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PUBLIC COMMENT

October 22nd 2014.

To: Town of Amenia Planning Board.

Ref: Silo Ridge Resort Application for Site Plan Review and Subdivision Approval.

Dear Members of the Amenia Planning Board,

Please consider my additional comments here in their entirety, as a matter of record pertaining to the current Site Plan Application by Silo Ridge, and submitted while the Application Public Comment period remains open.

On October 16<sup>th</sup> 2014, at the regular meeting of the Planning Board, held in the Town Board meeting room and televised, the agenda included one topic only, that being the Silo Ridge Application.

In discussion, it was requested by Board member Tony Robustelli that a "site meeting" be held for the entire Planning Board, for purposes of informing the Planning Board, and assisting them in site visualization, orientation, and as might be determined useful for making future decisions.

The members of the Planning Board discussed the logistics of the site visit and the site plan components to be reviewed at length. Also present at this meeting, and witness to this discussion were: the Planning Board Attorney, David Everett, the Applicant, all of the Planning Board's consultants and members of the public.

The Planning Board Chairperson, Norm Fontaine scheduled the site visit for Tuesday October 21<sup>st</sup>, deciding to meet at Silo Ridge's office. The Planning Board also determined that the Applicant would lead the visit, and none of the PB consultants, nor the PB attorney would be required to attend.

Given that a quorum of the Planning Board would be present at the site visit, the Planning Board Chairperson asked David Everett whether the proposed site visit needed to comply with 'Open Meeting Law'. With some minor subsequent discussion, it was determined by the Chairperson that despite the fact that a quorum would be present, the meeting would not need to comply with "Open Meeting Law" as long as the Planning Board 'do not make any decisions regarding the project, discuss or conduct Planning Board business'.

This meeting did not attempt to comply with any requirements to provide adequate notice to the public, nor was there an attempt to recognize this gathering as any form of meeting open to the public, or with any record keeping implementation.

This appears to be in direct contradiction to the law on Open Meetings, and illegal.

I suggest it is also unreasonable to believe that this gathering of the Planning Board with the project applicant would not include probable discussion or exchanges regarding some aspects of the project, which should be interpreted as a general part of 'Planning Board business'. And therefore should have been a noticed Public Meeting, with records of content created, and a transparency of process.

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Research indicates that the NY Dept. of State and Committee on Open Government gives clear guidance on this, and offers advisory case studies to support their advice.

Please see the complete advisory opinion:

<http://docs.dos.ny.gov/coog/otext/o3110.htm> which includes:

*"...In this regard, it is noted at the outset that the Open Meetings Law pertains to meetings of public bodies, and that the courts have construed the term "meeting" [§102(1)] expansively. In a landmark decision rendered in 1978, the state's highest court, the Court of Appeals, held that any gathering of a quorum of a public body for the purpose of conducting public business constitutes a "meeting" subject to the Open Meetings Law, whether or not there is an intent to take action, and regardless of the manner in which a gathering may be characterized [see Orange County Publications, Division of Ottoway Newspapers, Inc. v. Council of the City of Newburgh, 60 AD 2d 409, aff'd 45 NY 2d 947 (1978)]. In my opinion, inherent in the definition of "meeting" is the notion of intent. If a majority of a public body gathers in order to conduct public business collectively, as a body, I believe that such a gathering would constitute a "meeting" subject to the Open Meetings Law. In the decision cited earlier, the Court affirmed a decision rendered by the Appellate Division that dealt specifically with so-called "work sessions" and similar gatherings during which there was merely an intent to discuss, but no intent to take formal action...."*

Given the information presented above, the Amenia Planning Board has conducted a meeting that appears to be in contravention of laws and has failed to follow proper procedures.

The holding of such a meeting has invalidated and potentially corrupted the planning process, and has possibly left the procedures open to legal challenges as may be brought against the Town or Amenia Planning Board.

The fact that this meeting occurred, also calls into question whether this, as a single incident, or possibly with others, might also now require the process to be investigated by the NY Dept. of State for breach of law, or referred for further investigation by any resident or party with standing.

Others have suggested that the Amenia Planning Board has not followed correct procedures at various times during this particular application, and this new potential ignorance of legal procedure should be independently reviewed and a determination made as to whether the application process has been corrupted, and/or if this process should now be halted until further investigation is completed.

Sincerely,  
Andy Durbridge.