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**BY EMAIL ONLY**

Hon. Michael Specht, Supervisor  
Town Board Members  
Town of Ramapo  
237 Route 59  
Suffern, NY 10901

Re: **Proposed Millers Pond PUD**

Dear Supervisor Specht and Town Board Members:

This firm represents ROSA 4 Rockland. We write regarding the environmental review of the Millers Pond PUD. For the reasons to follow, we respectfully urge the Town Board not to adopt the proposed Amended SEQRA Findings and instead to produce a Supplemental Environmental Impact Statement (SEIS) for the project.

The proposed Millers Pond PUD would disturb 76 acres of land, with construction of 637 residential units, 67,000 square feet of non-residential facilities, and associated infrastructure. The site is rife with wetlands, has a high-water table, is proximate to public water wells, is in the Town's Scenic Road district and has other environmental sensitivities. A project of this magnitude, exceeding by 10 times the existing density for the site, easily exceeds SEQR Type I thresholds, and if proposed on its own, it would almost certainly receive a positive declaration and require an environmental impact statement (EIS).

The fact that the project area was included at a conceptual level in the Northeast Ramapo Development Plan (NRDP) Generic EIS (GEIS) does not negate the need for a thorough, coordinated environmental review of the new PUD, now that it proposes a specific build-out. To ensure a thorough, fair, and legally sufficient SEQR analysis, the Town Board should prepare an SEIS for the Millers Pond PUD.

**An amended findings statement is not sufficient**

An amended findings statement to a GEIS is appropriate in a very limited circumstance:

An amended findings statement must be prepared *if the subsequent proposed action was adequately addressed in the generic EIS* but was not addressed or was not adequately addressed in the findings statement for the generic EIS.<sup>1</sup>

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<sup>1</sup> 6 NYCRR § 617.10(d)(2).

The NRDP GEIS did not adequately address the Millers Pond PUD. When the GEIS process was underway, there was no PUD application, so there were no proposed specifications for density, setbacks, height, parking or roads. The potential site layout was limited to a low-resolution conceptual schematic. Analysis of site-specific impacts was incomplete, as the Town Board recognized in its GEIS findings. While some off-site impacts could be estimated, there was simply no way that the GEIS could have analyzed landscape-specific impacts related to the placement of buildings and roads on the site, nor the visual impacts of the future buildings' height, design and lighting.

A clear indication that the NRDP GEIS did not adequately address the Millers Pond PUD is that the applicant's SEQR submittal for Millers Pond includes numerous site-specific environmental studies, including habitat studies, a tree survey, water supply and sewer flow studies, a stormwater plan, and a visual impact analysis. These studies were necessary because the proposed action and its impacts could not be adequately addressed in the NRDP GEIS. Accordingly, the GEIS itself must be supplemented. Simply amending the findings statement is not sufficient.

### **A Supplemental Environmental Impact Statement is required**

When a "subsequent proposed action was not addressed or not adequately addressed in [a] generic EIS," SEQR regulations require the lead agency to take a step further and consider the impacts of the proposed action.<sup>2</sup> If there is clearly no significant impact, the lead agency may issue a negative declaration.<sup>3</sup> If there may be a significant impact, an SEIS is required:

A supplement to the final generic EIS *must* be prepared if the subsequent proposed action was not addressed or was not adequately addressed in the generic EIS and the subsequent action *may have one or more significant adverse environmental impacts*.<sup>4</sup>

The proposed Millers Pond PUD poses the potential for significant adverse environmental impacts that were not sufficiently identified in the NRDP GEIS and have not been subject to coordinated SEQR review. The following are some of those impacts:

- Land disturbance. The NRDP's FEAF Part 3 stated, "it is not possible at this time to evaluate the impact on land from potential land development either generally or upon particular sites." The applicant's draft FEAF Part 2 for the Millers Pond PUD identifies potential moderate to large impact from land clearing, construction on land with a high water table, and construction lasting over a year. The applicant's FEAF Part 3 narrative acknowledges that rock excavation or blasting may be necessary. The impacts of this substantial disturbance must be evaluated.

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<sup>2</sup> 6 NYCRR § 617.10(d).

<sup>3</sup> 6 NYCRR § 617.10(d)(3).

<sup>4</sup> 6 NYCRR § 617.10(d)(4) (emphasis added).

- Groundwater. Land disturbance over sensitive groundwater resources should be minimized. The applicant has asserted that basements could be eliminated, but that mitigation is not reflected in the proposed zoning for the Millers Pond PUD. Also, water availability should be analyzed, as the Water Source Analysis the applicant submitted acknowledges that neither the County Health Department nor Veolia track anticipated demand for other projects.<sup>5</sup>
- Wetlands. The site contains a large complex of protected wetlands, which are subject to pollution from runoff during and after construction. The applicant's draft FEAF Part 2 recognizes a potential impact from siltation due to land disturbance. With 76 acres of land disturbance proposed, careful evaluation of the applicant's stormwater plan is needed, not only to ensure the technical sufficiency of the mitigation measures but to proactively determine whether the site could be designed to reduce disturbance and avoid impacts.
- Floodplains. The NRDP GEIS did not anticipate development in floodplains. A letter from NYSDEC indicates that the site does include FEMA-designated floodplain.<sup>6</sup> Floodplain impacts must be evaluated.
- Aesthetic Resources. The applicant's draft FEAF Part 2 for the Millers Pond PUD acknowledges the potential for visual impacts, and additional viewshed modeling is submitted. Visual impacts to the Scenic Road District, particularly along Pomona Road, must be considered and mitigated, particularly with the size and height of proposed buildings.
- Open Space and Recreation. The NRDP GEIS Findings acknowledge that development in Opportunity Area D will include "preservation of a large non-residential recreation open space within the site." Such open space must be identified and specified before moving forward with the Millers Pond PUD rezoning.
- Transportation. The NRD GEIS acknowledges the potential for traffic impacts, and additional studies were submitted with the Millers Pond PUD. Traffic studies to date seem to ignore the planned rezoning and development across the street in the Village of New Hempstead. Traffic impacts require careful scrutiny.
- Noise, Odor and Light. Impacts have not been acknowledged despite introduction of commercial uses, new roads, and pedestrian walkways which will be lit. There should be further analysis of lighting impacts in this area that currently enjoys dark nights, and where residents are already working to address impacts from ball park lighting.
- Community Plans. The NRDP GEIS Findings acknowledge that sewer capacity for Opportunity Area D is not adequate and upgrades will be required. Sewer District #1 documented that the Miller's Pond PUD poses impacts and overflow conditions and

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<sup>5</sup> See, FEAF Appendix D, page 8, section 3.5.

<sup>6</sup> See FEAF Appendix C, NYSDEC letter dated June 8, 2023.

anticipated, “Additional comments on the flow study will follow with the upcoming Planned Unit Development (PUD) application to the Town Board.”<sup>7</sup> Sewer impacts must be addressed as part of SEQR.

- Community Character. The NRDP GEIS Findings acknowledge the potential for community character impacts and anticipate project-specific review.

This list is not intended to be exhaustive but to illustrate the variety of impacts that require analysis. Because the Millers Pond PUD could not have been, and was not, adequately addressed in the GEIS, and because it presents the potential for adverse impact, an SEIS is the required next step.

### **An SEIS process will allow the Board to review alternative layouts**

An additional way the NRDP GEIS did not adequately address the Millers Pond PUD is that the alternatives analysis in the GEIS did not consider any alternatives specific to the Millers Pond site. The alternatives presented in the GEIS applied broadly to the northeast area of the town. At the time the GEIS was produced, the Millers Pond PUD local law had not been proposed, so there was no consideration of alternative dimensional standards like densities, maximum development coverage, maximum floor area ratios, buffers, or setbacks. There were no alternative layouts produced that might reduce impacts on natural resources or aesthetics.

For a 143-acre site with multiple environmental sensitivities, an analysis of alternatives like these is essential to a thorough SEQR analysis. They would be produced as a matter of course in a typical SEQR review and should be included in an SEIS process for the Millers Pond PUD.

Specifically, ROSA 4 Rockland recommends consideration of alternatives to reduce visual and community character impacts, and to evaluate public water well impacts so mitigation measures can be integrated into the PUD code and site plan approvals. Alternatives should include the following:

1. Alternative layout to reduce visual impact from Pomona and Camp Hill Road, e.g., shifting the location of the tall apartment/commercial building or consideration of no windows floors that will be seen from Camp Hill to reduce visual/community character impacts.
2. Alternative for landscaping as screening along Pomona Road.
3. Alternative density using the standard density calculation based on buildable acres, not total gross acres.
4. Alternative with no basements to reduce cut-and-fill on environmentally sensitive land in the groundwater protection zone of the nearly adjacent public water wells.

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<sup>7</sup> Rockland County Drainage Agency letter dated March 29, 2023.

5. Alternative that complies with Town Zoning Code rules for building spacing (Town Code § 376-62).
6. Alternative that does not extend limits of disturbance into proposed buffers from property line along property boundary adjacent to existing developed areas, or alternatively, extension of proposed 100-foot buffer from Station Road to the area west of the American Legion.

**An SEIS process will provide the public an opportunity for input**

SEQR regulations guarantee that where there is a potential for significant adverse impact, the public will have an opportunity for input before mitigation measures are selected. As an appellate court explained:

The EIS process is especially designed to insure the injection of full, open and deliberative consideration of environmental issues into governmental decision-making . . . . To assure accountability of the lead agency and avoidance of any oversight in that agency's assessments, the regulatory scheme requires public access to the information by making the draft and final EIS available with sufficient lead time to afford interested persons an opportunity to study the project, its environmental effects and proposed mitigating measures, and then comment thereon.<sup>8</sup>

The same principle applies when an EIS must be supplemented.<sup>9</sup> Here, the applicant has produced a laudable amount of additional material to aid the analysis of impacts and mitigation measures. If the Board adopts an amended findings statement before opening a public hearing, it would prematurely cut off any opportunity for the public to examine the environmental studies and comment on mitigation measures.

**An SEIS is necessary for other agencies to produce findings**

Finally, the Town Board has a responsibility as lead agency to ensure that the SEQR process for the Millers Pond PUD allows other involved agencies to support their permitting decisions. The NRDP GEIS process included no involved agencies because it focused on Town Board actions of amending the Comprehensive Plan and zoning. The NRDP GEIS does not contain adequate detail about the specific environmental impacts posed by the Millers Pond PUD and options to mitigate those impacts to allow the Planning Board and other agencies to make the findings necessary to proceed with their review. An SEIS process will remedy that deficiency. The process should include scoping to ensure that all agencies' interests are addressed by the SEIS. The resulting SEIS will provide the legal foundation upon which other agencies may issue their findings for the Millers Pond PUD.

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<sup>8</sup> *Matter of Shawangunk Mtn. Env'tl. Ass'n v Planning Bd. of Town of Gardiner*, 157 AD2d 273, 275-76 (3d Dept 1990) (internal citations omitted).

<sup>9</sup> 6 NYCRR 617.9(a)(7)(iii) (requiring a supplemental EIS to adhere to most EIS procedures).

**Conclusion**

As the first project proposed under the Town's new PUD law, the Millers Pond PUD sets an important precedent for future PUDs. Residents should be assured that site-specific environmental concerns will be considered in an open and transparent process. An SEIS is required to evaluate the site-specific impacts of the Millers Pond PUD and to provide the necessary public input and analysis of alternatives. As the applicant has already produced a considerable amount of material and analysis to support an SEIS, such a process need not slow down the overall application approval process. In fact, public hearings could be coordinated with the Planning Board review process to avoid delay.

We appreciate the Town Board's consideration of these comments.

Respectfully submitted,

A handwritten signature in cursive script that reads "Emily B. Svenson". The signature is written in black ink and includes a horizontal line at the end.

Emily Svenson  
Partner