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Comments and Responses

A number of the comments pertain to the issue of access to the project site, including the extent of the Applicant's access rights over roads and properties that lead to the project site from the Village's mapped public streets. Recognizing that the Filex Subdivision approval in 1995 provided for full legal access to all of the individual parcels created by that subdivision, as affirmed by the Village Planner at the December 17, 2014 Planning Board meeting, any remaining questions would ultimately be addressed by the Planning Board, or the Zoning Board of Appeals in its review of either a request for interpretation of State and Local zoning laws or an application for a variance pursuant to Village Law 7-736(3). As such, the question of access has been addressed extensively in the Draft Environmental Impact Statement at Chapter II, Section A and B, and Appendix E, as well as the Supplemental Environmental Impact Statement at Sections 1.2.1 and 1.2.1.2. The Applicant addresses the substantive comments to the SEIS on this topic and others.

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

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, ~~Cross Sections, Section B-B~~).

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 ~~, subsequently, the granting of certain~~ density bonuses by the Planning Board pursuant to Section 270-23(l)(4), which together result in an allowable density of 26.62 dwelling units per acre to allow 26 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. ~~, which is greater than the 15 units per acre permitted without a Planned Waterfront Special Permit. Subsequent A~~ density bonuses of 10% available 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 can ultimately allow up to 26.6232 units per acre.

As applied to the proposed project, the Planned Waterfront Special Permit allows a baseline density of 22 units per acre. ~~, plus a~~ An additional 10% density bonus for use of green building techniques ~~, result~~ing in an allowable density of 24.2 units per acre. ~~, adding a~~ 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



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~~3~~ spaces are being provided (150 garage spaces; 46 surface spaces). ~~Parking requirements were further reduced by~~

~~the elimination of 3 bedroom units in favor of 1 and 2 bedroom units, which will also reduce the demand for other public facilities.~~

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.

Pursuant to New York State law, at Section 7-736(2) of the Village Law, and a corresponding Village of Ossining Code provision, at Section 270-43(B), the general rule is that a Building Inspector cannot issue a building permit for the construction or alteration of a building "unless a street or highway giving access to such proposed structure has been duly placed on the official map or plan." Additionally, before a building permit can issue, the street or highway must have been suitably improved to the satisfaction of the Planning Board, or a performance bond must be posted to cover the cost of the improvements.



It is the Applicant's opinion based upon its review of publicly available information and documentation that the portion of North Water Street that traverses Lot 6 (referred to by some as the "North Water Street Extension") is a public street for the following reasons: (1) the Village's Official Map from 1930 appears to show what is labeled as Water Street, and sometimes referred to today as North Water Street, extending past Lot 6 until a point where it terminates adjacent to the Santucci property; (2) by deed dated January 12, 1940, the Allcock Manufacturing Company deeded to the Village Trustees the North Water Street Extension for the purpose of creating "a public highway" (See Appendix E to DEIS, deed at Liber 3807, Page 86. See also, deed dated July 19, 1948 between the Allcock Manufacturing Company and Gallowhur Chemical Corporation, referring to North Water Street Extension as "a public road dedicated to the President and Trustees of the Village of Ossining by Allcock Manufacturing Company and Another by deed dated January 12, 1940, recorded in said Office on January 24, 1940, Liber 3807 of Deeds, at page 89); (3) the Village's Official 1960 Zoning Map, like the Official Map from 1930, appears to show what is labeled as Water Street, and sometimes referred to today as North Water Street, extending past Lot 6 until a point where it terminates adjacent to the Santucci property; (4) the 2001 deed from Robert P. Rice, Sr. to Plateau Associates, LLC (the Applicant) grants an easement over the "existing right of way across lands of the Village of Ossining [sic] the North Water Street Extension, a public road"; (5) a letter from Judicial Title Insurance Agency LLC to Village Special Counsel James Staudt Esq. dated November 17, 2006 refers to the subject portion of North Water Street as a public road and discussed rights of way leading to and from that road; and (6) the fact that the public has used for decades and continues to use the portion of North Water Street that traverses Lot 6; (7) the Filex Subdivision of 1995 was approved upon the condition that the parcels created all had full legal access (Asst Village Counsel Richard Liens statement referenced in the Minutes of the 10/25/1994 Planning Board meeting); and (8) the Waterfront Redevelopment Plan specifically called for development along North Water Street without reference to the need for any special approvals or permits.

Should the Village conclude that the subject portion of North Water Street is not a public road as a result of lack of documentation of express acceptance by the Village Board of Trustees, the Applicant nevertheless benefits from an undisputed 20' right-of-way for purposes of ingress and egress over the existing roadway, before it turns into Water Street. See Appendix E to DEIS, deed at Liber 5006, Page 26. And as the Village owns the property adjacent to the subject portion of the existing roadway, the Village Board of Trustees could grant the Applicant the ability to improve and the existing road and utilize the improved road for ingress and egress to the project site.

If the land use Boards do not agree in our conclusion, the law provides that where a lot does not directly front upon or otherwise abut a public street or highway that has been placed on an official map or plan, as is the case with the current application, and a building permit is therefore denied, Section 7-736(3) of the NYS Village Law provides for a variance procedure by which the Zoning Board may allow the issuance of the building permit.

To qualify for such a variance, the applicant must demonstrate that there is adequate access to the subject lot and that the benefit to the applicant exceeds any detriment to the community in accordance with the balancing test set forth in Section 7-712-b of the Village Law. Section 7-736 does not define what constitutes adequate "access," but courts in New York State have repeatedly



~~held that building permits may be granted for lots that have access to a street or highway by a private easement, such as the case with the project site, as opposed to directly abutting and/or fronting on a street or highway.~~

~~The Filex Subdivision approved by the Village of Ossining in 1995 granted full legal access to all of the parcels created by that subdivision. This was confirmed by the Village Planner at the December 17, 2014 Planning Board meeting. Relying on that approval, the Applicant has always acknowledged the fact that access to the project site from a mapped public street would be by easement and/or a right of way, as the Property does not front on a mapped public street or highway. Notwithstanding that access has been approved by the Filex Subdivision, the Applicant would be able to seek a variance pursuant to Section 7-736(3) and Section 270-46(B) of the Zoning Ordinance to permit the access to the project site, or, in the alternative, for an interpretation that the access is permitted under the relevant statutory provisions, due in part to the Village's approval in recent times of the subdivision which created the legal lots that form the project site, and the appearance of a portion of the existing access road on a filed subdivision map. Given the site plan approvals granted to other parcels within the Filex Subdivision, there is no reason to believe such approval, if requested, would not be afforded to Applicant.~~

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



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, ~~the fire access road which will be planted with grass pave~~ 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. ~~will be discussed in further detail during the site plan review process before the Planning Board.~~

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, ~~emergency fire 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). As currently proposed, the project (6 story apartment building on the 5.14-acre lower portion of the site) calls for ±14,900 cubic yards of cut and ±20,500 cubic yards of fill. Construction of the emergency access route calls for ±10,000 cubic yards of cut and ±3,500 cubic yards of fill. The net totals for the entire development result in ±24,900 cubic yards of cut, ±24,000 cubic yards of fill and ±900 cubic yards of surplus material to be trucked off the site. **CUT/FILL**

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)



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, on page 10 under Stormwater Management Planning, iii. Runoff Reduction by Applying Green Infrastructure Techniques and Standard SMPs with RRv Capacity, to include this discussion.~~ 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



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 advisory base flood elevations released after Hurricane Sandy. Both the proposed garage floor elevation and the proposed ~~flood~~-access road will be at or above the approximate location of 0.2% annual chance advisory base floodplain elevation of 15.



(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.

~~Additionally, in order to address concerns regarding emergency access to the project site during 100-year storm events, the Applicant is proposing to create an "Alternate Flood Route" between the "Upper Road," for which the Applicant holds an easement of ingress and egress, and the project site. See Deed in Appendix E to DEIS from Robert P. Rice Sr. to Plateau Associates, LLC, dated July 20, 2001 and recorded with the County Clerk at Control #: 412400215.~~

~~As proposed, the Alternate Flood Route would begin on the Applicant's property coming from the Upper Road, and then traverse the area below and around the plateau to a point where it meets the fire access road near the garage entrance. The entire Alternate Flood Route would be above~~

~~the most recently revised proposed flood elevation of twelve (12) feet. The surface would be paved with a gravel material specifically rated for weight and less maintenance than other surfaces. The road would be approximately 12 feet wide, with one turnout along the road, near an area that will feature a retaining wall.~~

~~It is the Applicant's opinion that the Alternate Flood Route would allow emergency first responders to access the project site during a 100-year flood event. In addition, the Applicant's traffic engineer has examined the site plan for the proposed Alternate Flood Route and determined that the Alternate Flood Route would adequately serve the site during flood conditions for access by emergency vehicles.~~

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

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. s on the project site, as well as along the access road as it traverses the Santucci property. The Applicant desires to continue that sidewalk over a portion of Village-owned Lot 6 with authorization from the Board of Trustees. ~~Extending a sidewalk, the entire length of Lot 6 towards the overpass leading to the train station is something that could be discussed with the Village Board of Trustees and Planning Board, as part of the site development plan review process.~~

~~The placement of the sidewalk, which the Applicant proposes to continue over a portion of the Village-owned Lot 6 in order to adjoin the existing sidewalk on Lot 6, will be determined once the Village determines the final/official roadway dimensions.~~

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

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.

~~It is the Applicant's opinion based upon its review of publicly available information and documentation that the portion of North Water Street that traverses Lot 6 (referred to by some as the "North Water Street Extension") is a public street for the following reasons: (1) the Village's Official Map from 1930 appears to show what is labeled as Water Street, and sometimes referred to today as North Water Street, extending past Lot 6 until a point where it terminates adjacent to the Santucci property; (2) by deed dated January 12, 1940, the Allcock Manufacturing Company deeded to the Village Trustees the North Water Street Extension for the purpose of creating "a public highway" (See Appendix E to DEIS, deed at Liber 3807, Page 86. See also, deed dated July 19, 1948 between the Allcock Manufacturing Company and Gallowhur Chemical Corporation, referring to North Water Street Extension as "a public road dedicated to the President and Trustees of the Village of Ossining by Allcock Manufacturing Company and Another by deed dated January 12, 1940, recorded in said Office on January 24, 1940, Liber 3807 of Deeds, at page 89); (3) the Village's Official 1960 Zoning Map, like the Official Map from 1930, appears to show what is labeled as Water Street, and sometimes referred to today as North Water Street, extending past Lot 6 until a point where it terminates adjacent to the Santucci property; (4) the 2001 deed from Robert P. Rice, Sr. to Plateau Associates, LLC (the Applicant) grants an easement over the "existing right of way across lands of the Village of Ossining [sic] the North Water Street Extension, a public road"; (5) a letter from Judicial Title Insurance Agency LLC to Village Special Counsel James Staudt Esq. dated November 17, 2006 refers to the subject portion of North Water Street as a public road and discussed rights of way leading to and from that road; (6) the fact that the public has used for decades and continues to use the portion of North Water Street that traverses Lot 6; (7) the Fillex Subdivision of 1995 was approved upon the condition that the parcels~~

~~created all had full legal access (Asst Village Counsel Richard Liens statement referenced in the Minutes of the 10/25/1994 Planning Board meeting); and (8) the Waterfront Redevelopment Plan specifically called for development along North Water Street without reference to the need for any special approvals or permits.~~

~~Should the Village conclude that the subject portion of North Water Street is not a public road as a result of lack of documentation of express acceptance by the Village Board of Trustees, the Applicant nevertheless benefits from an undisputed 20' right-of-way for purposes of ingress and egress over the existing roadway, before it turns into Water Street. See Appendix E to DEIS, deed at Liber 5006, Page 26. And as the Village owns the property adjacent to the subject portion of the existing roadway, the Village Board of Trustees could grant the Applicant the ability to improve the existing road and utilize the improved road for ingress and egress to the project site.~~

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 and Comment 2.7.1. The Applicant contends that the so-called North Water Street Extension is a dedicated public road. However, even if the Village deems that it is not, the Applicant has a deeded right-of-way over this road. Lastly, there has been no assertion by the Village that the area surrounding this portion of the road is not owned by the Village, and all documentation and review to date points to the contrary, including the Village's Official Zoning Map and Tax Map.~~

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 ~~and Comment 2.7.1.~~

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.



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. have not yet been constructed.—As a result, complete and accurate data is not readily available. no rental data is yet 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: