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May 14, 2025

Mr. Kenneth Kovalchik, AICP
Town Planner/Storm Water Management Officer
Guiderland Town Hall – 2nd Floor
5209 Western Turnpike
Guiderland, New York 12084
VIA: EMAIL kovalchikk@togny.org

Dear Mr. Kovalchik:

**RE: 6 & 10 Mercy Care Lane, Guiderland, New York (the
“Development”) Request for Exemption from Local Law No. 3 of
2025 (Moratorium on Certain Residential Development)**

The purpose of this correspondence is to formally request an exemption from the Moratorium on Certain Residential Development (the “Moratorium”) for the proposed above referenced Development. Consideration of this request by the Town is greatly appreciated.

The Development is proposed to be a 100% workforce and affordable general occupancy housing development, developed for households with mixed-incomes ranging from 30% - 80% of the Area Median Income (“AMI”). It is proposed to be funded via NY Homes & Community Renewal (“HCR”) through HCR’s annual competitive 9% Tax Credit Application cycle. This Application cycle is contemplated to have applications due in September / October (the “Fall 2025 9% Tax Credit Application”). The exact Application deadline has not yet been released.

Pursuing funding under HCR’s 9% tax credit program is an extremely competitive process that is only conducted once annually. Only approximately 30% of applications that apply for funding receive an award of funds annually. Local zoning clearance approvals, such as an exemption from the existing moratorium, and municipal site plan approval show evidence of local commitment and support, which provides a scoring incentive boost to the Development that will increase the ability to secure tens of millions of dollars of State resources for needed affordable and workforce housing in the Guiderland community. Approximately 80% of the development units will be reserved for affordable households with AMIs at 30% to 60%; the remaining approximately 20% will be reserved as workforce housing at 80% AMI. These AMI tiers will target households with annual incomes ranging from approximately \$30,000 - \$90,000, meeting a recognized need for affordable housing for employees in the trade and logistics industry, tourism and hospitality sector, and service and municipality related employees, including local fire department recruitment and retention.

An affordable/workforce project was previously proposed on this site by Beacon Communities. Our project maintains an overall site layout consistent with the design approved by the Guiderland Planning Board. However, the structure of our Development more closely aligns with the priorities and expectations of NYS HCR. Beacon proposed an “intergenerational” development that included seniors living with

grandchildren; ultimately leading to multiple funding denials. HCR has prioritized mixed-income general occupancy developments in Housing Opportunity Project Areas ("HOP") such as Guilderland. Our Development focuses on a more traditional model targeting general occupancy working households. We've spoken with HCR representatives who have confirmed this assumption, and believe it also fills a need identified by your community. In fact, HCR has encouraged us to pursue the Development with due haste given the considerable community need.

We believe this Development would complement the adjacent multi-family housing development and would provide a wonderful location for affordable workforce housing, with proximity to employment, the YMCA, Library, schools, public transportation, retail amenities and municipal recreation opportunities.

Our goal is to progress the Development through the site plan approval process as expeditiously as possible so that we can prepare to submit for funding in the Fall 2025 9% Tax Credit Application cycle. Given uncertainty in the construction markets, any significant delays imposed due to a moratorium has a high likelihood that this Development would be rendered financially infeasible.

Under separate cover you will receive the required copies of the Application. Arrangements will also be made to pay the requisite Application Fee.

We look forward to continuing to work with the Town on this much needed exciting development. If you have any questions, feel free to reach out to me directly.

Sincerely,

ROCKABILL

A handwritten signature in blue ink, appearing to read "P. Pinkerton", with a small flourish at the end.

CC: Phil Snyder, LaBella
Patrick Pinkerton, Rockabill

Local Law No. 1 of 2025
(Moratorium on Certain Residential Development)

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF GUILDERLAND:

Section 1. Purpose.

Pursuant to the statutory powers vested in the Town Board of the Town of Guilderland to regulate and control land use, and to protect the health, safety and welfare of its residents, the Town Board hereby declares a four-month moratorium on the accepting, processing, and approval of applications for certain residential uses as set forth below.

In 2001, the Town Board adopted its Comprehensive Plan that provided for nine neighborhood studies, the last of which was concluded in 2016. In October, 2022, the Town Board appointed a Comprehensive Plan Update Committee (CPUC) to prepare an update of the Comprehensive Plan. Over a two-year period, the CPUC, with the assistance of a consultant and Town staff, and consideration of public comment, prepared a Comprehensive Plan Update (Plan Update). By Local Law No. 3 of 2024, the Town Board adopted a moratorium on certain residential development to allow for the preparation of the Plan Update. The moratorium expired in early November, 2024.

On October 29, 2024, the CPUC approved the updated Plan Update and forwarded it to the Town Board. At its November 19, 2024 meeting, the Town Board declared its intention to act as lead agency under the State Environmental Quality Review Act and sought input from involved agencies on the Plan Update. The Town Board held a public hearing on the Plan Update on February 4, 2025, and has scheduled a second public hearing for March 18, 2025.

Among the Plan Update's goals and recommendations is support for affordable housing options and considering the impact of certain development on open space, agricultural lands, historic areas, transportation, infrastructure, neighborhood character, and quality of life. This interim measure is intended to preserve the status quo pending the Town Board's review and adoption of the Plan Update, as may be amended, and will avoid certain land use development applications that could potentially conflict with or frustrate the recommendations and goals of the adopted Plan Update.

Section 2. Authority.

This moratorium is enacted by the Town Board pursuant to its authority under the New York State Constitution Article IX and NYS Municipal Home Rule Law §10.

Section 3. Enactment of Temporary Moratorium.

For a period of four (4) months, and subject to any other Local Law adopted by the Town Board, and except as may be provided in Section 4 below, the following moratorium is enacted:

- (a) no new application for subdivision approval, country hamlet, or planned unit development involving five or more single-family lots shall be accepted, processed or approved by the Town;
- (b) no new application for a special use permit, site plan use, country hamlet, or planned unit development approval involving an apartment building or a multiple-family residential development with 25 or more dwelling units shall be accepted, processed or approved by the Town; and
- (c) no new application for a special use permit, site plan use, country hamlet, or planned unit development approval involving a residential care facility (assisted living), residential facility (independent living) or residential health care facility (nursing home) with 50 or more dwelling units shall be accepted, processed or approved by the Town.
- (d) The Town Board may, in its sole discretion, extend this moratorium for four months in whole or in two two-month segments.

Section 4. Exception Due to Extraordinary Hardship.

The Town Board may authorize exceptions to the moratorium imposed by this Local Law upon finding that postponing consideration of an application would impose extraordinary hardship. An application for an exception shall be considered as follows:

- (a) Submission of ten (10) copies of an application containing the applicant's arguments, including facts and evidence in support of the alleged extraordinary hardship, a copy of the application for the proposed use, and such other information and documentation deemed necessary by the Town Board to consider the application.
- (b) The payment of a filing fee of \$300 with the application.
- (c) A public hearing on the extraordinary hardship application shall be held by the Town Board no later than 45 days after submission of a complete application and filing fee.
- (d) In reviewing the application, the Town may consider the following criteria:

- (i) The extent to which the proposed application is consistent or conflicts with the goals and recommendations of the updated Plan.
 - (ii) Whether the proposed application may: (1) propose workforce and/or affordable housing; (2) propose remediating a brownfield designated by the NYS Department of Environmental Conservation; (3) propose the use of vacant properties or buildings that may have contaminated soils or groundwater, such as vacant gas station or dry-cleaning sites; or (4) have a certificate of need for the proposed use that was issued by the NYS Department of Health.
 - (iii) The extent to which the proposed application would adversely impact the character of the surrounding neighborhood or be detrimental to public health and safety.
 - (iv) Whether the moratorium will expose an applicant or property owner to substantial monetary liability to a third person or would leave the applicant or property owner unable to use a reasonable alternative.
 - (v) Mere delay in the consideration of proposed application is insufficient to constitute an extraordinary hardship.
- (e) Upon concluding the public hearing, and after consideration of the application and evidence submitted, the Town Board shall, in its sole discretion, approve, deny or approve in part and deny in part, the application.

Section 5. Superseding of NYS Town Law.

To the extent that any provision of this Local Law is in conflict or inconsistent with the provisions of the Town Code, including, but not limited to, Section 247 ("Subdivision of Land") and Section 280 ("Zoning") and NYS Town Law, this Local Law supersedes, amends, and takes precedence pursuant to the Town's municipal home rule powers under NYS Municipal Home Rule Law §10(1)(ii)(d)(3), 10(1)(ii)(a)(14), and 22.

Section 6. Severability.

If any part or provision of this Local Law is found by a court to be invalid or unconstitutional, such decision shall not affect the validity of any other part of this Local Law which can be given effect without such invalid part or provision.

Section 7. Effective Date.

This Local Law shall take effect immediately upon its filing with the NYS Secretary of State.