



ZARIN &  
STEINMETZ

David J. Cooper  
Jody T. Cross ●  
Marsha Rubin Goldstein  
Jeremy E. Kozin  
Helen Collier Mauch ▲  
Matthew R. Pisciotta  
Daniel M. Richmond  
Brad K. Schwartz  
Lisa F. Smith ●  
David S. Steinmetz ■  
Krista E. Yacovone  
Michael D. Zarin

■ Also admitted in D.C.  
● Also admitted in CT  
▲ Also admitted in NJ

June 26, 2015

**Via Hand Delivery**

Hon. Stewart E. Sterk and Members  
of the Village of Mamaroneck Planning Board  
Village Hall  
169 Mt. Pleasant Avenue  
Mamaroneck, NY 10543

**Re: Hampshire Country Club – Planned Residential Development**

Dear Chairman Sterk and the Members of the Planning Board:

This firm represents Hampshire Recreation, LLC (“Hampshire”) in connection with the above Application. Hampshire, and its co-developer Toll Brothers, Inc. (“Toll,” and collectively with Hampshire, “Applicants”), are pursuing a planned residential development on the 94.5 acre portion of the Hampshire County Club located in the Village’s R-20 zoning District (“Subject Property”). The proposed development would result in a total of one hundred and five (105) units at the Subject Property, consisting of forty-four (44) single-family residences, and sixty-one (61) townhouses (“Project”). We submit this letter and enclosed materials in anticipation of appearing before your Board on July 8<sup>th</sup> to commence the review of this proposal.

As your Board is likely aware, Hampshire pursued previously before the Village Board a limited condominium development at the Club, requiring various amendments to the Village Zoning Code. Rather than entertaining that application, the Village Board firmly indicated that Hampshire should pursue an application before your Board under the Village’s existing residential zoning regulations. The Applicants’ design team has spent considerable time and resources evaluating the best approach to such residential development. The Applicants have determined that the Village’s Planned Residential Development (“PRD”) Regulations, contained in Section 342-52 of the Village Zoning Code, provide the best mechanism to achieve an appropriate balance between the Applicants’ right to introduce a residential component as permitted under the existing R-20 zoning, and preserving open space as well as the other environmental features on the Subject Property.

The “maximum permitted density” of a PRD on the Subject Property would be two hundred and five (205) units. See Village Code § 342-52(C).<sup>1</sup> This density may be adjusted in order to address “environmental limitations, traffic access, the use and character of adjoining land or other planning considerations” identified by your Board based upon empirical data and other objective factual bases. See id. The Applicants have endeavored in good faith to arrive at a density that would facilitate the goals of the PRD to promote “open space and superior design of residential development,” taking into account the criteria set forth in Section 342-52(C). This includes preserving all wetlands and ponds at the Subject Property, as well as at least forty-nine (49) acres as open space. The proposed density also limits disturbance to areas that could be elevated above the floodplain so that the natural topography and post-development contours will act as a barrier to flooding both on, and off, the Subject Property. At least three (3) points of vehicular access to the development are available at opposite ends of the Subject Property to better distribute traffic arriving and leaving the development. These factors, among many others to be evaluated in what we are confident will be a fair and unbiased review process, support your Board approving the Applicants’ proposed development.

In furtherance of this development the Applicants seek the following approvals from your Board: (i) a Special Permit to pursue a PRD consisting of one hundred and five (105) units at the Subject Property; (ii) Subdivision Approval to create a total of one hundred and nine (109) lots at the Subject Property, corresponding to each unit (105 lots), as well as the private roads and open space supporting the development (4 lots); (iii) Site Plan Approval; and, potentially, (iv) a local Freshwater Wetland Permit in connection with the relocation of tennis courts. In addition, the Applicants will seek a Coastal Management Consistency Determination, as well as a Floodplain Development Permit and any other local approvals from the Village that are necessary as the review process proceeds.

Accordingly, enclosed please find sixteen (16) copies of the following documents in support of this Application:

- Existing Conditions Plan and Survey (“Survey”), prepared by VHB, Inc. (“VHB”), dated September 8, 2014;
- Preliminary Subdivision Plat, prepared by VHB, dated June 25, 2015;

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<sup>1</sup> Unlike a traditional “cluster subdivision,” which requires a conventional subdivision to determine the maximum base density pursuant to New York Village Law Section 7-738, a planned unit development is a distinct zoning mechanism, now governed by Section 7-703-a of the New York Village Law. See N.Y. Vill. Law § 7-703-a. This provision of the New York Village Law permits the Village Board to determine the appropriate measures to calculate the maximum base density under its “general grant of zoning powers,” rather than the specific provisions governing cluster subdivisions in Section 7-738 of the New York Village Law. See N.Y. Bill Jacket, 2003 S.B. 2805, Ch. 213. Although formally codified in 2003, the planned residential development zoning mechanism has long been recognized as a valid use of a municipality’s “broad zoning authority,” apart from cluster subdivision regulations under New York law. See Ahearn v. Zoning Bd. of Appeals of Shawangunk, 158 A.D.2d 801, 551 N.Y.S.2d 392, 395 (3d Dep’t), leave to appeal denied, 76 N.Y.2d 706 (1990) (recognizing the apparent legislative distinction between the “limited provisions” of authority under Town Law Section 281 governing cluster subdivisions, and the “broad delegation of zoning powers” in Town Law Sections 261 and 263 permitting a municipality to create zoning mechanisms such as planned unit developments and floating zones).

- Sketch Site Plan with preliminary grading, drainage and utilities, prepared by VHB, dated June 25, 2015;
- Preliminary Storm Water Pollution Prevention Plan (“SWPPP”), prepared by VHB, dated June 2015;
- Full Environmental Assessment Form (“EAF”), prepared by VHB, dated June 24, 2015;
- Coastal Assessment Form (“CAF”), prepared by VHB, dated June 25, 2015;
- Special Permit, Subdivision, Site Plan and Wetland Permit Application Forms, dated June 26, 2015;
- Floodplain Development Permit Application, dated June 26, 2015;
- Harbor and Coastal Zone Management Application, dated June 26, 2015; and
- Proof of Ownership Certification.

In addition, we are submitting a check in the amount of twenty-five thousand dollars (\$25,000.00) in order to establish an Escrow Account. We are also submitting a check in the amount of thirty-nine thousand six hundred and ten dollars (\$39,610.00) to cover the various fees associated with this Application.<sup>2</sup>

#### **A. Subject Property**

The entire Hampshire Country Club consists of 106.2 acres. A 4.4 acre portion of the Club is located within the Village’s MR District, and a 7.3 acre portion of the Club is located in the Town of Mamaroneck. The remaining 94.5 acres of the Club (i.e., the Subject Property) are located in the Village’s R-20 District. See Survey.

The Subject Property is currently improved with the golf course associated with the Hampshire County Club. Access to the Subject Property is primarily provided at its southern end by Cove Road from the east, and Eagle Knolls Road from the west. There is a third access point to the northern portion of the Subject Property using Cooper Avenue (“Cooper Avenue Access”). The Cooper Avenue Access exits directly to U.S. Route 1. Currently, the Cooper Avenue Access is used by Hampshire County Club for vehicles servicing the northern portion of the golf course.

In 1984, the Village designated the Subject Property as a Critical Environmental Area (“CEA”). See Village Local Law 34 of 1984. The legislative history associated with this Local Law 35 of 1984 does not identify the specific physical qualities on the Subject Property relied upon by the Village to support this designation. According to the Village’s 2012 Comprehensive Plan, however, the Village considers the Subject Property’s proximity to the Long Island Sound, the amount of area subjected to flooding due to its location within a 100-year floodplain, as well as the “ponds and wetland systems” on the Subject Property, as factors supporting the CEA designation. See Village 2012 Comprehensive Plan Update at 63.

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<sup>2</sup> As discussed with Staff in the Planning Department, the breakdown of Application fees is as follows: \$27,615.00 for Site Plan Application (\$263.00 multiplied by number of units (105)); \$500.00 for Special Permit Application; \$11,445.00 for Subdivision Application (\$105.00 multiplied by number of lots (109)); and \$50.00 for Wetland Permit Application, totaling \$39,610.00.

These environmental elements are delineated on the Applicants' plans as required under the Village's regulations governing required submission details. As to the location of floodplains, approximately seventy-eight (78) acres of the Subject Property are located within the AE Zone (100-year floodplain). See FEMA Map, annexed to the SWPPP. This encompasses the low-lying areas of the Subject Property. The AE Zone has a base flood elevation of twelve feet (12'). Another four (4) acres of the Subject Property is located within an X Zone (500-year floodplain), with a base flood elevation of fourteen feet (14'). See id. The remaining 12.5 acres of the Subject Property are outside of any floodplain.

In addition, approximately five percent (5%) of the Subject Property contains wetlands or ponds. See Survey. The majority of these areas are man-made features of the golf course, and are not subject to regulation. Each wetland and pond is delineated on the plans prepared by VHB.

## **B. Proposed Project**

The Applicants are proposing to develop a total of one hundred and five (105) residential units in accordance with the Village's PRD Regulations. The PRD Regulations provide flexibility to land owners pursuing residential developments on properties that are ten (10) acres or larger by allowing the waiver of the dimensional and bulk requirements normally applicable to the zoning district in which the property is located. See Village Code § 342-52(G). The purpose of such flexibility is to encourage the preservation of open space and environmentally significant features as well as the "superior design of residential development." See id. (articulation of purpose). Again, the allowable density is determined by "dividing the gross area of the subject parcel by the minimum lot size requirements of the zoning district." Id. This density may be reduced in the Planning Board's discretion when warranted by identified environmental and planning considerations. See id.

Here, the maximum permitted density would be two hundred and five (205) units (i.e., dividing 94.5 acres by 20,000 square feet permitted as-of-right in the Village's R-20 District). The Applicants' design team prepared a proposed density and layout so as to avoid the features identified by the Village as contributing factors to the Subject Property's environmental significance. The resulting Project would produce forty-four (44) single-family residences and sixty-one (61) townhomes at the Subject Property. The following design elements support this proposed density in accordance with the PRD Regulations:

**(i) Floodplain Management:** The Applicants are proposing to construct the entire residential development above the existing floodplains on the Subject Property. All buildings will be located a minimum of two feet (2') above the base flood elevation for both the AE and X Zones, and in most cases well above these elevations. In addition, both Eagle Knolls Road and Cove Road will be realigned at elevations above the floodplains. This realignment will ensure that safe emergency access routes off the Subject Property will be available at all times. The Applicants' engineering experts have determined that the amount of cut and fill required to accomplish these elevations is certainly within a range that would maintain the viability of the Project.

(ii) **Preservation of Wetlands and Ponds:** The design flexibility provided in the PRD Regulations permit the Applicants to locate all residences and associated disturbance at least one hundred feet (100') away from all ponds and wetland areas on the Subject Property. Accordingly, the Applicants are proposing to preserve all wetlands and pond features on the Subject Property. The closest point of disturbance would be the relocation of the tennis courts, which would be approximately fifty feet (50') from a man-made pond lacking hydrophytic vegetation located along Eagle Knolls Road. This disturbance would not impact any habitat associated with the pond.

(iii) **Open Space Preservation:** The Project would preserve 73.5 acres, or seventy-seven percent (77%) of the Subject Property as open space. The size of the Subject Property permits the Applicants to also provide substantial buffers between the most of residential development and the adjacent residential neighborhoods.

(iv) **Access Roads and Vehicular Trip Distribution:** The Applicants are proposing to use three (3) access routes to the Subject Property. This includes providing direct access to U.S. Route 1 using Cooper Avenue to the north of the Subject Property. This plan would direct a significant portion of the trips generated by the development away from most residential neighborhoods adjacent to the Subject Property. The other access points, Cove Road to the east and Eagle Knolls Road to the west, would allow traffic to be distributed evenly through the proposed development.

### C. **SEQRA**

The Applicants are eager to provide your Board with the empirical data, expert analysis and other objective factual bases establishing that this design complies with the criteria governing PRD projects in the Village Code. As your Board will be primarily responsible for reviewing and issuing the various permits and approvals requested by the Applicants, we submit that your Board is best suited to serve as Lead Agency under the New York State Environmental Quality Review Act ("SEQRA"). Accordingly, we shall request during the July 8<sup>th</sup> Meeting that your Board vote to declare its intent to serve as Lead Agency in a coordinated review under SEQRA, and direct your Staff to distribute a Notice of Intent to all potential Involved and Interested Agencies. We would like to proceed as soon as possible on preliminary procedural matters under SEQRA, such as scoping, in the event that your Board issues a Positive Declaration.

### **Conclusion**

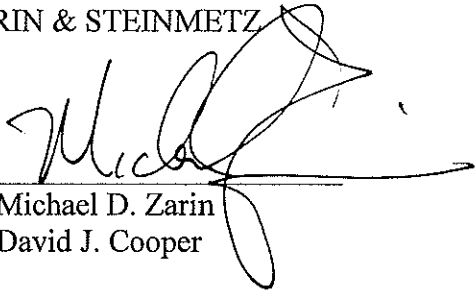
While this is certain to be a thorough and involved process for the Village, we are confident that your Board will oversee an unbiased and fair process in accordance with New York law. We respectfully submit that such review will result in the determination that the Applicants' proposed residential development can occur in a manner that would remain harmonious with the adjacent residential community, as well as protective of the environmental and open space features on the Subject Property.

We look forward to appearing before you on July 8<sup>th</sup>, and commencing the formal review process. If you have any questions or require any further information before this meeting, please do not hesitate to contact us.

Respectfully submitted,

ZARIN & STEINMETZ

By:

  
Michael D. Zarin  
David J. Cooper

Enclosures

Cc (via electronic mail w/out enclosures):

Richard Slingerland, Village Manager

Dan Gray, Village Building Inspector

Robert Galvin, AICP

Lester D. Steinman, Esq.

Applicants

Michael W. Junghans, P.E., VHB, Inc.

Bonnie Von Ohlsen, RLA, VHB, Inc.