



# 2.0

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## **Comments and Responses**

# 2.0

## Comments and Responses

The Applicant submits the following responses to comments.

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

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#### 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)

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#### Response

The Village's Comprehensive Plan (Objective 6) identifies adaptive reuse of the Pill Factory as one objective. As mentioned in Section PD.2.2, such adaptive reuse is no longer part of the Project. Following the DEIS public comment period, the Applicant revised the 2008 Proposed Project by removing the residential redevelopment of the Plateau from the Project in response to the Planning Board's and the public's comments. This resulted in the current proposal for a single, six-story building on the Site, containing all of the Project's density on most of the previously disturbed area on the Site.

The objectives of the Northern Waterfront District would be met as described in Section PD.3.3.3.



In its recommendations for the Northern Waterfront District, the Comprehensive Plan proposed that new zoning for the area - which includes the Project Site – should achieve four objectives. 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 two density bonuses as described in Section PD.3.4.
- 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, while the Applicant has not proposed a traditional mixed-use development, it has proposed a residential development together with permanent open space (with opportunities for public hiking/walking), a publicly-accessible Open Air Pavilion, and a new sidewalk and other improvements to North Water Street that may facilitate pedestrian access to the Crawbuckie Preserve and planned RiverWalk, all consistent with the objectives in the Comprehensive Plan.
- Regulate heights of buildings so as not to obstruct views of the Hudson from the plateaus. – The proposed building height complies with PW-a zoning. The building would not obstruct views from the Plateau.
- Encourage the reuse of historic buildings including the Brandreth Pill Factory. – See above.

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## 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.)

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## Response

- LWRP Policy 23 – The Pill Factory was demolished in early 2015. The Project can no longer preserve the Pill Factory as suggested by Policy 23. As mitigation to help ameliorate the loss of the Brandreth Pill Factory buildings, the Applicant has Commissioned digital format, high-resolution photography of all the buildings prior to removal, including the main building prior to its demolition. The photographs (a disc with high-resolution



images and 4" x 6" prints) will be provided to the Ossining Historical Society and SHPO. The photographs are included in FSEIS Appendix 5.17.

The Applicant also proposes as part of the Project an Open-Air Pavilion, which would be built and maintained by the Applicant as a tribute to the former Pill Factory. It would feature a series of informational signage documenting the history of the Brandreth Pill Factory. The Village would be consulted with respect to the educational signage and other commemorative features within the Pavilion. As part of the Brandreth Pill Factory Open-Air Pavilion 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 as described in Appendix 5.1.

LWRP Policy 25B – The portion of this policy that is relevant to the Project 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 structures 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).

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### **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.)

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### **Response**

The current application seeks a Planned Waterfront Special Permit from the Village Board pursuant to Section 270-23(l)(2) of the Village of Ossining Zoning Law (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.

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#### **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)

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#### **Response**

As described in Response 2.9.2 of the FSEIS, the Applicant had potential adaptive reuse of the mill 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 made such reuse financially impracticable. As also described in Response 2.1.1, the Project was revised not to adaptively re-use the mill building in order to concentrate the Project's density on most of the previously disturbed area on the Site. Accordingly, this Comment is now moot given that the Brandreth Pill Factory main building has been demolished. The remaining structure is slated for demolition.

Notwithstanding, as addressed in Section PD 3.1.2, the Applicant has met with the Historic Preservation Commission to discuss donating the existing remaining structure if there is any interest by the HPC, and if it is physically possible, to relocate the Office Building.

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#### **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)

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## **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.

Appendix 5.14 to this FSEIS contains a checklist showing how the Project would be LEED Gold Certifiable based upon the LEED V.4 BD+C New Construction criteria (see also Section PD.3.4). LEED V4 is the latest version of the LEED certification process.

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 non-historic 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.

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### **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)

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## **Response**

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

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### **2.1.7 Comment**

Compare adaptive reuse possibilities to the proposed scheme.

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

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## **Response**



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

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### **2.1.8 Comment**

Does the proposed scheme provide public amenities?

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

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### **Response**

The Project has been designed utilizing environmentally sustainable building practices and, as currently planned, it is anticipated that, after construction, the development would be LEED Gold Certifiable. In addition, at least 10% of the units will be devoted to affordable housing units as per § 62-3 of Village Code. The Applicant is seeking a density bonus for these two amenities.

As described in Section PD.3.1, the Project would also contain the following public amenities (some of which would be mutually enjoyed with the private Applicant), for which the Applicant is not seeking a density bonus:

- Newly reconstructed North Water Street – the realigned and improved Road would benefit the Applicant, other property owners along North Water Street, and the public.
- Sidewalk for pedestrian access to the Project Site and Open Air Pavilion, as well as across the Village's Lot 6
- Sidewalk could also be used in the future to extend the RiverWalk along a significant length of waterfront, and/or provide a direct connection to Crawbuckie Preserve, in the event that the Village obtains an easement or other agreement with Diamond Dairy and/or Clear Cast Technologies consistent with the Village's 2011 Waterfront Access & Trail Plan.
- Improved infrastructure by relocating a water line currently situated beneath an existing structure on the Castle Property to provide an alignment free and clear of any physical obstructions for improved maintenance access.
- Improved stormwater management for the Road as compared to existing conditions, reducing the impact of untreated stormwater runoff on the Hudson River
- Implementation of the Village's Planned Waterfront zoning, and the Comprehensive Plan for the Northern Waterfront District, which will help achieve the Village's goals for the waterfront area
- Open-Air Pavilion celebrating the mill building
- 1.2 acres set aside as a Conservation Easement to the east of the proposed building and adjacent to Crawbuckie Preserve, in favor of the Village, as publicly available open space for walking and hiking with a trail connection (distinguished from the new sidewalk) to the Preserve

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### **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)

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### **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 accurately indicates that both documents encourage preservation of the Pill Factory. For the reasons provided, the Applicant is not proposing restoration of the Brandreth Pill Factory, which has been removed.

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#### **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)

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### **Response**

Given the Project Site's location, which is not proximate to the downtown area 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, business, retail or other uses on the property. Therefore, while the Applicant has not proposed a traditional mixed-use development, it has proposed an appropriately-sited residential development together with permanent open space (with opportunities for public hiking/walking as described above), a publicly-accessible Open Air Pavilion, and a new sidewalk and other improvements to North Water Street that would facilitate pedestrian access to the Crawbuckie Preserve and planned RiverWalk.

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#### **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)

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### **Response**

The number of parking spaces proposed exceeds the requirements of the Village's Zoning Law. Parking requirements for this Project are 189 spaces, and 193 spaces are being provided (147 garage spaces; 46 surface spaces). In addition, the Applicant intends to introduce Cove Cars





(similar to the Zip Car concept), which will further reduce the need for residents to own/lease a car.

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### **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)

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### **Response**

Although no development is currently proposed for the Plateau (except for grading and/or rock cut associated with the roadway improvements on Lot 5), 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.

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### **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 Stolat's. How can they possibly force this issue? It is not a public street!

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



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## Response

It is the Applicant's position that a variance under New York State Village Law Section 7-736 is not required. In the Applicant's opinion, 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. Notwithstanding, the Applicant has applied to the Zoning Board of Appeals for an interpretation that a variance is not required, and alternatively for a variance if the interpretation is not granted.

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. The Applicant maintains that this right of access includes the right to improve North Water Street. The Applicant shall provide sufficient documentation to the Village's satisfaction that it is legally entitled to install the proposed Road improvements pursuant to such easements or other rights as a condition of Site Plan Approval and prior to obtaining a Building Permit.

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## 2.2 Demographics

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### 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.)

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### 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.

In an effort to be further responsive to this request for the number of school children that a development such as this one has produced, the Applicant has obtained information for recently constructed developments most directly comparable to Hidden Cove – i.e., multi-family residential developments with comparable location, rents, and amenities. Accordingly, Chapter 1 of the FSEIS includes an updated school children analysis that incorporates data from Harbor Square.

Harbor Square is a recently constructed multi-family rental project offering views of the Hudson River, and comparable building amenities to those to be offered at Hidden Cove. In order to evaluate how the projected number of school children might vary based on more localized experience, data from Harbor Square was requested from Harbor Square's Property Management. Harbor Square is a 188-unit rental apartment building (including 10% affordable), consisting of 11-studio apartments, 26 1-BR apartments, 52 1-BR + den apartments, and 97 2-BR + den apartments. It generated 15 school-age children.<sup>1</sup>

Harbor Square resulted in 0.079 school-age children per unit. By applying the 0.079 generation rate to the 137 units proposed at Hidden Cove, the project would generate 11 school-age children.



<sup>1</sup> Information for Harbor Square was provided by Brian Dashnaw, Vice President of Property Management for GDC, on May 24, 2018, and reflects data as of that date.

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## **2.3 Visual Resources and Community Character**

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### **2.3.1 Comment**

Provide north view of the project.

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

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#### **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. The Project would not likely be visible given the significant distance and variations in topography and vegetation cover. Notwithstanding, Figure 3 at the end of Chapter 1.0 contains a rendering of a view from the north.

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### **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)

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#### **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 1.3 of the FSEIS.

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.

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### **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)

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## 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.

According to the Structural Assessment<sup>2</sup> of the building, it was not feasible to salvage the structure and it was the structural engineer's professional opinion that the structures be demolished. As currently proposed in accordance with the Planning Board's and public's comments on the DEIS, the Site would be redeveloped with a new, single 6-story building with 137 rental apartments, of which 14 would be affordable rentals. The Project will employ green building techniques, and the Project would be LEED Gold Certifiable.

The existing stream flows through the Site, generally within the footprint of the former Mill Building. The existing channel consists of a combination of open channels and underground, deteriorating brick culverts. This watercourse is a receiving water body 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 new culvert will be located under the roadway (not under the building as originally proposed) to facilitate any required repairs or maintenance in the future. The Project development requires the rerouting of the existing stream around 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 prior to construction of the new building. 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 precast rectangular sections that will extend from where the existing stream goes into the culvert to 20 feet west of the existing culvert to allow for reconstruction of the new road. Improvements to this existing open stream and deteriorating brick culvert will result in improved drainage flow of the off-site flow.



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<sup>2</sup> Structural Assessment of the Hidden Cove Development Brandreth Pill Factory, by De Nardis Engineering, LLC (September 10, 2012). This Report was updated on June 15, 2018. (See Appendix 5.1).

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### 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)

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### 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 proposed building complies with this requirement. 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 Law, including compliance with the Village's technical definition of building height.

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### 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.)

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### 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 2008 Proposed Project) called for development of six story buildings on the Plateau Properties, which would have been significantly closer to the Hernandez and Wunderlich homes and at a higher ground elevation.

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### **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.)

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### **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 Properties, views and visual impacts of the 2008 Proposed Project were shown through the use of photo-simulations, elevations, cross-sections and shadow analyses. For the Current Proposed Action, 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.

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### **2.3.7 Comment**

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

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



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## **Response**

The 5.14-acre site will contain a 1.2-acre Conservation Easement area on the east side of the Site, much of which will remain untouched and wooded. In addition, there is at least one acre of green space on the western side of the Site, in and around the proposed Open Air Pavilion. In total, the Project would provide in excess of 2 acres of open green space.

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## **2.4 Site Disturbance and Grading**

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### **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)

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### **Response**

A new sidewalk is proposed from the Hidden Cove building on the west side of the widened North Water Street to Snowden Avenue. If the Applicant obtains all of the easements and approvals it seeks, 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.

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### **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)

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### **Response**

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 2008 Proposed Project that was studied in the DEIS.

As described in Section PD.3.2.1, two grading alternatives within Tax Lot 5 have been studied for purposes of SEQRA review. The Plan originally studied in the 2013 SEIS included the grading of a 2:1 slope to meet existing grade resulting in approximately 13,300 cubic feet of cut material, disturbing an area of approximately 27,000 square feet. The alternative grading plan studied in this FSEIS to minimize impacts consists of utilizing a proposed rock face cut graded at an approximately





5:1 slope. This rock cut alternative is shown on the Current Site Plans, and is the Planning Board's and the Applicant's preferred alternative for the Project provided that the rock proves stable during construction. The grading and tree removal impacts for both grading alternatives are included in section PD.2 Table 1 of this chapter. Renderings showing the two grading alternatives are shown at the rear of Chapter 1.

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.

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#### **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)

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#### **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.

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#### **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.)



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## 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 the Center Road Alternative rock cut scenario is  $\pm 22,529$  cy of cut and  $\pm 18,365$  cy of fill, for a total of approximately  $\pm 4,164$  cy of net total cut. The total cut and fill associated with the Center Road Alternative grading scenario is  $\pm 38,072$  cy of cut and  $\pm 26,116$  cy of fill, for a total of approximately  $\pm 11,956$  cy of net total cut.

The total cut and fill associated with the West Road Alternative rock cut scenario is  $\pm 18,024$  cy of cut and  $\pm 19,575$  cy of fill, for a total of approximately  $\pm 1,551$  cy imported to the site. The total cut and fill associated with the West Road Alternative grading scenario is  $\pm 38,269$  cy of cut and  $\pm 19,505$  cy of fill, for a total of approximately  $\pm 18,764$  cy of net total cut removed from the site. This analysis does not include an expansion factor for the cut materials to be trucked off the site. (See Current Site Plans).

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## 2.5 Stormwater Management

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### 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)

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### 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. The amount of open stream which will be enclosed in the box culvert is 280 feet. The work being proposed would facilitate the introduction of systems to treat runoff before it discharges into Hudson River. The proposed work eliminates the need to tie into the Ossining Storm Sewer system. See response to 2.5.13.

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### **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.)

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### **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).

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### **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)



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## **Response**

The full Stormwater Pollution Prevention Plan (SWPPP) has been updated since the 2013 SEIS pursuant to the Phase II regulations under General Permit (GP 0-15-002) as required by the New York State Department of Environmental Conservation (NYSDEC). The potential impacts relating to stormwater management have not changed significantly since the 2013 SEIS due to the Project Refinements. The updated SWPPP reflects the Project Refinements relative to stormwater management, including the elimination of the secondary emergency access, and new West Road Alternative.

The site discharges directly to the Hudson River which is a 7th order stream/tidal water and thus attenuation is not required for the CpV- Channel Protection Volume (1-year storm), the Qp- Overbank Flood Control (10-year storm) or Qf- Extreme Flood Control (100-year storm). Attenuation is required for the WQv- Water Quality / RRV- Runoff Reduction volume and is calculated in accordance with the NYSDEC Stormwater Design Manual.

See Appendix 5.7 of this SEIS for the revised SWPPP.

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### **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)

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## **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.

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### **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)

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## Response

The revised FEMA Flood Maps indicate that the 1% storm (100-year storm event) is at elevation 10, up from 7, and the 0.2% storm (500-year storm event) 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 to accommodate the new building elevations. The stormwater conveyances have also been revised due to the revised grading.

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### 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)

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## Response

According to 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 Cpv 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.

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### 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)



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## Response

During the last large storm “Sandy,” the water from the Hudson River came over the tracks and flooded the Site. The amount of area being filled in by this Project will have no increased flooding effect to the surrounding properties. The relevant calculations required under Ossining Code Chapter 141 (Flood Damage Protection) were completed by the Applicant’s engineer, and are shown on the Flood Plain Analysis drawing contained in the Current Site Plans. The calculations demonstrate that the fill required for the Project would raise the floodplain elevation by 0.016 feet, which is well below the 1-foot maximum permitted.

The proposed building has been designed with its lowest floor (interior parking garage) at elevation 15 and the first (residence) floor at elevation 25. The proposed building will not be subject to flooding based on the latest FEMA flood maps, and North Water Street has been designed to provide access to the project during the 100-year flood event.

Although the floodplain line will be altered as a result of the proposed grading plan, no downstream properties will be adversely affected by filling the flood plain as the site is adjacent to the Hudson River which is a 7<sup>th</sup> order stream.

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### 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)

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## 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.

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**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)

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**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 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.

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**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)

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**Response**

See Response to Comment 2.5.3.

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**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)

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## 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.

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### 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 Stolatis' 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.)

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## Response

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, including to minimize potential flooding conditions, and will make any specific recommendations and conditions of approval that it deems necessary.

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 the improved North Water Street would be at or above 2 feet below flood levels, and therefore accessible to emergency vehicles. Fire Department officials indicated that this alternative would provide sufficient access.

The Applicant arranged for the Fire Department to review the Current Site Plans to confirm that they satisfy the Department's comments. The Fire Department provided additional technical comments during a meeting with the Applicant on July 24, 2018. The comments were to increase the width of the entrance into the parking lot on the north side of the proposed building from 21





feet to 26 feet, and to show locations for standpipes within the garage. These comments have been incorporated into the Current Site Plans. The Fire Department will conduct a final review of the construction drawings prior to issuance of a Building Permit.

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**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)

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**Response**

Section 1.5.2 of this FSEIS addresses the proposed rerouting of the existing stream, including describing construction phasing in a manner that would minimize disturbance to the existing watercourse.

The Applicant met with the U.S. Army Corps of Engineers regarding the Current Site Plans on August 1, 2018. Based on discussions with the Army Corps, the Applicant anticipates that the proposed stream relocation will qualify for authorization under one or more Nationwide General Permits ("NWP"), including for Stormwater Management Facilities (NWP 43), Outfall Structures and Associated Intake Structures (NWP 7), and/or Maintenance (NWP 3). These Nationwide Permits are issued by the Army Corps with general conditions to protect the aquatic environment and the public interest while effectively authorizing activities that have no more than minimal individual and cumulative adverse environmental effects.

The information required by NYSDEC for the notice of intent for the stormwater construction has been submitted to NYSDEC. See response 2.5.14.

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**2.5.14 Comment**

They have not answered satisfactorily the environmental concerns of runoff.

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



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## **Response**

As mentioned in Response 2.5.3, the full Stormwater Pollution Prevention Plan (SWPPP) has been updated since the 2013 SEIS pursuant to the Phase II regulations under General Permit (GP 0-15-002) as required by the New York State Department of Environmental Conservation (NYSDEC). The SWPPP is designed to capture and treat stormwater for water quality. The SWPPP measures will assure that the Proposed Action will not result in any significant adverse drainage impacts.

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

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### **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)

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## **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.



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## **2.6 Traffic and Transportation**

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### **2.6.1 Comment**

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

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

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#### **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 Project.

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### **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)

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#### **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 sidewalk would facilitate pedestrian access to the Open Air Pavilion, as well as potentially to Crawbuckie Preserve and the planned RiverWalk in the event that the Village enters into an agreement with Diamond Dairy and/or Clear Cast.

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### **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)

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#### **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 industrial land uses generate less traffic on Saturdays and there is not the same level of commuter traffic resulting in lower overall traffic volumes.

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#### **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.)

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#### **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.

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#### **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.)

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#### **Response**

The proposed plan includes a sidewalk for the length along the west side of North Water Street. This is shown on the Current Site Plans.



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## 2.7 Street / Roadway / Access

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### 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.)

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### Response

As described in Section PD.2.1, for purposes of this FSEIS, the capitalized term "North Water Street" shall refer to both the public and private portions of what is commonly referred to as North Water Street and the North Water Street Extension. North Water Street is a public Village road for approximately 250 feet, extending from the intersection of Snowden Avenue and Water Street, to the Village's existing pump station. The balance of the existing pavement leading from the pump station to the Project Site (defined below), which pavement is also commonly referred to as North Water Street or the North Water Street Extension, is a private road that crosses private properties pursuant to what the Applicant believes are existing easements. This private portion of North Water Street has been in use and accessible by the public since approximately the 1940s.

As described in Response 2.1.13, 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. The Applicant maintains that this right of access includes the right to improve North Water Street. The Applicant shall provide sufficient documentation to the Village's satisfaction that it is legally entitled to install the proposed Road and related improvements pursuant to such easements or other rights as a condition of Site Plan Approval and prior to obtaining a Building Permit.

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### 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 Stolatis' 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.)

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### **Response**

See Response to Comment 2.7.1.

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#### **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)

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### **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).

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#### **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)

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### **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.

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**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 Stolatis' 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)



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## **Response**

Comment noted. See Responses to Comment 2.7.1.

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## **2.8 Procedural**

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### **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.)

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## **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.

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### **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)

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## **Response**

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





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### **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.)

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#### **Response**

Acceptance of a DEIS/SEIS/FSEIS does not imply approval of the Project. It indicates that the Lead Agency, in this case the Village Planning Board, has found the document complete, accurate and acceptable for public review in terms of "scope, content and adequacy." The Planning Board adopted such a completeness finding for the DEIS in December, 2008, and the SEIS in December 2012.

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### **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.)

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#### **Response**

See Response to Comment 2.8.3.

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### **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)

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#### **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.

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**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)

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**Response**

See Response to Comment 2.8.3.

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**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.)

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**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.

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**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)



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## **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.

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## **2.9 Historic Resources**

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### **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)

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## **Response**

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 recommended that adequate documentation of the 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 per the OPRHP recommendations. The Applicant 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) will be provided to the Ossining Historical Society and photo-documentation will also be submitted to SHPO so that the record of the 1979 National Register Nomination form can be augmented. The photographs are included in FSEIS Appendix 5.17.

The Applicant consulted with SHPO on August 1, 2018, to confirm the next steps for completing the procedures under Section 106 of the National Historic Preservation Act (this Section applies due to Army Corps' jurisdiction over the proposed stream relocation, and satisfies Section 14.09 of the NYS Historic Preservation Act). According to the Applicant, SHPO requested an overview of the cultural resources analysis previously conducted, an update about the demolition work that has already been completed, and a description of existing conditions and the proposed



demolition work remaining with respect to the Office Building. The photographs that were already taken prior to demolition of the mill building (Appendix 5.17), as well as photographs of existing conditions, will also be submitted. SHPO will provide a review letter with their recommendations.

The Applicant also proposes as part of the Project to build and maintain a Brandreth Pill Factory Open-Air Pavilion on the Project Site as shown on the Current Site Plans, featuring a series of informational signage documenting the history of the Brandreth Pill Factory. The Applicant would preserve and adaptively re-use elements from the existing Office Building to the extent practicable, potentially including displaying 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.

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## **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)

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## **Response**

The analysis and supporting back up data that was utilized is included in the appendix of this FSEIS as Appendix 5.1 through Appendix 5.5.

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 15.0, which is five feet above the EL 10.0 Base Flood Elevation of the site.

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### **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)

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### **Response**

The structural assessment reports submitted by the Applicant's engineering consultant conclude that the Office Building is not salvageable. These reports maintained that 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 (see Appendix 5.1). The Office Building is not proposed for re-use.

The Applicant proposes mitigation measures that will help ameliorate the loss of the buildings. (See Response to Comment 2.9.1.) In addition, as part of the Brandreth Pill Factory Open-Air Pavilion to be built on the Project Site, the Applicant would preserve and adaptively re-use elements from the existing Office Building to the extent practicable, potentially including salvageable original bricks and wood framing for display.

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### **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.)

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### **Response**

The Applicant proposes to work with the Ossining Historical Society to prepare the exact signage language and insure the accuracy of the historic information to be provided in the Brandreth Pill Factory Open-Air Pavilion. Conceptual "display ideas" within the Pavilion are shown on Drawing A-5 (Proposed Pavilion) of the architectural drawings for the Project (See Chapter 1.0).

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### **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)



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## 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).

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### 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)

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## Response

See Responses to Comments 2.9.2 and 2.9.3.

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### 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)

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## 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 19<sup>th</sup> 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)."*

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### 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)

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## 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.

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### 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)

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## 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 as non-historic structures. 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. In 2011, the



Applicant formally submitted revised site plans (*i.e.*, the 2011 Alternative Site Plan) to the Planning Board incorporating demolition of the existing buildings. The local historic landmarking process was initiated by the Ossining Historic Preservation Commission in 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

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#### **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)

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#### **Response**

The Applicant is not proposing adaptive reuse of the remaining buildings. Adaptive reuse was last proposed under the 2008 Proposed Project studied in the DEIS, along with proposed development on the Plateau Properties. The Pill Factory building has been demolished. The remaining structure is not proposed for adaptive reuse, as discussed in Response 2.9.3. Also see Response to Comment 2.9.9.

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#### **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)

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#### **Response**

The Applicant is not proposing restoration of the Brandreth Pill Factory, which has been removed. The remaining structure is not proposed for adaptive reuse, as discussed in Response 2.9.3.





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**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)

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**Response**

See FSEIS Appendix 5.9.

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**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)

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**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 of the SEIS approved by the Planning Board as Lead Agency. The requested information is within the Scope of the SEIS.

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**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)

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**Response**

In September 2012 and June 2018, the Applicant commissioned an engineering assessment of the structural condition of the buildings. See FSEIS Appendix 5.1 for the complete reports.



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**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)

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**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. Following the DEIS public comment period, the Applicant revised the 2008 Proposed Project by removing the residential redevelopment of the Plateau from the Project in response to the Planning Board's and the public's comments. This resulted in the current proposal for a single, six-story building on the Site, containing all of the Project's density on most of the previously disturbed area on the Site. The Applicant is not proposing adaptive re-use of the Brandreth Pill Factory, which has been removed.

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**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)

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**Response**

Detailed costs of the exterior renovations are provided in Appendix 5.2 of this FSEIS. However, the Applicant is not proposing restoration of the Brandreth Pill Factory, which has been removed. With regard to the remaining office building on the Site, see Response 2.9.3.

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**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)



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### **Response**

Cost estimates prepared on behalf of the Applicant are provided in Appendix 5.2. However, this comment is moot since the mill building has been demolished. With regard to the remaining Office Building on the Site, see Response 2.9.3.

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#### **2.9.18 Comment**

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

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

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### **Response**

The Applicant is not proposing adaptive reuse. The mill building has been removed. With regard to the remaining Office Building on the Site, see Response 2.9.3.

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#### **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)

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### **Response**

Site improvements are not a rationale for demolition of the building(s). The Applicant's rationale for demolition of the buildings is discussed in Responses 2.9.2 and 2.9.3.

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#### **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)

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## **Response**

See FSEIS Appendix 5.5 for the requested information. However, the comment above from the Ossining Historic Preservation Commission (HPC), is among the information requested from the HPC pertaining to Factors for Demolition (see Correspondence #6, pages 1-2). Comparables are not a rationale for demolition of the building(s). The Applicant's rationale for demolition of the buildings is discussed in Responses 2.9.2 and 2.9.3.

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### **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)

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#### **Response**

See Response to Comment 2.9.20.

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### **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.)

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#### **Response**

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

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### **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)



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### **Response**

The Applicant is not proposing adaptive reuse. See Response to Comment 2.9.15 and Response to Comment 2.9.3.

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### **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)

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### **Response**

The Applicant is not proposing adaptive reuse. See Response to Comment 2.9.2 and Response to Comment 2.9.3.

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### **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 Recreations and Historic Preservation and the Village of Ossining."

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

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### **Response**

See Response to Comment 2.9.1.

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### **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)



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## **Response**

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

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### **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)

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## **Response**

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

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### **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.)

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## Response

The statements made in the comment above are the opinion of the commenters. The Applicant maintains that it has never removed a roof on its buildings.

Proposed mitigation measures and recommendations of the New York State Office of Parks Recreation and Historic Preservation are discussed in Response to Comment 2.9.1.

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### 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.)

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## Response

Comment noted, although in the Applicant's opinion, it is not an accurate statement of law. See Response to Comment 2.9.15 and 2.9.20.

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### 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)

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## Response

The Applicant is not proposing restoration of the Brandreth Pill Factory, which has been removed. With regard to the remaining Office Building on the Site, see Response 2.9.3.

The Applicant proposes mitigation measures that will help ameliorate the loss of the buildings. (See Response to Comment 2.9.1.) In addition, as part of the Brandreth Pill Factory Open-Air Pavilion to be built on the Project Site, the Applicant would preserve and adaptively re-use



elements from the existing Office Building to the extent practicable, potentially including salvageable original bricks and wood framing for display.

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## **2.10 Other Comments**

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### **2.10.1 Comment**

Provide alternate sources of energy the Applicant intends on using.

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

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#### **Response**

Alternate sources of energy to be used include solar and wind energy and may include geothermal energy. The Current Site Plans have been updated to include a specification of a typical roof mounted solar panel (see Sheet 36).

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### **2.10.2 Comment**

Provide information on sound screens.

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

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#### **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).

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### **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.)

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#### **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 Project. Nevertheless, the Applicant submits that it did not "allow" the Pill Factory Building to deteriorate over any period of time prior to its demolition. 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.

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#### **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)

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#### **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.

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#### **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)



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## Response

The Applicant formally proposed and submitted site plans for 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 Alternative Site Plan included demolition of the buildings.

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### 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)

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## Response

See Response to Comment 2.9.1 regarding the rationale for the change in the proposed plan and Response to Comment 2.9.22 regarding costs and tax incentives.

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### 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)

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## Response

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

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### 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)

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### **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.

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### **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)

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### **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.