

**SPECIAL USE PERMIT AND MASTER DEVELOPMENT PLAN APPROVAL**  
**FINDINGS STATEMENT**

Silo Ridge Resort Community  
June 25, 2009

This Findings Statement is issued pursuant to sections 121-18 and 121-63 of the Town of Amenia Zoning Law.

**I. INTRODUCTION**

**A. Description Of Action**

Higher Ground Country Club, LLC, (the "Applicant" or "Project Sponsor") has proposed the development of a resort community on a 670±-acre site. The project site is located west of New York State Route 22, and north and south of U.S. Route 44, in the Town of Amenia, Dutchess County, New York, identified as Parcel Numbers 7066-00-732810, 7066-00-860725, 7066-00-742300, 7066-00-670717, 7067-00-709177 and 7066-00-628131 on the Town of Amenia Tax Map. The project site is currently developed with a 170-acre 18-hole championship golf course and clubhouse. The development area will consist of an approximately 210±-acre portion of the total site.

The development will consist of: 338 dwelling units consisting of 297 condominiums and 41 single-family homes; a resort hotel-condominium with a total of 300 condo units (capable of being divided into 367 rooms that will be available for rental by hotel guests); a banquet space; a restaurant, café, and bar/lounge located in the hotel; a "winery-themed" restaurant (hereafter referred to as the winery restaurant) and Artisan's Park located on Delavergne Hill; a conference space; a spa and wellness center, a Village Green featuring retail shops in mixed-use buildings, a water treatment facility and a wastewater treatment plant. The existing golf course has been proposed to be upgraded and improved. The existing clubhouse will be demolished and rebuilt in approximately the same location. Construction is proposed to occur in three phases.

The project site has areas of steeply sloped terrain, portions of which are slated for development. The 557 acre portion of the project site that was delineated contains 42.4 +/- acres of ponds, streams, and wetlands (of which 41.4 acres are federally regulated wetlands or waters, 26 acres are State regulated wetlands, and 1.0 acres is isolated and not regulated by either state or federal jurisdiction). The New York State Department of Environmental Conservation and the Army Corps of Engineers have verified these wetland delineations. The site also contains additional vernal pools and wetlands in the western portion of the project site. The site will have two access points from NYS Route 22, including the existing entrance to the Silo Ridge Country Club, and three access points from US Route 44. The proposed development will be served by on-site wells and a wastewater treatment plant. One of the proposed access points on US Route 44 is limited to the project wastewater treatment plant.

The approvals that the project sponsor is required to obtain for the Project from the Planning Board include a special use permit under the Town's Resort Development Overlay (RDO)

zoning law, subdivision approval, and site plan approval. The project sponsor also seeks discretionary waivers or approvals for several components of the Project, including: waivers from the 35-foot height limit applicable to the RDO for sixteen (16) buildings, permission to maintain the proposed roads as private streets and to install gates at all four entrances to the Project; permission to disturb approximately 20 acres of slopes greater than thirty percent (30%), permission to fill two small wetland areas not regulated by the ACOE or NY DEC, and permission to build a portion of the access road to the Vineyard Cottages within the 100 foot residential open space buffer. The applicant also seeks permission to satisfy its obligations under the Town's Workforce Housing Law by making a substantial contribution toward the cost of providing sewer infrastructure to the hamlet of Amenia. Specifically, the applicant proposed to satisfy its Workforce Housing Law obligations by constructing 181,375 gallons per day of excess capacity in its wastewater treatment plant at no cost to the Town, reserved exclusively for the anticipated hamlet of Amenia sewer system. A summary of the approvals that the project sponsor requires from other agencies is contained in Section (1)(F) of this Findings Statement.

## B. Procedural History and SEQRA Review

On September 1, 2005, the Planning Board was designated Lead Agency for this action. On September 15, 2005, the Planning Board determined that a Draft Environmental Impact Statement (DEIS) was required, issued a Positive Declaration, and caused the Positive Declaration to be circulated, filed and published as required by SEQRA.

A public scoping session was held on October 6, 2005, and written scoping comments were also accepted through October 17, 2005. A Final Scoping Document was adopted on November 17, 2005 that outlined the potential significant impacts to be analyzed in the DEIS.

Upon adoption of the Final Scope, the Applicant embarked on the preparation of the DEIS and over the course of the following two years submitted numerous drafts for the Planning Board's consideration. During the course of the Applicant's efforts to obtain a completeness determination from the Planning Board, the Project evolved substantially in response to comments received from members of the public and the Planning Board, and as a result of the Town's adoption of a Comprehensive Plan Update and new Zoning Law on July 19, 2007.

On October 4, 2007, the Planning Board concluded that the DEIS was sufficiently complete for purposes of commencing public review, and formally accepted the DEIS for that purpose. The DEIS was circulated, filed and posted on a website linked to the Town's official website as required by SEQRA, and the Planning Board scheduled a public hearing for November 17, 2007.

At the November 17, 2007 public hearing, the Planning Board elected to keep the hearing open pending submission by the project sponsor of a preliminary Master Development Plan (MDP) for the purposes of SEQRA. On February 7, 2008, the Planning Board accepted a preliminary MDP for SEQRA purposes, and subsequently caused the preliminary MDP to be circulated to all involved and interested agencies and to be made available to the public. The DEIS public hearing was closed on March 5, 2008, and written comments were accepted through March 25, 2008.

On April 3, 2008, the Applicant submitted an MDP to the Planning Board in furtherance of the application for Special Use Permit, which is required under the RDO Zoning for the proposed project. This MDP included revisions that responded to comments and suggestions made by the public during the DEIS review period, as well as by the Planning Board and its consultants. The April 3, 2008 MDP submission consisted of a letter in support of the Special Use Permit application, a narrative describing the MDP, a document entitled "Silo Ridge Resort Community Architectural and Landscape Character" prepared by Robert A. M. Stern Architects, LLP, and a full MDP plan set consisting of 48 sheets.

Upon close of the DEIS public comment period, the Applicant embarked on the preparation of a proposed FEIS for the Planning Board's review and consideration. The first version of the proposed FEIS was submitted on or about May 30, 2008, and numerous drafts and revisions were submitted for the Planning Board's consideration between May 30 and September 16.

On September 16, 2008, the FEIS was accepted as complete by the Planning Board, and was subsequently circulated, filed and posted on a website linked to the Town's website as required by SEQRA. Based on the Planning Board's determination that the minimum ten (10) day period for public consideration of the FEIS provided by section 617.11 of the SEQRA regulations was not adequate, the Notice of Completion provided involved and interested agencies and members of the public with thirty (30) days to consider the FEIS and to submit written comments to the Planning Board. Written comments on the FEIS were accepted until October 24, 2008.

On January 8, 2009, the Planning Board adopted a detailed Findings Statement concluding that the requirements of SEQRA had been met. Specifically, the Findings Statement concluded that, consistent with the social, economic and other essential considerations, the approved action was the one among the reasonable alternatives that minimizes or avoids adverse environmental effects to the maximum extent practicable through the implementation of the mitigation measures identified in the Findings Statement, all of which were adopted as conditions of that Findings Statement.

On January 15, 2009, the Applicant submitted a revised and updated MDP and set of plans based on the requirements and conditions of the Findings Statement, and based on the Applicant's development needs. Between January 15, 2009 and April 2, 2009, the Applicant submitted a number of additional revisions and drafts to the MDP and set of plans in response to comments received from the Planning Board. These revised and updated materials included substantial revisions to the draft construction phasing plan that had been reviewed during the SEQRA process.

On April 2, 2009, the Planning Board deemed the special use permit application to be complete for purposes of scheduling a public hearing and referring the application materials to the Zoning Board of Appeals and the Dutchess County Department of Planning and Development as required by Town of Amenia Zoning Law section 121-62(E) and General Municipal Law section 239-m, respectively. The Planning Board scheduled a public hearing on the special use permit and MDP for April 30, 2009, caused notice of that hearing to be advertised, mailed and posted as required by law, and caused the necessary referrals to be made to the Dutchess County Department of Planning and Development and the Town of Amenia Zoning Board of Appeals.

On April 16, 2009, the ZBA reviewed the special use permit application at a public meeting, and began preparing its written comments on that application for the Planning Board's consideration. Those written comments were ultimately presented to the Planning Board on May 15, 2009. Those written comments stated that the ZBA harbored reservations about the proposal to operate the Silo Ridge Resort Community as a gated community, but that the ZBA nonetheless concluded that the overall impacts of the Project had been adequately mitigated, and that the ZBA was recommending adoption of the special use permit application.

On April 28, 2009, the Dutchess County Department of Planning and Development issued a response letter recommending that the Planning Board require the Applicant to increase its proposed contribution toward the cost of providing sewer infrastructure to the hamlet of Amenia. Alternatively, the April 28 Dutchess County Department of Planning and Development letter recommended that Planning Board conclude that the Applicant's proposed contribution failed to substantially advance the Town's goal of providing sewer infrastructure that will result in an increase in the availability of workforce housing in the hamlet of Amenia, and that the Applicant should construct the workforce housing required by section 121-42 of the Zoning Law in lieu of the Applicant's proposal to construct sufficient excess capacity in its wastewater treatment plant to serve the hamlet. In a supplemental letter dated April 30, 2009, the Dutchess County Department of Planning and Development reiterated these recommendations, and suggested that the Planning Board consider linking the special use permit approval to the approval of the formation of a wastewater district in the hamlet of Amenia.

On April 30, 2009, the Planning Board conducted the special use permit public hearing. The Applicant subsequently made additional submissions responsive to comments received from the Planning Board and members of the public, including without limitation a revised construction phasing plan, updated parking allocations and program details, and additional information attempting to balance the Applicant's need for flexibility in the construction phasing process in this economic climate with the Planning Board's desire to insure that development of the resort core area surrounding the Village Green occurs during the first phase of the Project.

### C. Site Characteristics

The 670 +/- acre project site is located west of NYS Route 22, and north and south of U.S. Route 44, in the Town of Amenia in eastern Dutchess County, NY, approximately 25 miles east of Poughkeepsie, NY and five miles west of Sharon, CT. The site is approximately ½-mile southeast of the hamlet of Amenia and two miles north of the hamlet of Wassaic. It is accessible via US Route 44 from the west, via NYS Route 343 from the east, and via NYS Route 22 from the north and south. The Wassaic Metro-North train station, with Harlem-line service into New York City's Grand Central Station, is located approximately ½-mile south of the site. The project site is designated as Rural Agricultural (RA) with a Resort Development Overlay (RDO) on the Town of Amenia Zoning Map.

The project area includes a 170± acre golf course, 47± acres of ponds, streams, and wetlands, and 12± acres of roads, buildings, and other paved surfaces. The remaining 440± acres are

primarily undeveloped land. The project site has varied topography, with elevations ranging from approximately 480 to 1,100 feet above mean sea level (msl). There are 387.5 acres of steep slopes on the site consisting of 204.4 acres in the 15% to 30% category and 183.1 acres in the 30% and greater category.

The characteristics of the land, moving from east to west, include large wetlands and water courses punctuated by steep, wooded, rocky hills. Continuing west, there is a relatively level but undulating plain interrupted by a few steep and wooded hills, and natural and manmade water bodies, crossed by water courses, mostly now piped, that emanate from the steep slopes further west. To the west of the golf course is the toe of a very steep continuous slope that rises approximately 420 feet in elevation. The land levels off at the ridgeline of this slope and begins to undulate to the west, where vernal pools are evident in the spring. Standing on the existing golf course and looking north, a tall grassland rises somewhat uniformly towards the hairpin turn on Route 44. The land within the hairpin turn affords a spectacular scenic vantage point affording views of the valley and folding hills to the south; and across the Hamlet to the Berkshires in the east.

Vegetation on the project site consists largely of mowed grass associated with the golf course and forested land, particularly in the hillsides on the western portion of the site. Wetland vegetation is also found within and around the several onsite wetlands. The entire upland area of steep slopes and upper level land consists of approximately 230 acres of un-fragmented forest land.

On the extreme northeast portion of the site, just south of West Lake Amenia Road between Route 22 and Route 44, a cultural resource site containing historic/modern artifacts was identified during the Phase I cultural resources investigation for the proposed development.

Land uses in the vicinity of the project site are a mix of residential, agricultural, and commercial uses, public and community service uses, and undeveloped land. Land uses north of the site consist primarily of single-family residences and vacant land. The hamlet of Amenia lies approximately one-half mile northeast of the project site. This small, relatively densely developed area is comprised of uses typical of a town or village center, encompassing a mix of residential, community and public service, and recreational lands.

#### E. Detailed Development Description

The purpose of the Project is to create a resort destination in Amenia that will provide first-rate amenities set in the natural beauty of the Harlem Valley. The 670±-acre project site is currently developed with a 170-acre 18-hole championship golf course and clubhouse. The actual development area will consist of an approximately 210±-acre portion of the total site.

The project sponsor proposes to build 338 dwelling units consisting of 297 condominiums (golf villas, vineyard cottages, flats and townhomes), 41 single-family homes, a resort condominium hotel with a total of 300 condo units (capable of being divided into 367 rooms that will be available for rental by hotel guests), a banquet space, a restaurant, café, and bar/lounge in the

hotel, a conference space, a spa and wellness center, and a Village Green that includes retail shops. The existing golf course has been proposed to be upgraded and improved. The existing clubhouse will be demolished and rebuilt in approximately the same location. The project also includes a winery restaurant and Artisan's Park overlook, north of the Route 44 hairpin turn on Delavergne Hill. The square footage of buildings in the project is approximately 1,400,604.

The Project concentrates approximately 64% of the proposed residential units (216 units), and all 300 hotel condominium units, within a ¼-mile radius or "Resort Core Area" intended to create a pedestrian-friendly environment in order to facilitate and encourage comfortable pedestrian travel between the various resort components and amenities. In addition to the residential units and hotel-condominium, this ¼-mile area also includes the spa, dining facilities, retail uses, below-ground parking, the golf clubhouse and pro-shop, and banquet/conference facilities. The Resort Core Area also incorporates mixed-use buildings with small-scale ground-floor retail uses and residential uses on the upper floors, and emphasizes the use of greens and courtyards.

The project layout also proposes a system of sidewalks and golf cart paths throughout the site to connect all major components of the development. The walks and paths will be separated from the street by planting strips and planting areas, and will follow the street alignment in some places and deviate from the street alignment in other locations to adjust to natural vegetation and topography. Street trees will be provided to create shade and add visual interest to the landscape. The retail uses and restaurants will provide for onsite entertainment and convenience.

Management of the Property will be governed by a Master Homeowner's Association (HOA). The Master HOA will have responsibility for maintaining the common areas and facilities of the Silo Ridge Resort Community, including roads, infrastructure, landscaping, irrigation, signage, wetlands, watercourses, trails, open space and other common facilities. The Master HOA will also collect assessments from the owners, and regulate the use of the Property in accordance with all government approvals, including compliance with the conditions of this Findings Statement. There will also be smaller homeowner and condominium associations that will be responsible for the building and common elements within the individual components of the Project. Specifically, there will be two smaller homeowners associations (one for the single family homes, and one for the golf villas), five condominium associations (one for the flats and duplexes near the Village Green, one for the townhomes near the Village Green, one for the townhomes near the South Lawn, one for the Vineyard Cottages, and one for the hotel-condominium), and a Board responsible for managing the golf club and course. Each of these individual associations will be subject to the provisions of the Master HOA. Additional information regarding the HOA Structure is located in Parts VII and VIII of the April 2008 MDP.

### Residential Units

More than half of the townhomes and flats, are concentrated in the immediate vicinity of the hotel and Village Green, known as the Resort Core Area, with additional units in the southeastern portion of the site, and additional Vineyard Cottages located north of Route 44.



The flats are single-level two-bedroom units, some of which are located above the ground-floor retail shops in the Village Green. The townhomes are multi-level three-bedroom units. The townhomes and flats are proposed in various configurations throughout the site.

The single-family estate homes and the condominium golf villas range in size from approximately 3,000 square feet to 6,000 square feet, with three to five bedrooms, and are mostly located west of the golf course along the base of the wooded hillside.

### Hotel, Spa, Retail and Amenities

The 475,000 square foot condominium-hotel is proposed on the south side of the Village Green and is one of the key components of the Resort Core Area. The hotel-condominium includes a restaurant, café, bar/lounge, banquet facilities and conference space.

The hotel is proposed to be built in two phases. The first phase will consist of a lodge with between 40-100 hotel-condominium units. The remainder of the hotel will be constructed during the third phase of construction.

The finished hotel building is proposed to be four stories from the front (north side) and five stories from the golf course (south side), with the top floor contained entirely within the roof. The ground level of the hotel-condominium will contain the lobby, lounge, gift shop and service areas. The upper levels will contain the hotel units. The level below the lobby houses the restaurant, banquet space, and conference rooms, as well as the kitchen and additional service areas. This level opens up to ground level on the south side of the building with views of the golf course. The lower level of the hotel-condominium contains service areas as well as the fitness center and an indoor pool.

Pursuant to section 121-74 of the Zoning Law, hotel-condominiums are limited to transient occupancy and part-time residences. “Transient occupancy” means that the unit can not be occupied by any occupant for more than 48 days in any calendar year nor more than 15 continuous days. “Part-time residences” means that the unit can not be occupied by any occupant for more than 120 days in any calendar year nor more than 30 continuous days.

Small-scale retail uses (26,127 square feet) are proposed in the vicinity of the Village Green, with residential units on the upper floors.

The spa facility is located adjacent to the hotel-condominium. The spa operator will have the discretion to limit use of the spa to hotel guests and residents of the Silo Ridge Resort Community.

A separate amenities building (the “cabana”) is proposed for the vineyard cottage residential units north of Route 44. This building will house restrooms and changing areas and will provide access to a pool.

## Golf Clubhouse

The existing golf clubhouse will be demolished. A new 29,000 square foot clubhouse will be constructed in approximately the same approximate location, just slightly south of the existing building's footprint.

However, during the first phase of construction the new facility will be limited to a pro shop and public locker room area. The remainder of the clubhouse facility will be constructed once there is sufficient development of the Project to support a private golf club.

Access to the golf course and driving range will be restricted from its current availability to Town residents, both in terms of limited tee times and in terms of increased greens fees. Once the private clubhouse is constructed, access to the golf course by the general public will be severely restricted as a result of further reductions in the amount of tee times that will be available to the public.

## Winery Restaurant

An 80 seat winery restaurant (5,000 square feet) will be developed approximately 530' north of the hairpin turn on Route 44. The winery restaurant is also intended to serve as an additional tourist destination in Amenia and a safe place from which visitors can enjoy the views over the golf course and down through the valley.

Although the winery restaurant was originally proposed to be constructed during Phase 1 of the project, it is now proposed for Phase 2. However, the Artisan's Park and parking lot for that park will still be constructed during Phase 1, subject to the Conditions of Approval.

## Site Access and Circulation

The current entrance to the golf course will remain and will serve the Village Green core area, including the hotel-condominium and flats and townhomes in Blocks A, B, and C. That entrance will also serve as the main entry point for the Block D villas and the single-family units at the base of the western hillside. The second main entrance will be further south on Route 22 and will provide access to the townhomes and single-family homes on the east side of the golf course in the vicinity of the 12th hole. A connection between the east and west roadways will be maintained for emergency access and will also be used as a pedestrian path.

The northern portion of the project site, north of Route 44, will have two entry points for access to the winery restaurant and to the vineyard cottage units. The first entrance heading east on Route 44 will be at the top of Delavergne Hill and will provide access to the winery restaurant, the vineyard amenities building, and the vineyard cottage units (Block V). The road continues eastward through the clusters of residential units and meets up again with Route 44, providing a secondary access point to this interior roadway.



The project sponsor seeks to install gates at all entrances to the development, except that the proposed gate for the entrance at the top of Delavergne Hill would not interfere with access to the winery restaurant and Artisan's Park. Rather, it would be placed on the access road to the vineyard cottage units located to the east of the entrance to the winery restaurant parking lot.

### Parking

The project includes 1,668 parking spaces including below grade and surface parking areas. The Village core area will include approximately 570 spaces below grade. Residential garages throughout the project account for 665 spaces and surface parking (including lots and on-street) total 433 spaces.

### Water and Sewer Systems

The project includes an onsite community water supply system consisting of six new groundwater wells, a proposed water treatment facility, a water storage tank and a distribution system. The water distribution system for the project will consist of approximately 20,000 linear feet of eight-inch water mains with approximately 360 individual service connections. The estimated maximum daily water demand is 272 gallons minute.

The project includes an onsite wastewater collection and treatment system capable of treating 197,000 gallons per day of wastewater associated with the project. The wastewater treatment plant (WWTP) will also reserve capacity for another 181,375 gallons per day of wastewater to serve the Hamlet of Amenia. The proposed sanitary system will consist of a gravity collection and conveyance system supplemented by low pressure sewers and the WWTP.

### Landscaping and Lighting

The project proposes extensive landscaping with native and naturalized species to provide screening, buffering, visual interest, habitat, carbon reduction, erosion control, spatial definition, and shade and cooling to mitigate effects on conservation areas. The proposed landscaping is designed with viewshed effects in mind, to greatly reduce the apparent mass of the project, screen the development from view and transition the edges of the development into the natural landscape. The conceptual landscaping plan contained in Map LA-1 to the April 2008 MDP offers trees at varying intervals along roads and sidewalks for shade and cadence. New landscaping around structures will focus views and provide pedestrian scale, color and ornamental interest. Shade, flowering and evergreen tree plantings combined with shrub masses and herbaceous layer plantings will help to screen the development.

The design principles for lighting the proposed project include limiting continuous pole-mounted roadway lights to conflict areas (crosswalks and intersections), uniformly lighting parking areas and reducing the number of fixtures illuminated after business hours, reducing or eliminating use of pole-mounted lighting along heavily used pathways at night through controls, and using top-down lighting for buildings and signage. Floodlighting or façade washing will be avoided. Public

entrances to building may have small amounts of low-output decorative lighting (750 lumens per fixture maximum). Additional building and all service entrance lighting will be fully shielded. Any non-shielded lighting needed for certain activities, such as deliveries, will be switched on temporarily.

Landscape lighting lamp wattages will be limited to 20W maximum light sources (1200 lumens per fixture maximum) and will be extinguished one-half hour after curfew. The project will use warm-color sources (3000K) that are close to incandescent in appearance and include ceramic metal halide lamps, pin based compact fluorescent lamps, small numbers of halogen lamps and a few warm color LED products. Blue-white light from metal halide or mercury lamps or orange light from high pressure sodium lamps will not be used.

Pole mounted street lights will range between 12 and 15 feet in height on streets and will be spaced 50 to 65 feet apart on the few streets that are continuously lighted. Parking lot poles up to 20 feet in height will be used to reduce the total number of fixtures required.

### Phasing

The Project is currently proposed to be completed in three phases, as follows:

#### **Phase 1**

- Entry and Welcome House
- Sales Office
- Wastewater treatment plant in its entirety, including the excess capacity reserved for the hamlet of Amenia.
- Water treatment facilities
- Hotel: 40 to 100 units. Balance of units in phase 3.
- Spa located at the previous proposed location of the conference facility.
- Partial Conference facility within hotel building
- Parking Structure 1 or a portion thereof based on parking ratios
- 4,000 SF Golf Club (Partial facility)
- Village Green buildings CR-1, CR-2, CR-17, C-16, and C-15. These buildings contain 59 condominium units and 11 retail spaces
- 41 single family homes Blocks H, I, J
- Vineyard Cottages and amenities
- Public Overlook Artisan's Park
- Golf Course renovations

Phasing notes:

- The developer shall have the ability to accelerate the construction of remaining village core Blocks B and C, the 19 Golf Villas in Block D and the remaining Hotel Facilities prior to the completion or start of the 41 single family homes and the 19 vineyard cottages if the market supports this.

The Project Sponsor is proposing the following conditions for starting the Vineyard Cottages in Phase 1:

- Building permits would not be issued for the Vineyard Cottages until building permits are issued and construction commences on the hotel, spa and Village Green Buildings CR-1, CR-2, CR-17, C-16, and C-15.

## **Phase 2**

- The remainder of the Golf Clubhouse, if sufficient private memberships have been sold in the club to support construction of a clubhouse.
- Parking Structure 2
- The remainder of Block B buildings, C-3 through C-11
- Block C, buildings C-12, C-13 and C-14
- 19 Golf Villas Block D
- Winery Restaurant

## **Phase 3**

- The remainder of the hotel units (with the aggregate number of units at full build-out not to exceed 300 units, or 367 keys)
- A Conference facility at the prior proposed location of the spa facility.
- Parking structure 3
- South Lawn Blocks E, F, and G

## **II. THE RDO APPROVAL PROCESS**

The purpose of the RDO district is to provide use and design flexibility to encourage resort development on appropriate large properties, where such development fits into the rural character of the Town and protects its scenic, historic, and environmental resources. In exchange for granting permission for use flexibility and more intensive development than is allowed by the underlying zoning, the Town seeks to achieve significant protection of open space resources, especially scenic viewsheds, ridgelines, water resources, and ecosystems. [121-18(A)].

The allowable uses in the RDO district include all of the uses allowed in the RA district, plus a number of additional specified uses consistent with a resort development. As relevant to the Silo Ridge application, those additional specified uses include [121-18(C)]:

- hotel-condominiums
- meeting rooms
- conference facilities
- restaurants
- retail, recreational and service businesses associated with resort use
- such other uses as may be approved by the Planning Board in issuing a special use permit for a development plan consistent with the purposes of the RDO district

For any project that includes one or more of these additional specified uses, the applicant must prepare a master development plan (MDP) for the entire site. The MDP is then subject to special use permit approval.

Accordingly, the Silo Ridge project needs three approvals from the Planning Board:

- special use permit approval (which is combined with approval of the MDP);
- subdivision approval; and
- site plan approval.

Under the RDO zoning regulations, the applicant had the option of either:

- 1) seeking a combined special use permit/subdivision/ site plan approval, or
- 2) seeking special use permit approval and conceptual site plan approval now, while deferring formal subdivision and site plan approval until a later stage when the design details necessary to obtain those approvals have been provided.

The applicant has elected to seek MDP, special use permit, and conceptual site plan approval now, and to defer its request for formal subdivision and site plan approval until a later stage.

Accordingly, the application currently before the Planning Board is limited to a request for special use permit approval which, under the RDO regulations, also includes approval of the MDP and a conceptual site plan.

## THE MDP AND SPECIAL USE PERMIT APPROVAL PROCESS

### *Special Permit Standards (general standards)*

In addition to the special permit approval standards specifically addressed to the Planning Board's review of the MDP, the RDO regulations state that the special use permit application must be reviewed using the special use permit standards generally applicable to all special use permit applications under the zoning law. These standards are contained in sections 121-60 through 121-63 of the zoning law.

Section 121-60 states in pertinent part "It is the policy of the Town of Amenia to allow a variety of uses of land, provided that such uses do not adversely affect neighboring properties, the natural environment, or the rural and historic character of the Town. Many uses are therefore permitted only upon issuance of a Special Use Permit by the Planning Board, in order to ensure that these uses are appropriate to their surroundings and consistent with the purposes of this chapter."

These general special permit standards classify projects in two categories: Minor Projects and Major Projects. Silo Ridge project is classified as a Major Project under these standards.

A Major Project special permit application must include:

- A site plan containing the information listed in section 121-65(B) of the site plan regulations, other than information that the Planning Board waives
  - either based on a determination that the information is not necessary for review of this project, or
  - based upon a determination that the information is not currently necessary for purposes of MDP and conceptual site plan approval, and that its production can be deferred to the design detail phase of the proceedings that will precede formal site plan approval.
- A narrative report describing how the proposed use will satisfy the criteria set forth in section 121-63, as well as any other applicable requirements relating to the proposed specific use proposed.

### *Special Permit Standards (specific to the MDP)*

In addition to the special permit approval standards generally applicable to all Major Project special permit applications under the zoning law, an application for special permit approval of the MDP must meet also certain minimum standards contained in the RDO regulations.

Specifically, at a minimum, the MDP must include a conceptual site plan showing:

- an open space system (including preserved open space)
- access and road layouts
- proposed buildings, including their use, footprint, height, and total square footage
- proposed recreational facilities
- proposed utilities, including water supply and wastewater disposal
- a phasing plan (if the project is to be built in phases)
- a management plan for future management of the proposed development as a unified entity
- proposed elevations of buildings and proposed architectural standards and covenants (if buildings will be visible from public roads, bicycle trails, or other publicly accessible lands)
- proposed dimensional and density standards for the development
- open space buffers of at least 100 feet from any existing residential uses that are not within the RDO (this buffer may be reduced where the siting of access roads, streets, or utilities within the buffer area can be accomplished without impact on adjacent residential uses)

The RDO regulations also permit the Planning Board to waive specific requirements of the Stream Corridor Overlay (SCO) district if streams and water features are integrated into the MDP in a manner that provides for water quality protection and mitigation of water quality impacts consistent with the purposes of the SCO district.

Finally, the RDO regulations state that, in addition to the minimum standards for a MDP articulated above, the MDP “shall also contain such other information as the Planning Board deems necessary to determine whether or not the Plan complies with the requirements of this Section 121-18 and other sections of this Chapter.”

Accordingly, the Planning Board has the discretion to require such other information in the MDP as it deems necessary to determine whether the MDP and conceptual site plan comply with:



- the RDO regulations (section 121-18),
- the special use permit regulations (sections 121-60 through 121-63), and
- any other provision of the Town zoning law, including without limitation:
  - the Stream Corridor Overlay (SCO) district (section 121-14),
  - the Scenic Protection Overlay (SPO) district (section 121-14.1),
  - the provisions of the Conservation Subdivision Law relating to preservation of open space by conservation easement [section 121-20(K)],
  - the Erosion and Sediment Control Law (section 121-32),
  - the Excavation, Grading, Rock Removal, and Clearcutting Law (section 121-34),
  - the Wetland and Watercourse Protection Law (section 121-35),
  - the Steep Slopes Law (section 121-36),
  - the Protection of Agriculture Law (section 121-37),
  - the Environmental Performance Standards Law (section 121-40),
  - the Workforce Housing Law (section 121-42)

After the submission of the revised MDP on January 15, 2009, the Planning Board required Applicant to provide substantial additional information in the MDP that the Planning Board deemed necessary to determine whether or not the MDP complies with the requirements of the Zoning Law. On April 2, 2009, the Planning Board determined that the MDP was complete.

### **III. SPECIAL USE PERMIT (MAJOR PROJECT) AND MDP APPROVAL CRITERIA**

Section 121-63 identifies the Findings that the Planning Board must make in either granting or denying a special use permit application. Specifically, the Planning Board must:

take into consideration the scale of the proposed project, the possible impact of the proposed project on the functioning of nearby farm operations, and, in rural areas, the tradition of freedom of land use where such use does not interfere with or diminish the value of the adjoining property. The Planning Board shall also take account of any proposed conservation easements, architectural restrictions, or other measures that would tend to mitigate potential adverse environmental impacts and preserve or enhance the scenic and historic character of the Town.

The Planning Board has considered the project in accordance with Section 121-63B of the Town of Amenia Zoning Law and describes below the findings for each major project criteria.

The major project criteria for special use permit approval include:

**1. Will comply with all land use district, overlay district, and other specific requirements of this and other chapters and regulations, and will be consistent with the purposes of this chapter and of the land use district in which it is located.**

The project substantially complies with all applicable Zoning regulations identified above including the permanent preservation of 80% of the total site acreage by conservation easement and maximum impervious coverage of 15%. However the following determinations are being sought by the applicant:

- Waivers from the 35-foot height limit applicable to the RDO for sixteen (16) buildings
- Permission to maintain the proposed roads as private streets and to install gates at all four entrances to the Project
- Permission to disturb approximately 20 acres of slopes greater than thirty percent (30%)
- Permission to fill two small wetland areas not regulated by the ACOE or NY DEC
- Permission to build a portion of the access road to the Vineyard Cottages within the 100 foot residential open space buffer.

The Resort Core Area design is consistent with the principles of Traditional Neighborhood Design (TND) as described in Section 121-42 of the Zoning Law. The single family homes located along the western boundary of the golf course and the bottom of the wooded hillside are within comfortable walking distance of the Resort Core Area, but do not fully comply with the design guidelines, and street and block guidelines, contained in the TND law. The Vineyard Cottages are physically separate and distinct from the Resort Core Area, and maintain a recreational area separate and distinct from the recreational facilities located in the Resort Core Area. As such, the Vineyard Cottages are not consistent with TND principles. The Project also

proposed four gated entrances to the site. At the main entrance, there will be a Welcome House associated with the gate and the remaining three gates will be "un-manned" key card type entries to the residential areas. The primary purpose of the Welcome House will be to greet visitors, and to identify persons entering the property and their intended destination(s).

The project sponsor has acknowledged that the Project does not fully comply with the TND principles described in section 121-42 as applied to the single family homes, Vineyard Cottages, private streets, and gated entrances.

Finding: The Project includes uses, as detailed in the Project description, which are contemplated by the Zoning Law and is consistent with the vision of the Comprehensive Plan. Subject to the Conditions of Approval, the Planning Board finds that the Project contains a major component (the Resort Core Area) which is consistent with TND principles. The Planning Board further determines that although certain portions of the project (single family homes, Vineyard Cottages, private streets, and gated entrances) are not in full compliance with the TND regulations, those aspects of the Project are acceptable because full compliance with the TND regulations for those aspects of the Project are not practical or are not consistent with the proposed resort use of the Property..

Section 121-36 of the Zoning Law requires the implementation of certain erosion and sediment control mechanisms and practices on steep slopes greater than 15% to avoid soil erosion and sedimentation. Subject to the Conditions of Approval, the Project will comply with this regulation.

Section 121-18(C) states that open space buffers of at least 100 feet must be provided from any existing residential uses that are not located within the RDO district, except that this open space buffer may be reduced in situations where the siting of access roads, streets or utilities within the buffer area can be accomplished without impact on adjacent residential areas. The Applicant has requested permission to locate a portion of the access road to the upper portion of the Vineyard Cottages. As explained in the SEQRA Findings Statement, the Planning Board determined that this proposal would not have an impact on the adjacent residential area if: (1) no structures or parking areas were located in this 100 foot open space buffer, including the Clubhouse and Vineyard Cottages, (2) all structures and the clubhouse parking area were located outside the 100 foot open space buffer and outside the 100 foot SPO vegetative buffer; (3) the portion of the access road to the upper portion of Block V in the open space buffer provides frontage for no more than six Vineyard Cottages; (4) a 150' buffer shall be maintained around headwater streams R/S and V to the maximum extent practicable; and (5) development and implementation of a landscaping plan reflective of the area's natural landscape similar to the plan studied in the DEIS. During the SEQRA process, the Applicant provided the Planning Board with a concept plan prepared by Looney, Ricks, Kiss conceptually complying with these conditions. The Applicant has incorporated that concept plan in the MDP.

The Planning Board determines that the requested waivers from the 35-foot height limit applicable to the RDO for sixteen (16) buildings are granted, subject to the Conditions of Approval. These waivers are granted based upon the Planning Board's determination during the SEQRA process that, based on the visual impact analysis provided during that process, no

significant views will be impacted by virtue of these waivers, and that any impacts on views resulting from these waivers are mitigated to the maximum extent practical, and that each of the buildings that are the subject of these waivers are sited to minimize visual impacts by taking advantage of natural topography. Accordingly, these waivers are granted and are expressly conditioned upon confirmation of the accuracy and reliability of that visual impact analysis through the use of Confirmatory Visual Simulations during the formal site plan review process as mandated by the SEQRA Findings Statement.

As stated above, the Planning Board finds concludes that the proposed maintenance of the roads as private streets and installation of gates at all four entrances to the Project. are acceptable because full compliance with the TND regulations for those aspects of the Project are not consistent with the proposed resort use of the Property

During the SEQRA process, it was estimated that Project will disturb approximately 20 acres of slopes greater than thirty percent (30%). The Planning Board determines that the Applicant has adequately demonstrated that this disturbance is permissible pursuant to sections 121-36(B)(6) and (7) of the Zoning Law. The Planning Board also notes this approval is based on conceptual site plans, and conditions this approval on Applicant's continued efforts to seek ways to reduce the amount of this disturbance during site plan review through the development of detailed engineering plans implementing the specific mitigation measures identified in the SEQRA Findings Statement.

The Planning Board, as part of its findings, is permitting the filling of one isolated wetland (2,562 square feet) known as Wetland "I" that is not regulated by ACOE or DEC, and is also allowing areas of filling to occur in two ACOE regulated wetlands (Wetlands "O" and "J"). The total area of fill in those two ACOE regulated wetlands totals 1,931 square feet which is well below the ACOE permitting threshold of one-half acre . However, the permittee must submit a pre-construction notification to the ACOE district engineer prior to commencing the activity (2007 NWP #27).

In reaching its determination to allow the filling of these three wetland areas, the Planning Board has reviewed the overall function and quality of each of the wetland or wetland portions proposed to be filled. The Planning Board has taken note that the current configuration of the golf course and its associated development has been re-designed to avoid impacts to many sensitive headwater wetlands on the site. Moreover, the Applicant has committed to East of Hudson standards for stormwater discharges to AM-15 and Amenia-Cascade Brook, the two most sensitive receiving waters on the site. The current site plan also avoids disturbance to the ridge top wetlands including at least one significant vernal pool and leaves the ridgeline and ridgetop densely forested, in its natural state, which is a major contribution to maintaining water quality. In reviewing these protections and mitigations, the Planning Board has found that the Applicant has avoided wetland impacts to the maximum extent practicable, the loss of these small areas of low-quality wetland will have *de minimus* impacts to natural systems on the site, and has determined that the filling of these areas is in keeping with minimizing the foot print of the development.

The Planning Board also finds that the 518 square feet of temporary wetland impacts will be fully mitigated and restored.

**2. Will not result in excessive off-premises noise, dust, odors, solid waste, or glare, or create any public or private nuisances.**

The proposed Silo Ridge development will leave approximately 80% of the site undeveloped, the majority of which will be open space and wooded areas, which will help to attenuate noise from construction and shield adjacent areas from potential impacts. Construction activities would typically occur during the primary daylight hours of 8:00 AM to 6:00 P.M. The Town of Amenia Zoning Law §121-40C exempts from noise level regulations construction- and maintenance-related noise occurring between 8:00 AM and sunset, Monday through Friday.

Proposed uses for the Project are not uses which typically produce noise above an acceptable level. Upon completion of the project, the noise study verified that every day operation of the resort will not result in excess noise. Any special event that meets the requirements for a public gathering permit under Chapter 91 of the Town of Amenia Town Code shall obtain a public gathering permit in compliance with that law

The design principles for lighting the proposed project include limiting continuous pole-mounted roadway lights to conflict areas (crosswalks and intersections), uniformly lighting parking areas and reducing the number of fixtures illuminated after business hours, reducing or eliminating use of pole-mounted lighting along heavily used pathways at night through controls, and using top-down lighting for buildings and signage. Floodlighting or façade washing will be avoided. Public entrances to building may have small amounts of low-output decorative lighting (750 lumens per fixture maximum). Additional building and all service entrance lighting will be fully shielded. Any non-shielded lighting needed for certain activities, such as deliveries, will be switched on temporarily.

Landscape lighting lamp wattages will be limited to 20W maximum light sources (1200 lumens per fixture maximum) and will be extinguished at curfew. The project will use warm-color sources (3000K) that are close to incandescent in appearance and include ceramic metal halide lamps, pin based compact fluorescent lamps, small numbers of halogen lamps and a few warm color LED products. Blue-white light from metal halide or mercury lamps or orange light from high pressure sodium lamps will not be used. All façade, decorative, and unnecessary landscape lighting shall be extinguished pursuant to the curfew provisions of the Findings Statement.

Pole mounted street lights will range between 12 and 15 feet in height on streets and will be spaced 50 to 65 feet apart on the few streets that are continuously lighted. Parking lot poles up to 20 feet in height will be used to reduce the total number of fixtures required.

Blasting is not expected to be necessary over most of the site. Nevertheless, in the event that blasting is necessary, all blasting operations will adhere to New York State ordinances governing the use of explosives.

Finding: Subject to the Conditions of Approval, the Planning Board finds that the Project will cause some temporary noise during construction; however the noise will not exceed acceptable levels. During the operation of the resort, it is not anticipated that excessive noise will be produced. Further, the Planning Board finds the proposed lighting measures will ensure the Project does not cause excessive glare or light trespass. Dust and odors will be minimized by the use of best management practices for construction and the implementation of appropriate erosion and sediment control measures.

**3. Will not cause significant traffic congestion, impair pedestrian safety, or overload existing roads, considering their current width, surfacing, and condition, and any improvements proposed to be made to them by the applicant.**

A traffic impact study was completed for the Project as part of the SEQRA review. The study included a level of service (LOS) analysis in which it was concluded that all intersection analyzed will maintain an acceptable (LOS) under the build condition with the exception of the proposed Route 22 access road to the hotel/golf course. The Project Sponsor is proposing to formally petition the NYSDOT, via its highway work permit process, to include the signalization of this intersection as part of the overall project. If approved by the NYSDOT, installation of the traffic signal will also involve modification to Route 22 at the main site entrance to include a right-turn lane on the southbound side of the road, as well as a left-turn lane on the northbound side of the road.

The Project includes a number of pedestrian amenities including sidewalks and walking paths internal to the project site. Additionally, the Project Sponsor is providing shuttle service between the project site, the hamlet of Amenia and the Wassaic Metro North train station. These features are designed to encourage walking in a safe environment.

Finding: Subject to the Conditions of Approval, the Planning Board finds that the proposed Project will not cause significant traffic congestion or impair pedestrian safety.

**4. Will be accessible to fire, police, and other emergency vehicles.**

Based on discussions with local police, fire, and EMS officials serving the proposed Silo Ridge development, the following safety designs and features were incorporated into the site design and layout and meet with the approval of the local emergency response officials:

- Water for the fire suppression system will be provided by the onsite water supply system. The primary water source for fire fighting purposes will be provided by fire hydrants located at each street intersection and at intermediate points along each roadway within the proposed development. Fire hydrants will generally be spaced every 300 feet, depending on the area being served.
- The proposed water distribution and storage facilities for the project will provide adequate fire flows.
- In accordance with the Uniform Fire Prevention and Building Code of New York State, buildings including hotel, commercial retail space, offices, banquet and spa facilities requiring fire protection and suppression systems will include all related elements in



conformance with Chapter 9 "*Fire Protection Systems*" and related provisions of the Fire Code of New York State.

- The proposed hotel-condominium complex will be designed and built with its own separate fire water storage facility to provide the needed fire flow and duration according to the NYS Building Code, Fire Code and applicable NFPA Standards and ISO requirements.
- Fire truck access will be provided on each side of the proposed hotel/conference center. In addition, on the ground floor, in the front and rear of the building, an external siamese fire connection or standpipe with two connections side-by-side will be provided to help feed water to and pressurize the building's sprinkler system or fire suppression system.
- In order to facilitate movement of emergency vehicles, all roads within the proposed Silo Ridge development will be constructed according to design standards in the Amenia Town Code and will be able to accommodate two 8.5-foot wide fire trucks side-by-side and, while the number of cul-de-sacs will be minimized to the maximum extent practical, any necessary cul-de-sacs will be designed to allow for adequate fire truck circulation.
- An emergency roadway will be provided around the southern end of the site that connects the east and west sides of the development providing an alternative means of access to the west side of the project site. There will be a crash gate installed at either end of this emergency access road blocking use of this road for reasons other than emergency vehicle access. Although this emergency access road was treated as a paved surface in the SEQRA documents for purposes of calculating the total impervious surfaces of the Project and for purposes of stormwater management, the Applicant will explore potential pervious or partially permeable alternatives to paving during the Site Plan review process, subject to receiving input from the applicable emergency service providers as to those alternate surfaces.
- The project will utilize a private security firm for on-site security on a daily basis. Security will be supplemented by additional special event management teams as needed, and/or by hiring local off-duty security personnel, including local sheriff's department staff and police officers.

Finding: Subject to the Conditions of Approval, the Planning Board finds that the proposed Project will be accessible to fire, police and other emergency vehicles.

**5. Will not overload any public water, drainage, or sewer system, or any other municipal facility.**

The Project will be served by a private water system regulated by the New York State Department of Health as a public water supply. Estimated water demand of 195,580 gallons per day (272 gallons per minute (gpm)) will be met by a series of on-site wells capable of producing 283 gpm with the largest producing well out of service.

The project will be served by a new wastewater treatment plant and collection system and will be in compliance with the New York State Department of Environmental Conservation (NYSDEC) State Pollution Discharge Elimination System (SPDES) requirements. The plant will have

adequate capacity to serve the Project at the estimated 197,000 gallons per day (gpd) and is providing an additional 181,375 gpd of capacity to serve the Hamlet of Amenia.

A stormwater management system in compliance with the NYSDEC Phase II Stormwater Management requirements is proposed for the Project. Stormwater runoff will be collected and conveyed through a combination of closed (piped) and open (swale) systems. Stormwater quantity controls and quality treatment systems, including the use of vegetated buffers, will be installed consistent with NYSDEC requirements. The stormwater system will be sized to accommodate 50 and 100 year storm events. All stormwater generated from commercial and residential development and the roadways will be subject to the "East of Hudson" standards as set forth in the New York State Stormwater Management Design Manual (August 2003), and in particular Chapter 10, Enhanced Phosphorus Removal Standard (April 2008). These are the treatment standards required within the New York City watershed, a phosphorous restricted watershed and because of the sensitivities of the Amenia Cascade Brook and the Dec Wetland am-15 these standards are deemed appropriate mitigation for the intensity of this development.

The Project is providing limited on-site recreational amenities which will be largely unavailable to the public.

A fiscal impact study revealed there will be additional costs to the Town for municipal services, however it is estimated these costs will be offset by increased revenues at full project buildout.

Finding: Subject to the Conditions of Approval, the Planning Board finds that the Project will not cause a burden on any public water supply, sewer or drainage system or any other municipal facility.

The Planning Board recognizes that the Project may place additional demands on Town recreational facilities, and that there may be a need to expand such facilities in the near future as a result of this Project and other subdivisions or residential projects. If the Planning Board determines during Site Plan review that a fee in lieu of providing these expanded recreational facilities is appropriate, the Planning Board will impose that fee according to applicable local and state regulations

**6. Will not materially degrade any watercourse or other natural resource or ecosystem, or endanger the water quality of an aquifer.**

The design of the development will leave 80% of the site as open space including 230 acres along the hillsides and the entire length of the ridge. The proposed project will disturb approximately 248± acres of the site including approximately 126± acres of disturbance related to golf course improvements and modifications. The remaining 122± acres of disturbed area are related to construction of the resort development. Impacts to soils and geology will be minimized through erosion and sediment control measures and the establishment of Best Management Practices (BMPs), as outlined in the *New York State Stormwater Management Design Manual* (2003) and *New York Standards and Specifications for Erosion and Sediment Control* (August 2005). Erosion control measures are designed to minimize soil loss. Construction on steep slopes will be minimized where practical. Employing best design, engineering and construction

practices can effectively deal with potential hazards arising from slope construction. The State Building code, when properly applied, provides additional protection for slope construction.

Housing units located on steep slopes are designed with terracing. The floor grades will be split from front to back or back to front adjacent to topographic slopes. Relocation of the single family homes in Block L, and reconfiguration of select single family homes in Blocks H, I, J and K to the southern end as shown in the MDP, was required by the Planning Board during the SEQRA review process to minimize disturbances to steep slopes and impacts on water resources. Roadways have been aligned along contours lines to reduce grading impacts and steep road/drive grades.

Paving and other site materials will be primarily natural and the use of permeable materials will be further investigated during Site Plan review.

A Natural Resources Management Plan, which includes an Integrated Pest Management Plan, has been prepared to minimize impact to terrestrial and aquatic resources. A Habitat Management Plan and a Buffer Management Plan have also been prepared for the entire site.

To protect water quality for both surface and aquifer sources, the Project includes the tertiary treatment of wastewater, stormwater management in accordance with DEC Phase II regulations including treatment to "East of Hudson" standards and other mitigation and conditions as described in the Findings statement, an environmental monitoring program which includes water quality and cluster style development in certain portions of the site which limits impervious surfaces.

Finding: Subject to the Conditions of Approval, the Planning Board finds that the Project will not materially degrade any watercourse or other natural resource or ecosystem or endanger the water quality of the aquifer.

**7. Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.**

Buildings have been placed to utilize the existing topography of the hillsides surrounding the valley as well as the rolling hills within the valley to minimize the visibility and perceived scale of the buildings. Architectural style, building facades, articulated building masses, facades, roof lines and fenestration are contextual and in scale; and the color and materials palette are detailed in the "Silo Ridge Resort Community Architectural and Landscape Character". Significant landscaping measures will be employed to provide additional screening of buildings.

Preliminary soil investigations indicated soils are suitable for development and blasting is not expected to be necessary for most of the site. A detailed geotechnical study will be provided by the Project Sponsor during Site Plan review.

Soil testing will occur on the current golf course prior to construction and reconfiguration of the course to determine the potential risks of such soil to construction workers, future residents and

golf course workers on the site. This soil testing will be conducted in compliance with the soil testing protocol incorporated in the SEQRA Findings Statement as Attachment A.

The Natural Resource Management Plan, the Habitat Management Plan and the Buffer Management Plan are designed to provide for long-term management of the site's natural resources. An environmental monitoring program will be put in place post construction as described in the MDP and the Findings statement.

Landscaping with shade, flowering and evergreen tree plantings combined with shrubs and herbaceous layer plantings are designed to screen the development. It is the preference of the Town to use native plant species to the maximum extent practicable.

Finding: Subject to the Conditions of Approval, the Planning Board finds that the Project is suitable for the location for which it is proposed.

**8. Will be subject to such conditions on operation, design and layout of structures, and provision of buffer areas as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the Town.**

During the SEQRA review process and described in the SEQR Findings Statement are many changes in the site plan, which were made to address project visibility, impacts on visual resources, and for compliance with the requirements of the Town's Scenic Protection Overlay District. This site plan, together with camouflage and screening mitigation measures, describe a development that from most viewpoints has a relatively small impact on the Town's scenic resources, screens neighboring property and roads, and complies with the requirements of the Town's Scenic Protection Overlay District.

Most of the visual simulations produced for the FEIS demonstrate exceptional camouflaging of visible portions of buildings. A relatively uniform tan was used to represent the weathered cedar shingle cladding. This color blends into the hillsides and screening vegetation proposed, and is shown in the visual simulations to provide excellent camouflage. The project's Architectural and Landscape Character document allows for more varied color selection--including white, cream and tans along with dusty shades of blue, green and orange--in the higher density portion of the project (known as the Village Green and South Lawn Neighborhoods). The visual simulations, however, limited building colors in this area to shades of tan and gray. Nevertheless, this area is now proposed to be so well screened that only a small portion of this portion of the development will be seen.

Beyond the sensitive use of natural topography to screen buildings, the visual simulations and narrative produced for the FEIS demonstrate the project's commitment to exceptional vegetative screening as a mitigation measure. From several viewpoints, buildings that are clearly visible in unmitigated visual simulations are completely or nearly completely screened by interceding vegetation. There also appears to be an interaction between effective camouflage and exceptional screening, which in combination make these two mitigation measures more effective than if they were undertaken independently. The visual simulations for the project show that only portions of the 70 foot tall hotel-condominium (Viewpoint 2), the winery restaurant

(Viewpoint 4), and the Vineyard Cottages (Viewpoint 5, 6 and 7) are materially visible. In the other viewpoints analyzed exceptional screening, camouflage or their effects in combination show that buildings will either be completely screened or only small portions of buildings will be visible.

Operation of certain components of the resort will be open and available to the public. These include the retail shops, restaurants, the golf course (on a limited basis), the skating pond and the Artisan's Overlook Park.

Finding: Subject to the Conditions of Approval, the Planning Board finds that the Project is compatible with surrounding uses and appropriate measures have been indentified to protect the natural, historic, and scenic resources of the Town.

**9. Will be consistent with the goal of concentrating retail uses in hamlets, avoiding strip commercial development, and buffering non-residential uses that are incompatible with residential use.**

The project is consistent with the goals of the Resort Development Overlay to promote tourism, recreation and open space preservation. On-site retail and restaurant uses are designed to accommodate guests of the resort, but are also open to the public which is anticipated to draw additional tourist into the Town. At full build-out, Silo Ridge hotel guests are projected to spend approximately \$2 million on meals and food, \$800,000 on transportation and gas, and \$1.5 million on retail goods annually, much of which is expected to occur locally and within the region.

The project is not intended as new town center and is not designed as a strip commercial development. The Project complies with the 5% total footprint area restriction on retail uses designed to prevent a resort development from replacing the Town's historic hamlets. A portion of the resort employs TND principles including the creation of a walkable core area.

The Project is complying with the 100 foot setback requirement buffering adjacent residential areas from any proposed buildings, however a portion of the Vineyard Cottage access road lies within the buffer area.

Finding: Subject to the Conditions of Approval, the Planning Board finds that the Project does not impair the goal of concentrating retail uses in hamlet by providing on-site retail and restaurants for use by both resort guests and the public. Further, the Project is not a strip commercial development and it appropriately buffers adjacent residential uses.

**10. Will not adversely affect the availability of affordable housing in the Town.**

The Town of Amenia Workforce Housing Law, Section 121-42 of the Zoning Law, provides options for developers to satisfy the workforce requirements. For example, a developer can build workforce housing or to substantially contribute to the cost of providing water and/or sewer infrastructure in the hamlets of Amenia and Wassaic. The Project Sponsor is proposing to contribute wastewater treatment capacity in excess of the Project's needs to be dedicated to the

Town for the Hamlet of Amenia. The excess capacity of 181,375 gpd shall be reserved exclusively for the anticipated hamlet of Amenia sewer system.

Finding: Subject to the Conditions of Approval, the Planning Board finds that the contribution of wastewater treatment capacity in the amount of 181,375 gpd substantially advances the Town's goal of providing sewer infrastructure to the Hamlet of Amenia. Further, the Planning Board recognizes that the provision of the sewer in the Hamlet will allow for increase density and the potential for workforce housing to be created in the future.

**Statement of Reasons for Contrary Action** [General Municipal Law section 239-m(6)]:

On April 28, 2009, the Dutchess County Department of Planning and Development issued a letter pursuant to General Municipal Law section 239-m recommending that the Planning Board require the Applicant to increase its proposed contribution toward the cost of providing sewer infrastructure to the hamlet of Amenia, or that the Planning Board conclude that the Applicant's proposed contribution failed to substantially advance the Town's goal of providing sewer infrastructure that will result in an increase in the availability of workforce housing in the hamlet of Amenia and that the Applicant should therefore construct the workforce housing required by section 121-42(P) of the Zoning Law. In a supplemental letter dated April 30, 2009, the Dutchess County Department of Planning and Development reiterated these recommendations, and suggested that the Planning Board consider linking the special use permit approval to the approval of the formation of a wastewater district in the hamlet of Amenia.

Pursuant to General Municipal Law section 239-m(5), a super-majority of the members of the Planning Board conclude that the contribution of the excess wastewater treatment capacity reserved for the hamlet of Amenia is consistent with the purposes of the Comprehensive Plan and the Workforce Housing law, substantially advances the Town's goal of providing sewer infrastructure to the hamlet of Amenia, and will allow for increase density and the potential for workforce housing to be created in the future. Accordingly, a super-majority of the Planning Board declines to adopt the recommendations contained in the April 28 and April 30 letters of the Dutchess County Department of Planning and Development.

The Comprehensive Plan identifies the need for a sewer system in the hamlet of Amenia as the "keystone" for planning in the Town, and states that the planning goals driving the new Zoning Law will be frustrated if the Town can not find a way to advance the Town's long-recognized need for the construction of a sewer system in the hamlet of Amenia as a mandatory precursor to development in the hamlet, including economic development that will create jobs for Amenia's workforce, as well as housing options that those members of Amenia's workforce can afford. Specifically, the Comprehensive Plan Update states

The single most important thing that has *not* happened in the last 15 years is the same one that has been talked about for at least 30 years: the need for a sewer system in the Hamlet of Amenia. This has been a keystone of planning for the Town and remains so. Yet, despite several efforts over many years to create a sewer system for the town center, it has yet to happen. Without a sewer system, most of the planning goals in this Plan and in all prior plans will be frustrated.



This is because the key to a successful, prosperous, and beautiful Amenia is a sewer system in the center of the hamlet to support a vibrant and economically robust town center surrounded by countryside that remains scenic, historic, and appealing to visitors...

The proposed large-scale developments close to the Hamlet offer the best opportunity the Town may have to solve this problem for the foreseeable future. In order for these developments to provide maximum benefit to the Town (Silo Ridge alone will likely have a population larger than the current population of the Hamlet itself), they should also contribute significantly to providing public sewer service to the Hamlet. There are many ways this can be accomplished, including but not limited to the construction of a sewage treatment plant by a developer or developers with extra capacity to serve the hamlet, extension of the collection system into the hamlet, providing funds to assist in hooking up hamlet units to the new system, and providing land for needed sewage treatment facilities. The developers of these projects can also work with each other and the Town to share the cost of providing sewage disposal facilities. If the Town and the developers work together on the sewage issue, they can finally solve the perennial problem of providing sewers in the Hamlet of Amenia. This will benefit the developers as well as the Town by making it possible to upgrade and beautify properties in the Hamlet, while making them far more economically productive. It is to the advantage of the Town and the developers to do this, since the Hamlet is their front door, and they are gateways to the Hamlet...

In the long-term, the Town would like to see the hamlet of Amenia become a vital and strong town center. This can only happen if there is a sewer system to support a wide variety of commercial and residential uses...

There is no more important priority of this Plan than to install a sewer system in the hamlet of Amenia

Accordingly, the Action Recommendations contained in the Comprehensive Plan Update included a specific recommendation that the Town create “a resort development overlay zone to give added flexibility for businesses that contribute to the second-home and tourist economy, while protecting significant scenic, agricultural, and environmental resources and provide specific public benefits including sewers for the hamlet and public access to open land and recreational resources.”

The Zoning Law that was adopted to implement the Comprehensive Plan Update clearly recognized the critical role that development of a sewer system for the hamlet of Amenia, and the unique opportunity that a resort development project could provide to substantially advance that goal, such as through the construction of a sewage treatment plant by the resort developer with extra capacity to serve the hamlet. Specifically, the section 121-18(C)(8) of the zoning law makes RDO developments subject to section 121-42(P) of the Workforce Housing Law.

Section 121-42(P) provides a number of alternatives for a developer to satisfy its workforce housing obligations, including the option of making a substantial contribution toward the cost of providing water and/or sewer infrastructure that substantially advances the Town's goal of providing such infrastructure and that will result in an increase in the availability of such workforce housing.

The Planning Board has consulted with the Town wastewater committee, which has been studying the need for sewers in the Town of Amenia for a number of years and which has been working with wastewater consultants to determine the amount of excess wastewater treatment capacity that would be required to serve the hamlet of Amenia. Based on those consultations, the Planning Board has determined that the 181,375 gpd of excess capacity being offered by the Applicant is sufficient to provide wastewater treatment for the hamlet of Amenia.

The Applicant has presented an estimate obtained from its wastewater treatment plant consultant, Delaware Operations, Inc., that the projected cost to the Applicant of providing this excess capacity is \$2.3 million (in 2008 dollars). The Applicant has also presented an estimate obtained from Delaware Operations, Inc., that the projected cost to the Town of building this excess capacity would be \$3.8 million (in 2008 dollars), and that the projected cost to the Town of building a stand-alone WWTP with sufficient capacity to accommodate the anticipated wastewater flow for a sewer system serving the hamlet of Amenia is \$5,506,628 (in 2008 dollars).

The Applicant has also presented information suggesting that the Applicant could profitably construct and sell the workforce housing required under the Zoning Law if its offer of the excess wastewater treatment plant capacity was rejected by the Planning Board. The Planning Board obtained an independent review of the Applicant's cost estimates from the Planning Board's engineer which confirmed that, at a minimum, the Applicant could construct the workforce housing required under the Zoning Law at a lower cost than the cost of constructing the excess wastewater treatment plan capacity. Although the Dutchess County Department of Planning and Development letters were critical of these calculations, they did not proffer an alternate set of calculations that the Department would deem to be reasonable. The Planning Board also notes that the Dutchess County Department of Planning and Development declined an earlier request by the Town that the Department prepare an alternate set of calculations to confirm or refute the Applicant's calculations, and that the Planning Board requested the independent review of those calculations by its engineer after the Department declined to provide those alternate calculations.

A super-majority of the Planning Board concludes that the construction of this excess capacity in the wastewater treatment plant, reserved exclusively for the hamlet of Amenia at no cost to the Town, represents a substantial contribution toward the cost of providing sewer infrastructure that is consistent with the Comprehensive Plan Update and the purposes of the Workforce Housing law, and that this contribution substantially advances the Town's goal of providing such infrastructure and that will result in an increase in the availability of workforce housing.

The Planning Board acknowledges the concern that has been articulated by the Dutchess County Department of Planning and Development, and by members of the wastewater committee, that the cost of constructing the collection system necessary to transport wastewater to the treatment plant will render the creation of such a system financially infeasible absent substantial contributions from additional funding sources. The Planning Board devoted substantial attention to exploring the possibility of inducing the Applicant to make additional contributions toward the cost of developing sewer infrastructure for the hamlet of Amenia above and beyond the excess wastewater treatment capacity, but the Applicant has consistently indicated that additional contributions are not financially feasible, and has produced credible information confirmed by the Planning Board's engineer demonstrating that the cost of the excess wastewater treatment capacity that Applicant has agreed to construct and reserve for the Town substantially exceeds the cost to Applicant of constructing the workforce housing required by the Zoning Law.

The Planning Board also notes that the Comprehensive Plan Update and Zoning Law do not require a single developer to single-handedly provide the hamlet of Amenia with a complete sewer infrastructure. Rather, the Comprehensive Plan Update and Zoning Law specifically contemplate that achieving the actual construction of a sewer system may require contributions from multiple developers, and that the standard by which any individual contribution should be measured is whether it is substantial, whether it is consistent with the Comprehensive Plan Update and the purposes of the Workforce Housing Law, whether it substantially advances the Town's goal of providing sewer infrastructure to the hamlet, and whether it will result in an increase in the availability of workforce housing in the hamlet.

A super-majority of the Planning Board concludes that the contribution of the excess wastewater treatment plant capacity, with an estimated value in 2008 dollars of between 2.3 and 5.5 million dollars, is a substantial contribution. A super-majority of the Planning Board concludes that this contribution is consistent with the Comprehensive Plan Update and the purposes of the Workforce Housing Law, and that it substantially advances the Town's goal of providing sewer infrastructure to the hamlet.

Finally, while the Planning Board recognizes that the cost of constructing the hamlet collection system may currently be prohibitively expensive absent substantial contributions from additional funding sources, the Planning Board concludes that the construction of the reserved excess wastewater treatment capacity will ultimately result in an increase in the availability of workforce housing in the hamlet. Specifically, by taking advantage of this opportunity to have the wastewater treatment plant capacity necessary to serve the hamlet of Amenia constructed at no cost to the Town, a super-majority of the Planning Board concludes that the construction of this excess capacity will serve as the critical first step after 30 years of failed progress in the Town's efforts to develop a sewer infrastructure in the Town. As additional sources of funding are identified that further reduce the cost of providing sewer infrastructure for the hamlet (whether those funding sources be federal, state, or county grants or loans, or contribution obtained from other developers in satisfaction of their obligations under the Workforce Housing Law), the hamlet will have already benefitted from the substantial savings associated with the Applicant's contribution of the excess wastewater treatment plant capacity.

**11. Will comply with applicable Site Plan criteria in §121-65D.**

During Site Plan review, the Planning Board will ensure all applicable provisions of Section 121-65D will be complied with by the Project Sponsor.

Finding: Subject to the Conditions of Approval, the Planning Board finds that the applicable Site Plan criteria in Section 121-65D will be addressed during the Site Plan review.

For purposes of this special use permit and MDP approval, the Planning Board waives production of the information listed in section 121-65(B) of the site plan regulations that has not provided in the MDP and special use permit application materials, based upon the Planning Board's determination that the information is not currently necessary for purposes of MDP and conceptual site plan approval, and that its production can be deferred to formal site plan approval.

**12. If the property is in a residential district, will have no greater overall off-site impact than would full development of the property with uses permitted by right, considering relevant environmental, social, and economic impacts.**

The Project is located in the Resort Development Overlay (RDO) district. The underlying zoning district classification is Rural Agriculture (RA).

Pursuant to section 121-7 of the Zoning Law, the purpose of the RDO district 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. This district provides for the master planned development of large properties to promote tourism, recreation, and open space and natural areas protection.

Pursuant to section 121-2(A)(4) of the Zoning Law, overlay districts are special districts designed primarily to protect special resources from inappropriate development and to maintain the Town's character and natural and historic resources. Some of these overlay districts, such as the RDO district, also allow uses that are not allowed in the underlying district. The provisions of these districts apply in addition to those of the underlying zoning district.

Pursuant to section 121-7 of the Zoning Law, the purpose of the RA district is to maintain the Town's working landscape by promoting agriculture, forestry, recreation, land conservation, and low density residential uses, as well as compatible open space and rural uses by encouraging such activities and discouraging large-scale residential development.

The primary purposes of the RDO and RA districts are to promote resort development and agriculture, respectively, while protecting the rural character and working landscape of the Town. However, since the RA district permits residential development as-of-right, and since all uses allowed in the RA district are allowed in the RDO district, the Planning Board has included consideration of this final criteria in its review of the MDP and the special use permit application.

The RDO provides use and design flexibility to encourage the development of resort communities and more intensive development than is allowed by underlying zoning. This flexibility is offered in exchange for protection of open space resources, including scenic viewsheds, ridgelines, water resources, and ecosystems.

The Project protects 80% of the site in open space, including the hillside and the ridge in the western portion of the site, and will be subject to a perpetual conservation easement held by a qualified conservation organization. The Applicant has also partnered with Audubon International and worked with the Planning Board's ecological and environmental experts in developing a habitat management and natural resources development plan that protects the site's natural resources, including its aquatic and terrestrial ecosystems. The Project has also been designed to minimize visual impacts by taking advantage of natural topography, and all development within the Project will be required to comply with the "Silo Ridge Resort Community Architectural and Landscape Character" prepared by Robert A. M. Stern Architects, LLP.

The Planning Board has also taken a hard look at the other potential off-site environmental impacts of the Project (e.g., traffic, water, vegetation, wildlife, cultural resources, stormwater and soil erosion, wetlands, noise, wastewater, solid waste, fire, police, and emergency services), and has concluded that the Project minimizes or avoids adverse environmental effects to the maximum extent practicable through the implementation of the mitigation measures identified in the Findings Statement, all of which were adopted as conditions of that Findings Statement. All of those conditions of the Findings Statement have been adopted and imposed as Conditions of Approval of the MDP and special use permit.

The Project also presents potentially significant beneficial economic impacts, including considerable tax revenues for the Town and the Webutuck Central School District. Due to its nature as a second home, resort-style community, the Project will also generate less demand on municipal services than a conventional residential development. The Project also represents an opportunity for increased employment and tourism in the Town and the region, which will result in significant direct and indirect benefits to the local economy.

Findings. Subject to the Conditions of Approval, the Planning Board finds that the Project will have no greater overall off-site impact than would full development of the property with uses permitted by right, considering relevant environmental, social, and economic impacts.

## CONDITIONS OF SPECIAL USE PERMIT AND MDP APPROVAL

The Planning Board approves the Silo Ridge Resort Community Master Development Plan and Special Use Permit subject to the following conditions (“Conditions of Approval”) as detailed below:

1. This Special Use Permit incorporates by reference all of the conditions of the adopted Findings Statement for this Project as conditions of the Special Use Permit.
2. The Project Sponsor shall provide a final copy to the Planning Board of the Master Development Plan which incorporates all of the revisions which occurred during the Special Use Permit process prior to submission of a Site Plan application.
3. Based on the revised construction phasing plan described in correspondence dated May 14, 2009, the Project Sponsor will be eligible for building permits for the Vineyard Cottages only after building permits and construction has commenced on the following Village Green Buildings: the hotel, the spa, and buildings CR-1, CR-2, CR-17, C-15 and C-16.
4. Prior to submission of a Site Plan application for the Project, the Project Sponsor shall secure a Memorandum of Understanding between the Town, the County, and the developer regarding the wastewater treatment plant, including the excess capacity being constructed and reserved for the hamlet of Amenia.
5. Prior to submission of a Site Plan application for the Project, the selection of a qualified conservation organization(s) acceptable to Planning Board that will hold the conservation easement for the golf course and other open space will be determined.
6. No structure, storage tank, garbage containers, dumpsters or debris shall be placed within the 100-foot open space residential buffer, other than for a momentary and temporary period of time. No exterior lighting or surveillance equipment shall be directed at any dwelling located off the Project site.
7. Any special events that meet the requirements for a public gathering permit under Chapter 91 of the Town of Amenia Town Code, as it may be amended from time to time, shall obtain a public gathering permit in compliance with that law
8. Access roads to the Artisan Park, and water tank will not be paved or otherwise covered by an impervious surface until the winery restaurant is built. The access road to the Vineyard Cottages may be paved during their construction in order to provide emergency vehicle access.
9. The resort operator shall maintain a daily log identifying the occupants of the hotel-condo units so that the Town can monitor compliance with the transient occupancy and part-time residence occupancy restrictions contained in the Zoning Law. The resort operator shall submit a copy of the log on an annual, calendar-year basis, and shall also make the log available for inspection on request by the Town Building Inspector or Zoning Administrator. At the time of filing with the Town, the resort operator may make a

written request that the Town except the log from disclosure pursuant to section 89(5) of the Freedom of Information Law. If such a written request is made, the Town shall comply with the provisions of section 89(5) before responding to a FOIL request seeking inspection or production of the filed log.