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September 22, 2025

Supervisor Kenny and Honorable Members of the Town Board
26 Orangeburg Road
Orangeburg, NY 10962

Chairman Warren and Honorable Members of the
Town of Orangetown Planning Board
26 Orangeburg Road
Orangeburg, NY 10962

Re: Phase I and II Databank Orangeburg, Orangetown, NY

Dear Supervisor Kenny and Honorable Members of the Town Board and
Chairman Warren and Honorable Members of the Town of Orangetown
Planning Board:

I am counsel for David B. Rosen, 10 Buckingham Place, Old Tappan, NJ, 07675 and Chris Kielbiowski, 6 Buckingham Place, Old Tappan, NJ 07675, and several of their neighbors, all direct and adjacent neighbors to the Databank Phase I and II application ("Databank"), and who will be directly impacted by Databank. This letter is in opposition to the Databank Phase II application, which is not permitted in the Light Industrial Office LIO zoning district, and which was agreed could not be built pursuant to Condition 14 of the Planning Boards's January 11, 2023 approval of Phase I.

As set forth below the Town Board should advise the Planning Board that data centers are not permitted in the LIO zoning district as confirmed in the October 10, 2023 Comprehensive Plan adopted by the Town Board.

By letter, dated September 4, 2025, together with exhibits, attached hereto, I submitted upon behalf of my clients a letter to

the Planning Board. In short, the Planning Board already made a determination in its January 11, 2023 approval of Phase I that Phase II could not be built. To the extent that Databank wishes to amend its prior approved plan that amendment should be made to the Planning Board regarding its Phase I approval. Databank cannot seek such redress in its Phase 2 application.

We understand that AKRF is now reviewing this matter. AKRF should make it clear that any amendments require the opening of the Phase I approval subjecting it to further objections.

A. Data Centers Are Not
Permitted in the LIO District

At the public hearing before the Planning Board on this matter on July 23, 2025 evidence was presented that a data center is not a permitted use in the LIO District, in which the application is situated. See Zoning Code Table 43 Attachment A, attached as Exhibit A, which includes all pertinent zoning regulations referred to herein. See also Rockland County Department of Planning Letter, dated December 20, 2024, item 1, attached as Exhibit B, in which the Rockland County Planning Department unanimously denied Phase II.

Notwithstanding that the Town's 2025 Zoning Code does not permit data centers in the LIO District, although it does permit data centers only in the RPC-OP district, Deputy Town Attorney Rick Pakola announced at the July 2025 public hearing that in 2013, twelve years earlier, in reference to a data center application that the Building Inspector had made an interpretation that **that** data center was permitted in the LIO District as a business use.

It is respectfully submitted that while I have no doubt that Mr. Pakola is correctly stating what happened in 2013, twelve years ago, that does not mean that the 2025 Zoning Code permits data centers in the LIO District.

It is essential to recognize that today's data centers are fundamentally different in **scale, intensity, and risk profile** from those constructed just a decade ago. This is recognized by AKRF in the Comprehensive Plan, adopted by the Town Board on October 10, 2023. Exhibit C, pages 67-68.

In 2013 a typical data center consumed only 2 to 4 megawatts (MW) of power, primarily supporting tasks like email hosting, file backups, and basic cloud services. Legacy facilities of that era—**such as the neighboring Bloomberg data center at 155 Corporate Drive**—continue to operate with modest air-cooling systems and

minimal backup power infrastructures. In stark contrast, today's AI driven data centers function as **industrial energy hubs**, powering massive GPU clusters, real-time video processing, and machine learning workloads continuously, 24 hours a day. The existing Databank facility in Orangetown already draws approximately 20 MW according to Databank's **own testimony, and the applicant's Phase II application seeks to initially start with an additional 20 MW, bringing the total "campus" electrical draw to 40 MW.**

Databank has not provided any meaningful details related to its proposed substation or ultimate energy use. The existing O&R substation is currently rated for 30 MW and is expandable to 45 MW according to Databank's public materials. Databank has no intention of keeping its power utilities at 40 MW or else it would not be seeking to build a new substation. In the Planning Board meeting of July 23, 2025, Tony Query, Databank VP, stated that the maximum expected utilization would be 60 MW for the campus. **However, public material published by Databank suggests that each of the two datacenters, as described by it, can be expanded to 45 MW or, said differently, the campus electrical capacity might grow to 90 MW- as the Rockland County Planning Board said in its letter of July 21, 2025: "Based on the energy use estimated in this application, the proposed data center will demand more energy than 160,000 homes."** See Exhibit D, page 2, par. 1. According to the last census there are only 110,000 homes in all of Rockland County. To be clear, these are not light industrial "tech offices" in the LIO zone - they are massive industrial utility-scale facilities, **and they must be treated as such in any zoning, environmental, or infrastructure review.**

Most critically, no other industry in mankind's history is evolving as fast, or carrying as much long-term infrastructure risk, as AI data centers. The underlying technology shifts not every decade- but every few months. Facilities that today require air cooling and 75 MW substations may soon demand liquid immersion cooling, hydrogen backup, or massive grid-scale battery installations. Already the industry is testing the limits of municipal fire codes, land use frameworks, and local infrastructure. Approving permanent, high-voltage infrastructure based on outdated definitions of "data center" is not just short-sighted- it is dangerous. SEQRA requires that municipalities consider not just current impacts, but the cumulative and future consequences of major energy infrastructure. This demands caution, foresight, and strict oversight, not blind acceptance.

B. The Databank Application
Requires A 100 Feet Buffer
In Addition To The Setback Requirements
As Databank Is Within
25 Feet of Residential Districts

Zoning Code Table 43 Attachment 18, note 2, Exhibit A, specifically addresses the LIO district here and when the side or rear lot lines are within 25 feet of any residential district there is a requirement for an additional buffer of 100 feet which is in addition to the required setback. Databank acknowledges that the residences in New Jersey are subject to this regulation as set forth in the site plan, C-1.1, C-3.0, and C-3.1, all attached hereto as Exhibit E.

As set forth in Zoning Code Section 11.2 a Buffer ***extends*** the setback requirement: "Buffer": an area of specified dimension ***between*** a rear or side property line or a zoning district line ***and a required yard. The "buffer" shall not be used or otherwise encroached upon by any activities on the lot so as to provide for adequate separation and protection from otherwise inharmonious or incompatible uses.***" (Emphasis supplied).

That means there can be no activity within the 100 feet buffer ***measured from the property line.*** That further means that the side or rear yard is measured from the terminus of the 100 feet buffer, meaning there is a setback of 200 feet (buffer plus yard) as to which Databank is not permitted to locate its building.

As to the Rosen property, the New Jersey residence closest to Lake Tappan, Databank's consultants improperly set forth a distance of 236.5 feet from the Databank building to the residence. That is a measurement not mandated by zoning. Databank's calculations are impermissibly and wrongfully measured from the proposed Databank building to the residence. The buffer should be measured at 100 feet from the property line, and then the yard requirement, side yard, is measured out another 100 feet from there, making for a total of 200 feet that the proposed Databank building should be out of the required buffer/setback.

The site plan, Exhibit E, rather than showing that the proposed Databank building is outside of the buffer/setback of 200 feet, evidences that the building is impermissibly approximately 36 feet within the sideyard setback, falling short approximately 64 feet and requiring a substantial area variance of approximately 64% and defeating the purpose of protecting nearby residences.

Nor does Databank comply with the same requirement as to the buffer regarding Lake Tappan, which is in the R-80 residential district. This is acknowledged in the May 16, 2025 letter of Kimley Horn to Jane Slavin of the Town's Office of Building, Zoning, Planning, Administration and Enforcement, attached hereto as Exhibit F, in which Ms. Slavin makes clear that a variance is required as no buffer is shown. The ordinance is clear, requires a 100 feet buffer, and has nothing to do with any DEC regulations.

Databank improperly fails to include the required buffer. And it is clear why it ignores this requirement; the access road is 54 feet from the property line and is within the required buffer. If Databank complied with the zoning requirement there would be a buffer as to which there could be no activities. Databank should not be able to ignore the 100 feet buffer and actually place a road access where the buffer should be. Databank must comply with the required 100 feet buffer, and in that 100 feet buffer there can be no access road.

Databank is not in zoning compliance.

C. The October 10, 2023 Comprehensive Plan
Adopted By The Town Board Confirms That
Data Centers Are Not Permitted In The LIO District

The Town's land use consultant AKRF spearheaded the update to the Town's Comprehensive Plan, which was finally adopted by the Town Board on October 10, 2023, recognizing the revolutionary development of data centers and especially taking into account the development of data centers in Loudon County, Virginia, which has the largest concentration of data centers worldwide. AKRF and the Comprehensive Plan **rejected** the notion that a data center of today can be considered a business use and that it must be treated as a separate and distinct category subject to performance standards and conditional use standards. Exhibit C. Attached as Exhibit G is a January 20, 2022 memorandum from AKRF demonstrating that this whole process to update the Comprehensive Plan exceeded two years.

The Comprehensive Plan explains what is a Comprehensive Plan:

A Comprehensive Plan is the official public long-term planning document that establishes a community's goals and aspirations for the future, while providing a roadmap for how to achieve them. In New York State, the comprehensive plan provides the rationale for the zoning and other land use regulations found in the Town Code. **The comprehensive plan presents a snapshot of the current state of the Town, and offers guidance for its future.**

Through a series of public workshops, community surveys,

committee work sessions, and public hearings, the Comprehensive Plan Committee (CPC) and the Town Board garnered input from residents, community leaders, Town staff, and business owners. This input from the Orangetown community is reflected in the Comprehensive Plans's goals and recommendations and will serve as a guiding framework for the Town's growth and development in the coming years.

Exhibit C, Comprehensive Plan page 6. (Emphasis supplied).

The Comprehensive Plan states how it complies with New York State law:

A "comprehensive plan" is defined in New York State Town Law §272-a.2(a) as "the materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the town located outside the limits of any incorporated village or city."

All land regulations (e.g., zoning, subdivision, natural resource protection) must be "in accordance with a comprehensive plan," pursuant to New York State Town Law §263. Consequently, the policies articulated in a comprehensive plan serve as the basis for future revisions to the Town's land use regulations. But a comprehensive plan is not the law. Rather, the plan only sets the direction and goals for the community and recommends, in a general way, how to achieve them.

The process of preparing the comprehensive plan engages Town residents, business owners, officials, and leaders in discussions about what is working, what is not working, and how the Town views its potential in the short, medium, and long-term.

Exhibit C, Comprehensive Plan pages 6-7.

As set forth above, the Comprehensive Plan is a serious document managed by AKRF utilizing input from Town officials, residents, and businesses. Notably, there is no mention in the Comprehensive Plan, adopted by the Town Board, that data centers are a permitted use in the LIO District. Nor is there a statement in the Comprehensive Plan that the Building Inspector, who was part

of the Comprehensive Plan process, made a determination that data centers were a permitted use in the LIO District. Nor does the Building Inspector have any authority to change the Zoning Code.

It is respectfully submitted that this was not an oversight. The Building Inspector is not the Town Board, which is a legislative body which alone has the power to enact local laws and/or ordinances. No other body or official in the Town of Orangetown has this authority. AKRF, the Town's long term urban planning and zoning consultant, would have been aware of any interpretations made in reference to a specific application in 2013, but even that would not mean all data centers are a permitted use in the LIO District.

There is no provision for a data center, as here, in the LIO zoning district as set forth in the Table of General Use Regulations, 43 Attachment 10. Exhibit A.

As set forth at pages 48-49, Exhibit C, the Current Use Zoning Table of the 2023 Comprehensive Plan, the only zoning district in which data centers are permitted is in the RPC-OP district. It is not a permitted use in the LIO district. At page 69, Exhibit C, the Proposed Use Zoning Table of the Comprehensive Plan proposes to expand data centers to the LIO zoning district, not as a permitted use as in the RPC-OP district, but only as a Conditional Use Permit. Exhibit C.

A conditional use standard has specific performance and condition standards for that use in addition to general standards which must be met:

Prior to approving any conditional use, the Planning Board shall determine the conformity of such use and the proposed development therefor with conditions and standards as set forth in this local law. Conditions prerequisite to approval of such uses are of a general and specific nature. In various provisions of this local law, specific standards are enumerated for certain uses, which standards shall be the minimum conditions for such use. The general conditions and standards for conditional use approval are as follows:

A.

The proposed use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and not be detrimental to the site or adjacent properties in accordance with the zoning classification of such properties.

B.

The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous.

C.

The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the development and use of adjacent land and buildings.

D.

The proposed use will not require such additional public facilities or services or create such fiscal burdens upon the Town greater than those which characterize uses permitted by right.

E.

As a condition of all special permit and conditional use permits, right of entry for inspection with reasonable notice shall be provided for to determine compliance with the conditions of said permit.

F.

As a condition of all conditional use permits, a time limitation may be imposed.

Zoning Code Article VIII.

As this Board well knows Article VIII of the Zoning Code provides general conditions and standards for Conditional Use Permits together with specific standards for every use defined as a Conditional Use Permit. Here, the Zoning Code provides for no Conditional Use standards for a data center. And that makes sense as there is nowhere in the present code for a data center as a conditional use and zoning was never enacted to permit data centers in the LIO District. The only mention of conditional uses is only set forth in the Comprehensive Plan, AND NOT in the Zoning Code.

Notwithstanding any determination made by the Building Inspector in 2013, the Town Board adopted the October 10, 2023 Comprehensive Plan in close coordination with AKRF, its planning consultants. The Town Board determined that as of the time of its passage that data centers were not a permitted use in the LIO District. There can be no other interpretation. It would make no sense for the Comprehensive Plan to state data centers were not permitted in the LIO Zone and then request that the zoning be

modified to permit them, but only subject to a conditional use, if the data centers were already permitted in the LIO District.

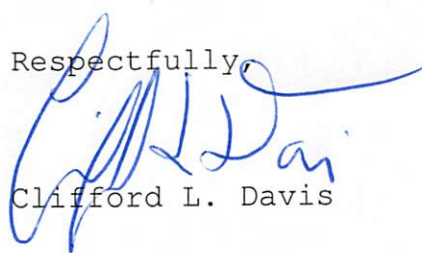
D. The Town Board Determined That
Data Centers Are Not Permitted In the LIO District

The Town Board, the legislative body, has had the last word here. Presently, the LIO District does not permit data centers. The Comprehensive Plan required conditional use standards because it was aware that data centers **"have energy and environmental considerations as they require high levels of power and water (for cooling). Regulations should recognize that data centers can vary greatly in their size, energy requirements, and potential risks. Performance standards could include a requirement for the provision of onsite alternative energy systems."** Exhibit C, Comprehensive Plan page 68.

The bottom line is that as of this time there is no provision for a data center in the LIO zoning district. As it is not permitted in that district it is prohibited in that district, as confirmed in the Comprehensive Plan.

Until such time that the Town Board enacts new legislation permitting data centers with conditional use standards in the LIO district Databank should be required to withdraw its noncomplying application for Phase II and this application should proceed no further.

Respectfully,



Clifford L. Davis

Encl.

EXHIBIT A

ZONING

43 Attachment 15

Town of Orangetown

Table of Bulk Regulations

(§ 3.12)

LIO District

LO District

OP District

CS District

[Amended 3-12-1990 by L.L. No. 3-1990; 12-12-1994 by L.L. No. 16-1994; 4-8-2014 by L.L. No. 2-2014; 9-27-2016 by L.L. No. 9-2016]

1	2	3	4	5	6	7	8	9	10	11	12
District	Group	For Uses Listed Below	Maximum Floor Area Ratio	Minimum Lot Area (See Note 16) (square feet)	Minimum Lot Width (feet)	Minimum Street Frontage (See Note 5) (feet)	Required Front Yard (See Notes 6 and 7) (feet)	Required Side Yard (See Note 2) (feet)	Total Side Yard (feet)	Required Rear Yard (See Note 2) (feet)	Maximum Building Height* (See Note 7)
LO	V	Uses in R-80 allowed in LO District	0.40 (See Note 14)	75 acres	Must provide required side yards	150	150	150	350	200	3 inches less than or equal to 50 feet
	W	Executive, conference lecture/seminar facilities	0.40 (See Note 14)	2 acres	300	150	100	100	200	100	3 inches (See Note 10)
	X	All other uses allowed in LO District (See Notes 2, 3, 4 and 13)	0.40 (See Note 14)	None	None	50	100	100	200	100	None
	AA	Fire, police and government buildings	None	None	None	50	100	100	200	100	None
Subject to regulations for appropriate use group in R-80 (A, B or C)											
LIO	BB	Uses in R-80 allowed in LIO District	0.40 (See Note 14)	2 acres	300	150	100	100	200	100	3 inches (See Note 10)
	BB-1	Individual fitness and training center	0.40 (See Note 14)	None	None	50	100	100	200	100	None
	CC	All other uses allowed in LIO District (See Notes 2, 3, 4 and 13)	0.40 (See Note 14)	None	None	50	100	100	200	100	None
	DD	Fire, police and government buildings	0.40 (See Note 14)	None	None	50	100	100	200	100	None
Subject to regulations for appropriate use group in R-80 (A, B or C)											
OP	EE	All other uses allowed in OP district	0.40 (See Note 14)	Must meet required floor area ratio (See Note 12)	Must provide required side yards	100	150	100 to parking; 200 to structure; 100 to property line	400 from residential property line; 200 from nonresidential property line total greater than or equal to 200	100 to parking; 200 to structure; 100 to property line	3 inches or less than or equal to 94 feet
	FF	Same as Group B	1.00	2,500	25	25	None or 45	0/12 (See Note 9)	0/25 (See Note 9)	25	1 foot 4 inches from property line for building greater than 22 feet
CS	FF1	Fire, police and government buildings	0.50	1 acre	100	100	50	20	35	50	1 foot
	GG	Fire, police and government buildings	None	None	None	50	100	100	200	100	None

NOTES: * Maximum height in feet or inches per foot of distance from lot line.

ZONING

43 Attachment 18

Town of Orangetown

Notes to Use and Bulk Tables

[Amended 5-23-2017 by L.L. No. 6-2017; 12-12-2023 by L.L. No. 14-2023]

Note 1: See also the following sections: Required front yards and maximum height: § 5.111; Corner lots, required yards, § 5.112. Lots divided by district boundary: § 5.12; Lots within twenty-five (25) feet of a district boundary: § 5.13; Courts: § 5.14; Spacing of buildings on same lot: § 5.15; Height of buildings within five hundred (500) feet of airports: § 5.16; Existing small lots: § 5.21; Permitted obstructions in required yards courts, usable open space: § 5.22; Permitted height exceptions: § 5.23; Buildings with nonconforming bulk: § 9.2.

Note 2: Where the side or rear lot line of a lot in CS, CC, CO, LO, LIO, LI or OP adjoins or lies within twenty-five (25) feet of any R District, the following buffer shall be required:

District	Required Buffer (feet)
LO, LIO, LI or OP	100
CS	15/50
CC	15/25
CO	15

The Planning Board may reduce by no more than fifty percent (50%) the side or rear yard requirement for the yard opposite the buffer for nonresidential uses in the LO, LIO, LI and OP Districts, except where the opposite yard abuts a residential district. All such uses shall conform to these buffer requirements. For the CS and CC Districts fifty (50) and twenty-five (25) feet, respectively, will be required for a conditional or special permit use. The buffer area shall only be used for planting, landscaping and screening to provide environmental compatibility of dissimilar uses.

Note 3: Notwithstanding the Bulk Regulations for Groups D, II, L, O, T, X, CC, EE, GG, PP, QQ and RR, certain uses in these groups are subject to additional bulk regulations specified as to each such use in the Use Table.

Note 4: In LO and LIO Districts, the floor area devoted to the manufacturing of prototype products may not exceed twenty-five percent (25%) of the total gross floor area of the building.

Note 5: (Reserved)

Note 6: Required front yard depths in residential subdivisions in any residential district must comply with the zoning regulations as an average, provided that the following minimum depths are maintained, and that the averaging shall be computed in any single case for one (1) side of the street and between the two (2) nearest intersecting streets within the subdivision:

District	Minimum Front Yard Depth (feet)
R-80	40
R-40	40
R-22	35
R-15	25
RG	20

Note 7: Required front yards and maximum building heights are subject to § 5.111, with the designated street line being used as lot line.

Note 8: However, any residence not located in the same building as a use first permitted in LI must be separated from such use by at least 100 feet.

Note 9: None required, but if provided shall be at least twelve (12) feet wide.

Note 10: Where a lot line in an LO, LI or LIO District abuts a railroad right-of-way, the normally required rear or side yard may be reduced to twenty-five (25) feet, and the maximum building height shall apply for that portion of a building over twenty-five (25) feet in height.

Note 11: For existing small lots in LO and LIO, see § 5.24.

Note 12: In OP Districts, the Planning Board may permit an average of floor area ratios on individual plots, but the maximum floor area ratio on the entire tract shall not exceed forty-hundredths (0.40). All buildings shall be separated by at least seventy-five (75) feet or the height of the lowest building, whichever distance will provide the greater separation.

Note 13: In addition to the particular requirements, any board or town agency having jurisdiction may require fences, and other safety devices and adequate landscaping and screening. The landscaping and screening shall be approved by the board or town agency having jurisdiction prior to the issuance of the building permit. Such screening must provide an opaque screen during the entire year. A new use that is, in the opinion of the board having jurisdiction, sufficiently detrimental to adjoining and surrounding properties and which cannot be screened to protect the property values adjoining and surrounding the proposed use shall not be permitted, notwithstanding the provisions of the Use Table.

Note 14: Maximum land coverage shall not exceed seventy-five percent (75%), including buildings, parking, road and road widening. The open area shall be a minimum of twenty-five percent (25%). Parking area within a building will not be charged against the floor area ratio. In OP Districts, the percentages shall be sixty-five percent (65%) and thirty-five percent (35%), respectively. In LO Districts, W Groups, and MFR District, U Group, the percentages shall be fifty percent (50%) and fifty percent (50%), respectively. In LI Districts, the percentages shall be eighty percent (80%) and twenty percent (20%), respectively.

Note 15: In order to facilitate and encourage flexibility of design and development of land in such a manner as to promote its most appreciable use to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open land, the Planning Board may also permit a cluster development of not more than four (4) attached veteran housing or adult housing residences, provided that there shall be provided on the plot sufficient open land area (not required for other permitted uses) to provide the required floor area ratio and other bulk requirements that would be required if the detached residences were erected. However, such clustering shall not:

- Result in an overall density in any development of more than five (5) units per acre.
- Reduce the maximum floor area ratio per dwelling unit for any development below the requirements of § 3.12, Group N, Column 4, R-15 Districts, twenty-hundredths (0.20) per acre.
- Reduce the usable open space requirements for any development below five hundred (500) square feet for each dwelling unit and one thousand (1,000) square feet for each dwelling unit with two (2) bedrooms. Such space shall have a minimum dimension of fifty (50) feet, except for one-bedroom, single-family dwelling units, which require a minimum dimension of twenty-five (25) feet.
- Reduce yard requirements on the periphery of any development below those established for the R-15 District.
- Reduce the overall floor area ratio for any development below twenty-hundredths (0.20).

Note 16: As part of any minimum lot area requirement for residential uses, not more than fifty percent (50%) of any land under water, within a freshwater wetland, subject to flooding or within the one-hundred-year frequency floodplain, within easements or rights-of-way for sanitary or storm sewers, drainage, access or overhead utilities or with slopes (unexcavated) of over twenty-five percent (25%) shall be counted and within the designated street line of a road.

Note 17: The maximum density shall be as follows:

Number of Bedrooms	Units per Acre	Land Area Per Unit (square feet)
1	6.0	7,250
2	4.8	9,000
3 or more	4.0	10,750

Note 18: Not more than five (5) units per acre for adult housing on a minimum parcel size of five (5) acres and a maximum parcel size of seven (7) acres not separated by a road or right-of-way. The unit ratio shall be two (2) one-bedroom units and three (3) two-bedroom units per acre. The number of units permitted per acre shall be in compliance with all other R-15 bulk regulations. In no event, however, shall the number of adult housing units per acre exceed five (5). No special permit shall be permitted within five hundred (500) feet of any adult housing previously permitted.

Note 19: Lots within the LI District having a minimum lot area of 150 acres may contain multiple permitted uses on a single parcel.

¹ Editor's Note: Note 5, which established exceptions to the minimum street frontage requirements, was repealed 5-14-1990 by L.L. No. 5-1990. This local law also provided that "any application predicated upon the provisions of Note No. 5 which has received pre-preliminary approval from the Planning Board on the date when this local law takes effect shall not be affected by this local law."

43 Attachment 10

**Town of Orangeburg
Table of Central Use Regulations**

Approved 6-24-1991 by I.L. No. 7-1991; 7-16-2007 by I.L. No. 7-2007; 4-8-2014 by I.L. No. 2-2014)

1	2	3	4	5	6	7
District LHO	Uses Permitted by Right 1. Same as LO, except no executive conference lecture facilities.	Uses by Special Permit Town Board Zoning Board Underwriters. Sawd pits, gravel pits, removal of top soil, and landfill and excavation operations not undertaken in connection with the construction of a building for which a building permit has been issued or the demolition of a building in accordance with an approved plot thereof, as provided in § 4-32(c).	Conditional Uses by Planning Board 1. Public utility substations and pump stations, located in buildings that are situated outside of the neighborhood and having adequate fences and other safety devices and landscaping and subject to performance standards procedures. 2. Commercial forestry as provided in § 4-32(d). 3. Manufacture of prototype products subject to performance standards provided in § 4-12. 4. Light manufacturing uses, subject to performance standards procedure, § 4-12, and additional use requirements, § 4-12(d), and section. 5. Satellite dish antennas. 6. Automobile sales and service agencies. 7. Same as LO No. 6 8. Indoor commercial events on site of 3 acres or less. 9. Individual fitness and training centers, as provided in § 8-15	General Accessory Uses 1. Same as LO.	Minimum Required Off-Street Parking Spaces At Least 1 Parking Space for Each 1. Same as R-40 2. Office 3. Laboratories 4. Underkitchen 5. Research facilities 6. Light manufacturing 7. Child day-care centers 8. Indoor commercial tenants 400 square feet of indoor space or 4 persons of practical occupancy determined by the Planning Board based on the type of indoor commercial facility and the size and the floor area of space.	Additional Gas Regulations (See Note 13) 1. Same as LO.
LHO						

ZONING

43 Attachment 8

Town of Orangestown

Table of General Use Regulations (§ 3.11) LO District

(Amended 6-04-1991 by L.L. No. 7-1991; 6-11-2001 by L.L. No. 3-2001; 7-21-2003 by L.L. No. 2-2003; 3-23-2021 by L.L. No. 2-2021)

1 District	2 Uses Permitted by Right	3 Uses by Special Permit	4 Conditional Uses by Planning Board	5 General Accessory Uses	6 Minimum Required Off-Street Parking Spaces	7 Additional Use Regulations
LO	1. Fire, police and community-owned ambulance stations, government offices and office buildings, town garages, municipal parking lots and similar public buildings and government uses. 2. Schools of general instruction. 3. Executive conference/lecture facilities. 4. Business/professional office. 5. Research, experiment, and testing labs subject to performance standards procedures and additional use requirements.	1. Airports and heliports. 2. High-voltage transmission lines, accessory poles and towers, provided that all brush and cut timber are disposed of in accord with approved forestry practices. 3. Railroad/public utility rights-of-way. 4. Use of existing executive conference center facilities for catered affairs for the general public.	1. Public utility substations and pump stations, housed in buildings that harmonize with the character of the neighborhood and having adequate fences and other safety devices and landscaping and subject to performance standards. 2. Telephone exchange. 3. Elevated standpipe and water tanks located at a distance from any lot line equal to the height of the structure. 4. Manufacture of prototype products subject to performance standards procedures, § 4.12. 5. Sordid dish antennae. 6. Child day-care centers with all parking and outdoor play areas, as provided for in § 3.12.	1. Accommodations for caretaker, subject to § 5.228. 2. Heliports. 3. Storage of goods or equipment accessory to uses permitted in Columns 2 and 3, subject to additional use requirements. 4. Keeping, breeding, raising and maintaining of rodents and other animals and primates exclusively within the interior confines of a building for laboratory or research purposes, subject to performance standards procedures. 5. Weapon incineration subject to § 4.32(f). 6. Keeping not more than 1 unoccupied trailer or commercial vehicle of not over 1,000 pounds' capacity, subject to § 6.1. 7. Accessory parking as permitted in § 6.1. 8. Accessory loading as permitted in § 6.2. 9. Any other similar accessory use not inconsistent with the uses permitted herein. 10. For any premises for sale or for rent, 1 temporary nonilluminated "for sale" or "for rent" sign not over 6 square feet in area, located at least 10 feet from any lot line. For parcels of land over 1 acre in area, such sign shall not be over 24 square feet in area. 11. 1 Illuminated business sign equal or less than 30 square feet (1 side) or 60 square feet (2 sides) not less than 20 feet from any lot line, and not extending more than 18 feet high. Sign areas may be combined to form a single directory sign or part of the sign may be included in the directory sign and part on the establishment. 12. Incidental eating and drinking facilities serving employees and others using the facilities. All drinking facilities serving alcoholic beverages must have a restaurant liquor license issued by the New York State Alcohol Control Board. 13. Child day-care centers with all parking and outdoor play areas complying with all required yards, as provided for in § 3.12.	Use 1. Same as R-80 2. Offices 3. Laboratories 4. Research facilities 5. Child day-care centers At Least 1 Parking Space for Each Same as R-80 200 square feet of gross floor area 2 employees or 300 square feet of gross floor area 2 employees or 300 square feet of gross floor area Staff member, plus 1 parking space for 10 children	1. Same as R-80. 2. All offices, laboratories, manufacturing of prototype products, accessory storage and all accessory off-street loading berths shall be within completely enclosed buildings, and, in addition: (a) All areas not used for building or for accessory off-street parking shall be suitably landscaped and maintained in good condition. Screening shall be provided in the manner required by any board or town agency having jurisdiction, and prior to the issuance of the Building Permit, the proposed screening plans shall be submitted to and approved by any board or town agency having jurisdiction. (b) Entrances and exits shall be located only on a commercial street, improved to conform with the Town Board Specifications Ordinance, and shall be so located as to draw a minimum of vehicular traffic to and through residential streets. (c) No shipping or receiving of goods shall be carried on between 11:00 p.m. and 6:00 a.m., and any floodlighting shall be arranged so as to eliminate the glare of lights toward adjacent lots and streets. (d) Manufacturing of prototype products shall not utilize more than 25% of the building total floor area. 3. No parking is permitted in any required yard, unless permitted by any board or town agency having jurisdiction. This permission may be given at the time of site review, or at the time of the approval of a commercial subdivision or conditional use approval.

EXHIBIT B

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Richard M. Schiafo
Deputy Commissioner

December 20, 2024

Orangetown Planning Board
20 Greenbush Road
Orangeburg, NY 10962

Tax Data: 73.15-1-19

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 11/18/2024

Date Review Received: 12/03/2024

Item: *Databank Orangeburg Phase 2 Site Plan (GML-24-0330)*

Site plan application for construction of Phase 2 of a data bank center on 24.3 acres of a 33.9-acre parcel in the LIO zoning district. The proposal comprises a one-story data center, administrative/office space, open equipment yard, an office addition to connect to the Phase 1 building, and an additional substation area in the northeast corner of the site. A total of 105 parking spaces will be provided. Variances are required for number of parking spaces and number of loading berths. Variances were approved for Phase 1 including number of parking spaces, number of loading berths, non-enclosed loading berths, and 100-foot buffer to an R-80 zoning district.
North side of Corporate Drive cul-de-sac

Reason for Referral:

County Highway Southern Depot

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

Recommend the Following Modifications

The Rockland County Planning Board and Planning Department were previously given opportunities to review Phase 1 of Databank Orangeburg. Our department provided numerous comments in our final GML Section 239 Review letter, dated January 3, 2023 including issues pertaining to the number of parking spaces, scale and energy usage of the proposal, and environmental constraints. The Orangetown Planning Board approved the Phase 1 site Plan on January 11, 2023. The applicant is now proposing Phase 2 of the data center, which will mirror the layout of Phase 1. The Rockland County Planning Board reviewed the application for Phase 2 at their meeting on December 12, 2024 and unanimously disapproved the application, citing the disruption of onsite wetlands, a high level of energy usage, lack of parking availability, and fire safety issues among their concerns. The Rockland County Planning Department offers the Orangetown Planning Board the following

comments regarding the Proposed Phase 2 Databank:

- 1 As stated in this department's GML Section 239 Review of January 3, 2023, "data centers" are only listed as a permitted use within the RPC-OP zoning district and are not given a definition within the Orangetown Zoning Code. According to the Orangetown Comprehensive Plan, adopted October 10, 2023, there are plans to allow data centers in the LIO district as a conditional use, among other districts. However, until a local law is officially adopted, this department remains unclear on how this proposal can be evaluated and permitted. In addition, the parking regulations applied to this development are those for offices and warehouses, whereas no definitive parking requirements exist in the zoning code for data centers. We urge the Planning Board to make a recommendation to Town Board to amend the Town's zoning code to establish a clear definition and regulations for data centers within the zoning districts suggested in the 2023 Orangetown Comprehensive Plan.
- 2 According to the FEAF, question D.2. (b) ii., the proposed action will fill 0.08 acres of ACOE wetlands and 0.16 acres of surface water onsite, and also impact 108 linear feet of a stream. This department discourages the filling of wetlands, as this can potentially affect the areas capacity for flood mitigation and damages and disrupts the local ecosystems. It is recommended that the Town protect these significant water resources and satisfactorily mitigate that the effects of the loss of wetland and stream. We furthermore recommend that the scale of this proposal be reduced to decrease the amount of filling required and additional protection of onsite resources are provided.
- 3 As previously stated, the site contains Federally regulated wetlands. An updated review must be completed by the United States Army Corps of Engineers and all required permits obtained.
- 4 If the US Army Corps of Engineers requires a permit pursuant to Section 404 of the Clean Water Act for the discharge to fill in Waters of the U.S., then a Section 401 Water Quality Certification (WQC) will be required to verify compliance with State water quality regulations. Issuance of these certifications is delegated in New York State to the NYSDEC. If the project qualifies for a Nationwide Permit, it may be eligible for coverage under a DEC Blanket WQC. Coverage under a Blanket requires compliance with all conditions for the corresponding Nationwide Permit. For more information and to view the DEC Blanket WQCs, please visit <https://www.dec.ny.gov/regulatory/permits-licenses/waterways-coastlines-wetlands/protection-of-waters-program>. A determination on Corps jurisdiction and a Nationwide Permit eligibility is likely necessary for a DEC jurisdictional determination.
- 5 According to the Hudson Valley Natural Resources Mapper <https://giservices.dec.ny.gov/gis/hvnrm/> the subject site is part of a Known Important Area Terrestrial Animals. These are identified as areas of importance for sustaining known population of rare animals based on occurrence records from the New York Natural Heritage Program (NYNHP) database. Proactive planning that avoids or minimizes impact to the habitat of Important areas and maintains habitat connections for wildlife movement will contribute to the long-term biodiversity of the region. The Planning Board must consider the impacts of this large-scale development on the biodiversity of the area, specifically habitat fragmentation and the impact of the movement of species to and from and within these sensitive habitats. This department again recommends that the size and scale of this project be reduced due to the environmental constraints of the-site. A pdf titled "An Approach for Conserving Biodiversity in the Hudson River Estuary Corridor" that identifies voluntary, non-regulatory strategies for conserving wildlife and habitat in the region can be found at: <https://hudson.dnr.cals.cornell.edu/library>
- 6 A review must be completed by the New York State Department of Environmental Conservation, any comments or concerns addressed, and all required permits obtained.
- 7 On September 21, 2022, the Orangetown Zoning Board of Appeals (ZBA) granted the applicant approval of a parking variance to allow 69 spaces for Phase 1 with the condition that the applicant demonstrate that they can provide 671 land banked parking spaces. As we had previously stated to the Orangetown Planning Board in our January 3, 2023 GML 239 Review, these land banked parking spaces cannot be provided with the construction of Phase 2. The applicant is now planning on providing 105 of the 1,264

- parking spaces required for Phases 1 and 2 together, and no land banked parking spaces. While it was acknowledged that data centers do not require a significant amount of parking spaces, the Rockland County Planning Board, at their December 12, 2024 meeting, has expressed concern about the inability to commit to this previously-approved condition by the ZBA. As previously indicated, we recommend that the proposal for Phase 2 be reduced in scale so that a lesser parking variance is required from the ZBA.
- 8 We request the opportunity to review the variances needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).
 - 9 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.
 - 10 A review must be completed by the County of Rockland Highway Department, all comments or concerns addressed, and all required permits obtained.
 - 11 The Orangetown Fire Inspector must be satisfied that the conditions of their letter dated June 25, 2024 have been appropriately addressed by the applicant. In addition, the Rockland County Office of Fire and Emergency Services and the Pearl River Fire District shall have the opportunity to review the proposal to ensure that the site is designed in a safe manner and there is sufficient maneuverability on the site for emergency vehicles.
 - 12 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Standards for Urban Erosion and Sediment Control.
 - 13 There shall be no net increase in the peak rate of discharge from the site at all design points.
 - 14 Question D.2.e.iv (page 6) of the FEIS indicates that plan minimizes impervious surface, use pervious material or collect and re-uses stormwater, however the SWPPP page 10 indicates that no vegetated swales are proposed, no rain gardens are proposed, pervious pavers were used for Phase 1 but there is no indication for their use in Phase 2. It appears that this question should be answered negatively, or alternatively to help reduce the impact of this development there should be a reduction of impervious surfaces, and green techniques such as permeable pavers, bioswales, rain gardens, and rainwater capture should be considered. For long term effectiveness of these improvements, it is recommended that the applicant review Chapter 5 "Green Infrastructure Practices" of the 2015 NYSDEC Stormwater Design Manual.
 - 15 The Planning Board shall be satisfied that the implementation of the Stormwater Pollution Prevention Plan (SWPPP) ensures that construction will not induce a negative impact on the Lake Tappan Reservoir from stormwater runoff as well as dust particles and debris.
 - 16 The Planning Board shall be satisfied that the SWPPP and stormwater discharges comply with the state and local Municipal Separate Storm Sewer System stormwater management program including post-construction runoff control and pollution prevention/good housekeeping.
 - 17 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.
 - 18 According to the DECInfo Locator <https://giservices.dec.ny.gov/gis/dil/> Lake Tappan is on the NYSDEC Waterbody Inventory/Priority Waterbodies List. The DEC fact sheet on Lake Tappan states "Water supply uses of Lake Tappan are thought to be threatened due to the considerable amount of urban, residential, and commercial development in the watershed, resulting (from) nonpoint source runoff and possible other discharges." The health of Lake Tappan and the health of the watershed should be carefully taken into consideration in the approval and construction of this facility.

- 19 The size of the proposed improvements indicated in the project description on the FEAF are not consistent with those depicted on the site plan drawing. The FEAF states that Phase 2 will include a 145,000 square-foot data center with a 6,500 square-foot administrative office, while the site plan demonstrates that these improvements will be 146,480 square feet and 7,395 square feet, respectively. The application materials must be revised so that all information is consistent and accurate. In addition, the square footage of the proposed equipment yard should be labeled on the site plan drawing.
- 20 A Databank operating 24 hours a day, 7 days a week uses a significant amount of energy. The August 16, 2024, architectural drawings indicate that for Phase 2, five (5) data halls would be constructed. This is being proposed in addition to the five data halls constructed in the Phase 1 building. The FEAF dated November 13, 2024, question D.2. (k) estimates the annual electricity demand for operating the proposed action with "TBD." The Town should have a clear understanding of the energy demand created by this project, the ability of the local utility grid to service the project, including utility grid resilience, as well as the potential impacts on other local economic development projects. Measures should be taken to increase the resiliency of the project and to reduce the overall carbon footprint of the operation including the use of energy efficient equipment and servers.

There are other questions on the FEIS which the applicant should be able to provide answers to such the amount of fuel oil to be stored and solid waste generated.

- 21 This project presents an opportunity to advance the goals of the New York State Climate Leadership and Community Protection Act (the Climate Act) through the inclusion of the inclusion of on-site renewable energy. This development will result in an increase demand for energy and appears to pull that energy from the grid. Presuming the proposed commercial buildings will have flat roofs they may very well be conducive to the installation and use of solar panels. It is recommended that the potential use of on-site renewable energy be evaluated and strongly considered. Likewise, the building should be designed and constructed to maximize energy efficiency. Solar car ports can also be considered for the parking areas.
- 22 The applicant must obtain any necessary permits from the New York State Department of Environmental Conservation's Division of Air Resources for the proposed generators.
- 23 The applicant must provide as-built drawings and other documentation to New York State Department of Environmental Conservation, Region 3, that illustrate the design and installation, as per code, of the petroleum bulk storage tanks for the proposed generators. These tanks must also be registered with them.
- 24 By State Law, the applicant must register with the local fire inspector using Form 209U for the proposed chemical bulk storage materials (batteries). In addition, under the Superfund Amendments and Reauthorization Act (SARA) - Title 3, the applicant must register with the Rockland County Fire Training Center.
- 25 The portion of the property outside of the area of disturbance shall remain uncleared and in its natural state per Section 21-25 of the Orangetown Code. This is especially important to preserve the remaining natural areas of the site and retain buffer between the data center and the residences to the south of the property.
- 26 The SWPPP states, on page 48 that all new vegetation will be native species however the list of species provided, included Norway Spruce, Siberian Spruce and Green Giant Arborvitae are not native to New York State. This department recommends that the applicant use plants that are native to New York for the proposed landscaping to help preserve and promote biodiversity. Native plants are better adapted to the local climate and soils, making them easier to care for, and result in the need for less fertilizer, pesticides, and use of water. They also have deeper root systems that help prevent erosion and increased runoff into local waterbodies. A pdf titled "Native Plants for Gardening and Landscaping Fact Sheets" that lists native species and the environments in which they can grow can be found on the New York State Department of Environmental Conservation's website: <https://www.dec.ny.gov/get-involved/living-green/sustainable-landscaping>.
- 27 All proposed signage shall conform to the sign ordinance in Chapter 31C of the Orangetown Code.

- 28 Retaining walls shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer.
- 29 Pursuant to New York State General Municipal Law (GML) Sections 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County's Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.
- 30 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County agencies are prohibited from issuing a County permit, license, or approval until the report is filed with the County's Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner's report approving the proposed action or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Teresa Kenny, Orangetown
NYS Department of Environmental Conservation
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Highway Department
Rockland County OFES
United States Army Corps of Engineers
Kimley-Horn Engineering
Pearl River Fire Department

*New York State General Municipal Law § 239(5) requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.

The review undertaken by the County of Rockland Department of Planning is pursuant to and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions nor determines whether the proposed action reviewed implicates the Religious Land Use and Institutionalized Persons Act. The County of Rockland Department of Planning defers to the municipality referring the proposed action to render such opinions and make such determinations as appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Pursuant to New York State General Municipal Law §§ 239-m and 239-n, the referring body shall file a report of its final action with the County of Rockland Department of Planning within thirty (30) days after the final action. A referring body that acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.

EXHIBIT C

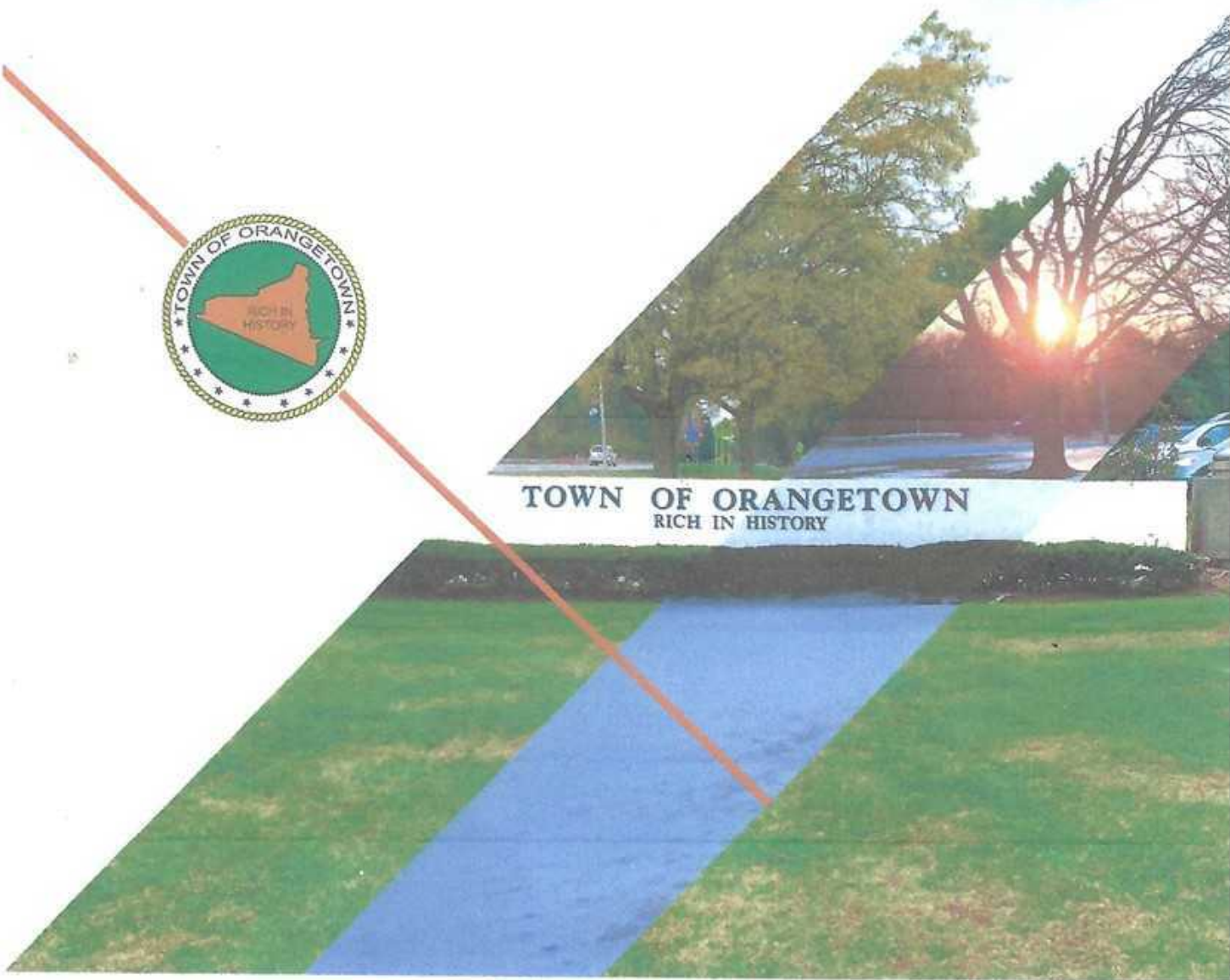
Orangetown Comprehensive Plan

September 2023

**Adopted by the Town Board
October 10, 2023**



TOWN OF ORANGETOWN
RICH IN HISTORY



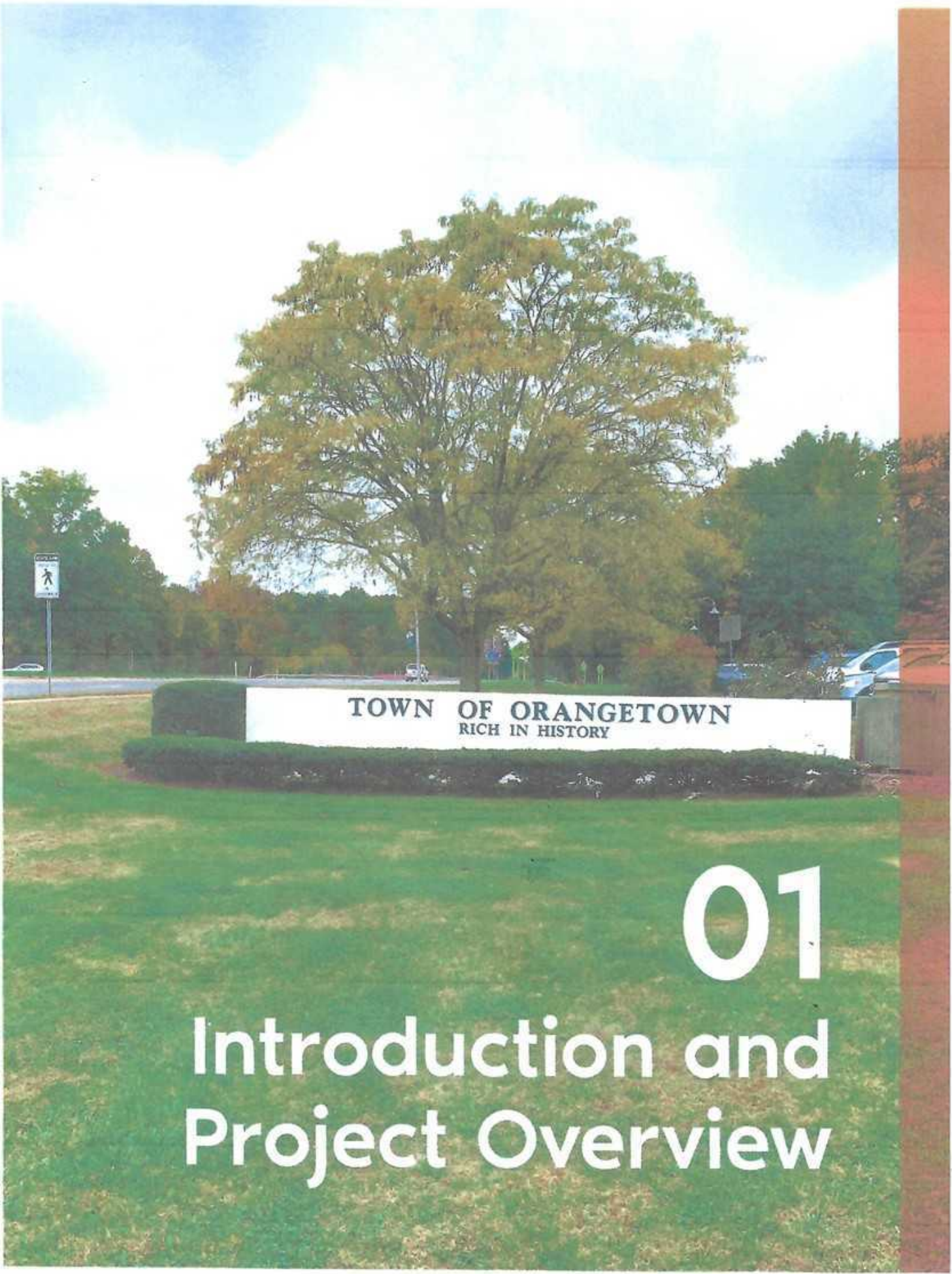
This project has been funded in part by the Climate Smart Communities Grant Program, Title 15 of the Environmental Protection Fund through the New York State Department of Environmental Conservation.

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Appendix A: Community Survey Report

Appendix B: Town Officials Survey Report

A photograph of a large, leafy tree with yellowing leaves in the background. In the foreground, a white sign with black text reads "TOWN OF ORANGETOWN" and "RICH IN HISTORY". The sign is set against a green lawn. To the left, a pedestrian crossing sign is visible. The sky is blue with some clouds. A vertical orange bar is on the right edge of the image.

TOWN OF ORANGETOWN
RICH IN HISTORY

01

Introduction and Project Overview

01

What is a Comprehensive Plan?

How Do You Use a Comprehensive Plan?

Comprehensive Plan History and Planning Process

Comprehensive Plan Organization

Vision, Goals, and Objectives

Previous Image: © AKRF



Joseph B Clarke Rail Trail, Sparkill © AKRF

What is a Comprehensive Plan?

A Comprehensive Plan is the official public long-term planning document that establishes a community's goals and aspirations for the future, while providing a roadmap for how to achieve them. In New York State, the comprehensive plan provides the rationale for the zoning and other land use regulations found in the Town Code. The comprehensive plan presents a snapshot of the current state of the Town, and offers guidance for its future. Through a series of public workshops, community surveys, committee work sessions, and public hearings, the Comprehensive Plan Committee (CPC) and the Town Board garnered input from residents, community leaders, Town staff, and business owners. This input from the Orangetown community is reflected in the Comprehensive Plan's goals and recommendations and will serve as a guiding framework for the Town's growth and development in the coming years.

Definition of "Comprehensive Plan"

A "comprehensive plan" is defined in New York State Town Law §272-a.2(a) as "the materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material that identify the goals, objectives, principles,

guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the town located outside the limits of any incorporated village or city.”

All land regulations (e.g., zoning, subdivision, natural resource protection) must be “in accordance with a comprehensive plan,” pursuant to New York State Town Law §263. Consequently, the policies articulated in a comprehensive plan serve as the basis for future revisions to the Town’s land use regulations. But a comprehensive plan is not the law. Rather, the plan only sets the direction and goals for the community and recommends, in a general way, how to achieve them.

The process of preparing the comprehensive plan engages Town residents, business owners, officials, and leaders in discussions about what is working, what is not working, and how the Town views its potential in the short, medium, and long-term.

The comprehensive plan presents a vision grounded in the practical reality of a community’s natural, financial, and physical resources and constraints.

The goals and action items in the Town of Orangetown 2023 Comprehensive Plan are based on local priorities for land use patterns, economic growth, resource protection, and quality of life. Unanimous agreement about the future is not the goal of the 2023 Comprehensive Plan. Rather, it strives to balance the opinions that collectively manage change. The 2023 Comprehensive Plan should reflect a coherent vision of a diverse population, from children to senior citizens, and newcomers to generational residents. The Town of Orangetown 2023 Comprehensive Plan sets forth goals and actions that will enable the Town to navigate changes in resources, and to thrive as a desirable place to live, work, and recreate for decades to come.

Intersection of Fifth Avenue and Sickletown Road, Blauvelt © AKRF



How Do You Use a Comprehensive Plan?

The comprehensive plan presents an overall vision for the future of a municipality, establishes goals to achieve that vision, recommends specific strategies, and assigns responsibility for implementing the comprehensive plan's recommendations. It is an action plan, setting out goals and objectives to achieve the community's vision, and a working document, which should evolve with the changing needs of the community.

Official Policy Document

When a Town Board adopts a comprehensive plan, the Town Board affirms the plan as an official policy document, and thus, it is key that the plan represents the views of the entire community. Thus, it is necessary that the vision for the future, as set out in the plan, has been vetted by the community and identifies key action items. The plan also provides a blueprint for use by the town government, land use boards, volunteer groups and committees, and local residents and business owners, to implement recommendations that promote appropriate growth and development in the town.

Does Not Affect Zoning Code Nor Existing Property Rights

Adoption of a comprehensive plan by a Town Board, on its own, does not affect the town's zoning code, nor does it restrict existing private property rights of residents. However, applications for development submitted to the town's reviewing boards must be considered in the context of the goals and objectives set out in the comprehensive plan. If an application is inconsistent with the goals of a comprehensive plan, the applicant must then justify to the relevant reviewing board that the project will not contradict the overall town goals set out in the comprehensive plan.

Lastly, while a comprehensive plan may (and usually will) recommend changes to the town's zoning code to achieve the plan's stated goals, actual changes to the zoning code require a separate and distinct process. The comprehensive plan is a tool to guide development, but not an instrument to change existing laws and codes.

The real success of any comprehensive plan lies in its implementation. Without successful implementation, the plan is of little benefit to a municipality.

designated historic districts. All potential PAC sites must have access to or frontage along a state or county road, or have other suitable access as determined by the Town Board during the rezoning process

Table 2-5 lists the permitted principal, special permit, and conditional use permit uses currently allowed in non-residential Zoning Districts.

Table 2-5
Current Use Table

P - Permitted as of right
SP - Special Permit
C - Conditional Use Permit

Land Use	LO	LIO	OP	CS	CC	CO	LI	RPC-R	RPC-OP
adult uses							SP		
airports and heliports	SP	SP							
all manufacturing uses except those prohibited under §4.4 of Zoning Code							P		
auditoriums and drive-in theatres					SP				
automobile sales and service agencies		C					P		
banks				P	P	P			
bars				C					
business/professional office	P	P	P	P	P	P	P		P
car washes							C		
churches and similar places of worship				P	P	P			
commercial dog kennels and animal hospitals							P		
commercial recreation (some exclusions)								P	
commercial recreation such as bowling, billiards, driving ranges							P		
data center									P
executive conference lecture facilities	P								P
fast-food restaurants					C	C			
fire, police, community-owned ambulance stations	P	P	P	P	P	P	P		
gas stations, night clubs					C		C		
government offices and office buildings	P	P	P	P	P	P			
hospitals						P			
hotels and motels				C	C	C			

Land Use	LO	LIO	OP	CS	CC	CO	LI	RPC-R	RPC-OP
hotels/conference centers			P						
jewelry stores and art shops				P	P	P			
light manufacturing uses		C							
medical offices in existing residential structures					C				
mixed-use developments 10+ acres (and other conditions)							SP		
municipal parking lots and similar public buildings and government uses	P	P	P	P	P				
personal service stores				P	P				
pet shops				SP	P				
public and not-for-profit recreation								P	
public utility substations and pump stations		C	C	C	C	C			
research, experiment, and testing labs	P	P	P						
restaurants, except fast-food				P	P	C			
retail drug, variety, food, auto supply, tobacco stores, clothing and department stores, physical fitness, personal service stores				P	P				
sand pits and gravel pits		SP	SP						
schools of general instruction	P	P	P	P	P				
schools of religious instruction				P	P				
schools of special instruction				C	P				
senior citizen housing				SP	SP	SP			
theatres (not drive-ins)				SP	SP	SP	P		
undertakers		SP	SP	SP	P	SP			
wholesale sales or storage, and warehouses							P		

Notes: Information compiled in this Table 2-5 can be found in the Orangetown Zoning Code, Attachments 1-12a.

Performance Standards

Chapter 43, Section 4.1 of the Town's Zoning Code sets out performance standards. This section of the Zoning Code was amended in 1988, 2018, and 2021. The performance standards are applicable to all nonresidential uses (§4.11), and require that "no land or building shall be used or occupied for a nonresidential use in any manner as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, radioactive or other hazard; noise or vibration; smoke, dust, odor or other form of air pollution; electrical

Performance Standards

or other disturbance; glare; [or] liquid or solid refuse or wastes.” These are all considered to be “dangerous or objectionable elements.” All uses subject to performance standards must conform to restrictions set out in §§ 4.16-4.18, which establish methods to measure dangerous or objectionable elements. Continued compliance with these performance standards is required of every nonresidential use (Town Code §4.13).

The Town's Industrial Use Committee (IUC) is responsible for reviewing applications seeking a determination of conformity with these performance standards, prior to the granting of a building permit. The IUC is made up of five (5) members: Commissioner of the Town's Department of Environmental Management and Engineering (DEME), the Town's Chief Fire Safety Inspector, the Director of the Town's Office of Building, Zoning and Planning Administration and Enforcement, the Town's Public Health Engineer, and the Deputy Commissioner of DEME.

Special Permit Uses and Conditional Uses

As identified in **Table 2-5** (existing zoning district use table, above), uses in certain districts are only permitted when a special permit is granted by the Town Board or Zoning Board of Appeals or when a conditional use permit is granted by the Planning Board. Chapter 43, Sections 4.32(A)-(Q) establish additional requirements and conditions for the granting of those special permits (in addition to baseline requirements for development in those Zoning Districts), including but not limited to hours of operation, lot areas, lot frontages, distances to lot lines, access roads, fencing, screening, landscaping, density, parking, and buffer areas. Chapter 43, Sections 7.1-6 describe the procedure for a conditional use permit.

Prohibited Uses

Sections 4.41 to 4.47 of the Zoning Code establish certain uses which are prohibited in the Town. Those prohibited uses include the following:

- Certain manufacturing uses, including those involving primary production of certain raw materials (e.g., asphalt, cement), chemicals (e.g., ammonia, chlorine, nitrates, resins), petroleum products, fertilizers, paint, explosives, and rubber;
- Certain manufacturing processes, including reduction and refining of metals, refining of petroleum products, and processing of wood pulp and fiber;
- Operations involving stockyards and slaughterhouses, grain elevators and slag piles;
- Storage of explosives;
- Dumps, junkyards, sewage treatment plants, incinerators, and sanitary landfill operations (except those municipally owned and operated);
- Quarries and stone crushers; and
- Trailer camps and summer colonies.

- Update the zoning districts, as well as allowable land uses and definitions, to recognize uses not previously addressed and assign appropriate performance standards where applicable.

- **Commercial/
Industrial**

To keep pace with changes in the economy and business growth patterns, zoning regulations should adapt by recognizing and addressing new land use types. Without clear requirements, municipalities are left to rely on ad hoc determinations or discretionary decisions, which bog down the process and lead to unpredictable and unanticipated results. Particularly for the Route 303 Overlay District, there is a need to clarify this section to differentiate between the various types of warehouses and distribution centers, and to establish performance standards to address residents' concerns. Community feedback emphasized the desire for "clean and green" uses that utilize energy-saving equipment and/or alternative energy technologies and that do not rely on frequent use of large trucks for delivery, construction, or related activities. Consider adding new definitions, including, for example, indoor greenhouse, mini-warehouse, data center, standalone fitness center, and media production facility and soundstage. Also consider adding new permitted uses in LI/LO zoning districts which are already permitted in commercial districts, including but not limited to hotel and motel and retail drug, dry goods and variety, food, hardware, stationary, and auto supply. These uses may be subject to specific conditions, including integration of green technologies and restrictions on truck usage.

- **Mini-warehouse**

Also known as self-storage facilities, a mini-warehouse is a building divided into units for long-term or temporary storage of items, and which units are not used for any other purpose (such as small offices, garages, etc.). Mini-warehouses may be: (1) "internal access only," meaning that individual units are only accessible from internal corridors; this type of facility generally resembles an office building; or (2) "with external access," meaning that individual units may be accessed from the exterior of the building (and may have internal access as well); this type of facility generally includes rows of garage-like units. While facilities with external access typically have a more industrial appearance, facilities that are "internal access only" blend easily into other types of development (including, office, retail, and mixed-use) and require less off-street parking for loading/unloading.

- **Indoor greenhouse**

Warehouses provide the space and controlled climate necessary for large-scale indoor greenhouses and vertical farms. On the agricultural scale and in terms of production, indoor greenhouses fall between open-field farming (traditional agricultural) and urban farming (e.g., rooftop gardens, community farms). Because of their proximity to more densely populated areas, indoor greenhouses can help reduce financial and environmental costs for the transport of produce to stores and customers. Regulations would address standards and conditions to ensure appropriate use.

- **Data center**

With the continual rollout of new internet services and network expansions, data centers continue to grow in demand. Participants at the public workshop expressed an interest in attracting data centers, which they considered to be a "clean industry" with good paying jobs. A data center is a facility that houses networked computer servers and accompanying IT equipment for the purposes of storing, processing, and disseminating data and applications. Because of their crucial role in business and

general IT operations, facilities require enhanced utilities including cooling systems, heightened fire protection, network security access, and uninterruptible power supplies. Data centers provide data backup and cloud storage, as well as host websites and support electronic transactions. Data centers attract businesses because the closer the business is to a data center, the faster the business' overall internet speed. The American Planning Association notes that, "The proximity of data centers to communities is key to attracting connected industries for applications like smart manufacturing, as well as to deliver high-quality advanced services like telehealth, remote learning, augmented and virtual reality, autonomous vehicles, drone delivery, and all the various smart city applications."¹⁵ However, they do have energy and environmental considerations as they require high levels of power and water (for cooling). Regulations should recognize that data centers can vary greatly in their size, energy requirements, and potential risks.¹⁶ Performance standards could include a requirement for the provision of onsite alternative energy systems.

- **Tobacco store** Tobacco stores, also known as "smoke shops," are retail establishments dedicated primarily to the display, sale, offering, or marketing of tobacco or other nicotine-based consumables or related paraphernalia. Under current Town Code, tobacco stores are permitted by right in CS and CC zoning districts. There are no additional restrictions or requirements. To regulate standards and permitted locations for this use, consider requiring a special permit, and/or instituting separation requirements (for example, a minimum separation of 500 feet from any school or playground).
- **Food truck** Regulations for food trucks address their use both on public and private property. Food trucks may be allowed in certain commercial and residential districts under different criteria depending on the zone, and may address such requirements such as, hours of operation, scope of set-up (signage, seating, waste removal), as well as health, fire, and sanitation requirements. Food trucks may be defined as "a truck, trailer, or other motorized vehicle from which food/beverages are sold to the general public, and which is self-contained with all cooking apparatuses and related equipment contained within the vehicle."

An annual license to operate may be required, and special permits may be required for special occasions, such as parades, food truck rodeos, private events, and operations outside the scope of the ordinance. Food truck vendors must also comply with local public health department regulations for food service establishments, whether specific to mobile food vending or generally applicable to all food service.

- Create a Use Table that clearly presents each land use and whether it is allowed in each district.

¹⁵ "Data Centers Evolved: A Primer for Planners." American Planning Association, July 22, 2021. <https://www.planning.org/planning/2021/summer/data-centers-evolved-a-primer-for-planners>.

¹⁶ For a definition of data center, consider the Zoning Code of Loudoun County, Virginia. Loudoun County, which has the largest concentration of data centers worldwide, provides the following definition: "A facility used primarily for the storage, management, processing, and transmission of digital data, which houses computer and/or network equipment, systems, servers, appliances and other associated components related to digital data operations. Such facility may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support sustained operations at a data center." Loudoun County Zoning Ordinance, Article 8 Definitions. <https://www.loudoun.gov/DocumentCenter/View/146649>.

Table 2-6
Proposed Use Table

P - Permitted as of right

SP - Special Permit

C - Conditional Use Permit

Land Use	LO	LIO	OP	CC[1]	CO	LI	RPC-R	RPC-OP	MU[3]
adult uses						SP			
airports and heliports	SP	SP							
all manufacturing uses except prohibited under §4.4 of Zoning Code						P			
auditoriums and drive-in theatres				SP					
automobile sales and service agencies		C				P			
banks				P	P				P*
bars				C					P
business/professional office	P	P	P	P	P	P		P	P
car washes						C			
churches and similar places of worship				P	P				
commercial dog kennels and animal hospitals						P			
commercial recreation (some exclusions)							P		P (indoor only)
commercial recreation such as bowling, billiards, driving ranges						P			P (indoor only)
data center	SP	C				C		P	
executive conference lecture facilities	P							P	
fast-food restaurants				C	C				P*
fire, police, community-owned ambulance stations	P	P	P	P	P	P			P
gas stations				C		C			
government offices and office buildings	P	P	P	P	P				P
hospitals					P				
hotels and motels				C	C				C
hotels/conference centers			P						
indoor greenhouse	P	P	P			P			
jewelry stores and art shops				P	P				P
light manufacturing uses		C							

Land Use	LO	LIO	OP	CC[1]	CO	LI	RPC-R	RPC-OP	MU[3]
medical offices in existing residential structures				C					C
mixed-use buildings									P
mixed-use developments 10+ acres (and other conditions)						SP			
mixed-use developments under 10 acres									
municipal parking lots and similar public buildings and government uses	P	P	P	P					P
nightclubs				C		C			P
personal service stores				P					P
pet shops				SP					
public and not-for-profit recreation							P		
public utility substations and pump stations		C	C	C	C				
research, experiment, and testing labs	P	P	P						
restaurants, except fast-food				P	C				P
retail drug, variety, food, auto supply, tobacco stores, clothing and department stores, physical fitness				P					P
sand pits and gravel pits		SP	SP						
schools of general instruction	P	P	P	P					P
schools of religious instruction				P					P
schools of special instruction				P					P
self-storage (mini-warehouse), internal access only	SP					SP			
self-storage (mini-warehouse), with external access	SP					SP			
senior citizen housing				SP	SP				SP
theatres (not drive-ins)				SP	SP	P			SP
undertakers		SP	SP	SP	SP				
wholesale sales or storage, and warehouses [2]						P			

Notes:

[1] CC - Community Commerce District. This new district merges and replaces the CS (Community Shopping District) and CC (Retail-Commerce District).

[2] Warehouse and distribution center uses should be subject to updated performance and development standards that address traffic, nuisance, safety, and environmental.

[3] MU - Mixed-Use District. In this pedestrian-oriented district, uses that are auto-oriented should be discouraged or prohibited. For example, although uses such as banks, pharmacies, and restaurants would be allowed, such facilities would not be permitted to have a drive-thru component. The MU district would also permit single-family and multi-family residential uses, including: attached and semi-detached residences, townhomes (traditional and garden style), low rise apartments, and live-work buildings (retail uses on the ground floor and residential units on upper floor(s)). The requirements and restrictions of this new district would be established during the development of the local law.

*No drive-through component.

EXHIBIT D

DEPARTMENT OF PLANNING
Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Richard M. Schiafo
Deputy Commissioner

RECEIVED

July 21, 2025

JUL 21 2025

Orangetown Planning Board
20 Greenbush Road
Orangeburg, NY 10962

TOWN OF ORANGETOWN
LAND USE BOARDS

Tax Data: 73.15-1-19

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 05/15/2025

Date Review Received: 06/20/2025

Item: Databank Orangeburg Phase Two Site Plan Review (GML-25-0340)

Revised site plan application for construction of Phase 2 of a Databank center on 24.3 acres of a 33.9-acre parcel in the LIO zoning district. Phase 2 comprises a one-story, 146,480 square-foot data center, 7,395 square feet of administrative/office space along the southern portion of the building, a 7,906 square-foot office expansion to connect to the Phase 1 data center, a 52,095 square-foot open equipment yard, and an additional 72,812 square-foot substation area in the northeast corner of the site. A total of 105 parking spaces will be provided. Variances are required for number of parking spaces and number of loading berths. Construction of Phase 1 has been completed with variances approved for number of parking spaces, number of loading berths, non-enclosed loading berths, and 100-foot buffer to an R-80 zoning district.

North side of Corporate Drive cul-de-sac

Reason for Referral:

County Highway Southern Depot

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

Disapprove

The Rockland County Planning Board and Planning Department were previously given opportunities to review Phase 1 of Databank Orangeburg. On January 3, 2023, this department issued to the Orangetown Planning Board our last GML Section 239 review letter concerning the Phase 1 site plan. The letter included comments with concerns regarding the number of parking spaces, scale and energy usage of the proposal, and environmental impact and constraints. The Orangetown Planning Board approved the Phase 1 site Plan on January 11, 2023, and the project has since been constructed.

The applicant is now proposing Phase 2 of the data center, which will mirror the layout of Phase 1. The Rockland County Planning Board reviewed a previous iteration of the Phase 2 site plan at their meeting on December 12, 2024 and unanimously disapproved the application, citing the disruption of onsite wetlands, a high level of energy usage, lack of parking availability, and fire safety issues. The Rockland County Planning Department offers the Orangetown Planning Board the following comments regarding the Proposed Phase 2 Databank, which reflect several issues taken by our Planning Board:

- 1 This department has major concerns regarding the energy and environmental impacts of this proposal. The estimated annual energy demand for Phase 2 is "approximately 1,681,920,000/kwh based on 16 mw for the five (5) data halls operating 24 hours a day, 7 days a week" as indicated in the May 16, 2025 Comment Response Letter from Kimley-Horn Engineering and the Full Environmental Assessment Form (FEAF) revised May 10, 2025, pg. 7, Question D.2.(k). This estimated energy use was confirmed in an email exchange with Kimley-Horn and this department received on June 24, 2025. The referral submitted did not contain any supporting documentation regarding the energy usage estimate nor how it was calculated. This department requested additional information on energy usage as well as any reviews conducted by Orange and Rockland Utilities (O&R). No supplemental information was provided by the Town or the applicant.

According to estimates from the U.S. Energy Information Administration, last updated December 18, 2023, the average US household consumes roughly 10,500/kwh of electricity annually: <https://www.eia.gov/energyexplained/use-of-energy/electricity-use-in-homes.php>. Based on the energy use estimated in this application, the proposed data center will demand more energy than 160,000 homes. Additional information, including calculations, must be provided to verify the accuracy of the estimated energy use of 1,681,920,000/kwh.

This department needs additional information on energy use to be able to conduct an informed review of this proposal. This department recommends that a comprehensive energy analysis be conducted. As stated, supporting documentation must be provided to verify the accuracy of the energy usage estimate and its potential impact on the local utility grid.

Additionally, this department did not receive an estimate of energy use for Phase 1, which was constructed at a similar scale to Phase 2. The cumulative impact on energy use that Phase 2 will have with Phase 1 is of great concern. The Town must have a clear understanding of the total energy demand created by this project, the ability of the local utility grid to service the project, including utility grid resilience, as well as the potential impacts on other local economic development projects. Additional measures should be taken to increase the resiliency of the project and to reduce the overall carbon footprint of the operation including the use of energy efficient equipment and servers. Furthermore, the applicant must provide correspondence with O & R to demonstrate that the energy demands of this facility can be met. In absence of the energy usage details, and significance of the energy estimate provided, this department is issuing a disapproval of this project.

- 2 This department recommends disapproval of this project due to the cumulative environmental impacts; including the loss of wetlands, the site as a potential eagle nesting area, the hydrological, biological and ecological impacts associated with the proposed alteration of a watercourse, the noise generated by the facility, and the potential impacts to a local water supply.

Loss of wetlands is a countywide concern and like the County Planning Board this Department is greatly concerned about the disruption of on-site wetland resulting from this project. Recent amendments to the New York State Freshwater Wetlands Act, which took effect on January 1, 2025, have expanded the jurisdictional authority of the New York State Department of Environmental Conservation (DEC) to include small wetlands of unusual importance. As a result, wetlands of any size meet the jurisdictional criteria for protection if they possess any of eleven characteristics of unusual importance, including being situated within an urban area, as defined by the US Census Bureau. Since the property is located within a

defined urban area, any wetlands on the site would be subject to DEC regulations. According to the FEAF, Page 4, Question D.2. (b) ii., the proposed action will fill 0.10 acres of state-regulated wetlands and 0.02 acres of federally-regulated wetlands and 0.16 acres of surface water onsite. The action will also impact 108 linear feet of a stream. This department discourages the filling of wetlands, as this can potentially affect the area's capacity for flood mitigation and damage and disrupt the local ecosystems.

The eagle monitoring report, dated 3/20/2025, found that adult and immature bald eagles were frequently observed in the area and occasionally landed in trees near the documented nest tree, however no nests or nest-building activities were observed during the limited monitoring events. Based on the information provided the applicant is still waiting for the DEC to review and provide feedback on this report. This department recommends potential eagle nesting habitat be protected.

The sound study, dated 2/12/2025, suggests measures to help reduce the noise impact. Despite these measures the noise generated will still be significant, particularly at night and be close to, if not, potentially exceeding noise standards allowed by local code.

This department recommends that the Town disapproves this project and provide additional protections to on-site as well as off-site natural resources, particularly the protection of wetlands, water supplies and habitat.

The following comments address our additional concerns about the proposal:

- 3 Water is a scarce resource in Rockland County; thus, proper planning and phasing of this project are critical. Data centers use a significant amount of water for cooling and a large amount of water is lost to evaporation. The water and wastewater figures provided in the letter from Highland Associates revised February 10, 2025 appear to be inconsistent with the figures in the FEAF revised May 10, 2025. Additionally, there appears to be an error in the Highland Associates letter where the water usage data for Building 2 (pg. 5 of 7) adds up to 2,590 GPD and for the Total site (pg. 6 pf 7) a figure of 2,690 GPD is used (It is presumed that Building 1 is Phase 1 and Building 2 is Phase 2). An explanation is also warranted as to why Building 2 has significantly less water usage than Building 1, and why in Building 2, 'Accessory Storage' is using 15 GPD.

The Town should be satisfied that the water and wastewater numbers are accurate and consistent, and more importantly that the demand for such large amounts of water and the loss of more than 6,000 GPD of water is not going to have a detrimental impact on the adequate supply of water for current and future residents of the County.

As is indicated in the Rockland County Department of Health July 16, 2025 letter the engineering plans and specifications for public water supply and sanitary sewer extension are required prior to construction 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.

- 4 If it has not done so already, the Planning Board may want to familiarize itself with a 'Best Practices Guide for Energy-Efficient Data Center Design' found at: <https://www.energy.gov/femp/energy-efficiency-data-centers>
- 5 Neither data centers nor warehouses are listed as a permitted use in the LIO zoning district per Section 3.11. Unpermitted uses typically require a use variance from the Zoning Board of Appeals (ZBA); however, the Town has not indicated that this is needed. According to the Orangetown Comprehensive Plan, adopted October 10, 2023, there are plans to allow data centers in the LIO district, among other districts, as a conditional use. In the current absence of regulations specifically tailored to a data center as

Databank Orangeburg Phase Two Site Plan Review (GML-25-0340)

a conditional use, the Planning Board must review this plan with a higher level of scrutiny if they are to allow its construction. The energy and water use of the facility, the 24/7 noise produced by the equipment, and the impacts to natural resources must be evaluated and strongly considered.

- 6 The Town must be satisfied with the findings of the Site Sound Study dated February 12, 2025. As recommended by the study, reduced sound chillers must be used to ensure that the minimal extent of noise is produced. Other potential measures must also be considered to further reduce the auditory impact that this facility has on residential properties, including those directly abutting the southern boundary of the site and as the noise generated by the facility moves across the water, residents to the west of Lake Tappan.
- 7 The August 2, 2022 Wetland Delineation Map illustrates two man-made basins and two wetlands on the subject parcel. The October 19, 2022 letter from the United States Army Corps of Engineers (ACOE) indicates that Wetland 1 along the southeastern property boundary, including an unnamed tributary of the Hackensack River, is within their jurisdiction. The April 3, 2025 email from the New York State Department of Environmental Conservation (DEC) confirms that both Wetlands 1 and 2 are within their jurisdiction. The applicant's response letter indicates that per a March 7, 2025 email, the ACOE authorized the project to proceed as proposed; however, this email was not furnished with the application materials received by our department. The applicant must ensure that all concerns of the ACOE and the DEC are addressed, and all required permits are obtained.
- 8 According to the Hudson Valley Natural Resources Mapper <https://giservices.dec.ny.gov/gis/hvnrm/> the subject site is part of a Known Important Area Terrestrial Animals. These are identified as areas of importance for sustaining known population of rare animals based on occurrence records from the New York Natural Heritage Program (NYNHP) database. Proactive planning that avoids or minimizes impact to the habitat of Important areas and maintains habitat connections for wildlife movement will contribute to the long-term biodiversity of the region. The Planning Board must consider the impacts of this large-scale development on the biodiversity of the area, specifically habitat fragmentation and the impact of the movement of species to and from and within these sensitive habitats. This department again recommends that the size and scale of this project be reduced due to the environmental constraints of the site. A pdf titled "An Approach for Conserving Biodiversity in the Hudson River Estuary Corridor" that identifies voluntary, non-regulatory strategies for conserving wildlife and habitat in the region can be found at: <https://hudson.dnr.cals.cornell.edu/library>
- 9 On September 21, 2022, the Orangetown Zoning Board of Appeals (ZBA) granted the applicant approval of a parking variance to allow 69 spaces for Phase 1 with the condition that the applicant demonstrates that they can provide 671 land banked parking spaces. As we had previously stated to the Orangetown Planning Board in our January 3, 2023 GML 239 Review, these land banked parking spaces cannot be provided with the construction of Phase 2. The applicant is now planning to provide 105 of the 1,264 parking spaces required for Phases 1 and 2 together, and no land banked parking spaces. While it was acknowledged that data centers do not require a significant amount of parking spaces, the Rockland County Planning Board, at their December 12, 2024 meeting, has expressed concern about the inability to commit to this previously approved condition by the ZBA. Should there be a change in use for this structure in the future there will be limited space on the site to provide additional parking. As previously indicated, we recommend that the proposal for Phase 2 be reduced in scale so that a lesser parking variance is required from the ZBA.
- 10 We request the opportunity to review the variances needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).
- 11 The applicant must comply with the comments made by the County of Rockland Department of Health in their letter dated July 16, 2025.
- 12 The Orangetown Fire Inspector must be satisfied that the conditions of their letter dated June 25, 2024 have been appropriately addressed by the applicant. In addition, the Rockland County Office of Fire and Emergency Services and the Pearl River Fire District shall have the opportunity to review the proposal to

Databank Orangeburg Phase Two Site Plan Review (GML-25-0340)

ensure that the site is designed in a safe manner and there is sufficient maneuverability on the site for emergency vehicles.

- 13 The Town should work with local first responders, including the Rockland County Office for Fire and Emergency Services, to ensure that first responders are properly trained to handle fires and any other potential emergencies at this facility. This Department recommends that the Town request that the applicant provide training and education to local first responders.
- 14 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Standards for Urban Erosion and Sediment Control.
- 15 The Stormwater Pollution Prevention Plan (SWPPP), Page 43 indicates that while the peak discharge of Phase 2 is less than the previously existing development, it will increase the from Phase 1 construction at 25 and 100-year storm events to levels nearing pre-construction. This increase in discharge from the previously approved Phase shall be addressed and remedied.
- 16 The May 10, 2025 FEAF, Page 6, Question D.2.e.i indicates that the project will create 7.8 acres of impervious surface. Question D.2.e.iv is answered affirmatively to indicate that the plan will minimize impervious surface, use pervious material, or collect and re-use stormwater. Despite this, the SWPPP, Page 13 informs that no vegetated swales are proposed, no rain gardens are proposed, and while pervious pavers were used for Phase 1, there is no indication for their use in Phase 2. The May 16, 2025 response letter states that green infrastructure and reduction of impervious surfaces were considered for Phase 2, but there were no opportunities to implement this. The amount of impervious surface area to be added in Phase 2 is significant. To help reduce the impact of this development there should be a reduction of impervious surfaces, and green techniques such as permeable pavers, bioswales, rain gardens, and rainwater capture should be considered. For long term effectiveness of these improvements, it is recommended that the applicant review Chapter 5 "Green Infrastructure Practices" of the 2015 NYSDEC Stormwater Design Manual.
- 17 The Planning Board shall be satisfied that the implementation of the SWPPP ensures that construction will not induce a negative impact on the Lake Tappan Reservoir from stormwater runoff as well as dust particles and debris.
- 18 The applicant must obtain any necessary permits from the New York State DEC's Division of Air Resources for the proposed generators.
- 19 The applicant must provide as-built drawings and other documentation to New York State DEC, Region 3, that illustrate the design and installation, as per code, of the petroleum bulk storage tanks for the proposed generators. These tanks must also be registered with them.
- 20 By State Law, the applicant must register with the local fire inspector using Form 209U for the proposed chemical bulk storage materials (batteries). In addition, under the Superfund Amendments and Reauthorization Act (SARA) - Title 3, the applicant must register with the Rockland County Fire Training Center.
- 21 The portion of the property outside of the area of disturbance shall remain uncleared and in its natural state per Section 21-25 of the Orangetown Code. This is especially important to preserve the remaining natural areas of the site and retain buffer between the data center and the residences to the south of the property. This department recommends that conservation easements be placed on any areas intended for protection.
- 22 The 2025 Bald Eagle Nest Monitoring Report notes that a former nesting tree is in close proximity to Phase 2 construction; however, new nesting activity was not observed during the 2025 monitoring season between January 2 and February 24. Bald eagles were, however, observed flying and landing in proximity to the former nesting tree. The impacts that this development, including the noise generated, has on the bald eagle population as well as other nearby wildlife must be more thoroughly evaluated and strongly considered. Any outstanding concerns provided by the DEC must be addressed and the applicant shall

continue to correspond with the DEC regarding the presence of bald eagles on and near the site.

- 23 This department supports the use of a native trees, including Sour Gum (*Nyssa sylvatica*) and White Spruce (*Picea glauca*), on the proposed Landscape Plan. Native plants are better adapted to the local climate and soils, making them easier to care for, and result in the need for less fertilizer, pesticides, and use of water. They also have deeper root systems that help prevent erosion and increased runoff into local waterbodies. A pdf titled "Native Plants for Gardening and Landscaping Fact Sheets" that lists native species and the environments in which they can grow can be found on the New York State Department of Environmental Conservation's website: <https://www.dec.ny.gov/get-involved/living-green/sustainable-landscaping>.
- 24 All proposed signage shall conform to the sign ordinance in Chapter 31C of the Orangetown Code.
- 25 Retaining walls shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer.
- 26 Pursuant to New York State General Municipal Law (GML) Sections 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County's Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.
- 27 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County agencies are prohibited from issuing a County permit, license, or approval until the report is filed with the County's Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner's report approving the proposed action or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.
- 28 The following additional comment is offered strictly as an observation and is not part of our General Municipal Law (GML) review. The Board may have already addressed this point or may disregard it without any formal vote under the GML process:
- 28.1 This department's previous GML Section 239 reviews for both Phase 1 and Phase 2 have continuously noted that "data centers" are only listed as a permitted use within the RPC-OP zoning district and are not given a definition within the Orangetown Zoning Code. Warehouses, as an alternative descriptor, are also not permitted as a principal use in the LIO district. As noted in Comment 2 above, the 2023 Orangetown Comprehensive Plan indicates plans to allow data centers in the LIO district, among other districts, as a conditional use. However, until a local law is officially adopted, this department remains unclear on how this proposal can be evaluated and permitted. In addition, the parking regulations applied to this development are those for offices and warehouses, whereas no definitive parking requirements exist in the zoning code for data centers. We again urge the Planning Board to make a recommendation to Town Board to amend the Town's zoning code to establish a clear definition and regulations for data centers within the zoning districts suggested in the 2023 Orangetown Comprehensive Plan.



Douglas J. Schuetz
Acting Commissioner of Planning

Databank Orangeburg Phase Two Site Plan Review (GML-25-0340)

cc: Supervisor Teresa Kenny, Orangetown
NYS Department of Environmental Conservation
Orange and Rockland Utilities
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Highway Department
Rockland County OFES
United States Army Corps of Engineers
Kimley-Horn Engineering
Pearl River Fire Department

*New York State General Municipal Law § 239(5) requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.

The review undertaken by the County of Rockland Department of Planning is pursuant to and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions nor determines whether the proposed action reviewed implicates the Religious Land Use and Institutionalized Persons Act. The County of Rockland Department of Planning defers to the municipality referring the proposed action to render such opinions and make such determinations as appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Pursuant to New York State General Municipal Law §§ 239-m and 239-n, the referring body shall file a report of its final action with the County of Rockland Department of Planning within thirty (30) days after the final action. A referring body that acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.

EXHIBIT E

[illegible]

PERMIT REVIEW

4	ISSUED FOR TOWN OF GRANGETOWN REVIEW	01/11/2020
5	ISSUED FOR TOWN OF GRANGETOWN REVIEW	11/11/2020
6	ISSUED FOR PROPOS	01/12/2020
7	ISSUED FOR PAC REVIEW	01/12/2020
NO.	DESCRIPTION	DATE

[illegible][illegible]

Kimley»Horn
New York
6000 KIMLEY HORN DRIVE (FORMERLY)
LANDSCAPE ARCHITECTURE OF NEW YORK, INC.
1 NORTH LIVINGSTON AVENUE, SUITE 200
WHITE PLAINS, NY 10610
PHONE: 914-365-6200
WWW.KIMLEY-HORN.COM

PERMANENT REVIEW		
NO.	DESCRIPTION	DATE
1	ISSUED FOR FORM OF GRANT/FOUN REVIEW	09/08/2008
2	ISSUED FOR FORM OF GRANT/FOUN REVIEW	11/08/2008
3	ISSUED FOR PAYING	09/08/2008
4	ISSUED FOR PAYING	09/08/2008

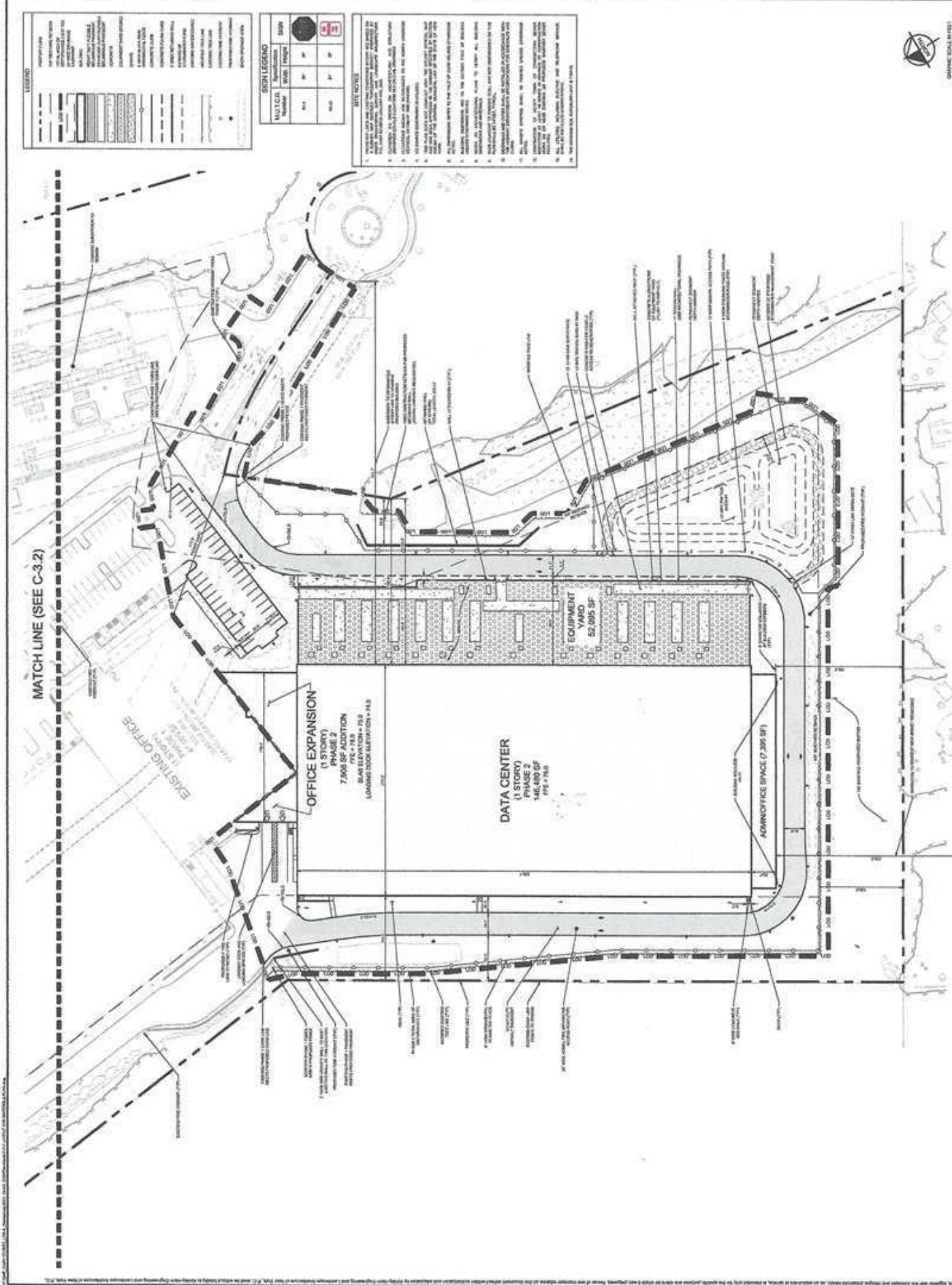
[illegible]

EXHIBIT F

May 16, 2025

Jane Slavin, RA, Director O.B.Z.P.A.E.
Office of Building, Zoning, Planning, Administration and Enforcement
Town of Orangetown
26 Orangeburg Road
Orangeburg, NY 10962

RE: **Databank Orangeburg Phase 2 Site Plan**
Pre-preliminary/Preliminary/Final Site Plan Review
2000 Corporate Drive, Orangeburg
73.15/1/19; LIO zoning district

Dear Ms. Slavin,

This letter is being submitted by Kimley-Horn Engineering and Landscape Architecture of New York, PC ("Kimley-Horn") on behalf of 2000 Corporate Drive LLC ("Applicant") in response to the review letter, dated January 7, 2025, from the Town of Orangetown Office of Building, Zoning, Planning Administration and Enforcement for the above referenced project.

The comments below from the Town of Orangetown Office of Building, Zoning, Planning Administration and Enforcement are followed by responses numbered based on the comments in the review letter.

1. The applicant is seeking approval for Phase II. Phase I received Final Planning Board approval on January 11, 2023 and is currently under construction.

Response: Acknowledged.

2. The zoning chart on C-3.0 must be revised as follows: Total side yard shall be added, 200' required with 250.6' proposed and the front yard proposed is 195.4'. Dimension of the proposed front yard shall also be indicated on the site plan.

Response: The zoning table has been revised to include total side yard required (200') and proposed total side yard for the site (252.8'). The front yard for the Phase 1 building (177.7') is more constrained than the proposed front yard for the Phase 2 building (195.4'), therefore the existing building front yard is indicated on the zoning table. The proposed front yard dimension to each building is indicated on the Overall Site Plan. Refer to Sheet C-3.0.

3. The following variances are required:

- a) Per Chapter 43, Table 3.11, column 6, Minimum number of required parking spaces is 1,264 with 105 proposed.

Response: Acknowledged. Variance for parking will be requested by the Applicant.

- b) Per Chapter 43, Table 3.11, Column 7, #2, "...all accessory off-street loading berths shall be within completely enclosed buildings..." Two additional exterior loading berths are proposed for a total of four, variance required.

Response: Acknowledged. Variance for exterior loading berths will be requested by the Applicant.

- c) Per Chapter 43, Article VI, Section 6.4, Minimum number of required loading berths is 18 with 4 proposed.

Response: Acknowledged. Variance for number of loading berths will be requested by the Applicant.

- d) Per Chapter 43, Article V, Section 5.22, "All required yards, courts and usable open spaces shall be unobstructed..." the proposed equipment yard encroaches into the required front yard for a portion by 4.8'.

Response: The proposed equipment yard location, including the proposed wall, has been revised to comply with the front yard setback requirement. Refer to Sheet C3.0.

- e) Chapter 43, Article V, Section 5.226, "a fence or freestanding wall not more than 4 ½ feet in height is permitted within a required front yard." A portion of the proposed 12'-0" tall fence around the equipment yard is located within the front yard.

Response: The proposed equipment yard location, including the proposed wall, has been revised to comply with the front yard setback requirement. Refer to Sheet C3.0.

- f) The property abuts Lake Tappan to the west, which is an R-80 Zoning district. Per Chapter 43, Attachment 18, Notes to Use and Bulk Tables, #2, required buffer is 100' to an R-80 zoning district, Variance required.

The current building as constructed does not comply with this requirement and research of prior approvals do not indicate that the buffer was required. This may have been due to the fact that the shoreline of Lake Tappan is in the 100' required DEC buffer to the lake and future development is not possible.

Response: Acknowledged.

4. The plans show "substation area" however there is no additional information provided. Is the intent to have the substation approved as part of this project? If yes, then all required information and details for the substation, including equipment and locations and the details for the proposed retaining wall and screen wall shall be provided.

Response: This application consists of the site development for the substation construction. The applicant is in current discussions with Orange & Rockland Utilities on finalizing the substation design. The plans depict the preliminary electrical equipment layout, retaining and screen walls, and ingress/egress.

5. IUC Performance standards review is required.

Response: Acknowledged.

6. The Full EAF must be revised as follows:

- Page 1: Description states that a new 145,000 sq ft data center with 6,500 sq ft of office space and a 50,471 sq ft equipment yard are proposed, however the plans indicate a 146,480 data center with 7,395 sq ft of office space and a 52,735 sq ft equipment yard. Which is correct? LEAF must be revised.
- Page 2: Part B – fill in all application dates if available.
- Page 4: (h) is YES, Basin for runoff and provide size.
- Page 7: (k) projection of energy demand shall be provided.
- Page 8: (r) projected quantities shall be provided.

Response: The EAF Part 1 has been revised accordingly.

7. There are multiple signature boxes on the front page, please note that only the Planning Board Chairman signs the plans, as such the other boxes should be removed.

Response: Noted. Sheet C-0.0 has been revised accordingly.

8. The applicant is reminded that no work can begin and no permit will be issued until all comments are met from the various agencies, all approvals are obtained, the Final Site Plan is stamped and the construction plans are reviewed and approved by the inspector.

Response: Acknowledged.

Please contact our office at (914) 368-9200 or dan.lofrisco@kimley-horn.com if you have any questions or require further information.

Sincerely,

KIMLEY-HORN ENGINEERING AND LANDSCAPE ARCHITECTURE OF NEW YORK, P.C.

Daniel LoFrisco, P.E.
Associate

EXHIBIT G



Environmental, Planning, and Engineering Consultants
34 South Broadway
Suite 300
White Plains, NY 10601
tel: 914 949-7336
fax: 914 949-7559
www.akrf.com

Memorandum

To: Orangetown Comprehensive Plan Committee
From: AKRF, Inc.
Date: January 20, 2022
Re: Town of Orangetown DRAFT Comprehensive Plan Goals
cc: Shachi Pandey, MUD Workshop

The following draft Comprehensive Plan goals and strategies were developed based in consultation with the Orangetown Comprehensive Plan Committee (CPC) and incorporate community feedback received through the public engagement process. Thus far, the public engagement process included an online survey that was hosted from 9/29/2021 through 11/3/2021, an online public engagement platform that included "tag-a-photo" and "vision wall" exercises from 10/18/21 through 11/3/21, virtual workshops on 10/18/21 and 12/7/21, and an in-person workshop on 12/6/21. As the draft Comprehensive Plan is developed these goals and strategies will be further refined in conjunction with CPC and community input.

Overarching Theme

With its natural beauty, convenient location, quality schools, cultural resources, and historic hamlets, Orangetown is a wonderful community to live in. An overarching goal of the Comprehensive Plan is to enhance the quality-of-life features and community resources that drew residents and businesses to the Town.

- **Goal:** Maintain the Town's community and neighborhood character while balancing the need for growth and development.
 - *Objectives/Strategies*
 - Encourage an appropriate balance of residential and non-residential development.
 - Update and modernize the zoning code to simplify enforcement, remove inconsistencies, and regulate new land uses not previously contemplated.
 - Develop design guidelines for façades, signage, and streetscapes to preserve, protect, and enhance the unique characteristics of each hamlet.

- Develop measures to increase the efficiency of the code / zoning enforcement process.
 - Discourage new warehouse and distribution center land uses in certain zoning districts, particularly near residential areas.
 - Develop design guidelines and performance standards to better regulate certain land uses, and to protect open space, viewsheds, historic resources, and community character.
 - Strengthen zoning and code protections for natural resources such as wetlands, trees, stormwater, flooding, steep slopes, and ridgelines.
- **Goal:** Preserve history, open space, and hamlet center character, while promoting a diversity of housing options in appropriate neighborhoods to ensure members of the community have access to quality housing.
 - *Objectives/Strategies*
 - Update the zoning code to allow a diversity of housing types (e.g. townhomes, duplexes, mixed-use buildings, and apartment building style condominiums) in certain areas to meet the needs of first-time home buyers/renters and downsizing seniors looking to stay within the community.
 - Maintain an adequate supply of senior housing for a variety of income levels.
 - Where appropriate, update the zoning map and code to create transitional districts between hamlet centers and suburban neighborhoods.
 - Establish efforts and mechanisms, including more robust zoning and development enforcement, to protect and preserve hamlet character.
- **Goal:** Strengthen the Town's transportation network for vehicles, pedestrians, and alternative modes of mobility.
 - *Objectives/Strategies*
 - Design and implement context-sensitive dedicated bicycle lanes (on- and off-road) to improve bicycle access and safety.
 - Provide additional sidewalks throughout the Town to improve pedestrian access and safety.
 - Create a road maintenance program, with dedicated capital funds.
 - Create pedestrian-friendly, walkable streets in key hamlet centers by limiting traffic during certain times on low-traffic roadways.
 - Implement walkable, green streetscapes and rights-of-way.
 - Establish performance standards within the Town's zoning code to mitigate traffic impacts. Address congestion and parking shortage in key areas.
 - Update zoning code to include design guidelines and protections for rural and scenic roadways.
 - Encourage more robust enforcement of traffic regulations, particularly those related to semi-truck, delivery, and warehouse traffic.

- Implement a Complete Streets policy.
 - Introduce traffic calming into residential neighborhoods where streets are wider than needed by introducing channelization, adding bikes lanes, shoulders, and traffic circles to reduce vehicle speeds.
 - Work with local transit providers (e.g., Rockland Coaches, Metro-North, etc.) to expand and improve transit service.
- **Goal: Promote sustainable development and plan for climate resiliency.**
 - *Objectives/Strategies*
 - Identify and develop mitigation plans for areas at high risk of flooding, including making improvements to public infrastructure (e.g., sewers).
 - Increase the use of renewable energy for Town facilities.
 - Encourage the use of green building technologies for new development projects and retrofits by offering incentives (including streamlined approvals).
 - Encourage the installation of EV (electric vehicle) charging stations in public areas.
 - Review and update local regulations to promote resilient construction practices, manage stormwater, and reduce flooding.
 - Update the Town's tree preservation ordinance (Chapter 35, "Trees and Shrubbery") which was last updated in 1973, to establish most robust preservation regulations.
 - Build on the success of the Town's Community Choice Aggregation Program and provide additional Town incentives for green energy such as fast-tracked approvals and tax incentives.
 - Create and enforce regulations to limit noise and air pollution coming from light industrial zoned areas, especially those close to residential neighborhoods.
 - Revisit goals of the 2002 Route 303 Sustainable Development Study.
 - Apply for grants, such as the New York State Climate Smart Communities Grant, to implement sustainability objectives and prepare a Climate Action Plan.
- **Goal: Preserve the Town's natural resources and increase access to parks and open space.**
 - *Objectives/Strategies*
 - Encourage preservation of open space through flexible/conservation subdivisions which cluster new development to preserve larger contiguous areas of open space.
 - Work with the New York State legislature to establish a preservation fund that can be used to acquire property for open space, recreation, or historic reservation.
 - Establish a long-term open space preservation plan to guide the implementation of the Town's open space fund.
 - Encourage conservation of waterfront areas, lakes, wetlands, steep slopes and other natural assets.

- Implement the plans for a waterfront park on Lake Tappan within the 216-acres of Town-owned land at the Rockland Psychiatric Center, including walking trails, wheelchair accessible trails, and access to water for passive recreation activities.
 - Encourage conversion of inactive rail lines into rail trail facilities to develop a network connecting with trails in adjacent municipalities.
- **Goal:** Provide a healthy economic environment for community-based businesses that maintain the Town's tax base and provide jobs and services to the Town's residents.
 - *Objectives/Strategies*
 - Encourage small businesses and support downtown revitalization by exploring grant and funding opportunities.
 - Encourage small businesses that add to the vitality of hamlet centers by providing cultural, recreational, and entertainment amenities desired by the community.
 - Utilize placemaking strategies such as annual community events, pop-up holiday markets, farmers markets, public art, and live entertainment to draw residents and visitors to the community, patrons to local businesses, and to activate the public realm.