areas from any future development. The restrictions will need to be approved by the Army Corp of Engineers as part of the overall wetlands mitigation plan, but the restrictions are expected to include the following:

**1. PURPOSE**

the following activities and uses are expressly prohibited in, on, over, or under the Conservation Area(s), subject to all of the express terms and conditions below:

A. Structures. The construction of man-made structures including but not limited to the construction, removal, placement, preservation, maintenance, alteration, or decoration of any buildings, roads, utility lines, billboards, or other advertising. This restriction does not include bat boxes, bird nesting boxes, bird feeders, and the placement of signs for safety purposes or boundary demarcation;

B. Demolition. The demolition of fencing structures constructed for the purpose of demarcation of the Conservation Area(s) or for public safety;

C. Soils. The removal, excavation, disturbance, or dredging of soil, sand, peat, gravel, or aggregate material of any kind; or any change in the topography of the land, including any discharges of dredged or fill material, ditching, extraction, drilling, driving of piles, mining, or excavation of any kind;

D. Drainage. The drainage or disturbance of the water level or the water table, except for pre-existing or approved project-related stormwater discharges and any maintenance associated with those stormwater discharges. All pre-existing or approved project-related drainage/stormwater discharge features should be shown on the approved plan;

E. Waste or Debris. The storage, dumping, depositing, abandoning, discharging, or releasing of any gaseous, liquid, solid, or hazardous waste substance, yard waste, materials or debris of whatever nature on, in, over, or underground or into surface or ground water, except for pre-existing or approved project-related stormwater discharges and any maintenance associated with those stormwater discharges;

F. Non-Native Species. The planting or introduction of non-native species;

G. Herbicides, Insecticides and Pesticides. The use of herbicides, insecticides, or pesticides, or other chemicals, except for as may be necessary to control invasive species that threaten the natural character of the Conservation Area(s). State-approved municipal application programs necessary to protect the public health and welfare are not included in this prohibition;

H. Removal of Vegetation. The removal of vegetation any kind; disturbance, destruction, or the collection of any trees, shrubs, or other vegetation, except for pruning, cutting or removal for:

- 1) safety purposes; or
- 2) control in accordance with accepted scientific forestry management practices for diseased or dead vegetation; or
- 3) control of non-native species and noxious weeds; or
- 4) scientific or nature study;

I. Other: Other acts, uses, excavation, or discharges which adversely affect fish or wildlife habitat or the preservation of lands, waterways, or other aquatic resources within the Conservation Area(s);

J. Recreational use of ATVs, dirt bikes, motorcycles, off-road vehicles, or motor vehicle of any kind is prohibited in the "Conservation Area(s)".

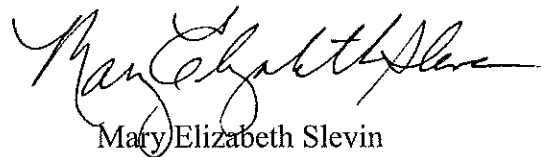
**7. There has been improper fill activity on the Project site**

Historic fill activity on the site has been reviewed and inspected by the Army Corp of Engineers. A thorough mitigation plan was prescribed by the ACOE to mitigate unfavored past practices and the approved mitigation plan has been substantially implemented. One of the additional commitments made by the Applicant as part of the mitigation plan was the adoption of deed restrictions on a portion of the open space within the project. The draft restrictions are set forth in Response 6 above.

If there are any questions on the above, please do not hesitate to contact the undersigned. Thank you for your attention to this matter.

Very Truly Yours,

STOCKLI SLEVIN, LLP



Mary Elizabeth Slevin

Cc: Lansing Engineering

Mark Katz