



TOWN OF AMENIA

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Amenia Town Clerk

MAR 14 2019

Received

TOWN OF AMENIA PLANNING BOARD

Resolution # 5 for 2019

Resolution Approving As-Built Drawings for a Portion of the Sewage Works System Improvements Completed in Silo Ridge Field Club, and Granting a Reduction in Performance Bond for the Sewage-Works System

March 13, 2019

WHEREAS, Silo Ridge Ventures Property A, LLC, having an address at c/o Discovery Land Company, 14605 North 73rd Street, Scottsdale, Arizona 85260, ("SRVP") is the owner of certain real property located in the Town of Amenia, New York, known as tax grid nos. 7066-00-732810, 7066-00-860725, 7066-00-742300, 7066-00-670717, 7066-00-628131, and 7067-00-709177 (the "SRVP Property"); and

WHEREAS, in October 2013, Silo Ridge Ventures, LLC (the "Applicant") submitted applications to the Planning Board to develop a mixed-use resort community on the SRVP Property; and

WHEREAS, a portion of the resort community would also be developed on a portion of an adjoining tax parcel 7066-00-870350 owned by the Harlem Valley Landfill Corp ("HVLC Property") and also located in the Town of Amenia; and

WHEREAS, the resort community includes, among other things, 52 attached condominiums, 159 single-family detached homes on separate lots, 13 townhomes on separate lots, 21 hotel-condominium lodging units, a winery-themed restaurant, an 18-hole golf course, a clubhouse/lodge (with restaurant, bar/lounge and golf pro shop), family activity barn and lake pavilion, fitness spa, yoga center, golf academy, sales center and general store, village green, an "Artisan's Park Overlook," water and waste-water plants, recreational and open space amenities and related improvements to be owned and maintained by one or more homeowner's associations and condominium associations (the "Project"); and

WHEREAS, in connection with the Project, the Applicant applied to the Planning Board for, among other things: (1) an amended Special Permit/Master Development Plan approval pursuant to Section 121-18(C)(3) of the Zoning Code ("Special Permit"); (2) Special Permit approvals for the golf maintenance facility, golf course improvements and waste water treatment plant to be located on a portion of the HVLC Property in the OC Zoning District pursuant to Section 121-10(B) of the Zoning Code; (3) a Site Plan approval for the first phase of the Project including the golf maintenance facility, golf course improvements and waste-water treatment plant ("WWTP") to be located on a portion of the HVLC Property ("Phase 1 Site Plan"); (4) a

Preliminary Subdivision approval and lot line adjustments to incorporate a portion of the HVLC Property pursuant to Chapter 105 (the "Subdivision Law") of the Town Code; (5) Special Permit approval for storage at the golf maintenance facility of more than 500 pounds of fertilizers and pesticides/herbicides pursuant to Town Code 121-15(E)(1); and (6) certain waivers and supplementary approvals under the Town's Zoning Code and Subdivision Law (collectively the "Applications"); and

WHEREAS, the Planning Board, with the assistance of its technical and legal consultants, engaged in a detailed review of the Applications (including all materials submitted by the Applicant in support of the Applications) over a period of two and half years; and

WHEREAS, on July 29, 2015, the Planning Board adopted an Amended and Restated Findings Statement (with mitigation measures) for the Project under the State Environmental Quality Review Act ("SEQRA") (the "2015 Amended SEQRA Findings"); and

WHEREAS, on July 29, 2015, pursuant to Section 105-12 of the Subdivision Law, the Planning Board adopted Resolution 11 of 2015 approving a preliminary subdivision plat for the Project entitled "Silo Ridge Field Club Preliminary Subdivision Plats" prepared by VHB Engineering, Surveying & Landscape Architecture, P.C. dated January 8, 2015 (last revised June 15, 2015) and containing numerous conditions pursuant to the Subdivision Law and Section 276 of the New York State Town Law (the "Preliminary Plat Approval"). The Board also approved the remaining Applications; and

WHEREAS, on July 29, 2015, the Planning Board also adopted the following resolutions among others in connection with the Project: (1) Resolution No. 9 of 2015 entitled "Resolution Approving the Amended Special Permit and Amended Master Development Plan for the Silo Ridge Field Club;" and (2) Resolution No. 12 of 2015 entitled "Resolution Approving Site Plans for Phase 1 of the Silo Ridge Field Club" (collectively with the Preliminary Plat Approval, the "July 2015 Approvals"); and

WHEREAS, the Town Board of the Town of Amenia (the "Town Board") was an involved agency for purposes of review of the Project under SEQRA because the Board has jurisdiction to approve certain aspects of the Project, including, among others, the approval of various project bonds and financial guarantees; and

WHEREAS, on November 19, 2015, after careful review of the Amended SEQRA Findings prepared by the Planning Board, the Town Board adopted Resolution No. 44 of 2015, adopting its SEQRA Findings Statement for the Silo Ridge Field Club in accordance with 6 NYCRR Part 617.11; and

WHEREAS, on or about July 23, 2015, Applicant Silo filed an Amended Petition with the Town of Amenia seeking Town Board consent to the formation of Silo Ridge Water Works Corporation ("Water Works Corporation") and Silo Ridge Sewage Works Corporation ("Sewage Works Corporation"), in accordance with the New York State Transportation Corporations Law ("TCL"); and

WHEREAS, as set forth in said Amended Petition, maps and specifications of the proposed sewage works system, including the proposed wastewater treatment plant (collectively, the "Sewage Works System"), to be owned and operated by Silo Ridge Sewage Works Corporation, were submitted to the Town and to DOH in accordance with Section 117 of the TCL; and

WHEREAS, the Town retained the engineering firm of Rohde, Soyka & Andrews Consulting Engineers, P.C. (the "Town Engineer") to conduct the necessary and required examinations of the engineering plans, maps and specifications for the Water Works Corporation and Sewage Works Corporation, to report its professional engineering opinions on the feasibility and adequacy thereof and on any recommended modification and changes, to report on the costs of construction of the sewage works system and appurtenances thereto, to recommend appropriate bond amounts, and to perform such additional services as may be necessary to comply with the TCL; and

WHEREAS, by letters dated December 7, 2015 and December 15, 2015, the DOH reported on its review of plans, reports, and specifications for the Water Works Corporation and Sewage Works Corporation and determined, among other things, that the same meet the appropriate and applied design standards for sewage disposal and water supply facilities; and

WHEREAS, pursuant to the TCL, Section 119(1), the Town Board shall require the posting of a performance bond for the completion of the construction of the sewage works system and may require the posting of an additional bond or guaranty for the payment of labor and material furnished in the course of such construction; and

WHEREAS, pursuant to Section 105-28 of the Town Subdivision Law, performance guaranties are also required for the completion of sewage system improvements shown on the final subdivision plat; and

WHEREAS, the Applicant submitted to the Town Board a performance bond for the Sewage Works System, which the Town Attorney and Town Engineer reviewed and had the opportunity to make appropriate changes thereto, and subsequently found satisfactory as to form, sufficiency, manner of execution and surety; and

WHEREAS, the Town Engineer issued its letter report, dated December 16, 2015, to the Town Board advising, among other things, that it had reviewed the sewer performance and completion bond for the project, that such bond includes all phases of the proposed construction and incorporates amounts necessary to properly construct and complete the wastewater treatment facility and outfall, as well as the necessary collection system for the entire project, that the total bond amount is \$4,607,538, and that this amount includes all labor, material, and equipment costs necessary to construct and complete a fully-operational wastewater treatment and collection system for the project; and

WHEREAS, on December 17, 2015, the Town Board adopted Resolution 57 of 2015, approving the form of the performance bond for the Silo Sewage Works System Project, as

required by Section 119(1) of the Transportation Corporation Law (“TCL”), in the amount of \$4,607,538; and

WHEREAS, on April 27, 2016, pursuant to Section 105-13 of the Subdivision Law, the Planning Board adopted Resolution 4 of 2016 approving the final subdivision plat for the Project entitled “Silo Ridge Field Club Final Subdivision Plats” prepared by VHB Engineering, Surveying & Landscape Architecture, P.C. dated November 25, 2015 (last revised February 8, 2016) (the “Final Subdivision Approval”); and

WHEREAS, on December 13, 2017, the Planning Board adopted Resolution No. 14 of 2017, granting amended site plan approval for the wastewater treatment plant at the Silo Ridge Field Club; and

WHEREAS, the Applicant submitted as-built drawings (dated June 20, 2018 last revised November 15, 2018), prepared by Northeast Surveying and Mapping (the “As-Built Drawings”), for the Sewage Works System, and requested a reduction in the amount of the performance bond for the Sewage Works System from \$4,607,538 to \$1,175,989 based on the amount of work that has been completed; and

WHEREAS, in accordance with Section 105-28(A) of the Subdivision Law, “the Applicant shall complete all required improvements to the satisfaction of the Town Engineer, who shall file with the Planning Board a letter specifying the satisfactory completion of all improvements required by the Planning Board. For any required improvements not so completed, the Applicant shall file with the Town Clerk a performance [bond] covering the costs of such [remaining] improvements, in addition to the cost of satisfactorily installing any improvements not approved by the Town Engineer. Any such performance [bond] shall be satisfactory to the Town Board and Town Board Attorney as to form, sufficiency, manner of execution and surety. The Applicant shall additionally file a copy of said performance [bond] with the Planning Board;” and

WHEREAS, in accordance with Section 105-28(B) of the Subdivision Law, no required improvements shall be considered to be completed until the installation of the improvements has been approved by the Town Engineer and a map certified by the Applicant's engineer and satisfactory to the Planning Board has been submitted indicating the specific location of all underground utilities as actually installed. The performance [bond] ... shall not be released until the required as-built drawing is submitted and deemed satisfactory by the Planning Board;” and

WHEREAS, the Planning Board has requested that the Town Engineer conduct the necessary and required examinations of the As-Built Drawings and other materials for the Project and to report its professional engineering opinion and recommendation on the As-Built Drawings and the Applicant's request to partially reduce the performance bond for Sewage Works System; and

WHEREAS, the Town Engineer has conducted multiple inspections and periodic field observations of the Sewage Works System during the course of construction; and

WHEREAS, in a letter to the Planning Board dated March 12, 2019, the Town Engineer: (1) approved the satisfactory completion of a portion of the Sewage Works System as shown on the As-Built Drawings; (2) determined that certain required improvements of the Sewage Works System remained to be completed and approved a cost estimate to complete such improvements; and (3) approved the As-Built Drawings submitted by the Applicant which show the completed improvements and the specific location of all underground utilities completed to date related to the Sewage Works System; and

WHEREAS, the existing performance bond should be amended to an amount of \$1,175,989 to cover the cost of completing the remaining improvements of the Sewage Works System.

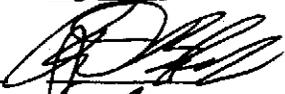
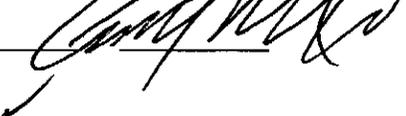
NOW, THEREFORE, BE IT RESOLVED, that the Planning Board hereby deems the As-Built Drawings for a portion of the required improvements of the Sewage Works System to be satisfactory and complete; and

BE IT FURTHER RESOLVED, that the Planning Board hereby approves the reduction of the performance bond to the amount of \$1,175,989 and directs the Applicant to submit an amended performance bond to be reviewed and approved by the Town Attorney and Town Board, for satisfaction as to form, sufficiency, manner of execution and surety. The amended bond shall also be submitted to the Planning Board; and

BE IT FURTHER RESOLVED, that the Planning Board recommends removal of the term of the bond set forth in Paragraph 7 that states "...provided that the total face value of this Bond shall not be reduced to less than 20% of the initial face value of this Bond" to allow for future reduction requests based on the amount of work completed. All other terms and conditions of the bond shall remain unchanged; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be filed in the office of the Town of Amenia Town Clerk within five (5) days of the date of this Resolution and shall be mailed to the Applicant within the same five (5) day period.

The foregoing resolution was voted upon with all members of the Planning Board voting and signing as follows:

| | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> | <u>Signature</u> |
|-----------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|---|
| Robert Boyles Jr., Chairman | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |  |
| Peter Clair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |  |
| John Stefanopoulos | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |  |
| Anthony Robustelli | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |  |
| Matt Deister | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Erich McEnroe

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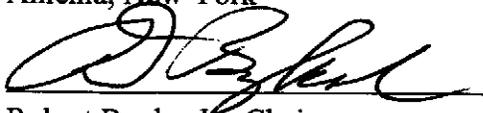
Walter Brett

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Dated: March 13, 2019

Amenia, New York



Robert Boyles Jr., Chairman

Town of Amenia Planning Board