

**DRAFT ENVIRONMENTAL IMPACT STATEMENT**  
**FOR**  
**UPPER RHODA POND BOARDING HOUSE**  
**IN THE TOWN OF COPAKE, NEW YORK**

**EXECUTIVE SUMMARY**

This Draft Environmental Impact Statement seeks to set forth in particular detail the environmental impacts, if any, the use of 2111 County Route 7A, Copake, New York, as a Boardinghouse, as defined under the Town of Copake Zoning Code, will have on the environment, landscape, resources and people of the Upper Rhoda Pond community, as well as the Town of Copake. In summary, in its EAF Part 3 evaluation of the proposed action, a majority of the Copake Zoning Board of Appeals (the “Board”) concluded that the proposed use would not result in a change in the use or intensity of use of the land, nor would such use result in an adverse change in the existing level of traffic or impact on the existing infrastructure. In other words, the Board concluded that the subject property, operating as a stand alone Boardinghouse, without any adjacent properties being used for Boardinghouse purposes, would not result in any significant adverse environmental impacts to the character or quality of the existing community, or otherwise. The only adverse environmental concern the Board concluded that the proposed use may have involves the potential cumulative impact of this Boardinghouse, with possibly up to three others in its general vicinity, as follows:

*3. On the character or quality of the existing community.*

In its SEQR deliberations, the Board concluded that the within application for the proposed use of the subject property as a Boardinghouse, standing alone, would result in a SEQR negative declaration. The Board concluded that the application to use the subject property as a residential Boardinghouse, in isolation, would not result in any significant adverse environmental impact in relation to the character or quality of the surrounding community, and would be suitable for issuance of a special use permit. The Board further determined that it is only in the context that other applications for Boardinghouses in the vicinity of the subject property are currently pending, that a significant adverse environmental impact may occur due to cumulative effects.

In response thereto, this DEIS will address the series of tests, studies and a thorough evaluation undertaken by the applicant to determine the extent, if any, of any environmental, ecological, or societal impacts of the proposed Boardinghouse, including but not limited to conducting a traffic impact study to examine the potential impact the proposed Boardinghouse would have on the surrounding roadways, hiring an architect to review the property for NYS Building Code compliance, and examining the septic system at the subject property to verify that its capacity is sufficient for the proposed action.

In all, as a direct result of the various studies, tests, and the extensive evaluation of the proposed use of the subject property as a Boardinghouse, it is clear that with the

implementation of appropriate mitigation measures, the proposed use of the subject property as a Boardinghouse will not have a significant adverse environmental impact on the character or quality of the existing community. As indicated in greater detail in Section 3.0 hereof, the applicant, Alon Ben-Meir, has analyzed the neighborhood concerns, the Board's concerns in the context of the Town's comprehensive plan and zoning regulations, and the applicant has shown that he is implementing numerous measures to mitigate any potential impact on the environment. The proposed measures include altering the manner in which the subject property is advertised, revising the manner in which the subject property is rented, making the rental process more extensive and thorough to assure the property is being rented to appropriate guests, implementing occupancy limits at the subject property, modifying the rental agreement to include explicit language addressing the Board's concerns, having applicant's agents on call and readily available at all times, having applicant's agents check in at the property daily, and creating comprehensive house rules that govern multiple facets of the rental including use of the Pond and noise, among others.

All environmental concerns that may affect the character or quality of the existing community as a result of the operation of a Boardinghouse at 2111 County Route 7A, Copake, New York, including the eight salient characteristics that the Board identified to underline the anticipated adverse impact on the community and neighborhood character, have been studied and either found to have little or no impact, or have been mitigated by the aforementioned proposed mitigating measures. Conversely, applicant's assessment concluded that the proposed Boardinghouse met a clear public need and that the Town of Copake and its residents would benefit from the operation of same.

In short, the tests, inspections, studies and evaluation undertaken by the applicant have resulted in a more environmentally friendly Boardinghouse, operated in a more stringent and proficient manner, with mitigation measures implemented to significantly lessen the potential disturbance to the character and quality of the community and its environment.

## **SECTION 1.0 – PROJECT DESCRIPTION, PURPOSE, PUBLIC NEED AND BENEFITS**

### **1.1 Description of the Proposed Action**

The proposed action currently before the Town of Copake Zoning Board of Appeals (hereinafter the "Board") involves certain property situate in the Town of Copake, County of Columbia and State of New York, currently owned in fee by Alon Ben-Meir (hereinafter "Dr. Ben-Meir" or "applicant"), and being the same premises more commonly known as 2111 County Route 7A, Copake, New York (hereinafter the "subject premises" or "subject property"). The proposed action seeks to use the subject premises as a Boardinghouse as defined by the Town of Copake Zoning Code. Such use requires Dr. Ben-Meir to obtain a special use permit from the Board.<sup>1</sup> The Town of Copake Zoning Code §232-3 defines a Boardinghouse as:

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<sup>1</sup> Classification of a use as a special permit use is a legislative recognition that a specific type of land use is **compatible with the community's land use scheme** (*Tandem Holding Corp. v. Board of Zoning Appeals of the Town of Hempstead*, 43 NY2d 801)

BOARDINGHOUSE – A building other than a hotel, containing a general kitchen and general dining room, in which at least three but not more than six sleeping rooms are offered for rent, with or without meals. A lodging house, tourist house or rooming house shall be deemed a boardinghouse.

The subject premises consists of a three-bedroom single family dwelling. The building itself contains living and sleeping accommodations for permanent occupancy. The proposed action solely seeks to continue the use of the existing residential house for residential purposes in conformity with the Town's Code, and will not require any new construction or other alterations at the property. In its current state, the subject property can function as a Boardinghouse as defined by the Copake Zoning Code. The single family dwelling on the subject property currently contains a general kitchen and dining room, and does not have more than six sleeping rooms.

The subject premises is comprised of approximately two acres of land as depicted on the survey of the property previously provided to the Board in connection with the special use permit application. Dense vegetation and wetlands separate the subject premises from the abutting properties, creating a natural sound buffer. It is not alleged in the EAF Part 3 Positive Declaration that the surrounding ecosystem and ecology will be disturbed due to the proposed action.

The proposed action will result in the continued use of the subject property as a single family dwelling that can accommodate a nine-person family to a residential Boardinghouse that will be occupied by no more than nine (9) people. It is anticipated that the proposed Boardinghouse will be rented on a weekly, monthly, or seasonal basis throughout the year, with the majority of rentals occurring on a weekly basis between the peak season of Memorial Day to Labor Day, with short term rental possibly occurring during off-peak season. The annual intensity of use is expected to be less as a Boardinghouse than as a full-time family residence.

Applicant will continue to use the property in the same manner as it has historically been utilized, that is to say, as a residence. Such use will entail merely renting the single family dwelling located on the subject property to be occupied and used by its renters, an activity that dozens of residents throughout the Town of Copake are currently undertaking. Importantly, in its EAF Part 3 Positive Declaration, the Board concluded that the proposed use of the subject property as a Boardinghouse, assessed individually, would not result in a significant adverse environmental impact in relation to the character or quality of the surrounding community, and would be suitable for issuance of a special use permit. Thus, the only true impediment to the issuance of the special use permit, in

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[1977]). The fact that a use is permitted by an ordinance constitutes **a legislative determination that the use is in harmony** with the general zoning plan and will not adversely affect the neighborhood (*Retail Property Trust v. Board of Zoning Appeals of Town of Hempstead*, 98 NY2d 190, 195 [2002]; *Kinderhook Development, LLC v. City of Gloversville Planning Bd.*, 88 AD3d 1207 [3d Dept. 2011]; *PDH Properties, LLC v. Planning Bd. Of Town of Milton*, 298 AD2d 684, 685 [3d Dept. 2002]).

the Board's determination, is the fact that another residence adjacent thereto could be rented and used a proposed Boardinghouse, as well.

The subject property's drainage, traffic, utilities, water, sewer, lighting, and landscaping will not significantly change as a result of the proposed action. For all intents and purposes, the subject property will continue to be used in the same manner that it has been used since its construction in the 1980's, with the sole difference being that the occupants will be renters, rather than permanent residents. It is applicant's expectation, that due to the seasonality of the rentals, the proposed use will result in the subject property being occupied less often than a full time residence. While a single family dwelling is occupied on a permanent basis year round, the proposed Boardinghouse will only be occupied periodically.

## **1.2 Purpose of the Proposed Action**

Foremost, applicant's chief motive in seeking a special use permit to operate the subject property as a Boardinghouse is to offset the high carrying costs associated with owning the subject premises. Applicant, who primarily resides in New York City, currently owns and occupies a vacation home on Lower Rhoda Pond. Dr. Ben-Meir, who fell in love with the beauty of Copake the first time he visited, has a dream to make Copake a vacation destination for his family. In furtherance of his dream, applicant purchased the subject property, located approximately one mile from his vacation home on Lower Rhoda Pond, in or about November of 2012. It is applicant's desire to maintain ownership of the property and potentially, some day, have his children occupy and enjoy the property.

Utilizing the subject premises as a Boardinghouse and renting the property to families visiting Copake will help the Dr. Ben-Meir defray the carrying costs associated with owning a home in Copake, including but not limited to real property and school taxes, insurance, upkeep and maintenance, and beautification of the grounds.

Finally, as outlined in great depth in sections 1.3 and 1.4 hereinbelow, the proposed action will fulfill multiple public needs and will significantly benefit the Town of Copake and its residents. The proposed action to rent the subject premises as a Boardinghouse will increase the limited number of lodging options in Copake, introduce new people to the Town of Copake, and help grow the diminishing economy of Copake. In sum and total, the proposed action will not only allow the applicant to maintain ownership of the subject property, but it will also bring potential new residents to the Town of Copake and the surrounding area, which in turn will help boost the local economy within the Town and County through use of local restaurants and other business establishments.

## **1.3 Public Need for the Proposed Action**

There is a recognized public need for the proposed action as it will help advance the Town of Copake 2011 Comprehensive Plan (hereinafter the "Comprehensive Plan")

in numerous ways, including growth of the diminishing economy of the Town, introducing new people to the area who would otherwise not visit, increasing the lack of amenities in Copake, and allowing secondary homeowners in Copake to keep and maintain their vacation and/or weekend houses.

In or about 2008, Copake established a Comprehensive Plan Committee composed of ten town residents charged with the responsibility of developing a comprehensive plan for the Town of Copake.

In 2011, following a three year development period, the Town Board of the Town of Copake adopted the Town of Copake 2011 Comprehensive Plan. The Comprehensive Plan was created to present the goals, objectives, guidelines and policies for the immediate and long-range protection, enhancement, growth and development of the Town. With respect to the proposed Boardinghouse, the Comprehensive Plan discusses several important concepts and recommendations that are both compatible with and encourage the establishment of the proposed action.

According to the 2011 Comprehensive Plan, Copake residents identified a lack of amenities, rundown character of the downtown area, and lack of employment as things that they like least about living in Copake.<sup>2</sup>

The Comprehensive Plan clearly identifies a desire for a resurgence of Copake's stagnant economy, and the once vibrant downtown area of Copake, which has grown desolate, with few retail establishments still operational. The Comprehensive Plan envisions a desire to increase the number of visitors visiting Copake to foster and maintain the Town's economic goals of increased spending within the Town. As a vehicle for addressing this public need, the Comprehensive Plan identifies Boardinghouses, as a means of increasing the number of visitors coming to Copake, with an end result of a healthier and more diverse economy.

The ZBA, in deciding whether to issue a special use permit, is charged with examining the following:

- (1) There shall be no detrimental effect by the establishment of such use.
- (2) Such use will be in harmony with the district in which located.<sup>3</sup>

Here, the establishment of a Boardinghouse in Copake, including the proposed Boardinghouse at the subject premises, will not only have no detrimental effect on the community, but such use is clearly in harmony with both the district and the Town's Comprehensive Plan. A Boardinghouse will effectively introduce new people to the Town and County that would not otherwise visit the area. As was attested to by many of the local realtors who testified during the public hearing, the introduction of new visitors results in additional people enjoying the area and moving to the Town as a result thereof,

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<sup>2</sup> Page 11 – Town of Copake 2011 Comprehensive Plan – Community Survey

<sup>3</sup> See, Sections 232-28(G)(1) & (2) of the Town of Copake Zoning Code

either permanently or seasonally. Additionally, as evidenced by testimony of several local residents at the public hearings, their decision to remain in the area was directly attributable to their opportunity to rent and visit prior to purchasing. The increase in home sales will further help meet the public need for a stronger economy in Copake. The establishment of a Boardinghouse on the subject property will have a positive, and not a detrimental effect on the Town, and Upper Rhoda Pond community.

Not only will the approval of the subject property as a Boardinghouse foster the planned economic development plans set forth in the Comprehensive Plan, but it will also address the identified rental needs and concerns of the Town of Copake. The Town of Copake 2011 Comprehensive Plan states under its “Action” plan for a thriving economy that the Town should “**Encourage development of tourism amenities, including lodging.**”<sup>4</sup> (Emphasis added).

Finally, pursuant to the Community Survey conducted in furtherance of the Comprehensive Plan, just over half, 54.2% to be exact, of respondents use their property as a principal residence.<sup>5</sup> The other 45.8% of respondents use their property as a seasonal, weekend, or vacation home. Moreover, of the approximately 2,382 housing units in Copake as of 2010, roughly 40% of renter households and 24% of owner households were cost burdened.<sup>6</sup> A number of residents, including the applicant for the proposed action, testified at the public hearings for the proposed action that they rent their homes in Copake to help offset the associated carrying costs. Without the ability to rent their homes, many homeowners in Copake, both permanent and secondary, would be forced to sell their properties and leave the Town of Copake. A drastic rise in inventory in the housing market will lower housing prices as supply will far outweigh demand. This undesirable event will hurt all residents of the Town. Consequently, there is a strong public need for the proposed action as it will help prevent this adverse impact on the Town of Copake.

#### **1.4 Benefits of the Proposed Action**

Not only will the approval of the subject premises as a Boardinghouse address and fulfill identified public needs, but it will also yield crucial benefits in harmony with the Town of Copake’s short and long term goals for its residents. Specifically, the Town of Copake Comprehensive Plan encourages business expansion, including professional services, niche retail and dining.<sup>7</sup> The Comprehensive Plan also provides, in pertinent part, that “a vibrant and stimulating downtown plays a critical role in [the] quality of life...” and that “tourism can be a valuable and growing segment of Copake’s unique economy...”<sup>8</sup>

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<sup>4</sup> Page 32 – Town of Copake 2011 Comprehensive Plan – E. Our Goal Is A Thriving Economy

<sup>5</sup> Page 11 – Town of Copake 2011 Comprehensive Plan – Community Survey

<sup>6</sup> Page 6 – Town of Copake 2011 Comprehensive Plan – Housing

<sup>7</sup> Page 29 – Town of Copake 2011 Comprehensive Plan – E. Our Goal Is A Thriving Economy

<sup>8</sup> Page 29 – Town of Copake 2011 Comprehensive Plan – E. Our Goal Is A Thriving Economy

As a catalyst for a thriving economy, the Comprehensive Plan states that Copake must “take all steps necessary to revitalize and rehabilitate ‘downtown Copake’.”<sup>9</sup> This includes attracting businesses such as a farm stand, bakery, book store, art galleries, outdoor recreation store, liquor store, and theaters.<sup>10</sup>

The Comprehensive Plan envisions a revitalization of the Town of Copake through economic and business growth and activity, which will be fostered through the approval of Boardinghouses throughout the Town of Copake, including at the subject premises. The proposed action, as well as the establishment of other Boardinghouses throughout Copake, will assist in providing a steady stream of visitors into the local economy. As the number of visitors to the Town’s numerous lakes and areas ski mountains increases, the small scale retail stores, services and commodities, such as bakeries, general stores, restaurants, small retail stores, and coffee shops, will benefit from increased spending.

In 2012, Tourism Economics, an independent global advisory firm, conducted a study analyzing the economic impact of tourism in New York, including Columbia County.<sup>11</sup> The statistics in the study demonstrate how crucial tourism is to Columbia County, and why there is a strong public need for maintaining and even increasing the number of visitors within the County, and especially within the Town of Copake. According to the study, visitors spent a total of over \$126 million dollars in Columbia County in 2012, including over \$16 million for lodging, over \$10 million for recreation, approximately \$22 million for food and beverage, and over \$17 million at retail shops and service stations.<sup>12</sup>

Furthermore, tourism dramatically increased the tax revenue in Columbia County in 2012. During the 2012 calendar year alone, tourism brought a little over \$8 million in local tax revenue to Columbia County.<sup>13</sup> During that same time period, tourism in Columbia County also brought in an additional approximately \$7 million in state tax revenue.<sup>14</sup> In total, over \$15 million in tax revenue was generated in 2012 as a direct result of tourism in Columbia County. Were it not for tourism generated state and local taxes, the average household in Columbia County would have to pay an additional \$586 to maintain the same level of government revenue.<sup>15</sup>

Additional visitors to the area also considerably benefits the workforce in Columbia County. Of the entire Hudson Valley region, Columbia County was the most dependent upon tourism with 7.2% of all labor income being generated by visitors in

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<sup>9</sup> Page 30 – Town of Copake 2011 Comprehensive Plan – E. Our Goal Is A Thriving Economy

<sup>10</sup> Page 30 – Town of Copake 2011 Comprehensive Plan – E. Our Goal Is A Thriving Economy

<sup>11</sup> Economic Impact of Tourism in New York – 2012 Calendar Year Hudson Valley Focus – Tourism Economics (results can be found at: <http://www.slideshare.net/MelissaStafford/nys-tourism-impact-2012-hudson-valley-region2>)

<sup>12</sup> Id. at pp. 7, 9

<sup>13</sup> Id. at p. 17

<sup>14</sup> Id. at p. 17

<sup>15</sup> Id. at p. 17

2012.<sup>16</sup> Additionally, during that time span, 1,009 jobs, or 5% of all employment in Columbia County, were directly related to tourism, with an additional 442 jobs indirectly related to tourism.<sup>17</sup>

Additionally, according to a private consulting firm's 2014 study, Columbia County received the most economic boost per capita from tourism in the Hudson Valley region.<sup>18</sup> The study found that nearly 7 percent of wages in Columbia County were derived from tourism. Overall, tourism spending totaled approximately \$123 million in Columbia County in 2014, a slight decrease from the 2012 tourism revenue.

As demonstrated by the cited statistics, visitors wish to come to Columbia County to enjoy the natural resources located therein, including the numerous bodies of water and mountains. Accordingly, tourism is a major economic driving force of Columbia County. Tourism in Columbia County is already generating substantial revenue for retailers, taxes for the government, and employment for residents. The creation of additional housing and accommodations for visitors to the Town of Copake, will allow the Town to share in the economic benefits that the County of Columbia is already experiencing.

In direct keeping with the principals and ideals embraced by the Comprehensive Plan, the establishment of a Boardinghouse at the subject property will create visitor amenities and lodging in close proximity to the "downtown" economic heart of Copake located on Main Street, a mere two and a half miles from the subject property.

According to Copake's Comprehensive Plan, the Town has a total taxable assessment base of \$425.5 million, of which only 3.5% is generated from commercial properties.<sup>19</sup> Commercial and industrial uses contribute less than four cents of each dollar raised in taxes.<sup>20</sup> An increase in the local economy as a result of the proposed Boardinghouse will increase the amount of taxes raised by the Town from commercial uses, such as restaurants, gas stations, and grocery stores, and thus increase the Town's tax base. All residents of Copake will benefit from an increased tax base as the Town will either have more money to provide public services to its residents, or may have the ability to lower taxes.

Finally, as outlined in great depth above in Section 1.2, the proposed Boardinghouse will create additional benefits to Copake including allowing secondary homeowners, such as Dr. Ben-Meir, to keep and maintain their cost burdened homes. Additionally, the proposed Boardinghouse will allow for the introduction of new people to the Town of Copake, which not only will benefit the tourism economy but may also lead to new homeowners in Copake, the result of which will be a permanent economic benefit to the Town.

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<sup>16</sup> Id. at p. 12-13

<sup>17</sup> Id. at p. 15

<sup>18</sup> <http://www.timesunion.com/news/article/Boost-for-Columbia-County-economy-6395847.php>

<sup>19</sup> Page 8 – Town of Copake 2011 Comprehensive Plan – Real Estate Tax Base Analysis

<sup>20</sup> Page 8 – Town of Copake 2011 Comprehensive Plan – Real Estate Tax Base Analysis

## **SECTION 2.0 – ENVIRONMENTAL SETTING OF THE SURROUNDING AREA**

### **2.1 Description of Environmental Setting**

The Town of Copake has enjoyed a rural and summer lake community character for the majority of its past. Copake has more surface water than any other town in Columbia County that does not border the Hudson River. The Town is home to many bodies of water, including but not limited to Copake Lake, Robinson Pond, Upper Rhoda Pond, Lower Rhoda Pond, Snyder Pond, and Chrysler Pond. Each body of water is surrounded by a mix of year-round and seasonal homes. In total, roughly half of all homes in Copake are seasonal or second homes that are not used as the owner's permanent residence. As a result, Copake sees a sharp increase in its population during the warm weather months, as secondary homeowners temporarily occupy their vacation homes to enjoy the Town's many lakes and ponds.

The proposed use will occur on the subject property that has been used as a single family dwelling since the early 1980's. The subject premises consists of a parcel of real property approximately two acres in size located in the R-1 Zoning District. The subject property is bordered by two parcels of real property, each having a separate tax map ID number. Both of the surrounding parcels are also owned by Dr. Ben-Meir or an entity owned by Dr. Ben-Meir. The subject property also has frontage on Upper Rhoda Pond, a 70+ acre pond located in West Copake. Upper Rhoda Pond is a summer lake community located approximately two and a half miles from downtown Copake. The subject premises itself consists of dense vegetation, wooded areas, and wetlands, which create a sound buffer between the other properties.

While characterized during the public hearings as a quiet and peaceful community, in actuality Upper Rhoda Pond enjoys a vibrant summer lake community character in keeping with the majority of the waterfront properties in the Town of Copake. The majority of the properties surrounding the lake are seasonal and second homes. During the warm weather months, Upper Rhoda Pond consistently has persons and non-motorized watercraft in the water. While motorized watercraft are not allowed on Upper Rhoda Pond, many residents place their canoes, kayaks, and other small boats in the Pond. The Pond is surrounded by dozens of parcels of real property, many having their own dock access to the Pond. Additionally, there are multiple "community docks" located intermittently around the Pond, allowing access to residents and renters whose properties are not lakefront. Finally, there are floating docks stationed in the Pond. In total, it is reasonable to assume that hundreds of people have access to Upper Rhoda Pond.

Importantly, unlike the representations made during the public hearing, the Upper and Lower Rhoda Pond community is not comprised solely of single family residential dwellings. Instead, the Pond is also surrounded by non-residential uses including a camp for disabled children operated by COARC, a large KOA campground, and an overnight summer camp serving over 550 children. Additionally, Upper Rhoda Pond is surrounded by both residential and business zoning districts. A copy of the Town of Copake's zoning

map is annexed hereto as Exhibit “A”. Notably, the business district directly abuts Upper Rhoda Pond, and comes within approximately 500-1,000 feet of the subject property. This fact directly contradicts the public’s representation of Upper Rhoda Pond as exclusively a quiet residential community.

In point of fact, located across the Pond from the subject property is Camp Mahican, a summer day camp owned and operated by Coarc for children and teens with disabilities ages 5 to 16 years old. Camp Mahican contains a basketball court, playground, and a large open field directly adjacent to Upper Rhoda Pond where dozens of special needs children play soccer, basketball and kickball. Camp Mahican also owns a sizeable beach on Upper Rhoda Pond, where children are allowed to play water sports and learn how to swim. A photograph on Camp Mahican is annexed hereto as Exhibit “B”.

Not only does the Upper Rhoda Pond community include a summer day camp for children and teens with disabilities, but it also includes a KOA campground that is open for business from May 6<sup>th</sup> to October 15<sup>th</sup> every year.<sup>21</sup> The KOA Campground, located across the county highway from Upper Rhoda Pond and approximately 1,500 feet from the subject property, contains over 200 sites and allows for RV’s, campers, tents, and cabins. Two images from Google Maps displaying the KOA Campground and its relation to the subject property are annexed hereto as Exhibit “C”. The campground website states that the campground “always [has] some type of music every week – Karaoke, Live Bands, Bonfire Sing-alongs, Talent Shows, and D-Jays.”<sup>22</sup> The campground also prides itself on having weekly events and themes throughout the summer, including on site fireworks on the 4<sup>th</sup> of July.

Additionally, Camp Pontiac is located at 2044 County Route 7, Copake, approximately 1,500 feet from the subject property. Two images of Camp Pontiac from Google Maps are annexed hereto as Exhibit “D”. Camp Pontiac is an overnight summer camp that accommodates up to 550 children ages six to seventeen.<sup>23</sup> The camp operates for seven weeks every summer, during which time the 550 children, as well as the support staff, reside at the Camp. Facilities at the Camp include but are not limited to: 8 basketball courts, 7 lite baseball fields, a lite football field, a driving range, an 8,000 foot gymnastics pavilion, 3 hockey rinks, 2 lacrosse fields, 8 soccer fields, 11 tennis courts, 4 heated swimming pools, sleeping lodgings for all campers, and much, much more.<sup>24</sup> When the summer camp is not in session, Camp Pontiac is often rented out for private events such as corporate and religious retreats and weddings.<sup>25</sup>

Moreover, there are numerous properties located around the subject premises, and throughout the Town of Copake, that rent their homes on a weekend or weekly basis. Essentially these properties are acting as Boardinghouses, without the proper permits and

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<sup>21</sup> <http://koa.com/campgrounds/copake/>

<sup>22</sup> <http://koa.com/campgrounds/copake/activities/>

<sup>23</sup> <http://www.camppontiac.com/welcome/>

<sup>24</sup> <http://www.camppontiac.com/facilities/>

<sup>25</sup> <http://www.camppontiac.com/rentals/>

authorizations to do so. The unpermitted Boardinghouses are often marketed through online advertisements such as Vrbo.com and Homeaway.com. A search on Vrbo.com for homes for rent in Copake, New York returns no less than 34 results. Likewise, a search on Homeaway.com for homes for rent in Copake, New York returns 31 results.

As evidenced by Camp Mahican, the KOA Campground, Camp Pontiac, and the operation of other unpermitted Boardinghouses, all of which are located within the Upper Rhoda Pond community, the community is not a “quiet, cohesive and harmonious” neighborhood as stated in the EAF Part 3 Positive Declaration. Rather, the community consists of seasonal lakefront vacation homes and multiple transient natured camps and facilities. This is typical for summer lake communities in upstate New York. Parents come and go throughout the summer to transport their children to and from the summer camps, and the KOA campground has transient renters coming the going in the immediate vicinity of Upper Rhoda Pond throughout the spring, summer and fall seasons.

The proposed Boardinghouse is very compatible with the existing summer lake community character of the immediate surrounding area, as well as the entire Town of Copake. It is not anticipated that the proposed action will have a direct impact on the intensity of the use of the land, with any potential impact being minor and of little significance to the Town. The proposed use of a Boardinghouse does not correlate to any increased number of occupants at the subject premises, as the use is limited by the septic and bedroom capacity of the single family dwelling. While there is certain ambient noise at the site of a single family dwelling (a factor taken into account during the development of the Comprehensive Plan and enactment of the Zoning Code), such noise pales when compared to the noise produced by Camp Mahican, Camp Pontiac, and the KOA Campground in the immediate vicinity. Nonetheless, the applicant herein proposes to minimize as much external noise as possible through the implementation of the mitigating measures outlined in Section 4.0 below. As such, it is expected that after the implementation of the multiple mitigating measures, no greater sound levels will be present at the proposed Boardinghouse than would otherwise be experienced from a single family occupying the subject property on a permanent basis.

The R-1 Zoning District expressly permits the operation of a Boardinghouse contingent on securing a special use permit. Furthermore, under the Town of Copake zoning code, other special permit uses to which this property could be made include a Bed and Breakfast, a cultural facility, a day care center, a fire station, a nursing home, a resort hotel, a resort lodge, a resort ranch, a school, a theater or concert hall, a restaurant, a bus station or a summer camp. Certainly, all of the above uses would generate similar or more noise, traffic, parking issues, and disruption to the surrounding community than a Boardinghouse. Notwithstanding, the Town of Copake has deemed each of these uses compatible with the community character and specially permitted uses in these zoning districts.

## 2.2 Traffic Patterns

The subject property is situated on County Route 7A, one of the main public thoroughfares that travels through the Town of Copake. In furtherance of this Draft Environment Impact Statement, a traffic impact study, attached hereto as Exhibit “E”, was performed by Crawford & Associates Engineering, P.C. and a letter summarizing the traffic impacts of the proposed Boardinghouse dated January 15, 2016 was generated in connection therewith.

The purpose for the traffic study was to assess the existing condition of County Route 7, and to evaluate the present traffic flow volume and patterns on County Route 7A near the subject premises. The traffic study further addresses the existing use of the subject premises and the potential impacts on the existing road network as a result of the proposed Boardinghouse. Please note that the traffic study refers to County Route 7 and County Route 7A interchangeably.

Using data published by the Institution of Transportation Engineers (ITE), Crawford & Associates compared the average number of trip ends per dwelling unit for both the existing and proposed land uses. The study found that a “single family detached housing” unit generates 9.57 trip ends on an average weekday. The study further found that a “recreational home”, which a Boardinghouse is considered, generates only 3.16 trip ends on an average weekday. The study concluded that the use of the subject property as a recreational home will reduce the expected trip generation on County Route 7.

The study also found that County Route 7 is a county highway in good condition. The NYSDOT classifies County Route 7 as a “Rural Major Collector”, capable of sustaining Average Daily Traffic (ADT) of up to 2000 vehicles per NYSDOT design guidelines. While NYSDOT provides ADT traffic counts for several highways in New York, there is no data available for the segment of County Route 7A on which the subject premises is located. However, data is available for nearby segments of County Route 7A, and by using said data, the ADT for the study area can be inferred. The study found that Route 7A has an ADT of 2721 on the segment between Main Street and the Copake Transfer Station, and an ADT of 1424 between the Transfer Station and Mountain View Road to the north. Therefore, the inferred ADT on Route 7A west of the Transfer Station towards the subject premises is 1297 trips. This number is well below the NYSDOT maximum of 2000 vehicles per day. The study concluded that County Route 7 has more than sufficient capacity to meet the proposed uses.

Furthermore, as is obvious from past use, the KOA Campground, Camp Pontiac and Camp Mahican all use portions of Route 7 and 7A in the immediate vicinity of the subject property, and no traffic issues have arisen from such historical use.

In sum and total, the Crawford & Associates Traffic Impact Study for the subject premises and corresponding segment of County Route 7A concludes that “the condition and existing traffic volume of County Route 7 are more than adequate for the proposed uses.”

### SECTION 3.0 – POTENTIAL SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS

In the Town of Copake Zoning Board of Appeals' EAF Part 3 Positive Declaration, the Board concluded that the proposed action may have a significant adverse environmental impact in relation to “impairing the character or quality of the existing community.” The Board cited eight salient characteristics of the proposed action that underline the anticipated adverse impact upon the community and neighborhood character in support of its EAF Part 3 Positive Declaration determination, they are:

- 1) The rental of multiple properties simultaneously, especially to a large group or related groups occupying multiple houses.
- 2) The lack of supervision of renters, due to the fact that the owners or their agents do not reside at the property.
- 3) The number of potential occupants at each location.
- 4) Increase in vehicular traffic – including buses – and unsafe vehicular operation.
- 5) The very short-term nature of the rentals, causing rapid turnover of occupants, in comparison with seasonal or longer-term rentals.
- 6) The lack of respect for neighborhood and its residents resulting from the lack of community connection of transients.
- 7) Misuse of Rhoda Pond, including littering and unsafe activities.
- 8) The propensity to be rented to groups such as college students or wedding parties, which have an obvious propensity to carry on loud and disruptive party activities in comparison to the rental of a house to a mixed-age family unit.

The following is an in-depth evaluation of the eight aforementioned salient characteristics cited by the Town of Copake Zoning Board of Appeals, reflecting on the severity of the impacts of each characteristic and the reasonable likelihood of each's occurrence.

- 1) *The rental of multiple properties simultaneously, especially to a large group or related groups occupying multiple houses.*

The Board has expressed concern over the simultaneous rental of multiple properties owned by Dr. Ben-Meir. The Board has also expressed concern over the simultaneous rental of multiple properties owned by Dr. Ben-Meir on Upper Rhoda Pond to large related groups. The Board resolved that the rental of multiple properties at the same time, especially to large, related groups may significantly and adversely affect the character and quality of the existing community. Noticeably absent from the EAF Part 3 Positive Declaration are the direct significant adverse environmental impacts that the simultaneous rental of multiple properties to large, related groups may cause. Nonetheless, it can be inferred from the Positive Declaration that the Board is concerned that “large, noisy, and disruptive gatherings” will have a potential significant adverse environmental impact on the “quiet, cohesive and harmonious” neighborhood (*see* EAF Part 3 Positive Declaration, p. 3).

Throughout 2013 and 2014 it was common practice for the applicant's former rental agent to accept reservations for the rental of multiple properties to a single group. In late 2014, applicant hired Jenifer Crosby as his new rental agent. When potential adverse impacts were brought to the applicant's attention at the March 2015 Zoning Board of Appeals meeting, Ms. Crosby changed the rental practices at the subject property. Since April of 2015, Ms. Crosby has not booked any new reservations in which multiple properties have been rented to related groups. However, while Ms. Crosby stopped accepting new reservations for the rental of multiple properties to related groups, there were already reservations booked and contracts signed prior to the March 2015 ZBA meeting. To the extent that the issue of multiple properties being rented to related groups continued to be raised during the public hearings in 2015, it is submitted that those reservations were secured prior to the issue being raised and the mitigating efforts being fully implemented by Dr. Ben-Meir.

Dr. Ben-Meir hereby declares in this Draft Environmental Impact Statement, as a mitigating measure, that as a condition of approval and issuance of their special permit, he will use his best efforts to not rent multiple properties simultaneously to related groups. This mitigating measure will ensure that occupants from multiple properties do not congregate at one property, creating a large group that could possibly be 'noisy or disruptive'. As a result of Dr. Ben-Meir's amended rental practices, Dr. Ben-Meir has minimized the reasonable likelihood that multiple properties will be rented simultaneously to large or related groups.

Although Dr. Ben-Meir will use his best efforts to not simultaneously rent his multiple properties to related groups, he does intend to offer for rent all four of their properties, being located at the subject premises as well as 22 Howard Drive, 2103 County Route 7A and 2117 County Route 7A, at the same time to unrelated groups. Even so, the likelihood that all four properties will be rented together is diminutive. As evidence of this fact, out of the 365 nights of 2015, four properties were never rented at the same time, three properties were rented at the same time only 34 total nights, and two properties were rented at the same time only an additional 39 nights. In total, throughout the entire year of 2015, multiple properties were rented simultaneously a total of only 73 nights, approximately 10 weeks of the year, or less than twenty percent of the entire time the properties were offered for rent.

Additionally, applicant has capped the total number of occupants at any of the adjoining properties, including capping the total number of occupants at the subject premises at nine (9) persons. The occupancy limit is explicitly stated in all advertisements for the subject premises as well as in the rental agreement for the subject premises. Dr. Ben-Meir and his agents will also routinely check-in with the rentals to make sure the occupancy restrictions are being complied with. Any violation of the occupancy limits at the subject premises can and will be met with a warning, followed by an eviction of the renters from the premises.

The severity of any potential negative impacts will be reduced by the aforementioned mitigating measures to be implemented by Dr. Ben-Meir. Additionally, the rentals will not create a greater use of the subject premises than the currently permitted single family dwelling residential use.

- 2) *The lack of supervision of renters, due to the fact that the owners or their agents do not reside at the property.*

The Board has expressed concern about the lack of supervision of the renters at the proposed Boardinghouse. The Board contends that the lack of supervision of the renters, due to the fact that Dr. Ben-Meir does not reside at the subject premises, may impair the character of the existing community. Once again, the EAF Part 3 Positive Declaration does not specifically define the significant adverse environmental impacts that the lack of supervision of renters will have on the character of the community. The EAF Part 3 Positive Declaration only vaguely references some statements made by the public at the public hearings stating that there was a lack of supervision of the renters (*see* EAF Part 3 Positive Declaration, p. 3).

It must be noted that the proposed action seeks to establish a Boardinghouse at the subject premises, not a motel, hotel or Bed and Breakfast. Pursuant to the Town of Copake Zoning Code, the definition of a Boardinghouse does not require, mandate or contemplate the owner, or agents of the owner, residing on the premises to directly supervise renters. As such, Dr. Ben-Meir and/or his agents do not plan on residing at the subject property while renters are present. Notwithstanding, the applicant's use of a rental agent who lives in close proximity, coupled with her regular and periodic site visits to the subject property, directly mitigates the lack of onsite owner supervision. Consequently, the fact that the owner does not live at the site and supervise the renters will not result in any significant adverse environmental impacts to the surrounding community.

Moreover, any potential impacts that may result due to the lack of supervision of renters are being mitigated. The subject premises will only be rented to families, requiring at least one adult over the age of eighteen on the premises. Certainly, it should be noted that hundreds of residents of Copake currently have access to Upper Rhoda Pond. Further, even if the subject property is not used as a Boardinghouse, there may still be a potential for the types of significant adverse environmental impacts expressed by the Board and the community, including noise and disruption.

In sum, the severity of any potential impacts caused by a "lack of supervision" will be reduced by the applicant's agent's regular visits to the subject premises on a daily basis while renters are present at the subject property. The applicant's current agents are on-call twenty-four hours a day, seven days a week, should they be needed. All renters will be provided with the agents' telephone numbers in case they are needed. Furthermore, renters are provided with a complete list of rules to minimize untoward unsupervised behavior. Applicants are also proposing in this Draft Environmental Impact Statement that neighbors of the subject premises be provided with the telephone numbers

of the applicant's agents in case of the unlikely event that there is an issue with the renters.

3) *The number of potential occupants at each location.*

The Board has also expressed concern that the number of potential occupants at the subject premises may negatively affect the character of the existing community. However, the applicant is not proposing to increase the reasonable number of occupants that would otherwise be using the property if it was to continue as a single family dwelling for a permanent family. There are bedroom and septic system capacity restrictions that act to limit and minimize the number of occupants that will be staying in the subject property. This fact alone, coupled with the below actions, mitigate any "over capacity" concerns of the Board.

First, Dr. Ben-Meir will use his best efforts to not rent multiple properties simultaneously to related groups. This will ensure that occupants from multiple properties do not congregate at one property, which in turn will prevent a large number of occupants at the subject property.

Second, Dr. Ben-Meir has established a maximum occupancy for the subject premises, which is nine (9) persons. The maximum occupancy is clearly listed in all advertisements and in the rental agreement, and applicant's rental agent will make it abundantly clear to the renters that no more than nine persons are allowed at the property. A violation of the occupancy limits is grounds for immediate termination of the tenancy. Applicant's rental agent will be present upon all check-ins by renters. Applicant's agent will also visit the subject premises on a daily basis, at which time she can visually inspect the premises to confirm that the proper number of occupants are present. The agent's daily visit will help identify and stop overcrowding which may negatively affect the character of the neighborhood.

4) *Increase in vehicular traffic – including buses – and unsafe vehicular operation.*

The Board has cited the increase in vehicular traffic and unsafe vehicular operation as a salient characteristic of the proposed action's potential impairment of the character and quality of the existing community. The Board did not rely upon any empirical or scientific evidence in reaching its conclusion. Instead, the Board relied solely on a few generic comments made by the public that the "increase in traffic is a safety issue" and that "buses were used to transport guests" (*see* EAF Part 3 Positive Declaration, p. 3). It is the applicant's position that the Board cannot speculate as to the increase in vehicular traffic and unsafe vehicular operations. The Board must rely on concrete statistics and opinions from experts in the field.

In furtherance of this Environmental Impact Statement, Dr. Ben-Meir retained Crawford & Associates Engineering, P.C., a reputable engineering firm in Columbia County. Applicant hired Crawford & Associates to evaluate whether a significant increase in traffic will occur as a result of the subject premises being operated as a

Boardinghouse instead of a single family dwelling. Crawford & Associates was also asked to determine whether the condition of County Route 7 is adequate for the proposed use.

As stated in greater depth in Section 2.2 above, Crawford & Associates was able to use industry recognized published data to evaluate the existing traffic patterns compared to traffic patterns that will result from the proposed action. Crawford & Associates' traffic impact study concluded that the use of the subject property as a Boardinghouse will reduce the expected trip generation on County Route 7. The traffic impact study further concluded that County Route 7 is in good condition and is capable of sustaining up to 2000 vehicles per day. Using New York State Department of Transportation (NYSDOT) data, the study found that the segment of County Route 7 within the study area has only 1297 vehicle trips per day, well below the 2000 permissible by NYSDOT guidelines. In sum, Crawford & Associates concluded that County Route 7 has more than sufficient capacity to meet the proposed Boardinghouse use at the subject premises.

Furthermore, out of the four properties owned by Dr. Ben-Meir, multiple properties were rented simultaneously only 73 nights of the possible 365 nights in 2015. Since the properties will be rented roughly 20% of the time, it can be reasonably inferred that the proposed Boardinghouse at the subject property will result in significantly less traffic than if the property was used as a permanent single family dwelling, as permitted as of right under the Copake Zoning Code. Finally, according to a 2014 American Community Survey and the United States Census Bureau, 60% of households in the Town of Copake have two or more vehicles, with 24.9% of households in the Town owning three or more vehicles.<sup>26</sup> Therefore, the possibility that renters may have multiple vehicles at the subject property will not create a significant increase in the number of vehicles in the community, as it is not uncommon for a single family dwelling in Copake to have two or more vehicles.

The severity of the adverse environmental impacts of an increase in vehicular traffic, and specifically unsafe vehicular operation, can be high. However, as evidenced by the attached traffic study performed by Crawford & Associates, there is not a reasonable likelihood that there will be a significant increase in vehicular traffic and unsafe vehicular operation. The use of the subject premises as a Boardinghouse instead of a single family dwelling will actually result in substantially less average daily trips per day. Therefore, there is no potential adverse impact on the surrounding community due to increased vehicular traffic.

- 5) *The very short-term nature of the rentals, causing rapid turnover of occupants, in comparison with seasonal or longer-term rentals.*

The Board has identified “the very short-term nature of the rentals, causing rapid turnover of occupants” as a salient characteristic of the proposed Boardinghouse that may adversely impact the character of the community. Although not specifically stated in the

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<sup>26</sup> <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>

EAF Part 3 Positive Declaration, presumably the Board is concerned that the short-term nature of the rentals will adversely impact the alleged “quiet, cohesive and harmonious” characteristic of the neighborhood “marked by residents’ continuity of residency, familiarity with each other and respect for each other’s comfort and quiet enjoyment of their properties” (see EAF Part 3 Positive Declaration, p. 3).

Dr. Ben-Meir acknowledges that most rentals of the subject premises during peak season will be on a weekly basis. However, the impacts of these rentals, compared to seasonal or longer-term rentals, will be minimized. The severity of any potential impacts caused by these rentals will be reduced by the mitigating measures outlined in Section 4.0 below.

In a summer lake community such as the one found in and around Upper Rhoda Pond, the visitors to the Boardinghouse will not greatly affect the character of the surrounding community. The KOA campground and Camp Pontiac, both approximately 1,500 feet from the subject property, already create a transient characteristic to the community. Thousands of transient guests visit the Upper Rhoda Pond community during the summer months every year to use those two establishments alone. Camp Mahican across the Pond from the subject property further generates a transient quality to the surrounding area. Additionally, parents of the campers at Camp Pontiac and Camp Mahican come and go throughout the summer to transport their children to and from the summer camps, further increasing the number of visitors to the community.

Moreover, the majority of the single family dwellings located in the community are seasonal vacation homes. The seasonal homes are not occupied year round, with most being occupied only periodically during the warm weather months. When the properties are not vacant, many are frequently occupied by family members and friends of the homeowners. This creates a transient quality to the community, as there are often an increased number of outside visitors and guests in the community especially during the peak summer months.

As such, while some of the residents’ have alleged “familiarity with each other”, such is not as profound as might be in a permanent residence communities. In point of fact, a large number of the property owners on Upper Rhoda Pond did not know each other until the Ben-Meir’s organized a group in or around 2013 to combat an invasive weed in Upper Rhoda Pond. This directly contradicts certain of the findings of the character of the community as stated in the EAF Part 3 Positive Declaration.

- 6) *The lack of respect for neighborhood and its residents resulting from the lack of community connection of transients.*

The Board has also identified the proposed renters’ lack of respect for the neighborhood and its residents as a salient characteristic that underlines a potential adverse impact upon the character of the community. The Board contends that potential renters will fail to respect the neighborhood and its residents since they will have no

connection to the community. The Board fails to specify exactly what constitutes a “lack of respect for the neighborhood.”

Interestingly, the Board concluded in its EAF Part 3 Positive Declaration that the subject property standing alone and operating as a Boardinghouse would not result in renters’ showing a lack of respect for the neighborhood. Specifically, the EAF Part 3 states: “[t]he Board concluded that the above-identified action, in isolation, would not result in a significant adverse environmental impact in relation to community character or quality” (*see* EAF Part 3 Positive Declaration, p. 2). Yet, the Board failed to identify a rational basis for its conclusion that unrelated renters in two adjoining boardinghouses would be more likely to show a lack of respect for the neighborhood, than one family alone renting a single boardinghouse.

While a lack of respect for the Upper Rhoda Pond neighborhood, and any negative consequences that may be a result thereof, may have some impact on the community, based on all of the foregoing as well as the proposed mitigating measures found in Section 4.0 below, the applicant has proposed to mitigate any substantial likelihood that renters at the proposed Boardinghouse will have a lack of respect for the neighborhood. Visitors have been coming to the Town of Copake to enjoy its lakes and beauty throughout the history of the Town. During that time there has not been an overwhelming number of complaints regarding the “lack of respect” for the community from these visitors. Although some members of the public would like the Board to believe otherwise, it can be logically argued that a visitor on vacation will be well-mannered and respectful to the community since they may be inclined to want to visit the following year, and would not want their actions to preclude such rental.

In fact, a significant number of the tenants at the subject property are reoccurring visitors who rent the property for a week or two every year. Renters who return or plan to return to the same vacation spot are less likely to disrespect the community since they know they will be returning to that same community in the future. By establishing a connection with the subject property and the surrounding community, the renters have a much greater respect for the Town and community.

Dr. Ben-Meir has also implemented, or plans to implement, the mitigating measures in Section 4.0 below. These measures will help ensure that the “transient” nature of the rentals at the subject premises will not foster a visitor’s lack of respect for the community or adversely impact the environment of Upper Rhoda Pond, and that any potential adverse impacts will be dealt with promptly and properly.

7) *Misuse of Rhoda Pond, including littering and unsafe activities.*

The Board has expressed concern over the misuse of Upper Rhoda Pond, including littering and “unsafe activities”. The Board failed to specify what it considers as “unsafe activities”. The Board concluded that the misuse of the Pond may significantly and adversely affect the character and quality of the existing community.

Clearly littering and unsafe activities at Upper Rhoda Pond may negatively affect the surrounding community. However, it is mere conjecture that the Pond will be misused simply because the subject premises is rented as a Boardinghouse. The Pond is currently utilized for swimming, fishing, and non-motorized watercraft. There are dozens of homes with frontage on Upper Rhoda Pond, all of which have access and authority to use the Pond. Numerous local residents also have access to the Pond via easements and right of ways. Additionally, local residents without any legal right of use most likely also access and utilize the Pond. Any of the aforementioned persons, including those residing on the Pond, those with legal authority to use the Pond, or even those without legal authority to use the Pond, may misuse the Pond at any time.

Again, the Board concluded in its EAF Part 3 Positive Declaration that the subject property operating alone as a Boardinghouse would not result in a significant adverse environmental impact. Specifically, the EAF Part 3 states: “[t]he Board concluded that the above-identified action, in isolation, would not result in a significant adverse environmental impact in relation to community character or quality” (see EAF Part 3 Positive Declaration, p. 2).

Consequently, the preclusion of renters of the subject premises as a Boardinghouse will not reasonably lower the likelihood of any misuse of Upper Rhoda Pond. Due to the large number of transients and Copake residents already using the Pond, the Pond may already be misused at any time, by anyone with access thereto. It is impossible to predict when the Pond may be misused or who may misuse it. Preventing renters at the subject premises will not necessarily prevent all future littering or unsafe activities at the Pond. Instead, in an attempt to mitigate any potential misuse of the Pond, Dr. Ben-Meir is proposing certain measures found in Section 4.0 below. Said proposed measures include Dr. Ben-Meir providing life jackets for all renters, and including language in the rental agreement that any unsafe activities or littering on the Pond will result in the eviction of the tenants.

- 8) *The propensity to be rented to groups such as college students or wedding parties, which have an obvious propensity to carry on loud and disruptive party activities in comparison to the rental of a house to a mixed-age family unit.*

Finally, the Board has cited the propensity of the subject property to be rented to groups which have an obvious tendency to carry on loud and disruptive party activities as a characteristic that may negatively affect the character of the existing community. In reaching this conclusion, the Board cited to previous rentals of the subject property to loud and disruptive groups.

Applicant adamantly refutes that there is a “propensity” for the subject property to be rented to groups that have a tendency to carry on loud and disruptive party activities. Admittedly, when Dr. Ben-Meir first began renting the subject property in 2013 under the supervision of his former rental agent, he rented to college students and a wedding party on approximately three occasions. Specifically, the subject property was rented to a group of West Point Cadets, a wedding party that was lodging at the subject premises

while attending an off-site wedding, and a group of persons attending a 10-year college reunion. Unfortunately, the three aforementioned rentals did result in increased noise pollution and other behavior that may have signified an adverse environmental impact on the surrounding community.

Since those three rentals in 2013, Dr. Ben-Meir has made substantial modifications to his rental process to prevent future similar occurrences. Dr. Ben-Meir now seeks to rent the subject premises to families instead of groups looking to carry on loud and disruptive party activities. The property's rental agent/property manager screens potential renters to ensure that they are aware that the property is located in a residential setting and that loud and disruptive behavior will not be tolerated. The screening process includes the rental agent asking potential renters a series of questions, notifying them numerous times that loud noise will not be tolerated, having the renters sign agreements stating loud or excessive noise will lead to their eviction from the premises, and the applicants' rental agent conducting online research of the potential renters to verify all information provided.

Due to the above mentioned changes in obtaining reservations, Dr. Ben-Meir seeks to eliminate a likelihood that the subject premises will be rented to groups such as college students or wedding parties that have an obvious propensity to carry on loud and disruptive party activities. Since March of 2015, all new reservations taken for the subject property were strictly to mixed age family units. During that time period, no reservations were secured from college students, wedding parties, or other rambunctious groups of young adults.

#### **SECTION 4.0 – MITIGATING MEASURES**

In an attempt to mitigate any potential adverse environmental impacts created by the establishment of a Boardinghouse at the subject premises, applicant has considered and taken great strides to address all public complaints and have already implemented, or plan to implement upon approval of the proposed action, the following measures:

- 1) The majority of the public comments at the public hearings on the proposed action concerned the manner by which the subject premises was being marketed for rent. Upon this issue being raised in March of 2015, applicants immediately removed all online advertisements marketing the subject premises together with other properties as part of a "compound". The subject property will only be advertised as its own single-family dwelling for rent for a minimum of seven night stays between Memorial Day and Labor Day, and for a minimum of weekend stays for the rest of the year. Since April 2015, applicant has not accepted any new reservations for the subject premises to be rented together with other properties owned by the Ben-Meir's.
- 2) Dr. Ben-Meir will not rent multiple properties owned by him or his entities, including 22 Howard Drive, 2103 County Route 7, 2111 County Route 7, and 2117 County Route 7, to the same group or to groups that are related. This

mitigating measure will prevent large groups congregating on one property and will prevent potential noise pollution.

- 3) Occupancy will be capped at the subject premises at nine (9) persons. All advertisements for the rental of the subject premises will clearly state the maximum occupancy. Prior to the confirmation of any reservations, renters will be asked their intended occupancy and will be reminded that there is a maximum occupancy for the subject premises. The maximum occupancy will be explicitly stated in the rental agreement, which will state that a violation of the maximum occupancy will result in the immediate eviction of tenants. Renters will also be required to list the names of all intended occupants of the subject premises, their age, email address and phone number. Dr. Ben-Meir's agents will visit the subject premises daily to verify that the maximum occupancy restrictions are being complied with. If renters are caught in violation of the occupancy restrictions, they will be evicted from the premises.
- 4) Dr. Ben-Meir has implemented an entirely new set of policies and practices regarding the reservation process at the subject property. A new rental agent/property manager, Jen Crosby, was hired in late 2014. Ms. Crosby has developed an extensive vetting process in an attempt to rent to families, as opposed to the raucous-type groups that neighbors and the Board have expressed concern over. The vetting process includes numerous instances where the potential renters are informed that the subject premises is not for them if they plan on being loud or disruptive, beginning before contact between the potential renters and Ms. Crosby even occurs. Upon contact being made, Ms. Crosby asks the potential renters a series of questions in order to better understand their intentions. Ms. Crosby's questions include but are not limited to, what the renter's plans are, why they are coming to the area, why they wish to stay at the subject premises and exactly who will be staying at the property. Thereafter, Ms. Crosby once again informs the potential renters that the subject property is surrounded by residential properties and that loud or excessive noise will lead to their eviction from the premises. After the initial telephone call, Ms. Crosby conducts online research of the potential renters to verify the information provided. Over the course of the past year, Ms. Crosby's screening process of potential renters has been highly effective.
- 5) Rental agent/property manager, Jen Crosby, lives within 15 minutes of the subject property and is on call 24 hours a day, seven days a week, should any problems arise. A maintenance crew is also at the property on a regular basis and the head of the maintenance crew will likewise be readily available as a point of contact if needed. The telephone numbers for Ms. Crosby and the head of the maintenance crew will be given to the renters upon their arrival. Additionally, the aforementioned telephone numbers may be provided to neighbors of the subject premises if the Board feels that it will help mitigate potential adverse environmental impacts.

- 6) All future advertisements, including any forthcoming advertisements on websites such as Vrbo.com and Homeaway.com, will specifically state that the subject premises is surrounded by residential properties and that loud noises and disturbances will not be permitted. This measure will inform potential renters from the outset that the subject premises is not for reunions, weddings, or partying.
- 7) The rental agent/property manager and/or the head of the maintenance crew will greet all renters at check in and explain to all renters the house and community rules. The rental agent/property manager and/or head of maintenance crew will then visit the subject premises on a daily basis to check in on the renters.
- 8) Signs have been posted on the subject property notifying the renters that they are in a residential neighborhood and that noise levels must be kept in compliance with the local noise ordinance.
- 9) Applicant has created a set of comprehensive house rules governing the operation and conduct of renters at the subject premises. In particular, the rules address and govern which boats and docks the tenants may use, the safety rules on the pond, and the requirement that noise levels be kept to a normal level while outside. The list of house rules is given to all tenants both before and during their occupancy.
- 10) The rental agreement terms for the rental of the property have been modified to include language notifying the tenants that the subject premises is located in a residential neighborhood and that the disturbance of neighbors with loud noise or music will result in the eviction of the tenants. The rental agreement terms also state the maximum occupancy for the subject premises, and state that overcrowding will result in the eviction of the tenants. Finally, the rental agreements and comprehensive house rules both state that renters shall not make loud noise outside, including but not limited to the playing of music, between the hours of 10:00 p.m. and 7:00 a.m. The Board should note that these limitations are more restrictive than the Town of Copake noise ordinance, which prohibits loud noise outside between 11:00 p.m. and 7:00 a.m.
- 11) Dr. Ben-Meir has clearly marked which kayaks/canoes he owns and which floating dock his renters may use to prevent future renters from using watercraft owned by neighboring residents. Dr. Ben-Meir has also provided enough life jackets for every occupant of the subject premises.
- 12) Dr. Ben-Meir has commissioned Crawford & Associates Engineering, P.C. to generate a Traffic Impact Study for County Route 7A near the subject premises. The Traffic Impact Study concluded that there will be no adverse impact to the roads or traffic as a result of the proposed Boardinghouse.
- 13) Dr. Ben-Meir has actively taken numerous steps to improve both the subject premises and the surrounding community. He has expended considerable money

to update and improve the landscaping, driveway and exterior aesthetics and overall appearance of the property to the benefit of the community. He has also hired an architect to review the property for NYS Building Code compliance, and has taken all necessary measures, to the satisfaction of the Town's Building and Code Compliance Department, to address any and all deficiencies or inadequacies. The property is presently in full compliance with all applicable Codes.

- 14) Dr. Ben-Meir has expended considerable money, at the request of the Board, to ensure that the septic system at the subject property is both adequate in size and capacity to handle any and all waste generated from the rental and use of the subject property. In that regard, Crawford & Associates Engineers installed a new 1,250 gallon septic tank and a new distribution box to properly accommodate a three-bedroom dwelling. The existing septic tank was also decommissioned following New York State Department of Health procedures. Upon the completion of the septic system upgrades, Crawford and Associates provided the Board with a certificate of compliance stating that the design and installation of the replacement system at the subject property was completed in conformance with the State Sanitary Code 75-A and is adequate in size for a three-bedroom Boardinghouse and certified to a maximum occupancy limit of nine people. These actions have been beneficial for the surrounding community as well as the Pond. The current updated system has been certified as compliant with the NYS and Columbia County Health Department standards.

## **SECTION 5.0 – REASONABLE ALTERNATIVES**

It is applicant's position that there are no reasonable alternatives to the establishment of a Boardinghouse at the subject premises. It is the applicant's objective to rent the subject premises to offset the carrying costs of the property. The establishment of a Boardinghouse at the subject property is the most direct and effective way for applicant to achieve his objective.

Based upon the feedback from the community, applicant has minimized, to the greatest extent practical, any adverse environmental impact arising from the establishment of a Boardinghouse at the subject premises. Applicant has altered the way in which the subject premises is advertised and rented, as well as the procedure for securing reservations and the applicable rules that all renters must follow.

The Boardinghouse will be used in the precise same fashion as any other single family dwelling located within the summer lake community on Upper Rhoda Pond. However, given the existing character of the Upper Rhoda Pond community, including the mix of residential and business zoning districts as well as the existence of a summer camp for children with disabilities and a 200 site KOA campground, the impact will be insignificant. As a result of all of the foregoing, there will be minimal long-term environmental impact occasioned by the establishment of a Boardinghouse at the subject premises.

## **5.1 Alternative Locations**

Undoubtedly, there are no alternative sites upon which Dr. Ben-Meir may operate the proposed Boardinghouse. Dr. Ben-Meir owns the subject premises containing a single family dwelling on approximately two acres of land and it is his main objective to obtain a special use permit which will allow him to utilize the property as a Boardinghouse. Since the proposed action does not involve the construction of a Boardinghouse, but rather seeks to use a pre-existing structure as a Boardinghouse, Dr. Ben-Meir cannot use other vacant land owned by him in furtherance of the proposed action.

## **5.2 Alternative Use of the Site**

The R-1 Zoning District permits various different general, residential, and business uses with or without supplemental requirements. In the R-1 district, a Boardinghouse is a permitted use contingent on securing a special use permit. Likewise, other uses permitted in the R-1 Zoning District upon securing a special use permit include a Bed and Breakfast, a cultural facility, a day care center, a fire station, a nursing home, a resort hotel, a resort lodge, a resort ranch, a school, a theater or concert hall, a restaurant, a bus station or a summer camp.

Certainly, all of the above uses would generate similar or more noise, traffic, parking issues, and disruption to the neighborhood. While the applicant considered other uses of the site, the applicant desires to operate a Boardinghouse as contemplated and permitted by the Town of Copake Zoning Code. Using the subject premises as a single family dwelling will not allow Dr. Ben-Meir to achieve the objective of renting his property to offset the carrying costs associated with owning the property.

## **5.3 Alternative Scale/Magnitude**

It is Dr. Ben-Meir's position that there is no alternative scale/magnitude to the proposed action. The subject premises is situated on approximately two acres of land. The proposed Boardinghouse will be advertised as a three-bedroom single family dwelling. The total occupancy limit for the subject premises will be nine (9) persons. In the summer of 2015, the septic system at the subject premises was upgraded and improved to handle capacity for a three-bedroom structure. Accordingly, there is more than adequate septic capacity, land, and building square footage for the intended use of a three-bedroom Boardinghouse occupying a maximum of nine (9) persons.

Dr. Ben-Meir could have requested a larger occupancy capacity for the proposed Boardinghouse based upon the supporting infrastructure. However, in an effort to minimize any adverse environmental impacts, and as a mitigating measure of same, Dr. Ben-Meir is only proposing a three-bedroom Boardinghouse for nine (9) persons, which is more than reasonable.

#### **5.4 Alternative Timing**

There is no reasonable alternative regarding the timing of the proposed Boardinghouse. Dr. Ben-Meir intends to rent the subject premises as a Boardinghouse in order to offset the high-priced carrying costs associated with the ownership of the subject premises. Without the rentals to offset the carrying costs, Dr. Ben-Meir will not be able to meet his objective of keeping the subject premises until such time as his children can use the property as a seasonal home.

#### **5.5 No-Action Alternative**

It is further submitted that the “no-action alternative” to the proposed Boardinghouse is not a reasonable alternative as it is not feasible. The no-action alternative to the proposed Boardinghouse would leave the subject premises in its present state as a vacant single family dwelling. The use of the subject premises as a single family dwelling will not allow for Dr. Ben-Meir to obtain his objectives of maintaining ownership of the subject premises while being able to defray the carrying costs, taxes and upkeep and maintenance of the property.

The operation of a Boardinghouse is a permitted zoning use. Additionally, the Town of Copake 2011 Comprehensive Plan calls for the economic expansion of the Town. Due to all of the foregoing, the applicants are choosing to proceed with the proposed operation of a Boardinghouse at the subject premises.

### **SECTION 6.0 – CONCLUSION**

To date, any and all potential significant adverse environmental impacts and factors have been identified by the applicant, considered in the proposed action, and mitigated to the greatest extent possible. So as to permit avoidance of these potential impacts, applicant has suggested and/or implemented numerous mitigating measures, including but not limited to: not renting multiple properties simultaneously to related groups, setting occupancy limits to the subject property, altering the language of the rental agreement, changing the way rental reservations are taken, having someone on call at all times to deal with issues, having someone visit the subject property daily, changing the advertisements for the subject premises, creating house rules for the subject premises, and improving the septic system.

The testing, investigation and studies to determine the environmental, ecological and societal impacts of the proposed Boardinghouse have resulted in “insignificant” impacts. For example, the traffic study revealed that there will be no short term or long term impact on traffic as a result of the operation of a Boardinghouse at the subject premises instead of the currently permitted single family dwelling. The septic system is more than adequate for the proposed three-bedroom Boardinghouse, as it holds capacity for three bedrooms. Additionally, the subject property’s drainage, traffic, utilities, water, sewer, lighting, or landscaping will not significantly change as a result of the proposed action.

Based upon all of the foregoing, the proposed action will not result in a significant adverse environmental impact to the character or quality of the existing community. Instead the proposed Boardinghouse will help meet several public needs by achieving goals set forth in the Town's Comprehensive Plan. Additionally, the proposed action will create valuable benefits for the Town of Copake and its residents. Since the proposed use of the subject premises is a permitted use under the zoning code, has no "environmentally significant" impacts under the SEQR standards, and has minimized any potential impacts through extensive mitigating measures, the applicant feels that the operation of a Boardinghouse at the subject premises should be permitted by the Copake Zoning Board of Appeals, as lead agency for the SEQR review.