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*PLANNING with
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Mr. William Flood
Planning Board Chair
Town of Amenia
36B Mechanic Street
Amenia, New York 12501

RE: SEQRA
Review of Visual, Community Character,
and Alternatives
Depot Hill Farm DEIS
Town of Amenia
Dutchess County, New York

Dear Mr. Flood:

My office has conducted a detailed review of Visual (Section 3.7), Community Character (Section 3.21), and Alternatives (Chapter 5) of the Draft Environmental Impact Statement (DEIS) for Depot Hill Farm. This review focused on substantive issues regarding environmental impacts of the project pursuant to 6 NYCRR Part 617.

Summary

The DEIS discloses that the project as proposed has significant visual impacts on an area explicitly identified as having scenic importance in the Town's Comprehensive Plan and Zoning. The proposed project is also designed to preserve open spaces and existing agricultural uses that compose elements of the high visual quality of the area. The Planning Board must balance the importance of the elements that are being preserved with the damage done to existing visual resources, along with the other goals and objectives of the Town and the applicant. I believe that changes can be made and a new plan developed that will better protect the areas visual resources while still meeting the objectives of the applicant and the Town. I recommend that the Planning Board discuss design changes with the applicant that will balance the Town's desire to protect visually sensitive areas, open spaces and agricultural uses, with the Applicant's desire to build this novel resort community.

The Community Character section of the DEIS does not adequately describe the project's impact on Community Character and the FEIS should contain more detail as to the expected impacts of the changes this development will bring *vis-à-vis* the goals and objectives of the Town.

The DEIS also has a number of relatively minor issues, detailed at the end of this letter, which should be clarified in the FEIS.

If you are reading a black and white version of this letter, a color copy will be posted at http://www.georgejanes.com/html/on_the_record.html under the Town of Amenia sometime after the July 30th Planning Board meeting.

Visual Resources

As stated in the DEIS, the proposed development is clustered in a series of four neighborhoods. These clusters help to preserve land which is a requirement not only of the Resort District Overlay, but also as a practical matter to preserve the current agricultural use of the property. The portions of the development that have the largest visual impact from most viewpoints are the portions that follow the existing hedgerows up the hillside.

The proposed architecture is spare, and the design is unusual for the region. Unlike a typical high-value development the homes proposed are somewhat modest at 2,600 square feet with single-car garages; they have materially identical designs and building materials; building colors are muted. The intent of the design is to keep the focus on the landscape and not on the architecture of individual buildings. Lawns and fences will not be a part of the development and the boundary between homes and the surrounding agricultural uses will not be strictly defined. Taken together, the design of the site and the architecture helps to keep the visual footprint of the development smaller than a more typical high value development.

Nevertheless, there is only so much mitigation that can be done when placing many buildings in a prominent location noted for its rural character. While the project's visual impacts have been mitigated, the project as proposed will still have significant impacts on visual resources. These impacts are disclosed in the Visual Resources section of the DEIS. Some of the largest impacts occur on views from Delavergne Hill, which are noted in both local and county planning documents as important views to preserve and protect. The impact from the scenic road Depot Hill Road is also significant.

The short visual summaries outside the Visual section (i.e. Chapters 1, 2, and 4¹) describe visual impacts that are not as clearly disclosed as they are in the Visual section. In Chapter 4, for instance, visual impact is described as “placing residences on land that is currently agricultural fields.”² While true that the proposal is to develop agricultural fields, this is not strictly the reason there are significant visual impacts: impacts on visual resources are due to developing land in a prominent viewshed that is contrary to its existing scenic character. Developing agricultural land in a less prominent location would likely have much lesser impact on visual resources. Chapter 4 also discloses the amount of development that occurs in the Scenic Protection Overlay (SPO), by

¹ Pages 17, 41 and 368, respectively

² Page 368.

neighborhood, which, as shown later in this letter, is not a good measure of impact on visual resources. Nevertheless, the short summaries found in Chapters 1, 2, and 4, are minimally acceptable as they do disclose that the project will create impacts on visual resources.

The proposal described in the DEIS attempts to achieve goals for development found in the Town's zoning and comprehensive plan: preserving open space and agricultural uses, respecting the land and the existing physical character of the community, and clustering density to make these things practical. The plan also implements visual mitigation measures that "mitigate potential visual impacts to the maximum extent practicable"³ considering the plan's design and density. Another plan for the site, however, could have a significantly lesser impact on visual resources. The Town should work collaboratively with the applicant to develop a new plan that still achieves both the goals of the applicant and the Town. I believe such a plan is achievable given good faith efforts from both sides.

A New Design and the Scenic Protection Overlay

A Scenic Protection Overlay (SPO) is a part of the Town's zoning law. It is part of the mechanism to implement the goal of preserving the Town's scenic resources. The purpose of the SPO is "to regulate land uses within designated scenic corridors and ridgeline areas to protect the Town's scenic beauty and rural character."⁴

The boundaries of the SPO are defined by rule. The portion of the SPO that is found on the development site is the Ridgeline Visual Protection Zone. This ridgeline zone includes "areas with slopes over 25% and visibility from 3 or more View Points."⁵

³ Page 171.

⁴ Amenia Zoning Law, page 20.

⁵ This text comes from the map on page 126 of Amenia Zoning Law that shows the Scenic Protection Overlay. This is not how these boundaries are defined on the SPO map, however. There are many places less than 25% slope that are marked as in the ridgeline protection area, including much of the proposed development site. It *appears* that the Ridgeline Visual Protection Zone as shown on the map is made up of land on a 25% slope OR visible from three or more viewpoints. It is not clear if the boundaries of the SPO or the text describing how the SPO boundaries are made are in error, but they are clearly inconsistent. For the purposes of this review, the SPO boundaries as found in the zoning law are used throughout this document as they are a part of the zoning law and so analyzed in the DEIS.

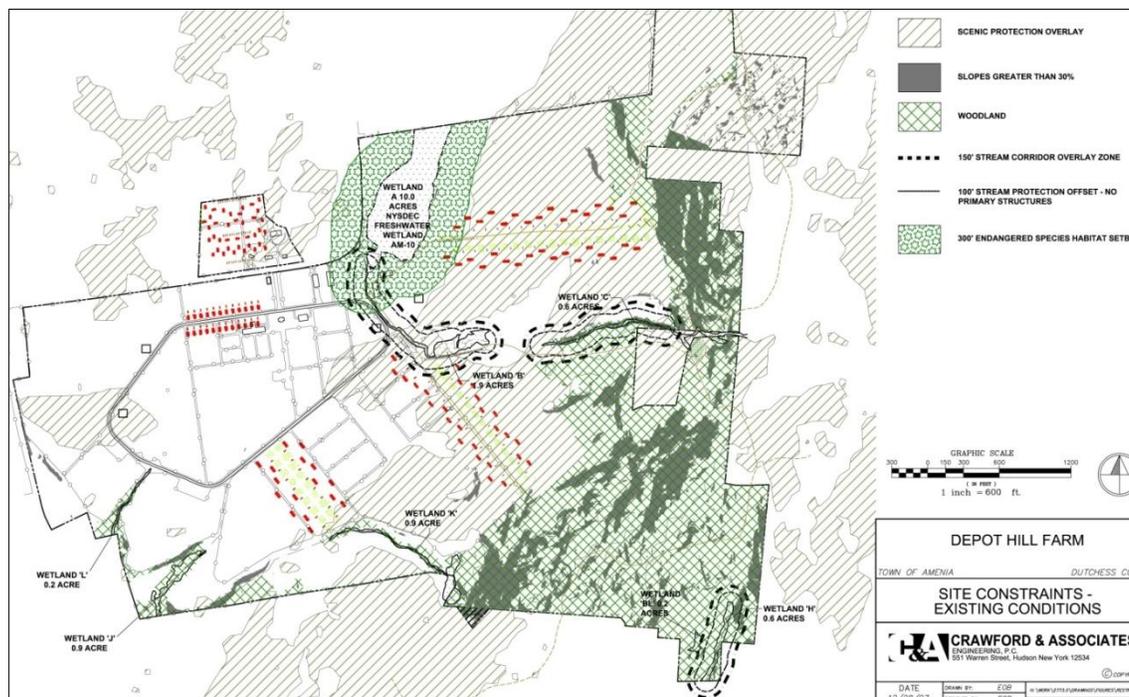


Figure 1: Proposed site plan with the SPO shown as hatched, along with other elements

The SPO includes the hatched areas on the above map, which has been superimposed with the development proposal. Virtually all of Neighborhood 1 and 2 are shown inside the SPO, while small portions of Neighborhood 3 and 4 are also inside the SPO.

While the intention of the SPO is excellent, its implementation through the Town's zoning does not meet its intention, specifically for the Ridgeline Visual Protection Zone. The overlay concept only addresses *target* scenic area (i.e. the ridge) and does not address the viewshed (i.e. the area in-between a viewer and the target.) For the scenic roads component of the SPO--which does not include Depot Hill Road--the overlay concept works fine because the viewshed and the target are essentially the same. For ridges, which can be visible from long distances, however, an overlay concept does not work well considering the intention.

The entire viewshed is important when viewing the target. By preserving or protecting only the target, a view to a target can be significantly impacted by activities that occur outside of the protected area. For example, consider the following diagram:

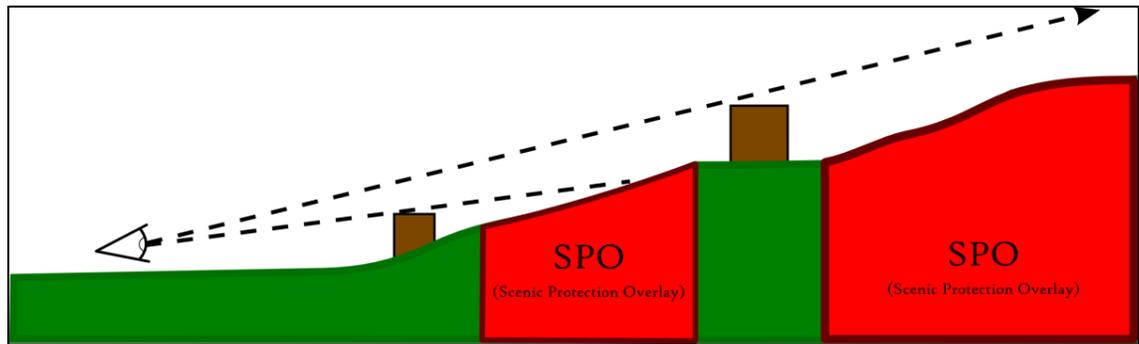


Figure 2: Diagram showing hypothetical obstructions to an SPO that are not in an SPO

A viewer (represented by the eye) can have views to a target area completely or partially blocked by development that occurs outside the protected area. This weakness is exacerbated by the fragmented nature of the Town's current Ridgeline Visual Protection Areas, which are not uniform, but have holes and are irregularly shaped. This finding is more than just theory, but has real application to this development proposal. Consider, for example, Viewpoint 4:



Figure 3: Viewpoint 4 existing conditions

This is the existing view from Old Route 22, looking toward Neighborhood 4. To determine what part of this view is in the SPO, my office overlaid the SPO on a terrain model. The land in this view that is part of the SPO is shown in red on the following image:



Figure 4: Viewpoint 4 showing the SPO in red

The wooded ridgeline in the background of this image is entirely within the SPO. The following image shows the proposed development with the buildings color coded: A green building is sited outside the SPO, while red means that the building is sited inside the SPO.



Figure 5: Viewpoint 4 with SPO, showing proposed buildings color coded

The buildings of neighborhood 4, which are largely outside the SPO, obscure much of the view to the SPO on the left side of the image. Ironically, very few buildings that are inside the SPO actually have any impact on this view (one can barely be seen in the center of the photograph.) The point of this demonstration is to show that just protecting a desirable element of a view does not necessarily protect views to that desirable element, as intervening activity in the viewshed can alter the view.

A redesign that completely avoided development in the SPO would not guarantee that views are protected. Likewise, development inside the SPO does not necessarily mean that views have been degraded. Both public comments on the DEIS and the text of the DEIS focuses on the number of buildings that are inside the SPO by neighborhood. Indeed, a discussion of the SPO and the site's proximity to it is a requirement of the Scoping Document. But this is a review under SEQR and impacts on visual resources are analyzed independently of the SPO⁶. Any redesign of the project should focus on designing development that minimizes the impact on the area's visual resources, among the other goals and objectives of the Town and the applicant. The best way to assess this project's impact on visual resources is to use the tools of visual resource assessment, independent of the SPO, to see how well any new design performs in preserving and protecting visual resources.

Alternatives

Part of the reason a completely new design is recommended for the site is that none of the alternatives studied in the DEIS (Chapter 5) is a viable alternative, as none meets the objectives of the applicant. This is unfortunate, but the alternatives evaluated in this chapter do provide a range of possibilities and can be used to help inform a new design. For example, as the DEIS shows, development following the underlying zoning using conventional subdivision methods would have significant visual impacts by eliminating the agricultural use and other scenic elements that help to make the view to this land exceptional. Certainly, some kind of clustering, which respects and preserves the current use and physical form of the land will have lesser visual impacts than development that is allowed under the underlying zoning.

It should be noted in the FEIS that the visual simulations found in this section are different from those found in the Visual section. The simulations found in this section are useful in comparing the alternatives with other alternatives--which is all that is required by the Scoping Document--but they are artist renderings and do not necessarily represent how these alternatives would actually appear if they were built.

⁶ As such, this letter makes no recommendation or comment as to the statement on page 48 of the DEIS, which asserts that the proposed project is eligible for a waiver from the SPO, other than to say that consideration of such a waiver is appropriate only after SEQR findings have been made.

Community Character

Community character is often defined as the interaction between the built and un-built environment, socio-economic, demographic, historic, and cultural conditions of the community. The Community Character section of this DEIS (3.21) does describe some of these elements individually, but does not attempt to assess the interaction between them, nor does it fully identify the project's impacts to the community's character. Similarly the mitigation portion of this section focuses on the physical changes and does little to address all the components which together make up community character.

Changing community character is not necessarily a negative environmental impact that needs mitigation. A community may wish to transform itself and a project may be a part of the realization of a planned and desired change. To understand if the change in community character created by the project constitutes a negative environmental impact, the community's vision of itself needs to be understood and compared to changes that the project is expected to cause. Amenia's Comprehensive Plan is current and the goals and vision section describes a community that wants to grow and attract new residents and businesses, while balancing the interests of the rural, historic, and agricultural beauty of the Town.

For example the DEIS notes that the project is expected to draw households with incomes of at least \$250,000 (with an average of \$450,000), which is significantly higher than the median household income of the town. Considering the proposed development is close to 10% of the existing size of the town, attracting this many new households with higher incomes will certainly change the character of the community, the degree to which is an issue for further study. It can be easily argued that the Comprehensive Plan identifies this kind of change as a positive impact, but even if this is considered a positive impact, all significant impacts need to be disclosed regardless of their quality.

The FEIS should include a much more complete discussion on the expected impacts to Community Character, both positive and negative, describing changes in the context of the vision and goals outlined in the Comprehensive Plan and/or other relevant documents.

Other comments

Due to what appears to be an editing error during production, page 159 of the DEIS has a paragraph that does not make sense because several sentences were deleted.

The paragraph that reads:

Overall Visual Character of the area

The visual character of a landscape is often defined by patterns that compose it. In visual the compatibility of these visible patterns with the visual character of the surrounding landscape.

Should have read:

Overall Visual Character of the area

The visual character of a landscape is often defined by patterns that compose it. In visual resource assessment these patterns are often broken into component elements so that each may be assessed to develop a fuller understanding of the visual impact of an action. These elements typically include: form, line, color, texture, scale and spatial dominance¹ and are helpful to assessing the more qualitative aspects of a particular view. The qualitative impact of a project is determined by evaluating the compatibility of these visible patterns with the visual character of the surrounding landscape.

This paragraph had the following footnote that was also deleted:

¹ Definitions of these elements can be found in the Bureau of Land Management's Visual Resource Contrast Rating Manual, which can be found on-line here:
<http://www.blm.gov/nstc/VRM/8431b.html>

- It should be acknowledged in the FEIS that the photo-rendering that appears on the cover and spine of each volume of the DEIS is an artist rendering which was deleted from the Visual Resources section because it was shown not to accurately portray the project as proposed.
- It should be acknowledged in the FEIS that Figures 20.B.5 through 20.B.14 are artist renderings that are included as required by the Scoping Document to show design intent, but should not be used when assessing impacts on visual resources.
- The print quality of the hardcopy visual simulations I reviewed was not good. The printer used too much contrast on Figures 20.D.1 through 20.M.3, which makes several of them too dark, especially in shaded areas. The FEIS should either replace these images⁷, or instruct readers who have problems with their print versions to look at the on-line version, depending on how widespread the problem is and how relevant these images are to the FEIS.
- The key map found on Figure 20.A.2 list figure numbers that do not correspond to the figure numbers given to the photographs it keys.
- Appendix L is a version of the Visual section that appeared in a PDEIS. Visual Resources (Section 3.7) was rewritten to provide a more accurate assessment of the project's impact on visual resources for the DEIS.

⁷ As photographs, they are most faithfully reproduced when using photo-quality paper and printers.

Appendix L should have been removed from the DEIS because it was determined by the Planning Board to understate the project's impacts on visual resources. Appendix L should not be considered when evaluating the project's impacts on visual resources.

- It should be noted in the FEIS that while my firm performed the visual simulations found the DEIS, it did so for the Town of Amenia at the request of the Town of Amenia with the agreement of the applicant. This was an unusual arrangement that should be acknowledged to ensure that readers understand there is no conflict of interest.
- A significant development (Silo Ridge) is planned on the opposite side of the Harlem Valley from the proposed development. Silo Ridge has already received its SEQR finding statement and has an approved master development plan to move forward into site plan review. The cumulative visual impacts of these projects taken together have not been analyzed in either environmental review and it is possible that Silo Ridge will impact viewpoints from Delavergne Hill to the west. Cumulative visual impacts should be explicitly discussed in the FEIS using photosimulation as evidence.
- In comment letters regarding the completeness of the PDEIS, I discussed this requirement of compiling an inventory of visual resources of statewide significance and then determining visibility to these resources using a viewshed map. The DEIS contains the inventory of visual resources of statewide significance, but shows no viewshed map. Instead, the text claims that there is no visibility to any of the resources not already analyzed without presenting evidence. I recall discussions with the applicant's consultant where it was stated that inventoried resources that could conceivably have views to the project site were visited to confirm that no views existed. It is my opinion that in a project site such as this, such fieldwork, if carefully performed, can be a suitable replacement for the findings of a viewshed map. If my recollection regarding the fieldwork is correct, it should be stated in the FEIS as evidence supporting the claim that no additional inventoried visual resources have visibility to the project site. If not, these sites should either be visited to confirm visibility (or lack thereof) or a viewshed map constructed to confirm no visibility exists.

Close

As described in the DEIS, the project has significant visual impacts on views that have been identified as of critical local importance. While the project as designed has incorporated meaningful mitigation measures such as sensitive design, color camouflage, non-specular materials and screening, there is a limit on how effective these mitigation measures can be when so many buildings are added to a

prominent hillside location. A new design that considers relocation off the most visible hillsides and/or project downsizing should be a part of the discussions for a new plan for the site.

The Town and the applicant should work together to find a solution that meets the objectives of both the applicant and the Town that better minimizes impacts on visual resources. I believe that such a solution does exist and I encourage the Town and the applicant to work collaboratively in developing a new plan that does not result in the significant unmitigateable impacts on visual resources identified in this DEIS.

I appreciate the opportunity to comment on the DEIS for this important project. Should you or the applicant have any questions or comments, please feel free to contact me at (646) 652-6498.

Sincerely,

A handwritten signature in black ink, appearing to read "G. M. Janes". The signature is fluid and cursive, with a large initial "G" and "M".

George M. Janes, AICP
Principal