

APPENDIX A
Correspondence

NYACK

College · Seminary · Graduate Schools
Christian Higher Education Since 1887

July 13, 2005

Andrew Mavian
Tim Miller Associates, Inc.
10 North Street
Cold Spring, NY 10516

Re: Courtyard at Upper Nyack- Easement with Nyack College

Dear Mr. Mavian,

Below is an accurate and complete summary of the Easement Agreement between Nyack College ("College") and Courtyard at Upper Nyack, LLC ("Courtyard") and the Easement itself:

On March 23, 2005, the College executed an agreement to grant an easement, contingent on approvals of the proposed development, to Courtyard for an approximately half-acre portion of the College property on the westerly side of Route 9W near an existing drainage culvert that connects the College property to the Courtyard property.

The perpetual, exclusive easement provides that the College continues to own the Easement Area and has the authority to grant the Easement to Courtyard for the purposes of constructing, planting, maintaining and repairing a "wetlands" on the defined Easement Area.

The wetlands to be constructed on the Easement Area are for the purpose of assisting in the development of lands owned by Courtyard. The wetlands plan will be part of a permit and mitigation plan reviewed and approved by the Army Corps of Engineers.

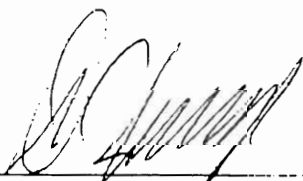
The College may not use, improve or further burden the Easement Area, nor has any obligation whatsoever to maintain the improvements made by Courtyard to the Easement Area.

Courtyard has the sole responsibility and obligation to maintain the wetlands to be planted in the subject Easement Area in accordance with the A.C.O.E. permit.

The easement shall run with the land and any future owners of the Courtyard property and the College Property shall be bound by the terms of this perpetual easement.

Sincerely,

Nyack College



by: David C. Jennings, Executive Vice President

E-Mail Memo

TO: Andrew Mavian – Tim Miller Associates
FROM: Jeff Schupner
DATE: July 25, 2005
RE: **Courtyard of Upper Nyack Comments**
LJA #03118

On July 22, 2005, Michael Stankiewicz of the New York State Department of Environmental Conservation Dam Safety Unit was contacted regarding the possible need for a dam permit for the proposed stormwater management basin on the Courtyard at Upper Nyack site. As stated by Mr. Stankiewicz, a dam permit is required if one of the following is exceeded:

A) The embankment exceeds 15 feet in height, as measured from the downhill toe of the fill placed for the embankment to the top of the embankment,

Or

B) The impoundment at the crest of the embankment exceeds 3 million gallon.

The measurements for the proposed basin are:

A) 14 feet in height (294 at top of embankment, 280 at toe of slope)

and

B) Impoundment of 1.08 million gallons (3.3 acre-ft)

Since neither of these values exceeds the threshold, a dam permit is not required for this project.



WILDER BALTER PARTNERS, LLC

570 TAXTER ROAD, SIXTH FLOOR, ELMSFORD NY 10523 • (914) 347-3333 FAX: (914) 347-3345

February 24, 2005

Ronald C. Delo, P.E, DEE
Director, Dept of Environmental
Management and Engineering
Town of Orangetown
Route 303
Orangeburg, NY 10962

Dennis Letson, P.E.
Village Engineer
Village of Upper Nyack
328 North Broadway
Upper Nyack, NY 10960

Re: Courtyard at Upper Nyack – DEIS Comment Letter re Sanitary Sewer System

Dear Mr. Delo and Mr. Letson,

We received Mr. Delo's letter dated November 5, 2004 to the Upper Nyack Planning Board regarding several potential issues from our proposed development on the combined Orangetown/Upper Nyack sewer systems. At a meeting with Mr. Delo in December 2004, we discussed the issues in more detail along with some potential solutions, including the necessity for additional information about the existing conditions of the sewer system. Mr. Delo conceptually agreed with our rough estimation at that meeting that the stormwater runoff from one or two average sized homes in the Village with illegal roof drain connections to the sanitary sewer exceeds the estimated daily peak flow from our proposed development. Eliminating any of the illegal connections would greatly improve the capacity of the system at minimal cost.

We are aware that the Village conducted a smoke test of the system several years ago to identify properties that have illegal stormwater connections to the sanitary sewers. While the Village acknowledges that the test was done, it is unclear from the available records which, if any, of the approximately 30 to 40 homes that were proven to be illegally connected actually disconnected their storm drains. Discovering any remaining illegal connection and eliminating them is a cost-effective and responsible means of improving the peak capacity of the system.

We offer to conduct a new smoke test on the sanitary sewer system at our cost to discover any illegal connections. Removing these connections would mitigate the potential impact to the sanitary sewer system from our proposed development by greatly improving the capacity of the system without requiring extraordinary maintenance or significant reconstruction/rehabilitation.



Please call me at (914) 347-3333, extension 223, to arrange for an appropriate date and time for the Village of Upper Nyack and the Town of Orangetown to observe the smoke test.

Sincerely,

Thomas Imperato
Development Manager

cc: Upper Nyack Planning Board (SEQRA Lead Agency)
Tim Miller Associates, Inc.
Leonard Jackson Associates
Atzl, Scatassa & Zigler, P.C.

May 9, 2005

Robert Wilder, President
Wilder Balter Partners, Inc.
570 Taxter Road, Sixth Floor
Elmsford, NY 10523

Re: Courtyard at Upper Nyack
Route 9W
Upper Nyack, NY 10960

Dear Bob:

As per our conversations, enclosed please find relevant market data for Rockland County's professional/medical office market for this proposed office park.

1. Development Type

This is a unique concept for Rockland County to have a professional/medical building totaling 60,000+/- square feet in nine different buildings. By creating a courtyard type atmosphere, I believe it can attract a variety of users looking for part of or an entire building for their company. Many tenants have become sensitive to their work surroundings and this development would provide a safe location with wonderful exterior common areas.

I am familiar with two other similar courtyard type developments that have proved very successful in Yorktown and Newburgh, New York. I recently visited the property in Yorktown, which is comprised of five two-story buildings with a total of 24,055 square feet. As per my conversation with John Devito, owner of project, that despite a vacancy factor of 14+%* in the Westchester/Connecticut market for Class B office space, this property is fully leased with a list of potential tenants seeking to relocate their businesses to this complex.

2. Location

The proposed development property is located on the easterly side of Route 9W approximately a 1/2 mile north of the intersection of Routes 59 and 9W in Nyack, New York. The site has tremendous frontage and exposure on Route 9W with excellent access to the New York State Thruway, Route 303, Palisades Parkway, and Route 59. It is in close proximity to the Nyack Hospital and downtown Nyack, which is comprised of office and retail space in addition to residential development. Depending upon final

building elevations, there should be wonderful seasonal and year-round views of the Hudson River and Tappan Zee Bridge.

3. Competition

The professional and medical office space in the immediate Nyack market is very desirable yet very limited. There are no modern structures in this area with the exception of a new medical building located just to the south of the proposed development property on Route 9W that is comprised of 15,000+/- square feet adjacent to the hospital. The owners are asking \$25.00 per square foot gross plus utilities, with each floor being able to be divided into two units. This building is situated right on Route 9W and does not offer the charm and flexibility of the planned development at Courtyard at Upper Nyack.

There has been limited new construction of office/medical space with the exception of Palisades Professional Center measuring approximately 38,000 +/- square feet. There is also a nice, newly constructed medical/professional building on Medical Park Drive in West Nyack, New York known Palisades Professional Center. This building is located on West Nyack Road, just minutes from the Palisades Parkway, Route 59, Route 304 and New York State Thruway. This is an attractive single story building comprised of approximately 38,000 square feet of space with approvals for another 50,000+ square foot structure. The owners have this building partially leased (25%+) with activity level partially reflective of a top end asking price of \$25 per square foot triple net plus tenants have to pay for a considerable amount of the construction of their spaces.

The majority of commercial space available in the Nyack area is retail space comprised of restaurants, antique shops and other retail establishments. There is a small amount of small office/professional spaces in freestanding buildings or above retail stores with the main exceptions being single users buildings such as Presidential Life and LMS Engineers. In most cases, bringing a business to the Nyack area is difficult due to the limited inventory and the shortage of available parking.

4. Vacancy Rates

The vacancy rates in Rockland County spiked in 2004, but have gone down to about 14% in the first quarter of 2005. My search in CoStar was based on all types of office buildings with available space 1,200 square feet and above. When I re-conducted the search and changed the criteria for buildings up to 1,000,000 square feet with space from 1,200-15,000 square feet it showed a vacancy rate of 10%.

Rockland County is predominately a small user market (1,000 to 10,000 square feet). I believe this development will fulfill that type of need. The phasing of the job will allow the product to be absorbed in the market and give potential tenants an opportunity to visit and review this exciting location and concept as each new building is completed.

If there are any questions regarding the enclosed report, please feel free to call me at 845-356-2400 ext 102. Thank you for your time and consideration in this matter.

Sincerely,



Steven Kasky
Vice President

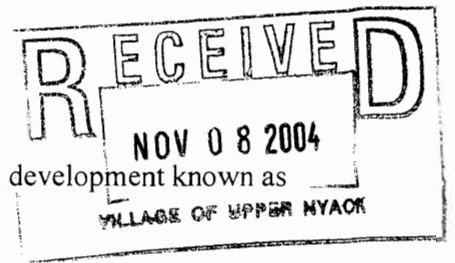
* All vacancy and building figures supplied by CoStar

APPENDIX B

Written Comments on the DEIS

November 8, 2004

Statement from the Village Board on the DEIS for the proposed development known as
Courtyard of Upper Nyack.



Last week, the Village Board met in a workshop session to finalize our comments on the potential environmental impact of the proposed development known as Courtyard of Upper Nyack. It was unanimously decided by the Board that it is appropriate for us to make clear the spirit and intention of the Zoning Code as regards the draft environmental impact statement submitted for this property.

It is the position of the Village Board that the project, as presented, will result in significant environmental impact to the Village. We have several areas of concern.

One area of concern is the buffer area. The buffer serves to protect the surrounding properties from undue noise, odors, lighting and traffic circulation. Reduction of the buffer or the removal of vegetation from the buffer will not conform with the plans, goals and objectives of the zoning revisions completed last year. The zoning code gives the Planning Board discretion in the placement of drainage structures in the buffer area, but we feel that there would be no tangible benefit to the Village to do so. This advantage is not evident in the project as presented.

1-1

Another area of concern is the proposed detention structure. We have already had a bad experience with large-scale detention structures. The detention ponds created for the Nyack High School, we have been advised, do not function properly in maintaining the rate of runoff from the site. It is uncertain if they ever functioned properly. It remains uncertain

3-1

whose responsibility it is to inspect the ponds and maintain them over the long run. The flooding problems caused by these nonfunctional detention ponds are evident all along the Old Mountain stream. Long time residents whose properties abut the stream state that their drainage problems began when the High School was built in 1986 and have worsened since that time. We don't want that to happen with this project.

Just a few months ago, the Village Board commissioned a Drainage Study Work Plan from LMS engineering in order to gain a better understanding of the overall drainage in the Village and to identify trouble areas. Number one on the list of critical items warranting review were the detention basins on the Nyack High School property.

It should be noted that the High School property has relatively a small percentage of impervious surface proportional to the size of the property, which leaves a lot of open ground to absorb water before it ever gets to the detention ponds. Regardless, we are being flooded downhill of these ponds. Frankly, the Village is drowning.

By comparison, the Courtyard proposal shows a percentage of impervious surface that is much, much higher than at the High School. The percentage of impervious surface proposed will dramatically change the flow of water on the site. It will disrupt the movement of ground water and the movement of surface water. It will concentrate all of the water on the site into the detention structure. This structure has an unending potential to negatively impact the Village if it should ever cease to function correctly.

The configuration of the proposed drainage system concerns the Village Board as regards discharge points and rates; proximity of detention pond to surrounding properties; long term

maintenance responsibilities and the impact of increased concentration and resultant velocities of discharge into the village stormwater and sanitary sewer systems. Detention structures are a complicated alternative to more natural alternatives for storm water retention and management.

Wetlands are one natural solution to water retention and runoff. The Village Board is concerned about the valuable wetland area that is eliminated in the proposed development plan. It is our clear understanding that the detention pond being proposed is in no way compensatory for the loss of runoff attenuation and absorption provided by the existing wetland. Maintaining the existing wetland is the stormwater management solution that would have the least impact on the environment. Reducing the percentage of impervious surface by reducing the number of buildings with their attendant parking spaces would also help to manage the stormwater and ground water that runs through and under the site. The proposal as presented gives no indication of what is proposed to compensate for the wetland being eliminated.

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The amount of impervious surface in the proposed development also brings up a concern of the Village Board about the removal of vegetation on this site and the loss of habitat for the deer herd currently living there. Displacing these animals will increase deer populations elsewhere in the Village, increasing their impact on the environment throughout the Village and increasing the number of accidents caused by deer on Village streets.

This brings up our concern on traffic. As stated in the DEIS on page 3-7-28, increased traffic is an unavoidable result of the proposed development. It is the concern of the Village Board that backups on Route 9W caused by the increased traffic will cause motorists to detour into

7-1

the Village via our local roads. A number of years ago, the Village Board chose to close the 9W spur at Old Mountain Road in order to reduce the amount of traffic coming from 9W and going through the Village on Midland Avenue. The road closing has been successful in reducing the traffic on Midland Avenue. } [Increased traffic from the proposed development will undermine what we worked so hard to achieve in reducing traffic levels on Midland Avenue.

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← 7-2

Lastly, the potential negative economic impact of this development on the Village as a whole needs to be analyzed and reviewed in depth. This is of great concern to the Village Board. The DEIS states on page 1.22 that the development will generate approximately \$9,000 a year in Village taxes at no cost to the Village. Given the information we have, it appears that the proposed development will potentially increase demand for services, specifically the stormwater and sanitary sewers systems of the Village, which recent weather events have shown to be overburdened ~~already~~. \$9,000 a year would not begin to offset the potential cost of increasing the Village stormsewer and sanitary sewer systems to accommodate a development of this density. The proposed development could potentially increase property taxes for all Village residents for the foreseeable future. The proposed development as shown presents no net economic benefit to the Village. For example, {single family homes on the property would potentially generate much more revenue at less cost to the Village. } The density of use on this property, while technically allowed under our zoning, does not conform with the spirit and intention of the planning we have done for the Village. Considering the potential negative impact of the development as proposed, we ask that the Planning Board take great care in their deliberations so that the development of this property is of benefit to the all who live in the Village.

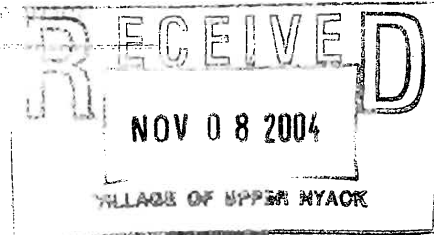
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November 8, 2004

File No. 1107-001

Honorable Michael Esmay
Mayor, Village of Upper Nyack
328 North Broadway
Upper Nyack, NY 10960



**RE: Drainage Review
Courtyard at Upper Nyack**

Dear Mayor Esmay,

In accordance with our proposal dated November 4, 2004, LMS has reviewed the site development plans and drainage report component of the September 22, 2004 DEIS recently accepted as complete by the Village Board for the subject project. The following is a description of our findings with respect to the drainage design proposed for this project.

APPLICANT'S PROPOSAL

The Applicant proposes to construct ten commercial buildings containing a total of 65,882 square feet (sf) of usable office/business space on the existing 11.2-acre site designated as Section 60.13, Block 02, Lot 81 on the municipal tax map. This site is located in the Office-Business (OB) zoning district on the east side of NYS Route 9W (Highland Avenue). In addition to the ten commercial buildings, the Applicant's proposal includes parking for 441 cars.

EXISTING CONDITIONS

The existing site topography slopes in an easterly direction from NYS Route 9W toward Wanamaker Lane. The site consists of approximately 5.4-acres with slopes from 0 to 10 percent, 2.5-acres with slopes from 10 to 15 percent and 3.2-acres with slopes greater than 15 percent. Offsite runoff that must be accounted for in the drainage design for this project consists of that from the existing paved and grass areas within the NYS Route 9W right-of-way to the immediate west of the site and from a 7.75-acre undeveloped area of the Christian Alliance property to the west of NYS Route 9W. Runoff from these offsite areas flows across the site in an easterly direction and generally in an intermittent stream corridor located in the central portion of the 11.2-acre wooded site. Runoff from the NYS Route 9W right-of-way sheets across the road onto the project site. Runoff from the 7.75-acre undeveloped portion of the Christian Alliance property to the west of the site enters the site via a 24-inch culvert that crosses NYS Route 9W where it is discharged to the existing intermittent stream. It should be noted that the Applicant's initial submission defined the offsite contributory drainage area of the Christian Alliance property

as 15.4-acres; this area was reduced to 7.75-acres after observation of a rain event by the Applicant that indicated flows from the entire developed portion of this parcel was diverted to the north of the subject project site. A cursory field assessment of the site topography by LMS confirmed the Applicant's assessment, however, it is unclear as to whether or not there is a downstream convergence of this flow with that leaving the project site. Therefore, it is suggested that this runoff be accounted for in the downstream analysis, if applicable, as described later in this review.

The Applicant's drainage report identified those areas from which runoff presently leaves the site as points of interest (POI). There were four (4) such points of interest, identified as A, B, C & D; the runoff from these points was determined to be as follows:

POI	A	B	C	D
Runoff (cfs)	22.69 (33.81)*	2.10	5.13	0.21

*The calculated runoff for POI 'A' was reduced from 33.81 for the 15.4-acre offsite contributory defined in the initial submission.

Runoff through POI 'A' leaves the site via a 24-inch RCP running from the headwall at POI 'A' in a southeasterly direction to the Wanamaker Lane drainage system. Runoff through POI 'B' leaves the site via an 18-inch RCP running from the headwall at POI 'B' in an easterly direction to the Wanamaker Lane drainage system. Runoff through POI 'C' leaves the site via overland flow in a southeasterly direction toward Birchwood and Midland Avenues. Runoff through POI 'D' leaves the site via overland flow in a southwesterly direction toward NYS Route 9W. Reduced size copies of Drawing No. A7 – Existing Conditions Drainage Area Plan and Drawing No. A8 – Developed Conditions Drainage Area Plan have been attached for reference.

DOWNSTREAM ANALYSIS

A downstream analysis was performed by the Applicant for the existing drainage system based upon survey information prepared by Atzl, Scatassa and Zigler, P.C. The Rational Method was used to determine the peak discharge at several downstream points of interest for the 25-year and 100-year rainfall events. The New York State Department of Environmental Conservation (NYSDEC) recommends in the Stormwater Management Design Manual that downstream analyses include "computation of flows and velocities for channel protection, overbank, and flood control storms." Therefore, it is recommended that the Applicant include these control storms in the downstream analysis. The total drainage area considered in this analysis was approximately 46.15-acres, including the 11.2-acre site and the 7.75-acre up gradient drainage area.

The results of the analysis indicate that the existing drainage infrastructure immediately downstream of POI 'B' (north drainage branch leaving the project site) can accommodate the 25-year and 100-year rainfall events. However, the results also indicate that the existing drainage infrastructure immediately downstream of POI 'A' (south drainage branch leaving the project site) and at the point of Midland Avenue where the north and south drainage branches converge cannot accommodate these rainfall events. Other areas further downstream of this point of convergence were also determined to be inadequate for the 25-year and 100-year storm events. The results of the downstream analysis were summarized in a table on page C-1 of the drainage report.

The Applicant's conclusion of the downstream analysis suggests that the proposed development will not adversely affect the existing storm drainage system. However, it is recommended that the Village request a more comprehensive downstream analysis due to the known deficiencies in the existing drainage infrastructure and to those identified in this analysis. Although normally reserved for larger site development projects, it is recommended that the Village request that the limits of the analysis be expanded further downstream in accordance with the 10% rule defined in *Section 4.7 Downstream Analysis* of the New York State Stormwater Management Design Manual. The limits of a downstream analysis as defined by the 10% rule should extend to a point where the site represents 10% of the total drainage area. For example, the analysis point for a 10-acre site would be analyzed to the nearest downstream point with a drainage area of 100-acres. The downstream analysis should also include the effects on all culverts and/or obstructions within the downstream channel, an assessment of the impacts of detention on existing buildings and other structures and expected impacts on channel erosion within the limits of the analysis.

Due to the deficiencies described above, detention at this site could potentially exacerbate flooding problems downstream, particularly in the case of a potential failure of the detention system. Such a failure would have a severe impact on downstream structures and buildings.

DEVELOPED CONDITIONS

Nine drainage sub-areas were delineated for the post-development condition, including the two offsite areas to the west of the project site. The offsite drainage from the undeveloped 7.75-acres on the Christian Alliance property to the west of the site, delineated as sub-area 1, that currently flows across the site in the intermittent stream has been proposed to be diverted through the site in a 30-inch diameter pipe and discharged to the Wanamaker Drive drainage system via the existing 24-inch RCP at the headwall at POI 'A'. As stated in the downstream analysis, the existing drainage system downstream of POI 'A' is inadequate for the 25-year and 100-year rainfall events. Therefore, it is recommended that the Applicant provide some means of flow reduction from this offsite area. A suggested measure would be to provide leaching holes in the bottom of each of the drainage manholes along this pipe run in an effort to reduce the discharge through POI 'A'.

The offsite drainage from the existing paved and grass areas within the NYS Route 9W right-of-way to the immediate west of the site, delineated as sub-area 2, have been proposed to be diverted through the on-site drainage system and into the proposed detention basin. LMS agrees with this proposed drainage pattern as it will provide a means of both attenuation and water quality treatment for this runoff.

The remaining seven post-development sub-areas were determined to be within the project site. Six of these sub-areas will remain undeveloped with the disturbance in these areas limited to isolated grading. The post-development runoff from these sub-areas is as follows:

	Sub-area 3	Sub-area 5	Sub-area 6	Sub-area 7	Sub-area 8	Sub-area 9
Runoff (cfs)	1.31	0.27	2.00	0.04	0.06	0.33
Site Exit Point	POI 'C'	POI 'B'	POI 'A'	POI 'D'	POI 'B'	POI 'A'
Leaves site via:	Overland Flow	18-inch RCP	24-inch RCP	Overland Flow	18-inch RCP	24-inch RCP

These flows alone will not exacerbate the existing downstream drainage deficiencies and LMS agrees with the Applicant's proposal for flow conveyance from these sub-areas.

The Applicant has determined that development of the site in the manner previously described will result in a forty-seven percent (47%) increase in impervious area. All of the impervious area for this site is contained in what has been delineated as sub-area 4. This area also includes the detention basin and has a total acreage of 8.58-acres. All of the drainage from this sub-area is conveyed through the on-site drainage system to the proposed detention basin.

As described on page 4 of the drainage report, the Applicant gave consideration to an underground storage system for water quality treatment and flow attenuation for the entire site. This method was dismissed due to existing topographic constraints, prohibitive installation cost, and difficulties associated with maintenance of such a system. Additionally, LMS agrees that problems with a sub-surface system could potentially go unnoticed making a major failure a greater likelihood than with a detention basin that can be readily observed on a regular basis. Such a failure would have a substantial negative impact on downstream structures and buildings.

DETENTION BASIN & OUTLET STRUCTURE

The Applicant has stated that the detention basin and outlet structure were designed to result in a zero net increase in peak rates of runoff, through the four points of interest leaving the site, for rainfall events up to and including the 100-year storm. The drainage report indicates that the stormwater management basin was designed for water quality and channel protection volumes; however, it is unclear as to whether capacity and attenuation have been provided for overbank flood control and extreme flood control. The Applicant should clarify the design parameters of the detention basin for confirmation of complete compliance with NYSDEC recommendations.

Water quality treatment will be provided in the basin forebay and permanent pool. The permanent pool will be controlled by a three-inch diameter orifice, one of two orifices in the outlet structure. The New York State Stormwater Management Design Manual requires provision of a trash rack for orifices 3-inches and smaller. The trash rack provided is in accordance with the manual. Page B2 of the drainage report indicates the water quality volume was calculated for an impervious percentage of 57.6. The calculated volume appears to exceed the requirements of the Phase II regulations; however, the Applicant should clarify the actual post-development impervious percentage as it is also identified as 47% in the drainage report.

Flow attenuation from the basin outlet structure for volumes greater than the water quality volume has been provided in the form of a 6-inch orifice. The control storms for which this orifice has been designed to provide flow attenuation should be identified by the Applicant. An overflow weir has also been provided in accordance with NYSDEC regulations.

A 30-inch pipe connects the basin outlet structure to a flow splitting structure, identified as DMH #14. This flow splitting structure diverts flows to the 24-inch RCP at POI 'A' via a 30-inch pipe and to the 18-inch RCP at POI 'B' via 5-inch and 6-inch orifices. The invert of the 5-inch orifice matches that of the 30-inch pipe while the invert of the 6-inch orifice is approximately 9.6-inches above that of the 30-inch pipe. As stated earlier, the Applicant indicates on page A5 of the drainage report that the north branch of the existing on-site drainage system at POI 'B' has sufficient capacity to convey both the 25-year and 100-year rainfall events while the south branch

at POI 'A' does not have sufficient capacity for these rainfall events. However, the report indicates flow will be directed to the south branch, or the insufficient section, via the 30-inch pipe and to the north branch, or the sufficient section, via the orifices. It is recommended that the Applicant review and confirm that this is the desired flow splitting pattern for DMH #14. The Applicant should also provide a detail for DMH # 14 similar to the outlet structure detail provided on Figure B9 in the drainage report.

CONCLUSIONS

The existing deficiencies in the Village's drainage infrastructure downstream of the project site and the potential impacts on the infrastructure associated with the development of the project site warrant further consideration by the Village and the Applicant. It is recommended that the Village request that the Applicant provide suggested improvements by the Applicant in the areas identified as deficient in the initial downstream analysis and/or in other deficient areas that may be identified in the more expansive downstream analysis, if the Village chooses to request compliance with the 10% rule.

3-4

Alternatively, the Village could consider requesting that the Applicant mitigate the downstream impacts of this development on-site. One form of on-site mitigation could be to select one of the two alternative development plans identified by the Applicant. The first plan consisted of two larger professional buildings and associated parking. However, the stormwater impacts of this alternative were not assessed in this review as it seems this plan is out of character with the preferred alternative for which the drainage report has been written and for the 75-foot buffer alternative for which drawings were provided in the DEIS. The second plan, known as the 75-foot buffer plan, may warrant additional consideration as the impervious percentage for the site would be less than that for the preferred plan, thus decreasing the additional runoff associated with development. The zoning code allows the Planning Board to require buffers between 50 and 75-feet. However, should the Planning Board deem this alternative most appropriate for the site, it is recommended that the stormwater detention system be designed for the preferred plan so as to provide additional capacity in the detention basin. Provision of this additional capacity could provide some relief for the downstream deficiencies such that development of the site would actually be beneficial for the downstream drainage infrastructure, Village residents, structures and buildings.

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Two on-site drainage alternatives may also warrant consideration to allow for additional detention capacity for the site. The first was discussed in *Section 4.5 - Alternative Stormwater Management Plan* of the Alternatives section of Volume I of the DEIS. This plan assessed the feasibility of storing the entire water quality volume associated with the building rooftops in leaching basins of approximately 10-feet in diameter and 4 - 8-feet in depth, depending on the depth of groundwater. Provision of these leaching basins in addition to the detention basin as it is currently designed may be another means of providing relief for the downstream drainage infrastructure deficiencies.

3-7

A second on-site drainage alternative for consideration by the Village and the Applicant is related to the detention basin design. The NYSDEC allows for maximum side slopes of 1V:3H or 33% for the basin walls. Drawing No. B13 - Stormwater Basin Cross Sections depicts the west walls of the basin and forebay at the maximum allowable slope, and the east walls a lesser slope of 1V:4H or 25%. Additional capacity could be achieved in the detention basin by increasing the side slopes of the east walls thus providing potential relief for the downstream deficiencies.

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Although it may be confirmed, after clarification by the Applicant of the items identified in this review, that the current design does result in a net zero increase in peak runoff for rainfall events up to the 100-year storm, an increase in overall runoff volume will be realized by the downstream drainage system after development of this site. As such, LMS recommends that the Village request that the Applicant evaluate the alternatives presented in this review, and, if desired propose additional alternatives, such that this development will be beneficial for the Applicant, the Village and Village residents.

3-9

ACTION ITEMS & DRAINAGE REPORT DISCREPENCIES

The following discrepancies were observed in the drainage report and should be addressed by the Applicant prior to final approval:

- It is recommended that the Village request that the Applicant include the control storms recommended by NYSDEC in the downstream analysis. | 3-10
- It is recommended that the Village request that the Applicant extend the limits of the downstream analysis in accordance with the 10% rule defined in *Section 4.7 Downstream Analysis* of the New York State Stormwater Management Design Manual. | 3-11
- It is recommended that the Applicant assess the viability of provision of leaching holes in the bottom of each of the drainage manholes along the 30-inch pipe diverting offsite flow through the site to POI 'A' or suggest some other means to reduce the offsite flow to POI 'A'. | 3-12
- Drawing No. A8 – Developed Conditions Drainage Area Plan depicts the area of off-site sub-area 1 as 15.43-acres. This drawing should be revised to depict the reduced area of 7.75-acres for consistency with Drawing No. A7 – Existing Conditions Drainage Area Plan. | 3-13
- The water quality volume was calculated for an impervious percentage of 57.6 on page B2 of the drainage report; however, the post-development site was described as 47% impervious on page 2 of the drainage report. The Applicant should confirm the actual post-development impervious area. | 3-14
- The second paragraph on page 3 of the drainage report references the initially delineated off-site drainage areas and should be revised to reflect the re-delineated areas. | 3-15
- Existing and developed runoff to POI 'A' is described for the initially delineated off-site drainage area in Table 1 on page 6 and throughout the report. This should be revised throughout the report as the actual flow being directed through POI 'A' is not clearly defined. | 3-16
- Page A4 of the drainage report indicates that the stormwater management basin has been “sized to provide water quality and channel protection volumes as required by the NYSDEC Stormwater Management Design Manual.” Drawing No. B13 indicates the basin has been designed to attenuate the 2, 5, 10, 25, and 100-year design storms. The Applicant should clarify whether drainage basin capacity and flow attenuation have been provided for overbank flood control and extreme flood control. | 3-17
- The Applicant should provide a summary table, similar to Table 1 on page 6, for the discharge from the flow splitting structure, identified as DMH #14, to POI 'A' for the 2, 5, 10, 25 and 100-year rainfall events. | 3-18
- It is recommended that the Applicant review and confirm the desired flow splitting pattern for DMH #14. Was the flow splitting structure required to prevent the discharge | 3-19

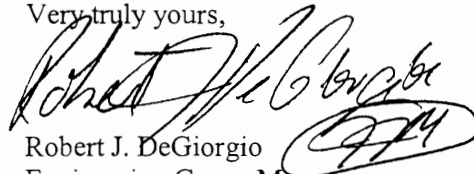
from the stormwater management basin from overwhelming the existing infrastructure immediately downstream of either POI 'A' (south branch) or POI 'B' (north branch)? Is the benefit of splitting the detention basin discharge negated by the convergence of these two branches at Midland Avenue? Does splitting the flow move drainage problems from either POI 'A' or POI 'B' to the point of convergence on Midland Avenue? The Applicant should also provide a detail for DMH # 14 similar to the outlet structure detail provided on Figure B9 in the drainage report.

- Consider alternatives outlined in the "Conclusions" section of this review.

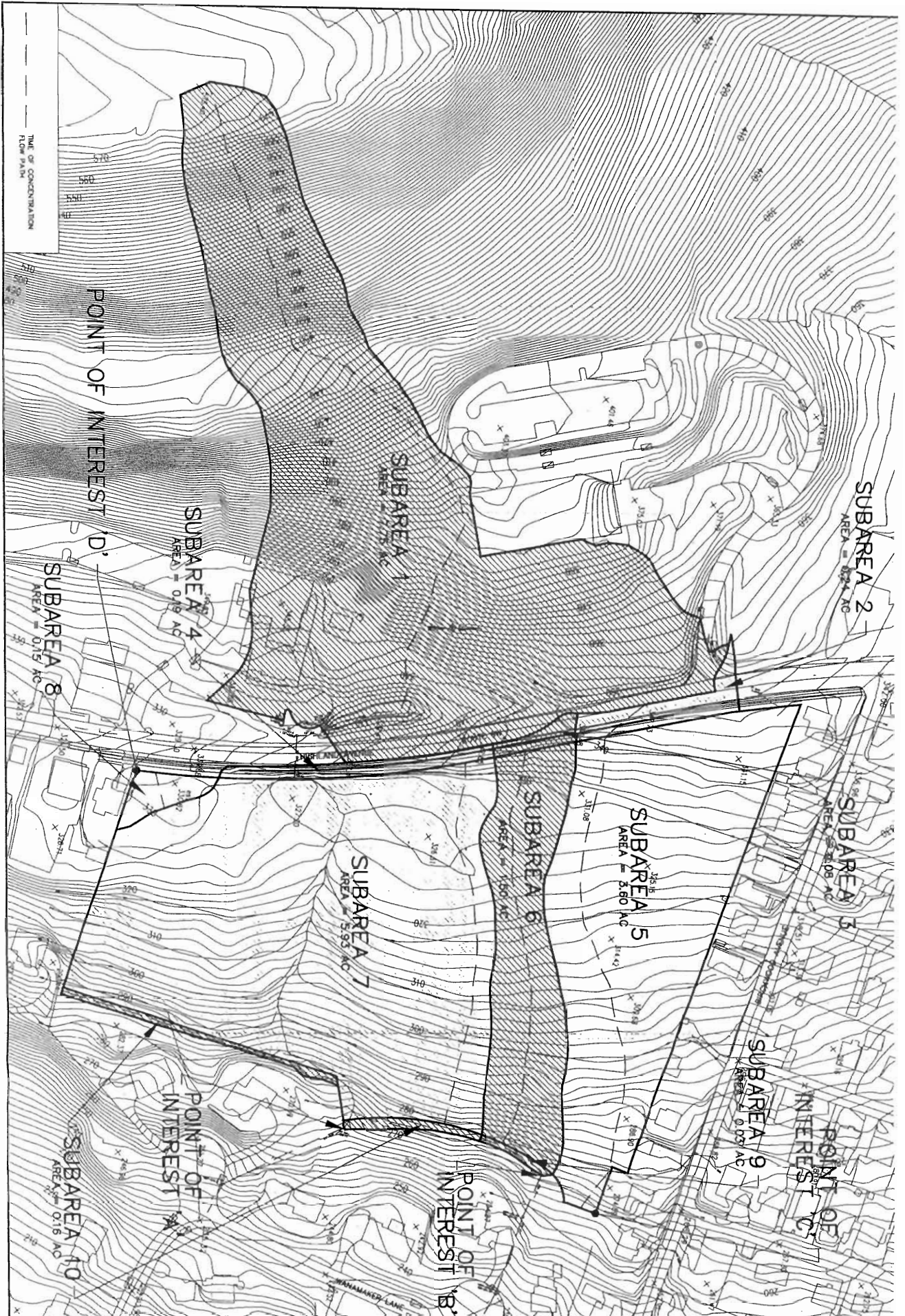
111-2

It is recommended that the Village consider all options presented in this drainage review with the Applicant such that clear conditions of acceptance for the drainage design can be identified prior to application for final approval. If you have any questions or require additional information regarding this review, please contact our office.

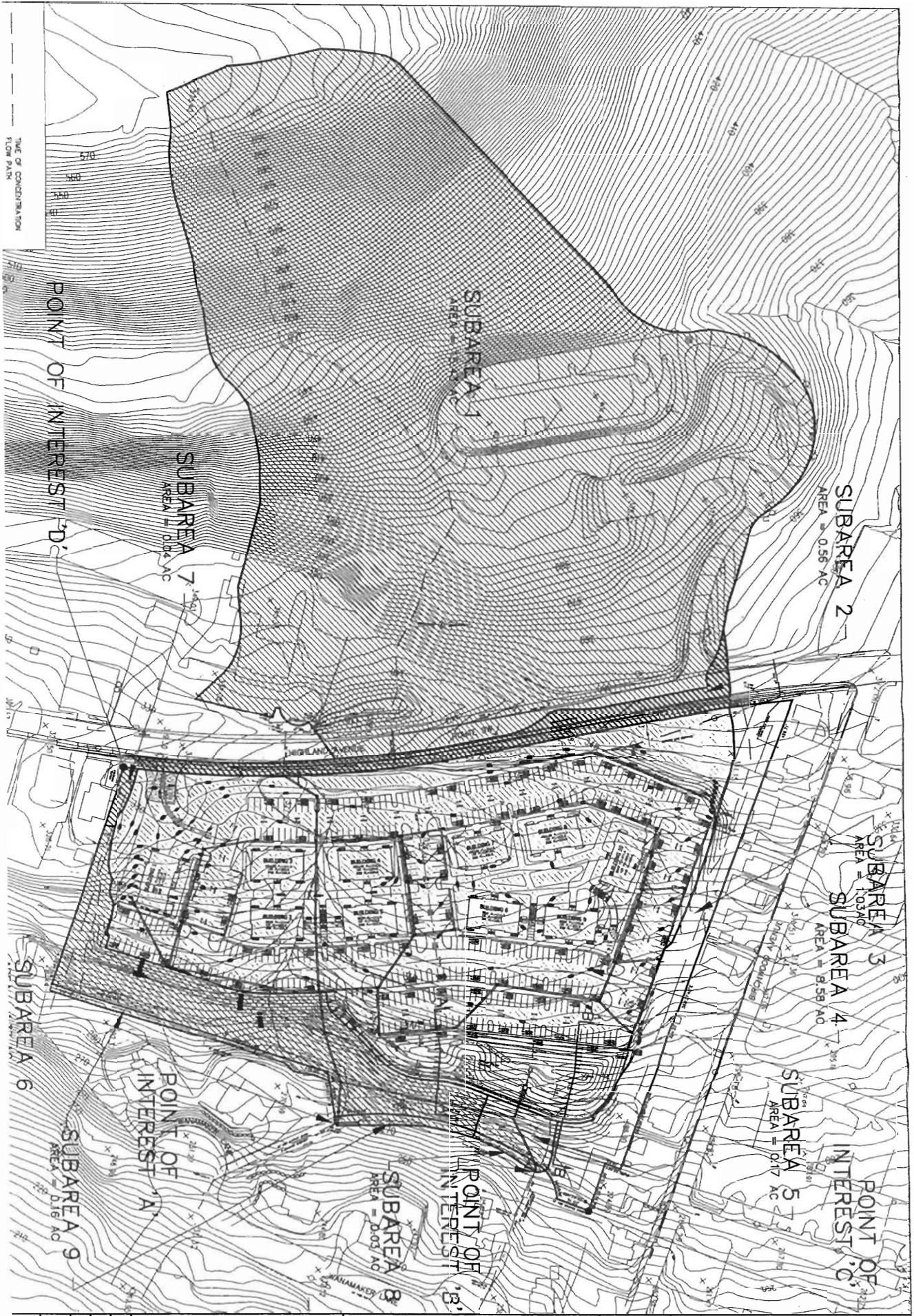
Very truly yours,



Robert J. DeGiorgio
Engineering Group Manager



A7	COURT YARD AT UPPER NYACK VILLAGE OF UPPER NYACK ROCKLAND COUNTY, NEW YORK EXISTING CONDITIONS DRAINAGE AREA PLAN	LJA LEONARD JACKSON ASSOCIATES <small>CONSULTING ENGINEERS 26 FRIEDENS MEMORIAL DRIVE, PLAINFIELD, NEW JERSEY 07061 PHONE (908) 261-4422 FAX (908) 261-4444</small>	LEONARD JACKSON <small>DATE: 12/15/04</small>	REV. DESCRIPTION
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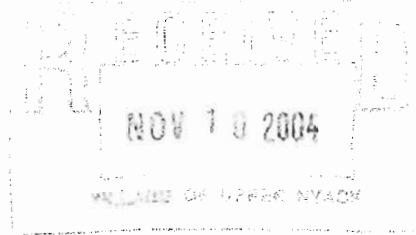
000 PROJECT 0318 01/28/04 1"=40' 08/03/04 08	COURTYARD AT UPPER NYACK VILLAGE OF UPPER NYACK ROCKLAND COUNTY, NEW YORK	LJA LEONARD JACKSON ASSOCIATES CONSULTING ENGINEERS 28 FREDRICK STREET, SUITE 1000, POUGHKEEPSIE, NEW YORK 12670 PHONE (845) 354-4387 FAX (845) 354-4403	LEONARD JACKSON, P.E. N.Y.S. Lic. No. 42167	REV.	DESCRIPTION	DATE
	DEVELOPED CONDITIONS DRAINAGE AREA PLAN		REV.	DESCRIPTION	DATE	

Letter 3



Department of Environmental Management and Engineering Town of Orangetown

Route 303 Orangeburg New York 10962
Tel: (845) 359-6502 • Fax: (845) 359-6951



November 5, 2004

VILLAGE OF UPPER NYACK
Planning Board
328 North Broadway
Upper Nyack, New York 10960

Att: Mrs. Patricia Jarden
Planning Board Secretary

Re: Courtyard of Upper Nyack Site Plan Approval

Dear Ms. Jarden:

Please be advised that it may not be prudent to allow the above referenced project to connect to public sewers at this time due to the frequent sewage overflows from the Upper Nyack Pumping Station during peak wet weather conditions.

| 10-1

The sewage flows from the above referenced project would be tributary to the Upper Nyack Pumping Station and this additional flow would further exacerbate an already unacceptable condition.

The Town is currently doing an engineering evaluation of the Upper Nyack Pumping Station and tributary service area to determine what upgrading and expansion is necessary in order to provide sufficient capacity to handle current and future peak sewage flows.

| 10-2

In addition, an evaluation of the sewers tributary to the pumping station is needed to determine the sources of extraneous water, infiltration and inflow, entering the system and develop a plan to eliminate and/or reduce same.

| 10-3

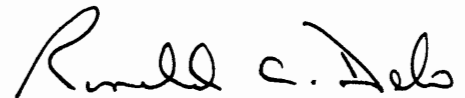
Until the above referenced evaluations are completed, plans developed and improvements made, any additional connections to the sewer system should be carefully considered in light of the consequences of adding additional sewage flow to this system.

10-4

Should you have any questions on the above, please contact me.

Thank you for the opportunity to comment on this project.

Very truly yours,



Ronald C. Delo, P.E. DEE
Director

RCD/ka

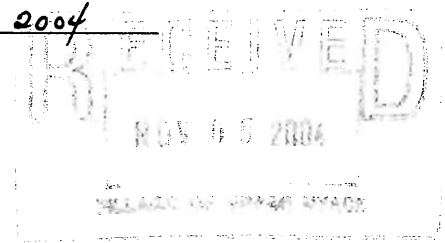
Cc: Supervisor Thom Kleiner
Town Board
Town Attorney

New York State Department of Environmental Conservation
Division of Environmental Permits, Region 3
21 South Putt Corners Road, New Paltz, New York 12561-1696
Phone: (845) 256-3054 FAX: (845) 255-3042
Website: www.dec.state.ny.us



NOVEMBER 3, 2004

VILLAGE OF UPPER NYACK PLANNING BOARD
VILLAGE HALL, 328 NORTH BROADWAY
UPPER NYACK NY 10960
ATTN: WILLIAM PFAFF, CHAIRMAN



Re: COURTYARD AT UPPER NYACK - DEIS
TOWN: VILLAGE OF UPPER NYACK County: ROCKLAND
DEC Project No. 3- 3920-00550/00001

Dear CHAIRMAN PFAFF:

^{DRAFT ENV. IMPACT STATEMENT}
We have reviewed the ~~SEQR lead agency coordination request~~ for the above referenced project which our office received on OCTOBER 13, 2004.

Department Jurisdiction

Based upon our review of the circulated documents, it appears that the project will require the Department permits that are indicated below by a checked box:

- Article 15, Protection of Waters:** For physical disturbance to the bed or banks of a protected stream, excavation or fill within a navigable waterbody, or repair/construction of a dam (see enclosed map).
- Article 24, Freshwater Wetlands:** For physical disturbance proposed within or near State-designated Freshwater Wetland _____, or its 100-foot adjacent area (see enclosed map). If the project sponsors have not already done so, they should contact the Department to have the wetland boundary field inspected and validated by DEC staff, as noted in the enclosed sheet entitled "Delineating and Surveying Freshwater Wetland Boundaries". The applicant will be required by DEC to demonstrate that the project meets the permit issuance standards contained in the Freshwater Wetland Permit Requirements Regulations (6 NYCRR Part 663.5; copy available upon request or on-line at "www.dec.state.ny.us/website/regs/index.html").
- Compliance with the SPDES General Permit for Stormwater Discharges from Construction Activities:** For the proposed disturbance of over 1 acre of land. When other DEC permits are required, the sponsor must provide a copy of the required Stormwater Pollution Prevention Plan (SPPP) with their permit application for DEC review and approval. Authorization for coverage under the SPDES General Permit is not granted until approval of the SPPP and issuance of any other necessary DEC permits.
- Other:** THIS PROJECT MAY ALSO REQUIRE A SECTION 401 WATER QUALITY CERTIFICATION FOR THE PROPOSED IMPACTS OF 0.49 ACRE OF FEDERALLY-REGULATED WETLANDS.
- Other:**

Date: NOV. 3, 2004

By copy of this letter, we are advising project representatives of the potential need for these permits. It is possible that the New York State Department of Environmental Conservation permit requirements noted above may change based upon additional information received or as project modifications occur.

Additional Comments

In addition to the permit requirements noted above, the resources that are indicated below by a checked box should be evaluated during the review of this project under SEQR:

- Threatened & Endangered Species:** According to Department records, the following state-listed threatened or endangered species has(have) been recorded within or near the project site:

Species: _____ NYS Status: _____

Species: _____ NYS Status: _____

The potential impacts of the proposed project on this(these) species should be fully evaluated during the review of the project pursuant to SEQR. In addition, project modifications may be needed to adequately mitigate any potential impacts identified. For further guidance on this matter, please contact the undersigned analyst.

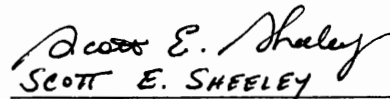
- Cultural Resources:** We have reviewed the statewide inventory of archaeological resources maintained by the New York State Museum and the New York State Office of Parks, Recreation, and Historic Preservation. These records indicate that the project is located within an area considered to be sensitive with regard to archaeological resources. Therefore, the DEC review of the project will require preparation of a cultural resources assessment and the review of the New York State Office of Parks, Recreation and Historic Preservation.

- Other:**
- _____

In addition to transmitting the above comments, this letter also serves to confirm that we have no objection to your board/agency assuming lead agency status for this project.

Questions pertaining to the Department's jurisdiction or related matters should be directed to the undersigned analyst assigned to the project. Please refer to the DEC project number identified above in all correspondence to the Department. Thank you.

Sincerely,


SCOTT E. SHEELEY

Division of Environmental Permits
(845) 256- 3050

- Enclosures as Indicated

cc: Project Sponsor (~~w/enclosures~~):

T. IMPERATO, WILDER BALTER PARTNERS LLC
U.S. ACOE, NY DISTRICT



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

Building T
50 Sanatorium Road
Pomona, New York 10970
(845) 364-3434
Fax: (845) 364-3435

C. SCOTT VANDERHOEF
County Executive

DOUGLAS J. SCHUETZ
Acting Commissioner

ARLENE MILLER
Deputy Commissioner

November 09, 2004

William Pfaff, Chairman
Village of Upper Nyack Planning Board
328 North Broadway
Upper Nyack, New York 10960

Dear Chairman Pfaff,

The Rockland County Planning Department is in receipt of the draft Environmental Impact Statement (EIS) for the proposed Courtyard at Upper Nyack. The County Planning Department now considers this application to be complete and our 30-day review period will coincide with the Village's request for public comment within 30-days after the close of the public hearing. Please contact our office if you have any questions (845)-364-3434.

Thank you,

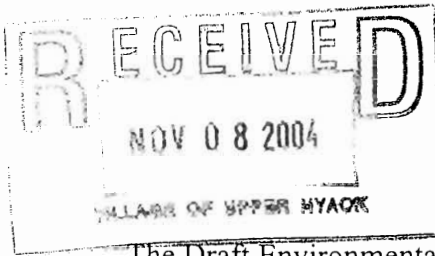
A handwritten signature in black ink, appearing to read "Douglas J. Schuetz", is written over a faint, larger version of the same signature.

Douglas J. Schuetz
Acting Commissioner

Letter 6

JOSPH F. MENSCH
209 WANAMAKER
UPPER NYACK

11/8/04



Courtyard at Upper Nyack
Drainage & Sewage

The Draft Environmental Impact Statement presented by Wilder Balter Partners LLC is severely flawed as to drainage and sewage issues and should be rejected by the Village of Upper Nyack. The following analysis deals with some of the non-technical aspects of this document to clearly show significant deficiencies and gaps. The citizens of Upper Nyack, who attended the meetings, were extremely frustrated and limited in the input they were able to give to this proposal as we did not have access to the materials presented to comment on and the meeting ran so late that the ability to make comments on what was heard in the presentations was severely limited or eliminated in total by time constraints. This seems rather unfair and we appreciate the opportunity to now voice some of our objections.

The Planning Board rejected an earlier presentation by the developer and directed them to come back with a plan that had no structures of any kind in the 75' buffer. This is shown in maps 1A & 2A but nothing else including the maps showing the drainage and utilities were modified to fit this requirement. All other maps need re configuring but specifically maps C2, 3, and 5 deal with critical issues and if they were not re-designed then the engineering for the site could be severely flawed in regard to drainage.

11-3

The document presented shows limited data on the storm drainage system, acknowledges the existence of a sewage system but fails to address the sanitary sewage system except for five lines in the plan which contain inaccuracies and boiler plate language. Imperative drainage issues are not even addressed. The developers intend to drain storm water and sewage in an easterly direction through Wanamaker Lane to North Midland Avenue. The entire property is very heavily sloped; there are practically no level areas on this site

10-5

3-20

DRAINAGE

The submission talks about 10,25, and 100 years storms. We have experienced all of these and more in the past year with the existing drainage infrastructure proving inadequate in some instances to handle the storm water. Their development would add additional flow to this. We all know that weather patterns have changed and statistics are only a range. If that range is skewed then the old mean figure may not even meet the lower limit of a range. In addition to using historical storm figures and rain fall figures, actual figures for Rockland County and for Upper Nyack for at least the last five years.

3-21

The Courtyard plans acknowledges that storm runoff is accumulated on the west side of rt. 9W in retention areas and piped under Rt. 9W in a 24" pipe on to the Courtyard property where it drains into the village storm system. They state that the peak discharge rate is 34.28 cu.ft. per sec.. Now some of this discharge is retained in the wetland and absorbed by plants, trees, grass, and earth. They plan to pipe this in a 30" pipe that will connect to 24" drain that they designate as area A run off point. If the pipe fills to

3-22

capacity while draining in a heavy storm nothing else will be able to enter the pipe on site or down site in the village.

The Courtyard presentation shows that 40% of storm run off is absorbed and 20% evaporates thus we will have 60% more water going in to our 24" pipe than before. If their figures are too low (as described below) then the water load on the system will be even greater.

3-23

If the 24" pipe which has proven, at times to be insufficient to handle major storms for period of time is filled to capacity, it will flood streets through catch basins, flood the areas supporting drywells that service footing and roof drains in residences preventing them from draining for longer periods of time. This could blow out those lines, which were not constructed to sustain prolonged stresses. The cost to village citizens and the disruption and ensuing damage could be catastrophic. If the 24" pipe fills to capacity the balance of the site drainage plan would be forced into the smaller 18" pipe in area B compounding the damage to property below the site. If the proposed retention areas, which are taking on 150% more water from drained site areas than previously flowed on the surface(40% absorbed before and 20% evaporated) overflowed, the site would flood the residences below. Also note that flood insurance does not cover personal property in ones basement and it is expensive to obtain.

3-24

The existing 24" and 18" pipes join on North Midland Avenue and flow northward to other parts of the village. Many streets drain into the system. What will happen to the other properties if their storm runoff can not properly drain? We have already seen this in peak storms on many occasions over the past five years

3-25

The developers plan to accumulate the precipitation falling on the site in two open retention areas with admitted little absorption by the site due to the high percentage of impermeable surface caused by 9-10 building, parking, roads, walkways, and the elimination of wetlands that is a natural storage and absorption area. This water will drain into the two village pipes, one of which may be filled to capacity and unable to take on the drainage. [The developers do not acknowledge or account for water sheeting in heavy storms on Rt.9W which flows downward toward the proposed entrance to Courtyard on 9W and will flow onto the site (which it does not do now) nor do they account for the added volume.

3-26

The Issue of a breeding ground for West Nile Disease. is a serious one posed by these proposed open retention areas. The Health Commissioner of Connecticut advised citizens to regularly drain bird baths. These are much larger and do not drain out totally.

3-27

There are no plans for the drainage of the 75" buffers on the easterly, northerly or southerly perimeters of the property all of which are bordered by residences of village citizens **This composes more than 3.75 acres or more than 1/3 of the total project without a drainage plan and the construction will disrupt the existing drainage of the site, some of which currently flows into the 24" and 18 " pipes that will no longer be available for this drainage. Where will the increased water flow go? This land**

3-28

will likely be clear cut and the land absorption of rain is significantly reduced which would cause the water flow on the land to be multiples of what it was before.
THE DRAFT ENVIORNMENTAL IMPACT STATEMENT FAILS TO EVEN DEAL WITH THIS ISSUE

The Courtyard people say Rockland County averages 45" of rain a year. They do not show any statistics for Upper Nyack for the past five years or give a time frame for the 45". They say the land absorbs 40 % of rainfall and 20% evaporates but they do not say for what kind of land. Absorptions rates vary greatly and we are talking about sloped land where their proposal will decrease absorption rates.

3-29

A study of ground water absorption rates published in the Economist on October 23,2004 dealing with sloped land show a great variance of absorption rates based on vegetation. What we have now on the site is a sloped wooded area that is forested for more that 25 years. The study quoted was under the direction for Dr. Howard Wheater of the Imperial College of London. It showed that a sloped broad leafed forest with seven year old planting absorbed more that eight times that of a grassy slope. We currently have sloped woodlands in the 75' buffers that will be clear-cut What will the runoff from this area do to the bordering residential properties?

3-30

We are given statistics but no time frames. The statistics are countywide and not specific to our area. What are the sources for these statistics and are there other statistics from other sources? What are the ranges of statistics given? What are the trends? **These questions are not answered.**

3-31

SEWAGE

The Draft Environmental Impact Statement , which is two volumes thick, devotes FIVE LINES to this topic along with boiler plate language. It presents two things as if they were facts that one must question.

It states that the liquid sewage flow from the site will be 7,000 gallons per day. Where does this figure come from? We do not even know the makeup of the tenancy of this project, nor do the developers. It could include restaurants and medical facilities, which would have a greater degree of waste. How many people will populate the site? This might have some bearing too. **What is the source of this statistic?**

10-6

The Courtyard people state that waste on the site will be handled by 8" pipes and only implies that pipes of this size service all of Wanamaker Lane. Nowhere does it say what is in the ground on Wanamaker Lane or what is the infrastructure configuration. Wanamaker Lane is a development of 12 residential properties that was started by a developer who folded after constructing four residences. Do you think that developer overbuilt the utility infrastructure? It is for sure that it was not constructed with anything approaching accommodation of a development of the size of the Courtyard at Upper Nyack. If the pipes in the ground on Wanamaker cannot accommodate the load, will Wanamaker have to be dug up to tie dedicated sewage lines to Midland? Will Midland

10-7

have to be dug up? What will happen to the traffic flow on this important village artery that leads to Nyack Hospital? These are many questions that need to be addressed and have not been.

Based on the above limited area of **questions not answered** on only a small portion of the Draft Environmental Impact Statement, the study is flawed and should not be accepted. A close review by others of other areas of the study will show that they are flawed too.

This development could irrevocably alter the quality of life in the village for the worse. The project has to be significantly scaled down, modified, and rethought. The village should give serious consideration to other uses such as single family residences on $\frac{3}{4}$ acre lots even though the property is now zoned commercial. Many residents would be in favor of this and the homes would have much smaller footprints and impermeable surfaces.

11-4

Ron I. Wish M. D.
112 Highmount Ave.
Upper Nyack, N. Y.
10960
(845) 358-4815

Nov. 8, 2004

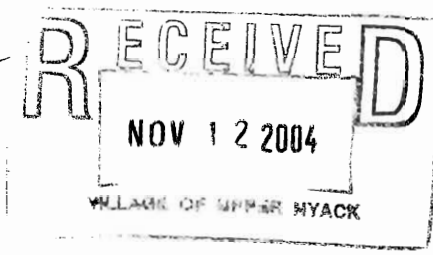
To The Planning Board of Upper Nyack:

Re the proposed development at the Courtyard at Upper Nyack--
Please be sure to follow the village regulation and uphold the 75 foot buffer
zone for all development around this property. This means NO building,
drainage ponds or any other infringement on the land within 75 feet of the
property's borders. All trees in this buffer zone should be preserved-- not
selectively or clear cut. Thank you,

1-4

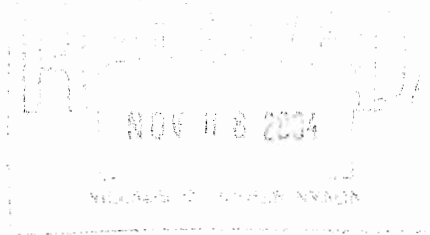


Ron Wish M.D.



Lise Petricone
208 Highmount Avenue
Upper Nyack, NY 10960

Mr. William Pfaff, Chairman
Planning Board
328 North Broadway
Upper Nyack, NY 10960



November 6, 2004

Dear Mr. Pfaff,

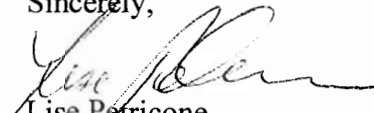
I am writing to voice my opposition to proposed Courtyard at Upper Nyack, LLC. More office space is not needed, there is an office complex going up just down the road on 9W between Highmount and 6th Avenue. It will create more noise, dirt, pollution, etc. and will significantly decrease our enjoyment of our home. I did not move to this village to live next door to an office complex. How can this project get so far when an individual owner has to jump through hoops to perform simple renovations on their home?

1-5

Please keep the people of the village in mind and reject this proposition.

Thank you.

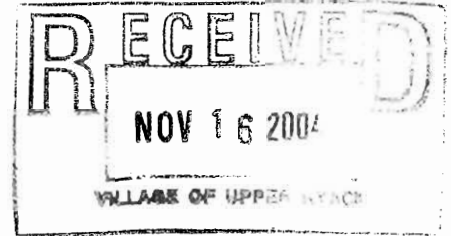
Sincerely,


Lise Petricone

Letter 9

November 8, 2004

Mike Esmay
Karen Tarapata
All Members of the Planning Board
Upper Nyack Village Hall
No. Broadway
Upper Nyack, NY 10960



Dear Mr. Esmay and Ms. Tarapata,

I am writing to express my severe concerns about the proposed development at the Courtyard in Upper Nyack.

We do NOT need more vacant office space in this area. There are so many vacant office buildings all over this county. The environmental impact of this development is even more concerning.

Please, say "NO" to the zoning variances they are requesting. Say "NO" to the destruction of our wetlands and the increased traffic and pollution, and to overburdening or storm and waste sewers!

We must fight this!

Thank you for your attention.

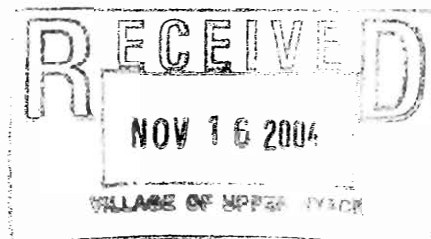
A handwritten signature in black ink, appearing to read "Elizabeth Egloff". The signature is stylized and cursive.

Elizabeth Egloff

1-6

November 8, 2004

Mike Esmay
Karen Tarapata
All Members of the Planning Board
Upper Nyack Village Hall
No. Broadway
Upper Nyack, NY 10960



Dear Mr. Esmay and Ms. Tarapata, and Members of the
Planning Board,

I am writing to express my severe concerns about the
proposed development at the Courtyard in Upper Nyack.

We do NOT need more vacant office space in this area. There
are so many vacant office buildings all over this county.
The environmental impact of this development is even more
concerning.

1-6

Please, say "NO" to the zoning variances they are
requesting. Say "NO" to the destruction of our wetlands and
the increased traffic and pollution, and to overburdening
or storm and waste sewers!

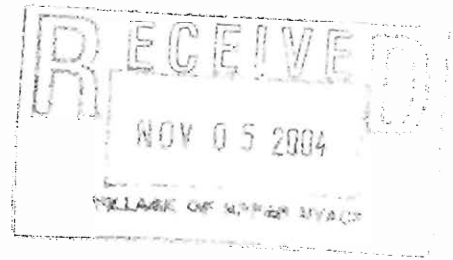
We must fight this!

Thank you for your attention.


James Youmans

Letter 11

From the desk of:
Alan J. Friedberg
425 Tompkins Ave
Upper Nyack, NY 10960
(845) 358-0976
bossyfrog@aol.com



Planning Board Member William Pfaff, Chairman
c/o Village Hall
328 North Broadway
Upper Nyack, NY 10960

November 4, 2004

Trustee William Pfaff:

Please do **NOT** allow the proposed development of the COURTYARD at UPPER NYACK, LLC to go through. As an 8 year *voting* resident of Upper Nyack, I strongly feel that this project would destroy the quality of our bedroom community.

WE DO NOT NEED:

- increased office space in our community – let them fill the vacant space that exists already in New City
- overburdening our village's infrastructure – storm sewers and roads
- destruction of wetlands and vegetation
- increased traffic and pollution
- overburdening our storm and waste sewers
- years of construction

I feel that this project will negatively alter the character of our community, decrease our property values and overburden the infrastructure of our town.

Please say NO to this project and do NOT grant any zoning variances being requested.

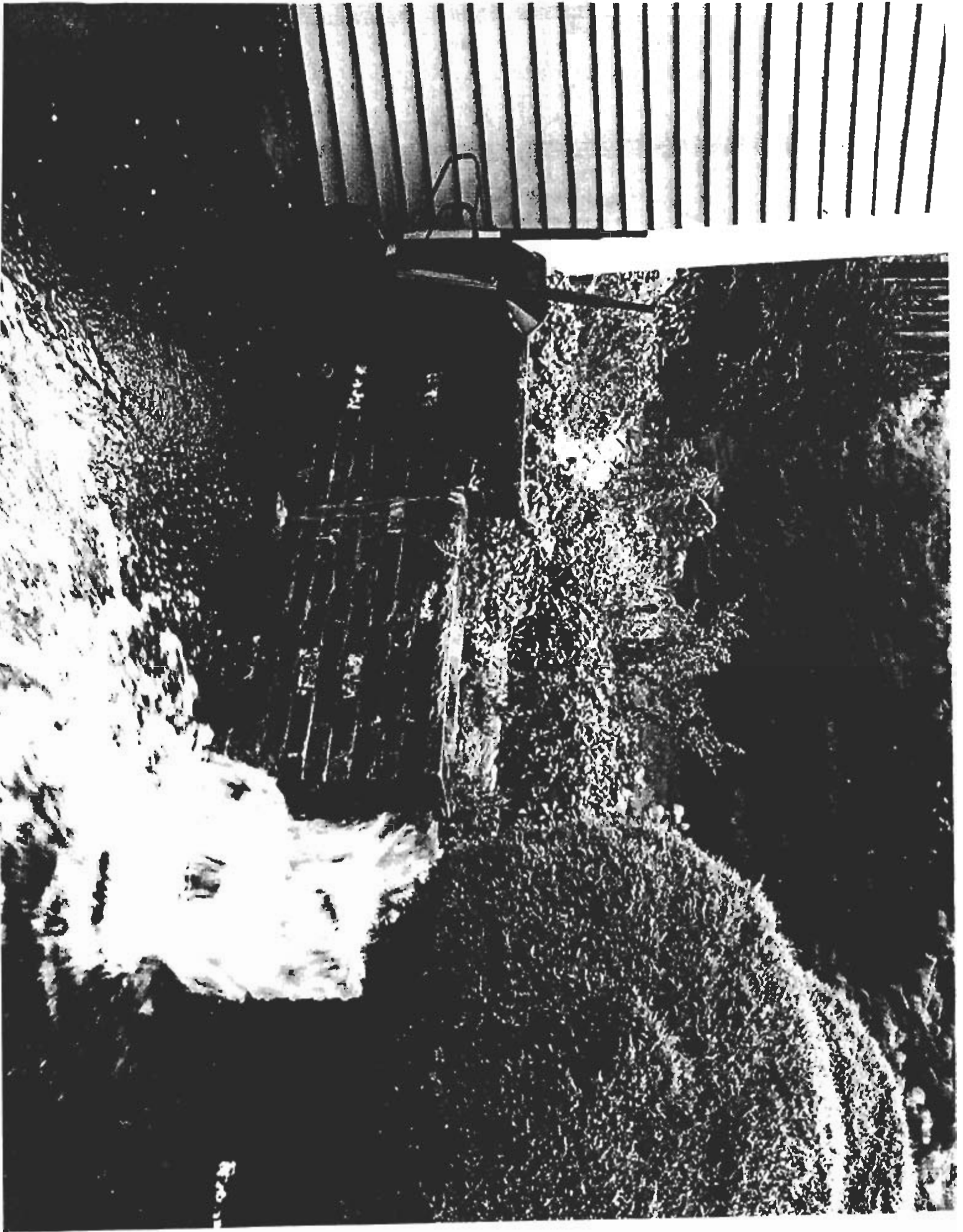
Thank you for protecting the quality of life in our community.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan J. Friedberg". The signature is fluid and cursive.

Alan J. Friedberg

1-7





7/23/04

Wanamaker's Lane

11-7-04

UPPER NYACK

Proposed office park set for public hearing

Board to examine project's impact on environment, traffic

Jennifer Weil
The Journal News

The Upper Nyack Planning Board will hold a public hearing tomorrow to discuss the environmental impacts on a proposed office park known as Courtyard at Upper Nyack.

Robert Wilder of Wilder Balter Partners LLC wants his Elmsford company to develop a 11.19-acre site on Route 9W with 10 two-story buildings and 456 parking spaces. He estimates that the project, which would be a mix of professional and medical office use, would cost approximately \$10 million.

In addition, the project, totaling more than 65,000 square feet in an undeveloped wooded area near Birchwood Avenue, includes grading, retaining structures, drainage piping and stormwater facilities and sidewalks.

Vegetative screening, including a mixture shrubs, evergreen and deciduous trees and shrubs would be planted along the perimeter to act as a buffer to the neighboring properties.

The proposed access to the site from Route 9W would be in the southwest corner of the property. A secondary emergency-access

only connection to Route 9W would be at the northeast corner.

Village Trustee Karen Tarapata said she hopes there will be a large turnout for the hearing and the opportunity for people to voice concerns about the environmental impacts.

"They can't just say, 'I'm against this or I hate this,'" she said. "It has to really be comments about the impact on the environment, and the environment can be noise, traffic, and drainage and habitat for animals," she said.

One Birchwood Avenue resident who plans to attend tomorrow night's meeting is Scott Lewis.

Lewis said that while he's not opposed to the development of the site, he does have concerns about the scale of the proposal and how it might impact traffic and drainage.

"Much of the water now does not go immediately into the storm sewer system because it is draining naturally slowly through into the water table," he said. "By cutting the trees and paving it over, all the rain will no longer do that and overload the storm sewer system, which is already incapable of dealing with major rains."

Wilder said that stormwater runoff would be collected and piped to the northeast corner of the site where two stormwater basins are proposed. The basins would detain the runoff in accordance with the state Department of Conservation standards.

Tarapata said if anyone has an

issue with the development "this is time to voice it, because legally the applicant has to say how they are going to address those concerns."

If the Planning Board approves the project, Wilder said, he expects the development to be completed over a 12- to 18-month period.

Reach Jennifer Weil at
jweil@thejournalnews.com
or 845-578-2426.

If you go

What: Upper Nyack Planning Board public hearing on the draft environmental impact statement for the proposed development known as Courtyard at Upper Nyack.

Where: Upper Nyack Elementary School, 336 N. Broadway, Upper Nyack.

When: 7 p.m. tomorrow.



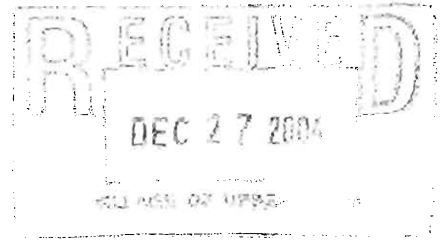
John Cornell/The Journal News

Letter 12



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

Building T
50 Sanatorium Road
Pomona, New York 10970
(845) 364-3434
Fax: (845) 364-3435



C. SCOTT VANDERHOEF
County Executive

DOUGLAS J. SCHUETZ
Acting Commissioner

ARLENE MILLER
Deputy Commissioner

December 23, 2004

Upper Nyack Planning Board
328 North Broadway
Upper Nyack, NY 10960

Dear Village of Upper Nyack Planning Board:

As an ongoing interested party for the State Environmental Quality Review Act (SEQRA) process, our Department has reviewed the Draft Environmental Impact Statement (DEIS) for the proposed Courtyard at Upper Nyack, LLC, project. This project is also subject to our review under the State of New York General Municipal Law (GML), as the site is within 500 feet of New York State Route 9W and the Town of Clarkstown town boundary. This letter contains our review of the DEIS for the proposed project under SEQRA only. Once the Village sends us a referral for site plan review, we will forward our GML review to the Village as well.

The County Planning Department reviewed the three major proposed alternatives in the DEIS. It is our understanding that the DEIS used the 10-building design to evaluate the environmental impacts. The other site layouts included a 9-building plan and a 2-building plan, plus layouts showing modifications to the storm water system and a no-build scenario. The County Planning Department believes that to properly evaluate environmental impacts, the design for the new construction should adhere to the zoning regulations of the municipality. New construction should not require variances nor be given any reductions in order to be constructed. This should apply to all requirements for yards, floor area ratio, bulk standards, parking and buffers. The site plan evaluated in the DEIS (the 10-building layout) will need a reduction in the buffer requirement from 75 feet to 50 feet by the Village Planning Board. As the lot is not irregularly shaped and local conditions do not justify such a reduction we strongly believe that the DEIS should evaluate a design that can be accommodated by the site with no reductions. The design also used in the DEIS locates a portion of the drainage system in the required 75-foot buffer. Again, new construction should adhere to the standards in place in the zoning code without requiring reductions from the Village Planning Board. The purpose of the buffer is to provide an opportunity to establish or maintain a vegetative barrier that serves as a visual and audible blockade between uses, something that is less likely to be accomplished with a reduced buffer or a portion of a drainage system within the buffer.

The 2-building plan alternative also described and illustrated in the DEIS would require the same reduction in buffer area and the very large scale of the buildings with the mass parking area around them does not seem to be the best utilization of the site, nor in character with the village setting. The stormwater system alternative proposed for the 10-building design is also not ideal since parking is still located within the required buffers.

The DEIS should be reworked using the 9-building layout as this layout seems to be the most appropriate for the site and is the only proposed plan that is viable under the Village's zoning regulations. The 9-building plan would result in less disturbance of the site, less impervious surface covering the site, and less traffic impacts on the state highway. The proposed 75-foot buffer plan would allow for the appropriate buffering of the site from nearby neighboring residential areas. The following comments pertain to the 9-building layout only, since this design meets all of the Village code requirements.

EROSION CONTROL

1 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the New York State Guidelines for Urban Erosion and Sediment Control.

2-2

2 The location of the stormwater basins are of concern to the County Planning Department. In the event that one of the detention basins malfunctions, the properties to the east could be severely impacted. This concern is for the general health and welfare of the down gradient property owners to the east. The Village Engineer must be assured that the overall drainage plan for the property is achievable and will provide adequate stormwater control.

3-45

3 The long term maintenance agreement between the applicant and the Village should include a yearly inspection of the stormwater management facilities and a report to the Village ensuring the safety of the facilities and of the residents located to the east. The Village should also ensure that the applicant has the financial ability to maintain these features in the future. This agreement should run with the land and be upheld by future owners of the property.

3-46

SITE PLAN DESIGN ISSUES

1 Figure 4.2, which illustrates the 9-building plan, shows 10 buildings and 424 parking spaces. This must be corrected.

11-9

2 It should be noted that Table 4-1 states the 9-building plan will allow for 60,759 square feet of office use and the site development plan for the 9-building plan states that 65,882 square feet of office use would be available. Additionally, the grading plan for the 9-building plan states that 409 parking spaces are shown, when there are only 348 shown on the grading plan. These inconsistencies shall be corrected.

11-10

3 Page 2-8 of the DEIS states that the parking calculations are compared to the parking requirements of other municipalities. The required parking of other municipalities should have no bearing on the required amount of parking for the proposed development of this site. The applicant shall provide the appropriate number of parking spaces required by the Village of Upper Nyack Code.

4 The County Planning Department is concerned with the proposed single ingress/egress of the site, considering there will be a maximum of 60,759 square feet of usable office space among the 9 buildings. The New York State Department of Transportation shall review the proposed single ingress/egress and emergency access onto the state highway. Additionally, the local fire and emergency personnel shall review the 9-building plan to determine the effectiveness of the proposed emergency access and the internal flow of the site to determine if there is sufficient area for emergency equipment, and if the location of emergency parking and/or access is appropriate.

1-16

5 The DEIS indicates that the proposed office building will contain both medical and other professional uses. The ratio of the different uses will determine the amount of parking required on-site. We are concerned that the original site plan layout and associated parking will not be adequate in the future if the ratio of medical to other professional uses increases from the proposed 14.5% of medical offices. Medical office uses must require more parking spaces because the length of stay for patients is usually greater than for other office uses. How will the Village monitor and enforce the office use changes and associated parking as they occur? Will a new site plan be required for each new user, including parking designations for each building? It seems reasonable that the entire 60,759 sq. ft. office space could be leased as medical offices in the future, and that adequate parking could become a problem. The DEIS should look at the worst-case scenario and plan for the entire site to be occupied by only medical offices and provide the required parking for that use.

1-17

NATURAL RESOURCE PROTECTION

1 The existing vegetation helps to prevent soil erosion on the site's steep slopes, therefore it is important to maintain as much of the existing vegetation as possible throughout all phases of the project. Clearing limit lines and construction fencing shall be in place prior to any construction equipment being brought onto the site.

4-7

2 The impervious surfaces proposed for the site are of concern to the County Planning Department. The increased impervious surface and diminished natural vegetation on the site may lead to increased runoff on sites downhill and decreased recharge of the groundwater system. The grading of the site will drastically impact the existing intermittent stream and wetland area. By forcing the water through the proposed piping system, the amount of surface water on the site will be dramatically reduced, thus the amount of water recharging the groundwater supply will also decrease. Every effort must be made to retain as much natural vegetation and grading on the site as possible, and to limit, to the extent feasible, the amount of impervious surfaces.

3-47

3 The DEIS does not give substantial mitigation measures for the proposed disturbance of the wetland area on the site. Simply discussing possibilities of creating an off-site wetland with other property owners is not true mitigation. The DEIS should clearly state the mitigation of the filled wetlands, not speculate that nearby landowners will allow the construction of an off-site wetland. Alternate plans, including retaining the wetlands must be provided.

4-8

4 In order to reduce the amount of impervious surface on the site and potentially increase the amount of water recharged into the ground water system, the applicant should consider the use of pervious pavers in outlying parking areas. Additionally, islands that could serve as drainage swales should be considered.

3-48

5 Since the proposed grading has the potential to encounter the groundwater table during seasonally wet periods and may alter the naturally occurring depth and flow of the groundwater, the DEIS should take into consideration the effects that the proposed construction may have on the groundwater in areas down gradient which may rely on groundwater as a water source.

3-49

6 The applicant shall adhere to the village of Upper Nyack Tree Maintenance and Management Operations as described in the Village Code when dealing with the specimen trees on the site.

4-9

UTILITIES AND SERVICES

1 Projects requiring water main extensions and all public water supply improvements shall be reviewed by the Rockland County Department of Health prior to construction. Plans must be signed and stamped by a NYS Professional Licensed Engineer and shall be accompanied by a completed NYS Department of Health Form 348, which must be signed by the public water supplier.

10-15

2 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Towns, Villages, and County with an adequate supply of water. Prior to approval of the proposed project, a letter from the public water supplier shall be issued, indicating that there will be a sufficient water supply during peak demand periods and in a drought situation.

10-16

TRAFFIC AND TRANSPORTATION

1 The decreased level of service for area roadways is of concern to the County Planning Department. The proposed development will decrease levels of service on Route 9W, Main Street, High Street, and 6th Avenue thus the wait time per vehicle will increase anywhere from 7 to 30 seconds. The decreased levels will result in ratings of E for Main Street at Route 9W for both AM and PM peak hours, E for High Street at Route 9W for AM peak hours, E for 6th Avenue at Route 9W for PM peak hours, and F for Route 9W at Main Street during PM peak hours. All proposed mitigation measures shall be thoroughly discussed and adequately addressed with the New York State Department of Transportation.

7-19

2 The proposed 3,162 to 5,270 construction truck movements on and off the state highway could impact traffic flow on Route 9W. Therefore, the New York State Department of Transportation shall review the applicant's construction plans relative to the state highway.

7-20

3 The proposed disposal site for fill shall be listed in order to determine the full effect on the State Highway system and the impacts on local traffic using this roadway. Additionally, the applicant shall abide by all regulations regarding the disposal of fill from construction projects.

7-21

4 Since the proposed project may contain medical offices used by residents of all ages, the site plan must be in compliance with standards needed to provide service to residents using the County's T.R.I.P.S service. Therefore, during the site plan process the project shall be reviewed by the Rockland County Department of Public Transportation, operators of the T.R.I.P.S. service, to ensure adequate access and maneuverability within the site for their buses.

7-20

AIR QUALITY

1 The DEIS states that depending on the size of the construction truck used, the site will generate anywhere from 3,162 to 5,270 truck trips in a 12-18 month period. Given this high number of truck trips, the Village should consider requiring the applicant to use clean diesel fuel trucks and equipment with particulate traps to reduce the fine particulate matter in the air, which has been found to be associated with serious health problems such as asthma, heart attacks, chronic bronchitis, and premature death. These types of vehicles are currently required to be used in New York City.

12-1

2 Use of construction equipment and trucks shall be limited or avoided on designated ozone action days.

12-2

3 The "no idling" signs to be posted to instruct delivery professionals to turn off their vehicle engines while making deliveries at the site seems reasonable. However, the County Planning Department questions how this will be enforced. We also question if the "no idling" will be applied to heavy construction equipment and trucks during the construction phase of the project?

12-3

4 The DEIS does not state who will be responsible for ensuring that the proper mitigation measures, described on page 3.3-9, are performed when dealing with dust prevention and control measures during the construction phase.

12-4

AESTHETICS

1 The 9-buildings will be located downhill from New York State Route 9W, making rooftop mechanical air handling devices visible to passing motorists. The DEIS should include mitigation measures for the Route 9W view shed, such as the use of parapets to shield the mechanical air handling devices.

5-3

AGENCY REVIEWS

1 The Rockland County Department of Health shall be included as an interested party for this project and should be given the opportunity to examine the monitoring wells to determine if they should remain monitoring wells, or if they will need to be decommissioned properly.

1-18

2 The Village of Upper Nyack Village Board shall be included as an interested party for this project.

1-19

GENERAL COMMENTS

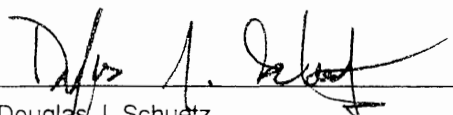
1 No lighting shall shine into the New York State Route 9W right-of-way. All lighting shall be directed on site. Low evergreen shrubs shall be used along NYS Rt. 9W to block the headlights of parked cars from shining into the State Highway.

1-20

- 2 The Village of Upper Nyack recently (December 16, 2004) adopted amendments to the Village Zoning Ordinance. Since the proposed project is not yet being reviewed for site plan, the amendments concerning steep slopes, rock outcrops, and lands under water shall be adhered to and proper lot area reductions shall be calculated and appropriately identified on the maps. | 1-21
- 3 The County GIS staff noted that some of the source data and dates were incorrectly cited within the DEIS. For example, the source data used in Figure 3.4.1 was obtained from the County Planning Department, as well as parcel data, topography, and buildings used in other figures. The correct date for Figure 3.4.1 should be April 2000. All source data and dates shall be cited accurately. | 1-22
- 4 All Figures relating to Traffic and Transportation mislabel Route 9W as Highlands Avenue, which should be Highland Avenue. | 7-2
- 5 It is unclear what size drainage area is being referenced in the last paragraph on page 3.2-1 under section 3.2.1, Existing Conditions. | 3-50
- 6 On page 3.2-9, paragraph three, sentence two under stormwater management plan, should read "The applicant and Village Engineer would be responsible..." | 3-51
- 7 Section 1.2.1 of the Executive Summary miscalculates the number of trips necessary if the use of 12 cubic yard trucks is required. This shall be recalculated and the appropriate number inserted. | 2-3
- 8 Section 1.2.4, fifth paragraph has a misplaced parenthesis. | 1-23
- 9 The last sentence of Section 2.3.2, paragraph 6 is incomplete. | 1-24
- 10 In paragraph 6 of Section 2.4.2, there is a second "that" which should be deleted. | 1-25
- 11 Table 2-3 incorrectly states in the Proposed Project column to see Table 2-3. | 1-26
- 12 The Upper Nyack Architectural Review Board is listed twice under interested parties, this shall be corrected. | 1-27
- 13 On page 3.4-4 in the first full paragraph, the word "species" is misspelled. | 4-10
- 14 There is a misplaced parenthesis in the first sentence on page 3.4-7. | 4-11

Thank you for the opportunity to review and comment on the DEIS for this project. If you require additional information please contact the Rockland County Department of Planning at (845)-364-3434.

cc: Mayor Michael Esmay, Upper Nyack
 New York State Department of Transportation
 RC Drainage Agency
 RC Department of Health
 Atzl, Scatassa & Zigler
 Town of Clarkstown
 Wilder Balter Partners
 Tim Miller, Associates
 Village of Upper Nyack



 Douglas J. Schuetz
 Acting Commissioner of Planning

418 Tompkins Avenue
Upper Nyack NY 10960
(845) 358-1539
mhussey@pace.edu



December 17, 2004

The Planning Board
Upper Nyack Village Hall
328 N. Broadway
Upper Nyack NY 10960

Dear Neighbors:

We would like to add our voices to that majority opposing the proposal to turn the woodland on the east side of 9W into an office park ("Courtyard"). Given the existing number of empty buildings in the area, the already severe drainage problems in the Village, and the fact that no good reason for this project exists other than swelling the bank accounts of people who don't live here, we urge you to make the only decision that has any integrity: deny the application.

1-28

Sincerely,

Mark Hussey
Evelyn Leong

243 Birchwood Ave.
Upper Nyack, NY 10960
Dec. 18, 2004

Village of Upper Nyack Planning Board
Village Hall
Broadway and Castle Heights Ave.
Upper Nyack, NY 10960

Dear Planning Board Members,

Item: Court Yard at Upper Nyack, NY

It seems that almost every one in our village is concerned with flooding due to the proposed existing plans for the development of the property behind my home. There is also concern regarding the amount of extra traffic that will be generated from this proposal. Someone mentioned that large trucks and emergency vehicles such as fire trucks and ambulances would have difficulty entering and leaving in a proper manner. Also, I personally think that there will be too many parking spaces, approximately 400, seems like a lot.

7-2^u
1-2^x

I have received mail from people living below this area concerning the matter of drainage difficulty due to heavy rain fall. Years ago a brook ran diagonally across the approximate 25 acres. This brook, I presume is now gone, or has dwindled in width and depth, due to the clear cutting that was done quite a few years ago. Today we have a new growth of trees and brush on the upper half of the property. Below there is a beautiful group of newer homes with blacktopped roads and driveways. Where does the rain water that is not absorbed by the few remaining trees, shrubs and lawns on this steep hill go? If a proper drainage pipe was not installed during the development on the east side of the original property, the brook could not flow down under Midland Ave, thru the Nyack Field Club property north of Upper Nyack Elementary School and under Broadway down to the Hudson River. Where does the water that runs down Wanamaker Lane go during a storm?

3-5c

I have read a letter concerning the cost the village will incur due to sewage, rubbish and other things to be examined. What will the taxes from this development be? Will it be in the Villages favor? If businesses are not allowed on that property then I presume homes might be nice there. If each house was built on approximately 1/3 acre that would mean approximately 20 - 25 homes with driveways and access roads. There would be less cutting of trees. Families with children attending our schools would move in. Of course proper drainage would have to be taken into consideration. I wonder how many cars there would be from this type of development as well as the revenue from taxes. Which project will be best for the aesthetic charm of Upper Nyack, as a family community, as well as the revenues generated by taxes?

11-11
11-12

Sincerely,



Charles R. Christian

LIZA ALTMAN

Planning Board
Village of Upper Nyack

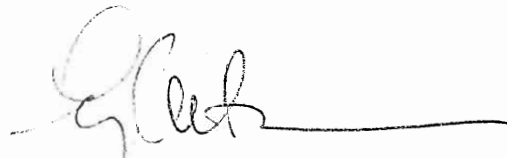
Re: Courtyard of Upper Nyack

My property sits at the very edge of the Hudson: about a third of it consists of an ex-quarry now containing a 50' x 25' pond, another third lawn and house, and the last third is a steep cliff, buttressed by retaining walls, to the shoreline. Since my property lies some 60' below Upper Broadway street level, runoff originating from virtually any point to the west of me is of particular concern.

Given the tidal pressure from the Hudson River at my east, and the groundwater seeping from my west, I am vigilant to the condition of my bordering retaining walls, lest heavy rains (such as we had last summer) swamp such drains and pumps as I have installed, blow through the subsoil and sweep my house off its ledge shelf and into the sea. Indeed, a section of my neighbor's "rubble" wall collapsed this July. In addition, the waterfall now surging down my driveway requires a new catchment basin and drainage of its very own.

Although I am a relative newcomer to the neighborhood, my parents bought this house in 1971 and I was a constant visitor to it. Now my pleasure in ownership is watered down by the anticipation of more commercial development and land (mis)use in a residential village, necessitating more paving, flushing, arboricide, and assuming reliance on existing tributaries/drainage downflow routes: I have already spent nearly \$100,000 conditioning my property against flooding and washout. Need I replace all my retaining walls to accommodate the 36" pipes I'll need to handle the greater cataracts coming down the hill?

I know that Rockland is a small county, and that this side of the river used to be quite a port and industrial area. But surely the commercial plot on Birchwood and 9W can be turned to better advantage than an office park. Can't we get a grant from some conservation organization or agency to purchase the as yet undeveloped ground from its corporate owners and gently prune it into a wilderness trail (perhaps with a special bicycle path for those hardy hill-climbers)?



Liza Altman
513 North Broadway ("Lizacre")
Upper Nyack, NY 10960
December 15, 2004

11-13

Planning Board
Village of Upper Nyack

Re: Courtyard of Upper Nyack

Gentlemen:

We have lived in Upper Nyack for nineteen years. Each year the volume of water running through the stream on our property has increased. Three times our Japanese garden overlooking the river has washed away. The last time, during Hurricane Floyd in September 1999, we spent \$6,000 partially rebuilding the stream's stone walls.

The construction of the High School on Christian Herald Road and the Wanamaker subdivision off Midland Avenue dramatically increased the flow of water emptying into the stream running down Old Mountain Road and via storm sewers into my stream on its final rush to the Hudson. The school has never maintained the drainage ponds that were supposed to prevent this problem.

The addition of nine commercial buildings and their parking lots, the removal of trees, vines, and brush can only lead to a catastrophic increase in the volume of water racing through the Old Mountain Road stream and the stream on our property on its way to the river.

3-53

The fine old homes along Broadway that add so much to the beauty of Upper Nyack will be undermined and impossible to maintain.

5-4

President Bush has signed the Highlands Conservation Act authorizing \$110 million to preserve open space in a four-state area including Rockland County. Upper Nyack is a village without even one public park (Hook Mountain is a state park). I strongly urge you to consider buying this property for a passive park. Merely trimming the trees would open up a beautiful river view. A small parking lot and a few benches would add so much to the charm of the Village.

11-14

Don't allow the Courtyard to blight our community!

Walter and Florence Katzenstein
507 North Broadway
December 15, 2004

Walter & Florence Katzenstein

November 6th, 2004

Dear Mayor,

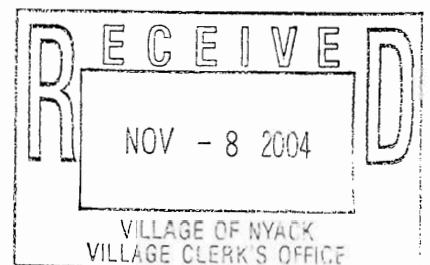
We have lived in Upper Nyack for almost seven years. Our oldest child attends Upper Nyack Elementary and our second will be there soon. We love our village and cannot sit by silently and watch the destruction of its trees and open spaces. We are writing this letter to oppose turning 11 acres of open space into a commercial office complex larger than Nyack Hospital. When we chose to live here, we assumed that Upper Nyack valued its natural beauty; patches of forest and swamp that peak out in unexpected places. Our assumptions were wrong.

Doesn't Upper Nyack want to protect the little natural beauty that we have left? How could the village board even consider approving the loss of 11 acres of beautiful woods? Tearing down this small forest and wetlands to build office space makes us sick! We have plenty of office space available in downtown Nyack. Why not focus on beautifying our downtown before constructing more commercial space that may never even be used? Nyack does not lack space for businesses. What we lack are trees, parks and land that is untouched!

4-12
7-25

In addition to losing more of our natural landscape, a new office complex on 9W will increase the dangers for our High School students. Isn't 9W dangerous enough already? Aren't we concerned with increased traffic? Currently, the use of 9W and Birchwood poses risks for High School walkers. If Upper Nyack approves this new construction so close to the High School, these risks will rise exponentially. Why not build a high rise apartment complex on the football field? How about an office complex on top of the elementary school? If Upper Nyack is looking for more tax dollars, find them somewhere else! We can't believe that a town board and mayor who are supposedly looking out for the best interest of our great town would stoop this low.

Sincerely,
Hank Beresin & Jen Bell
Upper Nyack



Letter 18

510 Hudson View Road
Upper Nyack, N.Y. 10960
December 7, 2014

The Planning Board
Upper Nyack Village

Dear Board Members:

We wonder how the County and project has come so far, with all the negative aspects brought to light.

You have been appointed to protect the interests of Upper Nyack, not the Wilder Batten Partners, L.L.C.

Surely the many valid objections voiced by Upper Nyack residents must cause you to doubt the wisdom of this monstrosity.

plans.

You must consider that ridiculous catch basin - on clay soil - a disaster in waiting for near-by homes & all homes down to the river. It was designed by "TEXT-BOOK ENGINEERING". People who actually deal with water problems know that this is a simplistic, un-dependable idea.

Then there are all the other concerns - traffic - school children's danger - fire-trap buildings - dirt in the air falling on & into the homes below during construction.

The company is an S.L.C. - if the courts don't find tenants - tax payers affected.

The very fine masonry Medical building just constructed in Nyack, less than a mile south of the Country Club site, makes doctors appear

in these proposed inconvenient (only one
extreme-end) fire-trap buildings a big
question.

Please do listen to the citizens of
your Village who demonstrated forcibly
that the Courtyard is not wanted by
us.

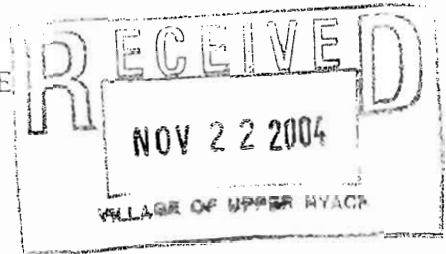
Sincerely

Dorothy M. Cuckey
Edward Cucksey

Letter 19

FILE COPY

BURTON SAUNDERS, D.V.M.
P.O. BOX 797, 608 NO. MIDLAND AVE.
NYACK, NY 10960
NOVEMBER 11, 2004
845-598-7901



Mayor and Trustees
Planning Board
Village of Upper Nyack, N.Y.

I attended the hearing this past Tuesday and would like to add the following comments:

I am against this project.

When this parcel was zoned for its present use no thought was given to the specifics of this site. No thought was given to the off site infrastructure. Any project that is to be approved for this site must take into effect the inadequacy of the down stream infrastructure..

1-30

This means that the builder must provide the capital improvements that are going to be necessary **offsite**. or the project must be **downsized** so that the current infrastructure will be sufficient. The later does not seem possible as the present infrastructure is already overburdened.

Years ago in the Town of Ramapo, I tried to develop a site for 15 homes. The Town insisted that the offsite drainage would not handle the resulting water that the homes would produce.. They wanted me to install 1500 feet of drainage along Hillside Ave to connect to catch basins on Saddle River Road. The scope of the project couldn't afford it and I suspended the plan. I haven't passed the site in the past few years but I believe that the site is still pristine.

The alternative to development is to purchase the land for preservation or a park. It has wetlands and is home to a herd of deer. It is a natural for a preserve. I understand that if it were larger the Corp of Engineers would have a say about the wet lands. Let us not allow a size technicality to stop us from regulating and preserving the wet lands.

11-15

The Mayor and Trustees are very concerned about the problems with the state of the drainage and the funds that will have to be spent to correct them. I am sure that after listening to the comments at the public hearing, that if a bond was proposed to preserve it as undeveloped land, citizens would give it a resounding yes. Conceivably the taxes needed to fund a preservation bond would be less than those needed to correct an overburdened drainage system in the future..

Other townships and villages are issuing bonds and getting grants to accomplish preservation. This is an emergency situation and it should be enacted upon NOW.

I have enclosed a recent newspaper article from Suffolk County. It is not for just one village but such a grant could be for all parcels in Rockland and funded by the County.

Be Innovative.

Sincerely yours,

Burton and Lucille Saunders

OPEN SPACE

\$75 Million Land Bond on the Ballot

Transfer of development density is included in Suffolk proposition

By JOANNE PUGRIN

Voters on this Election Day will be asked to decide on issuing bonds to protect the environment, farmland, and open space. The bonds, if approved, could provide an unprecedented \$225 million for land in Suffolk and Nassau Counties and several towns.

In Suffolk, a proposition on the issue of \$75 million in county bonds will be on the ballot.

The money would establish the Suffolk County Open Space, Farmland Preservation, and Hamlet Parks Fund, to be used to purchase land for preservation, recreation sites, and parks, and to acquire the development rights on farmland.

The bond issue would also bolster the development of affordable, "workforce" housing in the county, advocates say, through the transfer of development rights from land, other than farmland, purchased with the fund, to developers creating apartments and houses that could be sold for \$250,000 or less.

The transfers would allow more units than now allowed to be built on some sites, based on the reduction of potential development on the preserved lands.

Under the proposal, \$30 million would be spent on woodlands, pine barrens, wetlands, and other environmentally sensitive land.

Development rights from farmland, preserving the land in private hands but for farm uses only, would be purchased with \$35 million. The remaining \$10 million would be used to buy parcels for use as hamlet greens, hamlet parks, or "pocket" parks in neighborhoods.

The County Legislature calls the fund "critical to the well-being and quality of life of the residents of this county."

The \$75 million bond would, in its first year, add approximately \$11.61 to the average residential tax bill, and a total of about \$210 over 20 years.

Since 1977, the county has preserved 27,500 acres of farmland and open space. At present, 6,500 acres are slated for

preservation, but the county only has \$36 million left in the purchase fund — enough to buy an estimated 500 to 700 acres.

County contributions have helped East Hampton to buy a number of properties, including Shadmoor in Montauk, Jacob's Farm in Springs, and the former Duke property on Three Mile Harbor.

The bill's sponsors are County Legislators Vivian Vitoria-Fisher, a Democrat from Setauket, and Andrew Cecca of Hauppauge.

It is endorsed by a consortium of environmentalists, housing advocates, and trade groups, including the Nature Conservancy, the Peconic Land Trust, Long Island Builders Institute, the Long Island Housing Partnership, the Long Island Pine Barrens Society, Citizens' Campaign for the Environment, Long Island Neighborhood Network, Long Island Progressive Coalition, the Long Island Farm Bureau, and the Long Island Federation of Labor. New York State Senator Kenneth P. LaValle and

Continued on A10

Letter 20

MAYOR
Michael Esmay

**TRUSTEE &
Deputy Mayor**
Karen Tarapata

TRUSTEES
David J. Smith
Vincent S. Morgan
Peter Malcolm

VILLAGE OF UPPER NYACK

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VILLAGE CLERK
Carol G. Brotherhood

VILLAGE TREASURER
Barry MacCartney

VILLAGE ATTORNEY
Robert P. Lewis

January 25, 2005

Re: Impervious surface proposed in the Courtyard of Upper Nyack DEIS

To the members of the Planning Board:

I wish to express my concern over the potential negative impact of the quantity of impervious surface indicated on the proposed site plan for Courtyard of Upper Nyack.

As part of the new regulations of Phase II of the Clean Water Act, municipalities are charged to regulate land development activities by means of performance standards governing stormwater management and site design to produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of stormwater pollution, erosion and sedimentation from development.

As the Village Trustee in charge of overseeing the Village's compliance with the new stormwater regulations, I would ask that the Planning Board consider requiring bio-retention filters in the parking islands to slow and reduce the discharge of water from the site and to also consider requiring pervious paving surfaces as mitigation for the impact of the parking area on the site.

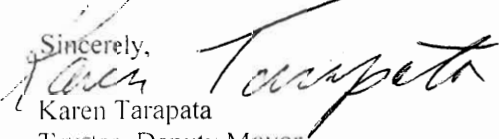
3-58

These mitigation techniques are encouraged by the State Department of Environmental Conservation, as expressed in their recent Erosion and Sediment Control workshop held on January 19th at the Fire Training Center. These techniques have been successfully used in Westchester County as part of their stormwater best management practices for large parking areas such as the Westchester Civic Center, as was presented by David Kvinge, ACIP, ASLA, Director of Environmental Planning for Westchester County, at the Southeast New York Stormwater Conference, hosted by the Lower Hudson Coalition of Conservation Districts and the Hudson Valley Regional Council in Poughkeepsie on November 9, 2004. Consultants are available who specialize in this type of mitigation, including Earl J. Goven of Blades and Goven, LLC, 235 Canal Street, Shelton Connecticut, 06484 who also presented on the topic at the Stormwater Conference.

With a development of this size and density, you cannot afford to ignore advances in mitigation that are available. You should require the applicant to offer bio-engineering solutions and impervious surface reductions that would recharge water into the site and reduce the need for a detention pond of the size currently proposed for the site.

According to the DEC, "In an ideal stormwater runoff solution, water falling on a given site should be absorbed or retained on-site to the extent that, after development, the quantity and quality of water leaving the site would not be significantly different that if the site had remained undeveloped." Rejecting old-style "efficient" drainage systems can achieve this end and I ask you to require the applicant to do so.

Sincerely,


Karen Tarapata
Trustee, Deputy Mayor
Village of Upper Nyack

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Affordability

Permeable Pavement

Summary



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Source: Invisible Structures Inc.

Just as drinking water can be filtered to remove impurities, the earth filters rainwater absorbed through soil on its way to groundwater aquifers, streams, and rivers. This important step in the natural process of water purification is bypassed when rainwater falls on hard pavement surfaces and is carried directly through storm drainage systems into waterways. New **permeable pavement** systems allow water to seep through the roadway surface, so that natural filtration can still occur. Since engineered storm drainage systems are costly to design and build, use of permeable pavement systems can also result in a reduction of construction costs for developers or municipalities.

Disclaimer: The information on the system, product or material presented herein is provided for informational purposes only. The technical descriptions, details, requirements, and limitations expressed do not constitute an endorsement, approval, or acceptance of the subject matter by the U.S. Department of Housing and Urban Development (HUD/FHA), The Partnership for Advancing Technology in Housing (PATH), or any PATH-affiliated Federal agency or private company. There are no warranties, either expressed or implied, regarding the accuracy or completeness of this information. Full reproduction, without modification, is permissible.

Details

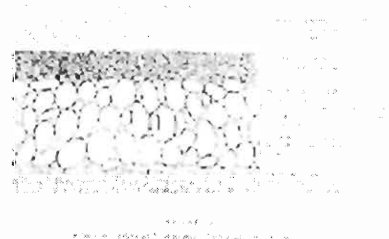
Historically, the most important characteristic of pavement has been durability, especially in northern climates where freeze-thaw cycles and snow removal equipment cause wear-and-tear on roadways. Because hard road surfaces are impervious to water, curbs, gutters, culverts, piping or other drainage systems must be designed to carry off rainwater. As areas become developed, a much larger percentage of rainwater hits impervious surfaces, including roofs, sidewalks, parking lots, driveways and streets. Instead of percolating gradually through the soil, this water must be quickly diverted into storm drainage systems. During storms, large volumes of water are channeled into streams and rivers, creating flood control and erosion problems further

downstream. As population density increases, so does the need for costly engineered water-control systems that can take up valuable land area. Permeable pavement systems, that allow natural, gradual filtration, may provide a more cost-effective method of stormwater management.

Pollution from rainwater runoff is another concern, especially in urban areas. Water washing across streets and sidewalks picks up spilled oil, detergents, solvents, de-icing salt, pesticides, fertilizer, and bacteria from pet waste. Stormwater is not typically channeled to treatment facilities, but eventually flows directly into streams, rivers, and lakes. Natural filtration of water through soil is the simplest way to control these pollutants, and is a direct advantage of permeable pavement.

There are many options for permeable pavement materials:

Porous Asphalt: A great advantage to porous asphalt is that the same mixing and application equipment is used as for impervious asphalt. Only the formula for the paving material changes. Small stones are left out of the aggregate, and the amount of tar is reduced. The resulting surface has the same "blacktop" appearance, but contains spaces through which water can pass. A demonstration project using porous asphalt was completed at the Walden Pond State Reservation in Massachusetts in 1977. According to Richard Miller, director of the Lake Cochituate Watershed Association (a group that supports porous paving projects in New England), the parking areas where this material was used are still in good condition after more than 20 years, even in the harsh New England climate.



Click the image for a larger view.
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Source: Document EPA-600/2-80-135 August 1980

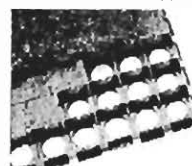
Porous Concrete: Again, the same equipment may be used as for standard concrete. Larger pea gravel and a lower water-to-cement ratio is used to achieve a pebbled, open surface that is roller compacted. Expansion joints are cut using a roller with a welded steel flange. This material was recently used in a 16,400 square foot parking area in Fair Oaks, California as a way to reduce solar heat-gain solar from absorption. Project costs were reduced because no retention pond or connection to the municipal storm drain system was required.



Click the image for a larger view.
Use the Back Button to return to this page.

Source: Kara Construction, Stuart FL.

Plastic Grid Systems: High strength plastic grids (often made from recycled materials) are placed in roadway areas. Some are designed to be filled with gravel on top of an engineered aggregate material, while others are filled with a sand/soil mixture on top of an aggregate/topsoil mix that allow grass to be planted on the surface. The grids provide a support structure for heavy vehicles, and prevent erosion. After heavy rains, the grids act as mini holding-ponds, and allow water to gradually absorb into the soil below. This paving material is often selected for gardens or recreational areas that must support vehicular or pedestrian traffic, but where a more natural appearance is desired. A porous grid system was installed more than ten years ago on East Executive Avenue at the White House in Washington DC to allow both green space and parking in this area.



Click the image for a larger view.
Use the Back Button to return to this page.

Source: Presto Products Company

Block Pavers: This material can be used to create a porous surface with the aesthetic appeal of brick, stone, or other interlocking paving materials. Traditional looking pavers can be specially designed with channels to funnel water between each block, into a substrate of sand and gravel for gradual soil filtration. They are most often used for driveways, entryways, walkways, or terraces to achieve a more traditional, formal



appearance. Several manufacturers that make standard pavers now also offer shapes that provide permeability.

Other pavers feature larger sections cast in honeycomb or lattice patterns which, on an appropriate substrate, allow grass growth through the openings. In some applications, turf conceals the pavers completely, while other designs, grass is kept level with the paver surface to create an architectural grid. Aggregate, shells, or other porous fill materials may also be used.

Installation

Installation techniques vary for the type of permeable material chosen, but in general are similar to requirements for the impervious materials they replace. Engineering of substrate material becomes more critical when porous surfaces are used, with special attention needed in hydraulic design for the overall system. Rainwater must pass easily through the top pavement layer, and the lower layers (often gravel) must have the ability to temporarily store accumulated water while it absorbs into the soil, preferably within 20 to 24 hours. Overall project designs that include permeable pavement may need to incorporate other innovative stormwater management techniques, such as bioretention or vegetative swales, if the system is to handle all drainage needs. The ability of systems to handle 10, 25, or 100 year storm events must be calculated and incorporated into designs as the application requires.

Benefits/Costs

As discussed above, the main advantages to permeable pavement are cost savings compared to typical stormwater drainage systems. Water management is likely to become increasingly important to planners, developers, and communities wrestling with land use issues. Permeable pavement may become an important element in finding solutions to water use challenges while still meeting roadway requirements for traffic load support, durability, and safety. Surfaces that allow natural filtration can have a positive effect on soil quality and vegetation. Restoration of soil moisture recharges aquifers and helps support trees and other landscaping that provide shading and oxygen. Some permeable surface options, especially grid systems, absorb and store much less heat than traditional asphalt, and could help reduce absorbed solar heat gain in urban areas.

Permeable pavement also tends to be less reflective, causing less glare and allowing motorists to see pavement markings better. Even in areas where runoff pollution is not a high concern, some transportation departments are experimenting with permeable, or "open graded" asphalt roadways to reduce the amount of water that collects on road surfaces, which can cause hydroplaning accidents.

Initial costs of permeable paving may be competitive with conventional materials, or somewhat higher. Since the same raw materials, mixing and application equipment are used, there is no technical reason why costs should be higher for permeable material. However, contractors may initially charge higher prices for jobs that involve unfamiliar formulas or techniques. Planning, testing, and engineering fees may also be higher, but these costs are often offset when the need for other types of stormwater drainage is eliminated.

The costs for some of the permeable surfaces currently available are shown below, courtesy of the Center for Watershed Protection in Ellicott City MD:

COSTS OF PERMEABLE SURFACES

Product	Manufacturer	Cost (Square Foot)
Asphalt	Various	\$0.50 - \$1.00
Geoweb®	Presto Products, Inc.	\$1.00 - \$2.00
Grasspave™, Gravelpave™	Invisible Structures, Inc	\$1.00 - \$2.00
Grassy™ Pavers	RK Manufacturing	\$1.00 - \$2.00
Geoblock®	Presto Products, Inc	\$2.00 - \$3.00
Turfstone	Westcon Pavers	\$2.00 - \$3.00
UNI-Eco-stone	Uni-Group USA	\$2.00 - \$3.00
Checkerblock	Hastings Pavement Co.	\$3.00 - \$4.00

Limitations

Not all soils are absorptive enough to provide proper drainage under permeable surfaces. Permeable pavement may also have different maintenance requirements than conventional materials. Sand cannot be used for ice control, since it would fill in openings for drainage. Silt or other material that might wash onto pavement surfaces must be controlled by curbs or other barriers, and may be difficult to remove.

Because permeable pavements are not in wide use, they require special planning and expertise to install. It is not possible to retrofit paved areas with permeable surfaces without re-engineering all substrate and fill materials.

Code/Regulatory

All permeable materials must meet applicable material quality specifications, and requirements for compressive strength, water absorption, and freeze-thaw resistance.

Codes in many jurisdictions require the use of certain types of curbs, gutters, or stormwater piping that would prevent the possible cost savings from permeable surfaces to be fully realized. However, it is expected that regulatory statutes for water quality, especially in urban areas, will become much more strict in the future, requiring the cooperation of developers, planners, and governments alike to utilize innovative systems that will meet water quality standards.

Availability

Porous asphalt and concrete can be supplied by any qualified contractor who is willing to properly prepare and install materials supplied by local distributors. Check the contact list below for sources of porous pavers and grid systems.

Contact(s)**Permeable (also called "porous," "pervious," or "open graded") Asphalt Pavement**

For design criteria, see: www.epa.gov/ednrmrl/repository/abstrac2/abstra2.htm

For Richard Miller's full report on Permeable Pavement at Walden Pond Reservation, see www.millermicro.com/porpave.html

To locate an asphalt paving contractor, contact:
National Pavement Contractor's Association

PO Box 57
Mineral Wells TX 76068-0057
940 327 8041
www.pavementpro.com

Permeable Concrete

Kara Construction, Inc.
Commercial Projects in Florida only
www.perviouspavement.com

Porous Grid Systems

Geoblock® and Geoweb®
Presto Products Co. & Geoweb Systems
670 N. Perkins St.
PO Box 2399
Appleton WI 54912-2399
800-548-3424
www.prestogeo.com

Grasspave™, Gravelpave™
Invisible Structures Inc.
1597 Cole Blvd., Suite 310
Aurora CO 80401
800-233-1510
Fax: 303-233-1522
www.invisiblestructures.com

Grassy Pavers™
RK Manufacturing
PO Box 7300
Jackson MS 39282
800 957 5575
www.rkmfg.com

Nitterhouse Masonry Products, LLC
859 Cleveland Avenue
Chambersburg, PA 17201
717-267-4500
Fax: 717-267-4527
www.nitterhouse.com

Porous Pavers

Checkerblock™
Hastings Pavement Co.
640 Muncy Avenue
Lindenhurst NY 11757
631-669 4900

NDS, Inc.
851 North Harvard Ave.
Lindsay, Ca 93247
559-562-9888
800-726-1994
Fax: 559-562-4488
www.ndspro.com

Mutual Materials
605 - 119th NE

Bellevue, WA 98005
800-477-7137
www.mutualmaterials.com

UNI-Eco Stone™
Uni-Group USA
4362 Northlake Blvd., Suite 207
Palm Beach Gardens FL 33410
800 872 1864
www.uni-groupusa.org

Watershed Protection:


Center for Watershed Protection
8391 Main St.
Ellicott City MD 21043-4605
Phone: 410-461-8323
www.cwp.org

United States Environmental Protection Agency
Office of Water
1200 Pennsylvania Avenue N.W.
Washington DC 20460
Email: ow-general@epa.gov
www.epa.gov/owow/protecting

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VILLAGE CLERK
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VILLAGE TREASURER
Barry MacCartney

VILLAGE ATTORNEY
Robert P. Lewis

January 25, 2005

Re: Courtyard of Upper Nyack DEIS

To the members of the Planning Board:

The Village Board wishes to express its concern over the proposed development known as Courtyard of Upper Nyack as regards the impact on growth and character of community or neighborhood.

On page 2-6 of the DEIS for this proposed development, the applicant states,

“The applicant believes that the market for professional office space in the vicinity is strong and will continue to grow. This belief is based on the applicant’s marketing experience with this type of land use and is consistent with local information.”

Besides the quote from the Rockland County website that follows this assertion, which refers only to growth in non-factory job sectors, the applicant offers no supporting documentation for their assertion that there is a need for this type of development.

Because of the massive scale of this proposed development and the potential negative economic impact if it fails as an medical office complex, you should demand documentation for their assertion. With the newly completed medical office building on 9W in Nyack and the even larger medical office building recently built on West Nyack Road, there may be no demand for an additional development of this type. According to *Rockland Economic Focus*, the newsletter of the Rockland Economic Development Corporation (REDC), the county’s office vacancy rate was 19.9 percent in 2003. Where does it stand today? The applicant should be asked to show that there is a demonstrated need for the type of office space being proposed within at least a five mile radius. An analysis of commercial real estate vacancies in the county would be appropriate.

Similar development has been proposed in Orangetown at the site of the former Rockland Psychiatric Center (RPC). This is opposed by the Pearl River Chamber of Commerce (as stated on their website, www.pear-river.net) for the following reasons:

“While we acknowledge that office space at RPC would be a clean ratable, we must insist that there is not an urgent need for additional professional-sized office space in Orangetown.

- A review of current MLS office space listings for units under 10,000 sq feet yields more than one dozen units totaling 67,000 sq feet. Commercial Real Estate professionals we’ve consulted indicated that 80% to 90% of all such office space IS NOT listed through MLS, so truly were looking at only the tip of the iceberg in terms of available space in Orangetown. Given these figures, the inventory of vacant professional-sized offices available could be estimated to be at least 60 properties and well more than 300,000 square feet!

1-36

- The town is filled with plazas and office buildings eager to rent to long-term professional businesses. Renovation of our current structures is the greatest form of recycling. Creating new office space at RPC will exacerbate current vacancy problems and impact the entire surrounding area.”

Similar arguments can be made against the proposed development known as Courtyard. Empty offices or an abandoned office complex would have a very real negative impact on the growth and character of the community of Upper Nyack.

Very truly yours,

The Board of Trustees of the Village of Upper Nyack

Michael Esmay, Mayor
Karen Tarapata, Trustee
David Smith, Trustee
Vin Morgan, Trustee
Peter Malcolm, Trustee

Letter 22

Robert Geneslaw Co.

PLANNING AND DEVELOPMENT CONSULTANTS

Robert Geneslaw, AICP

Two Executive Boulevard
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Suffern, NY 10901
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FAX 845/368-1572

MEMORANDUM

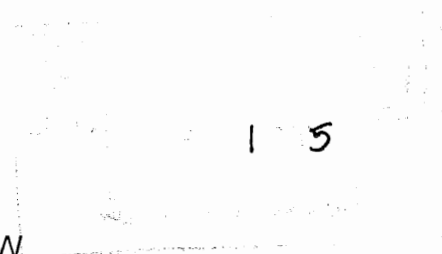
TO: UPPER NYACK PLANNING BOARD

FROM: ROBERT GENESLAW, AICP
SUSAN ROTH, AICP

SUBJECT: COURTYARD DEIS: SUBSTANTIVE REVIEW

DATE: FEBRUARY 1, 2005

CC: DENNIS LETSON, P.E., VILLAGE ENGINEER
ROBERT LEWIS, ESQ., VILLAGE ATTORNEY
PATRICIA JARDEN, PLANNING BOARD SECRETARY



1 5

Introduction

This memo is our substantive review of the DEIS dated September 22, 2004, and items in this memo should be addressed in the FEIS along with all other comment received during the public review period. The Board should direct the applicant to prepare the first draft of the FEIS, for review and comment. However, it is important to remember that the document is the Board's responsibility, and will contain information that will lay the foundation for the Findings Statement, the document that formally concludes the SEQR process. A serious effort should be made to create a document that is as objective as possible, as well as being based on documented sources.

Before the draft FEIS is adopted, it will be reviewed and modified, if necessary, to support the Board's views on the environmental impacts of the project. (For further information about the drafting of a FEIS, please refer to our memo of January 7th, 2005.

Substantive Review

1. In the introductory narrative of the FEIS, please include a description of the original plan submitted by the applicant, and changes that occurred based on the recommendation that the plan assessed in the DEIS be at full development potential, mainly to avoid segmentation of the environmental review (SEQR) process.

- | | |
|---|--------------|
| <p>2. Page 1-2, indicates that all utilities, including sanitary sewer, are available in State Route 9W, while on page 1-22, first paragraph and Section 3.10, page 3.10-5 indicates that sanitary sewer service is available only in Wanamaker Lane. Please clarify.</p> | <p>1-37</p> |
| <p>3. Page 1-4, second to the last paragraph, second to the last sentence states: "In certain locations of the proposed parking area, cast stone walls will be installed to reduce grading disturbance." This statement seems to be inconsistent with the fact that, as proposed, 85% of the site will be stripped and re-graded. Without the walls, will more of the site require grading?</p> | <p>2-5</p> |
| <p>4. Page 1-7, under 1.2.4 Plants and Animal Resources, and Section 3.4.2 Potential Impacts, page 3.4-9 third paragraph, the DEIS indicates that one specimen tree will need to be removed to accommodate grading for the emergency connection road. Were alternatives explored to avoid the removal of the tree?</p> | <p>4-13</p> |
| <p>5. Page 1-8 of the DEIS, third and fourth paragraph, and Section 3.4.1 Existing conditions on page 3.4-1, third and fourth paragraph on page. The third paragraph states that the state does not maintain a habitat ranking program, and the fourth paragraph references the "NYS DEC publication Ecological Communities of New York State (1990)," and classifies the on-site habitat as "Successional Southern Hardwoods," in accordance with descriptions found in this guide. It appears that the two paragraphs contradict each other. Furthermore, in the Appendix, the report submitted by City/Scape cultural resource consultants describes the wooded area as being more typical of an "Upland Deciduous Forest," and indicates that the project lies within the "Northern Hardwood Forest" zone (see page 4 of the report in Appendix E.) Please clarify the classifications.</p> | <p>4-14</p> |
| <p>6. Page 1-10 of the DEIS at the top of the page states that the light posts will be 16 feet tall. The lighting map in the appendix of the document illustrates 14-foot posts. Please clarify.</p> | <p>1-38</p> |
| <p>7. Page 1-22 of the DEIS states that the sewer line that services Wanamaker Lane is expected to be sufficient to service Courtyard at Upper Nyack. In their letter of November 5, 2004, the Department of Environmental Management and Engineering of Orangetown (the provider of sewers for Upper Nyack) indicated that they might not allow connection of public sewers because of current overflow problems experienced at the Upper Nyack Pumping Station. In light of this letter, the FEIS should discuss existing conditions and problems experienced by Orangetown at</p> | <p>10-18</p> |

this pump station and outline potential mitigation strategies to address capacity needs for the project, and where funding would be obtained to correct these deficiencies.

8. Page 1-23, under 1.6, Growth Inducing Aspects. The second paragraph under this heading indicates that the project will not induce future growth. The third paragraph indicates that "on a cumulative basis," increased long term demands for goods and services will have a steady multiplier effect in the project area. These two paragraphs seem to contradict each other. 10-19
9. Page 1-24, under Involved Agencies and Required Approvals/Permits. In their letter of November 3rd, 2004, the New York DEC indicated that this project might also require a section 401 water quality certification from the proposed disturbance of .49 acres of Federally-Regulated Wetlands. Has the applicant confirmed the need for a permit? 4-15
10. Description of Proposed Action, 2.4.2 Operation of Proposed Uses, page 2-6. The proposed plan indicates that the 441 parking spaces that are proposed are based on a mix of professional office and medical office use. What review mechanism can be proposed to insure that the permitted square footage of medical office will not be exceeded? What will happen if the market for one is greater than the market for the other? 1-39
11. Section 3.1.2 Potential Impacts [of Land Resources], page 3.1-4. In the middle of the page there is a discussion of how excess material created during construction of the site will be hauled in 20-yard trucks, resulting in 1581 truck trips along Route 9W necessary for moving the material off site. The document calculates that if 20-yard trucks are used the trips generated from the trucks to move material will equal approximately "10-17 trips" per day plus an equal number of truck trips during the first 6 months of the project construction period. If one is to assume the "worst case scenario" of 34 total trips, in an 8-hour workday, the truck activity from hauling excess material would create 4.25 trips an hour. It is not feasible to be reliant on a longer workday, because of the cost of overtime, and during the spring and fall there is not enough sunlight to work a 12-hour day. The assumption that peak hours would not be impacted does not seem to be realistic, and if it is not feasible to use 20 yard trucks for the duration of the project, traffic entering and exiting the site would be even higher. If peak hours are avoided, then perhaps the duration of earth moving on the site will be longer. In addition, does this calculation include carting trees from the site and trucking space required to accomplish tree removal? 2-6
12. Where is the depository for the excess material generated from site grading? 2-7

13. Section 2.5, Compliance with Village Comprehensive Plan and Zoning Regulations. Page 2-8, Table 2-5 and discussion regarding parking in other municipalities. This discussion has no relevance. The applicant is required to provide parking in accordance with Upper Nyack Zoning. Municipalities vary in terms of parking requirements based on needs and opportunities of individual municipalities. For example, the Village of Nyack has public parking in its main business district, which may offset the need for on site parking. In addition, the focus of Nyack is retention of older buildings within the historic downtown area, which may affect off street parking requirements. As a result, Nyack business district at times experiences parking problems. The Village of Upper Nyack has no public parking within its primary business district on 9W, with no foreseeable opportunity to provide such parking.
14. Section 3.1. Impact on Land, starting on page 3.1-1 The DEIS does not examine alternatives that would reduce the amount of export of material off site. What would the development look like if the grading on site were balanced between cut and fill?
15. Section 3.1.2 Potential Impacts [of Land Resources]. Please provide a graphic representation of how 20 yard trucks would enter and exit the site, and where waiting areas would be for the trucks for loading.
16. Figure 3.1-3, Existing Slopes Categories. Please provide an additional map identifying where slopes exceed 25%.
17. Section 3.1.2 Potential Impacts [of Land Resources], page 3.1-3. The DEIS states that the bulk of the grading will occur in the center of the site. Although it is true that the center of the site will be an area where most of the material is removed, downslope areas will be filled to raise existing slopes, which will result in a change of grade for the site. Therefore, grading will occur over 85% of the site. There is little discussion regarding the impacts that can occur with large amounts of fill, and mitigation strategies are not presented.
18. Figure 3.1-7 shows the entire portion of the wetland as a cut, and Figure 3.2-4 leads the reader to believe that part of the wetlands will be undisturbed. In addition, Figure 3.4-3 shows the entire wetland inside the area where trees are to be removed. This is inconsistent. Please address.
19. Section 3.2, Impact on Water, general comment. Lawler Matusky and Skelly, LLP reviewed the drainage study submitted by the applicant and has several recommendations (See letter dated November 8th, 2004). We concur with their analysis and recommend that additional information, as requested by LMS, be provided in the FEIS. In addition, LMS

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2-8

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2-11

4-16

3-59

observed that no substantial drainage study was prepared for the alternative layout showing the 75 foot buffer, and there is no real basis for comparison of the impact on stormwater drainage in the DEIS. We recommend that a preliminary stormwater drainage plan be developed for the FEIS to allow for realistic comparison of the impact of both plans.

20. Section 3.2.1 Impact on Water, Existing Conditions. Page 3.2-2. Near the bottom of the page, a description of a "small .64 wooded acre wetland" is described. This area was compared to the map in the City/Scape report, (See Appendix E) illustrating the test holes for the cultural resources investigation. Several areas on this map indicate that the soils adjacent to areas delineated as wetlands were wet, and therefore eliminated as possible habitable areas for ancient communities. Several photographs show "wind thrown trees," which could also be the result of roots rotting out because of excess moisture, therefore leaving nothing to support the portion of the tree above the soil. In addition, several of the test holes were abandoned because water was present 4 or 5 inches under the soil. Why were these areas not included in the wetland areas delineated on the map?

4-17

21. Section 3.2.1, Existing Conditions [Impact on Water]. During the public hearing, it was learned that during certain storm events, water flows across one of the properties on Wanamaker Lane, apparently overflowing a headwall or stream bank, and a photograph, showing the water flows, was received by the Board. Please prepare a map to illustrate the flow of the water during this storm event, and what effect the development of this property will have on this particular problem.

3-60

22. Figure 3.2-4 illustrates undisturbed wetland to the edge of the parking curbs. It seems unlikely that disturbance will not occur past the curb delineated on the drawing. Please provide in written or graphic terms how the wetland will be protected during curb and pavement construction. In addition, what would be the impact to the onsite wetland if the naturally flowing stream is piped, and the majority of the wetland is used for development? Would the wetland cease to function?

4-18

23. Section 3.2.2, Potential Impacts [Impact on Water], page 3.2-4, under heading Grading impacts on Stream and Wetland. The DEIS indicates that the "stream would be eliminated by the proposed grading for the development." It is understood that the plans include piping the stream from Route 9W, across the site, to the area of the stormwater easement located between the Menschik and Cohen properties adjacent to the pipe. How will the applicant insure that this runoff will not exacerbate current problems with runoff experienced by these properties? Will the proposed piping increase the velocity of the flow of the water?

3-61

24. Section 3.2.2, Potential Impacts [Impact on Water], page 3.2-4, near the bottom of the page, the DEIS contemplates the use of off-site mitigation. We recommend on-site avoidance or on site mitigation, since it ties directly into the approved site plan and is easier to enforce. The Army Corps of Engineers in their letter of May 27th, 2004 also recommended avoidance. Policing the use of off-site wetlands would be more difficult for the Village to enforce over time. It should never be accepted if the mitigation proposed creates a wetland in an adjacent municipality, since technically this requires the Village of Upper Nyack to enforce a land use in an adjacent municipality. 4-19
25. Section 3.2.2, Potential Impacts [Impact on Water], page 3.2-5, subheading "(ii) Increased Nutrient Loading and Contamination." The larger paragraph under this heading seems to discuss the stormwater conditions, as does the text on this page. The sentence following the paragraph states "The potential for nutrient loading would also be lessened by connecting the proposed development to public sewers rather than utilizing on-site septic systems." Is an on site septic system a realistic possibility, from a physical or permitting perspective? Does the DEIS suggest that nutrient loading of the stormwater system can be solved by connecting the site to the public sewers? 3-62
26. Section 3.2.2, Potential Impacts [Impact on Water], page 3.2-6, second paragraph states that the pollutant loading analysis shows "slight increases" in the amount of pollutants, whereby Section 3.4.2, page 3.4-10, under the subheading "Increased Erosion" indicates a reduction of existing levels of sediment and pollutants. 3-63
27. Section 3.2.3, Mitigation Measures [Impact on Water], page 3.2-9. Second to last paragraph. Please provide draft of maintenance agreement for the SPPP Plan, as part of the FEIS. 3-64
28. Section 3.2.3, Mitigation Measures [Impact on Water], page 3.2-9 and 10. The catch basins mentioned at the bottom of page 3.2-9 should be inspected and cleaned after every major storm event. 3-65
29. Section 3.3.2, page 3.3-6, under the title Short-term Construction related Emissions [Impact on Air]. Because of the proximity of surrounding homes on three sides of the property, the Planning Board should consider limiting construction to an eight-hour workday during weekdays, excluding legal holidays, to lessen the impact of construction noise and emissions to a more acceptable level. 12-6
30. Section 3.3.3, Mitigation Measures [Impact on Air], page 3.3-9, The first sentence under the heading Dust Prevention and Control Measures states "Methods to control dust include minimizing the area of the site which is 12-7

subject to disturbance at any one time (five acres),” What does the “(five acres)” mean?

31. Section 3.4.1 Existing Conditions [Impact on Plants and Animals], page 3.4-3. Second paragraph at the bottom of the page. The DEIS indicates that “to definitely ascertain whether or not it [Thicket Sedge] occurs on the project site additional field surveys will continue to be conducted during the 2004 growing season.” The DEIS does not state whether this has been done, nor does it provide the results of the study.

4-20

32. Section 3.4.1 Existing Conditions [Impact on Plants and Animals], page 3.4-4. Third paragraph from the top of the page. The DEIS states “However, to definitely ascertain whether or not it [Nodding Pogonila] occurs on site additional field surveys will be conducted during the 2004 growing season.” The DEIS does not state whether this has been done, nor does it provide the results of the study.

4-21

33. Section 3.4.1 Existing Conditions [Impact on Plants and Animals], page 3.4-7, fourth paragraph on the page. The DEIS suggests that the wildlife population on site “fluctuates widely” as the animals continuously enter and leave the project site. The example given of the types of species that migrate are deer and wild turkeys. Although it is understood that these species move over larger areas as they forage for food, the majority of the species listed on Table 3.4-2 are non migratory, once they have made themselves a nest or burrow.

4-22

34. Section 3.4.2, Potential Impacts [Impact on Plants and Animals], page 3.4-8, discussion regarding wildlife impacts. Essentially, this discussion implies that most of the on-site wildlife would leave the site at the start of the construction, and live elsewhere, therefore there is no impact to wildlife. This assumption is not necessarily true. Although initially those species that could run off the site would go to other forested areas would do so, however, as competition for food and shelter increase on undeveloped sites or reserve land, some of the wildlife population dies off. This loss of wildlife population is an impact, even if none of the species being displaced are listed as endangered species. This fact is true of any development; the only decision left to the Board is to decide whether or not it is an acceptable loss; or whether some existing habitat, in the form of a required buffer area, should be maintained in order to lessen the impact to a more acceptable threshold.

4-23

35. Figure 3.4-2 shows areas that are to remain undisturbed. Some areas that are to remain undisturbed are shown as cut or fill areas on map 3.1-7. Please clarify.

4-24

36. Section 3.4.2 Potential impacts [Impacts on Plants and Animals] page 3.4-9. The second sentence, first paragraph states, "The project is expected to result in the loss of approximately 9.5 of second growth woodlands." 9.5 of what? Please clarify. | 4-25
37. Section 3.4.3 Mitigation Measures [Impacts on Plants and Animals], page 3.4-10, bottom of page. The DEIS claims that the site was cleared in the early 1960s in anticipation of development. What evidence does the applicant have to support this claim? Is there a particular relevance to the statement, or is it provided for historic perspective? | 4-26
38. 3.4.3 Mitigation Measures [Impact on Plants and Animals], page 3.4-11. Under the title Preservation of Trees, the DEIS suggests that trees within the development areas will be selected and preserved, if possible. It seems to be entirely impractical to retain any trees within the development area, considering the changes in grade on the property illustrated in the grading plan. The applicant should illustrate where it is possible to retain existing trees on the property, given the ambitious grading plan, and the location of pavement on the property. Will the drip line be protected? Will tree wells be used? How will grading and potential changes to the water table affect these trees to be preserved? In addition, it is likely that areas just outside the grading areas will also be affected, resulting in a higher amount of disturbance than 85%, as suggested in the document. | 4-27
39. Section 3.5.2, Potential Impact [impact on Aesthetic Resources], page 3.5-5. The DEIS states that "the construction of the stormwater detention facilities will result in the removal of existing vegetation within the 75 foot buffer from the residential zone boundary located on the subject property." and maintains that a "significant buffer" will be retained on the property and the adjacent property. The mitigation should not include trees on adjacent property, since the area is not under the control of the applicant, and requiring that the buffering stand on its own merit is within the purview of the Planning Board. When the grading plan (Figure 3.1-7) and tree removal plan (Figure 3.4-3) is examined, it is unlikely that much of the natural foliage, with the exception of 10 feet would remain on the property. Virtually none of the existing foliage would remain on the OB zoned portion of the property near the drainage basin. | 5-6
40. Section 3.5.3 Mitigation Measures [Impact on Aesthetic Resources] The discussion is not specific enough to evaluate the landscaping plan in location close to the detention area on the north side of the property. The existing house on tax lots 60.13-2-72 and 60.13-2-73 are within 50 feet of the area to be graded for the detention basin. More detail should be provided regarding the change in grades in this area, with an approximate grade of the existing houses, to explain how much of the drainage basin will be visible from the house on first and second floors. | 5-7

41. Section 3.5.3 Mitigation Measures [Impact on Aesthetic Resources], under the subheading of Landscaping. The DEIS states that "nursery plants are better suited to buffer screening as nursery grown plants are generally fuller than 'volunteer species.'" Although it is true that they are grown in ideal environments and are generally healthier and thicker, smaller plants may be necessary to insure the viability of the plant over time, and full screening will not be achieved for several years. It is doubtful that in the first few years the screening provided by the nursery grown plants would equal that of the naturally occurring woods.

5-8

42. The proposed landscape plan, labeled Sheet L-1, shows an easement around the property for the benefit of the neighbors. If this area is to be counted as part of the buffer, the easement should be removed, since with the easement, the applicant may lose control over the use of the property.

5-9

43. Section 3.7, Impact on Transportation. Please see John Sarna's review of January 10, 2005. (Attached.) John Sarna indicated that "because no left turn lane is provided, southbound traffic on Route 9W, particularly in the A.M. Peak hour, may be subject to some delays behind vehicles waiting to make the left turn into the site." The FEIS should explore the feasibility of providing a dedicated left hand turn lane on 9W into the site.

7-33

44. Section 3.7.9 Mitigation Measures [Impact on Transportation]. The DEIS acknowledges the increase in traffic in Nyack around the intersection of State Route 59 and State Route 9W, and considers the possibility of adjusting timing at the light, and modification of State Route 9W to encourage diversions onto Cemetery Lane, as shown on Figure 3.7-14. John Sarna, the traffic engineer reviewing the plan on behalf of the Village indicates that NYSDOT should be the agency responsible for coordinating plans to improve traffic flows in this area. Although we are essentially in agreement with his findings, another alternative would require the developer to post a bond for a partial cost of the improvement, since the traffic from the project would be contributing to the failure of the intersection's level of service. This bond could be used to offset costs, and perhaps encourage the NYSDOT to put this intersection higher on the priority list for improvement.

7-34

45. Section 4.4 Minimum 75 Foot Buffer Plan [Alternatives], page 4-5 discusses a nine building plan, and the Figure on 4-2 shows ten buildings. Please clarify.

11-17

46. Section 4.4 Minimum 75 Foot Buffer Plan [Alternatives], starting on page 4-5. The comparison of the impacts as it relates to the proposed

11-18

development is not very well substantiated. Please provide the following information:

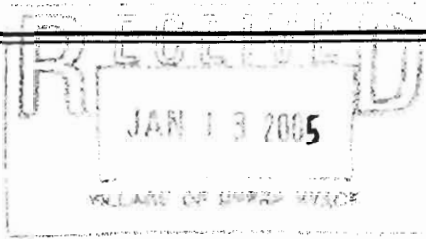
- a. Impact on Land; calculate land disturbance, estimate fill and cut, and number of trips generated from the site.
- b. Impact on Water: provide a preliminary drainage study to aid in the comparison of the two development scenarios, as requested in the LMS letter dated November 8th, 2004.
- c. Impact on Plants and Animals, estimate areas that will remain undisturbed.
- d. Impact on Transportation: revise plan to illustrate traffic generation from site, and estimate traffic impact on all intersections shown in the original report that have no build scenarios of LOS "C" or worse.
- e. Impact on Community Services: Estimate Sewer and Water usage from site, based on Revised Plan.

Please provide a comparative analysis in a tabular form in the FEIS.

47. Section 4, Alternative Section: Please describe an alternative that includes no disturbance to the wetlands as they are currently delineated, as recommended by the Army Corps of Engineers in their letter of May 27th, 2004, and with no discretionary waivers granted by the Planning Board.

11-19

John L. Sarna, P.E.



105 Phillips Hill Road
New City, New York 10956
(845) 634-7851 (tel. and fax)
E-Mail jlsarna@att.net

January 10, 2005

To: Planning Board, Village of Upper Nyack
From: John L. Sarna, P.E.
Re: Courtyard at Upper Nyack
Review of Draft Environmental Impact Statement Dated September 22, 2004

As part of my ongoing review, I have made a review for technical content of the Traffic section of the Draft Environmental Impact Statement for the proposed Courtyard at Upper Nyack, dated September 22, 2004, prepared by Tim Miller Associates, Inc. This is a continuation of the review process which started with a review for completeness of the first draft submission of the DEIS dated March 31, 2004. Although the initial reviews were intended to concentrate on the completeness of the document, during the course of the review a number of questions and concerns were raised covering various technical aspects of the traffic analysis. These items were documented in my memos dated May 6, July 23, 2004 and September 2, 2004, and the responses were incorporated into the subsequent DEIS submissions of July 1 and August 23, 2004. As a result, the final version of the DEIS, dated September 22, 2004, included most of the responses to questions and revisions to the analysis that otherwise would have been addressed in this review.

My remaining comments and findings are presented in this memo.

Capacity Analysis

The one major area of the traffic analysis that was not covered in the previous reviews was the capacity analysis. This analysis was run using the latest version of the Highway Capacity Software (HCS), which is the methodology approved by the New York State Department of Transportation. The traffic volumes used conform to those shown in the several traffic diagrams, and most of the other input data and factors appear to be correct. However, in several of the intersection analyses, notably the signalized intersections of Route 9W with Route 59/Main Street, with High Avenue and with Christian Herald Road, the grades entered for various intersection approaches appear questionable. For example, at the intersection of Route 9W with Route 59/Main Street, the westbound approach, which is on an upgrade, is entered as a six percent downgrade, the northbound approach, which is on a downgrade, is listed as a nine percent upgrade, and the eastbound and southbound approaches, which are essentially flat, are entered as a nine percent upgrade and a six percent downgrade respectively. Similar questionable grades are found on the analyses for the other two signalized intersections. (Note: In examining the capacity computation worksheets, a "+" entry represents an upgrade and a "-" entry represents a downgrade.

7-35

On the site driveway approach to Route 9W the grade is entered as "0", essentially flat, while the site plan shows it as a five percent upgrade. (Note: Any westbound approach in Nyack and Upper Nyack is probably on an upgrade.)

All of the intersection analyses should be checked for grades, and either the entered values should be confirmed or corrected values entered and the analyses rerun.

Old Mountain Road

Old Mountain Road is shown on the traffic diagrams with a channelized right turn on the westbound approach to Route 9W, by-passing the traffic signal. In reality this channelization was closed several years ago. This comment was included in my review of July 23, 2004, and was corrected in one version sent to me, but it apparently did not get into this final version. It should be noted that this is a minor comment, as the discrepancy is not reflected in any of the analyses.

7-31

Use of Site for Overflow Parking

On page 3.7-9 there is a discussion about the use of the site during the evening and on weekends for overflow parking for the two institutional neighbors on the west side of Route 9W. If this could reduce or eliminate the occasional parking along Route 9W, it would be beneficial, but as the site driveways do not line up and there are no sidewalks along Route 9W, the pedestrian crossing may not be safe.

7-35

Overview

The traffic analysis has been done following the standard practice in terms of content and methodology, and is acceptable.

7-38

The purpose of an Environmental Impact Statement is to disclose the conditions and impacts of a particular action or proposal, not to serve as a document of advocacy. The traffic analysis presents the impacts and findings fairly, and meets this standard.

The project does add traffic to the road system. Because the only access to the site is to Route 9W, most of the traffic increases should be confined to Route 9W. The only site-generated traffic which should use Midland Avenue, North Broadway and other streets within Upper Nyack are those trips with their other trip end within the Villages of Upper Nyack and Nyack.

7-39

Because no left turn lane into the site is being provided, southbound traffic on Route 9W, particularly in the A.M. peak hour, may be subject to some delays behind vehicles waiting to make the left turn into the site.

7-40

Based on the presented material, the only intersection which is significantly impacted by the site-generated traffic (subject to any revisions in the capacity analyses – see above) is the intersection of Route 9W and Route 59/Main Street, primarily because this location already exhibits low operating levels. This is an existing problem, and the intersection was included in the scope of the study primarily to document it and point out the need for some action to be taken. Since it is the intersection of two State highways, the NYSDOT should be the agency responsible, and since it is within the Village of Nyack, that village should be the one to take the initiative with the State.

7-41

As I stated in an earlier review, I believe that the distribution of site-generated traffic will be heavier to the south than that assumed in the DEIS analysis. However, the sensitivity analysis, covered in pages 3.7-27 to 3.7-30 and summarized in Tables 3.7-25 and 3.7-26, shows that the increased traffic impact on Route 9W south of the site could still be accommodated by the road system.

7-46

The only mitigation measure presented in the DEIS involves an improvement to the intersection of Polhemus Street with Route 59, with the purpose of diverting a portion of the southbound right turn traffic from Route 9W into Route 59 to High Avenue and Polhemus Street. It does increase the capacity of this route somewhat. However, as it involves two extra turns, including a left turn at a four-way Stop-controlled intersection, and as this routing already exists, the amount of traffic diversion, and thus the benefit derived from this improvement may be relatively small.

7-43

Joseph F. Menschik
Judith Menschik
209 Wanamaker Lane
Upper Nyack N.Y. 10960
January 11,2005

Village of Upper Nyack Planning Board
North Broadway
Upper Nyack N.Y. 10960

My comments are based on my interpretation of Expert and Interested Party comments on the "Courtyard" DEIS. I urge the village to duplicate those documents and place them with the copies of the DEIS that have been distributed by the Village at strategic location for review and comment. It will help residents to home in on appropriate portions of the DEIS, which is a two volume monstrosity, prior to examining the document. The county planning board initial five page report is a must read for every village resident. The other responses also make interested reading. I urge the Village to place all of the comments on the Village web site so that residents can review them at leisure in advance of coming in to look at the DEIS

I

This DEIS is the equivalent of a failing final paper on many levels and the Village should not be a proponent of "**SOCIAL PROMOTION**" based on comments by L.M.S., the County Planning Dept and Orangetown Dept of Environmental Mgt. & Eng. The DEIS clearly shows and adverse impact in the following areas with some having no chance of remediation which is **FATAL**:

1-41

- A) Drainage LMS & County
- B) Sewage Orangetown
- C) Wetlands Mgt County & State
- D) Parking County
- E) Zoning County
- F) Site Plan Design County
- G)Traffic County

ANY ONE OF THE ABOVE DEFICINCIES IS GROUNDS FOR REJECTION OF THE PLAN . "A", "B", &"F" are irreversible as presented.

Page 2

II

The DEIS is ambiguous and/or does not adequately address the following:

- A) Air Quality
- B) Wetlands Management
- C) Drainage from the required buffers
- D) Dust control
- E) Traffic and Transportation
- F) Aesthetics from Rt. 9W
- G) Public Safety

I and II above equate to a clear "F" grade. We should not permit social promotion. This effects our homes, our quality of life, our safety, our Village , and our taxes.

We still have not heard from the following interest parties and I urge the village to affirmatively solicit their comments:

- A) Clarkstown
- B) Nyack (~~not notified of this meeting~~)
- C) Army Corp. of Engineers
- D) Rockland Dept. of Health
- E) NYS dept of Transportation

I am listed as an interested party for a large group of residents. I would like to receive copies of reports from these agencies and the Village Consultants who have not yet sent in their reports (Traffic and Planning).

The five page initial report from the County Department of Planning is a must read for every village family. The author was very thorough and picked up on things that I had never though of. I hope that the Clarkstown report is equally thorough, as we all know of Alex Gromack's concern about drainage issues, which is a major concern here.

The Lawler, Matusky, & Skelly report addressed the DEIS submission but did not appear to go beyond the submission itself. I would like the village to instruct them to asses the drainage implications of the site plan for the buffer areas and what will happen to the easterly neighbors from ground water runoff when the areas that currently catch and remove the water are sealed up (Areas A & B) I would also like them to take a second look at Area B as intuitively I feel that this has to fail at the point that the pipes converge with the runoff from Area A which they show a failing.

1-42

1-43

3-66

Page 3

LM &S is one of our village consultants and I feel they should be more proactive in favor of the Village. I was very unhappy with their assessment in paragraph 3 page 4 of the study that an underground storage facility has a greater likelihood than the detention basins of having deficiencies go unnoticed. I question this conclusion. The Care Matrix. Development had an underground storage facility, which was approved by the Village. The County Planning Board recommends perpetual bonding for the inspection and maintenance of the storage facility to run with the land. The Village should control the inspection and pass on the cost to the landowner. The cost to the developer should not be a concern of anyone other than the developer. The only concern for the Village is that things be done in a way that best serves its residents and has some margin for error in our favor. We have significant evidence of the failure of retention basins. The detention basins at Nyack High School have failed as expressed by our mayor, Michael Esmay, in the last public hearing and we all know that those protecting the Palisades Mall have also failed on multiple occasions in the past year. If they overflow here they will flood our homes and even the best homeowner insurance policy does not cover this. If we had a detention facility under the parking lot, and it failed we would first see the parking lot flooded and high curbs and brumes could serve as an additional retention area. It would then flood the proposed development and finally if this were not sufficient it would flow down hill to us. I think the developer would have more of an incentive to see that the detention plans exceed requirements in this case than as proposed in the DEIS.

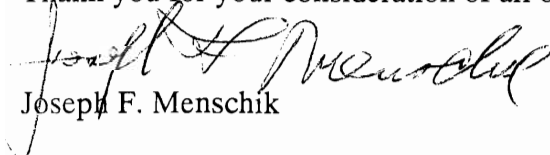
3-67

In this plan we need ~~accountability~~ and a stripping away of the corporate shield for any actual inadequacies of the plans similar to requirements under the Federal Sarbanes/Oxley law that requires personal certification by CEO's and CFO's on financial reports making them personally liable. There is currently a starting trend for this type of legislation and the topic is on a short list of emerging issues being kept under constant review by an insurance industry think tank. I furnished the Mayor with this list as it has a few other issues that could be of concern to the Village too, besides this project.

1-44

We need strong financial guarantees and recourse against the developer and his experts for miscalculation that affect us adversely. **WE LIVE HERE. THEY ARE IN THIS PROJECT FOR FINANCIAL GAIN.** This means serious performance bonding of various types with the ability of not only the Village but also its residents to get at the bonding in the event of a failures as well as personal responsibility on the part of the developer and its experts. We need to up the stakes. It is very high for us; it should not be capped for them.

Thank you for your consideration of all of the above,


Joseph F. Menschik

132 Highmount Avenue
Upper Nyack, NY 10960
January 31, 2005

William Pfaff
Planning Board Chairman
Village of Upper Nyack
328 N. Broadway
Upper Nyack, NY 10960

Dear Mr. Pfaff:

I have been an Upper Nyack homeowner living at 132 Highmount Avenue for 25 years. Over that time I have witnessed numerous developments in Upper Nyack that have changed the face of this idyllic village. During recent years I have been struck by the increase in commercial building along Route 9W. I was therefore alarmed to learn of the proposed Courtyard at Upper Nyack office complex on 9W. As a concerned resident, I wish to express my extreme concern to the Planning Board about this proposal and urge that you consider it with caution.

This tract of land appears to be one of the last areas of wooded property along a road that had expansive woodlands only a short time ago. I lament the loss of the beautiful woodlands and feel it is imperative to protect this section of 9W from further development. In addition to the woods, it is a site of a stream and wetland, a natural world that would never be recovered once development occurred.

5-10
4-28

The proposed development of ten office buildings with parking lots raises serious concerns that the drainage and sewage systems would be overtaxed. I am aware that this area is aligned with a drainage area already in existence across the road where the Missionary Alliance building and Temple Beth Torah stand. It is only reasonable that the overflow onto the proposed development would overtax these systems and would require building expanded drainage and sewage systems at the Village's (and taxpayers) expense. The houses on Wanamaker Lane below the proposed area would appear to be particularly vulnerable to run-off, but it is likely that the ecological consequences would be far-reaching, and perhaps irreparable, in a village that is already experiencing drainage problems from recent development.

3-68

Ultimately, I question the need for another medical complex on 9W. In the last year there was a large medical building constructed just south of the proposed site. As well, there was a medical complex built on West Nyack Road. I also question whether this land should continue to be zoned for commercial property.

1-45

It is my opinion that the preservation of this woodland is a far greater priority for its long-term value to our village than an office complex to satisfy the immediate desire for profit by its developers. The beauty it embodies and the protection it gives our village from further drainage and sewage problems should be given the highest consideration. I urge the Planning Board to guard this land carefully for present residents and for future generations.

4-29

Sincerely,

Glenna Marra

Glenna Marra

Letter 26

February 1, 2005

Planning Board
Upper Nyack Village Hall
328 North Broadway
Upper Nyack, NY 10960

FEB 1 2005

To Whom It May Concern:

As a resident of Upper Nyack I would like to formally log my concern about the new development you are planning on Route 9W.

While our preference, and those of all of our neighbors, is that we have no development along that road, if there must be one, we would like it to be as small, unobtrusive and environmentally friendly as possible.

| 11-20

There are already so many developments occurring, many of them large in scale throughout Upper Nyack, that it would be a real shame to have the very reason we moved here – the “country” feel with a small town community – to be overrun with developments that take away the character that we have known to be Upper Nyack.

| 1-46

Please choose wisely and be environmentally aware as you make your choices, knowing that so many of us in Upper Nyack are completely opposed to all development and are looking to preserve our community.

Thank you very much,

Gisele and Matt Shelley
200 Glenbrook Road
Upper Nyack, New York 10960
845.348.3215

Letter 27

Jan. 27, 01

William Pfaff Planning Board Chairman
Village of Upper Nyack
328 N. Broadway
Upper Nyack, N.Y. 10960

5

Dear Mr. Pfaff,

I am a resident of Upper Nyack @ 501 N. Broadway. The [Old Mountain Stream cuts through my front yard at the corner of Old Mtn. Road. The increase of water in the stream over the last few years has caused extreme erosion, loss of 2 stone walls and several trees. The water is threatening the embankment that holds up the front of our beloved historic home. My concern regarding the development of more paved parking lot areas and general development of this new Medical Center, is the complete erosion of the embankment, and further destruction of the fragile path of this stream.

Have the new developers addressed

3.69

the need for retention pools, and drainage systems that do not include dumping more water (and debris) into this stream?

When there are huge rains and winter storms this stream boils and rages over 10ft. Stone walls! We cannot have anymore water pouring into these streams.

I have financed & maintained the walls for 10 years. And I can tell you that whatever DEIS research was done did not include my property or my neighbors.

Please advise us on a course of action that would improve the drainage problems that are already existing, as well as preventing even more serious flooding in the future.

Patrice Stankovsky
501 N. Broadway
Upper Nyack

845-358-8066

Letter 28

Carol Brotherhood

From: "Barry MacCartney" <unyack@optonline.net>
To: "Carol Brotherhood" <unclerk@optonline.net>
Sent: Friday, January 21, 2005 10:19 AM
Subject: Fw: real estate development

----- Original Message -----

From: JIMinNYACK@aol.com
To: unyack@optonline.net
Cc: welovegoosetown@earthlink.net
Sent: Wednesday, January 12, 2005 10:44 AM
Subject: real estate development

Countryard & Upper Nyack

Dear Sirs:

Due to the weather last evening I didn't make the meeting and I just wanted to add my voice concerning the proposed real estate development. It seems to be quite a big project and with traffic being bad already, is it in the best interest of the community to have this complex here? Also part of the reason that I bought my home here in Upper Nyack is the mix of developed and undeveloped areas. That is the charm of this area, please guard it carefully.

| 1-4-

Respectfully,
Jim Shaughnessy
216 Elm Street

Internal Virus Database is out-of-date.
Checked by AVG Anti-Virus.
Version: 7.0.300 / Virus Database: 265.6.9 - Release Date: 01/06/2005

Internal Virus Database is out-of-date.
Checked by AVG Anti-Virus.
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Laurel Robertson
36 Dickinson Avenue
Nyack, New York 10960

January 21, 2005

William Pfaff
Planning Board Chairman
Village of Upper Nyack
328 North Broadway
Upper Nyack, New York 10960

Courtyard @ Upper Nyack

Dear Mr. Pfaff,

I am writing to you to voice my objections to the proposed plan to build an enormous medical office park on Route 9W in Upper Nyack. I have been a Rockland County resident for 16 years. I have lived in Nyack for 9 years and am the parent of a Nyack High School student. I have concerns for the safety of student's from Nyack High School who drive and walk along this section of Route 9W on their way to and from school.

| 7-44

I have serious reservations about the increased traffic load on an already dangerous and heavily traveled road. I cannot imagine that the construction of the ten two story buildings, each measuring 80' x 45', and surrounded by over 400 parking spaces will be an addition to the landscape. Nyack has so few untouched areas of green left, why must this wooded area be destroyed?

| 7-45

| 6-1

I wonder as well that there is the necessity for such a huge complex in this area. An as yet incomplete Medical Office lies less than one-quarter mile south of this site, while a just completed and largely un-tenanted project is on West Nyack Road in West Nyack approximately four and one half miles away.

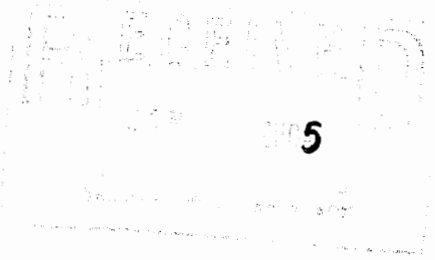
| 1-48

Please vote against building this huge, ugly, unnecessary monolith in our midst.

| 5-11

Sincerely,

Laurel Robertson
Laurel Robertson



January 14, 2005

Upper Nyack Village Board
and
Upper Nyack Planning Board

Re: Proposed Plan for Courtyard of Upper Nyack

We are Upper Nyack residents, living at 511 North Broadway since 1976. During that time, our property has experienced repeated severe and damaging floods. In 2004 alone we experienced 4 floods.

3-70

The primary problem is the limited capacity of the culvert under North Broadway at Old Mountain Road. When the capacity of the culvert is exceeded during a rainstorm, water leaves the brook bed and flows onto North Broadway. It then floods numerous properties, especially ours, on the east side of North Broadway.

Building the captioned project will make this already severe problem much worse. The runoff control plan for the captioned project contemplates delivering the collected runoff from the property into the same brook that already overflows its bed. Therefore, the Village Planning Board should not approve this project.

When the Nyack High School was built in Upper Nyack, we were assured that stormwater discharges into that same brook would be controlled. We now know that we were misled. How can we feel secure that the Courtyard project will do any better?

Courtyard is one proposal for the property on 9W, but there will probably be others, as there have been many in the past. It seems to us that the problem must be addressed once and for all by changing the zoning on this property so that any permitted development is severely limited in how much of the property can be paved.

11-21

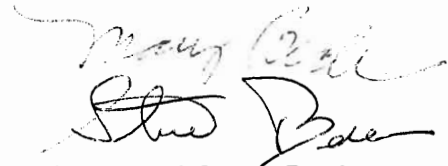
We are happy to see that the Village Board has decided to address our existing drainage problems and has engaged LMS Engineering to study the current situation in a comprehensive way. Approving the Courtyard project would seem to contradict this initiative and in fact totally overwhelm the good it could do for the Village.

3-71

The negative effect on deer habitat and the substantial expense the Village will incur as a result of approving a project like Courtyard are two additional reasons to reject any proposal that would contribute to the stormwater runoff problem from the property in question.

4-30

Sincerely,

Handwritten signatures of Mary Beck and Steve Beck in cursive script.

Mary and Steve Beck

LAWRENCE J. CAMPBELL
502 Spook Hollow Road
Upper Nyack, NY 10960
(845) 353-6418

Letter 31

5

January 12, 2005

William Pfaff, Planning Board Chairman
Village of Upper Nyack
328 North Broadway
Upper Nyack, NY 10960

RE: Courtyard at Upper Nyack

Dear Mr. Pfaff:

This letter is in regard to the proposed development of Courtyard at Upper Nyack.

I have not been able to attend any of the village meetings discussing this project, but wanted to let you and the Planning Board understand I vehemently oppose the development this project. Yes, the added tax revenue would be great as we all face increasing tax rates in the county. However, this is not what Upper Nyack is all about. We are a small, beautiful riverfront community. The commercial development, even along Route 9W, should reflect that with smaller development sites such as at the corner of Midland and Highmount Avenues. This is not a small project and will have ramifications for years to come if approved. Many of which, we as a village, are not even aware of at this time. My immediate concerns are the increase in traffic that is sure to come and potential drainage issues.

1-49

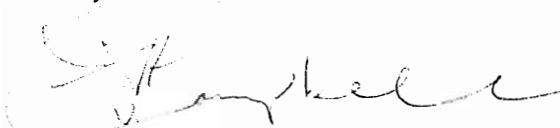
My children will be entering Nyack High School over the next three years and I already have concerns about them and others crossing Route 9W at Christian Herald Road. Drivers are not obeying the "no turn on red" signs as it is and rarely yield to walkers. It seems ludicrous that after sidewalks were put in several years ago along Christian Herald Road and continuing down the upper portion of Old Mountain Road that a crossing signal was not installed at Christian Herald Road and Route 9W as there is at the top of Birchwood Avenue. As no children in Upper Nyack are bused to Nyack High School and most are walkers this is an accident waiting to happen. Allowing Courtyard at Upper Nyack to be built will only hasten this chance. To say students should walk up to Birchwood to cross is silly. Students will not walk the extra distance and go out of their way up to Birchwood Avenue to cross Route 9W. If development of this size is allowed to be built, traffic will increase.

7-46

Drainage is my other concern. Upper Nyack already has drainage issues. A development of this size is sure to cause many others downhill from this site. Regardless of what is planned to minimize drainage problems, they will occur. If this project is allowed to continue, the village needs to ensure it has protected itself from having to pay the cost of correcting problems later that are a direct effect of this project. As a taxpayer in the Village of Upper Nyack, I do not want to pay to fix a problem that has been caused by the development of this commercial site.

Thank you for allowing me to voice my concerns regarding this matter.

Sincerely,



Lawrence J. Campbell

Letter 32

DENNIS E. A. LYNCH
Attorney at Law
51 North Broadway
Nyack, New York 10960

(845) 353-3500
(845) 353-3529 - fax number

January 5, 2005

WILDER BALTER PARTNERS LLC
570 Taxter Road, 6th Floor
Elmsford, New York 10523

Attention: Thomas Imperato, Development Project Manager

Re: Courtyard of Upper Nyack

Dear Mr. Imperato:

Please be advised this office represents the Nyack Joint Fire District and is an Interested Agency in the above-captioned project. In that regard, would you kindly forward to the undersigned any and all past or future submissions by your Company concerning the above Project including, but not limited to all SEQRA material.

1-50

Very truly yours,


Dennis E. A. Lynch

DEAL/sd

cc: Nyack Joint Fire District

TOWN OF CLARKSKTOWN
Department of Planning

TOWN OF CLARKSTOWN
Planning Board

JOSE C. SIMOES, Town Planner
ROBERT GENESLAW, Planning Consultant
10 Maple Avenue
New City, New York 10956-5099
(845) 639-2070 (phone)
(845) 639-2071 (fax)
planning@town.clarkstown.ny.us



SHIRLEY J. THORMANN, Chairwoman
RUDOLPH J. YACYSHYN, Vice Chairman
GILBERT J. HEIM, Member
MARVIN S. BAUM, Member
GEORGE A. HOEHMANN, Member
RICHARD C. SHOBERG, Member
ROBERT D. JACKSON, Member

January 28, 2005

5

Bill Pfaff, Planning Board Chairman
Village of Upper Nyack
328 North Broadway
Upper Nyack, New York 10960

RE: Courtyard at Upper Nyack Draft Environmental Impact Statement

Dear Mr. Pfaff:

The Clarkstown Planning Board reviewed the Declaration of Lead Agency and SEQRA documents for the above referenced project at their meeting of August 9, 2003. At that time, the Planning Board recommended that the Upper Nyack Planning Board require that an Environmental Impact Study be undertaken to address the following potential environmental impacts:

1. Land Disturbance
2. Traffic
3. Drainage
4. Air Quality
5. Visual Impacts
6. Community Character

We thank you for providing us with the opportunity to review the DEIS for the Courtyard at Upper Nyack. Many of the impacts of the development of this project may affect the Town of Clarkstown, in the sense that shared resources, such as roads, are proposed to be utilized. In addition, protecting community character and open spaces and preventing land disturbance and associated drainage problems are also of paramount importance to the Town. At our meeting of January 24, 2005, the Clarkstown Planning Board unanimously passed a resolution to forward to you the following comments and concerns on the Courtyard at Upper Nyack DEIS:

1. **Land Disturbance.** The proposed extensive cutting and filling of the property gives no consideration to the existing topography of the site. The limits of disturbance come within 20 feet of the property lines at places. This is likely to adversely impact what little vegetation is proposed to remain around the periphery of the site. The Planning Board recommends that the 75-foot buffer required in the Village Code be left undisturbed to protect existing vegetation that screens the site from surrounding residences and prevents soil erosion.

2-12

Soil analysis is provided for soil types WeC (Wetherfield gravelly silt loam, 8-15%) and WuD (Wetherfield-Urban land complex, 15-25%). The soil map provided seems to show that the site contains soil types WeC and WeD, not WuD. A new soil analysis may be necessary.

2-13

- Traffic and Transportation.** The DEIS discusses how excess soil and debris generated during construction of the site will be hauled in 20-yard trucks or 12-yard trucks, resulting in 3162 or 5270 truck trips, respectively, along State Route 9W. The DEIS also states that all truck trips would head north on State Route 9W and would occur during the first six months of construction. Although the DEIS states that all trips are planned during off peak hours, this would be hard to enforce, given the hauling of material off site will most likely occur when it is most efficient in terms of keeping up with construction schedules. The impacts of the additional trucks on traffic patterns on State Route 9W are not addressed in the DEIS. State Route 9W north of this site has heavy traffic at times, road capacity that is often limited to two lanes, and is winding. We request more serious consideration of the traffic impacts of construction traffic from this site, particularly where these truck trips would turn off Route 9W onto Town roads. Consideration should also be given to the impact of this truck traffic on vehicles exiting Nyack High School.

7-4

The estimated post construction traffic generated from the site during the peak A.M. hour is 159 trips, and for the peak P.M. hour, 161 trips. Vehicles entering and exiting the site will affect area traffic patterns, especially on major thoroughfares. Several intersections surrounding this site currently have levels of service D, especially those on State Route 9W and State Route 59 leading to the Thruway. Even without the proposed construction, the intersections of State Route 9W and Main Street (Route 59) are predicted to have a level of service F. Mitigation is not proposed, since these areas affect State-owned roads, and it is assumed that the State will provide the funding to address traffic concerns. However, the road improvements may not be made for some time, since the State's priorities for funding may not include this portion of State Route 9W and State Route 59.

7-48

- Drainage and Wetlands.** The Planning Board is particularly concerned that the runoff from the 7.75 acres of the Christian Missionary Alliance and Temple Beth Torah properties located on the west side of Route 9W will be piped through the site to an existing drainage system on Wanamaker Lane. The existing stream and wetland on the property allows some recharge and evaporation of runoff, thereby reducing the contribution to the existing drainage system. We question whether the existing system can handle the additional increased flow that will result from piping the drainage from the properties on the west side of Route 9W along with the increased runoff from this development. Furthermore, a failure or obstruction in the proposed pipe could create significant flooding problems to the site and surrounding neighborhood.

3-73

The DEIS states that only 0.49 acres of wetland will be impacted, necessitating a US Army Corp of Engineer's Nationwide Permit # 39. The proposed cutting and filling of the property includes the entire 0.64 acres of the wetland, thus indicating that more than 0.49 acres will be involved. It seems that this project would not be covered under the Nationwide Permit #39, as it will impact more than 0.5 acres of wetlands, and does not show any mitigation as required by the applicable general conditions.

3-74

The DEIS contemplates the use of off-site mitigation of disturbance to wetlands. Creating a wetland offsite on a separate tax lot, possibly in Clarkstown, could be a potential problem. If the owner fails to pay taxes for this lot, because it does not have income producing viability, the lot may be seized for payment, and could become a liability to the Town or Village.

3-75

4. **Air Quality.** With the up to 5270 truck trips for removing soil and debris, and other construction equipment on the site, air quality will be affected by exhaust emissions and dust generated during construction. In addition to prohibiting idling of delivery trucks, idling of construction equipment should also be limited.

12-8

5. **Visual Impacts.** The DEIS makes no mention of the potential impact of the development on the views from the Long Path at the top of the Palisades escarpment.

5-12

6. **Community Character and Growth Inducing Aspects.** The DEIS indicates that the project will not induce future growth. In the way of support businesses, little exists along this stretch of State Route 9W, and the project could increase growth potential in the immediate area, which may in turn increase traffic along State Route 9W. Upper Nyack zoning permits offices and business offices by right, and other permitted uses, that are allowed by special permit include restaurants, delis, a variety of retail uses, hair salons, etc; many of which can generate traffic during regular business hours and lunch hours.

10-20

The proposed plan requires discretionary waivers by the Upper Nyack Planning Board. Although waivers may often be necessary for a reasonable development layout, this may not be the case in this instance. A more reasonable layout of the property is obtained by not infringing on buffers, as shown in the Alternate layout Figure 4-2, and nine building full scale plan located in the Appendix, labeled "Site Development Plan, 75 foot Buffer." To allow use of the buffer solely to increase the size of the development is not prudent. Although the granting of waivers does not directly impact Clarkstown, the granting of this waiver has an impact on the suburban/rural setting enjoyed by Clarkstown residents in this area.

1-51

If you require additional information please contact the Clarkstown Planning Department at 639-2070.

Sincerely,


Shirley J. Thormann
Planning Board Chairwoman

C: Supervisor Alexander Gromack
Clarkstown Planning Board
Rockland County Planning Department

APPENDIX C

Public Hearing Transcripts

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STATE OF NEW YORK : COUNTY OF ROCKLAND
PLANNING BOARD : VILLAGE OF UPPER NYACK

----- X

PUBLIC HEARING
In the Matter of
COURTYARD AT UPPER NYACK, LLC

----- X

Upper Nyack Elementary School
336 North Broadway
Upper Nyack, New York
November 8, 2004

B E F O R E:

- WILLIAM PFAFF, Chairman
- BRUCE BIAVATI, Member
- ALAN ENGLANDER, Alternate Member
- WILLIAM McDOWELL, Member
- ELLEN SIMPSON, Member
- NORWELL THERIEN, Member

P R E S E N T:

- ROBERT P. LEWIS, JR., ESQ.
Village Attorney
- PATRICIA JARDEN,
Planning Board Secretary
- DENNIS LETSON,
Village Engineer

A P P E A R A N C E S:

ROCKLAND & ORANGE REPORTING
20 South Main Street
New City, New York 10956
(845) 634-4200

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Proceedings

THE CHAIRMAN: Good evening.
Can everyone hear me, clearly?
All right.

Good evening, Ladies and
Gentlemen. This is a special meeting of
the Village of Upper Nyack Planning
Board for a public hearing as part of
the public comment period on the Draft
Environmental Impact Statement for the
proposed Courtyard At Upper Nyack
Project located at 365 North Highland
Avenue, Route 9W, Upper Nyack, New
York.

I think it's appropriate before we
get started with the meeting to give an
overview of the proposed project,
identify the purpose of tonight's
meeting and let the public know where
this project is with respect to review
by the Planning Board.

In terms of project description,
the Applicant proposes to construct
10 commercial buildings containing a
total of 65,882 square feet of mixed

1 Proceedings

2 commercial space on the 11.19-acre site
3 that lies in the OB, Office Business,
4 Zoning District.

5 I would also note that a small
6 portion of the Applicant's site at the
7 eastern end of the site lies in the R2,
8 Residential Zoning District, and no
9 development is proposed in that portion
10 of the site.

11 The proposed development, also,
12 includes parking for 441 cars, related
13 travelways for those cars, new access to
14 Route 9W, earthwork, grading, retaining
15 structures, drainage piping and
16 structures, including storm-water
17 detention and water-quality facilities
18 and installation of utilities, walks,
19 sitting areas, landscaping and other
20 on-site amenities.

21 The project fronts on State Highway
22 Route 9W and requires that all utilities
23 to be extended into the site, including
24 water, sewer, electric and drainage.

25 Required project approval that's

1 Proceedings

2 district.

3 In addition, the Zoning Code allows
4 17 other categories of use in the
5 district by special permit per review by
6 the Planning Board.

7 The Applicant is proposing a mix of
8 professional and medical office use at
9 this site, which are permitted uses in
10 the zone.

11 The Applicant is not requesting and
12 does not require zoning variances for
13 the proposed project as submitted.

14 The Applicant is requesting, as
15 part of what's being proposed, a
16 reduction of the 75-foot buffer zone on
17 the north and east sides of the property
18 where it abuts residential zones.

19 A little overview on the project
20 history as it relates to the Village:
21 The Applicant first came before this
22 Board on June of 2003 with the proposed
23 application, and, as part of reviewing a
24 project, the New York State, through the
25 State Environmental Quality Review Act,

1 Proceedings

2 requires that a, fairly, formal
3 environmental review process take
4 place.

5 As part of that, the Planning Board
6 declared itself lead agency for this
7 review process at a subsequent meeting.

8 The Planning Board and its
9 consultants reviewed the Environmental
10 Assessment Form that the Applicant
11 submitted and determined that the
12 proposed project was an unlisted action
13 and determined -- and made a positive
14 declaration.

15 A positive declaration means that
16 the project would have significant
17 environmental impact and requires that
18 the Applicant prepare an Environmental
19 Impact Statement for the project.

20 This Public Hearing is part of that
21 - is part of that process.

22 After the positive declaration was
23 made, the Board and its consultants put
24 together or identified the items that it
25 determined were important for

1 Proceedings

2 has come up here, but I, actually, got
3 my hands on a copy of the study today,
4 and I would implore everybody to get
5 hold of it because we've raised the
6 concerns but, surprise, surprise, this
7 doesn't address any of the concerns that
8 we've raised.

9 There's statements in here the
10 proposed office park development has
11 potential to generate ancillary
12 services, but the current building, the
13 permit right now is only for
14 professional or medical use.

15 So, to Jim's point, there will be
16 no restaurant or ancillary services.
17 These people will be on the road at
18 lunchtime.

19 So, you move down in the study and
20 it says the development is predicted to
21 generate, approximately, 159 trips
22 through the a.m. peak hour, 161 trips
23 during the p.m. peak hour. Nobody talks
24 about lunchtime in this study.

25 Um, a couple of other points.

7-12

1 Proceedings

2 Sixth Avenue at U.S. Route 9W shows
3 an increase in delays in the p.m. peak
4 hour. Because of the availability of
5 alternative routing, traffic may be
6 diverted to parallel streets, reducing
7 delays at Sixth Avenue. They then don't
8 say what they're gonna do about that
9 diverted traffic.

10 Who is it who talked about
11 Birchwood having no sidewalks for our
12 kids? They're talking about diverting
13 traffic as if, hey, it's okay if Sixth
14 Avenue and 9W gets choked, everybody
15 else will take another route.

16 Somebody here talked about the
17 death of a young boy, five years ago.
18 That was a neighbor right behind me. I
19 witnessed that. I don't want to see it
20 again. You know why it happened?
21 Because drivers realize that coming off
22 9W, they could make a quick hit down Old
23 Mountain onto Midland. The same thing
24 is gonna happen here if we don't take
25 care of business. People are gonna see

7-13

7-14

7-15

1 Proceedings

2 that 9W is congested, they're gonna have
3 a hard time coming out at lunchtime and
4 trying to make a left on 9W, they're
5 gonna make a right on 9W and they're
6 going to fly down Birchwood.

7 I heard somebody say right now that
8 people go down at 40 miles an hour.
9 It's a lot more cars going down at
10 40 miles an hour.

11 What else is in here?

12 Um, there's a lot of verbiage here
13 about the site access driveway, the
14 intersection sight distance. The
15 reference -- I won't read the whole
16 thing, but, apparently, it seems to be
17 addressing the ability of drivers to see
18 up and down Route 9W as they come out of
19 their driveway, and it says,
20 essentially, the intersection sight
21 distance could be achieved by reducing
22 the speed limit of U.S. Route 9W from 35
23 to 30 miles an hour and posting advisory
24 signs on U.S. 9W and site access
25 driveway or relocating the driveway

7-16

1 Proceedings
2 further north. Great. These measures
3 are not proposed at this time.) Somebody
4 needs to read this, and the Village, the
5 people of this Village have raised
6 concerns which this Impact Study does
7 not address. If this is the final copy,
8 it is, seriously, lacking.

9 I want to put on the record that I
10 want to see this addressed. I have
11 already joined the fight against this
12 and I will not stop until this protects
13 the residents of Upper Nyack.

14 Thank you.

15 (Clapping.)

16 THE CHAIRMAN: Okay. We've gone
17 through the list of people who have
18 signed up to speak.

19 Is there anyone here who has not
20 spoken but is interested in commenting?

21 Yes.

22 And if you would just identify for
23 the record your name and where you live.

24 MR. SAUNDERS: I'm Burton Saunders,
25 608 North Midland.

1 Proceedings

2 First of all, I want to compliment
3 this gentleman over here. I think you
4 knew more than the engineers. I can't
5 believe that these engineers have a
6 degree, sign a statement, when they
7 don't realize that they're taking a -
8 oh, let me see - a 30-inch line going
9 into a 25-inch.

10 A VOICE: 24.

11 MR. SAUNDERS: I think a
12 six-year-old should know that that can't
13 be done.

14 A VOICE: They don't care.

15 MR. SAUNDERS: Now, I'm gonna
16 suggest something which no one else has
17 suggested. We just voted down a four
18 and a half million dollar bond issue,
19 which I, personally, wasn't approving
20 of, but two things:

21 Number one, doesn't the Federal
22 Bureau have to be involved when you're
23 destroying wetlands? Don't you have to
24 stay 100 feet away from any wetlands?
25 And if there is a significant wetlands,

10-14

4-6

1 Proceedings

2 you can't touch it. You can't eliminate
3 it. You have to stay 100 feet away from
4 it.

5 So, I would propose something
6 different.

7 Why doesn't -- [these people have
8 spent a lot of money purchasing the
9 land, going these surveys, you can't
10 expect them to go away. They're not
11 gonna disappear. They're entitled to
12 make a profit. I'm going to suggest
13 that we give them the profit, float a
14 bond issue and make this a park.] It
15 can't be more.

16 (Clapping.)

17 THE CHAIRMAN: Thank you.

18 Yes.

19 MR. BARKER: Hi. I'm Lynn Barker,
20 237 Birchwood Avenue.

21 I just would like to say that
22 people do fly up and down that street,
23 and, you know, a lot of the streets that
24 run that way, east-west, on these hills,
25 at certain times of the day, are blinded

11-8

7-17

1 Proceedings

2 by the sun, and I've lived on there
3 almost 13 years, and my neighbor Ted
4 Koczynski will remember this incident,
5 too, a kid was hit one spring or summer
6 day by someone driving up the hill who
7 was blinded by the sun. I don't think
8 she wasn't going, particularly, fast.
9 Thank God, he wasn't hurt, badly. The
10 ambulance came, took him to Nyack
11 Hospital, he was there a few days. It
12 was, extremely, frightening, but, you
13 know, if traffic is diverted and we have
14 people speeding to get home, I think,
15 you know, potential for an accident
16 waiting to happen is just, you know,
17 increased, exponentially.

18 Thank you very much.

19 THE CHAIRMAN: Thank you.

20 (Clapping.)

21 MR. McCLEARY: My name is David
22 McCleary. I'm at 400 North Midland, and
23 we're right at the corner of Midland and
24 Birchwood there right at the bottom of
25 Birchwood where it ends, and, first of

1 Proceedings
2 all, we just moved here a couple years
3 ago and it's really a special community
4 here, it's a great Village, and I hate
5 to see it change so drastically - a
6 Village that we took so long picking out
7 and a place that we really - really felt
8 at home and we loved. I hate seeing
9 that. That's an aside, but [what I
10 really wanted to mention was, in just a
11 couple years that my wife and I have
12 been here, we can sit on the front porch
13 and just count the number of cars that
14 go right past the stop signs there.
15 They just, you know -- you know, it's
16 not a stop, it's a slow down to 40 miles
17 an hour and keep going at 50. And it's
18 really -- I mean it's ridiculous. And
19 if you add in the people who want to get
20 home from work, who are late for work or
21 are trying to zip through the roads to
22 avoid all the stop lights, you have
23 traffic - traffic signs, traffic lights
24 are all well and good. You know, they
25 control things as best they can, but the

7-18

1 Proceedings

2 fact of the matter is a bad traffic
3 pattern is a bad traffic pattern, and I
4 think that overloading these small
5 streets with all this traffic is a bad
6 idea.

7 (Clapping.)

8 THE CHAIRMAN: Is there anyone else
9 who would care to speak, make a comment
10 about this?

11 Yes.

12 MS. COLBURN: Yeah. I'd just like
13 to say that --

14 THE CHAIRMAN: If you would just
15 identify your name.

16 MS. COLBURN: My name is Marlene
17 Colburn. I live at 208 Highmount
18 Avenue, which is two blocks away from
19 this proposal.

20 I don't understand how most of us
21 only found out about this because we got
22 a note from the concerned citizens. We
23 didn't hear about it from the Planning
24 Board, and I know that it's in the
25 library and it's in Village Hall. There

1 Proceedings

2 has to be -- there should be some system
3 where we can figure out what's going on
4 in our own Village and not find out
5 about it like a week or two before the
6 Village Board is having this open
7 meeting.

8 Because this effects all of us.

9 It effects us more than it's gonna
10 effect the developers, whether it
11 happens or it doesn't happen, and,
12 perhaps, maybe, the Board and the
13 Village Hall needs to figure out a
14 better way of notifying us about stuff
15 like this.

16 When we want to build a fence, we
17 have to get a permit, we have to go
18 through all kinds of stuff and if you
19 don't get it, somebody shows up and
20 says, well, why didn't you do it, why
21 don't you have this stuff. Meanwhile,
22 we've got this multimillion-dollar
23 proposal going and we wouldn't know
24 anything about it if it wasn't for the
25 concerned citizens, and I'd just like to

1 Proceedings

2 say thank you to them, but I wish that
3 the Board and the Village Hall would
4 come up with a better method of
5 informing the people what's going on.

6 That's all I got to say.

7 (Clapping.)

8 THE CHAIRMAN: Well, maybe, we'll
9 discuss, take a few minutes to discuss
10 that.

11 I mean the current requirements for
12 a property owner who is coming before
13 the Planning Board is to notify adjacent
14 property owners within a 500-foot
15 radius, I believe it is, and this
16 project falls into those requirements
17 and that's what this Applicant has
18 done.

19 The project has, actually, been
20 before this Board since June 2003.

21 Outside of -- if, you know, people
22 who don't - do not fall within that
23 radius, notification or identification
24 of what's on Planning Board agendas, I
25 believe are posted on-line.

1 Proceedings

2 MR. LEWIS: Website.

3 THE CHAIRMAN: On the Village of
4 Upper Nyack website.

5 A VOICE: We all don't have one.

6 ANOTHER VOICE: And I don't have
7 one.

8 THE CHAIRMAN: Okay. And, as a
9 starting --

10 ANOTHER VOICE: We want notice in
11 our mailbox.

12 THE CHAIRMAN: Okay. And, as a
13 starting point, the Planning Board meets
14 the third Wednesday of every month, and
15 the agenda for those meetings are,
16 again, as I said, you know, posted on
17 the Village website. Also, call to the
18 Village Hall, you know, prior to any
19 month's meeting and Pat Jarden or anyone
20 in the Village Hall would, certainly,
21 you know, be glad to tell you what's on
22 the agenda for that month's Planning
23 Board meeting.

24 MAYOR ESMAY: It's also posted in
25 the Village Hall.

1 Proceedings

2 THE CHAIRMAN: It's also posted on
3 the door of the Village Hall.

4 MR. LEWIS: And in the newspaper.

5 THE CHAIRMAN: And then just one
6 other, with respect to an Applicant
7 prior to a public hearing, they are
8 required not only to notify the
9 neighbors within 500 - within 500-foot
10 radius of their property, they also do
11 have to post a notice on their property
12 that's visible from the roadway.

13 Yes.

14 MR. BORST: John Borst, 505 North
15 Broadway.

16 I know I spoke once before but just
17 to address it, I think the resident was
18 -- we understand that that's the current
19 procedure, but I think her question
20 was: Shouldn't there be something
21 better than that?

22 This is 500 feet. This is a
23 development that effects the whole
24 community.

25 So, we, as a community, and you, as

1 Proceedings

2 to, at least, advise everyone what the
3 current method is.

4 MR. BORST: The current procedure.

5 THE CHAIRMAN: That's correct, but
6 I think it is honorable to take into
7 consideration and discuss, later.

8 MR. BORST: That's the answer I was
9 waiting for. Thank you.

10 MR. SARNA: If anybody who does
11 have Internet access or E-mail would
12 like a copy of the Executive Summary of
13 the Draft Environmental Impact Statement
14 or would like me to send an E-mail about
15 when the Courtyard At Upper Nyack is on
16 the Planning Board agenda, because I
17 check the website every month and I try
18 to attend the meetings, if you just talk
19 to me after the meeting and give me your
20 E-mail address, I'll be happy to take on
21 that burden of making sure that people
22 know when - when this is on the agenda.

23 (Clapping.)

24 THE CHAIRMAN: Is there anyone else
25 who would care to make a comment who has

1 Proceedings

2 not spoken?

3 (No response.)

4 THE CHAIRMAN: Okay. Any Board
5 Members?

6 Susan, you look like you have
7 something to say.

8 MS. ROTH: Excuse me?

9 THE CHAIRMAN: Any comments?

10 MS. ROTH: No, I don't have any
11 comments for this application.

12 THE CHAIRMAN: Okay. All right.

13 With that, Dennis, we've gone
14 through the -- I think all -- anyone
15 who's here to make a comment.

16 So, we can close this portion of
17 the public hearing. We would just like
18 to get a little direction regarding the
19 S.E.Q.R.A. requirements for the
20 remainder of concluding the public
21 hearing and what the extent of the
22 public comment period will be.

23 A VOICE: Louder.

24 MR. LEWIS: If you could extend the
25 time from 30 to 40.

1 Proceedings

2 MR. LETSON: You can do one of
3 several things at this point given that,
4 you know, nobody in the audience --

5 A VOICE: We can't hear anything
6 back here.

7 MR. LETSON: Given there are no
8 additional speakers wishing to be heard
9 in the audience, the Board has the
10 option of closing the public hearing at
11 this time, but, given that there were, I
12 think, probably, a half dozen people
13 that you had called that were -- either
14 had to leave for whatever reason or are
15 not here to speak, I don't know whether
16 that, in and of itself, would be the
17 desired course of action without the
18 possibility that the Board may want to
19 consider, as one of the commenters had
20 suggested, extending the comment period,
21 and that would do two things.

22 It would kind of, I think, get a
23 happy medium between the fact that there
24 are several people here who, for
25 whatever reason, are not here and didn't

1 Proceedings

2 have an opportunity to speak when you
3 called their name, and would also
4 account for, as the speaker had
5 indicated, the upcoming holidays, for
6 Thanksgiving and such.

7 So, I think my suggestion might be
8 to close the public hearing but extend
9 the public comment period, and I think
10 that that would, probably, accommodate
11 everyone's interests.

12 THE CHAIRMAN: Okay. So, if we
13 extend that to 45 days, let's just get a
14 calendar and see what that date is.

15 MR. BIAVATI: Who is taking the
16 notes? Do we have a secretary? Where
17 is Pat?

18 Oh, okay.

19 I move that we close the public
20 hearing --

21 THE CHAIRMAN: No. We just want to
22 consider where we end up. I get
23 December 20th or thereabouts.

24 MR. LETSON: Or December 23rd.
25 Forty-five days is six weeks and three

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days. Would be the 23rd, close of
business on the 23rd.

MR. BIAVATI: Of December?

THE CHAIRMAN: Yeah,
December 23rd. Is that what you said?
The day before Christmas Eve?

MS. SIMPSON: No. Christmas Eve is
the 24th.

MR. LETSON: I would rather close
it then and whatever comes in, give them
the 45 days, 45 days.

THE CHAIRMAN: So, setting that as
the closure date for the public comment
period?

MR. LETSON: Right.

THE CHAIRMAN: As of that date.
That's just saying that all written
comments need to be in by that date?

MR. LETSON: Right. Comment -
comment received after that date would
not be part of the record.

THE CHAIRMAN: And then, from that
point, they would have all the comments
available?

1 Proceedings

2 MR. LETSON: They have to respond,
3 too, with additional studies, whatever
4 other has to be generated in order to,
5 adequately, address those comments.

6 THE CHAIRMAN: Okay. All right.

7 MS. ROTH: Just make sure that
8 everybody understands that --

9 THE CHAIRMAN: Dennis, extending it
10 to 45 days, is that the Board has -- you
11 know, that's not a request. The Board
12 doesn't need to request that. The Board
13 has -- that's part of what the Board can
14 do?

15 MR. LETSON: No. The statute very
16 clearly reads, "Comment will be received
17 and considered by the lead agency for no
18 less than 30 calendar days."

19 MR. LEWIS: You can make it longer.

20 THE CHAIRMAN: Right. Okay.

21 MR. LETSON: No less than 10
22 calendars days following the public
23 hearing at which it has considered.

24 MR. LEWIS: And we're only going to
25 close the public hearing as to the

1 Proceedings

2 review of the D.E.I.S.

3 THE CHAIRMAN: Right.

4 MR. LEWIS: Yeah. Not the site
5 plan. That one will be continued.

6 THE CHAIRMAN: Before everyone
7 leaves then, what was just discussed
8 here was the extent of the public
9 comment period for this project.

10 Tonight's meeting was a public
11 hearing wherein people were allowed to
12 make verbal comments that will get
13 entered into the record and the
14 Applicant does have to incorporate these
15 comments into the Final Environmental
16 Impact Statement.

17 This is not the end of the public
18 comment period for the Draft
19 Environmental Impact Statement.

20 The Board is going to determine
21 that that period extend for 45 days from
22 today, which would be December 23rd,
23 which means that additional written
24 comments can be submitted to this Board,
25 and those comments would be considered

1 Proceedings

2 following this meeting --

3 MR. STEEN: Oh.

4 THE CHAIRMAN: -- within which
5 additional written comments can be
6 submitted.

7 So, that's not a meeting date.

8 MR. STEEN: I see. I misunderstood
9 then.

10 MR. LEWIS: It's not like tonight.

11 MR. STEEN: So, the next --

12 THE CHAIRMAN: The next meeting
13 regarding this project would be either
14 upon submission of an initial version of
15 the Final Environmental Impact
16 Statement.

17 MR. LETSON: I think the Board
18 would, probably, want to have another
19 meeting once all of the comments are
20 received to put the comments together
21 and forward them, formally, to the
22 Applicant to be addressed --

23 THE CHAIRMAN: Okay.

24 MR. LETSON: -- in preparation of
25 the Final Environmental Impact

1 Proceedings

2 Statement.

3 THE CHAIRMAN: So, which would -
4 which would, Dennis, which --

5 MR. LETSON: You want to announce
6 that you still got a hearing going.

7 THE CHAIRMAN: Excuse me. We're
8 still in the process of this meeting. I
9 would just ask that people who are
10 congregating and talking, if they would
11 please stop talking or if they, you
12 know, choose to leave, please continue
13 the conversation outside of this room.

14 Thank you.

15 Dennis, would that kind of a
16 discussion or meeting - would that best
17 be done in another special meeting or is
18 that something you think could be done
19 in the context of a normal Planning
20 Board meeting?

21 MR. LETSON: Given the level of
22 comment that was delivered tonight and
23 the possibility for additional written
24 comment from the public, at large, and
25 their whatever consultants they choose

1 Proceedings

2 to hire, I would imagine that that
3 would, probably, be a dedicated meeting,
4 whether it be a regularly-scheduled
5 meeting or a special meeting, but, at
6 least, it's going to be limited to one
7 application.

8 THE CHAIRMAN: So, if the public
9 comment period runs to December 23rd and
10 then we have this subsequent meeting to,
11 essentially, just review, kind of go
12 over, organize the range of comments
13 that have been made, I would anticipate
14 that would be done sometime early
15 January. Certainly not --

16 MR. LETSON: I would imagine so.

17 THE CHAIRMAN: -- not be between
18 the 23rd.

19 MR. LETSON: No.

20 THE CHAIRMAN: So, we'll set some
21 kind of meeting that I would anticipate
22 would be outside the normal Planning
23 Board meeting which would be for the
24 Monday of January, again, would be the
25 third Wednesday in January.

1 Proceedings

2 MR. LETSON: I would expect so.

3 THE CHAIRMAN: Okay.

4 A VOICE: There was one other
5 comment I'd like to make, if I may.

6 THE CHAIRMAN: Yes.

7 SAME VOICE: First, I want to say
8 that I'm very grateful that Michael and
9 so many others here have made such clear
10 and consistent indications about what we
11 might find in our lives should this just
12 proceed the way that we see this plan
13 suggest it might proceed.

14 I am the last house on North
15 Midland, and I stood in this very room
16 when it was as full, some years ago, as
17 it is tonight, and I listened to all
18 kinds of -- I looked at all kinds of
19 pretty pictures on a tripod and all
20 kinds of indications were made and
21 assurances were given with regards to
22 what might occur should these develop --
23 these RK be developed at the end of
24 North Midland. I will tell you that
25 since that work has begun, I have stood

1 Proceedings

2 -- I'm 6-3 and I have stood in my
3 basement in 10 inches of water -
4 10 inches of water. I brought a ruler
5 down there with a camera to make sure
6 that, you know, I have information
7 should I ever need it to document
8 certain things. I've stood in 10 inches
9 of water, several times, while two sump
10 pumps at either end of my basement
11 pumped water of that basement.

12 So, we heard a lot of water
13 stories.

14 On some level, I thought you didn't
15 need to hear one more, but I do hope
16 that, you know, many of us here can give
17 you the kind of support that you may
18 need because you're between a rock and a
19 hard place in many ways. I appreciate
20 that. You get a very consistent message
21 from many who are here about what we
22 don't want to see. At the same time,
23 you have people who own property who may
24 well want to sue you, who may want to
25 exercise their rights as property

1 Proceedings

2 found, in the review of this project to
3 date, that we've gotten some extremely
4 important comments from the public when
5 we've thrown in -- open to comments to
6 the public, and I think we've got some,
7 extremely, critical comments today that
8 will, certainly, help this Board in
9 reviewing this project.

10 So, again, I'd like to thank
11 everyone for having interest in it.

12 Again, we -- the written -- the
13 period of public comment for submitting
14 additional or new written comments is
15 extended or will end on December 23rd,
16 and, following the end of that, sometime
17 early January, I would anticipate that
18 this Board will have a special meeting
19 regarding this project to review those
20 comments before the Applicant prepares
21 the Final Environmental Impact
22 Statement.

23 And yes. Your name?

24 MR. KOCZYNSKI: Ted Koczyński,
25 239 Birchwood Avenue.

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2 I'm going to be leaving this area.
3 I'll be at sea for about the next
4 90 days. Can I E-mail in my comments
5 and will they be looked at?

6 THE CHAIRMAN: Absolutely.
7 Absolutely.

8 MR. KOCZYNSKI: Is there an E-mail
9 address?

10 THE CHAIRMAN: Yes, there is. I
11 don't know if Pat --

12 Pat, what's the E-mail address?

13 MR. LEWIS: I think you need a
14 motion now.

15 MR. BIAVATI: I move that we close
16 the public hearing on the --

17 THE CHAIRMAN: Wait.

18 MS. SIMPSON: Would you stop.

19 THE CHAIRMAN: Actually, I want to
20 read - I want to read the E-mail
21 address.

22 Pat, it's what? It's pbclerk --

23 MS. JARDEN:
24 pbclerk@optonline.net.

25 THE CHAIRMAN: -- @optonline.net.

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2 MS. ROTH: Or submit it in writing
3 to the Village.

4 THE CHAIRMAN: So, again, comments
5 on the project can submitted in writing
6 or E-mailed to the Planning Board Clerk.

7 Is there a motion now?

8 MR. LEWIS: A motion only to
9 close the --

10 THE CHAIRMAN: Close the public
11 hearing on the Draft Environmental
12 Impact Statement.

13 MR. BIAVATI: I move that we close
14 the meeting on the Draft Environmental
15 Impact Statement.

16 THE CHAIRMAN: The public hearing?

17 MR. BIAVATI: The public hearing on
18 the Draft Environmental Impact Statement
19 and continue the acceptance of written
20 comments for 45 days, until
21 December 23rd.

22 MS. SIMPSON: Second.

23 THE CHAIRMAN: All in favor?

24 (Response of aye given.)

25 MR. LETSON: Now, we have to

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continue the site plan, the public hearing on the site plan.

MR. BIAVATI: I move that we continue the site plan public hearing.

MS. SIMPSON: Second.

THE CHAIRMAN: All in favor?

(Response of aye given.)

MR. LEWIS: Okay. That's it.

MR. LETSON: Motion to adjourn.

THE CHAIRMAN: Motion to adjourn. Right.

THE FOREGOING IS CERTIFIED to be a true and correct transcription of the original stenographic minutes to the best of my ability.

Kathryn Lebeau

STATE OF NEW YORK : COUNTY OF ROCKLAND

VILLAGE OF UPPER NYACK PLANNING BOARD

----- x

PUBLIC HEARING FOR THE
APPLICATION OF
COURTYARD AT UPPER NYACK

----- x

Upper Nyack Village Hall
326 North Broadway
Upper Nyack, New York
January 11, 2005

B E F O R E:

WILLIAM PFAFF, CHAIRMAN

ELLEN SIMPSON, MEMBER

BRUCE BIAVATI, MEMBER (absent)

NORWELL THERIEN, MEMBER

WILLIAM McDOWELL, MEMBER

PATRICIA JARDEN, CLERK TO THE BOARD

A P P E A R A N C E S:

ROBERT P. LEWIS, ESQ.,
VILLAGE ATTORNEY

ROCKLAND & ORANGE REPORTING
20 South Main Street
New City, New York 10956
(845) 634-4200

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THE CHAIRMAN: Good evening, everyone.
I'd like to thank everyone for making an effort to attend tonight's meeting given the poor weather conditions we have tonight.

Tonight is the second public hearing as part of the extended public comment period for the proposed Courtyard in Upper Nyack project and review of the Draft Environmental Impact Statement.

This public hearing, as well as the previous public hearing, which was held November 8th, is part of the required public comment period for the Draft Environmental Impact Statement on the proposed Courtyard in Upper Nyack project.

This public hearing is being held to provide an opportunity for the members of the public to enter their comments into the record regarding the Draft Environmental Impact Statement and the site plan proposed project.

Tonight's meeting, in addition to the previous meeting held on November 8th, a transcript was produced of the November 8th

2 meeting, and all comments that were given
3 verbally at that meeting and all comments
4 that have been written or submitted in
5 writing to the Village are part of the
6 official public comment of the Draft
7 Environmental Impact Statement.

8 Upon conclusion of the public comment
9 period, the applicant will prepare a Final
10 Environmental Impact Statement. The Final
11 Environmental Impact Statement will undergo
12 a further review process.

13 All public comments made during this
14 public hearing meeting, meaning, again,
15 tonight and at the previous meeting on
16 November 8th, and all comments also received
17 in writing throughout the public comment
18 period, will be addressed by the applicant
19 in preparing the Final Environmental Impact
20 Statement.

21 In addition, the applicant will address
22 all comments made by the Planning Board, the
23 Planning Board's consultants, all identified
24 involved agencies and all identified
25 interested parties.

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Proceedings

With respect to the structure for
tonight's meeting, in order to give everyone

4 the opportunity to comment at this public
5 hearing, the meeting will be structured as
6 follows, and similarly to the previous
7 meeting:

8 Those wishing to speak, must sign-in.
9 I currently have a sign-in sheet here of
10 those who have identified themselves so far
11 that they wish to speak. Speakers will be
12 called in the order in which they sign-in.
13 We're asking that speakers limit their
14 comments to a maximum of five minutes.

15 As the purpose of this forum is to hear
16 and record a wide range or as wide a range
17 of public comment as is possible, the
18 Planning Board and the applicant are not
19 commenting on or discussing individual
20 speakers' comments during this public
21 hearing.

22 So, with that overview, I will open it
23 up to the speakers who have signed up to the
24 speak.

25 The first person on the sign-up sheet

1 Proceedings 5

2 is James Sarna, 305 Fairview Avenue.

3 MR. SARNA: I spoke at the last
4 meeting. So I won't duplicate any of those

5 comments. Two quick comments.

6 One is that I'd like to urge the Board,
7 because of the weather tonight, to consider
8 having another date for another hearing
9 because I've gotten several phone calls and
10 e-mails from people asking me, is the
11 meeting proceeding tonight? I'd like to be
12 there. I can't get out because of the snow
13 or it's not safe. So I'd just like to make
14 that comment.

15 The comment that I'd like to address
16 for the EIS is, it appears that there's been
17 some activity on the site, on that 11 acre
18 piece of property. Some people have come to
19 me and said someone was on the property
20 cutting some trees down. I know that the
21 developer is not here to comment on that
22 tonight, but if there has been any activity,
23 I would like it to be disclosed in the
24 Environmental Impact Statement what
25 activities happened on the property of any

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substantive nature from the November public hearing through today, and, if there has been that activity, how is that authorized?

Thank you.

MR. IMPERATO: I have a question about that comment. I'm Tom Imperato from Wilder Balter Partners. We're one of the partners in Courtyard of Upper Nyack and I just wanted to follow-up to your comments to get some clarification.

The activity that you were talking about in one of your comments, was that since the November public hearing or was that from the beginning of the EIS process?

MR. SARNA: I've been told that happened since the November public hearing.

MR. IMPERATO: Thank you.

THE CHAIRMAN: The next listed person to speak is Joseph Menschik, 209 Wannamaker Lane.

MR. MENSCHIK: Mr. Chairman, my comments are based on my interpretation of expert and interested parties comments on the Courtyard DEIS.

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2 I urge the Village to duplicate those
3 documents and place them with the copies of
4 the DEIS that have been distributed by the
5 Village at strategic locations for review
6 and comment.

7 It would also help residents to home in
8 on appropriate portions of the DEIS, which
9 is a large two volume study, prior to
10 actually examining the document.

11 The County Planning Board filed an
12 initial five page report that must be read
13 by every Villager in my opinion. The other
14 responses make interesting reading as well.
15 I urge the Village, if possible, to place
16 all of the comments on the Village website
17 so residents may be able to review them at a
18 leisurely place and then go to look at the
19 DEIS.

20 In my opinion, this DEIS looks like the
21 equivalent of a failing final paper on many
22 levels and the Village should not be a
23 proponent of social promotion based on
24 comments by Lawler, Matusky and Skelly, one
25 of the consultants, the County Planning

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Department, the Orangetown Department of Environmental Management and Engineering. The DEIS clearly shows an adverse impact in the following areas, with some of them having no chance of remediation, which is a fatal flaw:

Drainage was addressed by Lawler, Matusky and Skelly and the County Sewage by the Town of Orangeburg Department of Environmental Management and Engineering, which clearly said the sewage system cannot accommodate the development, wetlands management by both the County and the State, parking by the County, zoning by the County, site plan design by the County and traffic by the County. Any one of the above deficiencies is grounds for rejection of the plan.] In my opinion A, B and F are irreversible as presented.

The DEIS is ambiguous and does not adequately address the following areas:

Air quality, wetlands management, drainage from required buffers, dust control, traffic and transportation,

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esthetics from Route 9W and public safety.
One and two above equate to a clear F grade.
We should not permit this kind of social
promotion of the project.

This affects our home, our quality of
life, our safety, our Village and our taxes.

We have not heard from many other
interested parties who have been noticed on
this. I urge the Village to affirmatively
solicit their comments, particularly,
Clarkstown, Nyack, the Army Corp. of
Engineers, the Rockland County Department of
Health and the New York State Department of
Transportation.

I am listed as an interested party for
a large group of residents and would like to
receive copies of the reports from these
agencies and the Village's consultants who
have not yet sent in their reports, namely,
traffic and planning.

The five page initial report from the
County Department of Planning is a must read
for every Villager. Its author was very
thorough and picked up things that a lot of

1
2 us who have looked through the DEIS have
3 missed. He was so thorough as to count the
4 actual parking spaces and find that the plan
5 listed one number and was significantly
6 short of that number. Therefore, we're
7 really short of parking spaces.

8 I hope the Clarkstown report, which a
9 week ago had the County report in hand when
10 it comes in, will be as thorough. I know
11 Alex Gromack, the County Supervisor, is very
12 concerned about drainage issues and this is
13 a major concern here.

14 Lawyer, Matusky and Skelly's report
15 addressed the DEIS submission, but did not
16 appear to go beyond the submission itself.
17 I would like the Village to instruct them to
18 assess the drainage implications of the site
19 plan for the buffer areas and what will
20 happen to the easterly neighbors from ground
21 water runoff when the areas that currently
22 catch and remove this water are sealed up,
23 namely areas A and B in the DEIS. I would
24 like them to take a second look at area B
25 as, intuitively, I feel that this area has

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to failed like A has failed at the point where A and B converge. This is just an intuitive feeling on my part, but I would appreciate if somebody could ask a question that they take a second look at it.

Lawyer, Matusky and Skelly is one of our Village consultants and I feel they should be more active and proactive in favor of the Village. I was unhappy with their assessment in paragraph three of page four of the study, that an underground storage facility has a greater likelihood than the detention basins of having deficiencies go unnoticed. I question this conclusion.

The Can Matrix Development had an underground storage facility, which was approved by the Village, after a thorough study. [The County Planning Board recommends perpetual bonding and inspection and maintenance of the storage facility to run with the land. The Village should control this inspection and pass on the cost to the landowner.] The cost to the developer should not be a concern to anyone other than the

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2 developer. The only concern for the Village
3 is that things be done in a way that best
4 serves its residents and some margin for
5 error in our favor.

6 We have significant evidence of
7 the failure of retention basins. Detention
8 basins at Nyack High School have failed as
9 expressed previously at the last meeting by
10 our Mayor, Michael Esmay. We know that the
11 detention basins at the Palisades Mall have
12 also failed because Route 59 has been
13 flooded on a couple of occasions. If they
14 overflow here, they will flood our homes and
15 even the best homeowner insurance policies
16 written do not cover this. If we had a
17 detention facility under the parking lot and
18 it failed, we would first see the parking
19 lot flooded. High curves and berms could
20 serve as additional retention areas. It
21 would then flood the proposed development
22 and, finally, if that were not sufficient,
23 it would flow downhill to us.

24 I think the developer would have more
25 of an incentive to see that the detention

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plans exceed requirements in this case than
as proposed in the DEIS.

In this plan, we need an accountability
and a stripping away of the corporate shield
for any actual inadequacies in the plans,
similar to the requirement under the Federal
Sarbanes-Oxley Law that requires personal
certification by CEOs and CFOs on financial
reports making them personally libel for
deficiencies of their subordinates.

There is currently a starting trend for
this type of legislation and the topic is on
a short list of emerging issues being kept
under constant review by an insurance
industry think tank. I previously furnished
the Mayor with this short list as it has a
few other items on it that could be a
concern to the Village too, besides this
project.

We need strong financial guarantees and
recourse against the developer and his
experts for miscalculations that affect us
adversely. We live here. They're in this
project for financial gain. This means

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2 serious performance bonding of various types
3 with the ability of not only the Village,
4 but also the residents to get at the bonding
5 in the event of the failure, as well as
6 personal responsibility on the part of the
7 developer and its experts. We need to up
8 the stakes. It's currently very high for
9 us. It should not be capped for them.

10 Thank you for your consideration of all
11 of the above.

12 THE CHAIRMAN: Thank you.

13 The next person on the list to speak is
14 Jeffrey Friedberg, 425 Tompkins.

15 MR. FRIEDBERG: I just got here. I
16 don't know how I got to the top of the list.

17 I guess my concern is that I just
18 wanted to mention tonight, this type of
19 project is not why I moved to this community
20 nine years ago and I can just imagine a
21 night like this with 456 spaces filled with
22 people leaving at the end of the day and
23 pulling out onto 9W, where the speed limit
24 is 35 miles an hour, which most of us know
25 that most people drive between 45 and 55

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2 miles an hour as it is on that stretch of
3 road. I just think it's not realistic. 1

4 Many years ago, there was a horrific
5 accident on Midland Avenue in Upper Nyack
6 and that's why there are, to my
7 understanding, these stop signs at the
8 corners of Birchwood and Midland Avenue.
9 It's a four-way stop and I don't know how
10 many of us realize how many people don't
11 stop correctly for those stops signs. [I
12 think it's asking for a project like this,
13 with the amount of parking spaces, the
14 amount cars exiting onto the road, proximity
15 to the high school, it's an accident waiting
16 to happen.] Many times I've seen accidents
17 at the corner of 9W and Christian Herald
18 Road, which is, in the existing situation
19 is, people zoom on these roads and having
20 people come on and off the road, I just
21 don't think it's realistic to have this
22 quantity of traffic in our community.

23 That's all I wanted to say. Thank you.

24 THE CHAIRMAN: The next person is Sally
25 Bell, 110 Birchwood Avenue.

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MS. BELL: I'd like you to think about what your responsibilities are. You're all residents of Upper Nyack; are you?

THE CHAIRMAN: To be a member of the Board, you have to be, yes.

MS. BELL: Just thinking for you to reflect on your responsibilities here. You're looking to serve the best interests of all the citizens of Upper Nyack. Is that why you're here? And these people who have come, presumably, bought property, looking for an exemption, perhaps a zoning change, for whose benefit?

I would like you to really think in your heart what your moral responsibility is in this issue. There are so many details that have been brought forward by people who are much more experienced and have the time and expertise to follow up on the details. But I think the overriding concept is, this is not good for anybody. [It's not good for the high school students who will be hit.] It's not good for the proliferation of pollution.] We have a neighbor who's having

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tremendous difficulty adding a garage and he has plenty of square footage on his property. You have to get permission to cut down a tree in the community. And you would even contemplate for more than a passing second eradicating woodlands on 11 acres in Upper Nyack. Where is the problem?

You don't need to cave into the demands of this corporation. They're here and they know probably that this is wrong for a little community to have a large production like this, 10 buildings in a little community and they're representing someone else who has lots of money and doesn't need anymore. That's wrong. Think about it.

So you don't need to do anything else, but to do what is right. You have enough details already to make a good decision.

THE CHAIRMAN: Thank you. There are no more listed people signed up to speak. So I'll open it up. Is there anyone who has not signed up who would care to speak?

MR. SAUDERS: Burton Saunders, North Midland. Since the last meeting, I've been

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2 taking articles out of the newspapers as to
3 how other areas of the County are buying
4 space, land, for open space. Here's Ramapo
5 who is buying 60 acres. Now, someone is
6 paying for it. I've been told Upper Nyack
7 cannot afford to buy this property,
8 that conceivably, it would cost each and
9 every household in Upper Nyack \$1,000.00.
10 Some of us have more funds than others and
11 I'm not that familiar with the procedure,
12 but I am sure there are grants available to
13 do this.

14 Let the people -- I can't tell whether
15 these people need more money or not. That's
16 in their heart and someone else can't tell
17 me, well, you're rich or you're poor or I
18 can't afford this. What I'm saying is,
19 there are grants out there. There's
20 wetlands. We heard that there's a herd of
21 deer that resides there and I think this is
22 the way to go. Give the people their
23 profit, whatever it is, and we can fund this
24 over 10 or 20 years. We who are living here
25 now aren't going to be the only ones to

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benefit. Our heirs will benefit. Our future will.

I think the Planning Board -- the wrong people are being blamed. The Planning Board shouldn't be blamed. They have to follow the law. When that property was zoned commercial or whatever it's zoned, that wasn't their fault and no one spoke up against it at that time. So we have to live with what it is. [I think the only way we can do it, in my un-educated opinion, is to get grants and buy it] and forget about the seven or \$10,000.00 tax receipts that we're going to be getting.

11-16

I'm sorry I missed Mr. -- the insurance man talk because I know he's very knowledgeable, but I think we should try to get a grant.

Thank you.

MS. McWHINNEY: My name is Susan McWhinney, 310 Front Street. I'm a new Nyack resident and first time homeowner. This is a little off the cuff. So I will write a letter to the Board within the

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appropriate time period.

But being new to Nyack and having chosen Nyack for a number of reasons, I have to say it breaks my heart to think of something like this coming into the community. [I was driving by that space tonight and looking at it and seeing how lovely it is in the snow. Moving up here from the City, I really moved up here to get this environment, to be able to have a sense of community and a Town and have that natural beauty in close proximity to a wonderful City as New York, is a very rare and wonderful thing. I think it would be a shame for all of us to lose that.

As a safety concern, I lived on Front Street and that's sort of the jog point where High Mountain comes down from 9W. People take it as a cut through between Broadway, Midland and 9W. Where it jogs, it comes down High Mountain, comes down from 9W, it hits Front Street and it jogs and then drops down to Midland. That's an area where a lot of kids on my block play. It's

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a dead end street on Front Street and that area has tons of kids playing on it. They're on their skateboards. They're on their bicycles. They play basketball. They play hockey. It's great because these kids have this chance to play there. I see cars already tearing down that straight and near misses. It would just be a shame for you to see traffic on this street and run the risk of having one child hurt or possibly killed.

I also moved to Nyack because I'm a bicyclist. I know a lot of people have their own issues with cyclists, but, as a group, I think we're pretty responsible and I ride on 9W a lot and I have many friends and I know of many people who have been hit on 9W. It's a hard road to ride on. It's supposed to be a shared road. Myself and those people I know try to ride as responsibly as we can, but I'm thinking of the increase in traffic in that area and I'm thinking of over a year's worth of construction with large trucks, which don't always have clear site lines turning in and

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2 out of a construction site. I personally do
3 not want to be smacked by the construction
4 trucks and I don't want anyone I know or
5 care about smacked by a construction truck.
6 And I don't want a truck driver feeling they
7 hurt a bicyclist. Those things would all be
8 a shame.

9 So I do urge the community to consider
10 this carefully.

11 THE CHAIRMAN: Lawrence Kintisch, 208
12 Hilltop Drive. I hadn't planned to speak,
13 but I was listening to many of the points
14 that Mr. Menschik said and the lady who has
15 left already.

16 At the last hearing I made some
17 comments about the traffic congestion
18 because traffic is one of the things I
19 studied in graduate school and it caused me
20 to think of something that was published in
21 the 1970's during the start of the
22 environmental movement. Perhaps you had not
23 heard of this, so I'm going to spend 30
24 seconds and review with you a concept called
25 the Tragedy of the Commons.

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In the Villages of England, the Village would be here, and surrounding the Village would be a large common set of pastures and each farmer or shepherd would put his few sheep into the commons and they would all share the greenery and they would graze. Each of the farmers, each of shepherders would have the following equation in his head: if I add one more sheep, it will not hurt the commons. And each of the hundred farmers, therefore, added one more sheep and it didn't hurt the commons. And then they said again, well, if I had one more sheep, it would hurt, and, eventually, of course, the commons became over-grazed.

The same thing happens when you have an arterial highway. So if you may remember Route 59 when it was probably a cow path -- it was before my time. I came here in 1976 having gone through the horrors of Route 9 in the Poughkeepsie corridors where I lived for six years, watching every new strip mall along the side add to the highway traffic. Eventually, they spent millions

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upon millions of dollars trying to redevelop the highway.

Well, this is a two-lane road. It has very little room for expansion and what happens is, every little store adds to the traffic and eventually you have traffic flow that becomes totally congested at times because each one is adding only one or two, and here we're talking about, at certain times, adding 10 or 20 per change or 10 per change of light.

Those of you who see the kinds of traffic we get here in the summertime because of people going to the lake, we know that the traffic builds up and becomes congested and, at certain times, you cannot go on 9W.

So the point of this, with respect to the development is, every single square yard, every acre, does not have to be developed. Of course, we have to come up with alternatives if somebody owns the land and, therefore, has the right to develop it. And perhaps the suggestion that, Mr. Mayor,

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2 you send a letter around and see if people
3 want to, under these circumstances, buy-out
4 the owners and leave it undeveloped, but for
5 every new development along Route 9W, there
6 will be additional traffic flow against the
7 commons, which is our highway, and we have
8 to live with that and, I'll tell you, it's
9 not going to be pretty in 20 years if every
10 foot going up the hill, pieces of the park
11 are taken over through changes here and
12 changes there.

13 That's all I wanted to add. Thank you.

14 THE CHAIRMAN: Thank you. Is there
15 anyone else here who would like to speak?

16 MR. GREENBERG: Jerry Greenberg. I
17 apologize for coming late. I apologize,
18 also, if I'm repeating anything that's been
19 said before, but I've reviewed the County's
20 Planning Board analysis of this project and
21 I've reviewed just about every other State
22 and County analysis of this project and, [the
23 bottom line is, our infrastructure cannot
24 handle the sewage. We can't. We're going
25 to have put in a whole new sewage system

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Proceedings

just to handle this and that means increased taxes for everyone.

The drainage, according to the County, cannot be handled appropriately.

The traffic cannot be handle appropriately.

And for those of you who are interested in other things, there's a five page report down in the Village that explains everything in gross detail as to why this project is just impossible to pull off without destroying the environment, the traffic and the quality of life and the sewage and the drainage in our Village. That's just the County's assessment.

I appreciate the eloquent analysis of sheep and goats and cows and whatever else, but if the developer decides to sue the Village and we go in with a sheep and goats and cows defense, we're in a lot of trouble. If we don't come up with the money for some of our own experts to counter the developer, we're going to have this project, guys.

I mailed you all a letter. Anyone who

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signed up at the last hearing, I mailed a letter. If you haven't gotten a letter, call me up. I'm Jerry Greenberg. I'm on Wannamaker Lane. I'll send you a letter. But we can't go in and argue with a sheep and goats and cows defense. We've got to have scientists saying this just isn't going to work.

Thank you.

THE CHAIRMAN: Is there anyone else who hasn't spoken who cares to speak?

MS. VEGA: People have just been referring to reports. For those of us that are interested that may not know, like myself, what reports are available and where can we access them to get more information?

THE CHAIRMAN: Okay. As a starting point, the document that these comments are addressing, which is the Draft Environmental Impact Statement, is a document that's available at the Village Hall for review by anyone. It's also available at the Nyack Public Library and the Valley Cottage Public Library.

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In addition, during this period of public comment, there are a list of official, what are termed, interested agencies, and those agencies have issued comments regarding this. Again, those comments are available at the Village Hall for review by anybody and if someone chooses to make copies of that, they could get copies made of that.

In addition, copies of written comment that are submitted by the public are available at the Village Hall and there is a transcript of the November 8th meeting at the Village Hall, which is a transcript of all the verbal comments that were made by speakers at that meeting and they'll be, following this meeting, we have a Stenographer here, so all comments are being recorded and a transcript of tonight's meeting will be available for review.

So, with that, essentially, the Draft Environmental Impact Statement and all the comments by the public and interested agencies that were made regarding those

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documents were available for your review.

Mr. Sarna, what?

MR. SARNA: My comment was actually going to address that. If anybody would like any of the information -- there are a few of us who have tried to get those copies. We have an executive summary of the Draft Environmental Impact Statement. So instead of the two volumes, with all the maps and everything, it's an easily E-mailed document. We also have copies of all of the comments as of last week that have been submitted in Village Hall. Again, I can E-mail that to people and if anybody has any comments that they would like to add or circulate, I've got a mailing list of about 25 people and local residents and people who have expressed a concern and you can send an E-mail to Truth at We Love Goosetown dot com and we'll get that E-mail. I have some fliers that some of us have printed up and we'll be happy to send that out to anybody who has any questions and any information that you don't have readily available, if we

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have it, we'll send it to you immediately.
And if we don't, we'll get it. Okay.

MS. McWHINNEY: If anyone does want to see this, it can be found at the library. Just go down to the reference section in the library.

THE CHAIRMAN: Just to reiterate also, the next step in this process is for the applicant to prepare a Final Environmental Impact Statement based on the draft document that we are commenting and reviewing.

The Final Environmental Impact Statement document is required to address all of the comments during this public comment period. So that means all of the verbal comments that have been made that are, again, incorporated into the transcripts of the November 8th meeting and tonight's meeting, all of the written comments that are submitted during the public comment period to the Village and then the comments made by the interested agencies, any reports or any documents they issue in response to Draft Environmental

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Impact Statement.

Susan, I guess the Board -- we are going to really discuss a format so that -- it's this Board's concern that there be a rational method to verify, to really index and verify that these comments are addressed.

MS. ROTH: Basically, all the comments of those agencies should be included. Once the FEIS, a draft of the FEIS, which will be FOILable, we'll be able to have a complete appendix

THE CHAIRMAN: In other words, the FEIS, Final Environmental Impact Statement is part of the appendix to that volume, it would be the actual transcript of tonight's meeting and the November 8th meeting and any written correspondence submitted to us.

UNIDENTIFIED AUDIENCE SPEAKER: When is that Final Environmental Impact Statement?

THE CHAIRMAN: We have to talk about that now. It has not been determined yet.

Is there anyone else who hasn't spoken that would like to speak?

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MR. ESMAY: I have one question, Mike Esmay. How long is the comment period open?

THE CHAIRMAN: We have to determine that. We haven't determined that yet. I believe it has to run a minimum of 10 days following the closing of the public hearing.

MR. FRIEDBERG: What's the power of this Board to approve or deny this project? This is something I know nothing about.

MS. ROTH: We haven't gotten that far yet.

THE CHAIRMAN: The comments on the Draft Environmental -- well, this process for the applicant to prepare a Draft Environmental Impact Statement, receive comments on that document and, ultimately, prepared a Final Environmental Impact Statement are part of the State Environmental Quality Review Act, the SEQRA process. The purpose of that process is to see that issues of environmental impact are formally and adequately reviewed during the review of a project with the submission of the Final Environmental Impact Statement.

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2 Susan, I believe the ultimate, that
3 leads to, essentially, the Findings
4 Statement with regard to this project.

5 MS. ROTH: Right.

6 THE CHAIRMAN: So, again, it's a
7 process to understand what the impacts are
8 of this project. This process does not
9 constitute approval of the project. It's a
10 process to get at all of the impacts and
11 understand what their scope is, identify
12 how, if they can, be mitigated and
13 incorporate that into the overall review
14 process of the site plan and project
15 approval process.

16 Susan --

17 MS. ROTH: Again, my name is Susan
18 Roth. I'm from Robert Geneslaw Company and
19 we're the planning consultant for the Board
20 for review of this EIS. The only thing I
21 would like to add to this is, since the
22 Board is obligated under State law, the
23 SEQRA regulations, to objectively analyze
24 all the environmental impacts that are
25 associated with the development of this

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2 project, at this point, they haven't gotten
3 to a determination whether they should
4 approve, deny or approve with conditions.

5 So the next step in this project is the
6 Final Environmental Impact Statement, which
7 is, basically, it's a response to all the
8 comments that were collected. That draft
9 will be prepared by the consultant and the
10 Board will review it and, if they're
11 satisfied with it, they'll accept it and it
12 lays the foundation for a Findings
13 Statement, which is a formal determination
14 of the impact and the proposed mitigations
15 to the site. So we've got a way to go
16 before they get to the point where they can
17 approve or deny.

18 The site plan, to approve or deny it,
19 they have to approve -- they have to pass a
20 resolution. This part is the environmental
21 process and they have to conclude the
22 environmental process before they can get to
23 the point where they could approve it or
24 deny it or approve with conditions.

25 So I hope that clarifies things for

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you.

THE CHAIRMAN: Thank you, Susan.

MR. LEWIS: Lewis, L-E-W-I-S, 235 Birchwood. Do the Trustees of the Village have any formal role in approving a project such as this?

MS. ROTH: No, but they do have commentary power and I believe they've already emphasized that to a certain extent.

THE CHAIRMAN: But site plan approval is the responsibility of the Planning Board.

MS. ROTH: The Planning Board is also lead agency. So they're the lead in conducting this environmental review.

THE CHAIRMAN: Is there anyone else who has not spoken who would care to speak regarding the project?

MR. CARDIAN: My name is Robert Cardian. I just have a question. I live on Glennbrook Road and you spoke about how, at least, what the procedure appears on the surface, but in real life, tell me if this is what happens. A developer comes in. He drafts an environmental statement.

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2 Naturally, he hires consultants that will
3 write an opinion or a statement that is
4 favorable to the project, whether or not
5 it's truthful or not. So they submit their
6 environmental statement. The community says
7 this is, obviously, ridiculous, which, in
8 this case, I don't know why we're even at
9 this stage, because if it looks wrong,
10 smells wrong, tastes wrong, it is wrong. So
11 now we go through this procedure and the
12 developer says, well, I'm going to sue the
13 County because you're preventing me in this
14 Country -- I've got money and I can do
15 whatever the hell I please, no matter what
16 the community says. So they threaten to sue
17 the community and the community says, look,
18 we don't have enough money to prevent this
19 lawsuit or to even defend ourselves and, at
20 some point, it's whoever has the most money.

21 Is that what really happens in real
22 life, in your experience? I'm sure people
23 in this room have seen projects before. Is
24 that what really happens? So, basically,
25 what it's going to come down to is who has

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the most money. You tell me.

THE CHAIRMAN: I'm just going to quickly go through what the process is for site plan approval. I don't know if this is going to address your comment directly. We did start out the meeting by saying, this meeting really is for comments on the Draft Environmental Impact Statement and not for queries regarding who might sue whoever.

Essentially, though every property owner in the Village of Nyack has the right to build on their property, they don't have the right to build whatever they want. They are restricted by the zoning codes of the Village of Upper Nyack and the building codes of the State of New York. It's the Planning Board's responsibility to see when a property owner submits a proposed application for a building that that application is reviewed with respect to the zoning codes, the State Environmental Quality Review Act and whenever other technical data or input may be necessary for justification by the particulars of the

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project. That's really the process that's taking place with this process?

Are there any other questions?

MR. FRIEDBERG: Jerry Friedberg, what part of this plan that they submitted exceeds the zoning restrictions?

THE CHAIRMAN: I'm not sure that's --

MR. FRIEDBERG: How many square feet are they allowed to put on that parcel?

THE CHAIRMAN: One second. I really don't want to see the meeting kind of stray off what the purpose of tonight's meeting is, which is really an additional public hearing for comments on the Draft Environmental Impact Statement. Other questions or comments regarding the overall process, those are things that come out during the site plan review process. I want to stay focused on comments for the Draft Environmental Impact Statement so that we can determine that we've recorded all the comments that we can regarding that so that we can get a Final Environmental Impact Statement developed and issued from the

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developer that addresses all the concerns of the Village, the Village Boards and our consultants.

So I'm going to ask, one more time, if there's any additional questions or anyone who would like to speak regarding commenting on the Draft Environmental Impact Statement and, again, I'd like to ask that the questions just be directed towards that.

MR. GREENBERG: Jerry Greenberg, Wannamaker Lane. Does the developer have to respond to all the County and State reports that have been turned in on this project?

THE CHAIRMAN: All of the reports, again, I'll state it again, everything that is formally issued during this public comment period, that includes comments written and verbal from the public, that includes reports issued by the Planning Board, the Planning Board consultants and comments and reports issue by interested agencies are required to be addressed by the applicant in the Final Environmental Impact Statement. So the answer is yes.

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MR. GREENBERG: Thank you. Just one other thing. Once the Final Environmental Impact Statement is submitted, do we have an additional public comment period after that?

THE CHAIRMAN: I'm going to turn to Susan regarding the formal requirement.

MS. ROTH: No. There is no requirement to have a public hearing on the Final Environmental Impact Statement. Essentially, your commenting on comments that were submitted for the EIS.

MR. GREENBERG: So this is our last comment period?

MS. ROTH: Well, no, because they're continuing the site plan. So I would say that it's really up to the Board's discretion, at that point, whether they feel that they should accept comments on the FEIS or not, but, in my experience, ordinarily, there isn't a public comment period on the FEIS.

THE CHAIRMAN: And you're saying, in terms of the formal SEQRA process, it's not required?

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MS. ROTH: It's not required.

THE CHAIRMAN: It's certainly discretionary if the Board choose to.

MS. ROTH: Yes. A draft will be probably given to the Board in advance of the meeting and they'll have an opportunity to review it. I'm sure that, if it was, it would be FOILable and there would be no reason why you couldn't, as a citizen, go up to Village Hall, get a copy of the report and write comments on it. If you are list as an interested agency, and I know that several of the residents have put yourselves on the list as an interested agency, they're required to consider comments from anybody who is an interested or involved agency up to 10 days after the FEIS is submitted and consider those when they prepare their finding statement.

MR. GREENBERG: Thank you, very much.

MR. MENSCHIK: Joe Menschik, just a couple of procedural questions.

The DEIS has made certain assumptions, which require compliance from some of the

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interested parties, such as the Army Corp. of Engineers, the Village of Nyack and other State agencies. In the event those assumptions are not addressed positively by these other interested agencies, does that doom the project because it would be -- for instance, traffic remediation would be conditional on Nyack changing traffic patterns. The wetland remediation would be conditional upon the Army Corp. of Engineers approving an alternate wetlands site to be constructed by the applicant.

I'd like to know if the failure of these agencies to adequately address this kills the project because, to date, they haven't addressed these issues, although the material has been sent to them and I was interested in their response.

The other comment I have is, the Village is only open from nine to twelve. As I previously requested, it's sort of onerous on a lot of people to get there and there's not a lot of space to sit and review things. I don't think it's that costly to

1
2 the Village to put the required documents at
3 the two libraries where the DEIS is so that
4 people can review it at leisure, on the
5 weekends, in the evening, and then maybe
6 make more intelligent comments to the
7 Village.

8 Thank you.

9 THE CHAIRMAN: In terms of speculating
10 on any of those issues, that's part of the
11 whole process.

12 MS. ROTH: Yes. Defer your answer to a
13 later date.

14 THE CHAIRMAN: Right. It's actually
15 part of the Findings Statement.

16 MS. ROTH: Right.

17 THE CHAIRMAN: Yes.

18 MS. MARA: I'm Norma Mara, 132 High
19 Mountain Avenue. How long can we make these
20 comments; are they made in writing to you,
21 to the Planning Board?

22 THE CHAIRMAN: Any additional comments,
23 any written comments you'd care to make,
24 should be written to the attention of the
25 Planning Board and submit it, fax, submit it

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E-mail to the Village Hall.

MS. ROTH: Or mailed.

THE CHAIRMAN: Or mailed. We're going to determine what that time frame is right now. The time frame, actually, has been extended. The original period for public comment, since there was a public hearing on November 8th, the original period for public comment was going to end at the end of December and it's been extended and at tonight's meeting we're going to determine what the final closure date is for submitting written comments.

I don't see any other hands. Any other questions or comments?

MR. IMPERATO: Tom Imperato from Wilder Balter Partners. Mr. Chairman, I just want to follow-up on comments addressed to the lead agency. I have received just one piece of -- actually, I receive two pieces of correspondence directed to me as the development manager of the project, and just so that we're on the record, anything that's addressed to me does not get forwarded to

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you because I'm not the involved agency, I'm not lead agency. As a curtesy, we will reply to those letters and redirect them to the Board. I will give the Board curtesy copies of those correspondences. But one of them, just for the record, was from the fire district requesting to be listed as an involved agency and that's something that we should talk about. Frankly, I was surprised that they were not on there and I think that they have been consulted in previous stages, but it's just something that we needed to clarify. So don't send your letters to me or to the development. Send them to the Planning Board because they are the lead agency.

MS. ROTH: The fire department wouldn't be an involved agency because they don't have any approval power. They would be an interested agency.

THE CHAIRMAN: With that then, I think the Board should discuss whether we've had a sufficient public hearing meeting and hear a motion regarding whether to close the public

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hearing for public comments on the Draft Environmental Impact Statement and to determine a date to extend the written public comment period for the Draft Environmental Impact Statement.

Susan, again, with respect to requirements, the period for public comment needs to be extended a minimum of 10 days beyond tonight's date?

MS. ROTH: That's correct. Tom, can I ask you a question?

MR. IMPERATO: Sure.

MS. ROTH: When did you receive that letter from the fire department?

MR. IMPERATO: I received it within the last week.

MS. ROTH: All right. I'm going to ask you this, Bill, do you know whether or not the fire department would be interested in commenting on the Draft Environmental Impact Statement, reading it and commenting on it?

THE CHAIRMAN: I don't know if they would be interested. We would be interested in having them comment on it.

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MS. ROTH: I would say extend the public comment period to give them sufficient time to review it and to comment on it since they are one of the service providers.

MR. IMPERATO: If I can respond to that, because we've actually met with the fire department on these plans and there have been minor changes to the site plan. So they have actually reviewed it and commented on it already. I don't object to giving them a copy of the full DEIS, but the reality is, they've already looked at it. We've already implemented their suggestions. The emergency access was added as a result of our meeting with them.

THE CHAIRMAN: Is that a meeting directly with yourself, your design team and --

MR. IMPERATO: Yes, and members of the fire department.

MS. ROTH: I don't know why they would have generated that letter and I'm not going to try to speculate why they would have sent

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Tom a letter asking to be an involved agency, but since they are one of the providers of the services that will be part of the project, I would say just give them the benefit of the doubt that they have something else that they want to add.

THE CHAIRMAN: The original consideration had been to extended this period to January 21st, 22nd, and that may not be sufficient time.

MS. ROTH: For the fire department. I would say give them at least two weeks just to err on the safe side.

THE CHAIRMAN: Right. Is there a motion to close the public hearing?

MS. SIMPSON: I move that we close the public hearing for the DEIS for the proposed Courtyard in Upper Nyack.

MR. THERIEN: Second.

MR. CHAIRMAN: All in favor.

(Responses of ayes were given.)

MS. SIMPSON: And I move that we extend the written comment period on the DEIS through February 1st. Comments must be

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postmarked no later than February 1st.

MR. THERIEN: Second.

THE CHAIRMAN: All in favor.

(Responses of ayes were given.)

THE CHAIRMAN: So let me just comment on that. The period then for public comments on the Draft Environmental Impact Statement for the Village of Upper Nyack Courtyard project is February 1st. So additional written comments can be submitted to the Village and direct them to the Planning Board's attention and, as long as they're received or postmarked by Tuesday, February 1st, they are deemed part of the official public comment process for the Draft Environmental Impact Statement.

MS. SIMPSON: I move that the Planning Board continue the hearing pertaining to the site plan review.

MR. THERIEN: Second.

THE CHAIRMAN: All in favor.

(Responses of ayes were given.)

MS. ROTH: The only thing that I would do is, I would ask Pat to send a letter and

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a copy of the EIS over to the fire department for them to submit their comments.

THE CHAIRMAN: With regard to the format for the FEIS, I'm wondering if we can put that in-line for next week. With this setup, this setup makes it difficult for discussion.

MS. ROTH: Okay. Do you mind if I go ahead and give them a copy of the memo and if you want to put them on next Wednesday.

THE CHAIRMAN: A week from next Wednesday.

MS. ROTH: Okay.

THE CHAIRMAN: So for the benefit of the applicant or anyone else in the public who would be interested, at the next regularly scheduled Planning Board meeting, which is next Wednesday, besides the two applications on the agenda for that evening, this Board will also discuss the guidelines for preparation of the Final Environmental Impact Statement, meaning that, it's not so much a discussion of technical issues, such

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as storm drainage and traffic, but it's really just a discussion of the format that the Board wants to see a document produced in and as a structure for that discussion, we use the document, the memorandum prepared by Robert Geneslaw Company. Anyone in the public interested in this project and the ongoing review process is certainly welcome to attend that meeting.

Okay. Tonight's meeting is adjourned.

* * *

THE FOREGOING IS CERTIFIED to be
a true and correct transcription of the
original stenographic minutes to the best
of my ability.

Lynn Greene

1 Proceedings

2 parties.

3 That takes us to tonight's
4 meeting.

5 Tonight's meeting is a public
6 hearing that's required as part of this
7 public comment period on the Draft
8 Environmental Impact Statement.

9 The Public Hearing is held to
10 provide the opportunity for members of
11 the public to enter their comments into
12 the record regarding the Draft
13 Environmental Impact Statement and the
14 site plan and proposed project.

15 Comments made here tonight are
16 being recorded. A transcript of this
17 meeting is being prepared. All comments
18 made tonight are required to be
19 addressed by the Applicant in a
20 subsequent Final Environmental Impact
21 Statement that is required to be
22 prepared.

23 The public comment period is --
24 will - will be - will be continued after
25 the close of the public hearing for

1 Proceedings
2 another 30 days, and, during that -
3 during that entire public comment
4 period, written comments regarding the
5 Draft Environmental Impact Statement and
6 the project will also be -- can also be
7 submitted and will get entered into the
8 record and will require to be addressed
9 by the Applicant.

10 Upon conclusion of the public
11 comment period for this Draft
12 Environmental Impact Statement, the
13 Applicant takes the comments heard here
14 tonight made by the public, written
15 comments submitted to this Board and the
16 comments made by the Planning Board and
17 the Planning Board's consultants, as
18 well as outside designated involved
19 agencies and interested parties, and
20 they prepare a Final Environmental
21 Impact Statement for the project.

22 The Final Environmental Impact
23 Statement goes through the same process
24 that the Draft Environmental Impact
25 Statement went through.

1 Proceedings

2 When they submit it, it gets
3 submitted to this Board. The Board will
4 submit it to all involved agencies and
5 interested parties. The Board and its
6 consultant team will review that, make
7 comments until such point as this Board
8 determines that the Final Environmental
9 Impact Statement is complete and
10 addresses all the concerns of the Board
11 and all the items that were made during
12 this public comment period.

13 So, that takes us then really to
14 the structure of tonight's meeting, and
15 I would like tonight's meeting to be an
16 orderly meeting to allow everyone to be
17 able to speak who chooses to do so.

18 We have a sign-up list here of
19 people who've indicated that they want
20 to speak and we'll go down this list in
21 the order that people have signed in.

22 And what I'd like to say in terms
23 of a lot -- getting the opportunity or
24 giving everyone the opportunity to speak
25 is that we're going to ask speakers to

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Proceedings

limit their comments to a maximum of five minutes, and we're looking for the comments to be comments on the project and the Draft Environmental Impact Statement.

I'd like the comments to be framed then as comments, not as questions to the Board or the Applicant.

The purpose of the meeting is not, necessarily, to engage in a debate on each comment but to get the comment entered into the record so that it gets addressed in the Final Environmental Impact Statement.

I know many people here have been to various meetings of the Board where this application was on the agenda and, at every meeting where we've had Courtyard on the agenda, there's always a portion of that meeting that's open to the public and where the public has the opportunity to speak and comment, and there's been, I think, very good and very significant comments that have come

1 Proceedings

2 out of that process.

3 This is not the last - certainly,
4 not the last meeting that will be held
5 on this project, and so that, in prior
6 -- in subsequent meetings, there will
7 be, certainly, will be further
8 opportunity for people to comment and
9 question and identify issues regarding
10 the project.

11 I think with that overview, and I
12 would like to know if there's anyone on
13 the Board or any consultants who would
14 like to add anything to that?

15 So, with that, before - before we
16 start with the list of people who would
17 like to make comments, I'd like to give
18 the opportunity to the Applicant to make
19 a short presentation and then we'll get
20 into the public comment period.

21 MR. MAVIAN: Good evening, Chairman
22 and Members of the Board.

23 This will be very short cause your
24 presentation covered most of my
25 presentation.

1 Proceedings

2 THE CHAIRMAN: Okay.

3 MR. MAVIAN: But I would, for the
4 benefit of the audience who aren't
5 familiar with the site plan, just take a
6 moment to walk them through what we have
7 here, and one thing I would like to add
8 about the purpose of tonight's meeting
9 that I don't think you mentioned is
10 that, in addition to being a S.E.Q.R.A.
11 public hearing, it's, also, the site
12 plan public hearing.

13 THE CHAIRMAN: That's correct.

14 MR. MAVIAN: So, I just wanted that
15 to be clear.

16 The project, what we have here --
17 may I take this?

18 THE CHAIRMAN: Sure.

19 MR. MAVIAN: Oh, also, just to
20 introduce myself, my name is Andrew
21 Mavian. I work for Tim Miller
22 Associates. We're the environmental
23 planners who worked on this project.

24 With us, also, this evening, are
25 the sponsors, Wilder Balter & Partners,

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represented by Bob Wilder and Tom Imperato. Tim Miller is here, also, from Tim Miller Associates. Andy Atzl, the project engineer, is here, as well as the storm-water engineer Leonard Jackson.

The project is an office development which is a use that is permitted by zoning as of right. It consists of 10 buildings. The buildings are oriented around two courtyard areas. The access to the property would be from this corner only, as the sole access, with an emergency access that would be gated in the northwest corner of the property. That would only be used for emergency vehicles.

This display here is an example of the type of architecture that would be constructed here. This is a sister project that the Applicant has already done in Yorktown, in Westchester County. It's the same types of buildings. I guess, one difference is

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Proceedings

these buildings would only be two-stories, except some would have walkout basements on the east side, but, from the west side, they would all appear as two-story structures.

This one, actually, has a third floor, but I don't know if that's occupied space, but it appears to be so.

But the architect that's going to be proposed is going to be traditional style, colonial, gabled roofs, clapboard-style - clapboard-style siding, you know, various other trim work just to make it look like it fits in and belongs here.

These are not large buildings. Individually, the ones that are two-story only have about 5,400 square feet of usable floor area. The ones with the walkout basements in the back will be about 7,400 square feet of usable floor area. Taken in total, it's about 66,000 square feet - the 10 buildings combined.

1 Proceedings

2 I think, in the interest of time, I
3 was going to say a few more things, but
4 they've really all been covered.

5 Tonight's meeting is really to hear what
6 the public has to say.

7 So, I will sit down and the floor
8 is for the first speaker.

9 So, thank you very much.

10 THE CHAIRMAN: Okay. Thank you.

11 I'm just going to go down the
12 list. Feel free to correct my
13 pronunciation of anyone's name if I get
14 it wrong.

15 First, I'd like to start off with
16 Mayor Michael Esmay.

17 MAYOR ESMAY: I'm Michael Esmay,
18 Mayor of the Village, and I'm going to
19 read a statement that was prepared by
20 the Village Board in connection with
21 this Draft Environmental Impact
22 Statement.

23 One question - I was just curious -
24 has this been sent to outside agencies?

25 THE CHAIRMAN: It's being sent to.

1 Proceedings

2 Yes. Yes.

3 MAYOR ESMAY: Planning Board?

4 THE CHAIRMAN: We have a list of
5 involved agencies and it has been issued
6 to them.

7 MAYOR ESMAY: All right.

8 Last week, the Village Board met in
9 a workshop session to finalize our
10 comments on the potential environmental
11 impacts for the proposed development
12 known as "Courtyard of Upper Nyack." It
13 was, unanimously, decided by the Board
14 that it is appropriate for us to make
15 clear the spirit and intention of the
16 Zoning Code as regards to the Draft
17 Environmental Impact Statement submitted
18 for this property.

19 It is the position of the Village
20 Board that the project, as presented,
21 will result in significant environmental
22 impact to the Village.

23 We have several areas of concern.

24 [One area of concern is the buffer
25 area. The buffer serves to protect the

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Proceedings

surrounding properties from undue noise, odors, lighting and traffic circulation. Reduction of the buffer or the removal of vegetation from the buffer will not conform with the plans, goals and objectives of the zoning revisions completed last year.

The Zoning Code gives the Planning Board discretion in the placement of drainage structures in the buffer area, but we feel that there would be no tangible benefit to the Village to do so. This advantage is not evident in the project as presented.

Another area of concern is the proposed detention structure. We have already had a bad experience with a large-scale detention structure. The detention ponds created for the Nyack School, we have been advised, do not function, properly, in maintaining the rate of runoff from this site. It is uncertain if they ever functioned, properly. It remains uncertain.

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1 Proceedings

2 Whose responsibility it is to
3 inspect the ponds and to maintain them
4 over the long run?

5 The flooding problems caused by
6 these nonfunctional detention ponds are
7 evident all along the Old Mountain
8 Stream. Longtime residents whose
9 properties abut the stream state that
10 their drainage problems began when the
11 high school was built in 1986 and have
12 worsened since that time. We don't want
13 that to happen with this project.

14 Just a few months ago, the Village
15 Board commissioned a drainage study work
16 plan from Lawler, Matusky, Skelly
17 Engineering in order to gain a better
18 understanding of the overall drainage of
19 the Village and to identify troubled
20 areas. Number 1 on the list of critical
21 items weren't in review were the
22 detention basins on the Nyack High
23 School property. It should be noted
24 that the high school property has,
25 relatively, a small percentage of

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Proceedings

impervious surface proportional to the size of the property, which leaves a lot of open ground to observe water -- to absorb water before it ever gets to the detention ponds.

Regardless, we are being flooded downhill of these ponds.

Frankly, with the storms that we've been experiencing, the Village is drowning.

By comparison, the Courtyard proposal shows a percentage of impervious surface that is much much higher than at the high school. The percentage of impervious surface proposed will, dramatically, change the flow of water on-site. It will disrupt the movement of ground water and the movement of surface water. It will concentrate all of the water on this site into the detention structure. This structure has an unending potential to, negatively, impact the Village if it should ever cease to function,

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Proceedings

correctly.

The configuration of the proposed drainage system concerns the Village Board as regards discharge points and rates, proximity of detention pond to surrounding properties, long-term maintenance responsibilities and impact of increased concentration and result in velocities of discharge into the Village storm-water and sanitary-sewer systems.

Detention structures are a complicated alternative to more natural alternatives for storm-water retention and management. [Wetlands are one natural solution to water retention and runoff.

The Village Board is concerned about the valuable wetland area that is eliminated in the proposed development plan. It is our clear understanding that the detention pond being proposed is in no way compensatory for the loss of runoff, attenuation and absorption provided by the existing wetland.

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Maintaining the existing wetland is the storm-water management solution that would have the least impact on the environment.

Reducing the percentage of impervious surface by reducing the number of buildings with your intended parking spaces would also help to manage the storm water and ground water that runs through and under this site.

The proposal, as presented, gives no indication of what is proposed to compensate for the wetland being eliminated.

The amount of impervious surface in the proposed development, also, brings up the concern of the Village Board about the removal of vegetation on this site and the loss of habitat for the deer herd, currently, living there.

Displacing those animals will increase deer populations elsewhere in the Village, increasing their impact on the environment throughout the Village

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and increasing the number of accidents caused by deer on Village streets.

This brings up our concern on traffic.

As stated in the D.E.I.S. on Page 3728, "Increased traffic is an unavoidable result of the proposed development." It is the concern of the Village Board that backups on Route 9W caused by the increased traffic will cause motorists to detour into the Village via our local roads.

A number of years ago, the Village Board chose to close the 9W spur at Old Mountain Road in order to reduce the amount of traffic coming from 9W and going through the Village on Midland Avenue. The road closing has been successful in reducing the traffic on Midland Avenue.

Increased traffic from the proposed development will undermine what we worked so hard to achieve in reducing traffic levels on Midland Avenue.

1 Proceedings

2 there are no new saplings. When the
3 trees that are there now die, there's
4 going to be no new trees because the
5 deer eat them all, eat all the
6 saplings.

7 Um, if this project is to be built
8 of any size at all, it has to be
9 accompanied with some kind of deer
10 control program, horrible as that may
11 seem to certain people.

12 Um, basically, that's all that I
13 have to say, and if the project is going
14 to be approved, I think that it should
15 be approved in a much more diminutive
16 manner. Should be much more smaller
17 than proposed.

18 Thank you.

19 (Clapping.)

20 THE CHAIRMAN: Okay. Thank you.

21 Joseph Menschik,

22 209 Wanamaker Lane.

23 A VOICE: Mr. Chairman, could you
24 announce the next person, also, that
25 they can standby?

11-5

1 Proceedings

2 THE CHAIRMAN: Well, the next
3 person listed after Mr. Menschik is
4 Maxine Silverman.

5 MR. MENSCHIK: I base the comments
6 that I prepared for this hearing on what
7 I thought was the proposed site plan
8 because I was at the Planning Board
9 hearing where this particular site plan
10 was rejected for the Draft Environmental
11 Impact Study and an alternate one, which
12 was Site Plan 1A, they were told to come
13 back with that.

14 So, my comments are based on this.
15 I don't know if it will come up.

16 The revised site plan is a
17 9-building site showing the 75-foot
18 buffer which is the current zoning
19 requirements.

20 My comments are those of a layman.
21 I am not an engineer. I am reviewing
22 the drainage and sewage aspects of this
23 proposal, which I think have strong
24 adverse consequences to the Village.
25 There are many other aspects that I am

1 Proceedings

2 opposed to that I think are also
3 dangerous, but I think other people will
4 address those.

5 So, in the position of saving time,
6 I'll just address what I have.

7 The Draft Environmental Impact
8 Statement presented by Wilder Balter &
9 Partners, LLC, is, severely, flawed as
10 to drainage and sewage issues and should
11 be rejected by the Village of Upper
12 Nyack.

13 The following analysis deals with
14 some of the nontechnical aspects of the
15 document to, clearly, show significant
16 deficiencies and gaps.

17 The citizens of Upper Nyack, who
18 attended the meetings, were extremely
19 frustrated and limited in the input they
20 were able to give to this proposal, as
21 we did not have access to the materials
22 presented to the Board to comment on,
23 and the meeting -- some of the meetings
24 ran so late that the ability to make
25 comment on what was heard in

1 Proceedings

2 presentations was, severely, limited or
3 eliminated, totally, by time
4 constraints.

5 This seems rather unfair, and we
6 appreciate this opportunity now to voice
7 some of our objections to the plan.

8 The Planning Board had rejected an
9 earlier presentation showing the
10 10-building development and directed the
11 developers to come back with a plan that
12 had no structures of any kind in the
13 75-foot buffer. This is shown on this
14 map (indicating) and on Map 2A, the only
15 two maps addressing this in the Draft
16 Environmental Impact Statement, but
17 nothing else on any of the other maps
18 was shown modifying drainage, utilities
19 or anything else to fit the requirements
20 of the Maps 1A and 2A. All other maps
21 need additional reconfiguration to,
22 specifically, deal with critical
23 issues. If they were not redesigned,
24 then the engineering for the site could
25 be, severely, flawed in regard to

11-3

1 Proceedings

2 drainage.

3 The document presented shows
4 limited data on the storm drainage
5 system, acknowledges the existence of a
6 sewage system but fails to address the
7 sanitary sewage system except for five
8 lines in the plan which contain
9 inaccuracies and boiler-plate language.
10 Imperative drainage issues are not even
11 addressed.

12 The developer's intent to drain
13 storm water and sewage in easterly
14 direction through Wanamaker Lane to
15 North Midland, the entire property is
16 very heavily sloped. There are,
17 practically, no level areas on the
18 site.

19 The submission talks about 10, 25
20 and 100-year storms, among others. We
21 have experienced all of this and more in
22 the past year, alone.

23 With the existing drainage
24 infrastructure proving inadequate, in
25 some instances, to handle the storm

3-34

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1 Proceedings

2 water, their development would add
3 additional flow to this. We all know
4 that the weather patterns have changed
5 and statistics are only a range. If
6 that range is skewed, then the old mean
7 figures may not even meet lower limits
8 of a range.

9 In addition to using historical
10 storm figures and rainfall figures,
11 actual figures for Rockland County and
12 Upper Nyack should be used on a
13 year-by-year basis for, at least, the
14 last five years.

15 The Courtyard plan acknowledges
16 that storm runoff is accumulated on the
17 west side of Route 9W in retention areas
18 and piped under Route 9W in a 24-inch
19 pipe onto the Courtyard property where
20 it, eventually, drains into the Village
21 storm system. They state that the peak
22 discharge rate is 34.28 cubic feet per
23 second.

24 Now, some of this discharge is,
25 currently, retained in a wetland --

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Proceedings

wetlands absorbed by plants, trees, grass and earth. They plan to pipe all of this runoff into a 30-inch pipe that will connect to a 24-inch drain that is, currently, designated as Area A Runoff Pipe in the plan. If the pipe fills to capacity while draining in a heavy storm, nothing else will be able to enter from the site or downsite in the Village.

The Courtyard presentation shows that, normally, 40 percent of storm runoff is absorbed by land, 20 percent evaporates. Thus, we will have more than 60 percent additional water going into our 24-inch pipe than before.

If their figures are too low, as I will describe later, then the water load on the system could be even greater.

If the 24-inch pipe, which has proven, at times, to be insufficient to handle major storm for periods of time, is filled to capacity, it will flood streets through catch basins, flood the

1 Proceedings

2 area supporting dry wells that serve as
3 footing and roof drains of residences
4 presenting them from draining for longer
5 periods of time. This could blow out
6 these lines, which were not constructed
7 to sustain long stresses. The cost to
8 Village citizens and the disruption and
9 ensuing damage could be catastrophic.

10 If the 24-inch pipe fills to
11 capacity, the balance of the site
12 drainage plan would be forced into the
13 smaller 18-inch pipe in Area B,
14 compounding the damage to property below
15 the site.

16 If the proposed retention areas,
17 which are taking on 150 percent more
18 water from drain sites than previously,
19 flowed on the surface, that's 40 percent
20 absorbed and 20 percent evaporated that
21 are now going in, overflow the site, it
22 would flood the residences below all the
23 way down to Broadway and below.

24 Also note flood insurance does not
25 cover personal property in one's

1 Proceedings

2 basement and it is expensive to obtain.

3 The existing 24-inch and 18-inch
4 pipes join on North Midland Avenue and
5 flow northward to other parts of the
6 Village. Many streets drain into this
7 system. What will happen to the other
8 properties if their storm runoff cannot,
9 properly, drain?

10 We have already seen this in peak
11 storms on many occasions over the past
12 five years from Hurricane Floyd on.

13 The developers plan to accumulate
14 the precipitation falling on this site
15 in two open retention areas with
16 admitted little absorption by the site
17 to the high percentage of impermeable
18 surface caused by 10 -- 9 to 10
19 buildings, parking, roads, walkways and
20 the elimination of the wetlands that is
21 a natural storage and absorption area.
22 This water will drain into the two
23 Village pipes. One of which - one of
24 which may be filled to capacity,
25 beforehand, and unable to take the

3-25

1 Proceedings

2 drainage.

3 The developers do not acknowledge
4 or account for water sheeting in heavy
5 storms on Route 9W which flows downward
6 toward the proposed entrance to
7 Courtyard on 9W and will flow onto the
8 site, which it does not do now, nor do
9 they account for the added volume.

10 The issue of a breeding ground for
11 West Nile Disease is a serious one posed
12 by these proposed open retention areas.
13 The Health Commissioner of the State of
14 Connecticut advised his citizens to,
15 regularly, drain birdbaths. The
16 retention areas are much larger than
17 birdbaths and they do not drain out,
18 totally.

19 Now, here's something I would like
20 the Board to take note of: [There are no
21 plans for the drainage of the 75-foot
22 buffers in the plan on the easterly,
23 northerly or southerly perimeters of the
24 property, all of which border residences
25 of the Village. This composes,

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1 Proceedings

2 approximately, 3.75 acres or more than
3 one-third of the total project without a
4 drainage plan, and the construction will
5 disrupt existing drainage of this site,
6 some of which, currently, flows into the
7 24 and 18-inch pipes, which will no
8 longer be available for drainage. Where
9 will the increased water flow go?

10 The land will, likely, be clear-cut
11 or, partially, clear-cut, and the land
12 absorption of rain is, significantly,
13 reduced by this, which would cause the
14 water flow on the land to be multiples
15 of what it was before, not just
16 percentages. The Draft Environmental
17 Impact Statement fails to even deal with
18 this issue.

19 The Courtyard people say Rockland
20 County averages 45 inches of rain a
21 year. They do not show any statistics
22 for Upper Nyack. What falls in Suffern
23 does not, necessarily, fall in the
24 Nyacks.

25 For the past five years, we need

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Proceedings

statistics. We need to know what the actual water -- rainfall is.

They say the land absorbs 40 percent of rainfall, 20 percent evaporates, but they do not say for what kind of land.

Absorption rates vary, greatly, and we are talking about sloped land where their proposal will decrease absorption rates.

A study of ground-water absorption rates published in "The Economist," a very prestigious publication, on October 23rd, 2004, dealing with slope land shows a great variance of absorption rate based on vegetation.

What we have now on the site is a sloped, wooded area that has been forested for more than 25 years. The study quoted, under the direction of Dr. Howard Wheater of the Imperial College of London, it shows that sloped broad-leafed forest with seven-year-old plantings absorb eight times more than a

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grassy slope.

We, currently, have sloped woodlands in the 75-foot buffer. A portion of this, if not all, will, likely, be clear-cut. What will the runoff from this area do to the bordering residential properties?

We are given statistics but no time frames. The statistics are County-wide but not specific to our area.

What are the sources for these certificates and are other statistics from other sources?

What are the ranges of the statistics given?

What are the trends?

These questions are not answered.

The Draft Environmental Impact Statement, which is two volumes thick, devotes five lines to the topic of sewage, along with boiler-plate language. It presents two things as if they were facts that one must question.

It states that liquid sewage will

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1 Proceedings

2 flow from this -- that will flow this
3 site will be 7,000 gallons per day.
4 Where does this figure come from?

5 We do not even know the makeup of
6 the tenancy of the project nor does the
7 developers. It could include
8 restaurants, medical facility and would
9 have a much greater degree of waste.

10 How many people will populate the
11 site? This might have some bearing,
12 too.

13 What is the source of this
14 statistic?

15 The Courtyard people state that the
16 waste on the site will be handled by
17 8-inch pipes and only implies that pipes
18 of that size service all of
19 Wanamaker Lane. Nowhere does it say
20 what is in the ground in Wanamaker Lane
21 or what is the infrastructure
22 configuration.

23 Wanamaker Lane is a development of
24 12 residential properties that was
25 started by a developer who folded after

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1 Proceedings

2 constructing four residences. Do you
3 think that developer overbuilt the
4 utility infrastructure?

5 It is for sure that it was not
6 constructed with anything approaching a
7 combination of a development the size of
8 Upper -- of Courtyard At Upper Nyack.

9 If the pipes in the ground on
10 Wanamaker cannot accommodate the load,
11 will Wanamaker have to be dug up to tie
12 dedicated sewage lines to Midland?

13 Will Midland have to be dug up?

14 What will happen to the traffic
15 flow on this important Village artery
16 that leads to Nyack Hospital and the
17 closest area to the emergency room?

18 What -- these are many questions
19 that need to be addressed and have not.

20 Based on the above limited area of
21 questions not answered on only a small
22 portion of the Draft Environmental
23 Impact Study, the study is flawed and
24 should not be accepted.

25 A close review by others of other

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Lastly, the potential negative economic impact on this development on the Village, as a whole, needs to be analyzed and reviewed in depth. This is of great concern to the Village Board. The D.E.I.S. states, on Page 122, that the development will generate, approximately, \$9,000 a year in Village taxes at no cost to the Village. Given the information we have, it appears that the proposed development will, potentially, increase demand for services, specifically, the storm-water and sanitary-sewer systems of the Village, which recent weather events have shown to be overburdened.

Nine thousand dollars a year would not begin to offset the potential cost of increasing the Village storm-water and sanitary-sewer systems to accommodate a development of this density.

The proposed development could, potentially, increase property taxes for

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1 Proceedings

2 all Village residents for the
3 foreseeable future.

4 The proposed development, as shown,
5 presents no net economic benefit to the
6 Village.

7 For example, the [single-family
8 homes on the property would,
9 potentially, generate more revenue at
10 less cost to the Village.

11 The density of use on this
12 property, well, technically, allowed
13 under our zoning, does not conform with
14 the spirit and intention of the planning
15 we have done for the Village.

16 Considering the potential negative
17 impact of the development as proposed,
18 we ask that the Planning Board take
19 great care of their deliberations so
20 that the development of this property is
21 a benefit to all of us who live in this
22 Village.

23 (Clapping.)

24 THE CHAIRMAN: Thank you,
25 Mr. Mayor.

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1 Proceedings

2 The next speaker, Steve Schlanger,
3 216 Wanamaker Lane.

4 MR. SCHLANGER: Hi. Thank you.

5 I brought some photographs with
6 me. I wonder if I could share them with
7 all of you. It's two pictures that were
8 taken on July 23rd on Wanamaker Lane.

9 July 23rd - it was a rainy day in
10 Rockland County. This was not a
11 hurricane. It was not one of these
12 25-year storms or 10-year storms or
13 5-year storms, for that matter. It was
14 just a rainy day.

15 My house is opposite Drs. Quayle
16 and Buck's home, and it is just downhill
17 from the water detention pond or lake
18 that is being proposed right here
19 (indicating).

20 As you can see from that picture,
21 the ferocity and the velocity of water
22 coming off that hillside was staggering
23 that day.

24 The picture of the steps are
25 Dr. Handelsman's, who's next-door to

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me. That water came cascading down like a waterfall, and it comes, directly, off of those steps into his driveway and in toward my property.

The other shot is looking up at Roger and Sharon's property, and you can see that it comes down from right where that retention or, excuse me, detention pond is located and overran the storm drain on the 23rd of July and headed straight for my home.

Now, there's a slight berm on the street, and, thankfully, it hit the berm and was deflected, laterally, and then overran the next storm drain, but, without exaggeration, it was a fraction of an inch from going over the top, and, from that point forward, it is a straight downhill into my house.

Um, excuse me. I know that hydrologists are brought in and people do calculations and we're promised lots of things, but, as the Mayor just mentioned, at the high school, there was

1 Proceedings

2 a system that was devised that,
3 apparently, is failing. We saw the same
4 thing happen at the Palisades Mall. We
5 were all promised that that wouldn't
6 overrun and that, indeed, has, as well.

7 And I think we all know that you
8 can use statistics the way a drunk uses
9 a lamp post. And, by that, I mean for
10 support as opposed to illumination. And

11 [I am very worried about that - that we
12 will be sold on a system that may,
13 ultimately, fail.

14 And, so, I'm standing in front of
15 you asking you to guarantee me that my
16 home is going to be protected and that
17 the health and safety of my family and
18 of my neighbors will be protected,] and
19 if you can't guarantee that, then I ask
20 you not to approve this project.

21 (Clapping.)

22 MR. SCHLANGER: Thank you.

23 You can keep those.

24 THE CHAIRMAN: Yeah. Thank you.

25 Next person listed, Israel Cohen.

3-32

1 Proceedings

2 Mr. Cohen, you're at 406 North
3 Broadway?

4 MR. COHEN: Right. I live at
5 406 North Broadway, and Michael Esmay
6 and the previous speaker covered most of
7 the points that I want to make.

8 It's, basically, two points. [You
9 take eleven acres on top of a hill and
10 you cover it over with blacktop and cut
11 down all the trees and what's going to
12 happen to that water? I mean it will
13 only go one way - downhill.]

3-33

14 I happen to live at the bottom of
15 that hill on Broadway right near
16 Birchwood Avenue.

17 The previous speaker spoke about
18 July 23rd. Well, there were two other
19 major rains, rains this summer so that
20 my driveway, which has
21 two-and-a-half-inch rock that is
22 supposed to retain it, got, completely,
23 washed out each time.

24 I, finally, had it paved, and the
25 paver could give me no guarantee that,

1 Proceedings

2 in case of another rain, the blacktop
3 that I just put down would not be
4 undermined.

5 I think, um, my experience,
6 probably, reflects the experience of
7 many many other people on the downhill
8 side of this proposed project.

9 Aside from the aesthetics of not
10 having trees up there, which is a person
11 -- a matter of personal preference, the
12 destruction that can be rained down, no
13 pun intended, from the uphill to the
14 downhill residents could be
15 catastrophic.

16 I also experience the results of
17 the high school drainage. I live -- my
18 house happens to be on the Upper Nyack
19 Brook, which has been destroyed,
20 largely, since the high school was
21 built. The stream is a wreck. A lot of
22 the trees alongside the stream have come
23 down because their roots were
24 undermined. Many of them were massive
25 trees and many are still there and very

1 Proceedings

2 endangered.

3 We were sold a bill of goods
4 because we were told that the drainage
5 ponds by the high school would take care
6 of everything. Well, they took care of
7 nothing. I mean, absolutely, nothing
8 because that stream is a catastrophe
9 today.

10 The other point I want to make has
11 to do with the herd of deer which
12 Michael Esmay mentioned lives up there.

13 These animals wander across the
14 Village and eat everything in their
15 sight. They contribute to the browning
16 of Upper Nyack. It's impossible to have
17 a garden without extensive precautions
18 against the deer.

19 With the absence of that habitat
20 for the deer, I think that the results
21 in the rest of the Village are going to
22 be very very harmful.

23 If you notice, along the side of
24 the stream, which is, probably, the last
25 remaining wild area in Upper Nyack,

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1 Proceedings

2 areas of the study will, probably, show
3 that other areas of the study are,
4 likewise, flawed.

5 This development could,
6 irrevocably, alter the quality of life
7 in the Village for the worse. [The
8 project has to be, significantly, scaled
9 down, modified and rethought.

10 The Village should give serious
11 consideration to other uses, such as
12 single-family residences on
13 three-quarter lots even though the
14 property is now zoned commercial.

15 Many residents of the Village that
16 I have talked to would be in favor of
17 this use. The homes would have a much
18 smaller footprint and there would be
19 much smaller impermeable surfaces.

20 Thank you.

21 (Clapping.)

22 THE CHAIRMAN: Before the next
23 speaker starts, Mr. Menschik, I don't
24 know if you'd want to take your --

25 MR. MENSCHIK: Oh.

11-4

1 Proceedings

2 THE CHAIRMAN: -- map off there.

3 And one correction I think that
4 just should be noted. On that drawing
5 that you referenced, the proposal that
6 the Applicant is making is still for the
7 10 buildings with requesting reduction
8 of the buffer zone.

9 The Planning Board requested that
10 plan be submitted, which required no
11 discretionary action by the Board, and
12 moved everything out of the 75-foot
13 buffer.

14 The Board wanted that as reference
15 in its review of their proposal, which
16 is - which is still, as I understand it,
17 and - and --

18 MR. MENSCHIK: I did not understand
19 that from the meeting that I attended.

20 THE CHAIRMAN: Right.

21 MR. MENSCHIK: But, You know, it
22 was not made clear.

23 THE CHAIRMAN: Okay. Thank you.

24 Okay. Next is Maxine Silverman,
25 and next person following her listed is

1 Proceedings

2 Ed - I don't - I don't know the last
3 name - on 510 Hudson View.

4 MS. SILVERMAN: I want to address,
5 mostly, the traffic that would be
6 engendered by this massive project,
7 massive for our community with the
8 density that you propose.

9 There is some concern about the
10 water levels further north of this
11 project. I live on Foss Drive, which is
12 the street running parallel to Old
13 Mountain Road, and there are many
14 underground streams there.

15 I'd like the Board to consider what
16 effect the runoff will, you know, domino
17 effect.

18 But the traffic that would be
19 engendered by this project is a great
20 safety concern. High school students,
21 the upperclassmen are not required to
22 stay on campus during their off or free
23 periods. They can leave.

24 There are four lunch periods.
25 These are all new drivers. So, it's not

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1 Proceedings

2 just when classes begin at 7:30 in the
3 morning and dismiss at 2:00 o'clock,
4 2:15, but it extends into the evening
5 when there are extracurricular
6 activities.

7 If you've taken a look, and I don't
8 know since -- I don't know if you're
9 from our community, whether you have
10 observed how many cars are in that
11 parking lot and the rate of trips back
12 and forth all day long. It's
13 significant. If you add 400 parking
14 spaces and one assumes that those won't
15 be filled once, instead, it will be
16 filled subsequent times, many times
17 throughout the day, I think you'd have
18 to agree that this will be a significant
19 impact.

20 And I'd just like to the remind the
21 Board that, yes, Old Mountain Road was
22 considered a traffic hazard for many
23 years. We all called it an accident
24 waiting to happen, and it did happen,
25 which is why the spur was closed. Cars

1 Proceedings

2 snowball it through.

3 Now, snowball [I was wondering how
4 they're gonna take care of all the big
5 snow that comes up there. Eleven acres
6 is almost a half a million square feet.

7 Now, that's gonna be piled up, and,
8 as that snow melts, it's gonna be
9 running downhill for weeks on end.

10 And they say they're gonna pour it
11 into the storm drains that are already
12 there down on Midland Avenue. Midland
13 Avenue is flooding down into - to
14 Broadway.

15 The last heavy snowstorm --
16 rainstorm we had, I had a doctor's
17 appointment down in Nyack, and I got out
18 while it was raining and the water was
19 covering Midland Avenue when I turned
20 down onto Broadway, down on
21 Birchwood Avenue. I got down to
22 Broadway. Broadway was covered from
23 curb-to-curb with water.

24 Now, that continued all the way
25 down to the first street that you could

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get down to the river where the water
was now running, pouring down in there.

Now, didn't I hear they said that
this is gonna be a clapboard
construction deal?

Do they have fire protection in
there?

What happens if it ever had a fire
in there?

There's one entrance to get in and
out. Immediately, people would block
the entrance and the thing would never
have a chance to get the fire trucks in
there.

I can't believe that. You know,
they have one main entrance and an
emergency entrance on the other side.
If there was a fire there, you can be
assured that anybody that was still in
there would block those entrances right
off and both entrances would be blocked
off and nobody could get a fire truck in
there.

I can't understand how anything

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10-8

1 Proceedings

2 like this could be set up. Engineers
3 today -- I'm an engineer. I used to do
4 some very good, hard engineering work,
5 and I can't believe that the engineer --
6 I've worked with young engineers and I
7 know that they're textbook people and
8 they know nothing more than that. They
9 don't know how to go any further than
10 that.

11 It's sad, and that's the way they
12 are today.

13 I don't know what else I can say.

14 They say they're gonna pour the
15 water off the -- it's 500,000 square
16 feet of water is gonna drain down to the
17 water basins down on Broadway -- on
18 Midland Avenue, but, from there down to
19 the river, there's no -- they need to,
20 at least, triple the runoff capabilities
21 in the storm drains to make it work.

22 That's all I can say.

23 (Clapping.)

24 THE CHAIRMAN: Thank you.

25 The next listed speaker is Tom

3-38

1 Proceedings
2 Sullivan, 402 Daisy Street.
3 MR. SULLIVAN: All my concerns were
4 covered by the previous speakers.
5 THE CHAIRMAN: Okay. Thank you.
6 The next listed speaker, Nigel
7 Hinds, 303 Highmount Terrace.
8 MR. HINDS: No comment at this
9 time.
10 THE CHAIRMAN: Thank you.
11 The next listed speaker is
12 Scott Jeur - Scott Jeur,
13 245 Birchwood Avenue.
14 MR. LEWIS: Lewis.
15 THE CHAIRMAN: Okay. Scott Lewis.
16 I'm sorry.
17 And then, following that, the next
18 listed speaker is Sharon Quayle.
19 MR. LEWIS: I think all the
20 previous speakers have been very
21 articulate and helpful.
22 My house backs up to the site. We
23 get water in the basement now. I don't
24 know that this plan would add to that,
25 but clear-cutting it, certainly, is

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gonna add a lot of water, and, unlike
some of the other surrounding
properties, the synagogue or the
seminary, there will be, virtually, no
trees other than the perimeter and,
effectively, you're paving something the
size of the Nyack Hospital parking lot.
Whereas, the Nyack Hospital parking lot
is on a flatter terrain, here, we're
just shunting water down the hill.

Thank you.

(Clapping.)

THE CHAIRMAN: Sharon Quayle.

DR. QUAYLE: My neighbors have,
adequately, voiced my concerns.

THE CHAIRMAN: Thank you.

Bruce Handelsman, 217 Wanamaker.

And then, following him, Paul
Wanamaker.

DR. HANDELSMAN: Eleanor and I live
right next to the proposed detention
drains, and, presently, there are
storm-drain pipes on the east side of
our property that become filled with

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1 Proceedings

2 debris and silt, and we would like to
3 know who is going to be responsible for
4 keeping them cleared. The storm pipes -
5 presently, they are not monitored at
6 all.

7 Before storms, my neighbor Roger
8 Buck and I clear these pipes to avoid
9 floods.

10 You saw a picture before by Steve
11 Schlanger of what our property looks
12 like. That happens on a regular basis.
13 That was, particularly, bad, but, to
14 some degree, there's water traversing
15 our property, cascading down our
16 property.

17 In a rainstorm, water bypasses this
18 and comes down our property, bringing
19 more debris and washing away many
20 smaller plantings and trees.

21 If and when this proposed drainage
22 system fails, we're concerned that,
23 during construction and on a completed
24 site of this size with 10 buildings and
25 441 parking spots, overflow of surface

3-41

1 Proceedings

2 water will allow dangerous chemicals,
3 such as road salt, fertilizer,
4 pesticides, antifreeze and brake dust to
5 come onto our property and our
6 neighbors' property. This is gonna be
7 harmful to children playing on the
8 lawns. It will damage our lawns. It
9 will damage our trees and our pets.

10 We are also concerned about this
11 water causing structural damage to our
12 underground foundations and the pipes
13 feeding into our homes.

14 We would like to know what kind of
15 assurances the Planning Board can
16 provide us that water will not come
17 cascading down our property.

18 Who will be responsible for repairs
19 or damages to our property as a result
20 of work coming off the construction site
21 onto our property?

22 Who will monitor, maintain and
23 repair the drainage system as it ages?

24 How long is the Applicant going to
25 be responsible for maintaining the

1 Proceedings

2 system?

3 And I ask that these guarantees be
4 placed in writing.

5 Will the existing infrastructure on
6 Wanamaker Lane be able to handle the
7 water coming off the detention systems?

8 (Clapping.)

9 THE CHAIRMAN: Thank you.

10 Paul Wanamaker, 129 Castle
11 Heights.

12 And, after that, Warren --

13 A VOICE: He had to leave.

14 THE CHAIRMAN: He had to leave?
15 Okay.

16 Warren Brandt, 419 Tompkins.

17 MR. BRANDT: The Mayor covered my
18 comments.

19 THE CHAIRMAN: Thank you.

20 Felicitas Griffin, 415 Centre
21 Street.

22 MS. GRIFFIN: Hi.

23 THE CHAIRMAN: Hi.

24 And, after that, Larry Kintisch.

25 MS. GRIFFIN: My concern about this

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2 project is to safety of my children and
3 all the children in the neighborhood,
4 especially, the ones living on and off
5 of Birchwood Avenue.

6 Birchwood Avenue is, probably --
7 maybe, a few people can know -- is a
8 major access road for all the
9 school-aged children, not just
10 elementary school but the high school
11 and even the middle school because the
12 buses for the middle school would drop
13 off the children either on 9W or down on
14 Midland Avenue, and children living on
15 or off of Birchwood will use
16 Birchwood Avenue to go home.

17 Birchwood Avenue has no sidewalk.

18 So, I would like to ask you to
19 consider this.

20 THE CHAIRMAN: Thank you.

21 (Clapping.)

22 THE CHAIRMAN: Larry Kintisch.

23 Following him, Kaz Pignkawa.

24 MR. KINTISCH: I live at

25 208 Hilltop Drive.

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2 I did not come prepared to make
3 comments, and, perhaps, an announcement
4 was made or a mailing made to everybody
5 in the Village that there was to be a
6 hearing. I did not get that. I don't
7 know if this report was made available
8 for the Village to look at, but if there
9 was an announcement of that
10 availability, I did not get it.

11 THE CHAIRMAN: Just - just for
12 everyone's information, this is
13 available at the Nyack Library, the
14 Valley Cottage Library and, also, at the
15 Village Hall.

16 MR. KINTISCH: That was gonna be my
17 first suggestion.

18 It's, perhaps, coincidental that,
19 occasionally, I substitute at the high
20 school as a Science or math teacher and
21 one of the examples I give to my
22 students trying to get their interest is
23 to have them picture a football field
24 and an inch of water falling onto it
25 within an hour, and that inch of water

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makes what's called "an inch foot."
We've heard of an acre foot. Perhaps,
an inch foot is an inch-by-foot square.
If you pile 12 of those up, you get a
cubic foot. So, every 12 square feet
would be about a cubic foot of water,
and if all of that had flowoff in an
hour, you'd have an enormous number of
bigger than one gallon jugs, and I try
to get them to figure out what size pipe
that water would flow through.

It's a lot and everything that's
been covered here in more scientific
detail than that.

The other thing I wanted to hear
about - maybe, it's in the report - has
to do with traffic flow on 9W.

Whenever traffic flows, freely,
it's, usually, because there's a lot of
spacing, and how do you get congestive
flow - this is something I studied in my
engineering program - it's due to too
many cars too close together, too much
interference, cars driving into the

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2 And the net effect of that is, at
3 certain times in the day, the congestive
4 flow on 9W will increase. Certainly,
5 it's more in the daytime and the morning
6 hours when there's school traffic,
7 people going to jobs around Nyack and
8 Congers, and even having that traffic
9 light will be a tremendous - I would say
10 an average two to four-minute delay for
11 people going through that part of the
12 Village.

13 So, the prediction is that some
14 people would take that side, turn down
15 Mountain -- Christian Herald Road,
16 Mountain -- Old Mountain Road down onto
17 Midland is, probably, a good
18 prediction.

19 Also, in crossing, we do want to
20 allow students to cross.

21 Right now, there's a crossing
22 control point at Birchwood. I don't
23 believe there's a crossing control point
24 at Old Mountain Road-Christian Herald
25 Road, and, perhaps, that has to be

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1 Proceedings

2 added. I'm not sure if that's a timed
3 light or if it is a controlled light
4 where there are control loops by the gas
5 station.

6 So, I think there's a lot of
7 traffic engineering that has to be done,
8 and if there is a traffic engineering
9 study, I believe the developers should
10 be paying for it, not the State of New
11 York, but the State of New York should
12 be conducting it.

13 Thank you.

14 THE CHAIRMAN: Thank you.

15 (Clapping.)

16 THE CHAIRMAN: The next listed
17 speaker, Kaz Pignkawa,
18 200 Wanamaker Lane.

19 A VOICE: He left.

20 THE CHAIRMAN: He left?

21 Thank you.

22 Barry Schoenberg, 648 North
23 Broadway.

24 And listed after him is James
25 Sarna.

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2 MR. SCHOENBERG: Good evening.

3 When we talk about cascading -
4 cascading water, nobody knows it better
5 than I do. I'm at 648 North Broadway,
6 and I brought to the Board, the Mayor,
7 Mr. Esmay, and the Board, vividly, saw
8 it. In fact, the word "criminal" was
9 used when they saw it.

10 So, my concern is twofold.

11 I represent myself being in the
12 upper part of North Broadway where
13 everybody knows there's a deficiency in
14 the water system and the ability to
15 handle the water. I've been flooded
16 innumerable amount of times. Both, in
17 and out of my house. Both, my pool and
18 my basement.

19 It, constantly, overflows at the
20 bottom of next and green because the
21 road is angulated southbound from
22 Larchdale. It is unable to handle it at
23 that location.

24 So, certainly, the cascading aspect
25 concerns me.

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2 Um, at that Board Meeting,
3 Mr. Esmay, vividly, and, blatantly,
4 stated that when they approved the Beaty
5 property on North Midland that it was
6 based on an error in the topography
7 study that was done and that that
8 approval had been given subsequent to
9 understanding that there was a
10 topography error, that it was an old
11 study, it was based on that old study
12 and that the findings were wrong.

13 Whether or not that - the Beaty
14 Subdivision would have been approved
15 subsequent to having a full and complete
16 and comprehensive study, we don't know.

17 My question -- one of my questions
18 is: One, [was this approval of this
19 subdivision based on the same study that
20 was incorrect on the Beaty property?
21 And, if so, what ramifications,
22 ultimately, will that have?

23 Number two, I'm speaking as
24 President of Temple Beth Torah, which is
25 the temple that is right across the

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1 Proceedings

2 street, the synagogue across the street
3 from the proposed development. We're a
4 congregation of 400 families with,
5 approximately, 40 families who reside in
6 the Village of Upper Nyack, some of whom
7 are here this evening.

8 Our concern is - is, basically,
9 traffic and environmental.

10 Certainly, from a traffic
11 standpoint, we have a school, a
12 religious school that functions three
13 days a week and exits, approximately,
14 between 4 and 5:00 o'clock. Plus, the
15 associated staff.

16 We sublet the synagogue on a daily
17 basis to the Summit School, which began
18 when they had their horrendous fire, and
19 they have maintained the position of
20 subletting the school there.

21 So, there are school buses coming
22 in on a daily basis and exiting around 3
23 to 4:00 o'clock, usually, the time of
24 which the exiting of doctors' office,
25 and I know that from a personal

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2 standpoint, what time most doctors'
3 offices exit during the day.

4 So, from a traffic standpoint,
5 certainly, a traffic light would be
6 warranted. That's number one.

7 I'd like to see you get that pulled
8 off from the State Highway because that
9 will be a trick.

10 Number two, [I'm concerned about the
11 environmental impact and the water flow
12 that comes from the back of our temple
13 from the mountain, which we abut, comes
14 down our driveways and will,
15 undoubtedly, based on the position of
16 the driveway here, certainly, enter the
17 driveway of the proposed development,
18 which will add, again, significant water
19 flow to the area, increase the already
20 -- the potential for significant
21 rainfall just from a normal rainfall but
22 the cascading effect from our facility
23 into that development and the subsequent
24 downhill ride that it would take through
25 Bruce's house and everybody else's house

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1 Proceedings

2 and, ultimately, end up in my basement
3 will, definitely, have an impact on all
4 of us.

5 So, thank you.

6 (Clapping.)

7 THE CHAIRMAN: Mr. Sarna, before
8 you start -- just, Mr. Schoenberg, just
9 I want to just make one -- correct one
10 thing just so it's clear to everyone.
11 This proposed is a proposed project.
12 There has not been any approval of this
13 project yet.

14 This meeting, again, is to just get
15 comments.

16 (Clapping.)

17 THE CHAIRMAN: It's just to enter
18 everyone's comments and concerns into
19 the record for inclusion in the Final
20 Environmental Impact Statement that the
21 Applicant produces that, ultimately, the
22 Board will consider in reviewing of this
23 project.

24 So, in terms of any approval, it's
25 this is very early in the process

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2 still.

3 Thank you.

4 MR. SCHOENBERG: One other
5 question, Mr. Chairman. Is it possible
6 for you to introduce the Members of this
7 Panel since most of us who live here --
8 other than William McDowell, I don't
9 know anybody.

10 THE CHAIRMAN: Certainly.

11 I'll start with myself. I'll let
12 everyone introduce themselves.

13 My name is William Pfaff. I'm
14 Planning Board Chairman. I live at
15 208 Foss Drive. And --

16 MR. THERIEN: My name is Norm
17 Therien and I live next-door at
18 346 North Broadway.

19 A VOICE: We can't hear you.

20 ANOTHER VOICE: We can't hear you.

21 THE CHAIRMAN: Or, maybe, I should
22 -- okay.

23 MR. THERIAN: My name is Norm
24 Therian and I live next-door at
25 346 North Broadway.

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2 A VOICE: And what is his
3 position?

4 THE CHAIRMAN: Planning Board
5 Member.

6 MR. BIAVATI: We're all Members of
7 the Planning Board around this side.

8 I'm Bruce Biavati. I live at
9 530 North Midland Avenue on the mammoth
10 river that comes down called "Voss
11 Lane." I've been in Nyack for what -
12 forty years? And been a Member of the
13 Planning Board.

14 MS. SIMPSON: Thank you, Bruce.

15 I'm Ellen Simpson. I live on
16 417 Maple Avenue, which is one of the
17 side streets off Birchwood Avenue.

18 MR. McDOWELL: William McDowell, a
19 38-year resident of the Village of Upper
20 Nyack, and I live on Old Mountain Road,
21 121, just east of Midland.

22 MR. LEWIS: My name is Bob Lewis.
23 I'm the Village Attorney. I live at
24 194 Hook Mountain Lane. I've been a
25 resident of Upper Nyack all my life.

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2 MS. ROTH: My name is Susan Roth.
3 I'm Planning Board consultant with
4 Robert Geneslaw Company for the Planning
5 Board.

6 MR. ENGLANDER: I'm Alan
7 Englander. I live at 118 Lexow Avenue,
8 a 48-year resident of Upper Nyack. I'm
9 here all my life.

10 MR. LETSON: Dennis Letson,
11 engineer and consultant to the Village
12 and Planning Board.

13 THE CHAIRMAN: Okay. And,
14 Mr. Sarna, before you start, again, I
15 would also just like to mention, besides
16 we have the Planning Board in terms of
17 reviewing this project, the consultants
18 to the Planning Board are, as Susan
19 indicated, Robert Geneslaw & Company, as
20 planning consultant.

21 We have John Sarna, consultant to
22 the Planning Board, as traffic
23 consultant. Dennis Letson, the Village
24 Engineer, reviewing storm drainage
25 issues, and the Planning Board, also,

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2 will have Lawler Matusky Skelly as a
3 consultant to the Board in review of
4 storm drainage issues.

5 So, with that, Mr. Sarna.

6 MR. SARNA: I'm going to ask the
7 Board to excuse my back. You've heard
8 me speak and know many of my questions.
9 So, I'll address the audience.

10 My name is James Sarna. I live at
11 305 Fairview Avenue in Upper Nyack.
12 I've been here for six years. I'm no
13 relation to John Sarna, who is the
14 traffic consultant. People have asked
15 me that before.

16 I'm a realist. I understand that
17 this property will, eventually, be
18 developed.

19 Someone asked me, recently, why
20 have I taken such an active role, why
21 have I come to most of the Planning
22 Board meetings over the course of the
23 past year - not all but most - and I
24 said because I want to be involved and
25 because I have good intentions for this

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2 community. And they reminded me that
3 the road to hell was paved with good
4 intentions, and I reminded them that I'm
5 a bankruptcy attorney and I have been
6 for 15 years. I work with small
7 businesses and I work on big cases and
8 little cases in the bankruptcy courts,
9 and the road to the bankruptcy court is
10 paved with the corpses of
11 well-intentioned real estate
12 developers.

13 So, what I'd like to address, and
14 I've addressed this, previously, in
15 Planning Board meetings, is the
16 financial aspect of this development.

17 I have asked the developer at the
18 very first meeting and at subsequent
19 meetings to provide some information to
20 the public about who is behind the
21 development.

22 If you go to the Secretary of
23 State's website of the State of New
24 York, you will find Courtyard At Upper
25 Nyack, LLC, care of an address in

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2 Elmsford. We don't know who the people
3 are who stand behind this proposed
4 development.

5 When I asked the developer, whom we
6 talked about rainwater and about the
7 damage that would be done to the people
8 who live on Wanamaker and the people who
9 enjoy the Field Club, who pay taxes for
10 the Field Club, and for the people whose
11 children come to this school, and for
12 all the homes around here where there's
13 hundreds of thousands of gallons of
14 water will flow, I asked him: [Will you
15 pay to repair the damage if your
16 projections and your hydrologist's
17 information turns out to be incorrect?

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18 Of course, the answer was no.

19 That's why the Courtyard At Upper
20 Nyack, LLC - Limited Liability Company -
21 was established.

22 So, I have a couple of questions
23 that I think ought to be addressed in
24 the Environmental Impact Statement
25 because, underlying all of the

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statistics, Mark Twain said there are three kinds of liars - there are liars, damned liars and statisticians. There are all kinds of statistics and we can make them say or read them anyway we want, but underlying these assumptions has got to be the financial viability of this proposed development.

I have pointed out that within a five-mile radius as you drive on the Thruway, as you drive all around this community, there are hundreds of thousands of square feet of office space that have not been rented despite those developers' best interest.

(Clapping.)

MR. SARNA: There is an office building that has been constructed at a great delay and with some significant disruption that is one building that is less than - what - a thousand yards, maybe, from where this 10-building development is being proposed. There has been a sign on that first lot, then

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2 on the building, that has had offices to
3 rent for over two years.

4 When Nyack Hospital looked into
5 creating its own version of what's being
6 proposed for the Courtyard At Upper
7 Nyack, several years ago, they did what
8 I asked this developer if they had done,
9 and that was they conducted a
10 feasibility study. They determined that
11 doctors, many of whom practice at this
12 hospital and have rights at this
13 hospital here in Nyack, are not
14 interested in renting office space so
15 close to the hospital because they,
16 also, practice at other hospitals and
17 because there is plenty of space where
18 they are, whether it's in Pomona,
19 whether it's in Suffern, whether it's
20 near other hospitals. They don't need
21 more office space here.

22 I asked the developer how can we be
23 assured, first, that this project will,
24 actually, be completed?

25 We've seen people with good

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2 intentions start projects and, as an
3 LLC, it's not to say that if they,
4 actually, get it started, they won't
5 lose money if they stop midway, but
6 that's it - they limit their liability.
7 That's why it's called "a limited
8 liability company."

9 I help people set these up all the
10 time. I tell people you're only at risk
11 for your investment. If this developer
12 puts up some of its money, maybe,
13 borrows some more and, maybe, guarantees
14 some of it, and they decide, you know
15 what, we can't build all these buildings
16 and rent all of this space, we're done,
17 we're pulling the plug, and guess who's
18 stuck with an eyesore, a half-completed
19 project and all of the attended tax
20 liability, traffic concerns, pollution
21 concerns, hundreds of thousands of
22 gallons of water going into our sewer
23 systems?

24 (Clapping.)

25 MR. SARNA: I ask this developer to

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2 give us some assurance, to tell us: Who
3 are you? What money do you have,
4 personally, at stake here? So that we
5 know you're not going to run out if this
6 doesn't turn out the way you want it to
7 turn out.

8 Of course, there was no answer.
9 They suggested that we go and we take a
10 look at another development in
11 Westchester. We don't live in
12 Westchester for a reason. Upper Nyack
13 is not like Westchester and we hope it
14 never will be. That's why we live
15 here.

16 (Clapping.)

17 MR. SARNA: I would like the
18 Environmental Impact Statement to
19 include a very detailed analysis of the
20 financial viability because that
21 underlines -- underlies the entire
22 project.

23 You can talk about detention ponds,
24 you can talk about changing the
25 landscaping, you can talk about fire

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2 exits and entrances, and you can talk
3 about the water runoff, but, [when the
4 sewer system on Midland Avenue, which,
5 currently, has a very difficult time, if
6 not is completely inadequate for the
7 water that runs off now, when that
8 breaks, I ask the developer whose
9 responsibility is that?]

10 The answer: "It's not ours.

11 That's the Village's responsibility."

12 We will be the ones, whether it's
13 increasing our taxes or special
14 assessments or having to float a bond,
15 which, by the way, Upper Nyack, as I
16 understand it, is one of the very few
17 incorporated villages in all of the
18 State of New York, there are a fewer
19 than a handful, five of them that has no
20 public debt, and we all know what
21 happened --

22 (Clapping.)

23 MR. SARNA: And we all know what
24 happened in the recent election about
25 Petersen's. It didn't pass. [There are

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2 people in this Village who have decided
3 that we pay a lot of money in taxes, we
4 want things to stay the way they are,
5 and, unless there is a financial
6 assurance that the impact that this
7 development will have, and a financial
8 assurance that it will be feasible and
9 that it's not going to run out of steam
10 two years into the construction, when
11 you have thousands of trucks going in
12 and out and then, suddenly, it stops and
13 we're stuck with unpaved parking lots
14 and erosion and all the other problems
15 that are attended to this. We need to
16 know how this will be completed and why
17 this developer believes and can assure
18 us that it will be able to complete the
19 project.

20 The last thing that I would mention
21 is all of the other comments that have
22 been made tonight are really important
23 and people feel very strongly about
24 this. I would urge everybody to speak
25 to their neighbors. We've made a very

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2 concerted effort talking to people, but
3 I will bet you dollars to doughnuts that
4 most of the people who are here didn't
5 read about this in the Journal News.
6 They heard about it from friends and
7 neighbors.

8 I asked the developer at the very
9 first meeting that I attended, which was
10 over a year ago, and I only found out
11 about the project, by the way, because
12 somebody who lived nearby had to notify
13 me of a home that she wanted to build.
14 I live less than, probably, 500 yards
15 from this proposed development and I
16 didn't receive notice because, as the
17 developer said, it wasn't required.

18 I asked the developer, at its cost,
19 to please send out a notice to everyone
20 in the Village of Upper Nyack. I'm told
21 there are about 650 homes in the Village
22 of Upper Nyack. I was told it's not my
23 responsibility, I've done everything
24 that I am required to do.

25 I will guarantee you, right now

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2 standing here, that when the sewers
3 overflow, when the traffic burden is too
4 much for our community to handle, when
5 our children are late for school or
6 endangered because of the increased
7 traffic of hundreds of cars going into
8 the property in the morning, leaving for
9 lunch, because there is no proposal for
10 any food service, leaving for lunch,
11 everybody is gonna go where? To
12 Hartell's? You know, they can't make
13 that much macaroni and cheese.

14 Coming back to the property after
15 lunch and leaving again at the end of
16 the day, when we come back to the
17 developer and we say your development
18 has caused the infrastructure to break
19 down, this developer will say the same
20 thing it said from Day 1 to me and to
21 the others who have been to the Planning
22 Board meetings: It's not my problem.

23 I would like all of this to be
24 addressed, and I don't think that anyone
25 can, properly, review an Environmental

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2 Impact Statement where the propriety of
3 this project in this Village without
4 knowing for sure or with a reasonable
5 amount of certainty that this developer
6 will stand behind the project and will
7 make sure that whatever is developed is
8 going to last and they're not going to
9 back out and will be good for this
10 community.

11 Thank you.

12 (Clapping.)

13 THE CHAIRMAN: Nerissa Cusick,
14 330 North Midland Avenue.

15 Okay. Lawrence Alpern,
16 115 Birchwood.

17 MR. ALPERN: Thank you very much
18 for letting me speak.

19 I didn't know about this
20 construction until - until a few days
21 ago. I'm very nervous about this. I
22 don't have a lot to say, and that's a
23 tough act to follow.

24 Thanks very much for your
25 comments.

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2 [So, I'll just say what I think the
3 average citizen in this Village would
4 say. I am afraid of the extra tax
5 burden that I'm gonna face.] I'm tired
6 of having water in my basement, in my
7 backyard. I don't have a pool, but I
8 can swim there, sometimes.

9 I'm tired of the deer that come
10 around my garden and ravage it, and I've
11 had to put a fence up around my house to
12 try to keep the deer out, and [I fear
13 that there will be more of a deer
14 problem if these wetlands and wooded
15 areas disappear.

16 And, lastly, [I'm also afraid of
17 cars and traffic coming up and down my
18 block on Birchwood Avenue. Right now,
19 it's a problem because they don't have
20 sidewalks and it's only gonna get
21 worse.

22 Those are my concerns.

23 Thank you.

24 (Clapping.)

25 THE CHAIRMAN: Mark - Mark

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2 Braunstein --

3 MR. BRAUNSTEIN: Close enough.

4 THE CHAIRMAN: -- 221 Birchwood.

5 MR. BRAUNSTEIN: Hello there.

6 Just a real few comments here. I
7 live on Birchwood, as well, and the
8 traffic that goes down that street is at
9 about 40 miles an hour. I have a little
10 boy and I am concerned.

11 On Midland Avenue, last year, there
12 was a very tragic accident that happened
13 there, and I, certainly, would not like
14 to see anything like that that I heard,
15 tonight, for the first time, about Old
16 Mountain Road happen on
17 Birchwood Avenue.

18 The amount of cars that come down
19 there now, I guess, because its been
20 rerouted has been significant, but, with
21 this increase of flow on
22 Birchwood Avenue with no sidewalk, it's
23 gonna be significant.

24 In addition, about 2, 3:00 o'clock
25 every afternoon, there is a huge number

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of high-school students that just walk
down that street just freely and they're
just having a good time.

So, the amount of cars that would,
actually, come because of this project
would be enormous.

I have a river through my
property. I have water in my basement.
Those things are sort of a function it
seems like of Upper Nyack, but the
traffic. [Nobody has really addressed
some of the other noise pollution
issues,] [some of the lighting issues
coming from the parking lots.

So, I think there are a number of
concerns, environmentally, that we need
to look at here, and but my main concern
is the incredible speed at which people
are really coming up and down
Birchwood Avenue at this time because it
is such a steep hill.

Thank you.

(Clapping.)

THE CHAIRMAN: Thank you.

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2 Ted Koczynski, 239 Birchwood.

3 MR. KOCZYNSKI: Hi. I'm Ted
4 Koczynski. I live on Birchwood Avenue,
5 and I'd like to remind everybody that,
6 when it does freeze and the ground
7 freezes solid, with the added lack of
8 absorption, it's gonna be tremendous.
9 You're not gonna stop it.

10 If the retention pond is frozen
11 from the previous little bit of rain,
12 it's not gonna stop.

13 So, Murphy is gonna get you. It
14 really is.

15 Thank you.

16 (Clapping.)

17 THE CHAIRMAN: Thank you.

18 Robert Gross, 7 Perry Lane.

19 A VOICE: He's left.

20 THE CHAIRMAN: Okay. Thank you.

21 John Borst, 505 North Broadway.

22 MR. BORST: Hello. John Borst,
23 505 North Broadway.

24 I guess, everyone, all my neighbors
25 have pretty much expressed what my

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2 feelings are. I'd like to echo those
3 and also say that we are, currently,
4 living in a crisis situation. It's not
5 a matter of when. It's already now.

6 So, until the current runoff
7 problems are addressed, I think it would
8 be irresponsible to even consider this
9 proposal.

10 Thank you.

11 (Clapping.)

12 THE CHAIRMAN: Jerry Greenberg,
13 207 Wanamaker Lane.

14 MR. GREENBERG: Good evening.

15 THE CHAIRMAN: Hi.

16 MR. GREENBERG: I'd like to thank
17 our Mayor and our neighbors for
18 articulating these problems so well.
19 I'm gonna keep this short because they
20 covered most of it already.

21 In this draft, there's a letter
22 from Rockland County stating that the
23 Planning Board has the discretion of
24 reducing the square footage due to slope
25 and the residential abutment of this

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2 project. I think we all request the
3 Planning Board exercise this
4 discretion.

5 A VOICE: Yes.

6 MR. ^{Greenberg}~~BORST~~: There's a serious
7 deficiency in the alternatives chapter
8 of this draft. It does not address a
9 reasonable alternative in terms of a
10 smaller project. It should be
11 presented.

12 We request that the Planning Board
13 require the developer to come up with a
14 scaled-back model with, maybe, five or
15 six buildings.

16 In addition, due to the
17 Thanksgiving holiday, we request the
18 comment period to be extended from 30 to
19 45 days so we might be able to contact
20 our own specialists and experts in these
21 various areas of engineering and
22 traffic.

23 Finally, I've been in the Village
24 for 22 years. When I purchased my house
25 and when the developer, the original

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2 developer, who I believe is partners
3 with this developer, though, it's hard
4 to tell, when these purchases were made,
5 the Upper Nyack Zoning Ordinance,
6 clearly, stated that nothing could be
7 built on this piece of property which
8 would have a negative impact on the
9 value of the surrounding residential
10 real estate. I cannot imagine how this
11 project would not have a negative impact
12 on all of our property in the Village.

13 (Clapping.)

14 MR. BORST: And, finally, a group
15 of your neighbors has gotten together to
16 hire some experts, and if you would like
17 to help us out with that, because if we
18 don't give the Planning Board something
19 to hang their hat on other than the
20 developer's experts, they're stuck with
21 the developer's experts.

22 If you would like to join us and
23 help us out with this project, you can
24 contact me, Jerry Greenberg, Joe
25 Menschik or Bruce Handelsman.

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2 Thank you very much.

3 THE CHAIRMAN: Okay. Before we get
4 to the next question, just a
5 clarification on one of the comments
6 made.

7 Again, I had identified, earlier,
8 that the Planning Board has its own
9 consultants with respect to this
10 project. They are separate from the
11 design team that the Applicant is using
12 to prepare, you know, for the design of
13 this project, and, again, the Planning
14 Board has its own consultants regarding
15 traffic, storm drainage and overall
16 planning issues.

17 The next speaker listed is Deb
18 Krikan - Krikan, 204 Glenbrook Road.

19 MS. KRIKAN: Hi. My name is Deb
20 Krikan. I live on 204 Glenbrook and I
21 want to thank the Board for having this
22 meeting.

23 I came in here thinking that it
24 would be a short little educational
25 experience, and it's very scary, from

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listening to everyone I've spoken to.

And I've always had confidence in the Board regarding our Village that we have. I was going to speak only about a few aesthetic qualities of why I moved to Upper Nyack, living in Los Angeles for 17 years, living also close to Fort Lee and 9W and driving through Haverstraw, and one of the things that makes Upper Nyack so charming is that we still have trees along the road.

One of the things that I thought came up as everyone was speaking was that the issues regarding the water is a huge problem, as John Borst had said. It is an existing problem.

A new building was just built next to the Chinese -- the Golden Mushroom, which is less than an acre of a parking lot, and our street on Glenbrook has flooded, at least, 300 percent more.

Our neighbors, one time, we all got out, together, going, oh, my God, look at this river down the street, and that

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2 was just because of that one building
3 that is less than a quarter of an acre.

4 The other thing I'd like to ask the
5 developers is that the capacity of the
6 building occupancy. I have not seen any
7 numbers on that. If you have 10 two to
8 three-story buildings that has an
9 occupancy, I'm sure more than 400 people
10 each building, and we one only have 451
11 parking lots, allotment, that does not
12 seem equivalent to be able to serve the
13 capacity of those buildings if you think
14 about the worst-case scenarios.

15 So, engineering-wise, I don't know
16 what the parking allotment is required
17 for occupancy of a building. That
18 number needs to be determined, and
19 because I'm sure even parking for the
20 Nyack Hospital, they park on our
21 streets, the residential streets,
22 because that parking lot doesn't
23 accommodate it.

24 The other thing that I really feel
25 that can be -- that we, as a community

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2 for our Board, whatever we can help them
3 with as far as engineering and legal
4 help, we must do that because one thing
5 that's very clear after all these issues
6 tonight is that I do not believe any
7 commercial zoning could take place in
8 that 11 acres, and if there's anything
9 that we can do for a referendum to turn
10 it to a residential zoning --

11 (Clapping.)

12 MS. KRIKAN: -- which could be,
13 environmentally, safe, we would much
14 rather have homes than have commercial
15 parking lots.

16 So, whatever we can do to help you
17 guys and gals to be able to do a
18 referendum and turn that commercial
19 zoning to a residential, we would much
20 rather have families and children than
21 parking lots.

22 Thank you.

23 (Clapping.)

24 THE CHAIRMAN: Thank you.

25 James Gurrere, 306 North Midland.

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2 MR. GURRERE: My name is Jim
3 Gurrere. I've lived between Nyack and
4 Upper Nyack some 80 years. I came here
5 as a little baby at two and a half years
6 old, and, gentlemen, as I looked over
7 this property last night and rode by,
8 and there have gone near with their fire
9 company there for driver and so on, I
10 look at this thing here, I've lived here
11 on Centre Avenue, and, there, I know
12 what the water conditions are.

13 Nobody has brought up anything
14 there that's most important thing to all
15 us firemen: What do we do if we have a
16 fire?

17 How big is the water main up here?
18 If I recall, it's a small water main,
19 which Spring Valley Water Company never
20 never changed - at least, there, I never
21 saw it.

22 Also, as I understand, there's only
23 one entrance into this project.

24 We got here 100-foot area of
25 tractor drawing, that's gone with the

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2 first piece of apparatus arriving at the
3 scene. Once that's in there, how are
4 you going to fit pumpers in there?

5 This here is something here that no
6 one has never thought about.

7 I ask you, too, what is the size of
8 the water main?

9 If I remember, correctly, it's a
10 small one up there on 9W. You put one
11 pumper there, you got it, that's it.
12 That means you're gonna have to relay
13 water from Christian Herald Road and,
14 believe me, it's no fun.

15 Also, their sewer - where -- don't
16 forget our sewer line is the storm sewer
17 and sanitary sewer all into one, and,
18 when you start filling that up, you're
19 going to have water flowing near all -
20 all over, everywhere.

21 I come from Clarkstown School in
22 the afternoon. I live on Midland
23 Avenue. I have a difficult time getting
24 in my driveway. In order to get into
25 the driveway, I have to go over and come

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2 down Highmount Avenue down to Midland
3 and back into my driveway. And,
4 mornings now, it's getting worse and
5 worse there getting out, and you're
6 gonna have traffic there coming up there
7 on 9W?

8 The other day, I'm coming south on
9 9W. I had to wait for three lights so
10 that I could make a left turn to come
11 into Upper Nyack. This is what you guys
12 want?

13 Think about it.

14 I hope this thing here gets knocked
15 down because I'm getting sick and tired
16 here of these roads here.

17 And that's my comments.

18 (Clapping.)

19 THE CHAIRMAN: Thank you.

20 The last listed speaker, Karen
21 Hughes, 214 Wanamaker Lane.

22 MS. HUGHES: Actually, most of my
23 -- most of what I wanted to talk about
24 was the traffic, and that's been
25 addressed by, practically, everybody who

