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MEMORANDUM

<i>To:</i>	Bruce M. Flower, Chairman And the Town of Wappinger Planning Board	<i>Date:</i>	3/1/2024
<i>From:</i>	Malcolm M. Simpson	<i>Project:</i>	Joey Estates Subdivision
<i>cc:</i>	James Horan, Barbara Roberti, Bea Ogunti		
<i>Subject:</i>	Joey Estates Subdivision Review Tax Lot 6257-03-247036		

As requested, we reviewed the application of Mid-Hudson Development Corp., (the “Applicant”) to establish a conventional subdivision lot count for the purposes of pursuing a Conservation Subdivision as per the Town of Wappinger Code Section 240-19.B. As such, our review is limited to concerns and issues that would assist in the establishment of a conventional subdivision lot count.

The Property

The subject property is known as Tax Lots 6257-03-247036 on the Town of Wappinger Tax Assessment Maps and is located on Cedar Hill Road. The subject property is located with both the Single Family Residential (R-40) and the Single Family Residential (R-80) zoning district (the “Subject Property” or “Site”).

The Proposal

The Applicant is proposing a standard subdivision of a 139-acre parcel into 79 single family residential lots in the R40 and R80 zoning districts with 1 lot being used for the purposes of water supply, for a total of 81 parcels, 77 of which would be building lots with 2 lots dedicated to the Site wetlands, 1 lot dedicated to water supply, and 1 lot dedicated to Site right-of-way. The Applicant also seeks to establish a lot count for a standard subdivision so that, with Town Board approval, they can pursue a Conservation Subdivision under §240-19.B (the “Project” or “Proposed Action”).

Submission

The Applicant has submitted for review an Application for Preliminary Subdivision Approval dated 7/3/23; a Full Environmental Assessment Form Parts 1 and 2 dated 1/18/24 prepared by John Goetz with an attached supportive narrative; a wetland delineation report dated 2/5/24 a narrative dated 1/19/24 prepared by Amy Bombardieri; and a subdivision plat entitled “Joey Estates” prepared by Day Stokosa, last revised 2/5/24:

REVIEW COMMENTS

1. Endangered or Threatened Species. The EAF identifies the Blanding’s Turtle and the Indiana Bat as an endangered species with potential habitat on the Project Site. The NYSDEC has stated in an email dated 8/29/23 that there is no anticipated Blanding’s Turtle habitat on the Site but that a habitat impact analysis regarding the Indiana Bat is required for the Proposed Action as there is more than 10 acres of tree removal proposed. It is our understanding that this habitat impact analysis would be required for both a standard or a conservation subdivision. However, this would not be required for the establishment of a lot count per Section 240-19.B.
2. Bulk Table. The Applicant has demonstrated compliance with Section 240-18.D.(2), which states that “...no more than 10% of the minimum area requirement of a lot may be fulfilled by federal or state wetlands, land which is under water, subject to periodic flooding, or within the one-hundred-year floodplain.” The Applicant has done this by creating two lots, Lot 78 and Lot 80, to house the Site wetlands and wetland buffer area.
3. Wetlands.
 - a. The wetland Delineation Report has been reviewed and the previously shown “intermittently wet area” has been removed from the plans. This area was originally included on a much older set of plans for the area but this area was investigated and determined not to be a wetland.
 - b. The Applicant has represented that the construction of the bridge over the ACOE and Town wetland area would not constitute a disturbance as there is no construction proposed in the wetland area or the buffer. Section 137-6.A no person shall conduct any of the following regulated activities within any freshwater wetland or adjacent one-hundred-foot buffer area unless such person has first obtained a permit pursuant to this chapter. (1) Placement or construction of any structure. (14) Any other activity that may impair the natural functions of a wetland. It is our understanding that the placement of this bridge and the obstruction of sunlight to the area below it would be an impairment to the natural functions of the wetland and that this bridge would require a Town Wetland Disturbance Permit. The issuance of a Town Wetland Disturbance Permit would not be in “conformance to all the normally applicable

requirements...” per Section 240-19.B(2) and that the assumption of a Town Wetland Disturbance Permit cannot be included in the establishment of a lot count.

4. Subdivision Layout. Section 240-19.B states that, “The permitted number of dwelling units in no case exceeds the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to all the normally applicable requirements of this chapter, the Land Subdivision Regulations, the Dutchess County Department of Health Regulations and all other applicable standards.” It is our recommendation that the ‘normal applicable requirements’ of a standard subdivision does not include the disturbance of wetland areas or the wetland buffer.
 - a. The proposed parcels 67-77 are shown to be accessed with a crossing over a NYSDEC and Town regulated wetland. The subdivision layout should be revised to avoid disturbance to this wetland and the wetland buffer.
5. SEQRA. The Proposed Action is a Type 1 Action with respect to SEQRA as the Proposed Action is not proposed to connect to an existing community or public water system and proposes more than 50 residential units. The Planning Board should determine if they would like to pursue a coordinated review and, if so, if the Planning Board intends to serve as Lead Agency. The EAF is dated 1/18/24 which is earlier than the date of the revised plans. We are curious if the EAF has been updated to reflect the change of layout shown on the 2/5/24 plans.

We look forward to discussing our comments with you. If you have any questions with respect to the above, please let us know.

Malcolm Simpson,
Planner

cc:

Kyle Barnett, Esq.
Barbara Roberti
Jon Bodendorf, PE
Michael Sheehan
Amy Bombardieri