

### **3.4 Land Use and Zoning Comments and Responses**

**Comment 3.4-1 (Letter 6, February 25, 2011, Edward Burroughs, AICP, Commissioner, Westchester Co. Department of Planning):** Consistency with Westchester 2025 - The project as proposed is consistent with several of the County Planning Board's long-range planning policies and strategies set forth in Westchester 2025. In particular, the project will: channel growth to an existing center where such growth can be supported in a transit-oriented environment, support the development of affordable housing with 82 affordable units, protect historical and cultural resources through the preservation of a historical building facade and promote sustainable technology through, the use of green building techniques and the provision of a rooftop garden with the intended purpose of providing locally grown produce to local consumers. As a result of these consistencies with Westchester 2025, the County Planning Board is supportive of the proposed development.

**Response 3.4-1:** *Comment noted.*

**Comment 3.4-2 (Letter 6, February 25, 2011, Edward Burroughs, AICP, Commissioner, Westchester Co. Department of Planning):** We urge the City to give additional consideration to the development's relationship to future potential redevelopment of the surrounding area. For example, ground floor retail may be a desirable feature in the future on this site and on underutilized lots across the street from the site. If retail is not to be provided for at this time, perhaps the building can be constructed with flexible ground floor space that can be adapted for new uses as the neighborhood further evolves.

**Response 3.4-2:** *The Applicant does not propose retail space on the ground floor of the new apartment building. Ground level commercial space exists already within the Trolley Barn fronting to Main Street. The first floor of the new apartment building is occupied by the automated garage bays, and ancillary amenities that are required to make the project marketable and successful. It is anticipated that future tenants will patron the existing stores and shops located in the project vicinity, including Main Street. The new residents introduced to the downtown area will help support existing retail and commercial service uses.*

**Comment 3.4-3 (Letter 6, February 25, 2011, Edward Burroughs, AICP, Commissioner, Westchester Co. Department of Planning):** PUR overlay criteria. The City's requirements for the PUR special permit specify a 2-acre minimum site size. We note that the site of the main construction is 1.1 acres with the additional acreage being provided by the existing Trolley Barn site and the lot area of the three small multi-family buildings across the street. We also understand that the Trolley Barn site was used in a previous development application to obtain minimum acreage for a PUR. The County Planning Board supports the applicant's proposal to both connect the new development to the Trolley Barn lofts as well as to rehabilitate the three smaller buildings. We recommend that the City consider a review of the PUR criteria to determine if a smaller site area requirement may be better suited for downtown PUR projects.

**Response 3.4-3:** *Comment noted. The minimum lot size required for a PUR could be considered in conjunction with the City's recent downtown zoning analyses and can be addressed by the City Council as part of that process. The Trolley Barn was made a part of the PUR application as it is to be connected to the new apartment building and will share the amenities provided in the new apartment building, including the automated parking garage. Thus, it is appropriate to include it in the PUR application. The three structures across the street are included in the PUR as the applicant proposes to*

*rehabilitate their exterior facades. The facade improvements will improve the marketability of the new apartment building by improving the appearance of this block of Buena Vista Avenue.*

**Comment 3.4-4 (Letter 9, February 24, 2011, Patricia Dow, Majority Leader, Yonkers City Council):** Land Use (Page 1 -11) - Encroachment Agreement - Please explain or clarify definition of this process as it pertains to this development. Please give specific details.

**Response 3.4-4:** *The encroachment agreement is discussed in Section 3.4, Land Use and Zoning, of the DEIS. The Applicant anticipates arrangements will be made to allow construction of the geothermal wells within the City right-of-way. An encroachment agreement would be entered into between the Applicant and the City of Yonkers Community Development Agency or other City agency. The geothermal wells would be located within the right-of-way subject to Planning Board and City Engineer approvals. Thus, the final precise locations will be determined at detailed site plan review. The Applicant would be responsible for all costs associated with the maintenance of the encroachment, including maintenance, repair and replacement of any sidewalk within which the wells may be located. The Applicant would obtain and maintain property damage and liability insurance for the Encroachment naming relevant City agencies as additional insured. The encroachment agreement may be terminated by the City when determined necessary. The City would continue to have rights to allow construction or otherwise improve its right-of-way. The Applicant would indemnify the City and its agencies harmless from any costs and expenses set forth in the Agreement. The agreement would be recorded in the Westchester County Clerk's office. The City Council would be required to pass a special ordinance authorizing the encroachment.*

**Comment 3.4-5 (Letter 9, February 24, 2011, Patricia Dow, Majority Leader, Yonkers City Council):** Land Use (Page 1-11) - Does the City Council of Yonkers have to vote on the amendment of the density of the Riverview Urban Renewal Plan? What other projects or lots within the proposed plan can utilize the newly proposed density?

**Response 3.4-5:** *The Community Development Agency and the City Council will have to approve amendments to the Riverview Urban Renewal Plan to allow construction of the new apartment building at the density proposed. The City Council can amend the urban renewal plan in a manner whereby the density applies to the subject property only.*

**Comment 3.4-6 (Letter 9, February 24, 2011, Patricia Dow, Majority Leader, Yonkers City Council):** Land Use (Page 1-11) - Please be more specific as it pertains to the location of the Day Care Center Park as to where it will fit in. To my knowledge there is no vacant lot or enough property in front of the Day Care to actually build one. Please elaborate how this will be done.

**Response 3.4-6:** *Figure 3.4-6 of the DEIS illustrates a concept plan for the Buena Vista Downtown District that was prepared by the City's consultants as part of the Downtown Rezoning Study. The urban design phase of the zoning study tested a variety of ideas about how to reform the downtown, not all of which we used to rewrite the zoning. It was a conceptual phase of the study and not a prescriptive product. The illustrations were used to test a variety of building heights and densities and are not a master plan of the preferred direction for the downtown. The new apartment building is shown on the west side of Buena Vista Avenue. Note that the Applicant proposed the rehabilitation of the residential buildings well in advance of the release of the Downtown Rezoning Study.*

**Comment 3.4-7 (Letter 9, February 24, 2011, Patricia Dow, Majority Leader, Yonkers City Council):** Land Use (Page 1-11) - Referencing the same topic as mentioned above, what existing residential buildings is the developer planning on demolishing?

**Response 3.4-7:** *Two residential buildings located on the west side of Buena Vista Avenue just south of the brownfield properties and north of the day care center are part of the overall project site and would be demolished. The three residential buildings on the east side of Buena Vista Avenue would be rehabilitated and preserved.*

**Comment 3.4-8 (Letter 9, February 24, 2011, Patricia Dow, Majority Leader, Yonkers City Council):** Zoning (Page 1-12) - Will new Zoning allow other developers to build at the same height as being proposed for the Teutonia Hall Project?

**Response 3.4-8:** *In selected location the new proposed zoning will allow height and density similar to the Teutonia Hall project but only because those locations make good planning sense, have been tested for impacts such as shadowing of historic or open space properties and not because of any precedent set by the proposed action. The new zoning selected locations within the downtown for increased height and density are based on proximity to mass transit, location near similar or appropriate uses and an understanding of the value of downtown, transit oriented sites to the redevelopment of the downtown.*

**Comment 3.4-9 (Letter 10, February 25, 2011, Terri Joshi, President, YCSD):** An important question, as well, is what COY zoning redistribution is envisioned under the current new Master Plan and Rezoning Project being undertaken by the Planning Department. Should a project this massive be allowed to move forward just as the city is creating a comprehensive urban redesign which includes this particular block?

**Response 3.4-9:** *The City has not enacted any development moratorium. Thus, the City is continuing review of the proposed PUR special use permit and site plan application.*

**Comment 3.4-10 (Letter 10, February 25, 2011, Terri Joshi, President, YCSD):** Without the .2608 acres encompassed by the three private houses on the east side of Buena Vista Avenue, the developers do not have enough acreage to qualify for a PUR Zone. The redevelopment for the three houses is limited to restoration exterior facade work, such as window treatments and replacement of aluminum siding with more appropriate materials. Although, it is a laudable goal to restore these buildings to their former glory, YCSD is not convinced that this minimal amount of work, which any homeowner could do under the aegis of COY basic residential zoning, can legitimately count toward a PUR Zone which will override City zoning and remove the project from zoning regulations.

**Response 3.4-10:** *The PUR special use permit is a zoning technique used to effect the intent of an urban renewal plan. While not a zoning district after its passage by the Planning Board and the City Council it is memorialized on the zoning map. The zoning ordinance allows for the aggregation of land area and parcels to come to a 2 acre minimum (N.B. in earlier versions of the zoning the PUR was a 5 acre minimum) and there have been other PUR's approved on multiple lots across an Urban Renewal Area. The rehabilitation of the frame buildings on the east side of Buena Vista Avenue improves the overall urban renewal area, improves the block upon which the project takes place and preserves buildings that may be of local historical interest.*

**Comment 3.4-11 (Letter 10, February 25, 2011, Terri Joshi, President, YCSD):** Trolley Barn - Again, the Trolley Barn is counted into the PUR Zone application, but the only work to be done on the Trolley Barn is to cut a connecting door and passageway into the proposed residential tower. The inclusion of the Trolley Barn in the PUR zone seems a slim mechanism by which to claim enough acreage for a PUR Zone.

**Response 3.4-11:** *The Trolley Barn is being attached to the new apartment building to achieve the following objectives:*

1. *It will allow direct connection of the new apartment building to Main Street via the Trolley Barn - residents will be able to limit their exposure to inclement weather especially during the winter when walking to the train station.*
2. *The Trolley Barn residents will be allowed use of the automated parking garage. To the extent that Trolley Barn residents presently store vehicles elsewhere in the City (since Trolley Barn does not have on-site parking), use of the automated parking garage would reduce demand placed on City-owned and/or maintained parking areas, thereby freeing it for use by others.*
3. *The Trolley Barn tenants will use of the amenities within the new apartment building, e.g., the indoor pool.*
4. *There is no requirement within the Yonkers Zoning that mandates that all lands within a PUR be redeveloped with new buildings, nor that existing rehabilitated properties cannot be included within a PUR plan.*

**Comment 3.4-12 (Letter 10, February 25, 2011, Terri Joshi, President, YCSD):** Yonkers new Master Plan and Downtown Rezoning — DEIS 3.4-9 (and Figure 3.4-6) The developers acknowledge in the DEIS that the three east side private houses may be demolished by the city as part of the new Master Plan, which envisions a public park on that site. It seems specious at best to incorporate this acreage into a PUR zone application when the city may have other plans for the site.

**Response 3.4-12:** *As noted in Response 3.4-6, the Applicant submitted the PUR application, including plans to rehabilitate the existing residential buildings, well in advance of the preparation and release of the Downtown Zoning Study concept plan. The DEIS disclosed the inconsistency of the draft study with this PUR application. The Applicant will continue to pursue its PUR application as presented. The Rezoning Study is not a new Master Plan for the downtown. has proceeded it became obvious that the consultants use of the term “master plan” and the city’s intent were different. It was the city’s intent to use the urban design team’s work as a general visioning process in an attempt to understand the potential of the various properties within the downtown. In combination with on-going reviews of the downtown zoning and economic needs The City currently has no plans to redevelop the block with the three historic residential buildings into a park.*

**Comment 3.4-13 (Letter 10, February 25, 2011, Terri Joshi, President, YCSD):** HUDSON RIVER WATERSHED — DEIS 3.4-12 - The NYS DEC may have a role to play in approving storm-water mitigation measures in the critical environmental area.

**Response 3.4-13:** *Once a CEA has been designated, potential impacts on the characteristics of that CEA become relevant areas of concern that warrant consideration in determining the significance of any Type I or Unlisted action. The City has already determined that the project may have an impact on the environment and issued a*

*Positive Declaration. There is nothing inherent about the CEA designation of the Hudson River shore that requires any additional review beyond that already required under existing regulations. A SPDES permit is required from the NYSDEC for stormwater management measures regardless of whether the site is located within a CEA.*

**Comment 3.4-14 (Letter 13, February 14, 2011, Harjit S. Jassal, Member, Yonkers LPB):**

This project is being filed under Planned Urban Redevelopment (PUR). Under PUR the minimum (contiguous) track of land should be 2 acres. This project consists of two tracks of land on east and west side of Buena Vista Street and thus are two separate tracks which are not contiguous.

**Response 3.4-14:** *As per Section 43-72.C of the Yonkers zoning ordinance, planned urban redevelopments (PUR's) may be permitted "in all designated urban renewal areas on tracts of land of two or more acres in aggregate." Thus, a PUR may be applied to one or more tracts of land, and the acreage must be two or more acres in aggregate. The land is not required to be contiguous.*

**Comment 3.4-15 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):**

*Existing Land Use – Study Area - It is stated that the Chicken Island redevelopment will include a 50 story residential building adjacent to the proposed stadium. In fact, this is a mixed use building consisting of 39 residential stories over an 11 story mixed use base.*

**Response 3.4-15:** *Comment noted.*

**Comment 3.4-16 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):**

*City of Yonkers Master Plan - Any impact or advantage of the project being located within a New York State Economic Development Zone should be stated.*

**Response 3.4-16:** *The Comprehensive Plan identifies the area on Map 6 as a "Economic Development Zone". However, the area shown on Map 6 coincides with the purple area shown on Figure 3.9-1 of the DEIS that is identified as a "New York Empire Zone" - the base map shown in Figure 3.9-1 was prepared by the City's Office of Economic Development. "Economic development zones" and "Empire Zones" are used interchangeably in the NYS economic development regulations (article 18-B of the General Municipal Law). The site is in an Empire Zone. A description of the benefits of the Empire Zone are provided in Chapter 3.9, Fiscal Analysis, of the DEIS.*

**Comment 3.4-17 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):**

*Riverview Urban Renewal Plan - Based on the information provided, it would appear that the development does not comply with the provisions of the Riverview Urban Renewal Plan. The density is greater than permitted and the building is higher than would be described as medium-high density. Also explain what it means that the western site is not contained in a "Development Area". Indicate the steps necessary to revise the urban renewal plan, and the specifics of what the required amendments would be.*

**Response 3.4-17:** *Amendments to the urban renewal plan require approval by the Yonkers Community Development Agency and the Yonkers City Council. Article 15 of the New York General Municipal Law regulates the urban renewal process. The area within which the project is located is already designated as an urban renewal area. However, the urban renewal plan must be amended to revise the proposed height and*

*density for the subject property. Amendments to the urban renewal plan is subject to the SEQRA process - the DEIS and FEIS evaluate the impacts associated with the proposed amendment as one of the necessary actions required to construct the project. The Yonkers Community Development Agency must vote to approve the amendment. The City Council must hold a public hearing on the proposed amendment and approve it. Within the Riverview Urban Renewal Area, specific "development areas" have been designated wherein a specific redevelopment action is outlined. The western portion of the site is not contained within a development area. Thus, there are no specific projects or plans set forth for these properties.*

*The proposed amendments to the urban renewal plan are set forth in Appendix D of the FEIS.*

**Comment 3.4-18 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** Yonkers Downtown Waterfront Master Plan - It would appear that the Yonkers Downtown Rezoning Study of July 2010 as part of a second downtown master plan had identified the project site as part of the Buena Vista Downtown District and that district recommendations conflict in part with the project proposal. Specifically, a new park would be constructed directly across from the daycare center and proposed garage and a connector street would be placed from Buena Vista through to Hawthorne Avenue in front of the garage. Demolition of the three dwellings that are part of the proposed project would be required.

Since the PUR requires a minimum 2 acre site, if this plan is adopted and enacted, how would it affect the proposed PUR since it would be a recently approved City policy in conflict with the plan?

**Response 3.4-18:** *The Downtown Rezoning Study is not creating a new Master Plan for the downtown. The park shown in the sketches developed by the urban design consultants proposal was a part of the urban design visioning process that ultimately lead to zoning that was different than the illustrations. The park proposal represented a possible future with different density in the area of the current Teutonia project. Ultimately, the city staff decided that the best course of action would be to designate the land closest to the rail station for higher density development in keeping with the Transit oriented development/sustainable development orientation of the downtown zoning.*

*Hypothetically, if the PUR was approved and if the city at some time in the future acquired the properties on the east side of Buena Vista Avenue, the remaining lands and building in the PUR would be classified as a dimensionally non-conforming site. Changes to the site would require review in a similar manner as other non-conforming structures and uses. However, it is important to note that this is a speculative discussion.*

**Comment 3.4-19 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** NYSDOS Coastal Policies - Since the project will likely need clearance from the Federal Aviation Commission, it would be subject to the NYS Coastal Management Program.

**Response 3.4-19:** *As the project would be more than 200 feet in building height, a notice must be submitted to the Federal Aviation Administration no less than 30 days prior to construction. The Project does not require FAA approval.*

**Comment 3.4-20 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** Compatibility with Land Use in Adjoining Area - The treatment of the rear of the garage area beneath the apartment building and the ability to maintain it are questionable. As previously indicated, the location of the Metro-North tracks relative to the area needs to be graphically depicted. It is not clear that planters will be sufficient to provide adequate screening or that they can be adequately maintained to serve this long term purpose. An alternative treatment of the wall should be provided in the event that the green wall is not determined to be an effective visual buffer. Views of the project by residents of Scrimshaw House need to be addressed.

**Response 3.4-20:** *The location of the railroad tracks and the property line vis-a-vis the proposed building is shown on the site plan that accompanied the DEIS - See Sheet LA. The wall will be planted with an evergreen ivy, e.g., English ivy, to provide year round screening. The project is an improvement to the viewshed visible from Scrimshaw House as it will result in the demolition of vacant and dilapidated buildings that are presently located in that viewshed. Existing refuse present on the project site would be removed. With the proposed building alternative presented in Section 1.0 of the FEIS, the building will be set back a minimum five (5) feet from the Metro North right-of-way.*

**Comment 3.4-21 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** Among other things, the Concept Development Plan (CDP) is required to indicate major signs and lighting. This has not been described in the DEIS and should be.

**Response 3.4-21:** *Section 1.0 of the FEIS describes the proposed signage and lighting for the new apartment building. The details will be finalized during site plan review.*

**Comment 3.4-22 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** Article VI Supplementary Regulations - The DEIS states that the project does not appear to require a waiver from any provisions of this section. Whereas the PUR is not subject to the zoning regulations of the DW Waterfront District, has it been determined whether a PUR is subject to these Supplementary Regulations of the Zoning Ordinance? If it is, the following regulations could potentially apply. Even if waivers are not needed, a comparison of how the project compares with these regulations should be provided for review by the Planning Board.

**Response 3.4-22:** *According to a communication with Lee Ellman, City of Yonkers Planning Director, a PUR is not subject to the supplementary regulations. Also, note that the Findings for the SFC Yonkers project are instructive with regard to the City's policy regarding the applicability of the various use and dimensional requirements of the zoning ordinance to a PUR. The Findings Statement for SFC Yonkers (p. 19 of 63) states:*

*"Amendments to the PUR regulations are needed to...clarify that none of the use or dimensional regulations of the Zoning Ordinance apply to a PUR; and clarify that uses established and buildings lawfully constructed as a PUR can be considered to be conforming under all provisions of the Zoning Ordinance. The use, bulk, dimensional and parking requirements of the PUR would be established as part of the special permit approval to be issued by the City Council with input from the Yonkers Planning Board."*

*The same finding would be applicable to any PUR application.*

**Comment 3.4-23 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** 43.33 G – Use of Yards. Does any structure such as the conveyor belt or trash enclosure encroach in the required minimum 10 foot yard of the DW district since it is not permitted unless specifically permitted in Article VI Supplementary Use and Dimensional Regulations and Article VII Special Use Permits. Discuss whether this dimension is even applicable in the PUR.

**Response 3.4-23:** *The conveyor belt is not located within the 10-foot setback. However, the trash enclosure area is within the current 10-foot setback. As per Response 3.4-22 above, the use, bulk dimensional and parking requirements of the PUR will be established as part of the special use permit conditions. The conveyor or trash enclosure will conform to the PUR special use permit.*

**Comment 3.4-24 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** 43.33. P - Is the conveyor belt or trash enclosure projecting into the required 10 foot rear yard and is this even applicable in the PUR?

**Response 3.4-24:** *See Response 3.4-23.*

**Comment 3.4-25 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** 43-40 Accessory residential use and structure D3. No accessory residential use or structure shall exceed one story or 15 feet in height whichever is lesser – Does the parking garage violate this and need a waiver? - D4 . No accessory residential use or structure shall be located closer to a side yard than three feet or closer to a rear yard than five feet. Does the conveyor belt or trash enclosure violate this and need a waiver?

**Response 3.4-25:** *The PUR is not subject to these provisions of the zoning ordinance except as approved by the Planning Board and confirmed by the City Council. The PUR provisions of the zoning ordinance do not exclude the PUR development compliance with other chapters of the city of Yonkers code. See also Response 3.4-22.*

**Comment 3.4-26 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** 43-41D Fences and Walls - (a) Does the rear fence comply with restrictions relative to height for six feet in height in any yard?

**Response 3.4-26:** *The PUR is not subject to these provisions of the zoning ordinance except as approved by the Planning Board and confirmed by the City Council. The PUR provisions of the zoning ordinance do not exclude the PUR development compliance with other chapters of the city of Yonkers code. See also Response 3.4-22.*

*The specific height of the fence will be determined during detailed site plan review and it will be at a height to adequately screen the hydroponic garden's loading area from points located east of it and to provide safety from the adjoining Metro North rail line.*

**Comment 3.4-27 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** 43-41 - L Refuse collection, storage and recycling - (1) Does the trash area meet the requirements for enclosure, covering and screening? Does each apartment have the required three square feet for accumulation of recyclables?

**Response 3.4-27:** *Subsection "L" of the zoning ordinance addresses refuse, collection, storage and recycling accessory to residential uses. The refuse, collection, and storage*



*area will be enclosed within the new apartment building - the zoning provisions address outside storage of refuse. Each apartment will have the requisite space for accumulation of recyclables - refer to Section 3.8 for responses regarding solid waste handling.*

*The PUR is not subject to these provisions of the zoning ordinance except as approved by the Planning Board and confirmed by the City Council. The PUR provisions of the zoning ordinance do not exclude the PUR development compliance with other chapters of the city of Yonkers code. See also Response 3.4-22.*

**Comment 3.4-28 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** M. Signs - If there are to be any signs they need to comply with Chapter 47, Outdoor Signs, of the City code. Indicate any signs and, if any, show their compliance

**Response 3.4-28:** *The PUR is not subject to the provisions of the zoning ordinance except as approved by the Planning Board and confirmed by the City Council. The PUR provisions of the zoning ordinance do not exclude the PUR development compliance with from other chapters of the city of Yonkers code.*

**Comment 3.4-29 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** Section 43-60 – Special Use Permit Compliance – p. 3.4-26 – The streetscape improvements to be implemented include continuation of the street lights at the Trolley Barn. It is suggested that a waiver from the standards of Section 43-121.B may be required. This waiver is not identified in the list of required approvals from the Planning Board, and should be. Was a waiver needed for use of these lights as part of the Trolley Barn project?

**Response 3.4-29:** *The street lights are located in the City right-of-way and the applicant proposes to install the same lighting in front of the new apartment building. As the lighting is not located on the project site, i.e., it is an off-site improvement, it would not be subject to this provision.*

**Comment 3.4-30 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** Page 3.4-25 - Although screening is not required because the site does not abut a residential district, it does abut the sensitive use of a day care center and portions of the rear may be very visible to commuters on Metro-North or residents of Scrimshaw House. Therefore, appropriate screening that can be maintained in the long term needs to be provided. The level of maintenance and longevity of the screening proposed should be evaluated.

**Response 3.4-30:** *Screening is not required adjacent to the daycare center. A solid brick wall will face to the daycare center. Trellises are proposed to be installed, and spreading plant materials such as English ivy will be planted on the wall to create a green leafy surface which would be viewed from the center's northerly facade. Views from Scrimshaw House and Metro North will be improved by the removal of the vacant dilapidated buildings and refuse visible from these locations. With regard to screening, the Applicant will work with the Planning Board during site plan approval to identify the preferred type of material that should be planted along the Metro North right-of-way. At this time, evergreen trees and other plant materials are proposed which would provide year-round screening.*

*The building alternative presented in Section 1.0 of the FEIS will set back the automated garage an additional five (5) feet from the daycare center. It is estimated that the side yard between the daycare center building and the chain link fence situated on the*

*property line is five (5) feet. If acceptable to the daycare center operators, the Applicant will remove the existing chain link fence located on the northerly property line and create a courtyard between the daycare center building and the garage wall expanding the yard between the two buildings to 10 feet. A decorative fence will be installed along the property line at Buena Vista Avenue and between the two buildings to secure the area for use by the daycare center. The Applicant will establish an easement that allows the daycare center operator to use the space on the Applicant's property at no cost to the operator.*

**Comment 3.4-31 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** Page 3.4-26 – Table 3.4-5 – DW District Comparison of Dimensional Regulations - Section 43-72 C.(2) of the zoning ordinance indicates that PUR's are not required to meet the dimensional or use requirements for the district in which they are located. However, it is instructive to note how the proposed plan relates to requirements in the DW district as is shown in Table 3.4-5. There is nothing in the PUR, however, that states that parking requirements are waived. Input from the City regarding whether Article X - Off Street Parking and Loading requirements have to be met is needed. Whereas the zoning ordinance specifies dimension for different types of parking spaces in Illustration 32 in the rear of the zoning code, none of these relate to the "parking positions" identified in the mechanical garage. Therefore, it may be possible that not only does the Planning Board and City Council need to allow an automated garage as an accessory use to the apartment building, they may also have to identify the 540 positions as meeting the parking requirement of Section 43-130.B of the Zoning Ordinance.

**Response 3.4-31:** *Refer to Response 3.4-22. The use, bulk, dimensional and parking requirements of the PUR would be established as part of the special use permit approval to be issued by the City Council.*

**Comment 3.4-32 (Letter 15, January 24, 2011, Syrette Dym, AICP, VHB - City Planning Consultant):** Page 3.4-28 New York State Department of State (NYSDOS) Variances - The Yonkers Commissioner of the Department of Housing and Buildings requested that the architect of record verify compliance with the Building Code of New York State for courts and fire-rating and percent openings. The DEIS concludes, after review by the project architect, that such variances will not be needed. It states that the DOS will receive the DEIS and plans for purposes of commenting on this matter. In order to specifically identify the matter on which DOS input is required, the applicant should submit a letter directly to the DOS referring to the DEIS and plans requesting its opinion on this matter.

**Response 3.4-32:** *The DEIS preparer contacted Ms. Erika Krieger with the NYSDOS Division of Code Enforcement and Administration's Fishkill Office (which covers Westchester County) to request a letter opinion from the agency. Ms. Krieger confirmed that she received the DEIS document. She indicated that the Division does not review DEIS documents and will not be issuing a review letter. The Division will review the plans only upon the applicant's submission of a building permit, and where the local code enforcement officer has determined that a variance is required.<sup>1</sup>*

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<sup>1</sup> Phone conversation with Erika Krieger, NYSDOS, May 2, 2011.

**Comment 3.4-33 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**  
page 1-9 The DEIS states that the proposed apartment building is compatible with density, land use and scale with an approved project on property “adjoining” (N.B. – when property does not share a property line they cannot by definition be “adjoining”. The subject property is separated from development sites to the west by the Metro North railroad right of way. ) the development site. What about other truly adjoining sites and properties in other directions besides west?

**Response 3.4-33:** *The apartment building adjoins the Trolley Barn building, a daycare center, and the Metro North rail right of way. The apartment building, as a residential use, would be compatible with the Trolley Barn’s residential uses to the north, and the daycare center to the south. The building is larger and proposes a density higher than that of the buildings on the adjoining properties. The implications of allowing a building at this scale and density has been examined in the DEIS and FEIS - significant adverse impacts on adjoining uses are not anticipated.*

*The building alternative described in Section 1.0 will reduce the building’s footprint and increase the new apartment building’s setbacks to the project site’s property boundaries.*

**Comment 3.4-34 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**  
page 1-10 What is the rhetorical technique that is used when a comparison is made between two things that have no connection in order to misdirect examination of the true impacts? Day care center and shadows have no connection.

**Response 3.4-34:** *The Executive Summary provides a summary discussion of potential impacts to the day care center, including whether or not shadows would be cast on the daycare center as this has been a general concern expressed by the public. The same paragraph also discusses other potential impacts, including noise, visual, and land use impacts.*

**Comment 3.4-35 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**  
Page 1-10 Discuss the ability of any plant material to survive in the 5 foot space between the day care center and wall of the automated garage.

**Response 3.4-35:** *Sufficient space is provided between the two buildings to allow ivy cultivars to spread. English ivy will grow in partial to full shade. The building alternative described in Section 1.0 of the FEIS will increase this space from 5 to 10 feet.*

**Comment 3.4-36 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**  
Page 1-10 The proposed green wall along with brick planters means a “green” wall as in vegetated, not a green painted wall?

**Response 3.4-36:** *Correct.*

**Comment 3.4-37 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**  
The trash and unloading area will be screened from view of the esplanade by the Scrimshaw House residential development. What will screen the views from the residents of the condominium?

**Response 3.4-37:** *Because the majority of the floors for the Scrimshaw House will be elevated above the new apartment building’s autocourt, the dwelling units that face west will have views of the trash and unloading area. As unloading is performed at limited*

*times of the day, and does not occur on a daily basis, screening is not necessary for this activity. In order to address the visibility of the refuse area associated with the garden, a canopy can be designed and placed over the refuse area to limit its visibility. The canopy will be of comparable design to the canopy covering the walkway from the apartment building to the automated garage. The specific design of the canopy, if requested by the City, will be determined as part of site plan review in consultation with the DPW department to ensure that the department can adequately access this area with its equipment.*

**Comment 3.4-38 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

Page 1-11 What is the value of the easement for geothermal wells in the City right of way? Applicant should propose a reasonable payment for the use of the ROW based upon square foot value or cost savings to the building.

**Response 3.4-38:** *The Applicant does not propose to make any payment for use of the right-of-way. Use of geothermal wells will provide an overall benefit to the City by reducing air pollutant emissions in conjunction with the operation of the CHP.*

**Comment 3.4-39 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

"The encroachment agreement may be terminated by the City when determined necessary." If the city terminates encroachment agreement, is there an alternative plan?

**Response 3.4-39:** *The Applicant proposes to enter into a long-term agreement with the City to ensure that operation of the geothermal wells will be continued for some reasonable time after installation of same. If the City does not enter into such an agreement, the Applicant will install conventional gas-fired boilers in the new apartment building, thereby eliminating the benefits to local air quality. By example, the agreement at 66 Main Street does not have an expiration date although the City may revoke it as set forth in that agreement.*

**Comment 3.4-40 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

Sidewalks conform to ADA standards. They are narrow near the Main Street corner. Please confirm width is ADA compliant. Does DHB require conformance with ANSI {American National Standards Institute}?

**Response 3.4-40:** *The Project examined in the DEIS proposes the replacement of the existing seven (7) foot sidewalks in front of the apartment building. The Application now proposes to expand the sidewalk width from seven (7) to ten (10) feet in front of the new apartment building and north in front of the Trolley Barn to Main Street. The new sidewalk would be designed to be ADA compliant.*

**Comment 3.4-41 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

The statement that the "...westerly side of the PUR project would be consistent with the Downtown Yonkers Rezoning Study." is speculative as the study has not been completed and zoning has not been proposed.

**Response 3.4-41:** *Comment noted.*

**Comment 3.4-42 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

Land use and Zoning Page 3.4-3. The former Herald Statesmen Building is no longer used by the defunct newspaper.

**Response 3.4-42:** *Comment noted.*

**Comment 3.4-43 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

3.4-3 Several names to check. St. Mari's Church. Vive School Griffen House is not a part of the St. Joseph Hospital but they are a sponsor of the 81 DU sr. housing building.

**Response 3.4-43:** *St. Mari Church is the name as it appears on the sign attached to the church and is the name referenced in the DEIS. Vive School is the name of the school as it appears on the Yonkers school district's website. The St. Joseph's website states: "Saint Joseph's Medical Center held a Ribbon Cutting Ceremony for its new affordable senior housing project, Griffin House...Griffin House is an extension of Saint Joseph's already comprehensive services for older adults, including St. Josephs Nursing Home, Sister Mary Linehan Pavilion; Long Term Home Health Care; a Adult Day Care and an inpatient geriatric unit." Griffin House is spelled correctly in the DEIS.*

**Comment 3.4-44 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

Through out this section the applicant assumes that the 25 story height is a priori the correct height for this building. Prove it. Create a hypothetical ceiling for the downtown based first upon the existing buildings and then upon the existing buildings as modified by the approved buildings. Base this upon the elevation of the buildings bases and show how the proposed 25 story building relates to first existing and then existing plus proposed average heights.

**Response 3.4-44:** *The building height examined in the DEIS is not assumed to be the "correct height" - it is the specific building height being requested in connection with the PUR special use permit application and which is the subject of the DEIS analyses. As discussed elsewhere in the DEIS, the building height and density are based on the viability of constructing a project on a site which requires environmental remediation as well as one that would be marketable in Yonkers. The 25-story building will be taller than existing buildings in the City of Yonkers within the project vicinity - this fact has already been disclosed.*

**Comment 3.4-45 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

Compatibility with Land Use in Adjoining areas Page 3.4-13 and elsewhere What opening exist in the day care center north wall and how will the 5-foot set back effect that wall. How is parking use adjacent to the day care center compatible? Describe the current day care center loading and unloading activity and explain how it will be beneficially affected by the location of the parking garage exits. Shadowing, for example, is a non-issue for the day care center building as is the location of the farm.

**Response 3.4-45:** *Window openings and a doorway are present in the northerly wall. Response 3.4-30 above provides a discussion of expanding the northern side yard of the day care center. Parking is a use that is accessory to the primary use which is a residential apartment building, a use which is consistent with the day care center. The DEIS does not represent that the daycare center would be "beneficially" affected by having the parking garage next to the center. Throughout the DEIS, the document states that the apartment building is located over the Brownfield properties in order to make the project economically viable to construct. Thus, the automated parking garage has been located on the non-Brownfield properties which adjoin the day care center.*

*The project does not eliminate the ability of the parents from dropping off their children in front of the daycare center as they do presently, or from parking on Prospect Street, another location where parents have been observed parking. Parents have also been observed utilizing the small parking lot at the south side of the day care facility, although this is primarily used by the day care staff.*

**Comment 3.4-46 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

Landscaping within brick planters on the west side of the project are expected to survive under what circumstances in a windy semi-marine environment?

***Response 3.4-46:** It is unclear what the source of information is with regard to the commenters statement that the site is in a "windy semi-marine" environment. Yonkers is located in Climate Zone 4a, which is defined as a Mixed-Humid climate - see [http://en.openei.org/wiki/Climate\\_Zone\\_4A](http://en.openei.org/wiki/Climate_Zone_4A). The proposed species can survive this climate.*

**Comment 3.4-47 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

Speculative statements such as which direction persons will be looking and what impact the trash conveyor will have because "most viewers will be looking west" should not be in an EIS.

***Response 3.4-47:** Comment noted. The DEIS preparer walked the esplanade, and existing and approved buildings will block views to the east allowing for glimpses only of the upper landing and portion of the conveyor system.*

**Comment 3.4-48 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

Consistency with Land Use Plans & Policies Page 3.4-14 Applicant should show proposed changes to the Urban Renewal Plan sought to bring plan and project into conformance. Note that the Planning Board is a required approving agency to any change in an urban renewal plan.

***Response 3.4-48:** Comment noted. The requested changes to the urban renewal plan are included in Appendix D.*

**Comment 3.4-49 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

The building mass as proposed was shown in the downtown zoning study early illustrations as a means to test various scenarios for zoning, height and bulk. The inclusion in the early illustrations is not an indication of acceptance of the proposal.

***Response 3.4-49:** Comment noted.*

**Comment 3.4-50 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

Page 3.4-15 Fourth bullet. Shadowing is a direct impact.

***Response 3.4-50:** Comment noted. The Aesthetic Resources section of the DEIS examined in the impacts that would result from the limited time period when shadows will be cast on the riverfront. The impacts are not deemed significant.*

**Comment 3.4-51 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

Page 3.4-17 Greenhouse. Is it the applicants statement that except for sanitary needs of the farm employees that there will be:

- a. No city water used at the greenhouse, and

- b. There will be no direct discharge from the farm operation except for once annual maintenance?
- c. Does the applicant mean that all packing and distribution work will also use no city water at all?

**Response 3.4-51:** *Correct. There will be no use of City water for the hydroponic garden.*

**Comment 3.4-52 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**  
Geothermal Wells Page 3.4-17 Will the two days of maintenance once per year be for all of the wells? What impact will that have on the use of the sidewalks in the area?

**Response 3.4-52:** *Yes, according to the Applicant, and based on experiences with the geothermal wells on 66 Main Street, the sidewalks will still be accessible during maintenance. Sidewalks in front of 66 Main Street are variable, but are approximately 10 feet where the geothermal wells are located. With the proposed revisions which would increase the sidewalks from seven to 10 feet, additional space is provided that will allow the sidewalk to remain open.*

**Comment 3.4-53 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**  
Page 3.4-24 Potential Impacts Number 3. Pedestrian traffic will increase by the hundreds of residents in the buildings. Are the narrow sidewalks adequate in the area between the site and the rail road station?

**Response 3.4-53:** *The sidewalks will be widened from the existing seven (7) feet to ten (10) feet to ensure there is sufficient sidewalk width to accommodate pedestrians. The sidewalks will be widened in front of the new apartment building on the west side of Buena Vista Avenue and the improvement will extend north to Main Street.*

**Comment 3.4-54 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**  
Page 3.4-25 The mechanical equipment on the roof may not be visible from Buena Vista Avenue but will be visible from other areas that have the height to place them in view of the roof.

**Response 3.4-54:** *The mechanical equipment on the roof are enclosed and will not be visible either under the proposed action described in the DEIS or the building alternative presented in Section 1.0 of the FEIS. The louvers and walls that will be placed around the equipment will be sufficiently high enough to shield it from view from other vantage points. According to the project architect, solid walls, 16 to 30 feet in height will surround the rooftop HVAC equipment on all four sides of the building. Certain equipment such as chiller units will need to be exposed to the sky for air circulation. There are no nearby locations that would be at an elevation where one would be able to view the mechanical equipment from above.*

**Comment 3.4-55 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**  
Page 3.4-27 By bringing the trolley Barn building into this PUR, as well as the frame buildings across the street, all of their parking demand should be accommodated by the proposed parking structure. This would make the area parking demand 464 spaces rather than the 412 spaces spoken about in the DEIS.

**Response 3.4-55:** *The PUR application does not propose that the multifamily buildings on the east side of Buena Vista Avenue be served by the parking garage. Tenants will park on-street or on-site as they do presently. Use of the automated parking by residents of the Trolley Barn is proposed because of the building interconnection that is planned. The 412 spaces are the net spaces needed to meet the additional increase in new dwelling units resulting from the PUR. Sufficient parking is being provided for both the Trolley Barn tenants and the tenants of the new apartment building.*

**Comment 3.4-56 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

Page 3.4-27 Waivers The PUR allows waivers from the dimensional and parking regulations of the Zoning Ordinance. The Zoning Ordinance does not require compliance on public property. However, it is appreciated that the applicant points out deficiencies in area street lighting that could be off site mitigation.

**Response 3.4-56:** *See Response 3.4-29. The Applicant has already made a commitment to install street lights in front of the new apartment building if the City agrees with the proposed improvement.*

**Comment 3.4-57 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

Figure 3.4-2 Larkin Plaza is not an SFC project. It is a city of Yonkers effort.

**Response 3.4-57:** *Comment noted.*

**Comment 3.4-58 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

Figure 3-4.2a Show approved/not built in a different color. Missing heights for the Riverview projects.

**Response 3.4-58:** *The revised figure is provided in this FEIS as Figure 3.4-1 Building Heights in the project Vicinity.*

**Comment 3.4-59 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**  
**Figure 3.4-5 BR Restricted Business, Residence EXCLUDED.**

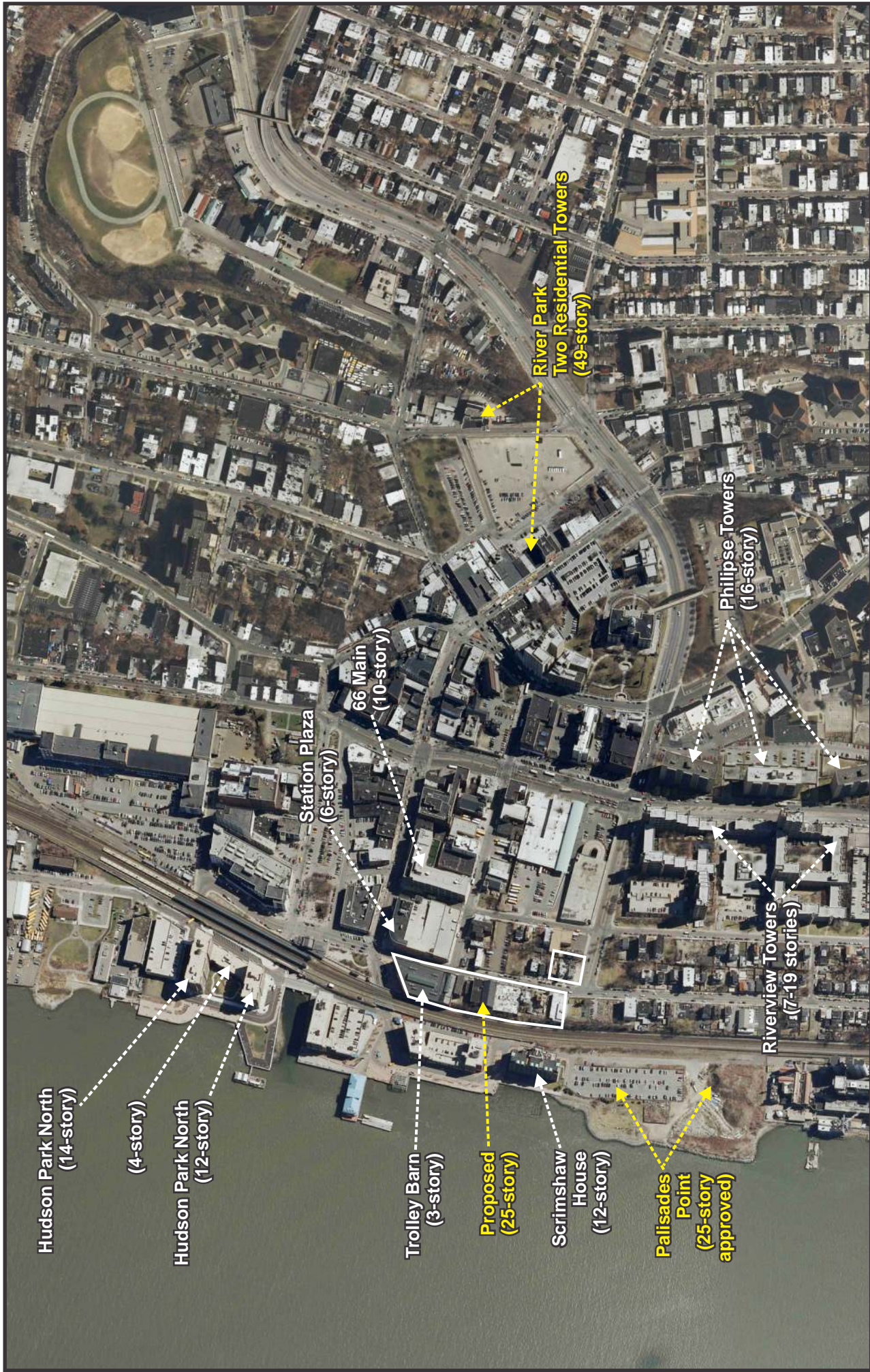
**Response 3.4-59:** *Comment noted.*

**Comment 3.4-60 (Letter 18, April 22, 2011, Yonkers Dept. of Planning & Development):**

Figure 3.4-6 The illustrations from the downtown rezoning study are test sketches and studies and are not a definitive statement about proposed zoning. They should not be over played as granting any preferential review of the proposed action.

**Response 3.4-60:** *Comment noted.*





**Figure 3.4-1: Building Heights in the Project Vicinity**  
 Buena Vista Teutonia PUR  
 City of Yonkers, Westchester County, NY  
 Base: NYS GIS Clearinghouse, 2009 Orthoimagery  
 Scale: 1" = 1,000'