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April 9, 2018

By Hand Delivery

Hon. Joseph Clarke
Chairperson of the Village of Ossining Planning Board
and Members of the Planning Board
Village Hall
101 Route 9A
Ossining, New York 10562

Re: Hidden Cove on the Hudson

Dear Chairperson Clarke and Members of the Planning Board:

We represent Plateau Associates, LLC (the “Applicant”) regarding the Hidden Cove Project (the “Project”). The proposed Project involves (i) a residential building containing 137 rental units, together with other site improvements, and (ii) roadway improvements to North Water Street to make it a safe, code-compliant roadway, which would provide access to the Project and all the surrounding properties, including Crawbuckie Preserve (the “Road”). This newly improved Road – pavement, a sidewalk, curbs, utilities, drainage, etc., along a 30-foot right-of-way – would be a major public benefit for the Village, and the North Water Street property owners.

Submission Materials

We are pleased to submit the following materials in further support of the Project, and in advance of the Board’s April 24, 2018 meeting:

(i) Revised draft Final Supplemental Environmental Impact Statement (“FSEIS”), prepared by VHB, dated April 9, 2018

The FSEIS includes only that information that has been updated since the previous draft FSEISs were submitted to the Board in July 2013 and March 2017, respectively. Specifically, this FSEIS includes: (a) new Chapter PD (Project Description), (b) new Chapter 1.0 (Potential Adverse Impacts and Mitigation), and (c) select redlined pages from Chapter 2.0 (Comments and

Responses), which contain updated responses to certain comments received on the 2013 Supplemental Environmental Impact Statement (“2013 SEIS”). The FSEIS incorporates the “Comparison of Environmental Impacts for Hidden Cove on the Hudson,” prepared by VHB, dated January 2018, which was requested by and previously submitted to the Planning Board. Please let us know immediately if any Board Member or staff requires a hard or electronic version of any of the prior, unchanged FSEIS materials from the July 2013 and March 2017 drafts.

The purpose of the updated information in the FSEIS is to analyze whether any new potential significant adverse environmental impacts will result with respect to certain changes made to the Project since the 2013 SEIS, and identify mitigation measures where necessary. As identified in the FSEIS, the Project refinements consist of: (a) elimination of 3-bedroom units; (b) elimination of secondary emergency access in accordance with Village Fire Department requirements; (c) revised building footprint to eliminate the prior “bump out” on the north side of the building to facilitate fire truck access to the proposed residential building; (d) newly proposed West Road Alternative (described below); and (e) the prior demolition of the mill building (collectively, the “Project Refinements”).

The 2013 SEIS is the “baseline” against which the Project Refinements are studied in the FSEIS. The 2013 SEIS is the last SEQRA document that was formally accepted by the Planning Board as “complete.” The Board conducted a Public Hearing on the 2013 SEIS on January 29, 2013.

Although not required under SEQRA, the FSEIS also summarizes the analyses contained in the 2013 SEIS, and indicates where there have been no changes. VHB prepared the FSEIS in this manner to help make the FSEIS a more user-friendly document by reminding the reader of the analyses already conducted in the 2013 SEIS. Under SEQRA, the FSEIS is only required to provide responses to the oral and written comments received on the 2013 SEIS, and to study/mitigate said Project Refinements.

The FSEIS demonstrates that the Project, including the Project Refinements, will not result in any new significant adverse environmental impacts that were not previously analyzed in the 2013 SEIS, or analyzed in the FSEIS. In fact, the current proposed Project is expected to result in *reduced* site disturbance impacts due primarily to the elimination of the secondary emergency access roadway.

We want to call attention to the Chart included at the beginning of Chapter PD in the FSEIS. The Chart summarizes and compares the potential impacts of the Project as it has evolved from the 2008 DEIS, 2013 SEIS, and most importantly, from the 2013 SEIS when it was last approved to the current Project.

(ii) Revised Site Plans, prepared by Petruccelli Engineering, last revised and/or dated April 9, 2018

The full set of Revised Site Plans reflect the Kellard Sessions Consulting, P.C. comment Memoranda, dated July 25, 2017 and October 24, 2017, respectively (collectively, the

“Kellard Comments”). The Revised Site Plans show the relevant site plan information for the proposed residential building, as well as the off-site roadway improvements to North Water Street.

(iii) Comment-Response Letter to the Kellard Comments, prepared by Petruccelli Engineering, dated April 9, 2018

This Comment-Response Letter provides an individual response to each of the Kellard Comments. As applicable, each response references the relevant drawings in the Revised Site Plans included herein.

(iv) Updated Stormwater Pollution Prevention Plan (“SWPPP”), prepared by Petruccelli Engineering, last revised April 9, 2018

The SWPPP consists of narrative plus extensive HydroCAD calculations, demonstrating that the Project’s stormwater management system would adequately handle the Project’s stormwater runoff. There would not be any significant adverse drainage impacts. The SWPPP addresses stormwater management for both the proposed building and improvements to both the Center Road and West Road Alternatives to North Water Street.

(v) Letter from Judicial Title Company, dated April 4, 2018

This Letter (annexed hereto) was requested by the Board’s Special Counsel. It confirms that the Applicant has an insurable, non-exclusive easement over the Conga Realty (formerly Santucci), as well as Castle Plumbing parcels. While the Letter references the need for the Applicant and Conga to record an Easement Agreement specifying the exact metes and bounds of the easement, this is the type of private matter that must not delay the approvals process, and instead can be a condition of approval as set forth in our February 16, 2018 submission letter.

West Road Alternative

As mentioned above, the FSEIS and Revised Site Plans include an alternative Road layout known as the “West Road Alternative.” It differs from the “Center Road Alternative,” which has always been part of the Project, only for a limited portion of the Road that crosses the Conga Property generally through its center. For that stretch, the Road would be shifted approximately 25 feet to the west. In all other respects, the Applicant’s professional engineer has confirmed that the Center Road Alternative and West Road Alternative are the same. They do not present any different potential environmental impacts, including with respect to site disturbance and stormwater management. It is the same Road, just moved over 25 feet. The Board may recall that this concept was previously shown to the Planning Board during a meeting in Fall 2017.

The reason why the West Road Alternative has been included is to allow flexibility for the final Road design in the event that the Applicant and owner of the Conga Property sign an agreement to realign the Road in this manner. The Applicant and Conga disagree whether the current Stipulation and Order between them, dated September 15, 2004, authorizes the Center Road Alternative. The Applicant maintains it does, however Conga disagrees. The parties have a

conceptual agreement in place to resolve their differences by implementing the West Road Alternative, and are working on finalizing the details; however, it could potentially not come to fruition. Thus, the Applicant must study both contingencies. We will update the Board as to the status of these discussions at the April 24th meeting.

We note that in the event an agreement is not reached, the Board should still advance the review process. As stated in our February 18th submission, we propose that as a condition of final Site Plan approval and prior to issuance of a building permit, the Applicant will need to provide the Village with either a written agreement with Conga, or, absent an agreement, a judicial determination that the Applicant has the right to construct the Center Road Alternative as approved.¹

**Requested Actions At Planning Board's April 24th Meeting,
Including Scheduling Joint Public Hearing For May 22, 2018**

Consistent with the schedule we proposed during the February 27th meeting, we respectfully request that the Board take the following actions at your April 24th meeting: (i) accept the FSEIS as "complete" with respect to the "adequacy and accuracy" of the FSEIS pursuant to 6 N.Y.C.R.R Section 617.9(b)(8); (ii) determine that the Revised Site Plans are also complete and ready for public review, and (iii) schedule a Joint Public Hearing on the FSEIS and Site Plan Application for the Board's May 22, 2018 meeting. The Board should also authorize staff to prepare and circulate a Notice of Completion and Notice of SEQRA Hearing in accordance with SEQRA requirements.

The Planning Board is governed by a reasonableness standard in determining whether to accept the FSEIS as complete. The Board must accept the FSEIS as complete if it reasonably and accurately responds to the comments received on the SEIS, and reasonably analyzes the Project Refinements made to the Project since the 2013 SEIS. This is known in SEQRA as the governing "Rule of Reason." Of significance, the FSEIS need not be a "perfect" document for the Board to deem it complete and ready for public review. As DEC's SEQRA Handbook declares, "[t]he lead agency should ensure that all relevant information has been presented and analyzed, but should neither expect nor require a 'perfect' or exhaustive document." Indeed, to require a perfect document "would be an unreasonable expectation." The SEQR Handbook, 3d Edition (2010) p. 6, 133.²

Regarding the Site Plans, they are also complete and ready for public review. All of the Kellard Comments have been addressed, and the West Road Alternative is not materially different than the Center Road Alternative that has been reviewed for years. To the extent Kellard

¹ Separately, the Applicant is also in discussions with the owner of the Castle Realty property to confirm the existing recorded easement over its property. We will similarly update the Board on April 24th.

² Available at <https://flxwbc.com/wp-content/uploads/2014/12/seqrhandbook.pdf>.

Sessions may have additional technical comments on the Revised Site Plans, those could be incorporated into the final Site Plan set for approval in June.

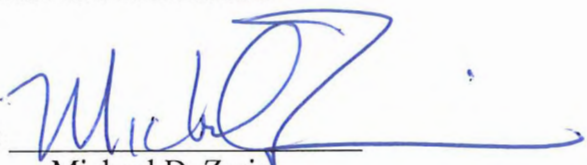
Towards that end, we also ask that the Board authorize the preparation of a draft Findings Statement and Resolution of Site Plan Approval for a vote at your June meeting.

Conclusion

The Applicant and its Development Team have provided your Board with all the necessary SEQRA and Site Plan documentation to bring this process to a close by taking the actions requested at your April 24th meeting. We know this has been a long, and at times arduous process. We look forward to working together with the Board and your consultants to bring these proceedings to closure.

Respectfully submitted,

ZARIN & STEINMETZ

By: 
Michael D. Zarin
Brad K. Schwartz

cc: James Staudt, Esq.
Stuart Kahan, Esq.
Joseph M. Cermele, P.E.
Lynn S. Brooks Avni, AICP
Plateau Associates, LLC
Paul Berté, P.E.
Gina Martini, AICP
Ed Vogel, AIA, LEED AP³

³ The Applicant has retained Mr. Vogel, of Warshauer Mellusi Warshauer, as the Project's new architect.



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Zarin & Steinmetz
81 Main Street, Suite 415
White Plains, NY 10601
Attn: Brad Schwartz, Esq.

April 4, 2018

Re: Plateau Associates
Hidden Cove Residential Development
North Water Street
Ossining, New York

In reference to the above premises, this company is willing to insure a non-exclusive right of way easement for the benefit of the tax parcels known as Section 89.14, Block 1, Lot 11, and Section 89.18, Block 1, Lots 5 and 6 which lots were formerly known as Sec 3.2 Block 1, Lots 43, 42, and 24B (Plateau Associates) to and from the public road dedicated to the Village of Ossining in Liber 3807 Page 86.

This non-exclusive right of way easement consists of the following:

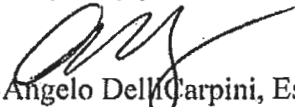
- A. Common Access Easement depicted on filed map number 25508 and on survey by Matthew Noviello, P.C. dated 10/31/01 and brought to date 4/12/06 (width not specified). This runs through lot 11 (former lot 43) (Plateau Associates).
- B. Right of Way not less than 20 feet wide, over Sec 89.18 Block 1 Lot 4 (former tax lot 21) (Hanrahan Gioio Realty) reserved in deed Liber 5006 Page 26.
- C. Easement of Right of Way over the "Lower Road" (Sec 89.18 Block 1 Lots 3 and 10) (former Tax lots 18 and 19) (Santucci) reserved in deed in Liber 4654 Page 391 which is to be specifically located to a width of 30 feet pursuant to Stipulation and Order recorded in Control Number: 481130204 on April 29, 2008.

As to the status of the Village owned property at the terminus of Water Street there exists a 20 foot dedicated village roadway.

Insuring the portion of the easement over the "Lower Road" is contingent and subject to the parties of the aforesaid recorded Stipulation and Order satisfying their obligation under the Stipulation to execute a recordable Easement Agreement detailing the location of the easement area which provides access to Water Street in the Village of Ossining.

The above easements of right of way are non-exclusive and subject to the rights of adjoining owners.

Very truly yours,


Angelo Dell'Arcipini, Esq.