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April 26, 2023

**BY HAND DELIVERY**

Chair Seamus O'Rourke  
and Members of the Planning Board  
Village of Mamaroneck  
169 Mt. Pleasant Avenue  
Mamaroneck, NY 10543

Re: 572 Van Ranst Pl, LLC  
Site Plan Review  
Premises: 572 Van Ranst Place, Village of Mamaroneck, New York  
(Parcel ID: 8-88-15B)

Dear Chair O'Rourke and Members of the Planning Board:

The enclosed materials are submitted on behalf of our client, 572 Van Ranst Pl, LLC ("the Applicant"), the owner of property located at 572 Van Ranst Place in the Village of Mamaroneck, New York (the "Premises"), in furtherance of the site plan application previously submitted to the Planning Board.<sup>1</sup>

As this Board is aware, the Applicant is proposing to construct a sustainable fuel-cell powered 5-story multi-family residential building on the Premises (the "Project"). On July 26, 2022, the Planning Board, acting as Lead Agency under the State Environmental Quality Review Act ("SEQRA") adopted a negative declaration finding that the Project will not result in any significant adverse environmental impacts. Since that time, the Applicant has worked diligently to obtain area variances from the Zoning Board of Appeals ("ZBA") (**Exhibit A – March 2, 2023 ZBA Approval Resolution**) and on April 19, 2023, the Harbor & Coastal Zone Management Commission ("HCZMC") issued a Consistency Determination.

We respectfully request that this matter be placed on the May 10<sup>th</sup> meeting agenda for continued consideration of the pending site plan application.

**The Premises**

The Premises is an approximately 6,500-square foot lot that is currently improved with a two-family residential structure and associated parking area, that was constructed in approximately 1925. The property is classified in the R-M3 (Multiple Residence) Zoning District within an area comprised primarily of commercial and multi-family residential buildings. The Premises is located within the AE Flood Zone and the existing structure is not compliant with the Village of Mamaroneck Floodplain Development Code ("Floodplain Development Code") requirements for residential structures within a flood zone.

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<sup>1</sup> The Applicant submitted a Site Plan application on September 1, 2021.

### The Proposed Multi-Family Building

The Applicant is proposing to demolish the existing residential structure and construct a sustainable five-story multi-family residential building with ten (10) units, consisting of six (6) one-bedroom units and four (4) two-bedroom units (“the Project”).<sup>2</sup> The building will be powered by a high- efficiency state-of-the-art rooftop fuel cell system and will also include a rooftop solar installation and four EV charging stations for electric vehicles. Parking will be provided within an open garage located on the ground floor of the building.

### Updated Survey of the Premises & ZBA Variances Granted

Since last appearing before the Planning Board, the Applicant commissioned an updated survey of the Premises (dated August 18, 2022) in connection with its area variance application. This survey identified a previously unknown approximately 10-inch encroachment along the northern property line by the adjacent Parkview Station Condominium building (the “Encroachment”). See enclosed Survey & **Exhibit B** - updated Zoning Compliance Determination, dated November 8, 2022.

The Encroachment required the Applicant to obtain 2 additional area variances for an obstruction in the side yard<sup>3</sup> and lot coverage,<sup>4</sup> in addition to the variances already requested for Floor Area Ratio (“FAR”),<sup>5</sup> building height, minimum usable open space per unit, minimum lot area per unit, lesser side yard setback and combined side yard setback. See **Exhibit B**. These area variances were granted by the ZBA on March 2, 2023. See **Exhibit A**.

The encroaching building was constructed in or about 2008 and therefore is governed by the current statutory requirements for adverse possession.<sup>6</sup> Based on the available property records, facts and circumstances surrounding the Encroachment, title to the real property has not divested from the Applicant based on the current doctrine of adverse possession.<sup>7</sup> As such,

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<sup>2</sup> Section 342-24(A)(2) of the Village of Mamaroneck Zoning Code (“Zoning Code”) permits multi-family residential use as a principal use in the R-M3 Zoning District.

<sup>3</sup> Yard is defined in relevant part as: “an open space on the same lot with a building . . . which open space lies between the building . . . and the nearest lot line and is unoccupied and unobstructed from ground upward . . . .” Section 342-3 (emphasis added).

<sup>4</sup> The Encroachment minimally impacted the previously compliant proposed lot coverage by approximately 51 square feet.

<sup>5</sup> The Encroachment minimally impacted FAR increasing the previously requested variance by 0.1.

<sup>6</sup> New York Real Property Actions and Proceedings Law (“RPAPL”) §§ 501-551 (amended 2008).

<sup>7</sup> Under current law, no person may acquire title to land by adverse possession without showing a claim of right to the land founded on a “reasonable basis for the belief that the property belongs to the adverse possessor.” RPAPL § 501(3). Given the existence of surveys, deeds and other materials depicting the Encroachment, there can be no reasonable basis for a claim that title has divested on the encroached parcel. *Reyes v. Carroll*, 42 Misc.3d 1219(A), at \*7 (Sup. Ct. Suffolk Cnty. 2013), *rev’d on other grounds by Reyes v. Carroll*, 137 A.D.3d 886 (2d Dep’t 2016). See also *Fini v. Marini*, 164 A.D.3d 1218 (2d Dep’t 2018); *Kopp v. Rhino Room, Inc.*, 192 A.D.3d 1690, 1692 (4th Dep’t 2021).

the northern boundary depicted on the August 18, 2022 survey reflects the true limit of the Applicant's property and is not impacted by the Encroachment.<sup>8</sup>

Consistency with the LWRP & National Guidance Related to Emergency Response During Significant Flooding Events

At the request of the HCZMC, the Applicant further studied the use of microgrid technology as a reliable energy source to power a multi-family building that enables residents to shelter-in-place during flooding caused by significant weather events. Additional research demonstrated that these sustainable developments are encouraged by U.S. government agencies like the Federal Emergency Management Agency ("FEMA") and the Department of Energy, as well as numerous States, municipal governments, energy manufacturers and nonprofit corporations. Enclosed in **Exhibit E** is an Index of publications on the benefits of shelter-in-place actions during emergency events and microgrid technology as a resilient and reliable method of providing an uninterrupted power supply.

As demonstrated by the materials provided in the Index (**Exhibit E**), shelter-in place development minimizes negative impacts to safety and human lives during flooding and hurricane events. In fact, FEMA guidance states that: "Jurisdictions should always consider shelter-in-place as the first/default option, when feasible"<sup>9</sup> explaining that:

When populations shelter in place, jurisdictions reduce costs, resource requirements, and negative impacts of evacuations, while promoting improved response and quicker re-entry (for those who spontaneously evacuate) and recover.<sup>10</sup> (Emphasis Added).

Microgrid technology, such as the Project's proposed fuel cell system, can generate local power independent of the electric grid. As such, a building equipped with microgrid technology offers a reliable and resilient power supply to enable shelter-in-place actions. See **Exhibit D-Aris Energy Microgrid Analysis**.

Similarly, a 2018 report commissioned by the U.S. Department of Homeland Security called for local government support of microgrid-driven communities to enable shelter-in-place solutions to withstand catastrophic events (the "DOH report"):

Resilience at the state and local level will be critical to enable people to shelter in place and facilitate faster recovery. Any event that requires a mass evacuation

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<sup>8</sup> The Planning Board's site plan review process is limited to the standards established within Section 342-76 of the Zoning Code and to the extent a claim of adverse possession arises in the future, the merits such a claim will be adjudicated in a proceeding before the Supreme Court. Hejna v. Board of Appeals of Village of Amityville, 105 A.D.3d 843, 844-45 (2d Dep't 2013). See also Shuttle Contracting Corp. v. Plan. Bd. of Inc. Vill. of Great Neck, 73 A.D.3d 789, 900 N.Y.S.2d 387 (2d Dep't 2010); Omnipoint Communications, Inc. v. Common Council of City of Peekskill, 202 F.Supp.2d 210, 222 (S.D.N.Y. 2002); Matter of Friends of Shawangunks v Knowlton, 64 NY2d 387, 392 (1985).

<sup>9</sup> U.S. Dep't Homeland Security, FEMA, Planning Considerations: Evacuation and Shelter-in-Place (July 2019), p.22. Available at: <https://www.fema.gov/sites/default/files/2020-07/planning-considerations-evacuation-and-shelter-in-place.pdf>

<sup>10</sup> Id.

will use up critical resources, clog transportation pathways, and reduce the workforce necessary for infrastructure recovery.<sup>11</sup>

The designs recommended in the DOH Report for this resilient infrastructure include “microgrids that combine distributed energy resources, energy storage, and innovative consumer technologies.”<sup>12</sup> This technology includes fuel cell systems like the one the Applicant is proposing for the Project.

Similarly, the Department of Energy recognizes that resilient development can “reduce the burden on emergency response teams by supplying power before, during and after grid outages through onsite energy systems” during extreme weather.<sup>13</sup>

The Applicant’s additional research demonstrated that communities in New York and Connecticut are already incentivizing the incorporation of microgrids into existing critical facilities like hospitals, grocery stores and police stations to withstand prolonged power outages from severe storms and examples of similar operational fuel cell installations are included in **Exhibit D**. See also Exhibit E. In fact, the Applicant’s research demonstrated that both the Village of Mamaroneck and Town of Mamaroneck have previously studied microgrid feasibility through the New York State Energy Research and Development Authority (“NYSESRDA”) program “NY Prize.” See Exhibit D. Specifically, the Village has recognized that:

[s]ince large portions of the Village are within FEMA mapped flood plains, with impacts from both tidal and riverine flooding, it is important to maintain power for these areas in order for them to operate sump pumps and other emergency equipment to protect structures.<sup>14</sup>

As concluded in the enclosed letter from Dr. Mehdi Ganji, an expert in microgrid energy and community resilience planning, the Project will achieve the goals of shelter-in-place action during significant flooding events using the proposed fuel cell system. See Exhibit C. The Project’s sustainable building will be equipped to provide continuous power to residents during a Village power outage event, which will keep occupants safe and reduce the demand on emergency responders for evacuation assistance.

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<sup>11</sup>National Infrastructure Advisory Council, Surviving a Catastrophic Power Outage: How to Strengthen the Capabilities of the Nation, Dec. 2018, p. 12. Available at:

[https://www.cisa.gov/sites/default/files/publications/NIAC%2520Catastrophic%2520Power%2520Outage%2520Study\\_FINAL.pdf](https://www.cisa.gov/sites/default/files/publications/NIAC%2520Catastrophic%2520Power%2520Outage%2520Study_FINAL.pdf). See also <https://www.microgridknowledge.com/google-news-feed/article/11430053/homeland-security-calls-for-microgrid-driven-community-enclaves>

<sup>12</sup> Id. See also Wood, Elisa. “Homeland Security Calls for Microgrid-Driven Community Enclaves,” Microgrid Knowledge. Dec. 11, 2018. Available at: <https://www.microgridknowledge.com/google-news-feed/article/11430053/homeland-security-calls-for-microgrid-driven-community-enclaves>

<sup>13</sup> US Dep’t Energy, Better Buildings <https://betterbuildingssolutioncenter.energy.gov/webinars/shelter-storm-powering-community-resilience-hubs>

<sup>14</sup> <https://www.mamaroneckselfstorage.com/single-post/2015/07/08/mamaroneck-double-winner-in-ny-prize-microgrid-contest>

While the existing 2-family home on the Premises is not resilient to flooding and had 14 residents occupying the Premises prior to the Hurricane Ida, the proposed new building will not put additional strain on the Village's emergency response system beyond existing conditions. Indeed, the Project enables the shelter-in-place action recommended by FEMA and the U.S. Departments of Homeland Security and Energy. With uninterrupted power, residents of the new building can safely remain inside the building without the need for immediate rescue. This alleviates pressure on Village emergency responders so they can focus on rescuing vulnerable people in immediate life-threatening flooding situations. The microgrid technology, along with the height of the building almost 8 feet above base flood elevation (at elevation 33, which is approximately 12 feet above the existing grade), enable occupants to wait until the flood waters recede to leave the building.

Further, at the Planning Board's direction, the Applicant previously prepared a draft Flood Emergency Management Plan that provides a framework of the procedures for the building to ensure a coordinated, prompt and appropriate response to flooding emergency. On April 19, 2023, the HCZMC adopted a finding that the Project was consistent with the LWRP, including Policies 11, 12 & 17 related to minimizing the endangerment of human lives and loss of property caused by flooding.

#### Consistency with Site Plan Approval Criteria

As demonstrated in the ample record for this Application, the Project is consistent with the criteria for site plan approval outlined in Section 342-76. Indeed, after nearly 11 months of extensive review, the Planning Board determined on July 26, 2022 that the Project will not result in any significant adverse environmental impacts. As previously demonstrated during SEQRA review, there will be no adverse traffic effects on the road networks, onsite parking and circulation is appropriately designed and pedestrian safety measures are incorporated into the Project. See Traffic & Parking Study prepared by DTS Provident Design Engineering, LLP, dated April 18, 2022.

The proposed landscaping will be an improvement over existing aesthetic conditions on the Premises and includes the addition of six (6) new trees, numerous shrubs, perennial plantings, a shadow box fence and planters. See Landscaping Plans, Sheet L-1. Additionally, the Project will not adversely affect any scenic, historic, archaeological or landmark sites. See NY OPRHP No Impact Letter & HCZMC Consistency Determination.

The Project will improve conditions in the neighborhood during significant flooding events by incorporating flood mitigation measures that exceed full compliance with all applicable floodplain development standards, increasing total flood volume storage, and installing new stormwater management measures where none currently exist. As previously discussed herein and extensively in the record for this matter, the building is designed with a resilient and reliable microgrid power source to minimize the endangerment of human lives caused by flooding and allow for shelter-in-place action during significant flooding events, as encouraged by Federal guidance. The ability for residents to shelter in place avoids the need for evacuation and the associated adverse impacts to emergency response teams during significant flooding events. See Exhibits C, D & E.



As such, the Project is consistent with the criteria for site plan approval and will result in numerous significant benefits to the neighborhood and broader Mamaroneck community. The Applicant intends for the Project to serve as a model for future multi-family buildings in the Village to positively influence resilient redevelopment within the floodplain.

Materials Enclosed

In support of this application, enclosed please find one (1) set of the following materials:

- Exhibit A: Zoning Board of Appeals Resolution (#18-AV-22);
- Exhibit B: Amended Zoning compliance Determination, dated November 8, 2022;
- Exhibit C: Letter from Dr. Mehdi Ganji;
- Exhibit D: Microgrid Use Analysis & Case Studies, prepared by Aris Energy Solutions, LLC; and
- Exhibit E: Index of Microgrid Resiliency Articles and Case Studies.

Also enclosed, please find one (1) copy of the following:

- Topographic survey of the Premises prepared by Ramsay Land Surveying, P.C., dated August 18, 2022;
- Architectural drawings prepared by Sullivan Architecture, P.C., dated December 16, 2020, revised through April 24, 2023;
- Landscaping Plans prepared by Imbiano Quigley Landscape Architects, dated April 20, 2022 and revised through August 16, 2022; and
- Civil engineering drawings prepared by Hudson Engineering & Consulting P.C., dated September 1, 2021 and revised through April 26, 2023.

The Applicant looks forward to appearing before the Planning Board again on May 10<sup>th</sup> for continued review and consideration of the site plan application. Should the Board or Village Staff have any questions or comments in the interim, please do not hesitate to contact me. Thank you for your time and consideration in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kristen Motel", written over a light blue horizontal line.

Kristen Motel

Enclosures

cc: Brittanie O'Neill, Land Use Board Secretary  
Mary Desmond, Esq., Village Planning Board Attorney  
Ashley Ley, AKRF, Village Planning Consultant  
Sullivan Architecture, P.C.  
Hudson Engineering & Consulting P.C.  
Aris Energy Solutions  
Anthony B. Gioffre III, Esq.  
Client