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## MEMORANDUM

### Via Email

TO: Planning Board

FROM: David Everett, Esq.

RE: Amenia - Silo Ridge Resort Community: Comments on Revised Application Materials

DATE: April 22, 2015

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As requested, I reviewed the revised application materials listed below that were submitted by Silo Ridge Ventures, LLC on February 20, 2015 in connection with its pending applications for Amended Special Use Permit/Master Development Plan Approval, Site Plan Approval and Preliminary Subdivision Approval. Some documents required a more detailed review than others as the circumstances dictated.

Based on my review of these documents, I offer the comments below (in no particular order) for your consideration. I tried to group the comments into categories to facilitate your review. Also, I have numbered the comments individually to make it easier for the Applicant to respond to them in writing. I reserve the right to make additional comments in the future as may be necessary.

As requested, I attempted to coordinate my comments with the comments from other Town consultants to avoid overlapping and duplicative comments.

If the Planning Board desires to approve the pending applications for this project, all of my comments below could be addressed as a condition of any such approval.

### Documents Reviewed (including related appendices):

1. Silo Ridge Vol. I: Addendum to EAF
2. Silo Ridge Vol. II: Amended Master Development Plan
3. Silo Ridge Vol. III: Site Plan (revised drawings)
4. Silo Ridge Vol. IV: Subdivision (preliminary plat)

5. Silo Ridge Vol. V: Response to Comments (Response to D. Everett memo dated 10/4/14)
6. Silo Ridge Vol. VI: Additional Project Coordination

## **COMMENTS ON REVISED APPLICATION MATERIALS**

### Amended MDP Booklet

1. Page 17: Identify on the plans the structure located in the forest between the golf academy and Snowy Owl Court.
2. Page 39: The Amended MDP for the Vineyard Cottages lacks much of the information (ie, color palettes, building elevations, etc.) that was provided for the rest of the project site. The applicant should provide this information in a Second Amended MDP for the cottages when a site plan application is submitted for that phase of development. This could be a condition of any approval related to the pending applications.
3. Page 60: The applicant is aware that the golf academy, comfort stations, water storage tank, pump stations and water treatment plant should not be located on separate lots. Access to these improvements can be provided by an easement. The plans should be revised accordingly.
4. Page 61: The NRMP requires annual monitoring. The applicant should provide copies of the monitoring reports to the Town promptly after their completion. This could be a condition of any approval.
5. Page 63: The Amended MDP states that the applicant will develop a Spill Prevention and Response Plan (“SPRP”) detailing the steps to be taken following a spill. The SPRP should be submitted to the Planning Board for review and approval. This could be a condition of any approval.
6. Pages 90 and 96: The references to “Appendix O” should be revised to read “Appendix O in the Addendum to the Environmental Assessment Form.”
7. Page 91: The reference to Appendices M and N should be revised to read “Appendices M and N, respectively, in the Addendum to the Environmental Assessment Form.”
8. Page 93: The Amended MDP states that “a waiver for the access road to the Winery Restaurant, Vineyard Cottages and Artisan’s Park Overlook was previously granted by the Planning Board and is therefore not being request at this time.” The applicant should provide a copy of the approval where these waivers were expressly granted. If not, these waivers should be sought and justification provided.
9. Page 95: The Amended MDP states “the deed shall contain a covenant requiring the lot owner to implement the approved [stormwater] O&M Plan.” The proposed deed covenant must be submitted to the Planning Board for review and approval. The Town should have the right to enforce the covenant along with the HOA.

10. Page 96: The reference to “Section (2)” does not appear to be accurate and should be corrected.
11. Page 131: The phrase “[Drawings To Be Determined]” should be filled in.
12. Appendix K: These estate home standards implement the ADA envelops, sewer envelops and driveway envelops. A plan showing these envelops should be included in this Appendix.

#### Amended MDP Drawings

13. SP9: Change the reference to page 111 to page 131. Also, change the reference “Appendix K: Estate Home Design Guidelines” to “Appendix K: Design Standards For Estate Homes.”
14. RI-1: Note 1 states “any changes to proposed road grades for phase 1 shall be reviewed and approved by the Amenia Fire Department.” This note does not give the Fire Department the unilateral right to change road grades in the project without Planning Board approval.
15. If there are any inconsistencies between the Amended MDP Booklet, the Amended MDP Drawings and the site plan and subdivisions plans, the site plan and subdivision plans should control. This could be a condition of any approval.

#### Preliminary Subdivision Plat

16. Cover Sheet: Add a second Owner’s Certification for HVLC.
17. PL0.01: Note 1 should expressly reference the approved Amended MDP and site plans by date. Also, certain blanks in the notes must be filled-in for the final subdivision approval. The Town Engineer will have additional comments on the plat notes.
18. PL2.01: Provide the missing metes and bounds descriptions for some lot lines. Each sheet should have a complete set of metes and bounds descriptions for all lots shown on that sheet. This will obviate the need to search through numerous other sheets to determine if the missing metes and bounds exist. Also, the applicant is already aware that the lot lines for SR-19 and WW-4 should be removed. The lot line adjustments should be identified on this plan.
19. PL2.02: Provide the missing metes and bounds descriptions for some lot lines. Also, the applicant is already aware that the lot lines for SR-18 should be removed.
20. PL2.03: Provide the missing metes and bounds descriptions for some lot lines. Also, the applicant is already aware that the lot lines for WW-3 and WW-2 should be removed.

21. PL2.04: Provide the missing metes and bounds descriptions for some lot lines. Also, the applicant is already aware that the lot lines for SR-12 should be removed.
22. PL2.05: Provide the missing metes and bounds descriptions for some lot lines. The applicant is already aware that the lot lines for W-2 should be removed. Should Lots PO-1 & PO-2 be combined? Note 1 includes only PO-2. It should also include Lot PO-1. Note 1 should be copied to PL0.01. The applicant's existing office should be shown on this plat so it is clear that the proposed lot line runs along the wall of that building.
23. PL2.06: Provide the missing metes and bounds descriptions for some lot lines. It appears that the parking barn located on Lot SR-13 will be owned by the Silo Ridge Field Club but the parking barn on Lot C-3 will be owned by the condominium association. Is it acceptable to the applicant to have the parking barns owned and maintained by different entities? The gardens in the road in front of the Club will be owned and presumably maintained by the HOA. Is this acceptable to the applicant?
24. PL2.07: Provide the missing metes and bounds descriptions for some lot lines. The applicant is already aware that the lot lines for WW-1 should be removed. It appears that the gate house will be owned and presumably maintained by the HOA. Is this acceptable to the applicant?
25. PL2.08: Provide the missing metes and bounds descriptions for some lot lines. The applicant is already aware that the lot lines for SR-17 should be removed. Lot LL-10 has road frontage on Wood Duck Road. Should the driveway be located directly off the road to eliminate a common-driveway easement and maintenance agreement with Lot LL-9? It appears that the HOA will own the gardens in the middle of Wood Duck Circle in front of the Family Activity Barn. Is this acceptable to the applicant?
26. PL3.02: Provide the missing metes and bounds descriptions for some open space lot lines. Note 1 includes only Lot PO-2. It should also include Lot PO-1.
27. PL4.01, PL4.02 & PL4.03: Notes 1 and 2 contain different language than similar notes on PL0.01. The language should be the same across all sheets.
28. PL7.01: What is the water easement for across Lots E-24 and E-25?
29. PL7.02: What is the water easement for across Lots E-12 and E-13? Are waterline easements required for comfort stations on the golf course?
30. PL7.03: The plat does not show a water line easement from the water tank to the winery Restaurant. However, Drawing U-1 shows this water line but the site plans do not. Which plan is correct?

#### Site Plans

31. C2.08: Remove the future sewer envelop from this existing conditions plan.

32. C2.09: Remove the future sewer envelop from this existing conditions plan.
33. C2.11: Remove the future sewer envelop from this existing conditions plan.
34. C2.21: Remove the future sewer envelop from this existing conditions plan.
35. C3.02: It is my understanding that the Planning Board would like all of the vegetation removed around Delavergne Hill, not just the larger trees, to open up views from this important vantage point. The Field Club will need to make sure that all vegetation in this area is trimmed on a regular basis to prevent future impairment of views. This could be included as a condition of any approval.
36. C3.00: Remove the future sewer envelop from this existing conditions plan.
37. C3.07: A NYSDEC wetland permit may be required to abandon well #12 in the wetland buffer.
38. C4.02: This plan shows the proposed lot line running along the north wall of the applicant's current office on Route 44. On the proposed plat, the building is located directly on the lot line with no setbacks. This is not an acceptable situation. The Board should consider imposing a condition on any approval requiring the applicant to demolish the building before transferring either lot. A deed restriction should also be imposed. Any alternative proposals from the applicant to correct this situation should also be considered. Conservation easement markers should be installed to protect Lots SR-14 and SR-15 when this area is developed with homes in the future.
39. C4.03: A note reads "Gate (See Detail on xx.xx)." This reference should be added.
40. C4.04: Remove the corner of building C-3.3 from the set back. Also, shift the golf cart path out of the HOA property across from the gate house.
41. C4.05: Add the following note to the walking path running through SR-6 and beyond: "Path shall avoid all existing trees 8" dbh or greater." Move the proposed trail out of Lot LL-17. An easement will be required for the trail to cross the driveway of Lot LL-9. Add conservation easement markers for Lot LL-9 and along the east side of Wood Turtle Lane (across the street from Lots LL-11 to LL LL-17) to prevent lot owners from dumping yard waste into the conservation easement land and nearby wetland buffer. Add conservation easement markers around Lot SR-6.
42. C4.06: Add missing conservation easement markers for Lots CM-1 to CM-7, Lot CM-17 and around the end of Club Meadow Drive. Provide deed restrictions (or other legal restrictions) on Lots CM-17, E-56, CM-25 to CM-28, HOA-1, W-1 and SR-2 establishing sanitary control for well #2.

43. C4.06, C4.08, C4.09, C4.11: Add a note indicating that all estate homes are governed by the Estate Home Standards set forth in the Appendix K of the Amended MDP booklet.
44. C4.07: Add conservation easement markers for Lots LL-18 to LL-22 to ensure that lot owners do not encroach into the NYSDEC wetland buffer and conservation easement land.
45. C4.08: Provide deed restrictions (or other legal restrictions) on Lots E-8 to E-10 and SR-1 establishing sanitary control for well #11 and well #31.
46. C4.09: Remove conservation easement markers for Lots E-17 and E-18 facing the golf course. Add conservation easement markers along the west side of Red Tail Pass between Lots E-47 and E-48. Markers should be used along the road to ensure that road maintenance and repair crews do not inadvertently stray into the conservation land and that residents do not dump yard waste in these areas.
47. C4.10: The HVLC and HOA documents must permit the HOA to maintain the road through the easement area.
48. C4.11: Add missing conservation easement markers around SR-4 and along the west side of Ridgeline Road across the street from Lots E-40 and E-41.
49. C4.12: “Pool decking” is called for around the putting green by the Golf Academy. Is this correct? Also, the concrete sidewalks in the Village Green will be owned (and presumably maintained) by different legal entities. Will this create confusion as to which entities are responsible for which sidewalks? Is this acceptable to the applicant?
50. The terms “well house” and “water treatment building” seem to refer to the same building and are used interchangeably. It is confusing. To avoid confusion, add a note to the plans explaining that the terms refer to the same building and are used interchangeably or make all the terms the same.
51. C13.04: This plan shows that Artisan’s Park will be completed in Phase 16 of development. In the past, the Planning Board has required this work to be completed in Phase 1. Can that still be accomplished?
52. L1.12: This plans refers to a “trolley path circulation route.” Explain the operational details of the trolley.
53. L1.14: The applicant is aware that the landscaping inadvertently shown on neighboring property should be removed.
54. L3.01: This plan contains a note stating “no landscaping will be planted in the NYSEG easement until authorization is received.” If the applicant desires to landscape this area after receiving such authorization from NYSEG, it must provide such authorization to the

Town and submit a landscaping plan for this area for approval by the Planning Board. This could be a condition of any approval.

### WWTP

55. The applicant has moved the WWTP to property located next to the golf maintenance building in the OC zoning district on an easement provided by HVLC. The WWTP is not located on the project site or on property owned by the applicant. As previously noted, the golf maintenance facility is part of the golf course which is a permitted “recreational business” use in the OC district under the Town’s Zoning Code. The WWTP also appears to be a permitted use in the OC district as a “public utility facility” with a special use permit. However, the applicant should obtain an interpretation from the building inspector that a WWTP owned and operated by a Sewage Works Corporation qualifies as a “public utility facility” under the Town’s Zoning Code. As required by the Use Table, locating the WWTP in the OC will require a referral to the ZBA for a recommendation under the Zoning Code. The applicant’s special use permit application for the OC district will have to be amended to include the WWTP at its proposed location.

### HVLC Agreement

56. Provide copies of Exhibits A, B, C and D to the Agreement between HVLC and Silo dated 1/27/15.

### HOA Documents

57. After the final details of the project are known, the HOA documents including, without limitation, the Master HOA By Laws and Declaration of Covenant, the Condo By Laws and Declaration of Condominium, the single family, estate home and townhome deeds, deed to Silo HOA and condominium deed should be reviewed and approved by the Planning Board as part of any approval for the project.

58. The HOA Declaration did not seem to provide that the maintenance of Artisan’s Park will be an obligation of the HOA. Such express statement should be added to the HOA Declaration.

59. The HOA Declaration references the By-laws as Exhibit D on page 33; however, the By-laws themselves are identified as Exhibit B of the HOA Declaration. Please revise accordingly.

### Conservation Easement

60. The Town Subdivision Code requires the conservation easement to be reviewed and approved by the Planning Board and its attorney before preliminary subdivision approval is granted. The applicant and the Dutchess Land Conservancy (DLC) are continuing to negotiate the terms of the easement. The applicant has submitted the most recent draft of the easement for the Board’s review. The Board will need to work out the final details of the easement with DLC and the applicant before preliminary subdivision approval is granted.

## Easements

61. The revised project plans require numerous easements to facilitate the project. The applicant should send a list of these easements to the Board. The easement documents should be reviewed and approved by the Planning Board. This should be a condition of any approval. Below is a preliminary list of such easements which the applicant should confirm:

- (A) Conservation Easement with Dutchess Land Conservancy.
- (B) Easement from HVLC allowing access over its land and construction of project improvements.
- (C) Public access easement for Artisan's Park providing details of the park improvements, hours of operation, maintenance responsibilities, etc.
- (D) Temporary easement from HVLC for grading outside of the "easement area" on its land;
- (E) Common driveway easements, reciprocal access easements and maintenance agreements for Lots LL-9 and LL-10; LL-21 and LL-22.
- (F) Access easements on private lots allowing the construction, maintenance and repair of retaining walls along Ridgeline Road, Oak Tree Lane and Red Tail Pass.
- (G) Emergency access easement to all emergency service providers and the Town over all roads, paths, walks and property on the site including HVLC easement area.
- (H) Easement for the Water Works Corporation to access their facilities on the project site.
- (I) Easement for Sewage Works Corporation to access their facilities on the project site.
- (J) Blanket storm water easement allowing the Town to enter the site to maintain, repair and replace any storm water management improvements (including all water bodies).
- (K) Easement for the Silo Ridge Field Club over HOA land to access club facilities.
- (L) Easement for HOA over Field Club lands for access and use of club amenities.
- (M) Drainage easement for HOA over Field Club lands.
- (N) Easement over Lot E-15 to allow access, maintenance, repair and replacement of well #9.
- (O) Trail easements to cross private lots including Lot LL-9.
- (P) Easement to allow access to the applicant's temporary office.

62. The easements should be recorded before the final plans are executed by the Planning Board Chairman. This should be a condition of any approval.

## Amenia Fish & Game Club

63. As you know, the fish and game club has entered into an agreement with the applicant requiring the applicant to construct a new underground shooting range on the club's property to replace its existing aboveground range. The existing range is in close proximity to the applicant's proposed sales center, tennis courts, family activity barn, golf course and homes in the south lawn neighborhood. Construction of the underground range will: (A) mitigate any public safety concerns by preventing stray bullets from crossing into these areas; (B) improve the applicant's ability to market its homes by reducing shooting noise nearby; and (3) create an indoor and year-round shooting experience for club members. The construction of the underground range is a "win-win" situation for both the applicant and the fish and game club. Before execution of the applicant's site plans by the Planning Board Chairman, the Planning Board should require the approval of the fish and game club's pending applications for a special use permit and site plan for the underground shooting range and other site improvements. In addition, a Certificate of Occupancy ("CO") for the adjacent sales center or any buildings in the south lawn neighborhood should not be issued until a CO has been issued for the new indoor range.
64. The Agreement between the applicant and the gun club indicates that the above-ground 50-yd range will continue to be used for shooting rim-fired cartridges only from 3 pm to 7 pm on Tuesdays, Wednesdays and Thursdays. This seems contrary to the purpose of constructing the indoor range. The applicant must demonstrate that the continued use of this range in close proximity to occupied buildings and project areas noted above will not present any public safety concerns during the weekly range operations. Additional mitigation measures may be necessary to prevent stray bullets from the range from crossing into the new project areas.
65. At a recent Planning Board meeting, certain officials of the fish and game club asserted that the agreement between the applicant and the club may not be valid and may not have been approved in accordance with the club's procedures. The applicant should provide proof to the Planning Board that the agreement is valid and binding and was properly approved by the club in accordance with its by-laws and other governing documents.

## Landscaping For Visual Mitigation

66. The applicant has revised its plans to add landscaping in several areas of the site to provide visual screening and to reduce visual impacts of the project. These include landscaping in front of the waste water treatment plant and golf maintenance building and north of Snowy Owl Court and Peregrine Drive. The landscaping in these areas should be maintained in perpetuity as a visual screen by the applicant and/or the HOA to ensure continuity of this visual mitigation. This could be a condition of any approval.

## Miscellaneous

67. Estate home design standards should be included as part of the HOA declaration of covenants and restrictions.

68. Sketch DE-54 was not attached to VHB's 1/28/15 response memo. Please provide the sketch.
69. Since the inception of the project, the Planning Board (and its consultants) have provided continuous comments and feedback to the applicant related to the preparation of the subdivision plat. The plat has grown organically over time during this process starting with the preparation and approval of the conservation analysis in 2009 and its refinement as part of the revised project. Due to this continuing consultation process, it was unnecessary for the Board to follow the formal consultation process for sketch plats as outlined in the Town's Subdivision. As a result, the Board should waive the need to follow the sketch plat process.
70. Response DE-67 provides that Phase I of the revised project will include a total of 226 residential units; however, page 5 of the Amended MDP provides for a total of 224 residential units. Please confirm which is accurate and modify the project documents accordingly.
71. Response DE-72 states "the Applicant concurs that a change to [an approved] building elevation that is inconsistent with the standards set forth in the Amended MDP is subject to Planning Board review and approval." This could be a condition of any approval.
72. The project plans have been revised to show 1,990 gallon underground propane tanks. All tanks must be registered with the NYSDEC in accordance with 6 NYCRR Part 612.
73. In Response DE-42, the applicant states that the Amended MDP Bulk Design Standards allow for driveways in the front setback and that three Estate Home lots allowing driveways in the side yard setback are identified in the footnote of the Bulk Design Standards table. A review of the Amended MDP Bulk Design Standards demonstrates the standards do not expressly provide for this.

#### Field Change Protocol

74. The Planning Board and the applicant have worked to develop a Field Change Protocol that identifies minor field changes during construction that do not require any review or approval by the Planning Board or the Planning Board Engineer. The protocol also identifies more significant field changes that may require an amended approval from the Board. This protocol should be finalized as part of any approvals for the project.

#### Amended SEQRA Findings

75. The SEQRA regulations (6 NYCRR Part 617) allow the Planning Board to prepare Amended SEQRA findings regarding the potential environmental impacts of the applicant's revised project. These amended findings will also outline a variety of mitigation measures that the revised project will utilize to reduce or avoid potential environmental impacts. The amended findings must be completed promptly after the public hearing is closed and before the Planning Board can issue any approvals for the

project. Implementation of the mitigation measures set forth in the findings should be required as a condition of any approval for the project.

### Bonding

76. As part of approving a preliminary subdivision plat, the Town's Subdivision regulations require the Planning Board to approve an estimated amount of all bonds and other performance guarantees needed for the project. To this end, the applicant has submitted a proposal to post certain performance bonds. After hearing public comments on this proposal, the Planning (with input from its consultants), will need to finalize the financial guarantees needed for the project.

### Waivers

77. As part of approving a preliminary subdivision plat, the Town's Subdivision regulations require the Planning Board to approve waivers from certain subdivision requirements that may be authorized without jeopardy to the public health, safety and general welfare. To this end, the applicant has submitted a proposed list of waivers for the project. After hearing public comments on this list, the Planning Board (with input from its consultant) will need to finalize the list of waivers before approving the preliminary plat.

### Approval Conditions

78. State and local laws allow the Planning Board to impose conditions on any approval that may be directly related and incidental to the site plan or special use permit. Some potential conditions were noted and were noted in the comments from other Town Consultants. Conditions are a critical component of any approval and outline how the approval will be implemented. For example, it is typical for Planning Boards to impose conditions that must be satisfied before building permits can be issued for the project. The Planning Board (with input from its consultants) will have to develop a list of appropriate conditions to include as part of any approvals for the project.

### Final Project Process

79. The Board is nearing the end of its review process for this project. After the public hearing is closed, New York State law and the Town Code require the Board to make written decisions on the pending applications within certain time frames and to undertake certain procedural steps to finalize its decisions. Before the public hearing, I will prepare a "road map" for you that will outline the next steps that will need to be taken to finalize this project.

I trust that these comments are helpful to the Planning Board in its review and consideration of this project. If you have any questions, please let me know.

c: Julie Mangarillo, P.E.  
Mary Ann Johnson, AICP  
George Janes, AICP  
Dr. Michael Klemens