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November 21, 2019

Ms. Kathy Kivlehan
Stony Point Zoning Board of Appeals
74 East Main Street
Stony Point, NY 10980

Re: Ba Mar Mobile Home Community

Dear Ms. Kivelan:

As you know, we represent the applicant in the above-referenced matter. We have received the GML 239-1 review letter from the Rockland County Planning Department dated November 19, 2019, and have the following responses.

The Board should note that most of the Department's comments are standard comments relating to reviews and permits by other permitting agencies. Some comments, however, relate to matters beyond the Department's jurisdiction to review regional or county-wide impacts. One comment seeks to substitute the Department's judgment for this Board's, and another seeks to do the same with the N.Y.S. DEC.

1 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. 124 of the 138 proposed new units require variances for lot width and street frontage. Five units will require variances for front setback. The ability of the existing infrastructure to accommodate increased residential density on undersized parcels is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Town must consider the cumulative and regional impacts of permitting such development. The number of units should be further reduced so that the site better complies with the zoning requirements.

The Department did not mandate a reduction of units. It stated that the number of units "should" be further reduced "so that the site better complies with

the zoning requirements.” This notion flies in the face of the very reason for the establishment of a Zoning Board of Appeals: to determine whether strict compliance with the zoning requirements is necessary and appropriate under the circumstances.

The proposed development replaces an existing development that consisted of 151 units. The current proposal contemplates 138 units. The reduction of 13 units will, by itself, reduce impacts on infrastructure. Further, the original development contained larger units than the proposed development, and an inferior road internal road network. Last, the proposed development is specifically designed to be more resilient in the event of future flood events.

The Department’s concerns were specifically addressed by the applicant and the Planning Board in evaluating the environmental impact of the project under SEQRA. The Board determined that these concerns and impacts were adequately addressed, and issued a negative declaration.

A review of the plans by this Board will confirm what the Planning Board has determined. The proposed variances will not have the adverse impacts that appear to concern the Department.

This recommendation should be overridden to the extent that it seeks a reduction in the number of units.

2 The applicant must comply with all comments made by the County of Rockland Department of Health in their letter of October 24, 2019.

Agreed.

3 An updated review must be completed by the County of Rockland Division of Environmental Resources and any concerns addressed. In addition, the applicant must comply with all comments made by them in their letter of March 4, 2019.

Agreed.

4 A review must be completed by the County of Rockland Department of Highways and any required permits obtained from them.

Agreed.

5 A review shall be completed by the New York State Department of Environmental Conservation and any required permits obtained.

Agreed.

6 As per the March 19, 2019 letter from the Rockland County Drainage Agency, a copy of the New York State Department of Environmental Conservation Freshwater Wetland permit or a written determination otherwise must be forwarded to them.

Agreed.

7 A review shall be completed by the United States Army Corps of Engineers and all required permits obtained.

Agreed.

8 The designated floodplain administrator for the Town of Stony Point shall certify that the proposed construction is in compliance with the floodplain regulations of the Town and the Federal Emergency Management Agency.

Agreed.

9 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Town of Stony Point Fire Inspector, or the Stony Point Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

Agreed. The applicant has worked with the Stony Point Fire Inspector since the inception of this project to ensure access to the site by fire trucks and other emergency vehicles, particularly in a flood event. The entire site plan is based on this premise.

10 A review must be completed by Orange and Rockland Utilities and their comments considered.

Agreed.

11 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Department of Health prior to construction.

Comment noted. No response required.

12 Any ingress/egress easements for tax parcel 20.02-22-9 (1-2 Ba Mar Drive) must be indicated on the site plan.

Agreed. However, this is not a regional or county-wide issue, and is therefore beyond the Department's jurisdiction.

13 There must be no units or disturbances within the NYSDEC wetlands or the 100' adjacent area.

The Department is setting itself up as an overseer of NYSDEC with respect to NYSDEC wetlands. It has no right or jurisdiction to do so.

NYSDEC regulations do NOT prohibit units or disturbances within the 100' adjacent area. In fact, they specifically permit disturbances under appropriate circumstances.

The applicant has worked with NYSDEC to achieve an appropriate treatment of the area given the nature of the improvements and NYSDEC's concerns. To the extent that NYSDEC has endorsed disturbances and units within the 100' adjacent area, the Department has no right to object.

This recommendation should be overridden, based on NYSDEC permitting.

14 Three areas along Road C on the western side of the site have the symbols for snow storage areas, but are labelled as "proposed mail box." The symbols and labels must match. The labels must be corrected.

Agreed. The correction will be incorporated into future revisions of the plans. However, this is not a regional or county-wide issue, and is therefore beyond the Department's jurisdiction.

15 Either parking for the recreation /playground area, or sidewalks connecting these amenities to all of the housing units, must be provided.

The applicant will work with the Planning Board to provide appropriate internal access to the recreation/playground area. The recreation/playground area is for the exclusive use of park residents and guests, internal access is outside the Department's mandate to consider regional or county-wide impacts.

16 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

Comment noted. No response required.

17 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

Comment noted. No response required.

The applicant therefore requests that the Board override recommendations 1 and 13 for the reasons stated above.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Ira M. Emanuel', with a long horizontal flourish extending to the right.

Ira M. Emanuel

CC: Client