



TOWN OF AMENIA

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Amenia Town Clerk

JUL 23 2015

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Planning Board Minutes
6/24/15

Present:

Norm Fontaine-Chairman
Tony Robustelli
Peter Clair
Nathan Roy
Bill Kroeger
John Stefanopoulos

Consultants:

David Everett-Town Attorney
Julie Mangarillo-Town Engineer

Absent:

Erich McEnroe

Motion to open meeting-7PM

Monte's Health Food Store "Nut Hut"

John Lomitola presented for Monte's Health Food Store. No food preparation will take place on premises. All food will be pre-packaged. The retail store will include items such as organic sustainable, gluten free products, drinks, snacks, and nutritional supplements. Mr. Lomitola displayed a potential idea of what the shelving inside the store will look like. Chairman Fontaine reviewed which building will hold the health food store. Mr. Lomitola also reviewed the available parking. Sitting tables will not be available; instead there may be some shelving for placement of purchases. It will perform as a "grab and go" market. A friendly, hospitable, family oriented place is their goal. Town Engineer, Julie Mangarillo reviewed her comments. Parking requirements may be met with the off street parking and the designated spots in front of the store. There will be no exterior renovations. All minor renovations will be interior. The awning will contain there

signage. Board member Bill Kroeger recused himself from this application stating conflict of interest. There will be no fresh produce sold on the property. Reviewed signage information. Attorney Everett requested that the survey of the property be submitted as it will be helpful as use for a site plan. The applicant has applied through Ag and Market. A county referral will need to be done for this application. Attorney Everett recommended that a letter be sent to the Dutchess County Department of Planning and Development that will exempt small applications that would have no impact on the county. A public hearing will need to be held for Monte's. A mockup of the sign will be required.

Nano Brewery discussion

Jeff Barnett-Winsby was not present. Discussion commenced about the septic system. J. Mangarillo expressed the concern of the brewery by product will be going into the existing septic system. At this point the applicant had no information provided that proved the existing septic can handle the waste. The alternative is to install an independent system with independent piping from the brewery room to the septic. This would be pumped out regularly and taken away. A formal positioning of the septic displayed on the survey is being requested. The proposed septic system will be 500 gallons below grade and a water level alarm will be installed. Waivers will be needed for this application. This application will need to be referred to the county with the inclusion of the waivers.

Silo Ridge

Chairman Fontaine discussed the Findings statement and stated that he would be in contact with Town Planner, MaryAnn Johnson to have it completed by July 9th. Attorney Everett stated that he will be on vacation the first week in July. The Town will hold a meeting with the Dan Nichols, the fire inspector and the third party inspector on July 10, 2015. Board member referred back to the bonding memo dated June 23rd that was distributed at the meeting. Mr. Torres presented for Silo Ridge discussed the different approaches being considered in the bonding of the landscaping. Attorney Everett stated the Town Law requires a bond for required landscaping. The planning board has the right to waive if they choose to do so. Silo would like to bond specific landscaping. If all landscaping is required to be bonded Mr. Torres states that the landscaping plan may need to be adjusted. Mr. Torres also states the bonded landscaping will be the ones that are visual to town and the habitats next to water bodies. Attorney Everett explains that a detailed site plan that includes landscaping is seeking approval. Once site plan is approved the applicant must follow it subject to the field change protocol. The landscaping then falls under the "requires" part of the approval. The Change request protocol was briefly discussed. Mr. Torres will be speaking to the Town Planner and

Environmentalist regarding the plantings. It has not yet come to a resolution. Chairman Fontaine asked the board for their agreement in which he will contact the planner to discuss the remaining issues on CRP landscaping plans. He will then forward any information to the board regarding the progress. A determination will need to be made from the board whether to accept the protocol as given or with changes.

Board member Bill Kroeger read in a personal statement regarding Silo Ridge that is attached to these minutes.

Chairman Fontaine discussed a few possibilities to approach the bonding issues. Mr. Torres addressed some outstanding issues that appear to be misunderstood in public comments. Silo is going through the bonding phase and following procedures. The project in Texas, Discovery Land was not an owner but a manager. He states that the project did not go bankrupt. Due diligence is being done by the town in regards to the bonding issues of the project. It was stated that decisions are not made at meetings that aren't held publicly. Planning Board members are continuously urged to attend. Mr. Torres questioned if a response is necessary to the statement board member Bill Kroeger read to the board. Attorney Everett replied that it is up to the discretion of Silo. Mr. Torres reviewed the history of the gun club relationship with Silo Ridge. Mr. Torres proceeded to describe a timeline of the events in which ammunition had struck some of their property. According to Mr. Torres, it was founded that the gun club is not compliant with best management practices. Mr. Torres explained that meetings were held and it had been decided that an underground shooting range would be built at the expense of Silo. As it stands, the Amenia Fish and Game application is not in front of the Planning Board. Silo Ridge has decided to move forward and build a protective wall around their property and place it on the site plan. Mr. Torres stated that Silo Ridge cannot take the environmental responsibility for something they do not own nor create. Mr. Savoy, a member of the gun club stated that the gun club would take full responsibility for environmental contamination on their property. Mr. Savoy and Mr. Torres had a public discussion about inconsistencies in the negotiations. Chairman Fontaine requests that a meeting take place between the Amenia Fish and Game and Silo. Once an agreement is reached, the planning board can be approached. Attorney Everett questioned a time frame extension that had been requested with it in written form from applicant. Attorney P. Wise will be contacted by Silo. The SEQRA Findings are proposed to be submitted by July 8th. Chairman Fontaine stated that Silo review them once received and submit any comments. The conservation easement findings will be a new section to be reviewed. It will reflect a summary of items that have been previously discussed. A public comment regarding Silo Ridge's well testing was asked. A formal response was previously given from Silo. That specific well will only be used for irrigation and emergency use only if needed. The DEC and DOH have previously

reviewed this matter. The response from Silo's hydrogeologist has been submitted to the town.

Motion to approve 5/27/15 minutes-all in favor.

Motion to close the meeting 8:26 pm

Respectfully submitted,


Larissa DeLango

The foregoing represents unapproved minutes of the town of amenia planning board from a meeting held on 6/24/15 and are not to be construed as the final official minutes until so approved.

approved as read
 approved with: deletions, corrections, and additions.

Bill Kroeger

Wednesday, June 24, 2015

Silo Ridge Reservations – Reasons for a SEQR Positive Declaration and for denial of Silo Ridge/Discovery Land Company's application before the planning board.

These comments fall into one, two or all of three categories. Some address, in what I hope is a substantive fashion, Silo Ridge/Discovery Land Company's proposal for a residential community and golf course on Delavergne Hill. Others discuss opportunities for intervention that have been missed by Amenia's planning board. Still others locate planning board positions or policies that have inhibited the evaluation process. In all cases, the parties involved are known to everyone; I make no attempt to single anyone out or to instigate personal attacks. Many of my observations reflect concerns expressed by citizens of Amenia and recorded in their public comments.

During every step of this process, I have attempted to express reservations about both the substance of Silo's application and the method of our review, as film footage clearly shows. At a certain point, more comment merely lends credibility to an otherwise compromised process without contributing to a productive dialogue.

1) THE ZONING CODE:

The zoning code makes an exception for resort overlay districts, in that it allows the planning board to offer leeway with regard to certain specific zoning regulations (§121-18C). In many cases, the board, and seemingly our attorney, have interpreted this leeway as nullification of the code, or a statutory prescription that the code is inapplicable, whereas the exception actually offers us discretion. The purpose of the RDO District, as clarified explicitly in section 121-18, "is to provide use and design flexibility to encourage resort development that fits into the rural character of the Town and protects its scenic, historic, and environmental resources." The code thus requires us to consider these criteria in determining whether any resort application will have a beneficial effect.

Thus far, our planning board has chosen not to apply these criteria systematically or to make proactive decisions about the Silo Ridge application. Instead, the board's attitude has been that the RDO exception provides the applicant with inviolable rights, limiting the board to cursory, quantitative consideration of immediate dangers and prohibiting us from evaluating the project in terms of its overall impact.

Specifically, Silo Ridge has applied for waivers to zoning restrictions, citing §121. First, Silo no longer offers a hotel, arguably changing its resort status, because it will no longer bring the level of tourism to town that the Comprehensive Plan exception was designed to facilitate. Secondly, our comprehensive plan/zoning law is not simply a list of codes and rules, but a guide to what shape development should take, and how it should change Amenia. Silo's proposal violates the

spirit of this plan, which attempts to encourage vibrant town centers and balanced, mixed-use development (Amenia Zoning Law, Article I: Title, Scope, and Purposes).

It is our obligation to ask what social impacts this neighboring community will have on the town of Amenia. For example, the project will be a gated conglomeration of residences, not a resort with public patrons, as originally planned. The concept of a gated development, emblematic of wealth insulated from its surroundings, conflicts with the character of our town, which is based on a rural equality rooted in farm life and mutual interdependence. By reifying class and geographic distinctions as physical boundaries within town borders, gated communities recode town space into categories of exclusion: a gated golf course would make Amenia into a grid of separation, division, and prohibition. Silo Ridge has made no attempt to explain how its architectural approach would ameliorate this social clash; Silo's buildings do not fit in with Amenia's rural agricultural aesthetic.

Silo asks us not to worry about these issues because it will bring income to the town. Notice, however, that the Silo "Town Center" plan proposes to duplicate local amenities (e.g. shopping, farmer's market, neighborhood), rendering current farms/retail providers/restaurants redundant, and discouraging wealthy new residents from leaving their protected enclave.

2) UNRESOLVED ISSUES:

A number of public concerns have not yet been addressed, or have not yet been fully resolved. First, I refer to John Duffy's public comment of October 20, 2014, which outlines specific bonding requirements. Mr. Duffy also cites Discovery Land Company's involvement in the Spanish Oaks fiasco, which I think speaks to the applicant's overall credibility. I am encouraged by a memo dated June 23, 2015, sent by planning board attorney Dave Everett and the planning board consultants, reiterating the need for adequate bonding and delineating the shortfalls of Silo's current bonding proposal. I am hopeful that this issue will continue to receive proper attention.

However, I consider it a red flag that Silo's proposal, yet again, has all the earmarks of lowball negotiation and minimal compliance. Although everyone has financial concerns, this is not a Wall Street corporate back room where, increasingly, charlatanism is an accepted cost of business. We are a local, rural community: we expect people who want to do business here to treat us with respect and consideration. If this company acts so selfishly now, how will they act when the deal has gone through?

Numerous public comments have addressed the issue of steep slope waivers (§121-36). While safety is certainly one issue, compliance with code regulations is another. What limits govern our willingness to make exceptions for this project?

A more central issue for me is the project's environmental impact, including its effect on water resources. Silo proposes to build directly above the aquifer. Also, Silo has recently modified its proposal by moving its wastewater treatment plant to comply with DEC instructions. At the very least, this reorganization must entail further review under SEQR. Moreover, the impact of 100-

year floods has not been clearly established. As climate conditions change and weather events become more frequent, it behooves the applicant and the board to consider additional impacts. Specifically, when golf-course chemicals and residential waste flow off, they will flow downstream via Cascade Brook to the hamlet of Wassaic. What will be the impacts for drinking water and flooding conditions in that hamlet?

Silo's relationship with neighbors like the Amenia Fish and Game Association are an open issue. Proximity to a shooting range could threaten Silo's client base, so agreement about modifications to the Fish and Game property and notification of potential clients is essential. Amenia must consider what its own liability would be if unhappy Silo clients decided to claim they didn't know the gun range was so close.

3) PROCEDURAL ISSUES:

The planning board has in all instances assumed support for the project; at times Silo principals and board representatives have alluded to their perception of this public consensus as a reason for not taking the requisite hard look. Ironically, when citizens have voiced concern or resistance, the same planning board members have hidden behind a supposed formal legality (and their skewed interpretation of applicant property rights) as their reason for ignoring such concerns. I hope that this segment of my statement will be seen as impartial and not personal – it is, in my opinion, a clear objective fact: in tone and demeanor, the planning board representatives have shown derision bordering on scorn for dissent and public discussion – an attitude that discourages, if not prohibits, the public conversation it ought to be fostering.

For example, we conducted a visual analysis test to determine whether the proposed estate homes would be visible from old route 22 or Depot Hill. The procedure for this experiment was as follows: the applicant put up tarps that approximated the sizes of the proposed buildings, and concerned citizens had the opportunity to look and see whether the tarps were visible. As I reported, and as others clearly saw, at least two (I saw three) houses were not only visible but prominent for a long stretch of the road and from a vantage point on the hill.

The scientific method would involve drawing conclusions based on the data this test produced; instead, board members assured me (and the public) that the test tarps were not really representative of the proposed housing, because the houses will be a different color.

This answer is problematic, first because it completely contravenes the purpose of a scientific experiment to create new conclusions that are unrelated to your data: if the houses will be less visible than the tarps, why place stock in the experiment to begin with? Moreover, such a response draws a clear line demarcating who is making this decision – it is those who have access to the developer's private plans for the future, not a public who is drawing conclusions based on visible evidence.

Secondly, the answer is problematic because it is difficult to believe. During our tour of the site, Silo representatives showed us these proposed estate home locations, indicating which trees the clients would likely remove to increase visibility of old route 22. It was unclear whether it was

legal to cut these trees, and whether it was legal for board members to discuss and suggest proposed removal (because we were ostensibly not in a meeting), but it *IS* clear that cutting the trees will make the estate homes more, not less visible, than the tarp experiment showed.

Meetings with town consultants have been held (privately) in the Silo offices (I suggested holding these meetings in the town hall, to no avail). This attrition-based approach has been designed to remove possible resistance by consultants, who are being paid (indirectly) by Silo Ridge, and who are surrounded in a closed room by multiple, sometimes argumentative, Silo representatives. Similarly, the contributions of public citizens or planning board members in this context, like a shout in an empty forest, would resound unanswered indefinitely.

These meetings have been organized carefully to follow the letter of open-meeting laws by limiting participation to (at most) three board members, thereby avoiding a quorum. I urge everyone to think about what this means for the spirit of the open-meeting idea, however. We have allowed a very few to represent us, insisted that all substantive negotiation take place in this private, unrecorded and untelevised forum, and then referred to these non-meetings as the actual board deliberations, treating them as precedent. This is exactly the kind of closed-door collusion the open meetings law is designed to prevent.

Silo has appeared numerous times in public meetings, but in each case, they have referred to documents that are still being written. Even directly after submissions (in August 2014 and February/March 2015), Silo owner Pedro Torres and other representatives have opted to assuage concerns by referring to an ongoing process (i.e. "we are fixing that") instead of standing behind their written documents. This has made it impossible for the planning board to take its "hard look."

Answers: The Silo answers to consultant comments and public concerns, distributed in May 2015, exemplify this approach. Apart from the perfunctory assurance of "comment noted," responses show a predilection for referring to other agencies' proclamations as precedent. The attitude is that "this issue has already been decided by another agency" or that "Silo/Discovery is within its legal rights." All answers miss the basic fact that the Amenia Planning board, as lead agency, has *discretion* and *responsibility* to consider these issues on their own merit. In other words, Silo answers tend not to address the substance of the questions, but rather to pass the buck.

4) TRUST:

In its December 4 memo to the Amenia Planning Board, Dutchess Land Conservancy outlined specific concerns and recommendations, including qualitative and quantitative conditions for its acceptance of the Silo Ridge open space easement. This carefully researched memo raised the following issues: respect for the viewshed, open-space protection, estate homes and their effects on steep slopes, habitat and stormwater management and erosion control, lighting, bonding, architecture, and wastewater treatment. **Complete endorsement by the DLC would be a necessary, though not sufficient, condition for approval of this project.** The DLC has a well-

deserved reputation in Dutchess County for its fair, honest, and diligent commitment to open-space protection. The DLC works with many municipalities in our region, and they are a trusted local partner for such an easement. Prolonged or protracted negotiation, involving or leading to other possible conservation easement partners whom we do not know and who are likely to do Silo's bidding, is a tell-tale indication that Discovery Land Company lacks the good will to cooperate with local citizens and the town of Amenia.

Visual Analysis: During the public, televised report by visual consultant George Janes, Silo/Discovery owners and employees acted in a way that can only be characterized as defiantly uncooperative. More generally, Silo's attitude to visual analysis has been that they are doing the planning board (and the town) a favor, and that therefore they, not our consultant, should decide what materials are necessary for review. In fact, they responded to Mr. Janes' substantive request for information with a) direct refusal and b) an attack on his professional track record. They attempted to assert that he was treating them differently: their personal antagonism was not only patently unfair, it also missed the crux of his ongoing professional obligation, which is to assess the specific needs connected to this development. I suggest that Silo's attitude during this kerfuffle indicates how they will treat the town of Amenia after their project has been approved.

Discovery Land Company's past projects in Long Island and the Bahamas are additional indications that this corporation does not adopt an attitude of responsible stewardship for local resources and ecosystems.

5) CHANGING WEATHER AND CLIMATE CONDITIONS:

At the time of our current evaluation in June 2015, the fact of climate change has been accepted by every major deliberative scientific commission. According to the Intergovernmental Panel on Climate Change's *2014 Synthesis Report for Policymakers*, "Warming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, and sea level has risen" (2). World governments are also in agreement: despite their slowness to act, they recognize the human-made emergency. In fact, with the exception of fringe skeptics who are afraid to look the future in the face, it has become clear to weather scientists that current drought conditions and natural disasters have been at least partially caused by global warming. The most direct impact for us is a water shortage in the United States, which is changing the lives of Californians every day. In its April 14th article titled "Climate Change Caused the California Drought: The Science Behind the Drought is Unquestionable," *U.S. News and World Report* clarifies this process: "Climate change is linked to California's drought by two mechanisms: rising temperatures and changing atmospheric patterns conducive to diminishing rains. The first link is firmly established, and there is a considerable and growing body of evidence supporting the second." Remember that this nation gets many of its vegetables from the Napa valley, which must import water for irrigation, and you will certainly see that this drought is not a regional anomaly, but the harbinger of a national (and global) emergency. Very few places in the United States have fresh water; we in Amenia must see our aquifer as an

increasingly valuable and endangered resource, a fact our zoning law recognizes (§121-15 Aquifer Overlay District).

In this context (which has changed since 2009), to offer studies showing possible drawdown and claiming to remain within maximum use limits, while discharging effluent back into the water table (with or without buffers, swales, etc.), borders on fantastic. Simply, the planning board commits an act of shocking disregard for our future, and for its responsibility to consider the town's environmental sustainability, if it chooses to endanger our water resources in this way.