



## MEMO

TO: Village Board of the Village of Coxsackie

C: Robert Stout, Esq, Whiteman Osterman & Hanna, Village Attorney

DATE: August 13, 2024

RE: Completeness Review of Resubmission of Draft Supplemental Environmental Impact Statement (DSEIS)

Mountain View Estates, UMH of Coxsackie, LLC

### BACKGROUND

The proposed Mountain View Estates project is a Type 1 Action under the State Environmental Quality Act (SEQR). The project proposes 360 manufactured homes and amenities together with site improvements such as roads, drainage, lighting, sidewalks and utilities. The project site includes lands in both the Village and Town of Coxsackie, and the project involves a petition to annex the lands in the Town into the Village, a petition for which is pending and subject to SEQR review.

This project was the subject of a SEQR review previously, which involved preparation of an Environmental Impact Statement (EIS) and Findings. The current version of the project includes modifications to the previously considered plans, and therefore, the modifications require additional review under SEQR. The previous application for the project was not approved and litigation resulted in a settlement (Consent Decree) that describes the currently proposed project.

In cases where a SEQR finding has been determined for a project but an approval has not been issued, the introduction of new information or changes to the project is to be addressed through supplementation of the prior SEQR review. The supplemental review focuses on the elements of the environment and project that have changed since the Findings were issued. This is the case with the Mountain View Estates (MVE) project. Thus, the applicant, UMH of Coxsackie, Inc. (UMH), has engaged with the Village Board as Lead Agency for the SEQR review, in a supplemental SEQR process.

To date, the Supplemental SEQR process has included application(s) and related materials submitted by UMH, re-establishment of the Village Board as Lead Agency for SEQR review under a coordinated process, preparation of a Draft Scoping Document by UMH, public review and comment on the Draft Scoping Document, amendment to the Draft Scoping Document by UMH to respond to comments, adoption and circulation/public notice of the Final Scoping Document, and submission of a Supplemental Environmental Impact Statement (SEIS) by UMH dated January 29, 2024 to the Village as Lead Agency, completeness review of the January SEIS, transmittal of a memo dated February 18, 2024 to UMH outlining information required by the Scoping document for a responsive SEIS, resubmission of an updated SEIS by UMH dated June 21, 2024, issuance of an additional comment memo dated July 10, 2024 and resubmission of an updated SEIS by UMH on August 7, 2024 and again on August 9, 2024.

## PURPOSE

The purpose of this memo is to document that the comments previously issued on the Draft SEIS have been addressed in the final version dated August 9<sup>th</sup> and received by the Village on August 12<sup>th</sup> and that it is recommended that the Village Board, as Lead Agency, consider adopting the Draft SEIS as responsive to the Scoping Document and ready for public and involved agency review. It is further recommended that the Village Board schedule a public hearing and a written public comment period extending at least a week past the hearing date to obtain public input.

It is important to note that adopting the Draft SEIS as complete and ready for public and agency review is not an approval or endorsement of the project. Rather, the action to be taken at this stage is merely to advance to the phase in the environmental review where documentation is available for public and agency review and comment. Indeed, we will be preparing and providing the Village Board with technical comments during the Draft SEIS public comment period.

## RESPONSIVENESS ASSESSMENT

The following evaluation describes in general the means through which additional information was provided by the Applicant to allow the Draft SEIS to be considered complete and ready for agency and public review. Sections where the information provided in the updated DSEIS matches the requirements outlined in the Final Scoping Document that were not the subject of prior comments are not included in these comments intentionally.

## GENERAL COMMENTS

The updated Draft SEIS includes a number of statements embedded in the Potential Impacts or Mitigation Measures of Section 3 or have added subsections in Section 3 topics regarding the significance of the impacts described. All such statements have been stricken from the Draft SEIS as the assessment of the nature of impacts and the extent to which mitigation measures reduce or eliminate impacts is properly determined by the Lead Agency and Involved Agencies, with input from the public and interested agencies, and is embodied in the Findings Statement that will be issued at the conclusion of this environmental review process.

The digital version of the SEIS is bookmarked digitally to allow users to click on the topic in the table of contents and to be directed to the appropriate sections.

## NATURAL RESOURCES

### *Surface Soils/Geology*

- Topographic Mapping at 1" = 200' with 2' contour interval required and is– provided as Figure 17
  - A reference has been provided to this figure in the Existing Conditions section.
- Geotechnical analysis of areas not previously studied is required and is provided. Cut and fill analysis has been provided.
  - The statement that spreading excess soil over 3.25 acres “would be a minimal impact” Has been eliminated.
- Mitigation measures have been provided

- Language regarding “will not have a significant impact” has been deleted.
- The final sentence regarding “no significant impacts are anticipated” has been deleted.

This section of the SEIS is complete.

*Water Resources*

- Updated wetland and water course identification and impact analysis required – an updated report is provided in Appendix C of the SEIS which references current standards; however, the report appears to rely on field work that is from 2019 or 2020 some four to five years ago. While the regulatory landscape for wetland regulation is rapidly changing, jurisdictional determinations are issued for a period of five years. In the prior comments, it was stated that it was unclear if the information in the SEIS is presently valid and/or will be valid at the time permits may be issued for the project. In response, the text has been clarified to discuss the shifting regulatory landscape and its implications for this project and to state that the regulatory determination from the USACOE has no expiration date.
- Regarding the pending changes to NYS Wetland regulations which will reduce the threshold for permitting from 12.4 to 7.4 acres, a statement is made that SEQR should be completed prior to 2028 when the regulatory change will be effective. The site includes a wetland that is 9.68 acres and would require permitting under the new regulatory scheme. A discussion as to the application of the new regulations as the project has an eight-year build out during which the 2028 effective date for the new state wetland regulations will occur has been added as requested.
- The final “Significance of Impact” from the section on Flooding and all Stormwater sections have been deleted.

This section of the SEIS is complete.

*Terrestrial and Aquatic Ecology*

- Updated information regarding terrestrial and aquatic habitat and species of concern was required and has been provided. The updated DSEIS has been modified to state that the project is progressing with the assumption that the species of concern and their habitat are present on site and will be impacted by the project. The project incorporates a Habitat Conservation Management Plan. It is provided as an attachment to Appendix F.
  - A reference in the text to the Plan location in Appendix F has been provided to facilitate reference.

This section of the SEIS is complete.

HUMAN RESOURCES

*Land Use & Zoning*

- The statement regarding Significance of Impact has been eliminated.

This section of the SEIS is complete.

*Water Supply*

- Updated information regarding existing water supplies and proposed water demands and plans for improvements including a hydraulic analysis have been provided together with a detailed description of improvements with cost estimates.

*Sanitary Sewer*

- Updated information regarding existing sewer conveyance and treatment as well as proposed sewer demands and plans for improvements was required and is provided.

This section of the SEIS is complete.

*Visual Resources*

- A viewshed analysis was required by the Scoping Document and such an analysis has been presented in the SEIS.
- A conceptual landscaping plan is required in the Scope, and new figures have been added to address this requirement.
- The section on Significance of Impact has been deleted.

This section of the SEIS is complete.

*Community Resources*

- Service providers are required to be contacted for input, the results of which are incorporated in the Draft SEIS.
- The Draft SEIS includes an estimation of demands for fire, police, and emergency medical services which has been provided. The ability of the service providers to meet the demands for these services has been addressed in the Draft SEIS text.
- Statements regarding “Significance of Impact” throughout this section have been eliminated.

This section of the SEIS is complete.

*Fiscal Impact Analysis*

- A fiscal impact analysis is required and has been provided.
- This section of the Scoping document requires coordination with the service providers which has been conducted and is included in the Draft SEIS.
- An analysis of the increased demand for retail and consumers services is required and has been described in the Draft SEIS.
- Mitigation measures based on discussions with the service providers has been provided.

This section of the SEIS is complete.

*Demographic Analysis*

- Statements regarding Significance of Impact have been eliminated.

This section of the SEIS is complete.

REASONABLE ALTERNATIVES TO BE CONSIDERED

- A discussion of an alternative project design/layout in the event the annexation is not approved, alternative vehicular access points from the existing public highways, alternative water or wastewater design, and an alternative for age restricted housing are to be explored together with the No Action alternative. For each of the alternatives, the Scoping document requires the reasons why each is not being proposed.
- The discussion of alternatives without annexation and age-restricted community have been provided.
- The information regarding alternative access to the site is sufficient for an alternatives analysis.
- A description of the potential for on-site water and sewer systems is provided including the features of such an approach so that a comparison to the preferred services can be made.
- Clarification of the statement regarding 'affordable' homes is required. The language has been clarified to indicate housing choice.

This section of the DSEIS is complete.

GROWTH INDUCING ASPECTS

- This section of the DSEIS is to evaluate population increase and impacts on housing and support facilities; demand potential; and economic impacts. This is to include a discussion of the absorption rate based on proposed buildout in terms of anticipated number of new homes per year based on projected market conditions.
- This section of the DSEIS has been modified to include a discussion of the likely number of anticipated new homes per year.
- This section of the DSEIS has been modified to describe the likely growth inducing aspects of the project in consideration of the expected eight-year buildout.

This section of the DSEIS is complete.

**CONCLUSIONS AND RECOMMENDATIONS:**

1. Review of the Draft SEIS in comparison to the Final Scoping document reveals that the document is responsive, is and is ready for public or agency review.
2. It is recommended that the Village Board as Lead Agency adopt the Draft SEIS as presented on August 12, 2024 as responsive to the Scoping Document and ready for public and involved agency review.
3. It is further recommended that the Village Board schedule a public hearing and a written public comment period extending at least a week past the hearing date to obtain public input.