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VIA EMAIL AND MAIL

Chairman John Ingram and
Members of the Planning Board
Ancram Town Hall
1416 County Route 7
Ancram, NY 12502

***RE: Iron Star Development Project
Public Comments in Opposition to Site Plan, Special Permit and Subdivision***

Dear Chairman Ingram and Members of the Planning Board:

This firm has been retained by a group of local concerned citizens of the Town of Ancram, including but not limited to, owners of property directly adjacent and/or opposite the proposed Iron Star development. We respectfully submit this letter to the Town of Ancram Planning Board (“Planning Board”) to express our clients’ concerns related to the Iron Star development. Having reviewed the limited current record of proceedings made available, we feel compelled to share with you our grave concerns regarding the legality of the processes undertaken by the Planning Board, which seem characterized by a singular rush to judgment that has compromised the integrity of the environmental review process and its ultimate goal – the protection of the environment – as well as the land use process.

Since we were only retained very recently, and yet to receive all of the necessary documentation from the Town concerning these applications, please consider these comments to be preliminary, with additional comments to follow.

First, the Planning Board should stop review of this development, and this public hearing, because the Town’s Building Inspector has determined that the use is an illegal use in the AH R2 District. Why is the Planning Board considering and holding public hearings on an illegal use. The applicant is seeking a rezoning from the Town Board to authorize this use. Therefore, it is

respectfully submitted that the Planning Board is obligated to wait for Town Board to determine whether or not rezoning is appropriate for this area, without which, the Planning Board is powerless to act. The Planning Board should immediately adjourn this public hearing without date and await the action of the Town Board.

Second, it is unclear why the Planning Board has rushed the public hearing process for this illegal use over the holidays based on deficient applications. According to the applicant's materials, the Planning Board knew that the use was illegal around September 2021. Yet, the Planning Board pressed ahead and scheduled a public hearing for this illegal use anyway.

It should be noted that as of about 10 days prior to the December 2 public hearing, the applicant submitted incomplete responses to comments from the Town planning consultant and the CAC. We have not been able to determine if any comments have been provided by the Town's engineer. For instance, in its November 22, 2021 letter, the most current submission of which we are aware, the applicant acknowledges the following significant deficiencies in their plans and reports:

- The "preliminary" water and wastewater report contained no appendices as they were all "**To Be Provided**" later.
- The applicant's consultant "**will identify**" bird nesting timeframes and tree cutting restrictions.
- An "updated lighting plan with additional low-level lighting at access pathways to structures and cabins is being developed and **will be provided in a future submittal.**"
- "Larger scale landscape, lighting and internal circulation plans **will be provided in a future submittal.**"
- "A well and sewage disposal system will be provided for the two (2) one bedroom farm worker apartments and bathroom. The site plans **will be updated with this information in a future submittal.**"
- "The cabin that was previously within 60 feet of the southerly property line has been moved to 100 feet from the property line. Updated plans **will be provided in a future submittal.**"
- "The Applicant is still working on these details. It is proposed to have both electric and gas-powered vehicles. There is currently a fuel storage tank in the existing barn. The fuel storage **will be shown on the plans in a future submittal.**"
- "The Applicant is currently working on providing additional detail for pathways to each building, ADA access routes and additional lighting. These details **will be provided on the plans in a future submittal.**"

- Pedestrian signage will be placed on the plans, and light poles **will be placed along the drive.**”
- “ADA routes **will be provided** to public accommodation buildings and overnight accommodation buildings designated for ADA compliance **in a future submittal.**
- “Low-level lit trails **will be provided** to the hot tub locations... The details of the hot tub locations are **still being worked out. Details will be provided in a future submittal.**”
- “Water supply and wastewater report will be provided **in a future submission.**”
- “ADA routes **will be provided** to designated overnight accommodation buildings, and public buildings **in a future submittal.**”
- “An updated site lighting plan **will be provided in a future submittal.**”
- “The proposed dry hydrants were provided on the previously submitted plans. Additional labeling **will be added** to the plans to clearly indicate where the dry hydrants are located **in a future submittal.**”
- “ADA spaces are currently provided at the 21-space parking lot for the cabins, and at the Inn. An ADA space **will be provided** at the creek house designated for ADA compliance rather than at the overflow parking lot **in a future submittal.**”
- “An engineer’s report for the pool **will be provided in a future submittal** once the pool is designed.”
- “An easement **will be provided** on the updated subdivision plat **in a future submittal.**”

It is respectfully submitted that conducting a public hearing on a project without the Planning Board or the public being able to review and analyze this significant lacking information is tantamount to guaranteeing no comments on these important issues, and a violation of my clients’ rights to be full apprised of all development aspects of the project and to be able to provide comments on them. The public hearing should be adjourned without date pending receipt of this information.

Third, we have been trying to obtain relevant information from the Town concerning the application to no avail. On December 16, 2021, we emailed and mailed a FOIL request to the Town. In response, to date, we have yet to receive anything, except a two sentence letter dated December 23, 2021 acknowledging receipt of our FOIL request. Chairman Ingram and J. Hoffman

were “cc’d” on the letter, therefore, the Planning Board clearly knows of our interest, and right to this information. The Town and the Planning Board are being less than transparent to the residents of the Town of Ancram.

Fourth, based on the information we have been able to review, we have noted the following deficiencies in the various reports so far.

- Regarding the water well testing, has there been any well tests performed on existing nearby residents wells to measure the potential negative impacts of the draw down of water and associated impacts of the project? Will this draw down bring other known contaminants in the vicinity that might pollute nearby residents’ wells. The water report does not even account for required food truck water usage (commercial food service, cleaning hands and stations), or water/sewer usage associated with the commercial “amenity” massage building, exercise building and studio building. Moreover, every appendix in the report (as noted above) states it “will be provided”. How can anyone comment on this, or the Planning Board even review this project, without the necessary information?
- The Traffic letter Saturday peak hour projections appear to be pulled from thin air. The numbers regarding the projected peak hours are not quantified. Somehow the engineer calculated purported 2019 volumes by comparing 2014 and 2019 average weekday daily traffic and then guessed what the Saturday peak might be. This is not reliable data. Why didn’t they get actual data today and compare to prior volumes?

Moreover, the “analysis” did not even look at potential accidents based on the large trucks turning into the site, or confused tourists about what entrance (of the many) to enter and other vehicles travelling at 55 MPH on 82. Any reasonable traffic analysis would examine impacts on other intersections in the area as well. Here, there is none.

The Traffic letter should have included and evaluated traffic impacts of the 42-seat restaurant. What if the owner decided to make the new restaurant available to the general public in the future. What will stop them?

- Lighting impacts and associated impacts to the character of the area are primary concerns. As noted above, however, there is no current light plan.

Cutting new and wider roads through and across the entire site (in three separate locations) and cutting down trees and important vegetation, and impacting soils of statewide importance to accommodate the new roads is not consistent with the character of the area. Unquestionably it opens up the area to light pollution. Numerous new structures along the ridge line will light up the area and degrade the beautiful views negatively impacting the character of the area.

Fifth, there are several zoning deficiencies with the site plan and possible violation of Town Law 280-a. A site plan under the zoning law is defined as:

A rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in this law, which shows the arrangement, layout and design of the **proposed use of a single parcel of land as shown on said plan**. Site Plan Review is the process, pursuant to Article VII of this law.

Here, we have four different properties and four different owners of the properties, all with their own tax map numbers proposed to be developed. On what lot is the principal use (i.e. the resort) located? There are aspects of this use spanning various properties owned by others. This is not a “site plan”. This is a mix-up of an overly intensive use of the property with overlapping and over-development of uses spanning four different lots.

For instance, pursuant to Zoning Law Article I(E)(5):

No off-street parking or loading space required for one building or use shall be included as meeting, in whole or part, the off-street parking or loading space required for another building or use except as provided in Article V.

Where is the required parking on Lot 3 for the 5-room “Inn” and 42 seat restaurant?

The Parking Lot Guidelines [Article V(A)(17)] provides:

For **restaurant**, bar, or nightclub, one space for each 50 sq. ft. of customer floor area. Parking spaces should be sufficient to satisfy 85% of the anticipated peak demand or maximum capacity of the establishment.

This restaurant parking requirement is in addition to the requirement of one space for each bedroom, plus one space for each of four employees for “Hotels”, “Inns”, “Lodges” and “Motels”.

Parking provided for the proposed “Inn/hotel” parcel, as noted in the CME traffic letter, is 5 spaces. However, the 42-seat “restaurant” is not accounted for on the Lot 3 parcel, or otherwise. Also, unless no one is working at the “Inn”, then the 5 spaces proposed is inadequate under the plain provisions of the Zoning Law. How many spaces are required for the employees?

How many spaces are required for the “massage” building and use, the “exercise” building and use, the “studio” building and use?

Although it is not entirely clear from the materials, the applicant seems to be under the misimpression that cross-access easements from one property owner, then through a different property owner’s land, to a third different property owner’s land, will somehow suffice for the required on-site parking. There is nothing in the Zoning Law that authorizes parking on another

parcel of land, once removed, from the subject parcel to provide parking spaces to satisfy the Zoning requirements for the subject parcel.

It is respectfully submitted that the site plan potentially violates Town Law §280-a. Although the plans and development proposal are not entirely clear, it appears that the internal driveway to the 21-space parking located on Lot 1 will also serve as new access to the residence on Lot 2. Access for Lot 2 being provided over Lot 1 is not authorized under Town Law §280-a. Direct frontage and access to the building is mandated. While Lot 2 may have frontage on Route 82, new access to the building on Lot 2, which appears to be provided from a different property is not provided and the site plan must be denied.

Sixth, regarding the history and current subdivision application, it appears that in September 2018 the entire property was subdivided into three lots and an additional lot line was adjusted. In August 2020 a further subdivision was granted.

In September 2020, P&M Farms, the reputed owner of all the property, then transferred three parcels (Lots 1, 3 and 4) to other entities. In January 2021, P&M went back to the Planning Board in 2021 to correct the 2020 approved subdivision plan.

Now, yet another subdivision application has been made for this project. The subdivision regulations, Article IV, Section 2 (A), provides: “Lots should not be of such depth as to encourage the later creation of a second building lot at the front or rear.” Proposed Lot 4 was the subject of the subdivision granted in 2018 and 2020. It is again being subdivided to create a different buildable lot, which appears to be the definition of an “out parcel” for future development by SSG Farms. This subdivision application creates a second building lot, under the guise that it is part of the proposed resort development. At minimum, the Planning Board should require, pursuant to SEQRA, analysis of potential future development of this proposed new lot. Otherwise, it is likely a violation of the SEQRA segmentation regulations.

Moreover, based on the history of the subdivision applications and approvals, it appears this project has been in the planning phase since at least 2018 when the first subdivision and lot line adjustment was approved to create these four lots. It has apparently avoided any environmental review. The 2018 approval resolution does not indicate that SEQRA was even a consideration. It simply states: “the plan conforms to the Zoning and Subdivision Ordinance as of the date of this approval” and approved. No consideration was given to the future use that would be made for these properties. Fast forward to 2020, and the applicant was back requesting a Boundary Line Adjustment, which the Planning Board granted and noted that the approval was a Type II action under SEQRA requiring no environmental review. Once again, the applicants avoided compliance with SEQRA, while rearranging the properties into a configuration they believed would benefit them for the development of this project.

Finally, as part of the current application, the applicant again seeks a further subdivision creating a new separate developable lot (Lot 4). The resort development proposes no development on Lot 4. Rather, it appears as a stand alone parcel ready to be developed. Why is this separate buildable lot being lumped in the other lots as part of site plan approval? Why isn't the Planning Board performing an environmental analysis of a potential development project on this parcel, a

separate ±11 acre parcel on Route 82? It is respectfully submitted that the Planning Board should require a full environmental review to include future development on Lot 4. Failure to do so would constitute a violation under its duties under SEQRA.

Seventh, the intensity of the proposed use violates the terms of the Comprehensive Plan and the Zoning Law and, therefore, should be denied by the Planning Board.

Initially, as noted in the First point, the use has been determined to be illegal under the Zoning Law. The only way that this application may be considered by the Planning Board is if the Town Board obliterates the AH R2 zone on the site. Therefore, the application currently, if approved, would allow illegal tourist destination in rural Ancram, and would completely change the rural character of this primarily residential area.

Pursuant to the Zoning Law “Rural Character” is defined as:

Describes the features and qualities of Ancram’s physical and natural landscape that were shaped by current and past economic activities such as agriculture, mining, forestry and low density residential uses, interspersed with open, working agricultural landscapes and scenic views. Concentrations of population and structures exist in a limited way in the hamlets, but Ancram’s land is predominantly used for agriculture: as pastures, cropland and woodlands... Our hamlets typically have a fairly well defined border and buffer of undeveloped open spaces and agricultural lands, and are located at key road crossings, near important civic structures such as places of worship, or adjacent to historically important natural features like streams. Our hamlets have a diverse mix of lot size and architectural styles. Historic structures from various periods in the community’s life are present. Outside these hamlets, residents typically occupy a range of residential types such as estates, farms and a variety of residences including old farmhouses, newly built modern homes, modular’s, manufactured homes and trailers. Evidence of current and past agricultural activity is present, including but not limited to crop fields, hay fields, livestock pastures, corrals, orchards, farm buildings, stone walls, windbreaks, hedgerows, and woodlots. Farm equipment noise and farm smells are a daily fact of rural life. Most local roadways tend to be narrow with limited driveways or crossroads, and rural roads tend to be lined with trees, fences, or stone walls.

Ancram’s rural character also embodies a quality of life based upon traditional rural landscapes, activities, lifestyles, and values. Ancram is characterized by a balance between the natural environment and human uses with low-density residential dwellings, farms, forests, mining areas, outdoor recreation and other open space activities. Ancram’s rural character can also be defined as the patterns of land use and development: a. In which open space and natural landscapes are preferred over built-up environments; b. In which clean air and dark skies are prized and protected; c. That foster traditional rural lifestyles, rural- based economies, and opportunities to both live and work in rural areas; d. Which values the nature of farming and the role it plays in the community, and accepts the sounds and smells of a working farm; e. That provide visual landscapes that are traditionally found in rural areas

and communities; f. That are compatible with the use of the land by wildlife and for fish and wildlife habitat; g. That generally do not require extensive municipal services; and h. That are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.

Under the Zoning Law, the Hamlet Residential Districts, **including Ancram Hamlet Residential District (AH-R2)**, Ancramdale Hamlet Residential District (AdH-R2), and Boston Corner Hamlet Residential District (BCH-R2) have been established for the purpose of promoting the health, safety, and general welfare of the residents of the Town and to: a. recognize these hamlets as traditional concentrations of settlement in Ancram; b. facilitate a higher density of residential development consistent with the existing residential character of these hamlets; c. reinforce these hamlets as principal locations for residential, commercial, and cultural uses; d. ensure new development has a building scale, massing, layout and design that are pedestrian oriented and consistent with the **traditional character and environment of each hamlet**; e. provide for and encourage a mixture of housing types and opportunities to meet the housing needs of Town residents; and f. build and maintain these hamlets as vital town centers.

“Traditional Character of the Community” is defined in the Zoning Law as:

Describes the qualities and attributes of Ancram’s physical and visual landscapes that embody the varied events, traditions and personalities of its past. Traditional character describes the architectural variety, style and scale of the Community, including color, proportion, form, and architectural detail. The physical layout of the Community, the landscape patterns, the pre-automobile network of roads, and other scenic and economic elements also contribute to Ancram’s traditional character. Among these elements are active agricultural operations with low density residential development interspersed with denser population centers such as the hamlets, roads and windbreaks lined with old mature trees, stone walls, deep rural setbacks, and small/irregular field or pasture dimensions. Ancram’s traditional character is strengthened by the presence of historic farmhouses, barns and out-buildings from the periods of its settlement by farmers in the 1700’s and early 1800s. Our traditional character is also boosted by the presence of sites related to NY State and Federal Historic Register listed properties...

Ancram residents have spent decades carefully planning a future that protects the Town’s most important resources: farmland, active agriculture, clean water, natural habitats, scenic views, and distinct hamlets with historic character. The Ancram Hamlet Residential District (AH-R2) is such a distinct and historic area. These irreplaceable assets and the rural personality of our community are threatened by this project at the heart of our rural town. This property, a remnant of one of Ancram’s largest family farms, contains a tributary creek, wetland, open pasture, a significant stand of woods, and the diverse wildlife that accompanies these habitats.

Presumably, prior to the adoption of the Town’s new zoning law in November 2020, adopted only little over a year ago, the Town Board considered the Town’s Comprehensive Plan, as well as the proposed requested and required zoning change by this applicant. By adopting the

new Zoning Law, the Town Board explicitly, or at minimum, implicitly rejected the current zoning change from AH R2 to AG as inconsistent with the Comprehensive Plan.

Allowing a sprawling commercial “retreat center”, “resort” or “special events facility”, which any way it is looked at would be a tourist destination, denigrates the traditional character and environment of the AH R2 hamlet. The AH R2 hamlet district is immediately adjacent to and surrounding a portion of the western part of the site and to the north. It is also part of the site. Introducing this large scale project to this area is wholly out of character with rural residential area and the historical uses in the area.

Conclusion.

Based on the above, we respectfully submit that the Planning Board, if it decides to continue its review of the illegal use in violation of the Zoning Law, should issue a Positive Declaration under SEQRA and require preparation of an Environmental Impact Statement. Based on our preliminary review of the voluminous, yet deficient materials, it is plain that the project, a Type 1 action under SEQRA, may have a “potential” for at least “one significant adverse environmental impact” on a number of relevant environmental categories, including: Impacts on Land, Impacts on Surface Water, Impacts on Groundwater, Impacts on Plants and Animals, Impacts on Agricultural Resources, Impacts on Aesthetic Resources, Impacts on Transportation, Impacts on Noise, Odor and Light, Inconsistency with Community Plans and Inconsistency with Community Character. A Positive Declaration is only one legally supportable determination that the Board can make now - to open the environmental review process to assure that the Board has fully identified all potential impacts of the Iron Star project and, with the assistance of other agencies with the relevant expertise, determined through credible, scientific and thorough evidence, that the proposed project mitigates the identified impacts to the maximum extent practicable. This is the duty imposed on the Planning Board by New York law.

This limited list of potentially significant adverse environmental impacts indicates that a DEIS must be prepared. The record is replete with piecemeal reports and correspondences, making it difficult for the average resident to review and comment without hiring professional consultants. A DEIS would address this concern.

In view of the foregoing, on behalf of the concerned citizens of Ancram, we urge the Planning Board to take the steps now necessary to perform the review required of it by SEQRA. The Planning Board has the authority, indeed the duty, to demand the preparation of an EIS that is designed to aid the Planning Board in its efforts to evaluate the environmental consequences of a development project with considerable magnitude and scope and design appropriate mitigation measures. As one court has put it, the EIS is the only step in the SEQRA process gives it any “teeth.” The record now before the Board can only be described as toothless.

Very truly yours,

/s/ *Thomas A. Shepardson*

Thomas A. Shepardson