



August 29, 2017

Chairman Jay Sheers
and Members of the Planning Board
City of Beacon
1 Municipal Plaza
Beacon, NY 12508

**Re: The Edgewater Project – School Impact Study – Response to
School District’s Legal Counsel’s Letter**

Dear Chairman Sheers and Members of the Board,

We appreciate your Board’s diligence in evaluating the potential impacts of The Edgewater on the Beacon City School District. To that end, in addition to the initial School Impact Study dated June 22, 2017, and the supplemental letter dated August 8, 2017, prepared by our office, we submit herewith a response to the letter submitted to your Board dated August 7, 2017, from Judith Mayle, Esq, of Thomas, Drohan, Waxman, Petigrow & Mayle, LLP on behalf of the Beacon City School District.

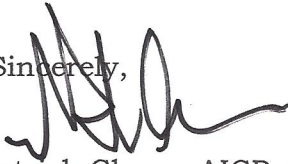
Attorney Mayle's letter offers no documentation, data or analyses to refute the findings in our report, but simply sets forth a rambling list of disputatious remarks, many of which lack relevance to the issues at hand. The letter is also replete with false characterizations of the Cleary School Study and repeated gratuitous insults. We regret that the School District rejected the alternative of constructive dialogue.

The central point is this: It is universally acknowledged that Transit Oriented Developments offer a range of benefits, minimize adverse impacts and generate far less school-aged children than traditional multi-family apartments, and that traditional multi-family apartments generate far less children than single-family developments. The school district has not offered a single study to refute the fully documented projections established in the School Study or establishing that TOD development generates more children than the conservative figures presented in our report to your Board.

To assure that this Board has a complete record, we have attached as an Appendix a detailed response to each of the statements in Attorney Mayle's

letter, even though we believe that the statements are unsupported and, in many instances, totally irrelevant to the issues before the Board.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick Cleary', with a stylized, flowing script.

Patrick Cleary, AICP, CEP, PP, LEED AP
Cleary Consulting

cc: Rodney Weber, Scenic Beacon Developments, LLC
Taylor Palmer, Cuddy & Feder

APPENDIX

1. Attorney Mayle advises that the School District is an Interested Agency under SEQRA. (Letter, page 1)

The applicant has no objection. SEQR defines an “interested agency” as “an agency that lacks the jurisdiction to...approve...an action but wishes to participate in the review process because of its specific expertise or concern about the proposed action.” 6 NYCRR 617.2 (t) This section further provides that an interested agency “has the same ability to participate in the review process as a member of the public.”

2. Attorney Mayle asserts that our office did not contact the School District. (Letter, page 1)

This statement is, in fact, incorrect. Our office reached out to the School District on several occasions. On May 30th, 2017 and June 6th, 2017, telephone messages were left at the District office, which were not returned. Our office subsequently followed-up with email requests, to which we have received no reply¹. It is inappropriate for the District’s Attorney to attempt to ascribe “significance” to an untrue claim.

3. Attorney Mayle claims that the Cleary School Study is based on “unsubstantiated anecdotal information and/or subjective conclusions.” (Letter, page 1-2)

The essential claim in the School District’s letter is that the critical analyses and findings in the Cleary School Study are based on “unsubstantiated anecdotal information and/or subjective conclusions.” This claim is refuted in the Study itself. All of the references in the Study are properly cited, and reflect appropriate sources, which include the United States Census Bureau, the New York State Education Department, the Rutgers University Center for Urban Policy Research, Edward J. Bloustein School of Planning & Public Policy, and the Beacon City School District’s own website. There is absolutely no anecdotal or unsubstantiated information included in the Study.

4. The author of the comment letter attempts to make an argument that Transit Oriented Development project, such as The Edgewater are “ideal to attract young families with children.” (Letter, page 2)

This comment reflects a complete and fundamental misunderstanding of Transit Oriented Development (TOD), and reveals the School District’s bias reflected throughout the comment letter.

¹ A copy of the email correspondence to the School District is available for review upon request by this Board.

TOD has been employed for decades. Numerous examples of successful TOD projects exist throughout the region, and nationally. Without belaboring the point, empirical evidence clearly demonstrates that TOD projects are generally not attractive to families with children.

Attorney Mayle summarily states that “this is not the case.” But her denial is refuted by the very authority she cites. The Center for Transit Oriented Development (CTOD) recently found it necessary to produce a report² making suggestions on how to modify traditional TOD projects to *improve* opportunities for families with children. This report was produced in response to the recognized fact that TOD projects typically do not attract families with children. The CTOD notes that “*TOD projects have catered more to young professionals, empty nesters or other households without children, as these have been seen as the strongest market segments for transit-oriented housing.*” Arguing that TOD projects are generally attractive to families with young children is simply unfounded. There is also nothing in the Pace Land Use Law Center Study that refutes the fact that TOD projects generate far fewer school aged children.

Attorney Mayle asserts that the Cleary School Study did not clearly articulate the amenities lacking in a TOD that would encourage families with children to select other housing types within a community. Families with young children prefer amenities including lawn areas for children’s play that are in close proximity to the indoor living space, private lawns that can be fenced in, providing opportunities for family supervised play, generally larger and more private living spaces, and proximity to other families with young children. These amenities are generally found in one-family or two-family houses in neighborhoods of similar type housing, rather than in multi-family or TOD neighborhoods which don’t provide private yards, or a direct connection between indoor living space and the outdoors, and provide limited storage space.

Attorney Mayle’s claim that families will move to a TOD simply because it has 2-3 bedrooms misses the point, and the details of floor plans are irrelevant. Even the larger units in a TOD lack the private yard, the direct proximity, and the greater likelihood of young children living nearby that a one-family or two-family neighborhood brings. The TOD project has been designed to reflect the needs and desires of young professionals, couples and empty nesters – *lack* of yards to maintain, smaller spaces to maintain--and this is reflected in the types of amenities proposed, and the overall appointments of the development.

The remaining points in this section, which make the point that the City of Beacon is attractive to everyone, including families with young children, simply ignores the controlling fact that young families coming to Beacon will be attracted to housing types other than a TOD. Attorney

² *Families and Transit Oriented Development, Creating Complete Communities for All, Center for Transit Oriented Development.*

Mayle states that Beacon affords easy access to recreation, arts and culture of the Hudson Valley and New York City – which makes it ideal to attract young families. For the very same reasons the area is attractive to young people, couples and empty nesters. The relevant point is that the differing demographic types will be attracted to different types of housing.

Similarly, to the extent that families are attracted to Beacon because of the qualities of the Beacon City School District, the relevant point is that these families will be attracted to neighborhoods other than The Edgewater TOD. In a point of fact, the Beacon City School District ranks 6th among Dutchess County’s 16 school districts, and 393rd in New York State³:

- Spackenkill Union Free School District – Ranked 128th
- Rhinebeck Central School District – Ranked 147th
- Pawling Central School District – Ranked 251st
- Millbrook Central School District – Ranked 259th
- Wappingers Central School District – Ranked 365th
- Beacon City School District – Ranked 393rd

If the quality of schools does in fact play a pivotal role in housing choice, other districts in the County, and numerous others in the region, offer higher state rankings than does the Beacon City School District. However, the relevant point here is that families with young children moving to Beacon will tend to be attracted to housing types other than the Edgewater TOD.

5. Attorney Mayle’s claims that the reference to the Urban Land Institute report to document TOD trends is “disingenuous.” (Letter, page 3-4)

The Cleary School Study referenced the ULI report because that report was published by a prominent national urban planning organization, and was done so to demonstrate a national trend. It is obviously recognized that the City of Beacon is not the Baltimore – Washington D.C. metropolitan area. While Attorney Mayle painstakingly points out a host of differences between the City of Beacon and the Baltimore – Washington D.C. metropolitan area, the relevant point for this analysis is that both settings offer a similar range of housing types for families moving into the area, and the factors that influence those choices are similar. There is thus no basis for her dismissal of the reports conclusion that *“TOD places less of a burden on local schools.”* The ULI report absolutely justifiably reaches that conclusion. The findings of the report are irrefutable, and its selection as a reference is entirely appropriate as a nationally recognized reference. The findings in the ULI study are consistent with all the other studies referred to in the initial Cleary School Study, and with the actual data verified from projects in

³ New York State Department of Education

the Hudson Valley Region, as provided in our August 8, 2017 supplemental letter.

Attorney Mayle next attempts to disqualify the very clear conclusions of the U.S. Census Bureau's American Housing Survey that single family homes generate far more children than apartments do-- 64 school aged children per 100 homes verses 21 school aged children for multi-family apartments—based on a claimed need for details about number of bedrooms in a unit, definitions of the terms, and population growth. This is attempting to avoid seeing the forest by quibbling about the trees. Every single study that has ever been done on the comparison of school children generation disparities based on housing type has come to a similar conclusion. Having cited not a single study coming to a contrary conclusion, Attorney Mayle should not be heard to simply dismiss the overwhelming weight of authority by her own fiat.

Attorney Mayle next attacks the conclusion in the Cleary School Study that the Beacon's population is below its peak, and aging. Those findings simply referenced the demographic conditions in the City as recorded by the US Census Bureau. They are facts. The author's unilateral pronouncement that the demographic data is wrong by stating, "*the age of 39 is not old*" is yet another example of enshrining subjective opinion above well-accepted demographic facts. 39.6 is the median age of Beacon's population, which is older than the median population age in the NY Metropolitan area, and New York State as a whole. These are the facts. In a publication summarizing key demographic trends across the United States, the Center for Public Education identifies as its first trend - "*We are growing older – the median age on the United States has reached 37.6 years of age, up from 35.3 years of age in 2000.*"

The author also states that at 39 years of age, individuals are still of childbearing age. This again emphasizes less relevant facts at the expense of the more relevant. The mean age of first birth is actually 26.4⁴ year of age. And far more relevant are the proven trends concerning choice of housing types by parents of young children. They tend *not* to choose TOD's.

6. Attorney Mayle finds fault with the comment that some potential future residents in The Edgewater may already reside in the City of Beacon. (Letter, page 4-5)

The initial Cleary School Study noted that some future residents of The Edgewater may already reside in Beacon. The comment was offered as a logical assumption – and no credit against estimated number of students was taken for it, nor was any finding in the Cleary School Study based on it. Attorney Mayle nonetheless finds it necessary to characterize this observation as "highly speculative," while at the same time promoting an

⁴ Centers of Disease Control and Prevention, National Center for Health Statistics

equally speculative view that any vacated house would certainly be occupied by new students. Neither type of speculation is appropriate.

7. Attorney Mayle acknowledges the decline in enrollment but nonetheless maintains that the decline will soon be reversed (Letter, page 5)

The author questions the source for the enrollment numbers presented in the initial Cleary School Study. The source was cited in footnote 2, and, to repeat, was the New York State Education Department's Student Information Repository System (SIRS).

The author then goes on to continue to attempt to discredit the study by stating *"However, even if one were to conclude that there has been a decline in enrollment in the District, a cherry-picked study does not support the theory..."* The conclusion that there has been a drop in enrollment is indisputable, and was documented by annual data provided by the NYS Department of Education. It is inconceivable that the District's attorney would imply that this data is subject to any other interpretation or was "cherry-picked."

Attorney Mayle concedes that the population of the Hudson Valley has been falling, but seems to take exception to the proffered explanations that the decline in enrollments are due to factors such as declining family sizes, an ageing population the availability of contraceptives, and prefers to credit the loss entirely to loss of jobs in New York. Similarly, Attorney Mayle concedes that the enrollment in the District has declined over the recent years, but nonetheless argues that this decline could not possibly be linked to the above demographic trends, which she labels "illusory." Instead, she attributes all population declines solely to loss of jobs, and simplistically argues that the decline will soon end because "these factors can and are being addressed by local communities to encourage residential migration back to this area." (Letter page 5) We submit that the demographic trends discussed in the original Cleary School Study are accurate, and also agree that the economic climate in New York exacerbates these trends.

The arguments about demographic causes of the downtrend are less relevant than the fact that there is a downtrend, which is factually documented. Equally significant is the controlling point discussed in earlier sections that families with young children –to the extent that they do move to Beacon—will be unlikely to choose The Edgewater TOD as a place to live. Attorney Mayle offers no data to refute this primary point.

Attorney Mayle asserts (Letter, page 5) that the Study omits data regarding the financial impact of the development. A fiscal impact analysis of The Edgewater was provided in the original Cleary School Study, which documented that the project would result in a significant annual tax surplus for the Beacon City School District. Even if the

cumulative impacts of other potential new development were factored in, the proportional impact of The Edgewater is minor.

8. Attorney Mayle questions the use of the Rutgers multipliers, (Letter, page 6)

Attorney Mayle acknowledged (letter page 6) that the Cleary School Study stated that the Rutgers multiplier overestimates school children generation, but goes on to indicate it was done “*without cited justification.*”

While numerous sources exist to demonstrate that the Rutgers multipliers overestimate school children generation rates, the most useful are perhaps the various Environmental Impact Statements and School Impact Studies produced for large scale development projects throughout the region, where actual school children generation numbers are compared to the Rutgers multiplier. Some examples of actual school children generation rates of larger projects in the region, similar in size to the Edgewater Project are presented below:

ACTUAL SCHOOL AGE CHILDREN RESIDING IN SELECTED COMPRABLE MULTI-FAMILY DEVELOPMENTS				
<i>Development</i>	<i>Location</i>	<i>Number of Units</i>	<i>School Age Children</i>	<i>Ratio</i>
Marbury Corners	Pelham	66	3	0.045
Avalon Willow	Mamaroneck	227	15	0.066
Bank Street Commons	White Plains	502	10	0.020
Avalon White Plains	White Plains	407	15	0.037
One City Place	White Plains	311	14	0.045
Avalon at Greyrock	Stamford	306	11	0.036
Avalon at Stamford	Stamford	328	8	0.024
The Boulevard	Stamford	94	1	0.011
<i>Average Ratio</i>				<i>0.04</i>

If the average actual school children generation rate from these projects were utilized (0.04 children/unit), The Edgewater would generate 13 school-aged children rather than the conservative projection of 47 students derived from utilizing the Rutgers multiplier, used in the Cleary School Study.

Additionally, a survey of multi-family projects in the City of Beacon was conducted to ascertain actual school children generation numbers from those existing projects. While those projects are not TOD projects similar to The Edgewater, they do provide data on actual conditions in the City of Beacon today, and afford a useful gauge regarding the veracity of the Rutgers multiplies.

The following table presents the actual number of school-aged children residing in a number of multi-family developments in the City of Beacon.

ACTUAL SCHOOL AGE CHILDREN RESIDING IN SELECTED COMPRABLE MULTI-FAMILY DEVELOPMENTS IN THE CITY OF BEACON				
Address	# Units	Unit Type	Workforce Housing	# School- Aged Children
182 Main Street	5	One Bedroom	No	0
490 Main Street	6	4 One Bedroom 2 Studio	No	0
494 Main Street	5	1 Two Bedroom 4 One Bedroom	No	0
518 Main Street	10	1 Two Bedroom 3 One Bedroom 6 Studio	No	0
544 Main Street	14	2 Two Bedroom 7 One Bedroom 5 Studio	No	0
37 Tioronda Avenue	2	1 Three Bedroom 1 Two Bedroom	Yes	1
25 East Main Street	4	2 Three Bedroom 2 One Bedroom	Yes	4
Edgewater	6	6 Two Bedroom	Yes	3
50/52/54 Leonard Street	74 (49 rented to date)	25 Two bedroom 24 One Bedroom	No	0
1 East Main Street	19	1 Three Bedroom 6 Two Bedroom 12 One Bedroom	No	1
11 Creek Drive	6	3 Three Bedrooms 3 Two Bedrooms	No	0
Total Units	126		Total Children	9
Average Ratio				0.071/unit

If the average actual school children generation rate from these projects were utilized (0.07 children/unit), The Edgewater would generate 22 school-aged children rather than the 47 students previously noted.

However, perhaps the definitive source for this position comes from Professor David Listokin, one of the original authors of the 2006 Rutgers study cited above. Professor Listokin revisited the multipliers utilized in the original study by analyzing communities in New Jersey, and concluded “*The practice of using the existing Rutgers multipliers produces an overstatement of the population generated by new development in New Jersey, especially housing with a strong transit orientation and infrastructure in place.*”⁵

⁵ *Who Lives in New Jersey Housing – A Quick Guide to New Jersey Residential Demographic Multipliers*, David Listokin, 2010.

Attorney Mayle also questions why a select multiplier (to wit: the highest multiplier) was used, which generated the fewest school age children of the range of possible multipliers. This multiplier was selected because it is the variable that suits the facts in this case and is therefore the correct and accurate variable. The units in The Edgewater are proposed as market rate, and will rent above the highest value variable in the Rutgers model. Therefore, the multiplier for the highest value was used. The Rutgers formula employs three variables, size of the project (number of total units in project), number of bedrooms in units, and overall project value. The values documented in the Rutgers formula table, were housing values from 2006. Of course, that numerical value would change over time. However, the number is essentially unimportant. What is relevant is the *ratio* between housing prices. Instead of actual housing costs, the values of “High” “Medium” and “Low” could have just as easily been employed. Based on the range of values offered, the multiplier chosen for the project is the one that suits the facts in the case.

The author suggests that a lower value should be used, but gives absolutely no reason why that would be more accurate. The fact that rents are set by the project owner certainly does not dictate that the lowest possible rent be assumed. It appears that the reason Attorney Mayle is arguing for a lower value multiplier is simply because it would result in a calculation that predicts more school aged children, a self-serving, but inaccurate, result.

9. *The use of instruction costs to predict fiscal impacts. (Letter, page 6)*

Ms. Mayle disputes the Cleary School Study’s analysis of fiscal impacts primarily by gratuitous insult to the author of the study. It is axiomatic that one can take a snapshot view of a School District at any time and calculate the “cost-per-student” by dividing the entire school budget by the number of students. This provides a simplistic figure, dividing costs *according to* the number of students. Similar calculations could be run based on other factors, such as cost per average taxpayer, cost by city as compared to outside-city areas within the enlarged district, costs by grade, etc.

But the snapshot calculation “by number of students” does not actually mean that it actually costs that dollar amount to educate any particular student. It certainly does not mean that adding a new student to the District would increase the District’s budget by the same amount as any given snapshot calculation of “cost-per-student.” Nor does it mean that losing a student would decrease the budget by the same amount as such snapshot calculation of “cost-per-student.”

To focus on the potential for increased District costs based on potential student increase, it is essential to focus on the distinction between overall budget costs versus instructional budget costs. As explained in the initial Cleary School Study, there are numerous fixed school district

costs that *do not* change if enrollment increases (or drops). For example, cost related to electricity consumption, heating and cooling buildings, maintenance and buildings and grounds costs, administrative staff expenses, debt service, among many others do not vary with the number of students enrolled.

This is why the New York State Department of Education's Fiscal Accountability Summaries for all districts, including the Beacon City School District, specifically calls out instructional costs as separate and distinct from overall district costs. This is a basic and fundamental element of school district fiscal and demographic analysis.

10. Attorney Mayle disagrees with the projected tax generation documented in the study. (Letter, page 6)

Attorney Mayle incorrectly states that the Cleary School Study indicates that the project will be assessed at \$60 million. In fact, the report notes that the Edgewater is projected to have a market value of \$60 million. The calculation of taxes is based on the City of Beacon equalization rate of 100.00 and a school district tax rate of 21.9 per \$1,000 of assessed valuation. The author tosses about the colorful phrases that this is a "hypothetical assertion" that will create "illusory windfall of tax revenue" that is based on "no factual information" or "alleged revenue enhancement." Following the pattern employed throughout the letter, the author attempts to discredit the study by saying it is not properly documented (even though the documentation and citations were provided), while failing to offer any countervailing support for her statements.

The author criticizes Table 8 in the study by once again asserting the conclusory and unsupported claim that the number of projected school aged children is not accurate. On this point we agree, although the Applicant maintains that the numbers are *exaggerated* and *overstated*, rather than understated. The Applicant's School Study has elected to utilize the far more conservative school children generation number calculated utilizing the Rutgers multipliers – rather than a more accurate number based on actual school children generation rates from similar TOD projects. As noted in #8 above, if the *actual* school child generation rates from existing multi-family projects in the City of Beacon were utilized (0.07/unit), The Edgewater would generate approximately 22 school aged children. If the ratio from other comparably scaled and configured TOD projects in the region were utilized (0.04/unit), the project would be expected to produce 13 school aged children – and not the 47 students used in the Cleary School Study.

The valuation of the project is also questioned, with no basis and no suggested alternate valuation.

The net surplus presented in the Cleary School Study is neither unreliable nor does it depict an artificial windfall to the district.

All of the information used in the study has been documented and properly cited as to its source. Attorney Mayle does not provide any contrary data, documentation, or statistics to refute the conclusions reached in the study, but simply repeats the same self-serving, though totally conclusory statements.

Attorney Mayle's argument that "... *even if for the sake of argument, we presume the tax levy for the City of Beacon impacted by the project may decrease, the levy in other areas could increase*" is inexplicable, and has no nexus to the fiscal impact of The Edgewater.

The author states that the fiscal analysis should be projected over a period of 10 years. No basis is offered for this unreasonable request?

The author also claims that the District may experience a decrease in state aid due to additional housing – which would increase the City's assessed value. The author states that this would "*cause the District to appear wealthier than it actually is.*" Of course, this fails to recognize the fact that if indeed the assessed value is increased, the District, would be wealthier.

11. The summary

Attorney Mayle's summary reinforces the lack of any basis for the claims and distortions made therein. It calls the study a "*shameful and self serving manipulation of the facts and information.*" What the study actually does is present well-documented facts and information. Attorney Mayle has, without any support, contrary facts or documentation, attempted to attack the reports findings and conclusions merely by insulting its author.

Remarkably the letter concludes by stating that "...*while the District may be able to physically absorb a certain amount of students without increasing its building footprint, the Study blindly ignores the obvious – an increase in the student population will correspondingly increase operational costs and adversely impact the district.*" While the additional school-aged children generated by The Edgewater that attend the Beacon City Schools will proportionally increase instructional costs these additional costs – which have been overestimated to provide the District with a conservative projection, will be offset by new tax revenue generated by the project that will more than cover the costs to educate the new students, resulting in a significant financial surplus for the District.