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January 22, 2010

Supervisor Christopher P. St. Lawrence
and the Ramapo Town Board
Ramapo Town Hall
237 Route 59
Suffern, NY 10901

Re: Applications of Scenic Development, LLC
To Town of Ramapo Town Board

Dear Supervisor and Members of the Board:

I represent Milton B. Shapiro and Sonya Shapiro, who own and reside at 34 Scenic Drive, directly across the street from the property known as Patrick Farm, which is the subject of the applications of Scenic Development, LLC before the Town Board of Ramapo.

The Patrick Farm is a unique site, it is one of the last large open spaces in the Town of Ramapo, and it is located on the headlands of the Mahwah River aquifer.

This is not the first time the Town Board has been approached to down zone this parcel since the adoption of the Master Plan in 2004. The Master Plan provided that the parcel be 2 acre zoning. In 2004 the Town Board reduced the zoning to 1 acre. The Application before the board is now requesting a further zoning reduction to densely packed multifamily housing of approximately 10-15 people per acre.

The DEIS and FEIS is incomplete and contains much misleading statements and inaccurate information. The Applicant's responses were often, in fact, unresponsive and conclusionary.

The Application does not offer any meaningful justification as to why the Master Plan should be overturned to allow for this proposed development. (3.4-1A, 3.4-1B, 3.4-2D, 3.4-1G 3.4-46, 5.0-3, 3.4-46, 3.4-3)

The Applicant misrepresents the need for additional diverse housing stock in the Town of Ramapo. (3.1-2, 3.1-6, 3.4-1C, 3.4-1E, 3-4 2V, 3.4-2DD, 3.4-13, 3.4-22 , 3.4-44, 5.0-3, 5.0-6)

The FEIS misrepresents the estimated proposed population. (3.4-2N)

The FEIS relies on water and sewer capabilities based on inaccurate population assumptions. (3.2-8, 3.3-21, 3.6-29, 3.6-30)

The FEIS is incomplete because it does not address the fact that it is located on the heart of the Mahwah/Ramapo aquifer which supplies 50% of Rockland water. (3.2-1, short form environmental #9)

The FEIS misrepresents the extensive clear cutting and grading of the majority of the site, and that the layout has been designed to “follow the contours” of the property. (3.1-2, 3.1-5, 3.1-3, 3.1 -6, 3.9-8, Appendix C, 3.4-3A, 3.4-3D, 3.1-11, 3.4-52, 3.9.17)

The FEIS misrepresents the proposed development as a clustering plan. (3.4-11, 3.4-52, 5.0-4)

The Applicant attempts to sell its proposed zone change by offering some “affordable housing”. However, Applicant also states that these units may not actually end up being affordable. (3.7-14, 5.0-1, 5.0-2, 5.0-3)

The Applicant not offer any enforceable covenants to run with the land that would prevent future down zoning of the proposed buffer of single family houses, once the first section is build out and occupied. (3.4.2-DD, 3.4-17, 3.4-46)

The Patrick Farm cannot be used for any purpose other than public recreation in accordance with the principal of alienation and conversion of municipal recreational lands and the laws of New York State. (3-9-49)

Although the Application is only for rezoning 60± acres, it is, in fact, the rezoning, because of “clustering”, of the full 208 acres.

For the Town Board to consider approving down-zoning of 208 acres without full and careful consideration as to the accuracy, veracity and completeness of the FEIS and the Applicant’s responsive statements would be gross nonfeasance and an abdication of its responsibility.

Below are our comments on the FEIS.

ISSUE OF PROCESS:

The FEIS is nearly 300 pages. It was submitted on December 22, 2009 and accepted by the Town Board on January 6th, 2010 after only 6 working days (excluding Christmas Eve and New Year's Eve). In that short time it is doubtful that neither the Town Board nor its consultants had time to carefully examine the Applicant's responses and review and evaluate the accuracy, veracity and evasiveness of the responses.

The public was given from January 6th to Friday, January 22nd to submit written comments. On Monday, January 25th, only 3 days after receipt of public comments, the Town Board has scheduled a special meeting to vote on whether to grant the zone change.

The Town Board's obligation and responsibility to the residents of the Town of Ramapo is to carefully consider such a dramatic change in zoning and to the Master Plan. Master Plan was adopted in 2004, after years of debate, consideration, analysis, and expenditure of taxpayer dollars. The "amendment" in 2009 for the principal, if not the sole, purpose of endorsing the present application.

The following responses to the FEIS are clustered by subject matter.

DIVERSE MULTIFAMILY HOUSING EXISTS IN THE TOWN OF RAMAPO

Applicants responses to 3.1-2, 3.1-6, 3.4-1C, 3.4-1E, 3-4 2V, 3.4-2DD, 3.4-13, 3.4-22, 3.4-44, 5.0-3, 5.0-6 are non-responsive or misleading:

The APPLICANTS justification for the need for this zone change is misleading at the best, disingenuous at worst.

The Applicant incorrectly claims in a self-serving statement that the proposed zoning amendment provides a benefit to the community as it provides diversity of housing with regard to value, style, and form of ownership". (Page 3.4-22 FEIS).

Applicants only rationale for the proposed down zoning is fabrication because there is already housing diversity in the town of Ramapo, with regard to value, style, and form of ownership. The Town does not require diversity on every parcel of land.

The MR-8 and MR-16 zones which are planned for multifamily housing are not built out.

The current housing stock in the Town of Ramapo is 729 single family homes, 783 multifamily homes, 198 condos, and 95 rentals. Additionally, there are other

approved multifamily projects, including multifamily projects such as 160 units in Blueberry Hills, Monsey, with 2-4 bedrooms.

Table 1 on Page 1-7 of the DEIS shows that there is no need for this proposed zone change. It shows that the number of households has increased by 115 over 7 years while the number of housing units has increased by 1,000.

BLATANT DISREGARD OF THE MASTER PLAN

Applicants responses to 3.4-1A, 3.4-1B, 3.4-2D, 3.4-1G 3.4-46, 5.0-3 indicate the Applicants blatant disregard for the Master Plan.

Applicants state that the Master Plan is inappropriate; this opinion is offered as the justification to throw the Master Plan out. The Master Plan was carefully designed to keep the character of the Town of Ramapo intact and that included areas of less dense development and areas of more dense development in order to have diversity of housing. Applicant's proposal would destroy that concept.

Applicant was not responsive regarding its proposal of a brand new core center in the least densely zoned area of the Town in contradiction to the Master Plan which identifies existing core centers from which density will be reduced in proportion to distance from the core center.

The comprehensive plan specifically does not envision or recommend every kind of housing in every area of the town, but in specified areas to keep the community character of the Town intact.

3.4-46 Comprehensive plan identified four areas where multi family house was "particularly suitable". Patrick Farm is not one of them because it is located on top of a major drinking water aquifer that supplies approximately 50% of the Rockland County's water.

3.4-3 Applicant's response is incorrect – the lots surrounding the parcel are not 15,000 sq. ft, but rather 40,000 or 50,000. The only area that has 15,000 sq. ft. lots in the non-adjacent 1940's Pomona Heights subdivision of approximately 20 homes.

INACCURATE POPULATION ESTIMATES

3.4-2N. Applicant's response regarding population on the proposed development is understated. Applicants response says only 1923 people will occupy the proposed development.

Using assumptions based on occupancy in multifamily housing in Monsey these are calculations indicate the minimum to maximum estimated occupancy.

			Minimum- Maximum	
314-	4 bedroom	6- 8 people per unit	1884	2512
72	3 bedroom	4 – 6 people per unit	288	452
24	1-2 bedroom	2 – 4 people per unit	24	48
ESTIMATED TOTAL			2,146	3,012

3.2-8, 3.3-21, 3.6-29, 3.6-30 Since the proposed occupancy used was incorrect, there is a difference of an average of 37% in water usage and therefore the commitment letters from United Water are not meaningful.

WATER & SEWER ISSUES

3.2-1 Rockland County Drainage Agency states that this subdivision must not be approved beyond R-40 due to the sites proximity to the Mahwah River.

On its SEQR Full Environmental Assessment Form the Applicant confirmed that project is over a primary principle or sole source aquifer, yet the FEIS is again misleading; Applicant does not address this issue.

The Mahwah/Ramapo aquifer under the property is the heart of the sole source aquifer which supplies 50% of Rockland Counties water

The two primary sand and gravel wells are located adjacent to the north/west side of the property are not mentioned in the FEIS. Sand and gravel wells are the type most vulnerable to pollution from runoff. The proposed Applications excessive clear cutting will produce sedimentation run off into the water supply and will change the way water infiltrates into the aquifer.

EXTENSIVE GRADING/CLEARCUTTING/DESTRUCTION OF AQUIFER

3.1-2 and 3.1-5 Applicant does not disagree with the our comments. The balance cut and fill on page 2-16 of the DEIS is 225,675 cubic yards of cut, and 225,496cubic yards of fill equaling a total of 450,171 cubic yards cut and fill, representing 92 acres of clearing and grading at 3 feet deep, or 194 acres at 1.5 ft. deep.

According to the Grading and Drainage Plans 80% of the unencumbered lands (68.1 acres of the wetlands, ponds, utility easements, buffer areas, steep slopes, etc, which by law cannot be disturbed) will be graded.

3.1-3, 3.1 -6, 3.9-8 The Applicant Response that the “site layout and grading have been designed to “follow the contours”” is grossly incorrect and contradicted by the proposed grading of 113.7 acres or 55.3% of the site.

Appendix C showing no contour lines on the property is highly misleading.

3.4-3A, 3.4-3D, 3.1-11 Applicant’s response indicates that a minimum of 55% of the property will be stripped of trees, cut or filled and flattened. Applicant’s map indicates that the entire area of the multi- family housing 61 acres will be leveled with the majority of the area covered with impervious surfaces.

Applicant’s statement that “Rockland County is not flat” therefore minor changes in grade are necessary, is not a justification for the Applicant to strip, grade and flatten most of the site.

3.4-52 Of the remaining 45% of the site, 25% is constrained, therefore only 20% will actually remain as open space.

3.9.17 Applicant does not deny that they are proposing to clear cut 60 acres of trees, on land that is above a sensitive and important aquifer. Extensive clear cutting will have a adverse impact on the aquifer by increasing sedimentation.

NOT A CLUSTERING PLAN

3.4-11, 3.4-52, 5.0-4 The Applicant’s response to the clustering comments are non-responsive, misleading or dishonest. A true clustering plan leaves areas of open space in addition to steep slopes, wetlands or utility easements. The Applicant’s proposal increases density by including multifamily housing and also uses the rest of the site for single family homes. This is not clustering , just over building. A clustered development would result in far less site disturbance. This proposal is best described as a raping of one of the most beautiful sites in Rockland County.

PROPOSED AFFORDABLE HOUSING MAY NOT BE AFFORDABLE

3.7-14, 5.0-1, 5.0-2, 5.0-3 Applicants Response to Affordable housing “The units will not necessarily meet the affordability criteria wherein residents must be income qualified compared to 80 percent of the Rockland County median income as established by HUD”.

The Applicants statement that they will include affordable housing that don’t meet the affordability guidelines clearly indicates that the proposed affordable housing is not affordable housing as the Town describes it elsewhere.

Applicant appears to have included the verbiage of “affordable housing”, or “workforce or below market rate housing” as meaningless sales tools to sell the down zoning to be allowed to increase density, with no guarantee of established affordability pricing.

NO RESTRICTIONS FROM FORMING NEW VILLAGE AND REZONING THE PROPOSED BUFFER OF 40,000 SF LOTS.

In Response to Applicant's responses to 3.4.2-DD, 3.4-17, 3.4-46:

Even if the Applicant is sincere about not currently having plans to form a new village on the property, after 500 people move into the proposed housing, there is no reason to believe, based on the recent history of the Town of Ramapo, that a new village would not be formed. Restrictive covenants that run with land, and which are enforceable by neighbors are the only way to prevent overdevelopment that would, in the future, erase the proposed buffer 1 acre density. Without a restrictive covenant the promised 40,000 sf lots will quickly disappear and be turned into more multifamily housing, creating a small city on the environmentally sensitive Patrick Farm and Mahwah/Ramapo aquifer.

Furthermore the Applicant' response is legally incorrect. Enforcement of covenants are not the sole responsible of a municipality and can be drafted to be enforceable by neighbors.

When an Application to down zone is being considered, the Town of Ramapo has the right, if not the obligation, to suggest that an applicant provide a covenant that runs with the land to prevent further down zoning.

USE OF LAND IS RESTRICTED TO PUBLIC RECREATIONAL PURPOSES

3-9-49 Applicant's response is inaccurate. The Purchase Agreement for the property by the Town of Clarkstown was contingent on acceptable plans for a Town golf course; the property was purchased with public funds by the Town of Clarkstown for use as a municipal golf course, it was publicly processed from 1996 to 2001 with the Town of Ramapo for public recreational uses as a golf course. The standards set as forth in the Handbook on the Alienation and Conversion of Municipal Parkland, New York State Office of Parks, Recreation and Historic Preservation, state that "Dedication can also be implied. This may occur through municipal actions which demonstrate that the government considers the lands to be parkland. Examples include: a municipality publicly announcing its intention to purchase the lands specifically for use as a park, "master planning" for recreational purposes, budgeting for park purposes.

Property acquired for recreational purposes is instilled with public trust even though never officially dedicated for such purposes.

The Applicant is incorrect in stating that the land must be dedicated, but was not so dedicated for park purposes. As the Supervisor and the Board of the Town of Ramapo have made clear for many years they do not have to dedicate lands which were purchased with municipal funds as open space/ park land, because if that were the Town's intention such lands automatically become public recreational

lands that cannot be used for any other purpose without express approval of the New York State Legislature.

The Patrick Farm properties which were purchased by the Town of Clarkstown with municipal funds to be used as a public golf course.

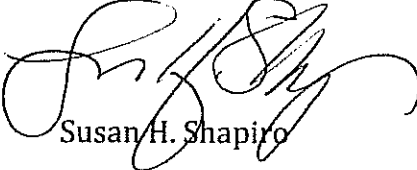
This land cannot be used for other than public recreational purposes unless both houses of the State Legislature approve alienation of the lands. And, most alienation of municipal recreational lands require a land swap for a property of equal size and quality.

Finally, there is no statute of limitations on park land alienation rights requirements -- notwithstanding what the Applicant claims.

CONCLUSION:

For all the reasons stated the Town Board must not issue a Negative Declaration nor approve the downzoning of Patrick Farm.

Sincerely yours,



Susan H. Shapiro