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Comments and Responses

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Comments and Responses

2.1 Land Use, Zoning, and Compliance with Comprehensive Plan and LWRP

2.1.1 Comment

Explain in detail how the proposed demolition of the Pill Factory and the construction of the new building meet Objective 6 of the Village's Comprehensive Plan (page 30) and the Objectives of the Northern Waterfront District outlined on page 36-37 of the Village's Comprehensive Plan.

(Correspondence #2, Village of Ossining Department of Planning, 2/21/13)

Response

The Applicant recognizes that the Village's Comprehensive Plan has preservation of the Pill Factory as one objective. Well before the Village adopted that Plan in 2009, the Applicant had proposed development that incorporated such reuse along with new construction on other parts of his property, including the plateau, where the highly marketable river views would potentially generate project income that could be utilized to pay for the required historic restoration. Ultimately, more frequent flooding of coastal areas led to FEMA's recalculation of flood zones. This placed the then existing buildings at greater risk, and based on the findings of multiple structural assessments, there was no longer any viability in attempting to preserve these buildings. The Proposed Action, described and evaluated in this document, reflects the realities of the site, which the Applicant has incorporated herein. The mill building has already been demolished.



In order to mitigate the demolition of this historic building, and to help preserve some of the legacy of the Brandreth Pill Factory, the Applicant commissioned digital format, high-resolution photography of all of the buildings prior to their removal. The photographs (a disc with high-resolution images and 4" x 6" prints) would be provided to the Ossining Historical Society. The Applicant is also proposing to build a Brandreth Pill Factory open-air monument on the project site in the front of the new development, featuring a series of informational signage documenting the history of the Brandreth Pill Factory. As part of the Brandreth Pill Factory open-air monument to be built on the project site, the Applicant would preserve and adaptively re-use elements from the existing office building, potentially including salvageable original bricks and wood framing.

In its recommendations for the Northern Waterfront District, the Comprehensive Plan proposed that new zoning for the area - which includes the subject site – do four things. These are listed below and the manner in which the Proposed Action relates to each is indicated:

- Permit greater density on large land parcels as incentives to provide public amenities. – The PW-a zoning adopted for this area includes provisions for higher densities if an Applicant meets certain criteria relative to public amenities, affordable housing, and “green development”. The Applicant has applied for such a bonus as described in the SEIS.
- Encourage a mix of commercial, residential and recreational uses, but discourage industrial uses. – The proposed development would result in residential use of what had previously been an industrial site, meeting part of this objective. Given the property’s location, which is not proximate to the downtown area or the railroad station and which does not receive any pass-by traffic except from the two adjacent industrial uses, the Applicant does not believe that there is any market for commercial uses on the property. Therefore, it has not proposed a mixed-use development. It is the Applicant’s opinion that other areas zoned PW-a are better suited for such development.
- Regulate heights of buildings so as not to obstruct views of the Hudson from the plateaus. The proposed building would not be higher than the elevation of the adjacent plateau. As a result, it would not obstruct views from the plateau.
- Encourage the reuse of historic buildings including the Brandreth Pill Factory. – See Response 2.1.9.

2.1.2 Comment

Please explain in detail how the proposed demolition of the Pill Factory and the construction of the new building meet LWRP policy numbers 23 and 25B.

(Correspondence #2, Village of Ossining Department of Planning, 2/21/13. Similar comments from: Correspondence #9, Miguel Hernandez, 1/26/13.)

Response

LWRP Policy 23 – The Pill Factory was demolished in early 2015. The Applicant proposes mitigation measures that will help ameliorate the loss of the Brandreth Pill Factory buildings. These mitigation measures include:

- Commissioning digital format, high-resolution photography of all the buildings prior to removal, which preparations have already been made for with respect to the main building prior to its demolition. The photographs (a disc with high-resolution images and 4" x 6" prints) would be provided to the Ossining Historical Society.
- Building a Brandreth Pill Factory open-air monument on the project site in the front of the new development, featuring a series of informational signage documenting the history of the Brandreth Pill Factory. As part of the Brandreth Pill Factory open-air monument to be built on the project site, the Applicant would preserve and adaptively re-use elements from the existing office building, potentially including salvageable original bricks and wood framing.

Mitigation will be undertaken in consultation with the New York State Office of Parks Recreations and Historic Preservation and the Village of Ossining.

LWRP Policy 25B – The portion of this policy that is relevant to the subject site is:

"Prevent, wherever possible, the blocking of views of the Hudson River from upland areas and the obliteration of the natural profile of the Eastern Palisade from the river. The PW-a, PW-b, PW-c, RDD and CDD districts are intended to accomplish this objective through limitation of heights and discouraging development on existing steep slopes but where development must take place on existing steep slopes discouraging cut and fill by building into the hillsides with the existing topography of the land."

The height and location of the proposed building are such that no upland areas will have their views of the river blocked. From the house located at 10 North Water Street, the new building will be located to the north of the house while the Hudson River is located to the west of the house. The proposed building will have a first-floor elevation of 25.0 and a top of roof elevation of 87.0 plus a three-foot-high parapet for a proposed building height elevation of 90.0. The existing residence at 10 North Water Street has a building height elevation of 90.0 as shown on the project site plans (see Appendix 5.6 - Site Plan Drawings).

2.1.3 Comment

Provide an explanation on how density works in this area and the impact.

(Correspondence #5, Ossining Environmental Advisory Council, 2/14/13. Similar comments from: John Wunderlich, Public Hearing, 1/29/13.)

Response

The current application seeks a Special Permit from the Village Board (unless granted by the Planning Board) pursuant to Section 270-23(l)(2) of the Village of Ossining Zoning Code (the "Planned Waterfront Special Permit"), and certain density bonuses, which together result in an allowable density of 26.62 dwelling units per acre for a total of 137 residential units.

Specifically, the Planned Waterfront Special Permit allows a baseline density of 22 units per acre for qualifying sites in a Planned Waterfront District. A density bonus of 10% for use of green building techniques under Section 270-23(l)(4) of the Zoning Law, plus a density bonus of 10% for affordable housing under Section 62-3 of the Village Code, would allow up to 26.62 units per acre.

As applied to the proposed project, the Planned Waterfront Special Permit allows a baseline density of 22 units per acre. An additional 10% density bonus for use of green building techniques results in an allowable density of 24.2 units per acre. An additional 10% density bonus for the provision of affordable housing results in an allowable density of 26.62 dwelling units per acre. Therefore, the Applicant requests a total density of 26.62 dwelling units per acre for the 5.1415 acre site for a total of 137 dwelling units. Fourteen of the 137 dwelling units will be affordable housing units.

2.1.4 Comment

Compliance with Zoning & The Comprehensive Plan - adaptive reuse can achieve all these initiatives.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

As described in Section 2.9.2 of the SEIS, and based on further analysis, the Applicant had adaptive reuse of the building analyzed by a structural engineer, an historic preservation architect, the project architect and a certified real estate appraiser. The conclusion of these analyses was that the physical condition of the building, the requirements relative to flood protection and the character of the real estate market in this location make such reuse financially impracticable. Accordingly, this Comment is now moot given that the Brandreth Pill Factory main building has been demolished and the remaining structure was found to be structurally unsound for preservation.

2.1.5 Comment

Provide specific information about how the applicant will achieve LEED certification of gold or silver. Provide comparison to LEED with adaptive reuse of the historic buildings, as they have



embodied energy savings because the materials are already on site and assembled and no demolition or carting of waste materials etc.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

LEED certification is an internationally recognized process, which provides for multiple options to achieve an environmentally sensitive standard for construction. Specific features will be designed as part of the construction drawing process but will encompass: retention of significant existing natural features, reducing heat island effects by placing the bulk of the required parking below the structure, providing xeriscaping, incorporation of EPA Energy Star and Water Sense appliances, and generating a portion of the energy load on-site. Subject to the review and approval of the U.S. Green Building Council, the Applicant believes LEED-Silver is readily achievable and LEED-Gold probably achievable.

The Applicant is not proposing adaptive reuse for the reasons stated above. In addition, any comparison to LEED with adaptive reuse must acknowledge that the former building was located within a Special Flood Hazard Area and there is clearly a correlation between flood hazard mitigation and sustainability. While historic buildings are not subject to the same requirements nonhistoric structures are under the FEMA national flood insurance program, FEMA encourages communities and owners of historic structures to give serious consideration to mitigation measures that can reduce the impacts of flooding on historic structures located in Special Flood Hazard Areas.

2.1.6 Comment

Provide the cost of achieving such LEEDs silver or higher via sustainable site development, energy efficiency, material selection, and compare it to the cost of restoring the Brandreth Pill Factory.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

See Response to Comment 2.1.5. The Applicant is not proposing restoration of the Brandreth Pill Factory, which has been removed.

2.1.7 Comment

Compare adaptive reuse possibilities to the proposed scheme.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)



Response

The Applicant is not proposing restoration of the Brandreth Pill Factory, which has been removed.

2.1.8 Comment

Does the proposed scheme provide public amenities?

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The project has been designed utilizing environmentally sustainable building practices and, as currently planned, it is anticipated that, after construction, the development would achieve LEED Gold certification or a similar level of standards.

At least 10% of the units will be devoted to affordable housing units as per § 62-3 of Village Code.

The project will provide on-site amenities for project residents including an enclosed swimming pool, exercise room, concierge, and outdoor recreation space.

Upon completion of all construction, the 5.14-acre site will have 1.4 acres of green open space, which includes the area on the east side of the property. In addition, a sidewalk is proposed from the Hidden Cove building on the east side of the widened North Water Street to Snowden Avenue.

All site improvements and any upgrades to existing utilities that would be required for the development, will be the Applicant's responsibility.

2.1.9 Comment

Section 2.1 – pages 2-2 thru 2-4 Comments regarding Historic Preservation and the Village of Ossining's Comprehensive Plan are inaccurate. Restate to accurately reflect Village objectives.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

Section 2.1 provides quotes from the Village's Comprehensive Plan and Local Waterfront Revitalization Plan (LWRP) relative to the historic nature of the Brandreth Pill Factory and indicates that both documents encourage preservation of such properties. In its previous plan, presented in the DEIS, the Applicant had proposed adaptive reuse of the structure. As described in the



Supplemental EIS, Section 1.2, Proposed Action and Modifications to the DEIS Plan, “in order to achieve an economically viable development, the Applicant proposed to demolish the Pill Factory.” Section 2.9 of the SEIS provides an extensive discussion of the historic features of the Pill Factory complex and discusses the reasons why demolition was determined to be the course of action, despite the Village’s expressed interest in preservation of the Pill Factory. Deteriorating conditions finally foreclosed this possibility.

2.1.10 Comment

The Waterfront Revisioning Committee and the Comprehensive Plan call for mixed use for the waterfront. What elements of mixed use are contained in the current plan?

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The current plan calls for redevelopment of the site for residential uses.

2.1.11 Comment

To go along with the 137 rental units, there are 193 parking spaces. I cannot imagine 193 being enough parking spaces.

(Correspondence #7, Gerold M. Wunderlich, 1/3/13)

Response

The number of parking spaces proposed exceeds the requirements of the Village’s Zoning Ordinance. Parking requirements for this project are 189 spaces and 196 spaces are being provided (150 garage spaces; 46 surface spaces).

2.1.12 Comment

It is clear they plan some sort of proposal for the plateau area, despite the road being incapable of carrying necessary traffic. There is a reason why the property is currently zoned for two single-family homes.

(Correspondence #7, Gerold M. Wunderlich, 1/3/13)

Response



Although no development is currently proposed for the plateau, the SEIS includes analyses of the cumulative impacts that could occur should the plateau be developed in accordance with the existing zoning. Moreover, the SEIS notes that any specific development proposal for the plateau would be subject to the zoning then in place and would be reviewed under the requirements of SEQRA and any other applicable laws and regulations.

The plateau is not currently zoned for two single-family homes. It is zoned CD, which permits development at a density of 6 units per acre or 8 units per acre with potential density bonuses.

2.1.13 Comment

They note that they want an exception or variance pursuant to Section 7-736(3). Again, it is neither owned by the Village of Ossining nor is the property owned by the Stolotis'. How can they possibly force this issue? It is not a public street!

(Correspondence #7, Gerold M. Wunderlich, 1/3/13)

Response

It is the Applicant's position that a variance under New York State Village Law Section 7-736 is not required. The Project satisfies the two-part test under Section 7-736: (i) the road is of sufficient legal character (e.g., duly placed on official map or plan), and (ii) the road would be suitably improved to the satisfaction of the Planning Board. Here, North Water Street is explicitly mapped and labeled as a street on the Village's official Tax Map up to the Project Site (as well as on the official Zoning Map), and the Applicant is proposing to suitably improve North Water Street as shown on the Current Site Plans. If the Planning Board and/or Village Building Inspector determine otherwise, the Applicant would consider applying to the Zoning Board of Appeals for a variance, as well as possibly seek an interpretation in the first instance that a variance is not required.

To the extent the commenter is questioning the Applicant's right to improve North Water Street, it is the Applicant's position that there are recorded easements and other agreements establishing the Applicant's legal right of access over the Village's Lot 6, Conga Property, and the Castle Property. This right of access includes the right to improve North Water Street.

2.2 Demographics

2.2.1 Comment

Please provide a few Ossining School District examples for the number of school children that a development such as this one has produced.

(Correspondence #2, Village of Ossining Department of Planning, 2/21/13. Similar comments from: John Wunderlich, Public Hearing, 1/29/13; Patrick Guest representing Shattemuc Yacht Club, Public Hearing, 1/29/13.)

Response

Information was requested from the Ossining School District regarding the number of school children in each of the following developments:

	<u>Name</u>	<u>Location</u>
1	The Orchid	73 Spring Street, Ossining
2	Jefferson House South	71 Charter Circle, Ossining
3	Jefferson Highlands Apartments	151 South Highland Avenue, Ossining
4	Clinton Terrace	70 Croton Avenue, Ossining
5	Scarborough Manor	16 Rockledge Avenue, Scarborough

The Ossining School District provided information they have available, which does not correspond to the individual development or to the exact address. The information provided by the Ossining School District corresponds to the number of students residing within a larger range of addresses as follows:

Development Complex: The Orchid, 73 Spring Street, Ossining

There are 216 students residing within these Spring Street addresses: 43 – 338 Spring Street

Development Complex: Jefferson House South, 71 Charter Circle, Ossining

There are 55 students residing within these Charter Circle addresses: 12 – 192 Charter Circle

Development Complex: Jefferson Highlands Apartments, 151 So. Highland Avenue, Ossining

There are 209 students residing within these So. Highland Avenue addresses: 40-294 So. Highland Ave.

Development Complex: Clinton Terrace, 70 Croton Avenue, Ossining

There are 187 students residing within these Croton Avenue addresses: 2 – 205 Croton Avenue

Development Complex: Scarborough Manor, 16 Rockledge Avenue, Scarborough Manor

There are 4 students residing within these Rockledge Avenue addresses: 2 – 16 Rockledge Avenue

Correspondence to and from the Ossining School District can be found in Appendix 5.12.

2.3 Visual Resources and Community Character

2.3.1 Comment

Provide north view of the project.

(Correspondence #5, Ossining Environmental Advisory Council, 2/14/13)

Response

This particular visual impact was not required to be further analyzed as part of the final SEIS Scope dated July 24, 2012, which was adopted by the Lead Agency on August 28, 2012. The nearest residential properties to the north of the project site are located on Beach Road, which is more than $\frac{3}{10}$ mile (approximately 1,620 feet) from the project site and the project would not likely be visible given the significant distance and variations in topography and vegetation cover.

2.3.2 Comment

Architectural Concept:

Provide more comments on the resources in the vicinity that may be affected by the project.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

Architectural Concept (Section 1.2.1.4 of the SEIS) includes the resources identified in the final SEIS Scope dated July 24, 2012, which was adopted by the Lead Agency on August 28, 2012. Potential impacts to visual resources and community character are discussed in section 2.3 of the SEIS.

Historic resources in the vicinity of the project site that may be visually affected by the project are discussed in the SEIS in Section 2.9.1.3. These resources include Boxwood House, Solitude House and Glen Walden.

2.3.3 Comment

Explain how the proposed demolition of the historic buildings and the culverting of the stream add to the character of the Village.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The Pill Factory buildings were vacant since 1979, when they were last used by Have-A-Heart. The subsequent owners/tenants occupied and utilized only the cinderblock additions of the building, which have since been demolished. Except for the now demolished cinderblock addition to the building, the main sections of the Pill Factory were vacant for approximately 36 years, since 1979, prior to its demolition in 2015 and, by that time, were an eyesore and an "attractive nuisance," resulting in its condemnation by the Village of Ossining.

According to the Structural Assessment¹ of the building, it was not feasible to salvage the structure and it was the structural engineer's professional opinion that the structures be razed. As currently proposed, the site would be redeveloped with a new building with 137 rental apartments, of which 14 would be affordable rentals. The project will employ green building techniques and the Applicant would be required to achieve a minimum LEED Silver certification or similar standard.

The existing stream that currently channel flows through the site is an open channel that drains the corresponding watershed area from Route 9 to the Hudson River. Runoff is currently routed downstream until it reaches an existing brick culvert on the site. This culvert continues through the site and Water Street eventually discharging to an open water course. The channel continues west before joining an existing drainage culvert that discharges into the Hudson River untreated.

The project development requires the rerouting of the existing stream underneath the proposed 6-story building through a new series of 8' wide x 4' deep precast box culverts. The project will redirect water flow away from the deteriorating brick culvert and redirect it to the new box culvert. The existing brick culvert will collect stormwater for a time and be phased out as construction of the new building begins. The new box culvert includes a drainage structure with a weir inlet designed to transport the stream with flows during most conditions while allowing to control the peak stormwater elevations at the east side of the building. The enclosed box culvert will consist of a series of rectangular sections that will extend for the entire length of the proposed building and new improvement areas. Improvements to this existing open stream and deteriorating brick culvert will result in improved drainage conditions both on and off-site and provide mechanisms for treatment prior to discharge in the Hudson River, thereby becoming an environmental improvement and benefit to the community.



¹ Structural Assessment of the Hidden Cove Development Brandreth Pill Factory, by De Nardis Engineering, LLC (September 10, 2012).

2.3.4 Comment

Section 1.2 page 1-4 "The maximum height permitted in the PW-2 zone, 60 feet, is intended to preserve views of the Hudson and Palisades from parcels on top of the adjacent plateaus". (p. 82) On page 82 of the Comprehensive Plan the Commission feels there are no proposed density incentives and would like the applicant to provide more information on this. It should be noted that the Commission is concerned that the proposed building will be more than 60 feet in height from the current ground level, which is not in keeping with the intention of the 60-foot height limitation.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The quote found in Section 1.2, page 1-4 of the SEIS is a direct quote from page 82 of the Draft Generic EIS for the Adoption of the Comprehensive Plan and Amendments to the Zoning Code and Local Waterfront Redevelopment Program (LWRP). The quote is **not** from page 82 of the Comprehensive Plan.

The current plan conforms to the new (2009) zoning for the site. The maximum building height allowed in the PW-a zone is 6 stories or 72 feet (whichever is less). The Lead Agency, together with their professional staff and the Village's engineering consultant will review the site plan to insure compliance with the Zoning Ordinance, including compliance with the Village's technical definition of building height.

2.3.5 Comment

The proposed building, they are planning to construct is way too large, and clearly impacts the westerly views of both Miguel and Tam Hernandez' home, and to a lesser extent, my own home. And to state that the trees and their foliage will hide the building is clearly a fallacy. It is a very large ugly building!

(Correspondence #7, Gerold M. Wunderlich, 1/3/13. Similar comments from: John Wunderlich, Public Hearing 1/29/13.)

Response

The current plan conforms to the new (2009) zoning for the site with regard to building height, setbacks, coverage, minimum open space and other bulk regulations. The earlier proposed plan (the DEIS Layout Plan) called for development of six story buildings on the plateau, which would have been significantly closer to the Hernandez and Wunderlich homes and at a higher ground elevation.



While the commenter may consider the building "ugly", this is a subjective opinion. It should be noted that the building will be considered by the Architectural Review Board during the final design process, at which time, some elements of building design and architectural features may change.

We respect everyone's point of view, but "ugly" is not a mitigatable impact, as it is in the eye of the beholder and the ARB will have its say on exterior design.

2.3.6 Comment

The applicant should be required to submit a full-blown viewshed analysis to back up his opinion. A visual impact analysis would include among other requirements photos, sections, and photo simulations from many locations. This should include the more advanced method of determining viewshed through the use of geographical information systems (GIS), where based upon topography, relative elevation, and vegetative cover, a virtual viewshed is constructed.

(Correspondence #9, Miguel Hernandez, 1/26/13.)

Response

The Applicant has provided all information relative to visual impacts as required in the Adopted Scopes for both the DEIS and the SEIS. For the DEIS plan, which included four six-story buildings on the plateau portion of the site, views and visual impacts of the DEIS project were shown through the use of photo-simulations, elevations, cross-sections and shadow analyses. For the current plan, with no development on the plateau, views and visual impacts were shown through the use of illustrative views, photo simulations and cross sections. The SEIS Scope dated July 24, 2012 says:

2.3.4 Provide cross sections to show the proposed building elevations relative to the residential property to the east.

This was provided in SEIS Figure 9, Section B-B and is also provided in FSEIS Appendix 5.6 - Site Plan Drawings, and in the updated renderings provided in the FSEIS following Chapter 1.

2.3.7 Comment

What is the amount of open green space of this project?

(Correspondence #9, Miguel Hernandez, 1/26/13.)

Response

Upon completion of all construction, the 5.14-acre site will have 1.4 acres of green open space, which includes the area on the east side of the property, much of which will remain untouched and wooded, the area on each side of the entrance road from station 0+0 to 3+50, and the garage roof which will be planted.

2.4 Site Disturbance and Grading

2.4.1 Comment

Include information on what would need to be done to re-grade the property with respect to pedestrian traffic.

(Correspondence #5, Ossining Environmental Advisory Council, 2/14/13)

Response

A sidewalk is proposed from the Hidden Cove building on the east side of the widened North Water Street to Snowden Avenue. There is sufficient width of easement to allow for both the widening of North Water Street and the proposed sidewalk. Grading is shown on the Current Site Plans.

2.4.2 Comment

The proposed realignment of the road envisions taking down part of the escarpment or plateau directly in front an existing building. This takedown or cut and its environmental impact is not addressed in this document.

(Correspondence #9, Miguel Hernandez, 1/26/13)

Response

The purpose of the SEIS is to analyze significant adverse environmental impacts resulting from proposed project changes that were not addressed, or inadequately addressed, in the DEIS. The potential environmental impact from excavation of the plateau was addressed in the DEIS, although substantially more plateau impact and excavation was anticipated for the DEIS plan.

At the time part of the plateau is excavated to accommodate the re-alignment of the road and to improve sight distance, concrete barriers will be placed along the eastern edge of the road to protect traffic, pedestrians and any existing buildings or structures from the excavation process. Machines designed to remove the rock and earth will be used. Flag people will be on site during



the operation to control traffic flow. Trucks will then be used to haul the excavated material to the building site.

2.4.3 Comment

The demolition and the cutting into the land behind the factory building could destabilize my property and the developer should state what the impact of this procedure is on adjacent properties and will also be required, if his application is approved, to file a detailed demolition plan.

(Correspondence #9, Miguel Hernandez, 1/26/13)

Response

The property line and the location of the proposed retaining walls will be staked out by a licensed surveyor. Prior to excavating for the retaining and foundation walls, the line for the excavation of the retaining wall will be line drilled in order to have a uniform cut when the excavation begins. It is anticipated that the removal of the earth and rock will be done by long arm and regular back hoes. As soon as the excavation is complete and the area cleaned of all excavated material, the reinforced concrete wall will be formed and installed. After the forms have been removed and the concrete has cured, the area between the wall and property line will be backfilled, top-soiled and stabilized with grass mats.

2.4.4 Comment

The amount of dirt they want to take out of that place doesn't work. He thinks it was 53,000 tons or something of dirt they have to take off the plateau to straighten this road out.

(John Wunderlich, Public Hearing, 1/29/13. Similar comments from Correspondence #9, Miguel Hernandez, 1/26/13.)

Response

The project has been designed to be close to a balanced cut and fill job; therefore, little material will be hauled off the site. Most of the cut material will be used to construct the access road, parking lot, and filling in the garage. Since the SEIS was submitted, there has been a further reduction in the amount of excess material based on changes to the proposed grading to meet the most recent FEMA flood elevations. The total cut and fill associated with this construction is approximately 18,244 cubic yards of cut and 17,883 cubic yards of fill, for a total of approximately 361 cubic yards of net total cut. This analysis does not include an expansion factor for the cut materials, however, all material is proposed to be reutilized on site to minimize off site truck trips. This includes approximately 1,530 cubic yards of fill to raise North Water Street to final proposed elevation for flood access. (See Current Site Plans).



2.5 Stormwater Management

2.5.1 Comment

Section 2.5 discusses the proposed re-routing of the existing stream. Please describe if an Army Corp permit would be needed and what part of the re-routing would require the permit. Please also describe the amount of open stream channel that is proposed to be enclosed in the box culvert.

(Correspondence #2, Village of Ossining Department of Planning, 2/21/13)

Response

The Applicant has been in contact with the U.S. Army Corps of Engineers and will follow U.S. Army Corps of Engineers guidance regarding permitting for the proposed project. Any disturbance to the existing stream would require an Army Corps permit. The Army Corps will determine whether a Nationwide Permit (NWP) or Standard Permit (SP) is required. The amount of open stream which will be enclosed in the box culvert is 280 feet. See response to 2.5.13.

2.5.2 Comment

At the end of January 2013, FEMA released Advisory Base Flood Elevation Maps for the Village of Ossining. Section 2.3 and 2.4 discusses elevation changes and fill that is required to meet current Flood Insurance Rate Maps. Please include additional information on the new advisory map elevations and how those elevations would affect the proposed building elevations and necessary fill outlined in the SEIS. If meeting the elevations of the advisory maps will require additional fill and the building's elevation will rise, please describe how much additional fill and what increase in building elevation would result? Please also submit alternatives to SEIS Figures 9, 11, and 12 in the SEIS so that they reflect the Advisory Base Map Elevations.

(Correspondence #2, Village of Ossining Department of Planning, 2/21/13. Similar comments from Correspondence #5, Ossining Environmental Advisory Council, 2/14/13; Patrick Guest representing Shattemuc Yacht Club, Public Hearing, 1/29/13.)

Response

See response to comment 2.5.5 regarding FEMA flood elevations.

Due to the change in elevation of the garage floor from 12 to 15, the building roof elevation has risen. However, upon re-grading the site to accommodate the new flood elevation, the height of the building is 69.4 feet, 2.6 feet less than allowed and is 6 stories high, as allowed. In addition, the average grade is 20.6. The code requires the grade to be 19.0 or greater in order not to count



the garage as a story. The re-grading shows the road between stations 0+0 and 3+50 dropping in elevation in order to utilize the fill around the building. Additional fill will be taken by excavating the hillside 300 feet south of station 0+0 in the vicinity of the abandoned concrete well in order to improve the sight distance around the road bend.

The Cross Sections, Slopes Disturbance Map, Grading Plan, and Utility Plan have been revised (see Appendix 5.6).

2.5.3 Comment

The SEIS provides a discussion clarifying that the proposed white roof is not a practice included in the New York State Stormwater Management Design Manual (NYS SMDM) and that all other proposed practices shall be designed in accordance with the NYS SMDM. The Stormwater Pollution Prevention Plan (SWPPP), Appendix 4.1, should be revised in a similar fashion.

(Correspondence #3, Kellard Sessions Consulting, P.C., 2/21/13)

Response

The Stormwater Pollution Prevention Plan (SWPPP) has been revised accordingly. See Appendix 5.7 of this SEIS for the revised SWPPP.

2.5.4 Comment

The SEIS includes a discussion regarding the existing stream flow through the site and its proposed re-routing through a precast box culvert. The capacity analysis, however, should be expanded to include a discussion of the analysis, supporting calculations, inlet control and any resulting ponding east of the building, any required mitigation and conclusion of results. Long-term maintenance access and operation and any necessary easements shall be discussed.

(Correspondence #3, Kellard Sessions Consulting, P.C., 2/21/13)

Response

The Stormwater Capacity Analysis report has been expanded to include a discussion of the analysis under Stormwater Management: Proposed re-routing of the existing stream flow.

2.5.5 Comment

It is noted that in response to Hurricane Sandy, FEMA has prepared Advisory Base Flood Elevation maps for the Village of Ossining, among other Towns/Villages in New York Counties. Any new data as it relates to modified flood plain elevations and required mitigation, as well as any potential impacts to the proposed stormwater conveyances as a result of the higher flood plain elevations, shall be discussed.

(Correspondence #3, Kellard Sessions Consulting, P.C., 2/21/13)

Response

The revised FEMA Flood Maps indicate that the 1% storm is at elevation 10, up from 7, and the 0.2% storm is at elevation 15. As a result of the elevation changes, the Applicant's engineers have revised the garage finished floor from 12 to 15 and re-designed the road network to the building and the fire access road around the building to accommodate the new building elevations. The stormwater conveyances have also been revised due to the revised grading.

2.5.6 Comment

Section 2.5, Stormwater Management, continues to indicate that the 1-year, 24-hour storm event was used to determine the water quality volume (WQv). The SWPPP in Appendix 4.1, however, provides WQv calculations using the 90% design storm. These calculations should be corrected and made consistent with the text.

(Correspondence #3, Kellard Sessions Consulting, P.C., 2/21/13)

Response

According to the Chapter 10 (pg 10-11) of the SWMDM the 1 year storm event is the WQv. However, the calculations for the 90% rainfall event were done and the greater of the two were analyzed. In every case the 90% rainfall event was less than the 1yr storm and therefore not used. The Stormwater Pollution Prevention Plan (SWPPP) has been expanded to explain why the WQv was equated to the Cpy rather than the 90% rainfall. The Stormwater Pollution Prevention Plan (SWPPP), has been revised to include this discussion on page 9 under Stormwater Management Planning, ii. Determine Water Quality Volume (WQv). Changes to the SEIS in Section 2.5, Stormwater Management are incorporated herein by reference. See Appendix 5.7 of this FSEIS for the revised SWPPP.

2.5.7 **Comment**

The site is located within the floodplain and it is noted that this project proposes filling in the floodplain. Given that this area is flood prone and, if the projected impacts from future sea level rise are accurate (potential sea level rise of almost 3', including up the Hudson River, and additional storm surge impacts), the filling of the floodplain may make it worse for surrounding properties, including Metro-North track beds. Given that this may become a safety issue for the railroad, we request that a further review of this issue be undertaken.

(Correspondence #4, Metro-North Railroad, 2/26/13)

Response

During the last large storm "Sandy," the water from the Hudson River came over the tracks and flooded the property. Water Street has always had flooding problems and the small amount of area being filled in by this project will have no increased flooding effect to the surrounding properties.

The proposed building garage elevation has been raised to elevation 15, which is at the 0.2% FEMA flood line. Even though Water Street and the surrounding areas may be flooded out, the new building should not be affected except in very extreme storms which may flood the area above elevation 15.

2.5.8 **Comment**

Looking at the storm water plans included in the *Stormwater Capacity Analysis* report, it is noted that Design Point #1 is located at the culvert going under the Metro-North tracks whereas in the *Stormwater Plan*, this same point is labeled as Design Point #5. This tends to get confusing when reviewing the various reports and should be clarified.

(Correspondence #4, Metro-North Railroad, 2/26/13)

Response

Both the Pre-Development and Post-Development maps of the Stormwater Capacity Analysis report have been revised to note the Design Point located at the culvert going under the Metro-North tracks as #5 and is now labeled the same as the Design Point #5 of the Stormwater Plan.

2.5.9 **Comment**

Assuming that the culvert crossing under the Metro-North tracks is DP-#5 (per the *Stormwater Plan*), and given that this culvert is subject to Hudson River tidal impacts and as such may be impacted by future climate change impacts, such as sea level rise, has any analysis of the capacity of this culvert, especially during high tide conditions, been completed? The analysis should be



completed with the “as is” condition of the culvert (not assuming a fully open and clean culvert), and should also assume worst case scenarios as far as sea level rise.

(Correspondence #4, Metro-North Railroad, 2/26/13)

Response

The existing culvert crossing under the Metro-North tracks (DP-#5) takes in an inflow area of 26.6 acres with peak storage for a 100-year storm event. However, the proposed project of the site has been revised to consider FEMA’s revised flood elevations released after Hurricane Sandy. Both the proposed garage floor elevation and the proposed access road will be at or above the approximate location of 0.2% annual chance advisory base floodplain elevation of 15.

2.5.10 Comment

Looking at the post development map, it would appear that design point DP-#2 is at a point on the stream that eventually discharges through the culvert at DP-#5. If so, should the analysis of DP-#5 also include this additional runoff from DP-#2?

(Correspondence #4, Metro-North Railroad, 2/26/13)

Response

There is no additional runoff from DP-#2. The grading and drainage plan has been designed to capture the stormwater runoff from new and existing impervious surfaces. The stormwater runoff generated for DA 2 has been further divided into drainage areas based whether they are roof gardens, grass pave or white roofs. The stormwater runoff for the roof gardens and the grass pave areas will flow into the ground by way of infiltration. The White Roof system was designed to detain the rainwater and then slowly release the water over a controlled time period by way of roof drains.

2.5.11 Comment

The stream that runs along the north side of the property that eventually discharges under the Metro-North tracks at DP-#5 is full of debris. As this may hinder the ability of the stream to convey flow, it should be cleaned of debris.

(Correspondence #4, Metro-North Railroad, 2/26/13)

Response

When the concrete box culvert is installed, the stream between the access road and the railroad will be cleaned of all debris and removed off the site. In addition, any parts of the stone walls on either side of the stream will be repaired.

2.5.12 Comment

During any major thunderstorm Water Street floods where Broadway intersects with Water Street. The drainage system comes down Snowden Ave, and Broadway, and the water then has nowhere to go so it bubbles up and floods North Water Street. Sandy, (and also the *Hurricane Irene*, to a lesser extent) flooded the entire North Water Street Extension. The only way to have gotten from Water Street to the address listed as 30 North Water Street was by canoe. What is the Stolotis' and the Village of Ossining's proposal to do with the 200 cars parked on the North Water Street Extension if the Hudson floods again.

What about access by emergency vehicles to this project? This entire road is under a flood plain.

(Correspondence #7, Gerold M. Wunderlich, 1/3/13. Similar comments from Peggy Wunderlich, Public Hearing, 1/29/13.)

Response

As mentioned previously, the issue of access to the project site for purposes of the issuance of a building permit was approved by the Filex Subdivision of 1995.

The Applicant intends for the improved access road to meet requisite Village and State specifications, and to make any and all specific improvements to the access road as required by the Planning Board in the context of its site development plan review. The Planning Board, as part of the Site Development Plan approval process, will review "traffic access," as one of the enumerated objectives of site development plan review, to ensure that the traffic access is adequate and safe, and will make any specific recommendations and conditions of approval that it deems necessary.

Specifically, the scope of the Applicant's access easement rights over the Santucci property to the south of the project site include the ability to widen, pave and relocate the access road in a westerly direction, and install drainage, curbing and sidewalks. See Appendix E to the DEIS. Additionally, the Applicant will request from the Village Board of Trustees the ability to improve at the Applicant's expense the public right-of-way that crosses the Village-owned parcel having a tax identification of Section 3, Plate 2, Block 1, Lot 6 ("Lot 6") before Water/North Water Street is reached. Alternatively, the Applicant may be able to demonstrate that all or part of Water/North Water Street constitutes a "highway by use."

In addition, the Applicant, together with Fire Department officials, determined that the secondary emergency access road proposed as part of the 2011 alternative site plan became an issue to construct per Village Code and to be retained fully on the Applicant's property. An alternative was proposed to address the two locations along North Water Street that would be more than 2 feet below anticipated flood levels. These portions compose only a small percentage of the length of the roadway. By raising them marginally, the entire length of North Water Street would be at or above 2 feet below flood levels, and therefore accessible to emergency vehicles, thus making North Water Street fully compliant with FEMA requirements and the Fire Department's requirements. Fire Department officials indicated that this alternative would provide sufficient



access. It will also eliminate the current dangerous conditions which exist, and will provide greater safety and accessibility to pedestrians, and vehicular traffic.

2.5.13 Comment

As I understand it the proposed Hidden Cove Building would be built over the stream that flows beneath the factory. I don't quite understand what measures Stolatis is taking to protect this stream during the demolition of the BPF and the construction new building. This is not addressed in the SEIS. Wondering if the US Corps of Engineers and/or NY State DEC has to issue permits for any work on or near streams. Because of its proximity to the Hudson this stream is affected by its tides so it seems to me that any demolition or construction on or near it would have to be addressed and in consonance with the applicable regulations.

(Correspondence #10, Miguel Hernandez, 1/27/13)

Response

The stream beneath the site runs through a brick culvert. During demolition of the building, the brick culvert remained in place and was maintained. Upon completion of the building demolition, a new reinforced concrete box culvert was installed alongside the existing one and then tied into the stream at each end. Upon completion of the new box culvert, the brick culvert was demolished and replaced with compacted earth.

Plans and documents have been submitted to the U.S. Army Corps of Engineers (USACE). USACE is reviewing the project and will determine if a permit is required and, if so, what type of Army Corps permit is required.

The information required by NYSDEC for the notice of intent for the stormwater construction has been submitted to NYSDEC.

2.5.14 Comment

They have not answered satisfactorily the environmental concerns of runoff.

(John Wunderlich, Public Hearing, 1/29/13)

Response

The stormwater management is designed to capture and treat stormwater for water quality. The SWPPP provides for infiltration practices for the proposed building and road to return runoff to the groundwater. After the stormwater has received treatment and water quality has been taken



care of, overflow lines will then direct the runoff towards the existing stream. These measures will assure that the proposed action will not result in any significant adverse environmental impacts.

As part of the site plan review process, the Applicant's proposed Stormwater Plan is reviewed by the Village's consulting civil engineer.

2.5.15 Comment

Where are the new stormwater runoff sites because when you look at the property from the Boat Club's perspective, they would be interested in trying to understand where all runoff is going to get pushed into the Hudson River because depending on where that is from a site plan standpoint, there are boats out there.

(Patrick Guest representing Shattemuc Yacht Club, Public Hearing, 1/29/13)

Response

There are no new discharge points for stormwater runoff sites. The stormwater analysis for the culvert crossing under the Metro-North tracks (shown on the stormwater maps as DP-#5) shows the same runoff rates for Pre-Development and Post-Development for the various storm events. Therefore, the proposed development does not affect the quantity of the water flowing from the site or the hydrology to the Hudson River.

2.6 Traffic and Transportation

2.6.1 Comment

Analyze standing traffic (i.e. trucks standing and loading).

(Correspondence #5, Ossining Environmental Advisory Council, 2/14/13)



Response

During Construction, it is anticipated that there will be truck traffic generated to and from the site for deliveries and other related construction activities. There is not expected to be unnecessary standing or idling due to these activities and trucks must also comply with applicable state regulations relative to idling. After construction, there is not expected to be any significant truck traffic generated by the site.

2.6.2 Comment

Provide a more developed plan for safe pedestrian traffic to the train station from the site and for people who may want to come in and see the history of the building.

(Correspondence #5, Ossining Environmental Advisory Council, 2/14/13)

Response

The Applicant is proposing the creation of a sidewalk as part of the improvements to North Water Street along the entire Road length. The Applicant desires to continue that sidewalk over a portion of Village-owned Lot 6 with authorization from the Board of Trustees.

2.6.3 Comment

Provide Saturday traffic counts.

(Correspondence #5, Ossining Environmental Advisory Council, 2/14/13. Similar comments from: Patrick Guest representing Shattemuc Yacht Club, Public Hearing, 1/29/13)

Response

The Traffic Impact Study originally prepared for the DEIS was revised to incorporate updated traffic counts and traffic projections. Saturday traffic counts were not required as part of the final SEIS Scope dated July 24, 2012, which was adopted by the Lead Agency on August 28, 2012. It should also be noted that Saturday conditions are expected to be less critical than the weekday peak hours since the other surrounding land uses generate less traffic on Saturdays and there is not the same level of commuter traffic resulting in lower overall traffic volumes.

2.6.4 Comment

The roadway at the intersection of Water Street and Broadway most mornings is jammed packed with vehicles - not cars so much as large trucks. In general, there are a couple semi tractor-trailers unloading roofing material for the Croton Home Center. And in turn, several



of CHC's trucks are accepting materials for local deliveries. I realize this issue can be resolved, but not without some issues. Still the traffic will be a nightmare, especially when one considers the AvalonBay project, which is going through.

(Correspondence #7, Gerold M. Wunderlich, 1/3/13. Similar comments from: John Wunderlich, Public Hearing 1/29/13.)

Response

The traffic evaluation contained in the DEIS includes consideration of existing and other background traffic in the area. Based on that analysis, it is not expected that there will be a significant change in levels of service or operating conditions as a result of the project.

2.6.5 Comment

Apparently, the developer's plan does not envision sidewalks along the North Water Street right of way to his property. This should be required for the safety of tenants and visitors to the site as well as for people who will need to connect with the Crawbuckie/Riverwalk trail beyond.

(Correspondence #9, Miguel Hernandez, 1/26/13.)

Response

The proposed plan includes a sidewalk for the length of the subject property. This is shown on the project site plans. Off-site improvements would require authorization and agreement from the property owners.

2.7 Street / Roadway / Access

2.7.1 Comment

Page 1-7 in the SEIS refers to North Water Street as a public street. North Water Street is not a public street. If there is information and documentation verifying that North Water is a public street and not a paper street with various access easements, please provide the documentation and explanation.

(Correspondence #2, Village of Ossining Department of Planning, 2/21/13. Similar comments from: Correspondence #9, Miguel Hernandez, 1/26/13.)

Response

See Response to Comment 2.1.13.

2.7.2 Comment

They do not have access to a public street. What they refer to as "North Water Street," is in fact, the North Water Street Extension, which runs over private properties, which is not owned by the Village of Ossining, but rather various owners from the north end of North Water Street (which end near the Village property opposite the Vireum apartment building.) Beyond this place, where the sewage pumping station is located, is private, and I do not understand how the Hidden Cove developers can force the rerouting and widening of this private road, when all the Hidden Cove development owners have is a right-of-way across said property. The right-of-way is 20 feet wide! Short of the Village of Ossining bringing an Eminent Domain taking of said property there is no way the Stolotis' have the ability of widening said road.

(Correspondence #7, Gerold M. Wunderlich, 1/3/13. Similar comments from: Correspondence #9, Miguel Hernandez, 1/26/13; John Wunderlich, Public Hearing, 1/29/13.)

Response

See Responses to Comment 2.1.13.

2.7.3 Comment

They discuss the width of the road will vary from 24 to 26 feet. Is this wide enough? Bear in mind that there are factories just to the North of the proposed Hidden Cove Development, and large (18 wheelers) tractor trucks deliver and pickup product from both Diamond Dairy



and Clear Cast Technologies. And what about people walking to the Ossining station on this road? If you look at the map carefully, the roadway, which they tell us will be "realigned and resurfaced," is situated absolutely adjacent to commercial buildings along this private roadway. Does the 24 feet include the required sidewalks? I really think you should get input from the owner of Castle Plumbing as well as the Santucci's on this matter and the dangers implied by adding 75 more vehicles during peak hours.

(Correspondence #7, Gerold M. Wunderlich, 1/3/13)

Response

The proposed width of the roadway will adequately accommodate the existing and projected future traffic volumes during peak hours. The analysis indicates that acceptable levels of service will be experienced. See also response 2.6.2 regarding sidewalks and pedestrian safety. The 24 feet of pavement does not include the 4-foot sidewalk (or the curbing).

2.7.4 Comment

If another 70 cars per hour are added to the present peak hour volume, you now have 100 vehicles per hour. The private road here is simply too narrow to handle this kind of traffic, especially when mixed with the heavy-duty commercial traffic that already exists on this roadway. I have spoken to Mr. Hanrahan of Castle Plumbing and he said the road is dangerous now- add another 70 cars per hour, and I guarantee you will have a disaster.

(Correspondence #7, Gerold M. Wunderlich, 1/3/13)

Response

The upgraded and widened roadway will be able to accommodate the expected future peak hour volumes based on the analysis using the Highway Capacity Analysis Standards.

2.7.5 Comment

I do not see how they can force either the Village of Ossining, or their neighbors to build a road privately owned, to their specifications. Furthermore the proposed road is only a few feet from at least two buildings doors - a road that, by their own estimates, will carry four times the present vehicles per hour. At the beginning of the North Water Street Extension, the Stolotis' expect the Village of Ossining to "give" them a portion of the property opposite the Vireum building.

(Correspondence #7, Gerold M. Wunderlich, 1/3/13)

Response

Comment noted. See Responses to Comment 2.1.13.

2.8 Procedural

2.8.1 Comment

The developer implies that the development of the 3-acre plateau (which is mostly steeply sloped land) may be the subject of a later DEIS/SEIS). In this regard, he is not including a substantive discussion of it in the current SEIS. The developer should be required to include a full-blown section on this current SEIS since the threat of construction there has not been actually removed.

(Correspondence #9, Miguel Hernandez, 1/26/13. Similar comments from: Correspondence #7, Gerold M. Wunderlich, 1/3/13; Peggy Wunderlich, Public Hearing, 1/29/13.)

Response

As required by the final SEIS Scope dated July 24, 2012, which was adopted by the Lead Agency on August 28, 2012, the SEIS includes a chapter on potential cumulative impacts that could be expected with development of the plateau as permitted under the CDD zoning adopted by the Village following its Comprehensive Plan process. The chapter includes analyses of potential impacts on demographics and traffic. Since there is no specific proposal for the plateau at this time, and thus no design to analyze, site specific impacts of development on the plateau (e.g., stormwater, site disturbance) have not been evaluated. As indicated in the SEIS, such impacts would be subject to analysis in a separate SEQRA process at such time as there is an application made for a specific development on the plateau.

2.8.2 Comment

I would like to know whether the Village of Ossining Board of Trustees or the Village's Planning Board is the lead agency in the "Hidden Cove" project.

(Correspondence #8, Miguel Hernandez, 1/30/13)

Response

The Planning Board of the Village of Ossining is the designated Lead Agency for the SEQRA review of this project.



2.8.3 Comment

I would like to know what constitutes acceptance of completed DEIS/SEIS/FSEIS documents and what does acceptance mean and what are its implications?

(Correspondence #8, Miguel Hernandez, 1/30/13. Similar comments from: Miguel Hernandez, Public Hearing, 1/29/13.)

Response

Acceptance of a DEIS does not imply approval. It merely indicates that the Lead Agency, in this case the Village Planning Board, has found the document acceptable for public review in terms of "scope, content and adequacy." The Planning Board adopted such a finding for the DEIS in November, 2008.

2.8.4 Comment

I would like to know are the Village of Ossining Board of Trustees or the Village's Planning Board required to take a vote on accepting these documents and if so, when did this occur with regard to the Hidden Cove DEIS and if it did, may I see a copy of the minutes of the meeting where the vote was taken?

(Correspondence #8, Miguel Hernandez, 1/30/13. Similar comments from: Correspondence #9, Miguel Hernandez, 1/26/13.)

Response

See Response to Comment 2.8.3.

2.8.5 Comment

The lead agency must prepare, file and publish a notice of completion of the draft EIS and file copies of the draft EIS in accordance with the requirements set forth in section 617.12 of the SEQRA law.

(Correspondence #8, Miguel Hernandez, 1/30/13)

Response

In accordance with the requirements set forth in §617.12 of the State Environmental Quality Review Act, the Village of Ossining Planning Board, as lead agency, published the Notice of Acceptance of Draft EIS and Public Hearing in the DEC Environmental Notice Bulletin – Region 3 Notices 11/12/2008.

2.8.6 Comment

It is my understanding that approval of a DEIS will not be complete until: (1) a negative declaration has been issued; or (2) until a draft EIS has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.

(Correspondence #8, Miguel Hernandez, 1/30/13)

Response

See Response to Comment 2.8.3.

2.8.7 Comment

This is a major undertaking and even if approved, who and how would the amounts of cut, fill and other debris be verified? In the event this is permitted the developer must comply with all aspects of § 229-43 regarding the rock excavation requirements of the Village Code as well as with the § 229-44 concerning Backfilling.

(Correspondence #9, Miguel Hernandez, 1/26/13.)

Response

Comment noted. The project is also subject to site development plan review pursuant to § 270-52. The Applicant will comply with all applicable portions of the Village Code.

2.8.8 Comment

I still have a right to voice my concerns as the owner of a property that will be deleteriously impacted by Hidden Cove and urge you and the other members of the planning board to take my comments under serious advisement just as you would that of others who come before your body.

(Correspondence #9, Miguel Hernandez, 1/26/13)

Response

The Planning Board welcomes public comment and will make its decision on the proposed project based upon the merits of the application from a community planning perspective, consistent with its analysis of environmental impacts, pursuant to SEQRA.



2.9 Historic Resources

2.9.1 Comment

Based upon our review of the submitted SEIS, the OPRHP notes that the proposed demolition of the 'Pill Factory' building will result in an Adverse Impact upon the property which is listed in the National Register of Historic Places. We recommend that adequate documentation of the existing building listed property (along with surviving features related to the site sluice/ drainage and factory operations) be documented with photography and site history prior to the initiation of demolition activities.

(Correspondence #1, New York State Office of Parks, Recreation and Historic Preservation, 2/19/13)

Response

The Applicant proposes mitigation measures that will help ameliorate the loss of the Brandreth Pill Factory buildings. These mitigation measures include:

- Commission digital format, high-resolution photography of all of the buildings prior to removal. This was done prior to demolition of the mill building. The photographs (a disc with high-resolution images and 4" x 6" prints) would be provided to the Ossining Historical Society.
- Build a Brandreth Pill Factory open-air monument on the project site in the front of the new development, featuring a series of informational signage documenting the history of the Brandreth Pill Factory.

2.9.2 Comment

Please provide the analysis and back up data that was utilized and which concluded that Brandreth Pill Factory needs to be demolished. The backup information was not provided in the Appendix of the SEIS. Please also update the flood zone subsection of SEIS Section 2.9, to reflect the new Advisory Base Flood Elevation Maps for the Village of Ossining.

(Correspondence #2, Village of Ossining Department of Planning, 2/21/13)

Response

The analysis and supporting back up data that was utilized is included in the appendix of this FSEIS as follows:

- Appendix 5.1 Structural Assessment by De Nardis Engineering, LLC
- Appendix 5.2 Cost Estimates by CTS Group Architecture/Planning



- Appendix 5.3 Per Square Foot Cost Estimates (Interior Fit-Out) by Gruzen Samton Architects
- Appendix 5.4. Cost Estimates – Site Improvements by VHB Engineering, Surveying and Landscape Architecture, PC
- Appendix 5.5. Appraisal by Hudson Property Advisors

According to the FEMA Advisory Base Flood Elevation (ABFE) Map for Ossining SW dated December 21, 2012, the Base Flood Elevation (BFE) for the site is 10 feet. This is the water surface elevation resulting from a flood that has a 1-percent chance of occurring in any given year. The site is located in Zone A/AE, which means that the area is subject to inundation from the 1% annual chance flood. These areas are not subject to high velocity wave action but are still considered high risk flood areas. FEMA Flood Hazard Data for the site and the FEMA Advisory Base Flood Elevation (ABFE) Map for Ossining SW dated December 21, 2012 are included in Appendix 5.9 of this FSEIS.

The proposed project has been designed to accommodate for the FEMA Base Flood Elevation for the site with the parking garage floor elevation at 12.0, which is two feet above the EL 10.0 Base Flood Elevation of the site.

2.9.3 Comment

Please provide an explanation on why the Office Building which is in good repair needs to be demolished and cannot be saved as part of the proposed site plan. Please look at some alternatives in the site plan design to save this building.

(Correspondence #2, Village of Ossining Department of Planning, 2/21/13)

Response

Under SEQRA, the Applicant is required to compare the significant environmental impacts of the Proposed Action to reasonable alternatives for the project site that meet the Applicant's objectives and capabilities.

The Proposed Action studied in the DEIS in 2008 included the retention and adaptive reuse of the Pill Factory Building, in addition to development on the plateau and lower portion of the project site. The current plan studied in the SEIS was arrived at in response to, among other things, comments received on the Proposed Action, the 2009 amendments that the Village made to its Zoning Code, and recent recently revised flooding classifications and planning principles and their impact upon the project site.

In the Applicant's opinion, other alternatives that include retention of the Pill Factory building would not be reasonable alternatives to meet the Applicant's objective to redevelop the project site and contribute to the Village's development of its waterfront in an economically feasible fashion, given the aforementioned factors which influenced the evolution of the Proposed Action



to the currently proposed plan studied in the SEIS. This alternative is moot in any event, due to the required demolition of the main Pill Factory Building.

Structurally, the office building is not salvageable. Petruccelli Engineering conducted a structural assessment of this structure in April 2015, concluding that the structure is neither sound nor salvageable. There is no structural integrity in the walls, the bricks are disintegrating from the passage of time and recent flooding, and the building itself has been subjected to vandalism. Furthermore, this structure was included in Applicant's demolition permit.

The Applicant proposes mitigation measures that will help ameliorate the loss of the buildings. (See Response to Comment 2.9.1.) As part of the Brandreth Pill Factory open-air monument to be built on the project site, the Applicant would preserve and adaptively re-use elements from the existing office building, potentially including salvageable original bricks and wood framing.

2.9.4 Comment

Applicant should be required provide a sample or type of the "informational signage" and submit text to a competent historian to assure that it is historically accurate.

(Correspondence #9, Miguel Hernandez, 1/26/13.)

Response

The Applicant proposes to work with the Ossining Historical Society to insure the accuracy of the historic information to be provided in the Brandreth Pill Factory open-air monument.

2.9.5 Comment

Provide a complete statement about the importance of the historic building to the history of Ossining and beyond and its preservation as an important objective.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The significance of the Brandreth Pill Factory has been documented by the Applicant in the Phase I Archeological Assessment (see DEIS Appendix G) and in the SEIS at Section 2.9, Historic Resources. The Village has documented the historic significance of the pill factory and its preservation as an important objective in the Village's Comprehensive Plan (July 2009).

2.9.6 Comment

Provide an adaptive reuse scheme for the historic building(s). The applicant needs to prove that there is no other solution to achieve a reasonable goal.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

See Response to Comment 2.9.2.

2.9.7 Comment

The SEIS must also state that the Brandreth Pill Factory is listed on the New York State and Westchester County Registers.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The requested information is provided in the DEIS. The DEIS (and its Appendices) is incorporated into the SEIS by reference. The Phase I Archeological Assessment (see DEIS Appendix G), says:

"The 19th century Brandreth Pill Factory, located on Water Street, is listed on the Westchester County Historic Building Inventory (1/5/88), the State Register of Historic Places (6/23/80), and the National Register of Historic Places (1/10/80)."

2.9.8 Comment

"These buildings currently have no local historic preservation protection. Included among them are: The Brandreth Pill Factory". Note should be made that the Historic Preservation has recommended landmarking of the Brandreth Pill Factory and that the Village Board has scheduled a hearing and vote on the recommendation during March, 2013.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The Ossining Historic Preservation Commission (HPC) submitted an application, which was filed on October 29, 2012, to designate 36 North Water Street as a local historic landmark. The HPC issued a positive recommendation to the Village Board of Trustees for the designation of 36 North Water Street as a Historic Landmark. On April 16, 2013, the Village Board of Trustees issued



a resolution designating as local Historic Landmarks the structures known as the “Brandreth Pill Factory Complex,” the main building of which no longer exists.

2.9.9 Comment

National Register Properties are exempt from many FEMA requirements. Make appropriate changes in the SEIS to accurately reflect FEMA requirements for historic properties in ALL discussions regarding the historic property. Also include revised numbers and supporting argument for demolition of the historic building(s) to correctly reflect FEMA requirements for historic buildings including insurance benefits and rehabilitation costs. The applicant should not use FEMA requirements for new construction and non-historic buildings in an effort to support demolition of the historic buildings.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The FEMA National Flood Insurance Program (NFIP) gives special consideration to historic buildings, landmarks, and sites. Historic buildings are not subject to the same requirements nonhistoric structures are. These exemptions to NFIP requirements include:

- Historic structures do not have to meet the floodplain management requirements of the program, such as elevating or flood-proofing the structure.
- Historic structures damaged by floods can retain their historical designation, even if they have been altered by substantial improvement or substantial damage repair as long as the repairs are consistent with the historic character of the structure.
- Historic structures can also qualify for federally subsidized flood insurance under the NFIP, even if they have been altered by substantial improvement or substantial damage repair, so long as they maintain their historic structure designation.

Although the NFIP provides relief to historic structures from having to comply with NFIP floodplain management requirements for new construction, when historic structures are rehabilitated or are repaired, FEMA encourages communities and owners of historic structures to give serious consideration to mitigation measures that can reduce the impacts of flooding on historic structures located in Special Flood Hazard Areas.

The request for a full-scale analysis of insurance benefits and rehabilitation costs relative to FEMA requirements was not required to be included in the SEIS according to the final SEIS Scope dated July 24, 2012, which was adopted by the Lead Agency on August 28, 2012. The Applicant proposed demolition of the existing buildings in 2011. The local historic landmarking process was not initiated by the Ossining Historic Preservation Commission until October 29, 2012 when the HPC submitted an application to designate the Applicant’s property as a local historic landmark.



According to the Applicant, FEMA requirements for new construction and non-historic buildings are not used as supporting arguments for demolition of the buildings. As stated in the SEIS, the current plan conforms to the new (2009) zoning for the site and reflects public, stakeholder and Village comments on the DEIS plan. The Applicant proposes development under the existing zoning on the PW-a portion of the site. Rezoning of the site is no longer proposed. Under the new plan, the Pill Factory building would be demolished, since adaptive re-use of the building would be costly, severely limiting the development potential and feasibility of the PW-a zoned portion of the site.

In accordance with Village Code Chapter 141, Flood Damage Prevention, a variance from the requirements of the flood regulations may be issued for the repair or rehabilitation of historic structures. It is noted, however, that the Applicant has not requested a variance from the flood regulations, due to the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner. In order to renovate the structures for use, they would need to be raised to an elevation approximately three feet above the flood elevation. In order for this to be accomplished, the structures would need to be stabilized structurally, (which is arguably unachievable based on their age and current condition), reinforced to accommodate being raised or moved, and then lifted onto a new foundation.

2.9.10 Comment

Provide more alternatives to flood protection both physically and adaptive reuse solutions to flood plain problem; limiting the ground floor use of the adapted historic building to non-residential uses would be an advantageous solution.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The Applicant is not proposing adaptive reuse of the remaining buildings. Adaptive reuse was last proposed under the DEIS plan (2008) along with proposed development on the plateau portion of the site. The Pill Factory building has been demolished, due to its drastically deteriorated condition. Further, adaptive re-use of the main building would have been costly, severely limiting the development potential and feasibility of the PW-a zoned portion of the site. The remaining structure is unsound for adaptive reuse, as discussed above. See Response to Comment 2.9.9.

2.9.11 Comment

With regard to the statement that the given flood solutions are inconsistent with the Secretary of Interior's Standard, please cite specific examples of why the proposed solution would be considered inconsistent with the Secretary's Standards if appropriate FEMA standards for historic properties are followed.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

Due to the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, in order to renovate the structures for use, they would need to be raised to an elevation above the flood elevation or otherwise renovated to prevent water from entering the building. The first floor of the existing building is at elevation 10. The newest FEMA Flood Maps indicate that the 1% storm is at elevation 10, up from 7, and the 0.2% storm is at elevation 15. The Applicant's engineers have determined that the first-floor elevation would need to be a ***minimum*** of 2 to 3 feet above elevation 15. Therefore, any response to flood hazard needs to prevent water at least 8' higher than the existing first floor from entering the building. In the Cost Estimates by CTS Group Architecture/Planning (see Appendix 5.2) two possible strategies were identified, each of which has been used by CTS Group Architecture on projects within flood zones. (It is noted, however that in these former projects the flood level required more limited protection no higher than about 3' above grade). The first strategy was construction of a flood wall/barrier around the entire site. This would mean construction of some type of barrier over 8' high which is visually inappropriate not simply from the exterior, where it hides almost all the 1st floor, but also from the building itself where all 1st floor views would be looking out at a huge barrier.

The second strategy requires flood prevention at the building. This needs both significant structural upgrading of the existing unreinforced brick bearing wall and provision of floor barriers at all openings below elevation 18. As stated previously, these alternatives are visually intrusive and inconsistent with the Secretary of the Interior's Guidelines. As requested, detailed information is provided below to support those observations.

It should be highlighted that the decorative character of the openings, see Image 1, particularly the projecting, corbelled arches would be significantly damaged by the installation of any flood barriers at the openings.



Image 1

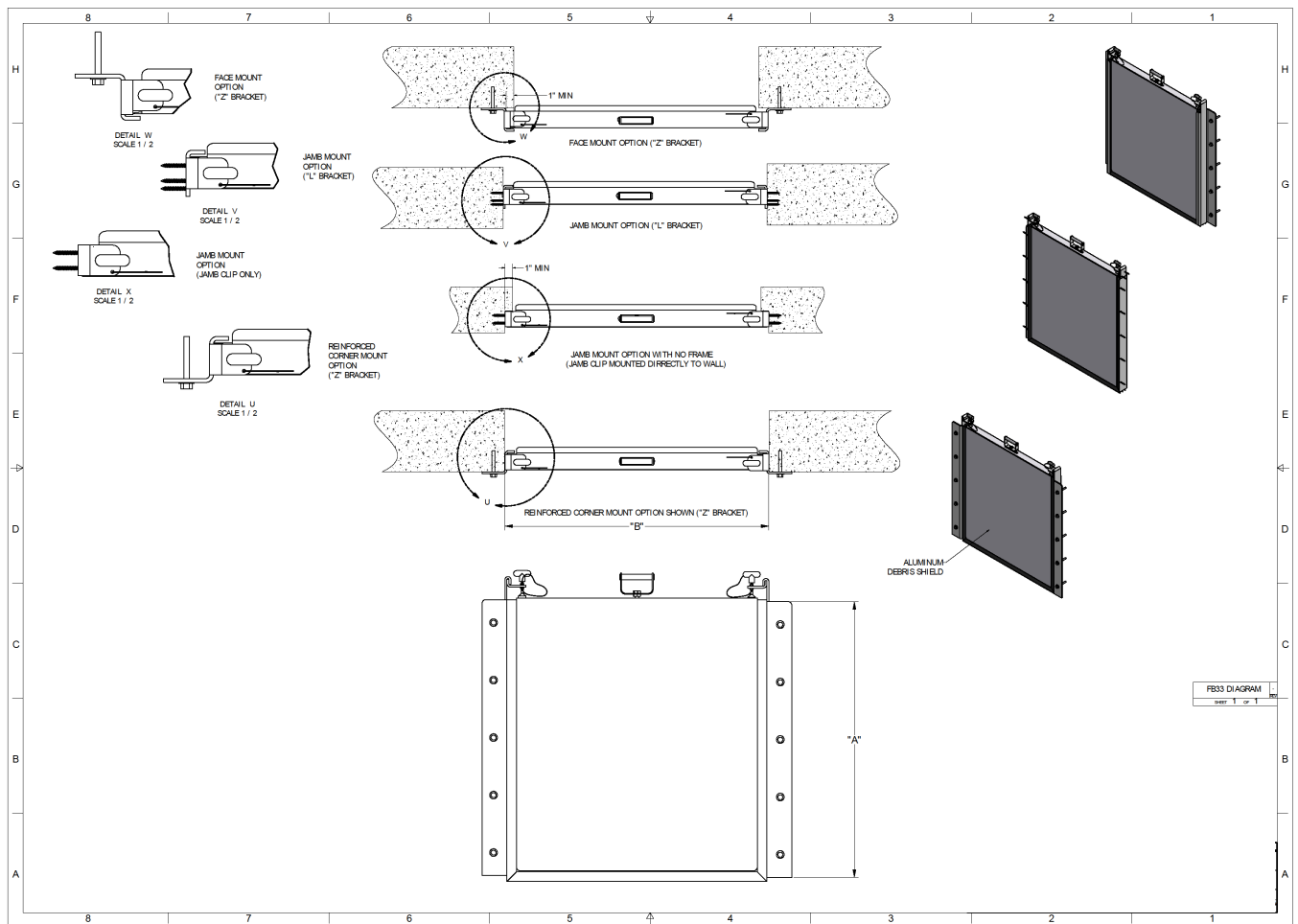


Figure 1/Option 1 –face-mounted brackets

Flood barriers at openings work by providing waterproof seals around the barriers within or on frames at the openings. There are a number of options including openings framed with brackets and openings framed with plates. Those with brackets are used typically at doors. Those with plates are more appropriate for use at windows. Openings framed with brackets or plates use barriers (shields) which are affixed to the frames in time of flood. The pressure of the water against the shield enables the seals to work effectively. The brackets would need to be face-mounted into the exterior brick and rise above the window openings in order for the barrier sections to slide down within the brackets. The face-mount option on Figure 1 (Option 1) indicates how the brackets would be anchored into the exterior brick wall. Large steel brackets would surround the jambs and rest on the stone sills. Figure 2 (Option 2) indicates the type of barrier used more typically at windows. These work with a steel plate (of similar width to the brackets) anchored into the exterior brick masonry. Barrier panels are then screwed into pre-drilled inserts.

Both of the options require permanent metal elements (brackets or plates) anchored (by drilling) into the masonry which permanently and significantly alter the character of the openings. Most significantly, due to the projecting corbelled rowlock arches, neither alternative is feasible without major damage to the arches. Brick arches would need to be removed to install the plates flush with the façade brick (Option 1) and to permit sliding of the barriers into the brackets (Option 1). This significant masonry destruction is wholly contrary to the Secretary's Standards, particularly standard #2, which states that, "The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided". Additionally, the weight of a panel which covers a typical 1st floor window opening would be about 300 lbs. Installation of these barriers in a timely fashion requires a sophisticated, well-equipped and expensive infrastructure.

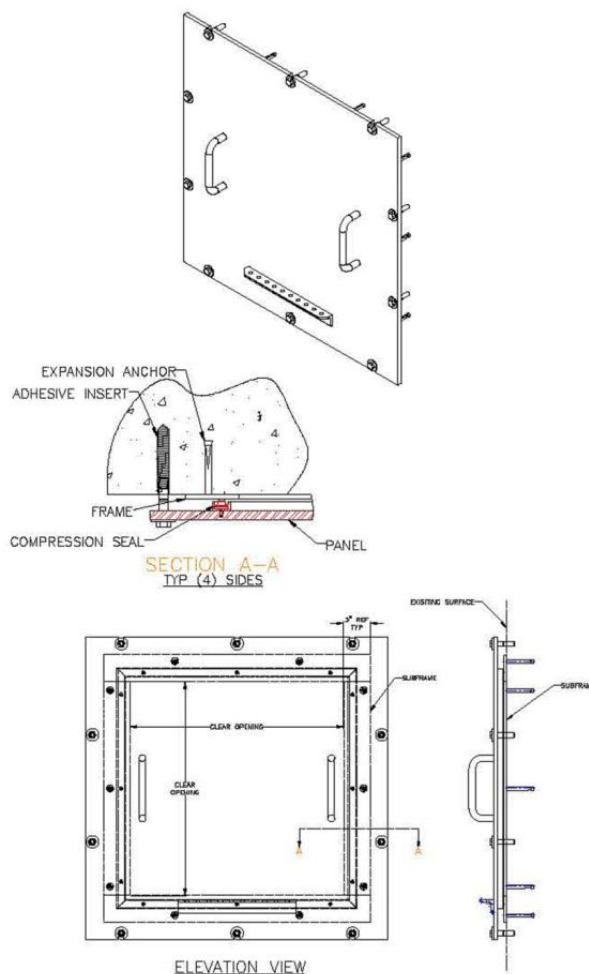


Figure 2/Option 2 – face mounted plates

Since the above information was submitted to the Village, the mill building has been demolished.



2.9.12 Comment

Show which portion of the property is not in the flood zone in relation to the historic buildings.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

See FSEIS Appendix 5.9.

2.9.13 Comment

The SEIS should include the engineering report created when the owner purchased the building in 2001.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The property owner did not commission an engineering report when the building was purchased in 2001. The SEIS contains information responsive to the approved SEIS Scope, which was approved by the Planning Board as Lead Agency. The requested information falls outside of the Scope of the SEIS.

2.9.14 Comment

The HPC would like an independent engineering report on the current conditions of the structures from a source designated by the Village and paid for by the Applicant.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

In September 2012, the Applicant commissioned De Nardis Engineering, LLC to assess the structural condition of the buildings. See FSEIS Appendix 5.1 for the complete report.

2.9.15 Comment

They should have stuck to the original plan to save the Brandreth Pill Factory that's on the National Register.

(John Wunderlich, Public Hearing, 1/29/13)

Response

The Applicant's original plan had proposed development that included adaptive reuse of the Brandreth Pill Factory along with new construction on other parts of his property, including the plateau, where the highly marketable river views would potentially generate project income that could be utilized to pay for the required historic restoration. However, changing circumstances, including: direction by the Planning Board to avoid development on the plateau portion of the property, a virtually unprecedented weakening of housing markets (particularly for condominiums) leading to increased difficulty in obtaining financing; more frequent flooding in coastal areas; and, FEMA's recalculation of flood zones which placed the Pill Factory at greater risk, all contributed to the need to reconsider the program for the site. The result was the Proposed Action described and evaluated in the SEIS.

2.9.16 Comment

Provide detailed back up information to support the claims including details and costs of the exterior renovations.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

Detailed costs of the exterior renovations are provided in Appendix 5.2 of this FSEIS.

2.9.17 Comment

Provide alternatives to the expensive materials such as fiberglass shingle in lieu of slate roofing, etc. and the resulting change in the cost of adaptation of the existing historic building.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The Cost Estimates by CTS Group Architecture/Planning (see Appendix 5.2) was based on a careful assessment of materials based on the Secretary's Standards as well as constructability which includes cost effectiveness. The slate shingles are one of the prime "character defining" features of the building. Therefore CTS Group Architecture proposed like-kind replacement consistent with the Secretary's Standards, in particular standard #6 which states that "Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials". However, for the other major features (e.g. the highly decorative cornices and brackets) CTS Group Architecture proposed the most acceptable cost-effective materials. Fiberglass was proposed for the decorative brackets, many of which are missing, rather than the more expensive wood alternative. Wood was proposed for the cornices as opposed to composite materials. Labor costs are the same but the composite materials are more expensive than wood (although they are longer lasting).

All of the proposed masonry work is required and there are no less expensive alternatives. The standing seam roofing is technically appropriate and a cost-effective material for the upper, less steeply-sloped roof sections.

Finally like-kind replacement of wood windows with wood windows is the only appropriate strategy consistent with the Secretary's Standards. See above regarding the Secretary's Standard #6. The National Park Service also publishes "Guidelines for Rehabilitating Historic Windows". The Guidelines state that under appropriate circumstances replacing an entire window due to deterioration or energy needs can be considered while "using the physical evidence to guide the new work". The Guidelines do note that "If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered". In the professional experience of CTS Group Architecture, no compatible substitute material was found which permits the creation of the type of detailing of the double-hung, multi-lite windows at the site. And since this building is only three stories high the difference in detailing of the alternate materials and detailing of non-historically-derived windows would be very apparent.

For the reasons listed above CTS Group Architecture/Planning stands behind their initial material choices and believe alternates are inconsistent with the Secretary of the Interior's Standards. However, as requested, CTS Group Architecture has provided alternate materials for roofing and windows as follows:

Roofing: Slateline Fiberglass Shingles by GAF

Windows: Aluminum, double-hung, insulated glass with simulated divided lites.

See the following pages for revised cost estimates dated August 2, 2013. Based on these revised estimates, the exterior restoration cost for the building, exclusive of all interior work to adapt and finish the structure for residential use is more than \$2.4 million. This estimate does not include the estimated cost to reinforce the first floor walls for flood resistance.



Since the above information was submitted to the Village, the mill building has been demolished.

2.9.18 Comment

Provide more details with regard to the building fit-out.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The Applicant is not proposing adaptive reuse. The Applicant appeared before the Ossining Planning Board on November 22, 2011 with an alternative site plan that reflects the Village's 2009 zoning for the site and which was the subject of the Supplemental Environmental Impact Statement (SEIS). The 2011 plan included demolition of all buildings on the site and redevelopment of the portion of the Applicant's property zoned PW-a. The 2011 plan does not include development of the plateau portion of the site, which is zoned CDD.

2.9.19 Comment

Site improvements have to be done in any case, whether historic buildings remain or not; therefore, this should not be included as a rationale for demolition of the historic building.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

Site improvements are not a rationale for demolition of the building. Estimated costs for site improvements were necessary to determine the estimated market value and appraisal of the property assuming renovation/conversion of the existing main structure for residential use. See FSEIS Appendix 5.5.

2.9.20 Comment

Provide detailed information about the numbers presented giving comp information about the numbers presented. This property should have truly comparable comps that are on the Hudson River, with full view, within walking distance to the train station, etc. Include the Avalon Bay and Harbor Square projects for projection for rents and include Vireum and Scarborough Manor for condominium and co-op pricing using an industry accepted basis for the conversion of purchase to rent values.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)



Response

With respect to “comps that are on the Hudson River, with full view, within walking distance to the train station, etc.” HPA conducted research in the local market. Other than the comparables noted within the appraisal (and the comparables included in the follow-up memo – see FSEIS Appendix 5.5), no other data was readily available in the normal course of research. However, it should be noted that the Appraisal did both sale comparables (of multi-unit apartment buildings which were used in the Sales Comparison Approach) and rent comparables (which were used to estimate market rent for use in the Income Capitalization Approach).

With respect to the sale comparables, of the five used, four are located in Ossining; one was located in Dobbs Ferry. Though none of them offered the same Hudson River view as the subject, the appraisal did include an adjustment reflecting the relative differences in location of the comparables compared to the Hidden Cove property. Regarding the subject’s location/view, it should be noted that there are both positive and negative influences. Positive influences include scenic views of the Hudson River (some units will offer better views than others). Negative influences include 1) access to the property is planned to be via a narrow easement road passing through an industrial area, 2) the views from some of the units will include direct views of the two industrial/warehouse properties directly to the north, 3) the property is adjacent to railroad tracks, with frequent trains passing by and 4) all of the Hudson River views are impacted by the view of the railroad tracks and trains.

With respect to the comment that the Avalon Bay and Harbor Square projects should be used for projection of market rent, these two projects are not fully occupied yet. As a result, complete and accurate data is not readily available.

With respect to the Vireum Schoolhouse, one rental was found within the property; it was included in the appraisal and supported the conclusion or market rent that was reached.

Regarding Scarborough Manor, one rental was included in the appraisal. In addition, subsequent research revealed several additional rentals within this co-operatively owned property. Our subsequent research revealed one one-bedroom apartment rental and five two-bedroom rentals. The one-bedroom unit (#4MM-2) contains 736 sq. ft., and rented in January 2012 for \$1,275 per month (\$1.73 per sq. ft.). In terms of size this unit is most similar to, but smaller than, the 900-sq. ft. one-bedroom units proposed for the Hidden Cove on the Hudson development. The appraisal included an estimate of market rent for the small one-bedroom units of \$1,530/month (\$1.70 per sq. ft.). The rental of the one- bedroom unit at Scarborough Manor supports the concluded market rent estimate in the appraisal.

The five two-bedroom rentals found within Scarborough Manor are summarized as follows:



Market Rent Survey - Scarborough Manor (Co-op)

Rockledge Avenue, Scarborough (P.O.), Village of Ossining, NY

MLS#	Date	Address	Rent/Mo.	BD	BA	Sq Ft	Rent/sf	DOM	Floor
3022818	11/9/2010	16 Rockledge Ave., #6J2	\$1,850	2	2	1,560	\$1.19	123	6th
3029993	2/8/2011	1 Scarborough Manor #5G-	\$1,900	2	2	1,560	\$1.22	148	5th
2926643	6/1/2010	16 Rockledge Ave #3-0-1	\$2,150	2	2	1,580	\$1.36	281	3rd
3026523	9/17/2010	3 Scarborough Manor #3P-	\$2,400	2	2	1,580	\$1.52	37	3rd
3213410	10/1/2012	16 Rockledge Ave #3-0-1	\$2,800	2	2	1,580	\$1.77	158	3rd
Survey Low			\$1,850			1,560	\$1.19	37	
Survey High			\$2,800			1,580	\$1.77	281	
Survey Average			\$2,220			1,572	\$1.41	149	
Survey Median			\$2,150			1,580	\$1.36	148	

The two-bedroom units cited above are in the range of 1,560 ~ 1,580 sq. ft. They are substantially larger than the largest units proposed (1,300 to 1,400 sq. ft.) for the Hidden Cove project. Within the appraisal, market rent for the subject's 1,300 sq. ft. units was estimated at \$2,210 per month (\$1.70/sq. ft.) and market rent for the subject's 1,400 sq. ft. units was estimated at \$2,380 per month (\$1.70/sq. ft.). The above data does not indicate that a revision to the market rent is justified.

Since data is available from the Vireum and Scarborough Manor developments, conversion of purchase price to rent values is unnecessary. Further, even if conversion of sale price to market rent were to be attempted, it would be based on numerous speculations and conjectures. The most meaningful method to convert sale prices to rent values would be by using elements of the income capitalization approach. This would require estimating an overall rate applicable to a single unit which, although possible, is not typical in the industry and is somewhat speculative. The rate appropriate for a single unit is different than an overall rate applicable to an apartment building because most single units are purchased for owner-occupancy (not for investment). As a result, the motivations of the purchaser seeking to occupy a unit are different than the motivations of an investor seeking to purchase a unit as an investment (based on income generation). Other items that would require estimates (for single units) would be costs associated with management, reserves, legal/professional, fees and vacancy. While estimates for these individual items on a single-unit basis is possible, it requires application of numerous suppositions and would likely result in an unreliable conclusion.

2.9.21 Comment

Substantiate the statement that restored buildings would have a market value of \$3.9 million with comps of properties the same size located on the Hudson River.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)



Response

The Appraisal prepared by HPA in December 2012 included two approaches to value; the Sales Comparison Approach and the Income Capitalization Approach.

The sales comparison approach included five sales of comparable apartment buildings, of which four were located in Ossining and one was located in Dobbs Ferry. The sale comparables ranged in size from 25 to 182 units and demonstrated a range in sale price per unit from a low of \$78,297 to a high of \$150,641. Appropriate adjustments were applied to each of the comparables for major items of dissimilarity. After application of adjustments, the comparables demonstrate a range in value from a low of \$131,360/unit to a high of \$197,587/unit. The average and median adjusted unit value indications were \$160,270 per unit and \$160,160 per unit. The conclusion reached in the Sales Comparison Approach was \$160,000 per unit, or \$3,840,000.

The Income Capitalization Approach is based upon the premise that one measure of property value is the present worth of the annual net income stream it produces during a typical ownership period. The income capitalization approach provided a value estimate based upon an analysis of the subject property's anticipated income and expenses. Income was based on market rents (and specified rents applicable to the affordable units); expenses were based on our experience with similar properties in the area as well as published surveys. The resulting net income was capitalized at an appropriate rate to arrive at the estimated conclusion of value.

With respect to the estimate of market rent, the appraisal included research with respect to three basic unit types proposed for Hidden Cove:

1. One-bedroom apartment rentals (ranging from 800 to 1,250 sq. ft.)
2. Small two-bedroom apartment rentals (ranging in size from 800 to 1,200 sq. ft.)
3. Large two-bedroom apartment rentals (ranging in size from 1,200 to 1,700 sq. ft.)

For the one-bedroom units proposed for Hidden Cove, thirteen rentals were researched in Ossining which ranged in size from 800 to 1,230 sq. ft. The average and median monthly rent for the rentals researched was \$1,492 and \$1,550. On a per sq. ft. basis, the units demonstrated average and median figures of \$1.59 and \$1.58 respectively. The conclusion of market rent that was used as the basis for the projection of rent for the Hidden Cove one-bedroom units is supported by the data.

For the small two-bedroom units proposed for Hidden Cove, nineteen rentals were researched (18 in Ossining and one in Briarcliff) which ranged in size from 800 to 1,200 sq. ft. The average and median monthly rent for these units was \$1,688 and \$1,550 respectively. On a per sq. ft. basis, the data demonstrated average and median figures of \$1.70 and \$1.67 respectively. The conclusion of market rent that was used as the basis for the projection of rent for the Hidden Cove small two-bedroom units is supported by the data.

For the large two-bedroom units proposed for Hidden Cove, 23 rentals were researched in Ossining and Briarcliff which ranged in size from 1,200 to 1,690 sq. ft. The average and median monthly rent for these units was \$2,302 and \$2,300 respectively. On a per sq. ft. basis, the data



demonstrated average and median figures of \$1.67 (for both). The conclusion of market rent that was used as the basis for the projection of rent for the Hidden Cove small two-bedroom units is supported by the data.

The market rent surveys provided sufficient information to project market rent for the proposed units in the Hidden Cove project. Gross Income was based on 1) market rent applied to the market rate units and 2) specified rent was applied to the affordable units.

Once potential gross income was estimated, an allowance for vacancy was subtracted to arrive at effective gross income (EGI).

Expenses are subtracted from EGI to arrive at net operating income (NOI). The expense estimates utilized in the appraisal were based upon a review of actual expenses incurred in the operation of other apartment buildings as well as review and analysis of published expense surveys.²

Once NOI was estimated, application of an appropriate capitalization rate was necessary. Capitalization is the process of converting income into a present value (market value) estimate. Overall Capitalization Rates show the relationship between net operating income and value. The appraisal considered four sources to arrive at an appropriate capitalization rate:

1. The Band of Investment technique indicated an average OAR indication of 6.44%.
2. The PriceWaterhouseCoopers National Apartment Investor Survey indicated 5.74%.
3. The PriceWaterhouseCoopers regional Apartment Investor Survey indicated 5.67%.
4. The Local market survey (based on listings of apartment buildings) indicated 6.8%.

The basic capitalization rate used in the appraisal was 6.50% and is supported by the data.

Since actual taxes were not yet known, application of an equalized capitalization rate was used in the Overall Rate; the equalized capitalization rate is calculated by using the overall capitalization rate plus the addition of the effective tax rate, which allows for the assumption that the property would be equitably assessed.

The Income Capitalization Approach resulted in a market value indication of \$3,950,000.

The Sales Comparison Approach and the Income Capitalization Approach resulted in reasonably similar value indications (\$3,840,000 and \$3,950,000, respectively). However, since the proposed Hidden Cove project would be, by definition, an investment property and, since investors of similar properties typically determine value through direct capitalization, the income capitalization approach was given most weight.

▼
² Report entitled "Property Maintenance and Operations Cost Survey, Annual Income and Expenses" for the years 2008 through 2010 prepared by the NY State Division of Housing and Community Renewal. The DHCR Survey is based on 556 schedules for buildings containing 18,155 housing units of which 16,620 are subject to the ETPA act of 1974 and 2. REIS, Apartment Report, Westchester County, Third Quarter, 2012.



The appraisal prepared in December 2012 substantiates the statement that the property would have a market value of \$3,900,000 upon completion of construction as described within the appraisal.

Since the above information was submitted to the Village, the mill building has been demolished.

2.9.22 Comment

Include tax incentives offered for rehabilitation and adaptive reuse of historic building(s) in the cost equations.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13. Similar comments from: Correspondence #8, Miguel Hernandez, 1/30/13.)

Response

The Pill Factory was not located within an area that is eligible for New York State Historic Preservation Tax Credits.

The Federal Historic Preservation Tax Credit Program provides federal income-tax incentives for the rehabilitation of historic income-producing properties. Under the provisions of the Tax Reform Act of 1986, a 20% tax credit is available for the substantial rehabilitation of commercial, agricultural, industrial, or rental residential buildings that are certified as historic. The credit may be subtracted directly from federal income taxes owed by the owner.

As the project proposed by the Applicant does not include adaptive reuse, and SEQRA requires that an applicant compare significant environmental impacts of a proposed action to reasonable alternatives that meet the applicant's objectives and capabilities, this comment is outside the scope of SEQRA since the rehabilitation and adaptive reuse of the Pill Factory would not meet the Applicant's objectives and capabilities. Therefore, the FSEIS will be limited to the potential environmental impacts associated with the project proposed by the Applicant.

2.9.23 Comment

Provide independent market study for this property. The original proposal for that plot had the annex, not just 24 units in the Brandreth Pill Factory. Present a reasonable plan including adaptive reuse of historic building(s) and the annex.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

An independent market study for this property was not required to be included in the SEIS according to the final SEIS Scope dated July 24, 2012, which was adopted by the Lead Agency on



August 28, 2012. The Applicant is not proposing adaptive reuse. See Response to Comment 2.9.15 and Response to Comment 2.9.3.

2.9.24 Comment

Anytime there is a statement that the work would be inconsistent with the Secretary of the Interior's Standards provide specific reasons why it is inconsistent and provide alternative solutions as the claims are unsubstantiated. As requested above, use appropriate FEMA criteria.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

Responses to Comments 2.9.11 and 2.9.17 contain detailed references to the Secretary of the Interior's Standards. Most particularly the Standards do not provide for the significant destruction of historic fabric (destruction of significant corbelled brick arch features) or defacing of the façade (with storm barrier brackets or plates). FEMA does not provide exceptions which would permit historic fabric destruction which would be required for the barriers. See Response to Comment 2.9.9.

Exterior restoration cost estimates have been prepared based on a scope which recognizes the Secretary of the Interior's Standards for Rehabilitation. Two of them, standards #2 and #6 are discussed in Responses 2.9.11 and 2.9.17. Following is a brief discussion of references to additional standards: Standard #5 notes that distinctive features shall be preserved which has been followed, in particular, with regard to the character-defining roof and cornice features. Standard #7 prohibits aggressive cleaning (paint removal, etc.) techniques which is a touchstone of the proposed masonry restoration.

Since the above information was submitted to the Village, the mill building has been demolished.

2.9.25 Comment

Given the importance to the Brandreth Pill Factory and its connection to Benjamin Brandreth, the proposed mitigation does not ameliorate the loss of the building. Provide suggested mitigation measures that adequately address the Brandreth Pill Factory for consideration. Also, include the statement, "mitigation will be undertaken in consultation with the New York State Office of Parks Recreation and Historic Preservation and the Village of Ossining."

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The New York State Office of Parks, Recreation and Historic Preservation was consulted prior to demolition of the buildings. Based upon their review of the submitted SEIS, the OPRHP notes that



the demolition of the 'Pill Factory' building will result in an Adverse Impact upon the property which is listed in the National Register of Historic Places. The OPRHP recommend that adequate documentation of the existing building listed property (along with surviving features related to the site sluice/ drainage and factory operations) be documented with photography and site history prior to the initiation of demolition activities.

The Applicant has proposed mitigation measures that will help ameliorate the loss of the Brandreth Pill Factory buildings. These mitigation measures include:

- Commissioned digital format, high-resolution photography of all of the buildings prior to removal. The photographs (a disc with high-resolution images and 4" x 6" prints) would be provided to the Ossining Historical Society.
- Build a Brandreth Pill Factory open-air monument on the project site in the front of the new development, featuring a series of informational signage documenting the history of the Brandreth Pill Factory. As part of the Brandreth Pill Factory open-air monument to be built on the on the project site, the Applicant would preserve and adaptively re-use elements from the existing office building, potentially including salvageable original bricks and wood framing.

Mitigation will be undertaken in consultation with the New York State Office of Parks Recreations and Historic Preservation and the Village of Ossining.

2.9.26 Comment

Is the building eligible for NYS tax credits? Is it in the target area?

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The site is not located within an area that is eligible for New York State Historic Preservation Tax Credits.

2.9.27 Comment

Is the Owner allowed under Federal Tax Code (Title 26 U.S.C. Section 280B - Demolition of Structures, or similar tax code) to write off the demolition cost if the building is on the National Register of Historic Places? If not, this loss of tax write-off should be figured into cost comparisons along with the tax advantages for adaptive reuse.

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

This comment is not within the scope of what must be studied pursuant to SEQRA. Therefore, the FSEIS will be limited to the potential environmental impacts associated with the project proposed by the Applicant.

2.9.28 Comment

It is ironic to say the least that the developer bases his decision to demolish the historic pill factory building on its “poor condition, due mainly to water infiltration through the roof and window openings and water damage on the first floor that resulted from a pipe break.” The fact is that he allowed the building deteriorate by never repairing broken windows and doors or to do any maintenance whatsoever. In fact, he removed part of the metal roof that covered the building and made no effort to cover it with new roofing or a tarp to keep out the rain and snow. He also failed to drain water lines. The developer originally asserted that he wanted to preserve the façade and footprint of the building and repurpose it for an apartment complex. Frankly, this neglect constitutes a failure to exercise due diligence and by any standard is a strange approach to preserving and repurposing a historic building. Furthermore, the developers SEIS should include provision for a historic structure report that provides documentary, graphic, and physical information about this buildings property’s history and existing condition with “as built plans” so that there is a full and complete record of this unique and irreplaceable historical resource for future reference.

(Correspondence #9, Miguel Hernandez, 1/26/13. Similar comments from: John Wunderlich, Public Hearing, 1/29/13.)

Response

Comment noted. The Applicant submitted a comprehensive package of information and expert reports to the Historic Preservation Commission in January 2013 analyzing why adaptive reuse of the Pill Factory building in a manner consistent with its historic features was not economically feasible. Specifically, the reports included a structural analysis that evaluated the feasibility of restoring the building and detailed improvements that would be required to repair major structural elements in order to permit safe occupancy for residential use; cost estimates for the restoration of the exterior of the Pill Factory building in accordance with the Secretary of the Interior’s Standards for Rehabilitation; an architectural cost estimate for converting the interior of the Pill Factory building into 24 apartments; an estimate of site improvement construction costs; and an appraisal to determine the expected value of the Pill Factory building after conversion into rental apartments.

Proposed mitigation measures and recommendations of the New York State Office of Parks Recreation and Historic Preservation are discussed in Response to Comment 2.9.25.

2.9.29 Comment

It seems from this and other documents submitted that the developer has gone to great lengths to cite costs as his major argument for demolition and although he is entitled to a profit, it seems that only maximum profit will satisfy him. However, it has been well established by the courts, in the case of historic buildings, that owners must demonstrate to the satisfaction of the court that the structure or any part of it cannot be reused for a reasonable economic return. In any case I would respectfully request that any economic claims this or any other developer make should be carefully scrutinized for outright lies and exaggerations.

(Correspondence #9, Miguel Hernandez, 1/26/13. Similar comments from: Correspondence #8, Miguel Hernandez, 1/30/13.)

Response

Comment noted, although in the Applicant's opinion, it is not an accurate statement of law. See Response to Comment 2.9.15.

2.9.30 Comment

Will there be any sort of salvage of the Brandreth Pill Factory? Will the smaller building in front of the Pill Factory be saved or will it be ripped down too? Can we look into saving at least that piece of history, moving it somewhere? Before we lose something that we will never get back can we look at ways we can save pieces of it?

(Dana White, Public Hearing, 1/29/13)

Response

The mill building has been demolished. Structurally, the office building is not salvageable. Petruccelli Engineering conducted a structural assessment in April 2015, concluding that the structure is neither sound nor salvageable. There is no structural integrity in the walls, the bricks are disintegrating from the passage of time and recent flooding, and the building itself has been subjected to vandalism. Furthermore, this structure was included in the Applicant's demolition permit.

The Applicant proposes mitigation measures that will help ameliorate the loss of the buildings. (See Response to Comment 2.9.1.) As part of the Brandreth Pill Factory open-air monument to be built on the project site, the Applicant would preserve and adaptively re-use elements from the existing office building, potentially including salvageable original bricks and wood framing.



2.10 Other Comments

2.10.1 Comment

Provide alternate sources of energy the Applicant intends on using.

(Correspondence #5, Ossining Environmental Advisory Council, 2/14/13)

Response

Alternate sources of energy to be used include solar and wind energy and may include geothermal energy. Details will be part of final site plan.

2.10.2 Comment

Provide information on sound screens.

(Correspondence #5, Ossining Environmental Advisory Council, 2/14/13)

Response

Sound screens or noise walls are not proposed as part of the Hidden Cove project. The project is required to be in compliance with the Village of Ossining Noise Code (Chapter 178).

2.10.3 Comment

Provide an explanation of how and why the Applicant/owner/developer allowed the Brandreth Pill Factory to deteriorate so dramatically over the period of the evolving development proposal.

(Correspondence #5, Ossining Environmental Advisory Council, 2/14/13. Similar comments from: Correspondence #7, Gerold M. Wunderlich, 1/3/13.)

Response

It is the Applicant's belief that this Comment does not relate to a specific section of the SEIS, and reflects general objection to the current plan. Nevertheless, the Applicant submits that it did not "allow" the Pill Factory Building to deteriorate at any rate over any period of time. Instead, the SEQRA review process for redevelopment of the project site has been ongoing since 2008, and over the course of this period, including the numerous significant natural weather events that the area has experienced, the state of the Pill Factory Building had worsened since 2008 when the DEIS was prepared and submitted.

2.10.4 Comment

Address with more detail the issue with the eagles near the site.

(Correspondence #5, Ossining Environmental Advisory Council, 2/14/13)

Response

In 2004, for the DEIS and as part of the SEQR process, the Department of Environmental Conservation NY Natural Heritage Program (NHP) was contacted to inquire whether the site contained any species of plant or animal life identified as threatened, rare or endangered. In a letter from the NHP dated January 19, 2005 (see FSEIS Appendix 5.10) and upon further consultation with the NHP, it was determined that a bald eagle nest tree existed approximately 200 feet from the northeastern property boundary. On June 28, 2007 the American Bald Eagle was taken off the federal endangered species list. Its status in New York has been changed from endangered to threatened.

In March 2009, based on a Bald Eagle Habitat Investigation in the vicinity of the project site and upon further consultation with the DEC Natural Heritage Program, it was determined that the bald eagle nest tree had not supported an active nest since 2006. A nest is deemed active by the State of New York within five years of its last use. A copy of the Bald Eagle Habitat Investigation is included in FSEIS Appendix 5.11.

An updated review of the New York Natural Heritage Program databases has been requested to verify whether the bald eagle nest tree that supported an active nest in 2006 still supports an active nest and when the last documented breeding of bald eagles was confirmed. See FSEIS Appendix 5.10. In response to this inquiry, the Information Resource Coordinator for the New York Natural Heritage Program confirmed that the bald eagle nest near the project site has not been documented as active since 2006. See FSEIS Appendix 5.10. for the current letter and report.

2.10.5 Comment

What was the date of this proposed new building scheme including demolition rather than adaptive reuse of the Brandreth Pill Factory?

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

The Applicant proposed demolition rather than adaptive reuse of the buildings in 2011. The Applicant appeared before the Ossining Planning Board on November 22, 2011 with an alternative site plan that reflects the Village's 2009 zoning for the site and which was the subject of the Supplemental Environmental Impact Statement (SEIS). The 2011 plan included demolition of the buildings.

2.10.6 Comment

Why the change in the proposed plan from adaptive reuse of the historic building with an addition/annex to the historic building, to demolition of the historic building and construction of a new building instead of expanding on the adaptive reuse side of the equation? Can they explain this by a rigorous comparison of costs, potential income and tax incentives for adaptive reuse?

(Correspondence #6, Ossining Historic Preservation Commission, 2/25/13)

Response

See Response to Comment 2.9.15 regarding the rationale for the change in the proposed plan and Response to Comment 2.9.22 regarding costs and tax incentives.

2.10.7 Comment

In the next sentence the "terrain to the east of the proposed location rises gently to a much higher ground." I would say the so-called rise is about a 60-degree angle, and certainly not rising "gently."

(Correspondence #7, Gerold M. Wunderlich, 1/3/13)

Response

Comment noted. The word "gently" should be removed from the sentence. Change made to the SEIS by reference.

2.10.8 Comment

Is there potential for long term silting? The sewer down there along Westerly Road has a tendency to get smelly. You have an addition of 137 units and that's all going to flow down the same existing pipeline and what's that going to do from a flow perspective. During heavy rainstorms, the sewers tend to back up.

(Patrick Guest representing Shattemuc Yacht Club, Public Hearing, 1/29/13)

Response

Westerly Road, at the intersection of Water Street, is approximately 1,600 feet south of the proposed project. The new sewer line has been designed so that there will be no silting of the line from the development. With the garage floor elevation of the proposed building at 15, there will be sufficient pressure for the sewage to flow downstream.



2.10.9 Comment

Where is the waterline going to go because the water pressure there is so poor now?

(Mrs. Klapkowski, Public Hearing, 1/29/13)

Response

There presently exists an 8-inch water main located under the road on the south side of the building. The water pressure in the line is 154 psi and the line has ample volume to supply the new building. Should it be necessary to increase the pressure for the fire sprinkler system, the sprinkler design will include a booster pump.