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October 18, 2011

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By Hand Delivery

Hon. Susan Siegel
Supervisor of the Town of Yorktown and
Members of the Town Board
Town of Yorktown
363 Underhill Avenue
Yorktown Heights, NY 10598

Re: Croton Overlook
Final Environmental Impact Statement

Dear Supervisor Siegel and Members of the Town Board:

As you know, we represent Croton Overlook in connection with its application for a rezoning in order to develop a 55 and over active adult residential community on its Property (the "Project"). We are pleased to provide to your Board, as Lead Agency pursuant to the New York State Environmental Quality Review Act ("SEQRA"), the attached revised Final Environmental Impact Statement ("FEIS").

The revised FEIS incorporates the comments provided by your Board and its consultants regarding completeness. Thus, by providing the revised FEIS a week in advance, Croton Overlook hopes the Board would accept the FEIS as complete at the October 25, 2011 meeting, with the Findings Statement adopted shortly thereafter.

Croton Overlook also reiterates that, based upon the argument in our September 20, 2011 letter, there is no basis under SEQRA to hold a Public Hearing on the FEIS. Moreover, such a Public Hearing would not seem to have a meaningful purpose. It would only serve to allow parties to repeat the same issues already addressed in their entirety by the FEIS.

Supervisor Siegel and Members of the Town Board
October 18, 2011
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We look forward to answering any questions your Board may have. Thank you for your consideration. If you have any questions, please do not hesitate to contact me, or my colleague, Jody T. Cross.

Respectfully Submitted,

ZARIN & STEINMETZ

By:



David S. Steinmetz

Encls.

cc: Croton Overlook
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John Tegeder, R.A., Director of Planning
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Anna Georgiou, Esq., Special Counsel
Hon. David Klaus, Chairman, and Members of the
Planning Board of the Town of Yorktown
Alice Roker, Town Clerk

CROTON OVERLOOK
FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS)

Town of Yorktown
County of Westchester
State of New York

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Yorktown Town Board
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Accepted by Lead Agency November 1, 2011

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I. CORRECTIONS TO DEIS

1. DEIS, Required Permits and Approvals: page 51 - #1 New York City DEP permits and approvals that are required include approval of a Stormwater Pollution Prevention Plan (SWPPP), the Waste Water Treatment Plant (WWTP)
2. DEIS, Appendix J, Biodiversity Study: cover page - The correct spelling of the firm that prepared the report is “Environmental Compliance Services, INC.”.
3. DEIS, Executive Summary: page 6 - There are instances in which the existing zoning designation of the property is listed as R-160, rather that the correct designation of R1-160.
4. DEIS, Executive Summary: page 21 - The battle of Pines Bridge took place in 1781, not 1788.
5. DEIS, Project Background and History: page 47, first sentence – Add “COC is seeking Town Board approval for a zoning map change”.
6. DEIS, Proposed Development: page 49 - The text states that there “is no cluster zoning applicable to the R1-160 zoning”. This is incorrect. Town Code Chapter 300, Article 26 is titled Large Lot Clustering.
7. DEIS, Existing Environmental Conditions, Potential Impacts, and Proposed Mitigation, A. Land Use, Zoning and Public Policy: page 52 - The title of Para. IV (A), is corrected to read “Land Use, Zoning and Public Policy”
8. DEIS, Existing Environmental Conditions, Potential Impacts, and Proposed Mitigation, Land Use, Zoning and Public Policy: page 71 - Change the instances of “exert” to “Excerpt.”
9. DEIS, Existing Environmental Conditions, Potential Impacts, and Proposed Mitigation, Land Use, Zoning and Public Policy: page 78 - “Homeowner’s Associates” is corrected to “Homeowners’ Association.”
10. DEIS, Existing Environmental Conditions, Potential Impacts, and Proposed Mitigation, Land Use, Zoning and Public Policy: page 79 - Glassbury Court is located in the Town of Yorktown.

- 11 DEIS, Existing Environmental Conditions, Potential Impacts and Proposed Mitigation, page 104 - Proposed mitigation: NYSDEC requires soil and stabilization with 7 days not 2 weeks.

- 12 Page 153, third paragraph - Please reference report in appendix. This is an online resource.

- 13 DEIS, Existing Environmental Conditions, Potential Impacts and Proposed Mitigation, Community Growth and Character: page 160 - The Yorktown Parks and Recreation Department is not a division of the Department of Environmental Services.

- 14 DEIS Appendices, Stormwater Pollution Prevention Plan: page 3 - Section 1.0, #2: In addition to the NOI a MS4 Acceptance Form must be obtained.

- 15 DEIS, Existing Environmental Conditions, Potential Impacts and Proposed Mitigation, Community Facilities and Services: page 159 -The DEIS sites correspondence from Chief Martin McGannon of the Yorktown Heights Fire Department. This was in fact personal communications between the author Connor McBride and Chief McGannon.

- 16 The total Project acreage is 64.92-acres in size. The amount of open space to be deed restricted is approximately 46 acres. The amount of land to be developed for the community is approximately 19 acres.

- 17 DEIS Appendices, Visual Impact Assessment: Turkey Mountain is the highest point in Yorktown not Westchester County.

II. EXECUTIVE SUMMARY

Introduction

This Final Environmental Impact Statement (FEIS) has been prepared for the rezoning and development of land located adjacent to Saw Mill River Road and Dell Avenue in the Town of Yorktown, NY. It is proposed that the site be developed for a 55 year old and over Active Adult Community consisting of 35 duplex units, 70 homes in total.

The proposed action is a Type I action, pursuant to the State Environmental Quality Review Act (SEQRA) and Part 617 of the implementing regulations. The Yorktown Town Board issued a Positive Declaration on February 8th, 2011, requesting the preparation of an Environmental Impact Study (EIS) for the proposed action. Croton Overlook Corporation's Draft Environmental Impact Statement's (DEIS) contents were established by a Final Scoping Document, which was adopted at a meeting of the Yorktown Town Board, as Lead Agency, on April 12th, 2011. The DEIS is hereby expressly incorporated by reference herein. The Final Scoping Document provides an outline of the items requested to be studied by the Town Board and other Involved Agencies through the SEQRA process.

Description of Proposed Action

Croton Overlook Corporation (variously referred to herein as "COC" or "Applicant") is seeking Town Board approval for Zone Change, from an R1-160 Zone to an RSP-1 Zone, to allow for the development of a 72 lot subdivision to facilitate construction of a 55 year old -and-over Active Adult Community named "Croton Overlook" (also referred to herein as the "Project"). The Project Community will consist of 35 duplex units, 70 homes, on individual fee simple lots, 1 lot, containing approximately 44 acres of open space, which will be owned and maintained by the Project's Homeowners' Association (HOA) and 1 lot for the Wastewater Treatment System, consisting of a treatment plant and subsurface infiltration fields, to be owned by a Public Transportation Company. The open space area will be deed restricted, serving as an active and passive recreational resource for the Project Community. The Project site consists of approximately 65 acres located east of the intersection of NYS Routes 134 and 100 (Figure 1). COC is the owner of the subject property designated within the Town of Yorktown as parcels 70.15-1 and 70.15-2 and contract vendee to parcel 70.15-1-1 ("Yaskovic property").

COC is seeking the Board's consideration to amend the current zoning map as it pertains to the site, from R1-160, Single Family Residential to RSP-1, an Age Oriented Community. This zone change is necessary to accommodate the housing and amenities proposed in the Croton Overlook Conceptual Subdivision Site Plan. As the County's population ages, individuals and couples, aged 55 and over, choose to down-size, a demand for this type of housing exists within the Town and County.

Finally, COC is seeking a change to portions of the existing Dell Avenue. The altered section will be relocated, allowing for the whole of Dell Avenue to be built to Town specifications and offered for dedication to the town by the Applicant. The portion of the abandoned (relocated) Dell Avenue will be deeded to COC for the purpose of buffering the site, stormwater management and infiltration area. The actual use will be finalized during the Site Plan/Subdivision Application process in front of the Planning Board, after the Zone Change has been granted.

Final Environmental Impact Statement Format

Verbal substantive comments were made by the following individuals, at the Yorktown Town Board DEIS Public Hearing, on Tuesday August 2nd.

- Nicholas J. Bianco, Yorktown Councilman
- Sara Yackel, Associate Principal, BFJ Planning, representing Random Farms, New Castle
- Paul Moskowitz, Chairman, Yorktown Energy Advisory Committee
- John Schroeder, Yorktown Land Trust
- Joe Settembrino, Co-Chairman, Yorktown Open Space Advisory Committee
- Bill Kellner, Yorktown resident and Vice-President, Saw Mill River Audubon.
- Howard Frank, 2963 Curry Street, Yorktown Heights, NY
- Larry Cassidy, Yorktown resident
- Susan Siegel, Yorktown Supervisor
- James L. Martorano, Yorktown Councilman
- John Tegeder, Yorktown Director of Planning

The following letters and e-mails, commenting on the DEIS, have been received.

| Letter # | Author | Dated |
|-----------------|--|----------------|
| 1 | Dr. Patricia Podolak, Chair, Utility Oversight Committee | August 2, 2011 |
| 2 | Dr. Patricia Podolak Chair, Utility Oversight Committee | August 2, 2011 |
| 3 | Dr. Patricia Podolak Chair, Utility Oversight Committee | March 6, 2010 |
| 4 | Councilman Nicholas Bianco | August 2, 2011 |

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| | | |
|----|---|--------------------|
| 5 | Jennie Sunshine | August 2, 2011 |
| 6 | Mark Michaels | August 3, 2011 |
| 7 | Daniel Lefkowitz, On behalf of Utility Oversight Committee | August 24, 2011 |
| 8 | Assemblyman Steven Katz | August 2, 2011 |
| 9 | Sarah Yackel, BFJ Planning On behalf of Random Farms, New Castle | August 23, 2011 |
| 10 | Cynthia Garcia, On behalf of the NYCDEP SEQRA Unit | August 29, 2011 |
| 11 | John Tegeder, Director, Yorktown Planning Department | August 30, 2011 |
| 12 | Ron and Olivia Buehl | August 30, 2011 |
| 13 | Paul Moskowitz, Chair, Yorktown Energy Advisory Committee | August 26, 2011 |
| 14 | Sharon Robinson, Acting Town Engineer | August 31, 2011 |
| 15 | Yorktown Planning Board | September 6, 2011 |
| 16 | Yorktown Conservation Board | September 16, 2011 |
| 17 | New York State Department Of Environmental Conservation | October 13, 2011 |

The FEIS is arranged in sections, with Comment Summaries and Responses arranged by subject area similar to the DEIS. The source of each comment is referenced. A Comment Summary, in some cases, may incorporate more than one individual comment on the same subject, followed by a Response to those Comments. The format of the Comments and Responses is as follows:

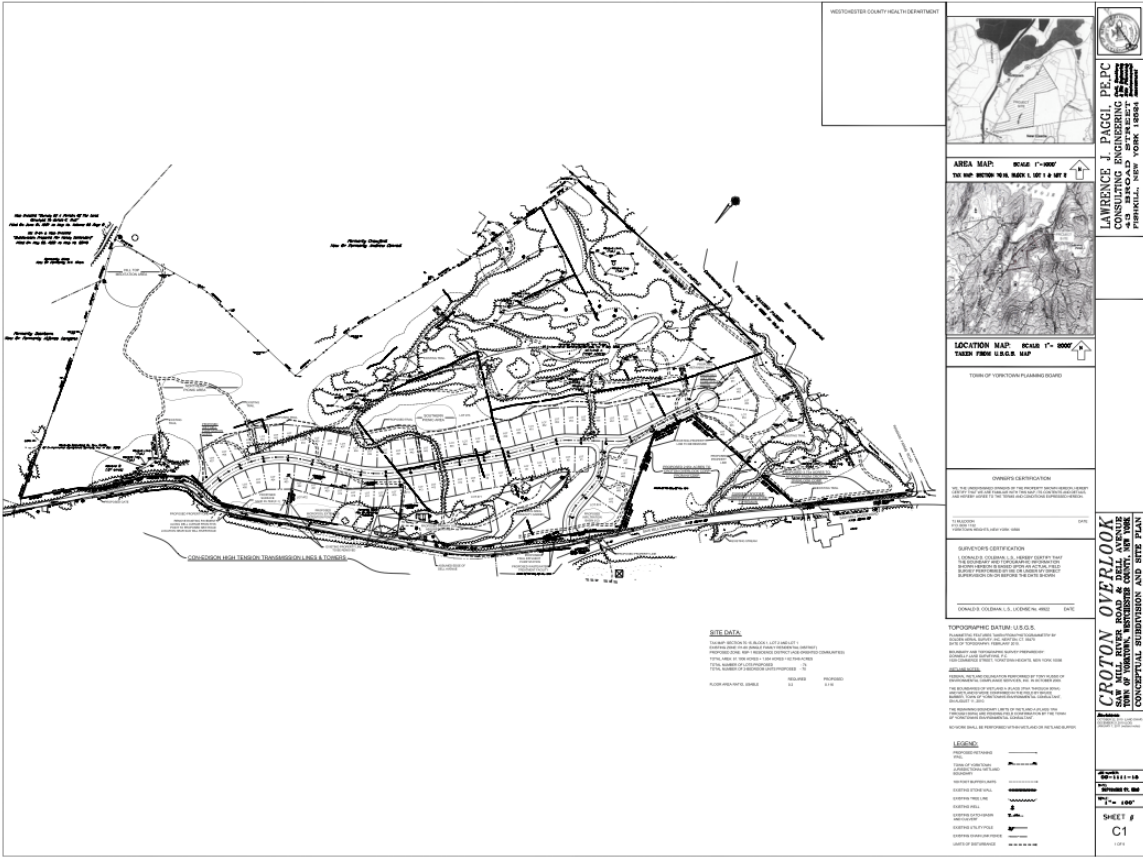
Comment # (Source): Comment summary text.

Response: Response text.

The Final Environmental Impact Statement (FEIS) for the Croton Overlook Community makes reference to the July 4, 2011, Draft Environmental Impact Statement (DEIS) and its Appendices, Section A. through X., accepted for public review, by the Yorktown Town Board on July 12, 2011. This total document addresses issues of possible Significant Adverse Environmental Impacts from the Croton Overlook Community. These documents are made part of this report by reference. It is COC's assertion that the DEIS and its Appendices, mitigate to the greatest extent possible, any potential impacts.

[Balance of page intentionally left blank]

Figure 1 – Site Plan



III. DEIS COMMENTS AND RESPONSES – PUBLIC HEARING, August 2, 2011

Comment 1 (Nicholas Bianco, Yorktown Town Councilman, Public Hearing, August 2, 2011): There is supposed to be a federal law that says you can't do 55+ or there has to be a certain percentage; that's not answered here. Maybe you can answer that. Why is that? Is there a federal law? Maybe you could put a covenant in your deed restriction?

Response: COC can impose an age restriction on the development that would not violate housing discrimination laws. Federal and New York State laws prohibit housing discrimination against minor children or families with minor children ("familial status") and New York law specifically prohibits discrimination based upon age. However, there are certain relevant exemptions under these laws.

The New York State Human Rights Law,¹ establishes an exemption from its prohibition against housing discrimination based on "age" and "familial status" for "Housing for Older Persons" as defined in the federal Fair Housing Act ("FHA"). See N.Y. Exec Law §296 (5) (a) (exemption for housing intended and operated for occupancy by persons 55 years of age or older as defined in 42 U.S.C.3607 (b) (2)). Similarly, "Housing for Older Persons" is exempt from the FHA's prohibition against discrimination in the sale or rental of housing based on "familial status." See generally 42 U.S.C. §§ 3604, 3607.

"Housing for Older Persons" is defined, in relevant part, as follows: (i) "at least 80 percent of the occupied units must be occupied by at least one person who is aged fifty-five or older," (ii) "the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent under this subparagraph;" and (iii) "the housing facility or community complies with rules issued by the Secretary for verification of occupancy . . ." See 42 U.S.C. § 3607 (b) (2) (C). These requirements must be satisfied for COC to qualify for the exemption.

COC will require that 100% of its homes be occupied by at least one person fifty-five years of age or older and must comply with the additional requirements for exemption consistent with both state and federal law, as described above. COC will memorialize these requirements in its Master Deed and By-Laws and Homeowners' Association Declaration. There will also be a deed restriction, consistent with the above, on each property sold.

Further, to ensure compliance, the Town will be a third party beneficiary to said provisions of the Declaration and deed restriction. The Town will have the right, but not

¹ In relevant part, according to the New York State Human Rights Law, it is unlawful to "refuse to sell, rent, lease or otherwise to deny to or withhold from any person . . . a housing accommodation because of the race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status. . ." See NYS Exec Law § 296 (5) (a) (1).

the obligation, to enforce these restrictions, conditions and covenants in the event that the Homeowners' Association fails to do so.

Comment 2 (Nicholas Bianco, Yorktown Town Councilman, Public Hearing, August 2, 2011): Without [New York City DEP] approval this Project can't happen, and this needs to be addressed.

Response: *COC's Flow Confirmation letter, dated October 25, 2010, was issued by Westchester County's Department of Health, in conjunction with the NYSDEC and states, "...we believe you have demonstrated that a disposal system can be constructed consistent with standards and should not contravene groundwater standards." The full letter is in the DEIS appendix section Q (Flow confirmation letter). The Applicant advises that as recently as August 18, 2011, Danny Shedlo, the review engineer from the NYCDEP, called COC's Site Design Engineer, Lawrence Paggi and stated he saw no major problems. The Westchester County Department of Health's flow confirmation letter does not provide regulatory approval of the wastewater treatment facility. The New York City Department of Environmental Protection and New York State Department of Environmental Conservation must still approve and permit the wastewater treatment facility. The Wastewater Treatment System is covered in detail in the DEIS Appendix under Section O., "Engineers Report and Plans for Wastewater Treatment Plant", P., "Plans and Specifications for Pump Stations", Q., "Flow Confirmation Letter" and R., "Wastewater Emergency Response Plan".*

Finally, the Final Subdivision Approval Resolution, issued by the Yorktown Planning Board, will contain an express condition that the Subdivision Plat cannot be signed until all Approving Agencies' Permits have been obtained.

Comment 3 (Sarah Yackel, BFJ Planning, representing the Random Farms Homeowners' Association, New Castle, Public Hearing, August 2, 2011): The town has adopted its comprehensive plan just a little over a year ago in June 2010. With adoption of the plan, the intent of the town was made clear with respect to the Croton Overlook Project site. The proposed future land use map of the Yorktown comprehensive plan clearly marks the Project site for R1-160 zoning. The proposed land use map represents that their intent of the plan.

Comment 4 (Sarah Yackel, BFJ Planning, representing the Random Farms Homeowners' Association, New Castle, Public Hearing, August 2, 2011): The town board took the next step by implementing the comprehensive plan recommendation when it rezoned the Project site from R1-80 to R1-160 about six months ago. Thus, a proposed Project and requested rezoning is not consistent with the comprehensive plan.

Comment 5 (Sarah Yackel, BFJ Planning, representing the Random Farms Homeowners' Association, New Castle, Public Hearing, August 2, 2011): The courts of New York have consistently held that zoning must be based upon the recommendations of a well reasoned plan.

Comment 6 (Sarah Yackel, BFJ Planning, representing the Random Farms Homeowners' Association, New Castle, Public Hearing, August 2, 2011): While the Project may be compatible with some of the broader goals of the town with regards to promoting housing for people in all stages of development and other non-site specific goals discussed in the DEIS, it does not change the fact that the proposed Project is inherently inconsistent with the future land-use plan and the present zoning for the site.

Comment 7 (Sarah Yackel, BFJ Planning, representing the Random Farms Homeowners' Association, New Castle, Public Hearing, August 2, 2011): An analysis of the Project basic incompatibility with the future land use plan and the recent up-zoning based on the plan of the site from R1-80 to R1-160 is thoroughly lacking in the DEIS.

Comment 8 (Sarah Yackel, BFJ Planning, representing the Random Farms Homeowners' Association, New Castle, Public Hearing, August 2, 2011): Since the proposed Project is inconsistent with the proposed land use map, and therefore the plan itself, we contend that if the town board entertains the proposed rezoning, it must also amend its comprehensive plan to reflect this change in town policy. Any amendment to the comprehensive plan would need to be adequately vetted as part of this SEQRA review process.

Response: *Although the Comprehensive Plan and the Town's subsequent rezoning place the Project Community's Site in the Town's R1-160 zoning district, The Applicant advises that Croton Overlook is not inconsistent with either the Comprehensive Plan or the Town's Zoning Code. The Comprehensive Plan expressly contemplates that, where appropriate, the RSP-1 "floating zone" can be placed on a lower density residential district. Since a "floating zone" does not apply to any site until an application is made, by definition, the "floating zone" must always differ from the underlying zoning of the site. The Applicant advises that the use of "floating zones" as a means to accomplish various goals of a Comprehensive Plan -- including specifically for the purpose of providing senior housing -- has been regularly upheld by the New York State Courts, including the Court of Appeals.*

Although placing a floating RSP-1 zoning on top of a R1-160 zone may seem inconsistent with the zoning on an underlying zoning, the Applicant notes that Croton Overlook is actually consistent with, and will advance, numerous goals and provisions of the Comprehensive Plan. These provisions include an expressly acknowledged need for senior housing and diversity of housing, as well as preservation of environmental resources and open space.

The Applicant notes also that the Courts in New York have held that a Town's Comprehensive Plan is more than just the adopted document; it also includes "all available and relevant evidence of the municipality's land use policies." Relevant to Croton Overlook, the SEQRA Findings Statement, page 21, adopted by the Town Board in

connection with the Comprehensive Plan specifically includes a section entitled "Flexibility to Consider Senior/Active Adult Housing." That section expressly acknowledges that "residentially-zoned areas outside of the hamlet centers may be suitable for development of senior or other group housing development." It further states that Projects such as Croton Overlook "should not be foreclosed solely because they are proposed outside of the hamlet areas, until a site-specific assessment [has] been made." Moreover, RSP-1 zoning district requirements contemplate flexibility in Project design and layout "with a plan of development as approved by the Planning Board" and with "a maximum density of 12 units per acre." (RSP-1 Residence Zone Standards, 300:A1; Zoning Code §§ 300-123 through 300-151). Also each site used for an RSP-1 development must have a total area of not less than 15 acres. (Zoning Code § 300-126 (B)). The Applicant notes that Croton Overlook will satisfy these requirements.

Accordingly, The Applicant stresses, Croton Overlook is not only consistent with the Comprehensive Plan and Zoning Code as they exist today, it is also consistent with the Town's total planning strategy, and reflects the needs of the community.

The Croton Overlook site is distinguished from other large lots in the vicinity by its physical characteristics. The proposed housing is situated along a westerly knoll of the property overlooking the open space set asides. The Applicant believes that, Croton Overlook will become its own community with minimal impact to the surrounding neighborhood, except to boost the local economy by bringing added customers to local services, shops and restaurants. The Applicant anticipates that the Project will appeal to Yorktown residents and, to those already residing in neighboring Chappaqua, Millwood, Ossining, and Somers who are interested in downsizing, or simply residing in a community with nearby neighbors and fewer maintenance requirements than in a single family detached home on a larger lot.

While Yorktown has housing developments for people who are 55 and older in other areas of the town, this would be the first such community in the southern end. The Town identified its Senior Independent Living Zone (RSP-1) "to provide opportunities for senior citizens to find appropriately sized housing units for their years as empty nesters and young retirees." The plan further notes, "this zone helps to meet the growing demand among retirees and seniors for age-restricted housing, where they can live in greater tranquility with other people of the same age and in an environment more tailored to their needs." The property's unique characteristics lend itself to consideration of a change of zone to meet a community based need that is geographically diverse as envisioned in Yorktown's Comprehensive Plan. According to the Applicant, since the Project is consistent with the Comprehensive Plan, no amendment to the Comprehensive Plan is necessary or required. The Town is not required to amend its Comprehensive Plan each time an Applicant seeks a zoning map amendment, particularly when the zoning change relates to a "floating zone".

Comment 9 (Sarah Yackel, BFJ Planning, representing the Random Farms Homeowners' Association, New Castle, Public Hearing, August 2, 2011): In addition,

the comprehensive plan has additional recommendations for the R1-160 zone that the town should pursue in furtherance of adopted town policy that would adequately address some of the environmental concerns raised in the DEIS associated with developing the site under existing zoning. The Table 2-1 in the comprehensive plan recommends the following with respect to the town's single-family residential districts. All areas should be subject to natural resource protection requirements relating to wetlands, water body, steep slopes, tree clearing, et cetera. Increased setbacks, building coverage, and impervious coverage requirements should be re-visited for the R1-160 zone. And floor area or ratio limits should be considered in order to limit the potential for McMansions.

Response: *The action in front of the Town Board is a Rezoning Application. The Applicant believes the RSP-1 plan submitted with the DEIS conforms to all required criteria of that zone. The suggestions noted above that the Town Board consider re-visiting issues to expand the current requirements of the R1-160 zone are no different than the Applicant's mention that it may ask the Town Board to adopt a Resolution pursuant to Town Code Section 300-22. The Applicant's request may be to authorize the Planning Board to vary certain zoning bulk requirements if the Planning Board determines, after careful analysis, that such a revised design promotes less impact to the site, open space preservation, and presents a cohesive and appropriate development. Both actions, that of revising R1-160 and RSP-1, are aimed at creating environmentally sound development.*

Comment 10 (Sarah Yackel, BFJ Planning, representing the Random Farms Homeowners' Association, New Castle, Public Hearing, August 2, 2011): Rather than rezone the site, which is inconsistent with the proposed land use plan, the town should move forward with the remaining recommendations for the R1-160 zone in the comprehensive plan.

Response: *The Applicant has applied for a Zone Change, from the R1-160 zone to the RSP-1 zone. The RSP zones are referred to as "floating zones" and the current Yorktown Zoning Map does not identify locations for these zones, even though the Comprehensive Plan repeatedly cites a need for this type of housing. As such any proposed RSP community would require a zone change.*

Comment 11 (Sarah Yackel, BFJ Planning, Representing the Random Farms Homeowners' Association, New Castle, Public Hearing, August 2, 2011): The DEIS states that given the impacts of the R1-160 zoning compliant conventional development alternative, that it is not a practical alternative, and further states that there is no cluster zoning applicable to the R1-160 zoning, thereby ruling out the cluster alternative. None of these statements is accurate and no supporting evidence is presented to support these assertions.

Response: *The DEIS does not provide that there is no Cluster Zoning applicable to the R1-160 zone. One of the alternatives proposed is a cluster development fully compliant*

with Town Code Section, 300-216 through 300-223, Large Lot Clustering. The Applicant believes that the cluster alternative is unfeasible for the reasons stated in the DEIS Appendix under Section V, Alternatives.

Comment 12 (Sarah Yackel, BFJ Planning, Representing the Random Farms Homeowners' Association, New Castle, Public Hearing, August 2, 2011): The SEQRA regulations state that the description of an evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment. A description and evaluation of the Project alternative provided in the DEIS is not sufficient to make a reasonable comparison of all the impacts. The assumed impact from the majority of the environmental categories discussed under the R1-160 alternative that both standard subdivision and cluster are greater than for the proposed action, although these claims are not substantiated by any analysis, documentation or facts.

Response: *In the DEIS, three alternates are discussed: a no build Scenario, an as of right plan under the current zoning, and a cluster alternative under the existing zoning. There is also a comparison made between an RSP-1 age restricted development and if the same development where to be sold as market rate units. Every alternative is compared in each topic, and discussion topics include, zoning and land use, visual resources, flora and fauna, soils, topography, steep slopes, and geology, wetlands, and surface water resources, Cultural Resources, noise, air, construction impacts, community facilities and services, community growth and character, stormwater management, solid waste, utilities, water, utilities, sewer, fiscal and socioeconomic impact, traffic conditions, safety and flow, Electromagnetic Fields, use and conservation of energy, green technology, infrastructure, hazardous material and waste, groundwater and geology. There is also a table comparing unit size, wastewater treatment, disturbed area, impervious cover, square feet of driveway, linear feet of road, deed restricted open space, financial contribution to the Town, recreation fees, sales prices, taxes, school children, traffic, police, fire, emergency responses. The information presented is at a level of detail sufficient to make a comparative assessment. In summary, the Applicant contends as there are fewer acres impacted by the proposed development, including less tree cutting, less land development, less impact to the wetlands and wetland buffers, therefore there will be less environmental impact. While the development will be more dense, the overall impacts to the environment will be smaller or able to be mitigated through sustainably oriented facilities such as the package plant, water distribution system and Integrated Pest Management (IPM) program for the garden areas, which are more environmentally sustainable than individual home systems. There will also be increased tax revenues to support other town operations from the more numerous units, with less physical impact to the land.*

Comment 13 (Sarah Yackel, BFJ Planning, Representing the Random Farms Homeowners' Association, New Castle, Public Hearing, August 2, 2011): For example, the DEIS states that the R1-160 alternative will produce more garbage than the proposed action because the as-of-right development would result in bigger families. Using the Rutgers multipliers, which are the same multipliers used by the Applicant to

estimate school children, if all 15 as-of-right homes consist of four to five bedroom homes at above medium home price, the estimated total population would be 58 new residents as opposed to 140 Projected under the proposed Project. The proposed action would result in an additional 82 residents on the Project site as compared to the Project alternative. How can the DEIS justify the statement, the alternatives would result in more solid waste due to larger family size.

Response: *Using the same Rutgers's multipliers, if all 15 as-of-right homes consisted of 5 bedroom detached units at above medium home price, the estimated total population would be 66.45 new residents. On Page 4, Table 1-1, a Single-Family Detached 5 BR home selling for \$554,500 to \$1,386,500 has a Total Persons multiplier of 4.43. Consequently, 15 units, multiplied by 4.43, are equal to 66.45 new residents. On Page 5, Table 2-1, a Single-Family Detached 5 BR home selling for \$554,500 to \$1,386,500 has a School-Age Children multiplier of 1.64. Consequently, 15 units, multiplied by 1.64, are equal to 24.6 new school-age children. As such, the development built under R1-160 as-of-right zoning would result in 66.45 new residents of which includes 24.6 additional school-age children potentially enrolled in the Town of Yorktown Central School District.*

If the Project was developed under the proposed RSP-1 zoning, the homes will be Single-Family, 2 BR, selling for More than \$346,500. The Total SAC multiplier associated with this type of home is 0.17. Consequently, 70 units, multiplied by 0.17, are equal to 11.9 additional school age children. If all of the units were to sell as market rate despite the proposed RSP-1 zoning, there would be approximately 11.9 additional school age children, as opposed to the 24.6 additional school age children which would result from building the Project as-of-right.

The Applicant advises that it is not the Applicant's intent to imply fewer additional residents nor less total garbage production under RSP-1 zoning as compared to the current R1-160 zoning, but to stress the fact that R1-160 zoning will result in more school-age children and thus larger families in a "residents-per-unit" case. Using the aforementioned Rutgers demographic multipliers, RSP-1 homes with 2 bedrooms will average 1-2 residents per unit, while R1-160 homes with 4-5 bedrooms will average 4-5 residents per unit. Furthermore, while the proposed RSP-1 development will produce less garbage per unit, the overall project will admittedly produce more garbage than the R1-160 developments. All costs related to refuse are paid for by taxes from the Project thereby mitigating any negative fiscal impact.

Comment 14 (Sarah Yackel, BFJ Planning, Representing the Random Farms Homeowners' Association, New Castle, Public Hearing, August 2, 2011): Further, with regards to traffic, the DEIS again states that the as-of-right alternatives would result in larger families and as such, generate more traffic. However, a quick review of the ITE trip generation rate shows that the proposed Project would result in approximately 244 daily trips, while the as-of-right alternative would only result in 180 daily trips. So

again, the DEIS claims that the proposed Project is less impactful without providing any supporting documentation.

Response: The Applicant advises that it is not the Applicant's intent to imply fewer traffic trips under RSP-1 zoning as compared to the current R1-160 zoning, but to stress the fact that R1-160 zoning will result in more school-age children and thus larger families and thereby more trips in a "residents-per-unit" case. The DEIS Appendix under Section U., "Traffic Analysis Information", clearly documents there is no adverse impact on traffic from the Applicant's development. The Applicant states that this is confirmed by a letter from the NYSDOT. In summary, there are no diminished levels of service at any intersections, and the adjacent state roads have sufficient capacity as made clear by the DOT letter. In fact the Town Code, Section 300-123, C., Age Oriented Communities states; "...the residents ... The manner in which they use the physical premises where they reside is less apt to disturb the peace and tranquility of the neighborhood than the use of property by younger persons with families, with greater outdoor activity, greater social activity taking place on the premises and greater traffic at all times on and onto the premises".

Comment 15 (Sarah Yackel, BFJ Planning, Representing the Random Farms Homeowners' Association, New Castle, Public Hearing, August 2, 2011): The DEIS states that the R1-160 alternatives would also result in greater water demand based on the larger family size. Again, no evidence is provided to support this statement. Yet the DEIS concludes that the alternatives would be more impactful without providing any of the required and necessary analysis.

Response: Please see the response to Comment 13, specifically the Applicant's contention that it is not COC's intent to imply fewer additional residents under RSP-1 zoning as compared to the current R1-160 zoning, but to stress the fact that R1-160 zoning will result in more school-age children and thus larger families in a "residents-per-unit" case. Using the aforementioned Rutger's demographic multipliers, RSP-1 homes with 2 bedrooms will average 1-2 residents per unit, while R1-160 homes with 4-5 bedrooms will average 4-5 residents per unit. There will be more water usage from the RSP-1 development, but this water is paid for by each resident which mitigates the financial impacts from the difference in water usage when compared to the R1-160 developments. The Town of New Castle has identified that there is adequate water supply available for the project.

Comment 16 (Sarah Yackel, BFJ Planning, Representing the Random Farms Homeowners' Association, New Castle, Public Hearing, August 2, 2011): [David] said that a detailed and hardy fiscal analysis was prepared, but I did not see that in the DEIS.

Response: There are numerous places in the DEIS where fiscal analyses are conducted. Among them are: Section A., "Land Use, Zoning, and Public Policy", Section H., "Community Facilities and Services", Section N., "Fiscal and Socioeconomic Impacts",

and Section V., Alternates. Applicant believes that each of these analyses is completed and in compliance with the accepted scope, and is of a sufficient level of detail.

Comment 17 (Paul Moskowitz, Chair, Yorktown Energy Advisory Committee, Public Hearing, August 2, 2011): Unfortunately, our committee has not had time to go over the DEIS, and we respectfully request that the hearing not be closed and that we at least have another hearing for the public at the town board's convenience, which would mean the next town board meeting or the one after that.

Response: *The date for providing written making comments was extended until the end of business on August 30th 2011*

Comment 18 (Paul Moskowitz, Chair, Yorktown Energy Advisory Committee, Public Hearing, August 2, 2011): In this case we are replacing what could be possibly maybe a dozen at most, maybe 10 single-family homes with 77 homes. I believe I read 77. Maybe that's wrong, but it's certainly over 70 in the DEIS.

Response: *As an R1-160 development there would be 15 single-family houses. The current proposal, under an RSP-1 Zone, proposes a maximum of 35 duplex units, for a total of 70 homes.*

Comment 19 (Paul Moskowitz, Chair, Yorktown Energy Advisory Committee, Public Hearing, August 2, 2011): We would like to limit the future growth of the town because our schools are being overwhelmed, our roads are being overwhelmed, and our services. The more people you have the more services you require, and that includes road repair and maintenance, our school systems, the highways – I mentioned roads – fire, ambulance, administration, police, of course. The Applicant has said that if they can't make a go of it for senior housing, then out of those 77 units there would be 12 children. I can't believe that.

Response: *The project is proposed to be an age-restricted development that should not have school children. The request under the RSP-1 zone is for 35 duplex units; a total of 70 homes. Using the Rutgers multiplier, this is the standard in the industry for determining persons/children per household, this project, if it were to be developed as market-rate rather than age-restricted, would support 11.9 school age children. (70 x 0.17). If developed as age restricted there should not be any school age children.*

While sudden large increases in population can put a strain on municipal services, the increase of 70 relatively high end homes will generate enough tax revenue for the town to offset any additional needed services, and may provide additional volunteers for the town's emergency response network. The project by itself does not create the need for any new staffing, additional equipment or programs in the Town. As shown in the traffic analysis there will be a minimal impact on the roads, with no traffic mitigation required at the nearby intersections. Dell Avenue will be re-constructed at the developer's expense as a result of the development, which is an added plus to the Town.

Comment 20 (Paul Moskowitz, Chair, Yorktown Energy Advisory Committee, Public Hearing, August 2, 2011): As far as public transportation goes, both of these share a common fault, and that is you have seniors, people over 55. There is no place that you could get to from these two locations without a private car.

Response: *Croton Overlook is being built and marketed as an Active Adult Community, not a senior citizen community. There is no requirement for the RSP-1 Zone to be near public transportation or near a Hamlet. The Applicant believes the use of a private car, for this demographic and age group is the preferred mode transportation, including driving to the many train stations close to the site.*

Comment 21 (Paul Moskowitz, Chair, Yorktown Energy Advisory Committee, Public Hearing, August 2, 2011): The firehouse for Croton Overlook is the one in Yorktown Heights, which is five miles away. Now, that does not say that we might not build another firehouse south of the reservoir. The fire department, Yorktown Heights Fire Department has wanted to do that for years.

Response: *The Yorktown Fire Department is in the process of building a Fire House on the corner of Route 134 and Old Kitchawan Road. This proposed Fire House was in front of the Yorktown Planning Board, for review, as recently as September 12, 2011, and has received its approval from them. Furthermore, the Millwood Fire Department has a Mutual Aid Agreement with the Yorktown Fire Department for any alarms south of the New Croton Reservoir and would respond to an alarm at this Community. This Fire House is 1.2 miles away.*

Comment 22 (Paul Moskowitz, Chair, Yorktown Energy Advisory Committee, Public Hearing, August 2, 2011): And they too will be isolated from the nearest hamlet. The nearest hamlet in that case would be Millwood, which is about two miles away by road.

Response: *The Applicant states there is no requirement of the RSP-1 Zone to be near public transportation or in a Hamlet.*

Comment 23 (John Schroeder, Yorktown Land Trust, Public Hearing, August 2, 2011): We've not been able to review the information, and so we would respectfully request that the hearing be adjourned until such time that's appropriate so that we can sit down, review the information and come back with comments.

Response: *The date for providing written comments was extended until the end of business on August 30th, 2011*

Comment 24 (John Settembrino, Advisory Committee on Open Space, Public Hearing, August 2, 2011): I echo John Schroeder's comments about not having enough time to evaluate this *particular Project*.

Response: *The date for providing written comments was extended until the end of business on August 30th, 2011*

Comment 25 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): I'd like to take the opportunity at this public meeting to read a letter that our Executive Director, Anne Swaim, Executive Director of the Saw Mill River Audubon wrote to express some of our organization's concerns about the Project. In specific, our comments are: We affirm that the Town of Yorktown Conservation Board observations that this is a particularly challenging property for development with steep slopes and wetlands,

Response: *While the Conservation Board did state this, the Conservation Board also indicated the Proposed RSP-1 plan was the best choice of development for the site. The Applicant stresses there will be minimal disturbance to wetlands and steep slopes. This disturbance will only be for the reconditioning of existing trails. No development is proposed on steep slopes or in wetlands.*

Comment 26 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): and that it is also a property rightfully listed as high priority for protection by the Yorktown Advisory Committee on Open Space, which we just heard about.

Response: *The Applicant states that the R1-160 as of right development could potentially impact up to 55 acres and an R1-160 cluster development could impact 35 acres of land and that the proposed Project would impact a maximum of 19 acres.*

Comment 27 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): We do recognize an attempt to cluster development and to protect most of the property as open space.

Response: *The proposed RSP-1 plan is not a Cluster Development, but merely an RSP-1 Community, which the Applicant states meets all the requirements in both the Town Code and the Comprehensive Plan for the RSP-1 Zone.*

Comment 28 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): More explanation is also needed about the long-term protection of the open space given apparent plans to clear-cut portion of that space for gardening and hilltop vistas as described on the Project's Web site.

Response: *The open space will be deed restricted, and there are no plans to clear cut the referenced areas.*

Comment 29 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): We affirm other comments regarding the less than desirable siting of senior housing where there is a lack of public transportation to the nearest shopping area.

Response: *The Applicant believes this is an optimal site for COC's proposed community, and as it is for Active Adults, 55 years of age and older assumes they will drive.*

Comment 30 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): Positive and negative impacts on the hamlet of Millwood should be addressed.

Response: Millwood is 2 miles south of the proposed Croton Overlook Community, The Applicant anticipates positive impacts to Millwood, such as additional revenue to shops, gas stations, and restaurants without any additional traffic concerns as demonstrated in the DEIS Appendix Section U, Traffic Analysis Information.

Comment 31 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): Also should be addressed are bike pedestrian site access given the safety concerns of Routes 100, 134 alongside the nearby North County Trailway.

Response: There are two access points to the bike path near to the site. The first is approximately 450 L.F. directly south of the site. To access this entrance one would exit the property at its southern most point, then past Random Farms Drive, walk down the shoulder of the road for approximately 200 L.F.(the shoulder is 10' wide), and walk up a dirt path and onto the bike path. The second is approximately 600 L.F. down Route 134. To access this entrance one would walk to the southern corner of Dell Avenue and Route 100, cross Route 100 onto the shoulder (again 10 L.F. wide) and walk to Route 134 then walk down Route 134 to the entrance to the bike path. The Applicant expects anyone crossing any roadway to use reasonable caution and therefore anticipates no adverse safety concerns for pedestrians or bicyclists using the bike path due to COC's proposed community.

Comment 32 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): We echo the concerns of other comments that the Town of Yorktown has not fared well with past developer promises on senior housing.

Response: Numerous examples of successful senior/age restricted developments within Yorktown can be cited. Jefferson Village, Wynwood Oaks, Beaver Ridge, Hunterbrook Ridge, The Field Home, Glassbury Court, and the Country House all have been successfully built, sold, taxes paid and all without issue. In fact Beaver Ridge and Wynwood Oaks have long waiting lists, while the Field Home is looking to add 100 independent living units to its development. While one development in Yorktown that did experience some problems is the Capelli/Trump development in Shrub Oak, this property experienced several changes in identity and direction while being developed that distinguish it from either Croton Overlook or other senior housing projects in the Town. The focus from Croton Overlook is clear; it is a market-rate home-sized development in Yorktown, significantly different than the apartment building style utilized in the Capelli/Trump project. It is smaller in scale with amenities more closely aligned with the successful and sold out Glassbury Court. Croton Overlook will be developed as a subdivision not a condominium. Currently taxes on the land are calculated as vacant land. Once all approvals have been received by the Planning Board, and the subdivision map is filed, the property will be taxed as one lot of open space, one

lot for the Waste Water Treatment Facility and fields, and 70 individual building lots. Full taxes on each unit will not be assessed until a Certificate of Occupancy is issued for each home. While there will likely be two or three models built, the developer will not be applying for Building Permits until the homes have been sold, as there will be several designs and locations to choose from.

Comment 33 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): ongoing negative economic conditions call for closer analysis about this Project's long-term economic viability and impacts, including impacts of additional traffic and school populations should the age restrictions fail.

Response: As noted in the DEIS Appendix U on Traffic, the Traffic Assessment performed by Creighton Manning Engineering LLP verified “the proposed age restricted development will generate a low volume of traffic and will not require mitigation to the adjacent roadway network including NY Route 100 and NY Route 134.” It was noted the 70 home development will generate approximately 15 trips during the morning peak hours and 19 trips during the evening peak hours. It is noted in the report that “age restricted developments generate about three to four times less traffic than traditional single family homes, as a percentage of the residents are retired and typically children are not part of these developments.”

For a discussion on the possible number of school children see response to Question 19. To reiterate, no more than 12 students would be anticipated even if the project were to become a market rate development developed in the same manner. The \$800,000 projected to be paid in taxes to the Yorktown Central School District by residents in Croton Overlook would significantly exceed the costs associated with educating those 12 children, were this scenario to come to be.

Comment 34 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): Contrary to the developer's assertions, more and not less in-depth consideration is needed on the question of view-shed impact from this proposal, including the views from opposite shores of the reservoir as well as approaches from Routes 100 and Route 134.

Response: These views and more have been analyzed in the DEIS Appendix under Section E., Visual Impact Assessment. A computer generated model of the view from the bike path (the location of maximum potential view) is also provided. Assessments are made using the NYSDEC Environmental Impact Assessment Addendum for Viewsheds.

Comment 35 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): Anecdotal evidence strongly suggests that this property may be a wildlife corridor in our area

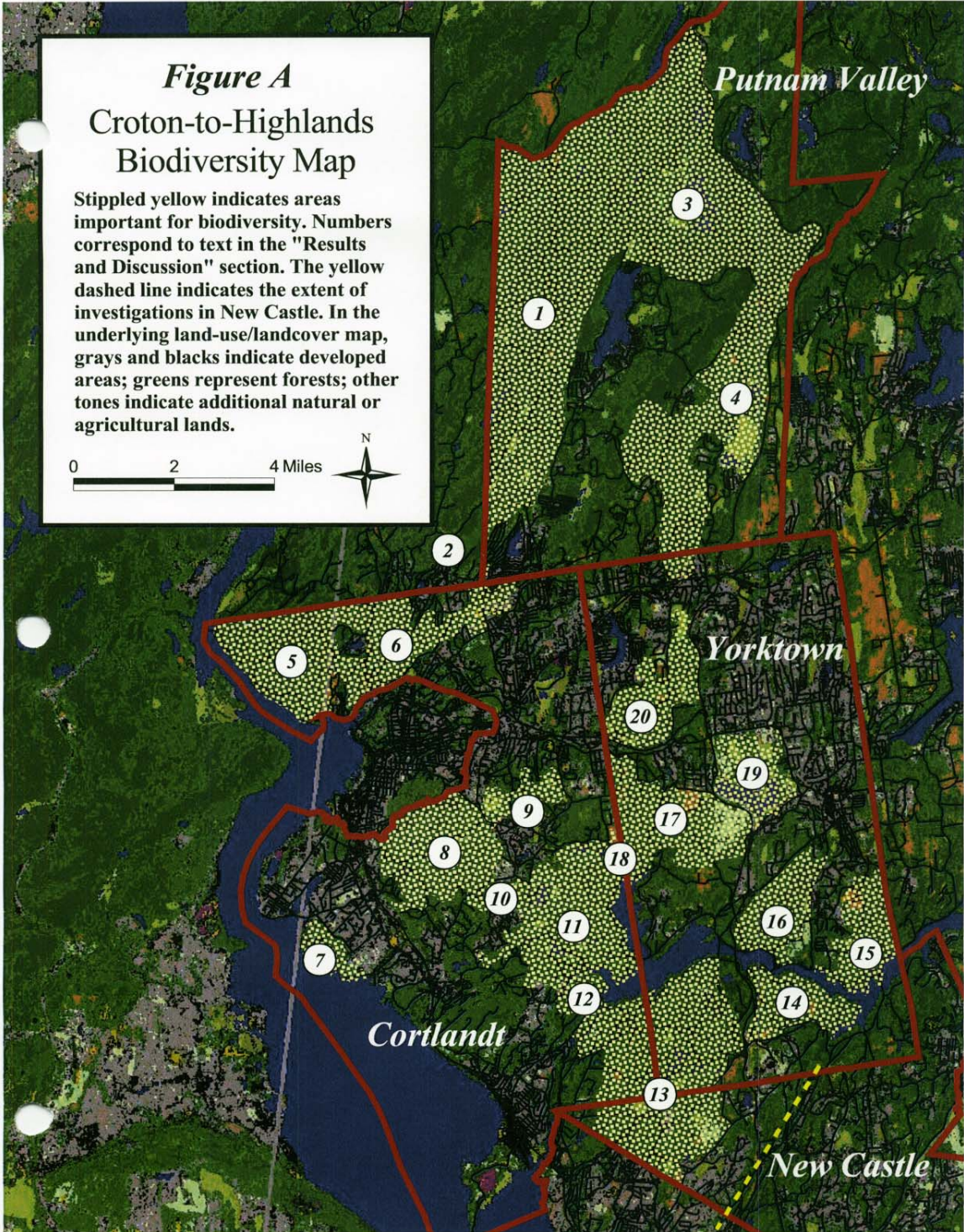
Response: This is addressed in the DEIS Appendix under Section J., Biodiversity Study.

Comment 36 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): It also currently offers an un -- an area of unbroken forest canopy vital for forest interior nesting birds

Comment 37 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): There should be discussion and study of these two wildlife habitat issues, as well as map and discussion of the proposed Projects-- how the proposed Project's habitat loss interacts with the last two decades of habitat loss in the immediate area. A picture over time of habitat loss might help decision-makers consider the cumulative loss of wildlife habitat that has already happened in this area and better evaluate the value of remaining parcels such as this one.

Response: *The site is not included, or considered to be of notable diversity in the Metropolitan Conservation Alliance (MCA) Croton to Highlands Biodiversity Study produced in concert with the Town nor in the Applicant's Biodiversity Study (Appendix J in the DEIS), which created a baseline for habitat and species analysis. MCA map is attached:*

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Comment 38 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): we also urge that there be better documentation of the current low-density conditions of the surrounding area with map and analysis of land use in a one-mile radius.

Response: *This is discussed in the DEIS, Section A., Land Use, Zoning, and Public Policy as well as Section I., Community Growth, and Character. Furthermore the surrounding area along Route 100 leading from the hamlet of Millwood in New Castle to the Project location cannot be construed as low density as there is a mixture of various zoning designations ranging from ¼, ½, and 1 acre residential, as well as multi-family planned residential, and multi-family residence district–Millwood, along with planned industrial, general industrial, retail business, and designed business (see response to comment 95 where a zoning map and key are included).*

Comment 39 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): We are particularly dismayed to see a Project that proposes as new discharge of treated sewerage flow into New York City reservoir drinking water. This seems extraordinarily shortsighted and ill-advised in this day and time.

Response: *The Applicant has never proposed discharging sewerage flow into the New York City drinking water. The Applicant will be providing two levels of wastewater treatment. Wastewater which is processed at the wastewater treatment facility will be treated to intermittent stream discharge standards (drinking water). This treated wastewater will then subsequently discharge to a subsurface system in accordance with the New York City DEP Rules and Regulations. The Applicant believes that with its wastewater treated to such a high standard, and which will be constantly monitored; it is assured its infiltration field will have none of the issues associated with single family septic systems and fields. The Flow Confirmation letter is issued in conjunction with the DEC and states "...we believe you have demonstrated that a disposal system can be constructed consistent with standards and should not contravene groundwater standards." It further states that the Applicant may apply for its SPDES permit from the DEC. The Wastewater Treatment System is covered in detail in the DEIS Appendix under Section O., "Engineers Report and Plans for Wastewater Treatment Plant", P., "Plans and Specifications for Pump Stations", Q., "Flow Confirmation Letter" and R., "Wastewater Emergency Response Plan". Finally, the Final Subdivision Approval Resolution, issued by the Yorktown Planning Board, will contain an express condition that the Subdivision Plat cannot be signed until all Approving Agencies' Permits have been obtained.*

Comment 40 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): We suggest that there is the need to explore the possibility of not receiving New York City DEP waiver for this discharge.

Response: *COC's proposed community does not need a waiver from the NYCDEP or any other State, County, Local Government or Agency. Standard permits will be applied for from many Agencies (as indicated in the list of involved agencies). These*

permits cannot be pursued further, until a Zone Change has been obtained. Lastly, the Final Subdivision Approval Resolution, issued by the Yorktown Planning Board, will contain an express condition that the Subdivision Plat cannot be signed until all Approving Agencies' Permits have been obtained.

Comment 41 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): Address the question of the Town of Yorktown liability in the event of discharge failure and/or business failure of this development Project.

Response: *Discharge failures are addressed in the DEIS Section M, "Utilities, Sewer" and in the Appendix under Section R., "Wastewater Emergency Response Plan". Financial analysis of the community is found throughout the DEIS and a "business failure of this development" is too general a term to be specifically analyzed.*

Comment 42 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): The relative wealth of our reservoir water is an inheritance we cannot risk, certainly not for private gain or even for a town financial gain.

Response: *Comment noted. Please see response to comment 39 above.*

Comment 43 (Bill Kellner, Vice President of Saw Mill River Audubon, Public Hearing, August 2, 2011): To this end, we believe an analysis of the Town of New Castle – of impact from the Town of New Castle immediately across the southern border of this Project needs to be looked at.

Response: *The Applicant states that traffic generated from this development has no adverse impact, and that the Applicant only anticipates benefits to the Hamlet of Millwood, within the Town of New Castle. The Applicant anticipates no adverse impacts to the Town of New Castle.*

Comment 44 (Howard Frank, Yorktown resident, Public Hearing, August 2, 2011): And that should be the number one top item in the DEIS is sewerage and where the placement of this particular sewer system is. The history of multiple-housing with multiple sewer systems is not very good. I would hope you make that a top requirement in this DEIS as far as – even though it is a draft, how many feet it is to the nearest municipal sewer system.

Response: *Comment noted. The Wastewater Treatment System is covered in detail in the DEIS Appendix under Section O., "Engineers Report and Plans for Wastewater Treatment Plant", P., "Plans and Specifications for Pump Stations", Q., "Flow Confirmation Letter" and R., "Wastewater Emergency Response Plan". The Applicant agrees that multiple houses with individual sewer systems are a less preferred way to treat sewage than the method proposed. A septic system is now inspected once every five years while the proposed treatment plant will have daily inspections and discharge tests, and will be constantly monitored. The nearest public sewer line is approximately 3.8 miles away. The Town of New Castle has proposed and designed a*

connection into the Saw Mill River trunk line, which connects Millwood and the surrounding vicinity to a Westchester County Waste Water Treatment Facility. Discussion on this sewer project has been percolating for at least 10 years without permission being granted by the County for the line to be built. Should this sewer line be built the Applicant has expressed interest in the constructing the sewer line extension into the Croton Overlook property in lieu of constructing and operating a wastewater treatment facility onsite.

Comment 45 (Susan Siegel, Town Supervisor, Public Hearing, August 2, 2011): On page 184 of the DEIS you talk about the availability of public water and you say your first option is to tap into the water system in New Castle, and if that doesn't work you would do well water. Could you supply documentation from the Town of New Castle that they will [agree]?

Response: Applicant advises of the following: (1) In March, 2010, it had a pre-application meeting with Yorktown Department Heads; (2) The availability of water from New Castle was confirmed by Yorktown's Water Director; (3) COC's consultant, Louise Doyle contacted Gerry Moerschell, New Castle's Deputy Commissioner of DPW, and confirmed with him that sufficient capacity to supply water for the Project was available. On September 16th, 2011 Mr. Theodore J. Muldoon of COC had verbal communication with Mr. Moerschell and once again confirmed that New Castle has surplus capacity that could be utilized to supply Croton Overlook. The Applicant believes that during subdivision and site plan approval the plan for delivering water will be finalized and a Yorktown Water District will be created and agreement on water will be entered into at that time with New Castle.

The Applicant states that a meeting was held on October 4th, 2011 between Theodore J. Muldoon of COC, and Lawrence Paggi, PE COC project design engineer, and Mr. Moerschell, Deputy Commissioner of New Castle DPW, John C. Migliaccio, also from New Castle, and David Rambo, Water Superintendent Yorktown Consolidated Water District during which it was stated again by Mr. Moerschell that New Castle had capacity to supply the Croton Overlook project. The general requirements for supplying the project were reviewed, including a meter pit and meter, backflow preventer, piping and valving configurations, storage requirements, and an inter-municipality agreement between Yorktown and New Castle. A letter from Mr. Moerschell reiterating same is forthcoming.

Please find below an email from the Yorktown Water Superintendent regarding the aforesaid meeting.

From: [David Rambo](#)
To: [TJ Muldoon](#)
Cc: [Kenny Rundle](#)
Subject: RE:
Date: Tuesday, October 18, 2011 12:42:16 PM

TJ,

As you requested, I am writing to you and acknowledging being present and representing the Yorktown Consolidated Water District at the October 4, 2011 meeting at the Millwood Water Treatment Plant. This meeting was held to discuss the feasibility of the Town of New Castle to provide the Town of Yorktown with drinking water for the Croton Overlook project.

As Gerry Moerschell, Deputy Commissioner of Public Works pointed out, the New Castle Water District has adequate capacity to supply this development, however certain conditions, such as requiring on site water storage and proper metering must be met and agreed upon by both Towns. In addition, this newly created district shall have no adverse impact on their existing system and an intermunicipal agreement must be in place.

I hope this help.

David Rambo
Water Superintendent
Town of Yorktown Consolidated Water District
1080 Spillway Road
Shrub Oak, NY 10588
(914) 245-6111 x 24

Mr. Moerschell's letter is provided below:

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TOWN OF NEW CASTLE
DEPARTMENT OF PUBLIC WORKS

280 Hunts Lane, Chappaqua, New York 10514 • Ph. (914) 238-3968 • Fax (914) 238-6205

Anthony Vaccaro PE., Commissioner
Gerard C. Moerschell, Deputy Commissioner

October 28, 2011

Mr. Theodore J. Muldoon
Croton Overlook Corp.
P.O. Box 1132
Yorkton Heights, New York 10598

Dear Mr. Muldoon:

As discussed at a meeting, October 4, 2011, between you, your engineer, Lawrence Paggi, David Rambo, Town of Yorktown Water Superintendent and John C. Migliaccio, New Castle Supervisor of Water Systems and me, sufficient water supply capacity at the Millwood Water Treatment Plant exists to provide daily average flows of 18,000 gpd to your Croton Overlook project.

Of course, any decision on whether or not to supply water will be made at the discretion of the Town Board then in office, and I cannot make any commitment for the Town or the Board now.

Further if the Town Board decides to supply water a significant number of steps must be completed. These steps include, but are not limited to, the following:

1. The formation of a new municipal water district for Croton Overlook as required by the NYSDEC and NYCDEP.
2. Formation of the new water district must be approved by the Town of New Castle and the Town of Yorktown (known as the Towns).
3. The new district must negotiate an Intermunicipal Agreement with the Towns in a format approved by NYCDEP.
4. Complete engineering plans must be submitted to the Towns for their approval.
5. Supply to the new water district must not have any impact on the water storage capacity of the Town of New Castle; as such, the new district must provide for five days of maximum day use on-site gravity based water storage (ground level tank at a sufficient elevation to meet WCHD pressure standards).
6. All water mains and appurtenances must be installed at no cost, expense, obligation, or burden to the Town of New Castle.
7. A master meter pit must be installed with a SCADA system tied into the Town of New Castle's SCADA system at no cost, expense, obligation, or burden to the Town of New Castle. This meter pit shall meet the approval of the Towns and NYCDEP.
8. All necessary approvals and permits shall be obtained at no cost, expense, obligation, or burden to the Town of New Castle.

If you have any questions in this matter, please contact me at 914-238-3968.

Sincerely,

Gerard C. Moerschell
Deputy Commissioner, DPW

cc: Town Administrator Paderewski
Commissioner Vaccaro
Water Supply to Croton Overlook

Comment 46 (Susan Siegel, Town Supervisor, Public Hearing, August 2, 2011): On page 187, which deals with the operations of the sewerage treatment plant, which goes into more detail of what Mr. Frank said, who will operate the plant, will it be manned 24/7? What will the alarm system be in terms of who reports to who?

Response: *Operation of the Plant will be by an appropriately licensed operator hired by the Public Transportation Company. The plant will be manned as required by the Operational Permit (SPDES) issued by the DEC. Typically this requires site inspections and testing of the plant's process wastewater and discharge to ensure proper operation in accordance with all regulatory agencies. Also required are redundant systems such as pumps and electrical generators, as well as holding capacity for more than one day's flow in case of extreme failure. In addition there is a requirement for an alarm system which will notify the operator should any failure occur. The Operation Permit requires the operator to respond immediately to an alarm, thereby assuring 24 hour a day, 7 days a week monitoring of the operation.*

Comment 47 (Susan Siegel, Town Supervisor, Public Hearing, August 2, 2011): The whole structure of the transportation company: will the directors of the transportation company be the same as the directors of the homeowners association? What if they don't vote to have sufficient funds to do the proper maintenance of the transportation company? What types of protection are there?

Response: *The Applicant advises that the Directors of the Public Transportation Company may or may not serve on the Board of Directors of the Homeowners' Association, as both Boards will be elected by the Croton Overlook Homeowners. Upon completion of construction of the Wastewater Treatment Plant and certification of its proper operation by the County, DEP and DEC, a bond will be posted by the contractor assuring its performance for a period of five years from the certification date in accordance with NYS Transportation Corporations Law Section 119. Furthermore, as units sell the Homeowners are typically required to pay in advance, six months of Homeowner Fees. Included in these fees will be separate fees for the wastewater treatment plant operation, and maintenance, as well as a replacement reserve. The Applicant believes that the governing regulations of the Public Transportation Company as well as the Homeowners' Association will prevent money from being used for any purpose other than it was collected for. In addition insurance for the Boards will protect against deliberate acts of misconduct. Furthermore, the approving Municipality typically requires as a condition of approval that the developer enter into a "Turnover Agreement" whereby the Municipality holds the stock of the Public Transportation Corporation in escrow, if the HOA or Transportation Corporation fail to properly operate and maintain the wastewater treatment plant, the local government has the legal authority and mechanism in place to step in, take over the corporation, and assess the Homeowners for all appropriate costs through the HOA. Any such event would be strictly subject to the provisions of NYS Transportation Corporations Law Section 119.4. This*

stipulation will be incorporated into the Project Community's Master Deed and By-Laws and each homes individual deed.

Comment 48 (Susan Siegel, Town Supervisor, Public Hearing, August 2, 2011): Can you put deed restrictions in that the owner cannot rent to people under 55 or people with children?

Response: *COC will require that 100% of the homes be occupied by at least one person 55 years of age or older and that no children under the age of 18 will reside in the Project Community which complies with exemptions under FHA and HOPA.*

COC will memorialize these requirements in its Master Deed and By-Laws and Homeowners' Association Declaration. There will also be a deed restriction, stating the above, for each property sold.

Comment 49 (Larry Cassidy, Yorktown resident, Public Hearing, August 2, 2011): We've heard a lot of no, no, no tonight from many different people, many who don't live in Yorktown. This is a Project that's going to specifically impact Yorktown. Any development that's taken place over the years has taken place usually in the Northern part of Yorktown. As they mentioned earlier in one of the earlier statements and this evening, this is a gateway to Yorktown Heights. Let this gateway be a beautiful house where people 55 and older, who are not old, I'm sorry, I resemble that remark, but 55 and older transportation becomes less of an issue than when you're talking about senior citizen housing.

But there are a couple different issues. The southern part of Yorktown is so underdeveloped. I think it's about time that the southern part gets a little bit of – a little development so that they can be part of this – this Town of Yorktown that we all love. We can leave it as trees. No, that's the safe way. Be safe. Leave it as a tree, nothing will happen, but what about those people who might love living in Yorktown and this will give them the opportunity to live here in Yorktown as 55 and older and not a burden on the school systems and keep this town vibrant. If we stay still and leave trees in the woods, that what Yorktown's going to be, trees in the woods, and we'll be overtaken by Cortlandt, we're going to be overtaken by Millwood. They're all going to grab on a development like this if they get the opportunity. We have the opportunity to do this. This is private property. You have to be very careful what, I believe, we as Yorktown residents and the board do with private property. This is a great development.

An issue of fires that was brought up earlier, the Millwood Fire Station, less than a mile away, which is already there, there's going to be mutual aid, and I understand that Yorktown has fire department facilities all ready – all permits are ready to go. Fire is not going to be an issue down in that part.

If we stop and say no, if George Washing said no, we can't make it across that river, where would America be today. Let's move Yorktown forward with a development

that will help Yorktown. It will not be a burden to the school system. And over a million dollars a year, I think we can use that in our budget.

Response: *Comments noted.*

Comment 50 (James Martorano, Yorktown Councilman, Public Hearing, August 2, 2011): Number one, of course, the first overall issue is does the proposed zoning advance long-term town objectives. I know you've argued at length that they do. It has been suggested tonight that they don't and that the proposed rezoning does not advance long-term town objectives. That's the first issue, I think for the town board, and assuming they answer that in the affirmative; the second issue is, is there sufficient mitigation for site challenges we've talked about tonight. For me, the specific details involve what's been suggested tonight involving water and sewerage.

Response: *Comments noted. The Applicant believes it has sufficiently demonstrated that the Croton Overlook Community is fully compliant with the Town Zoning Code and the Comprehensive Plan and that this Project will bring much needed diversity to Yorktown's current age oriented housing.*

The Applicant also believes it has been documented that all potential adverse impacts have been mitigated in the DEIS under Section L, "Utilities, Water" and O., "Engineers Report and Plans for Proposed Wastewater Treatment Facility", specifically detailing how water and wastewater are to be handled.

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IV. DEIS COMMENTS AND RESPONSES – WRITTEN COMMENTS

Comment 51 (Daniel Lefkowitz, Yorktown Utilities Oversight Committee letter, August 24, 2011): To avoid the question and potential of bias, Croton Overlook Corporation should have used the services of a fully independent electromagnetic field (EMF) consultant instead of an employee of Croton Overlook Corporation for Croton Overlook Corporation.

Response: *Comment noted. The Applicant believes that all data, methodology, and other information is provided for review, negating the possibility for bias.*

Comment 52 (Daniel Lefkowitz, Yorktown Utilities Oversight Committee letter, August 24, 2011): There was no way to determine if the single-axis EMF meter met the manufacturer's specification since no calibration certificate was included in the report.

Response: *The Applicant advises that no calibration certificate was provided with the EMF meter; it was guaranteed within the provided documentation for the EMF meter that it has been calibrated to NIST standards by the manufacturer.*

Comment 53 (Daniel Lefkowitz, Yorktown Utilities Oversight Committee letter, August 24, 2011): The data collection methodology for a single-axis meter was invalid since readings in all cases of single-axis meter use must be taken with full three-axis orthogonality (no rotating for highest reading).

Response: *The Applicant states, In multiple literature guides, such as "Silencing the Fields" by Edward A. Leeper, MA, a published guide on measuring magnetic fields, as well as the instructions provided by the EMF meter manufacturer, the method described to obtain the most accurate EMF reading involves rotating the meter along different axis to obtain the highest reading. In addition, measuring the highest reading along a given axis serves to add an additional factor of safety as far as health is concerned. It is safest to assess the risk associated with the highest readings observed.*

Comment 54 (Daniel Lefkowitz, Yorktown Utilities Oversight Committee letter, August 24, 2011): The resultant (or FINAL) magnetic field value when using a single-axis meter was not calculated using the root-sum-square method.

Response: *The Applicant states there are two (2) methods commonly used to calculate EMF results. The results were originally calculated using the sum-of-squares method. The results have been recalculated using the root-sum-square method, as presented in the amended version of the Technical Report of Site Investigation for Electromagnetic Transmissions. The new final values are approximately 1.7 times higher than previous values, with the highest value increasing from 13 mG to 22.6 mG. This modest increase does not significantly impact the conclusion and determinations made in the site investigation.*

Comment 55 (Daniel Lefkowitz, Yorktown Utilities Oversight Committee letter, August 24, 2011): Due to variability of conditions and power consumption, a professional site survey should have utilized timed sampling over a multi-day period over various seasons, and during peak electric load times.

Response: *The distance from the transmission lines to the nearest residence is approximately 200' (Lot 26), which is generally considered to be an acceptable distance from the lines, as the EMF declines precipitously after a certain distance. The EMF milligauss reading for the area around Lot 26 of the proposed development were 1.4 mGauss. For comparison purposes the EMF of a fluorescent light bulb at a distance of one meter can be measured at 0.2 to 2.5 mGauss, as presented in the Technical Report of Site Investigation for Electromagnetic Transmissions (Appendix H – DEIS). There are four lots (26, 16, 15 and 70) that are between 200 and 250 feet from the lines, the rest are even farther away.*

To compensate for any possible variance in the power transferred over the lines, the Applicant used the final readings multiplied by a factor of three (3) to compensate for any variance in the EMF.

Comment 56 (Daniel Lefkowitz, Yorktown Utilities Oversight Committee letter, August 24, 2011): The report failed to mention the 30 years of population based health effects studies (epidemiology) that have demonstrated a fairly consistent, yet unproven, association between this type of exposure and an elevated risk of childhood leukemia in exposed populations. The field level at which this association was seen is far lower than the 1,000 milligauss reference point cited in the report.

Response: *As the Croton Overlook Community is an Active Adult Community, homeowners will be 55 and older. The Applicant believes these 2 bedroom units are not conducive to families with children. Any children on the premises of Croton Overlook would most likely be visiting for short periods of time, for periods of time far shorter than 30 years. In addition, there are no scientifically proven or legally recommended exposure levels for EMF.*

Comment 57 (Daniel Lefkowitz, Yorktown Utilities Oversight Committee letter, August 24, 2011): I would like to further note that the question of human safety and exposure to EMF continues to be a controversial area. The National Institute of Environmental Health Sciences (NIEHS) recommends “continued education on practical ways of reducing exposures to EMFs.” And, a recently published study suggests that the children of mothers exposed to high levels of magnetic fields during pregnancy are at increased risk of developing asthma. EMF exposure remains both a controversial issue and one that is the subject of ongoing scientific study.

Response: *Comment noted. Please see response to comment 56 above.*

Comment 58 (Mark Michaels letter, August 3, 2011): I strongly encourage you to hold

a second hearing at Town Hall in September. Such a measure would also afford residents a more reasonable period of time to review and absorb the lengthy DEIS.

Response: *The date for providing written comments was extended until the end of business on August 30th, 2011*

Comment 59 (Mark Michaels letter, August 3, 2011): In the Executive Summary, there are several conflation of avian families and genera: Picoides is a woodpecker genus. The family is Picidae. For raptors, the families are Acciptridae, Cathartidae, and Falconidae. Buteonidae is a genus. It is likely that raptors from at least one other genus are present. The property appears to include suitable habitat for Cooper's and Sharp-shinned Hawks, both of which are species of special concern in New York.

Response: *The Applicant advises that the information presented in the Executive Summary of the DEIS was specifically noted in the manner presented to help imply the types of species encountered, or believed to, inhabit the subject site. In the case of the notation "Picoides spp", that species of the genera Picoides (i.e. the Hairy and Downy Woodpeckers) was encountered. In the case of the notation "Buteo spp.", a species of the genera "Buteo" was encountered (i.e. Hawks and Owls; in this case the Red-tailed Hawk, Buteo jamaicensis).*

Comment 60 (Mark Michaels letter, August 3, 2011): The only listed species mentioned is the eastern box turtle (special concern), but other such species may well be present, at least seasonally. Some habitat is probably suitable for spotted turtles (a species of special concern in New York), and conceivably for wood turtles (also special concern).

Response: *The Spotted Turtle and Wood Turtles are noted for living in moist, open meadows where suitable pond habitat exists for feeding and hibernation. The moist meadow, waterways and on-site ponds are extremely shallow on the Croton Overlook site and thus, are susceptible to deep freezing to an extent where ideal hibernation conditions do not exist making the proposed area not likely to support the Spotted and Wood Turtle habitat needs. Additionally, the Spotted Turtle requires a sandy stream bank environment, which does not exist at the site..*

Comment 61 (Mark Michaels letter, August 3, 2011): The conclusion that all the animal species listed are "highly mobile" is flatly false, at least with regard to the box turtle. Box turtles have specific home ranges and display a high degree of site fidelity, facts that are well-documented in the literature. Habitat disruption in this location is likely to cause turtles to wander onto nearby roads and lead to a significantly higher mortality.

Response: *The indication that animal species are "highly mobile" was presented with respect to birds and mammals. The Applicant notes the Biodiversity Analysis (Appendix J) in the DEIS indicates that "The greatest potential impacts exist with regard*

to less mobile species such as reptiles and amphibians. Populations of these species could experience a decrease in population size due to direct mortality from construction activities. Therefore, development of the property could result in a reduction of some existing wildlife populations." The Applicant has agreed to take measures to minimize the disruption to reptile and amphibian habitat during construction as noted in the Biodiversity Analysis Recommendations. The actual loss to species should be minimal as the majority of the property will be left as undeveloped open space which will allow the species to re-populate nearby.

Comment 62 (Mark Michaels letter, August 3, 2011): Regarding the connectivity with the corridor that exists to the west: it is true that Route 100, in particular, is quite disruptive and deadly to reptiles and amphibians, as well as birds and mammals. Nevertheless, there's still some connectivity, not only because these are two lane roads that animals frequently cross but also because of the streams that flow into the Croton Reservoir. The DEIS seems to overemphasize the disruption and also to overlook the fact that power line rights of way provide both corridors and nesting sites for a variety of turtle species.

Response: *The DEIS indicates in Appendix J, "Biodiversity Study", that a greenway corridor connection exists between the Project site and the Kitchawan Preserve, to the extent that avian and larger mammals have the greatest chance of traveling between each area, while species of reptiles and amphibians would have less chance of traveling between each area. The utility right-of-way will remain intact after the development so any nesting sites that might exist should not be impacted.*

Comment 63 (Mark Michaels letter, August 3, 2011): While the sponsors are proposing an array of green components for this Project, the viability of the entire enterprise seems highly questionable in the current economy and would likely be so even if the housing market were more favorable, particularly since the location of the development is far from many amenities. If the proposed development were to fail, a successor Project would likely be far less green and would likely impose a considerably greater burden on local services. This is a problem the town has faced in the past, and in my opinion, this risk far outweighs any potential benefit the Project might bring to the town.

Response: *Comment Noted.*

Comment 64 (Mark Michaels letter, August 3, 2011): On a personal note, I drive Route 100 regularly, as do many in South Yorktown. As I leave Millwood and approach the Reservoir, not only do I feel that I am returning home, I'm acutely aware of the transition from being in a heavily developed area to a more bucolic and pristine setting. This proposed Project is located at the gateway to our town, and as I see it, the DEIS understates the potential negative impact on visual resources that the construction of a multi-unit development would have at the gateway to Yorktown. It

would damage my quality of life if this important visual resource were spoiled.

Response: *Comment Noted. The Applicant believes, the proposed Croton Overlook Community will not be readily visible from Route 100. See DEIS section E (visual impact assessment).*

Comment 65 (Jennie Sunshine letter, August 3, 2011): I am against the Project for many reasons, but the chief reason being that it is redundant. We already have numerous senior housing choices in our area. In fact, a beautiful new housing development has almost been completed immediately adjacent to Stop & Shop in Baldwin Place. In addition, the Trump facility, I understand, is still ½ empty. Furthermore, Jefferson Village always has space and any Yorktown homes of all sizes and shapes are for sale at this time. I believe creating yet another building Project at this delicate time is not appropriate or needed.

Response: *Comments noted. Please refer to the response to comment #32.*

Comment 66 (Steve Katz, Assemblyman 99th District letter, August 2, 2011): I am writing in support of the Croton Overlook Community Project. As you are aware, the development of the Croton Overlook Community is not expected to result in significant adverse environmental impacts which cannot be avoided. This Project will create much needed jobs for our neighbors and tax revenue for the town of Yorktown. I urge you to respond favorably to the findings contained in the DEIS to undertake this important Project.

The Croton Overlook Project plays a fundamentally important role in creating affordable housing for seniors who are the anchor of our community here in Westchester. Affordable housing for our seniors is critically important for Yorktown and Westchester County as a whole. Moreover, this Project will make Yorktown a more desirable place to live.

As the DEIS notes this Project incorporates a variety of environmentally sensitive design and maintenance practices to offset any identified short or long term adverse impacts, and significant unavoidable adverse impacts, which would result from the development.

Yorktown has always been a leader in providing appropriate affordable housing for seniors and I urge you to reaffirm the town's strong commitment by looking favorably upon this request.

Response: *Comments noted.*

Comment 67 (Patricia Podolak, Chair, Utilities Oversight Committee letter, August 2, 2011): Please be advised that the Utilities Oversight Committee (UOC) has never received a response to UOC comments dated March 4, 2011 that were submitted regarding "Technical Report of Site Investigation for Electromagnetic Transmissions"

by Croton Overlook Corporation dated September 14, 2010. Copy attached. The UOC analysis recommended that:

“... this study be redone using a fully independent EMF consultant and that the deficiencies noted above be corrected. Such a study should be conducted for an extended period of time, over various seasons, and during peak electrical load times.”

I am submitting this communication because I will be unable to attend the August 2, 2011 Town Board meeting. I will be attending a wake at that time. It appears that the UOC member who conducted the analysis may also have a schedule conflict. However, once the Town of Yorktown receives the written response to the March 4, 2011 UOC analysis and forwards it to the UOC, the UOC will review the response in a timely manner.

***Response:** The March 4, 2011 Utilities Oversight Committee letter, referenced above, was received during the scoping process and its pertinent comments were incorporated into the Scope and therefore have been incorporated into the DEIS.*

Comment 68 (Patricia Podolak, Chair, Utilities Oversight Committee letter, August 2, 2011): Due to unfortunate circumstances, members from the Utilities Oversight Committee will be unable to attend tonight’s Town Board Meeting. Please enter into the record at tonight’s (August 2, 2011) Town Board Meeting regarding the Croton Overlook DEIS that the Utilities Oversight Committee did not receive a copy of the response to Committee analysis dated March 4, 2011, and the Committee has not had ample time to review the response in question. Accordingly the Utilities Oversight Committee is requesting that the Public Hearing on the Croton Overlook DEIS not be closed at this time.

***Response:** The written comment period was extended until August 30th, 2011.*

Comment 69 (Sharon Robinson, Acting Town Engineer letter, August 31, 2011): Stormwater Pollution Prevention Plan: Page 3: Section 1.0, #2: Indicate that in addition to the NOI a MS4 Acceptance Form must be obtained.

***Response:** Comment noted and added to corrections page.*

Comment 70 (Sharon Robinson, Acting Town Engineer letter, August 31, 2011): Indicate access to the construction site must be provided to the Town of Yorktown.

***Response:** Access to the Construction site will be provided to applicable Yorktown officials, employees or their designated representatives.*

Comment 71 (Sharon Robinson, Acting Town Engineer letter, August 31, 2011): A Notice of Completion from NYCDEP has not been included. The Town of Yorktown will commence detailed review of the SWPPP in accordance with the Town of Yorktown Town Code upon submittal of this document by the Applicant

Response: *Comment noted.*

Comment 72 (Sharon Robinson, Acting Town Engineer letter, August 31, 2011): The Town of Yorktown will commence a detailed review of the proposed sanitary sewer infrastructure and treatment in accordance with the Town of Yorktown's existing regulations upon complete submittal of the plans and specifications.

Response: *Comment noted.*

Comment 73 (Olivia and Ronald Buehl letter, August 30, 2011): We totally agree with the points made in the letter from the Saw Mill Audubon Society. The possibility of a sewage system failure above the New York City water supply should be reason enough to not approve this Project.

Response: *The proposed system is designed with secondary backup systems and constant monitoring equipment. It is subject to extensive regulatory review and approval. The flow confirmation letter is issued in conjunction with the DEC and states "...we believe you have demonstrated that a disposal system can be constructed consistent with standards and should not contravene groundwater standards." The letter indicates that the Applicant may apply for its SPDES permit from the NYSDEC.*

Comment 74 (Olivia and Ronald Buehl letter, August 30, 2011): There is no public transportation. The site is far from the fire and emergency medical services. There is no pedestrian-accessible shopping. Resident would be completely reliant on using cars, and would be more apt to spend their money in Millwood than Yorktown.

Response: *This is a site for 55 and older Active Adults, who are generally quite mobile but seek a community environment that is more tranquil than a mixed neighborhood filled with young families. There was bus service, which the County eliminated due to the lack of ridership. Depending on future ridership, bus service could be reintroduced; however there is no requirement for public transportation.*

The Yorktown Volunteer Ambulance Corps is currently tasked with responding to ambulance calls at this location. The corps has full time paramedics supported by a local taxing district and volunteers who provide basic life support. YVAC is supported by donations and through insurance billing for its services. The Corps also has mutual aid agreements with the towns of New Castle, and Ossining, and conducts ongoing training and drills for its volunteers to assure its response is second to none.

Irrespective of where anyone spends their consumer dollars it helps all communities in Westchester, especially as the sales tax dollars are shared among all the communities.

Comment 75 (Olivia and Ronald Buehl letter, August 30, 2011): These homes are relatively large and will likely cost more than \$500,000 each. Why would people pay top dollar for a home with a view of power lines? As the failure of the Trump senior housing Project on Route 6 has shown, if units don't sell to their intended market, the developer may try to reduce the age limit. This would mean who knows how many

children could live there, costing the town more in schooling costs than is realized in real estate taxes.

Response: *The Applicant believes it is a viable location for the proposed development, as it is a scenic, beautiful location with proximity to major roads, shopping and leisure activities.*

Using the Rutgers's multipliers, Page 5, Table 2-1, a Single-Family Detached 5 BR home selling for \$554,500 to \$1,386,500 has a School-Age Children multiplier of 1.64. Consequently, 15 units, multiplied by 1.64, is equal to 24.6 new school-age children. As such, the development built under R1-160 as-of-right zoning would result in 24.6 additional school-age children to the Town of Yorktown.

If the Project is developed under the proposed RSP-1 zoning, the homes will be Single-Family, 2 BR, selling for more than \$346,500. The total School-Age Children multiplier associated with this type of home is 0.17. Consequently, 70 units, multiplied by 0.17, is equal to 11.9 additional school age children. If all of the units were to sell as market rate despite the proposed RSP-1 zoning, there would be approximately 11.9 additional school age children, as opposed to the 24.6 additional school age children which would result from building the Project as-of-right.

In addition, Croton Overlook will be developed as a subdivision, paying full property taxes, as is the case with any single family residence in Yorktown. The Trump Park Residences units are taxed as Condominiums, generating less than half the taxes.

Comment 76 (Planning Department letter, August 30, 2011): Page 6 - There are instances in which the existing zoning designation of the property is listed as R-160, rather than the correct designation of R1-160. Please correct throughout the document.

Response: *Comment noted and added to corrections page.*

Comment 77 (Planning Department letter, August 30, 2011): Page 11 - View from North County Trailway, 1st paragraph: Provide correct run (origin and terminus) of North County Trailway.

Response: *In Westchester County the combined North and South County Trailways run from the southern border of the County to the northern border of the County.*

Comment 78 (Planning Department letter, August 30, 2011): Pages 12 & 13 - Flora and Fauna: 5th paragraph: 1) Please provide greater detail regarding mitigation of what habitat is lost and how that loss specifically will be mitigated. 2) The document indicates here that the open space will be preserved through a conservation easement but in other areas indicates it will be preserved through deed restriction. Please correct inconsistencies and provide additional details of how the open space will be

preserved. 3) Please indicate if the property contains any NYSDEC natural communities of significance.

Response: *The removal of vegetation within the 19 acre limit of disturbance will involve the cutting of a portion of the Hardwood Forest habitat area identified in the DEIS Appendices under Section J, "Biodiversity Study". Portions of this habitat situated inside the limits of the development will remain. Areas outside the LOD will remain in its natural state. The Applicant indicates that during construction, Croton Overlook Corporation will make every effort to preserve as much vegetation as practical within the limits of disturbance, which in turn will serve to shade portions of the Project Community, as well as reduce the level of fragmentation potential to the greatest extent possible. Mitigation of this loss will include structured plantings throughout the proposed development as part of a project specific landscape plan.*

In addition, initial construction activities performed within the 19 acre disturbance area will be performed between October and May of a given year to minimize wildlife impacts. Once completed, home site, road, utility and storm water control components of the development will be constructed throughout the year. As such, the least amount of major construction activities will be performed when wildlife would be most prevalent within this habitat area to thereby minimize wildlife impacts.

The proposed open space area will be protected under deed restrictions, maintained by the Homeowners' Association; this area will be owned and maintained by the Homeowners' Association. COC is currently considering whether or not the concept of developing a conservation easement to protect the open space area is feasible.

Based on information maintained by the NYSDEC Environmental Resource Mapper, the presence of "natural communities of significance" is depicted; however, communities of significance was confirmed by the NYSDEC to not exist for the project site in correspondence received from the NYSDEC on September 30, 2010, shown below.

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NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Division of Fish, Wildlife & Marine Resources
New York Natural Heritage Program
625 Broadway, 5th Floor, Albany, New York 12233-4757
Phone: (518) 402-8935 • **Fax:** (518) 402-8925
Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

September 30, 2010

Connor J. McBride
Croton Overlook Corporation
PO Box 1132
Yorktown Heights, NY 10598

Dear Mr. McBride:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to an Environmental Assessment of the proposed Age Oriented Community, 43.98 -Acre Parcel, site as indicated on the map you provided, located in the Town of Yorktown, Westchester County.

We have no records of rare or state-listed animals or plants, significant natural communities or other significant habitats, on or in the immediate vicinity of your site.

The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities and other significant habitats maintained in the Natural Heritage Data bases. Your project may require additional review or permits; for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, as listed at www.dec.ny.gov/about/39381.html.

Sincerely,
Tara Salerno
Tara Salerno, Information Services
New York Natural Heritage Program

Enc.
cc: Reg. 3

1029

Comment 79 (Planning Department letter, August 30, 2011): Page 13 - The text indicates that the removal of Dell Avenue will allow for the creation of passive recreation. This is not evident on any of the accompanying plans, and it appears as though Dell Avenue will largely be the location for the landscaped berm. Please clarify.

Response: *The Applicant is requesting parts of the existing Dell Avenue to be de-mapped within the zone change resolution. These portions are primarily used for screening and buffering of the Project. Other possible uses include stormwater filter and infiltration area. Furthermore a new road built to town specifications will be dedicated to the town.*

Comment 80 (Planning Department letter, August 30, 2011): Page 13 - Wildlife Resources: Second paragraph: Please provide summary of NYS Natural Heritage and US Fish and Wildlife reports regarding presence/absence of endangered, threatened and species of special concern. Please also summarize presence of absence of a significant wildlife corridor and any potential impacts and mitigation.

Response: *The Applicant confirms that during 2010, its representatives contacted the New York State Natural Heritage Program to request an indication as to whether or not any threatened, endangered or species of special concern exist for the Project site and immediately surrounding areas. As part of the Endangered Species Act, the Program incorporates federally determined threatened, endangered species. Based on correspondence received from Program representatives (see letter above) no Federal or State threatened, endangered or species of special concern exist for the Project site. Despite this indication, species of special concern were identified within portions of the Project site under the Biodiversity Assessment; no threatened or endangered species were identified under the Biodiversity Assessment. This was confirmed by comparing each species encountered and expected to inhabit the various habitat areas identified at the Project site to both State and Federal listings, including State listed species of special concern. The project is not located within an area identified as biodiverse in the MCA biodiversity study, which is also supported by the project biodiversity study.*

As noted within the Biodiversity Assessment Report and the DEIS, habitat fragmentation potentials will occur within the Hardwood Forest habitat area with the removal of vegetation within the 19 acre limit of disturbance. As noted above, the removal of vegetation within the 19 acre limit of disturbance will affect a portion of the Hardwood Forest habitat area identified under the Biodiversity Assessment. Portions of this habitat situated outside the limits of the Project Community will remain. During construction, COC will make every effort to preserve as much vegetation as practical within the limits of disturbance, which in turn will serve to shade portions of the development, as well as reduce the level of fragmentation potential to the greatest extent practical. Mitigation of this loss will include structured indigenous plantings throughout portions of the proposed development as part of a Project specific Landscape

Plan. This plan will also detail the limits of the deed restricted open space. The Applicant advises that this Plan is currently being developed in consideration of comments received throughout the SEQRA process and will be finalized by way of the Site Plan Approval process.

Comment 81 (Planning Department letter, August 30, 2011): Page 15 - Wetlands and Surface Water Resources: First paragraph: Please include in the summary all regulatory agencies (NYSDEC, AACOE, NYCDEP-watercourses, T/O Yorktown).

Response: *A list of regulatory agency approvals can be found in the DEIS on Page 51.*

Comment 82 (Planning Department letter, August 30, 2011): Page 16, first full paragraph: Please clearly indicate if the 1,100 SF wetland in the Con Ed ROW is to be directly impacted or if only the buffer of this wetland will be impacted.

Response: *The Applicant states that the minor wetland area in the Con Edison right of way will not be impacted. The buffer for this right of way will be impacted in that the asphalt road surface will be removed and replaced with a planted area thus mitigating the impact of nearby development*

Comment 83 (Planning Department letter, August 30, 2011): Page 16 - Cultural Resources: First Sentence: Indicates the Project “required” OPRHP review. As the study is complete, it is more clear of the work “required” is used.

Response: *Please find below a copy of the NYS Office of Parks, Recreation and Historical Preservation (OPRHP) “all clear” letter.*

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**New York State Office of Parks,
Recreation and Historic Preservation**

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

May 02, 2011

Cece Saunders
Historical Perspectives, Inc.
P.O. Box 3037
Westport, Connecticut 06880-9998

Re: NYS Department of Environmental Conservation, SEQRA
Croton Overlook 3-5554-00296/00002: Yorktown/ YORKTOWN, Westchester County
10PR06814.003

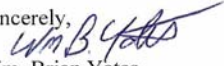
Dear Ms. Saunders:

Thank you for requesting the comments of the Office of the State Historic Preservation Officer (SHPO). We have reviewed the submitted report *Phase I Archaeological Study: Croton Overlook, Town of Yorktown, Westchester County, New York* completed by Historical Perspectives, Inc. and received by our office April 4, 2011. We have reviewed the project in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the Field Services Bureau and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (6 NYCRR Part 617).

Results of the survey indicate that a total of 134 shovel tests were excavated with the project impact area. Neither precontact or early historical features were identified during the field investigation nor where any isolated precontact artifacts recovered. No evidence of a former nineteenth century occupation at the site was identified. A structure, present on the property during the twentieth century, did previously burn. Modern debris and the foundation associated with this structure were identified, but determined not to be significant historic properties.

It is the opinion of Historical Perspectives, Inc. that no further archaeological testing is warranted for this project. Based on the information provided in this report, our office recommends that there will be *No Impact* to any historic resources listed or eligible for listing in the State or National Registers of Historic Places.

Should you have any questions, please feel free to contact me directly at (518) 237-8643, Extension 3288 or via electronic mail at Brian.Yates@oprhp.state.ny.us. If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Wm. Brian Yates
Historic Preservation Specialist

Comment 84 (Planning Department letter, August 30, 2011): Page 19 - The text claims that the North County Trailway is adjacent to the property and that the Hamlet of Millwood is a “short walk” away. Please indicate actual distances.

Response: *The North County Trailway is 432 linear feet to the south of the property with an entrance for it being 320 linear feet away. The Hamlet of Millwood is 2 miles south of the Project site walking down the North County Trailway, which is the former Putnam Railroad bed.*

Comment 85 (Planning Department letter, August 30, 2011): Page 20 - The term “Market Rate” appears to be used to describe non-age restricted housing. Isn’t it correct that the proposed units will be although age restricted, sold at prevailing real estate price points and be subject to market forces? This term appears though out the document, please clarify.

Response: *The term market rate is used in the DEIS to describe non age restricted units sold at prevailing market rates. The Applicants Project is age restricted but still being sold at market rates. Like all real estate, Croton Overlook will be subject to real estate market forces. Tables 5-3 and 5-4, on pages 5-17 and 5-18, of the Yorktown Comprehensive Plan show detailed population, by age group, for both Yorktown and Westchester County. Based on the aging baby boomers, the percentage of active adults looking to purchase is on the rise and will continue. These increases will benefit Croton Overlook during the marketing and sale of the development.*

Comment 86 (Planning Department letter, August 30, 2011): Page 21 - The Battle of Pines Bridge took place in 1781, not 1788.

Response: *Comment noted added to corrections page.*

Comment 87 (Planning Department letter, August 30, 2011): Page 21 - The text states that the Project will include a relocation of Dell Avenue. Please describe more fully the parameters and impacts of such relocation including real estate transfers with the Town to effect such relocation.

Response: *The Applicant is applying to the Town to have portions of Dell Avenue relocated during, and, in conjunction with, the zone change process and resolution. In total, about 1,500 linear feet of roadway would be re-routed. The Applicant will work with the Town Attorney with respect to any real estate transfers required. As Dell Avenue is currently a public roadway, the Applicant intends to build the altered section to Town standards and offer the altered roadway for dedication to the Town.*

Comment 88 (Planning Department letter, August 30, 2011): Page 21 - Discuss the safety of the intersections in terms of the Project LOS for each intersection to be utilized by the Project.

Response: *Level of service analysis is provided in detail in the DEIS in section U. and Applicant states it found no anticipated significant adverse impacts to intersection Level of Service (LOS) from the proposed development.*

Comment 89 (Planning Department letter, August 30, 2011): **Page 23 - Stormwater Management: Second paragraph: Please briefly indicate how phosphorous loading will be addressed.**

Response: *The proposed stormwater management system has been designed to conform to the guidelines established in the New York State Stormwater Management Design Manual, August 2010, and the guidelines established in the NYSDEC publication "Rules and Regulations for the Protection from Contamination, Degradation and Pollution of The New York City Water Supply and Its Sources", effective May 1, 1997, as Amended April 4, 2010.*

Furthermore, the proposed Stormwater Management Practices (SMP's) have been designed based on sizing criteria to meet pollutant removal goals for enhanced phosphorus removal. The water Quality Volume (WQ_v) for enhanced phosphorus removal is designed to capture the estimated runoff resulting from the 1-year, 24-hour design storm over the post-development watershed. An environmental design is proposed that will incorporate green infrastructure practices (Rain Gardens), and the site's contributing impervious area has been reduced where possible. By reducing imperviousness and providing hydraulic disconnection of impervious area the runoff volumes will be reduced due to maximizing evaporation and infiltration. Channel protection volume (Cp_v) for enhanced phosphorus removal is accomplished by providing 24-hour extended detention of the 1-year, 24-hour storm event. This was accomplished by ensuring that the time difference between the center of mass of the inflow hydrograph (entering the SMP) and the center of mass of the outflow hydrograph (leaving the SMP) is a minimum of 24 hours.

The NYCDEP imposes additional water quality treatment requirements, including the construction of two types of stormwater management practices in series, which has been proposed at the north end of the project site. The first practice is identified as a Sand Filter (F-1), and the second is identified as a Micropool Extended Detention Pond (P-1) in the New York State Stormwater Design Manual.

An Infiltration Basin (I-2) will be located at the southwest corner of the site near the new proposed entrance to the development. An Infiltration Basin is characterized as one of the most effective methods of managing stormwater runoff quality and does not require an additional practice in series according to NYCDEP regulations. This practice will provide both water quality treatment and quantity control.

Comment 90 (Planning Department letter, August 30, 2011): **Page 47 - Proposed Development: First sentence-Please indicate that COC is seeking Town Board approval for a zoning map change.**

Response: *Comment noted and added to our corrections page.*

Comment 91 (Planning Department letter, August 30, 2011): Page 48, First Paragraph: Please provide additional details of the Homeowners' Association. Indicate whether the Applicant intends to provide deed restrictions for individual units concerning age-restrictions.

Response: *The Homeowners' Association will have covenants within its charter to assure no one living in the homes, whether as an owner or a tenant, is under the age of 55. Furthermore restrictions will be placed on each property's deed to this effect.*

Comment 92 (Planning Department letter, August 30, 2011): Page 49 - The text states that there "is no cluster zoning applicable to the R1-160 zoning". Please clarify and correct.

Response: *Comment noted and added to corrections page.*

Comment 93 (Planning Department letter, August 30, 2011): Page 52 - The title of Para IV (A) should be consistent with the Table of Contents as "Land Use, Zoning and Public Policy"

Response: *Comment noted and added to corrections page.*

Comment 94 (Planning Department letter, August 30, 2011): Pages 53, 57 & 63 - Please indicate the zoning designations and allowable densities of the Random Farms development and the area's leading to and in the hamlet of Millwood in the Town of New Castle.

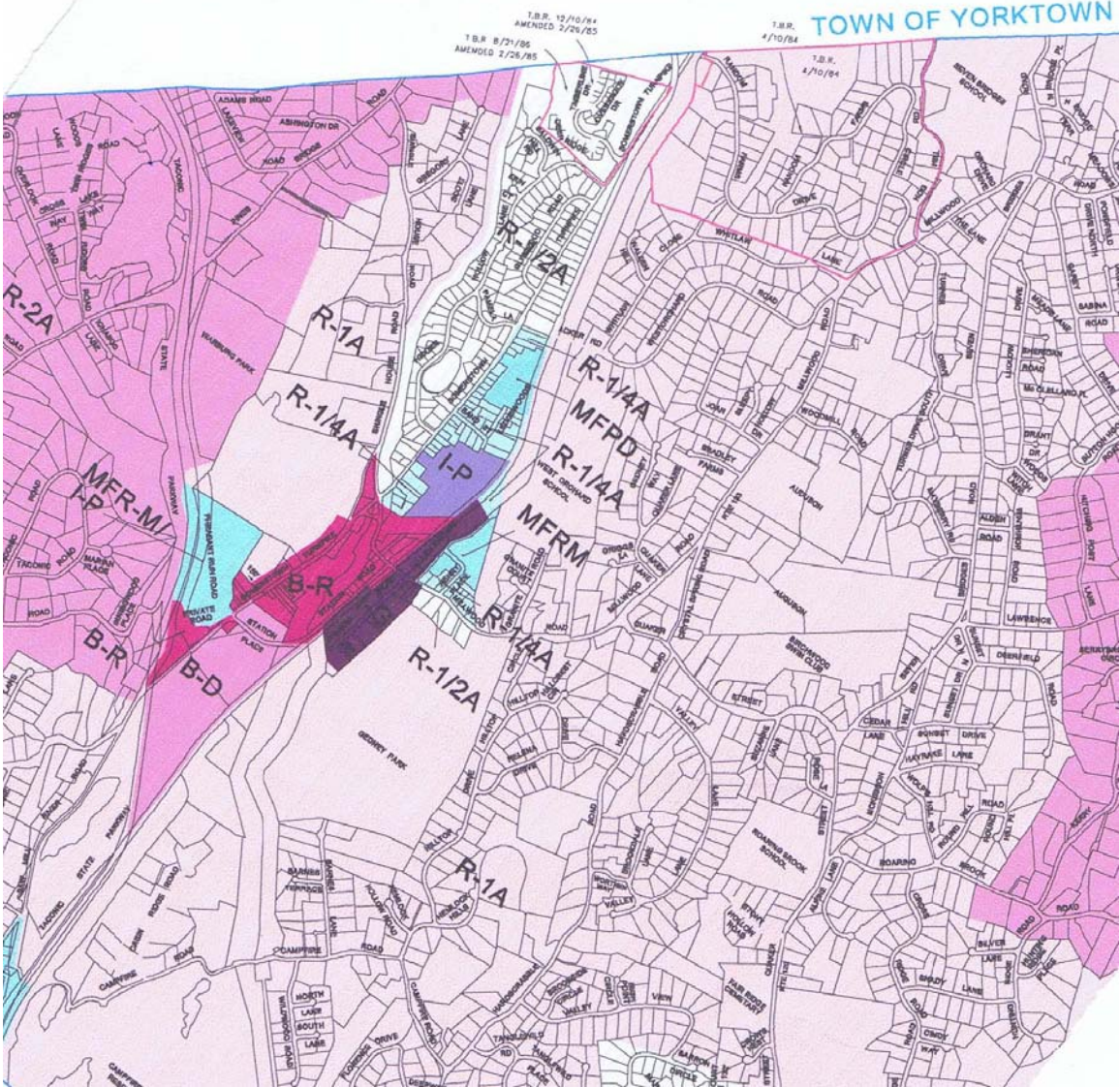
Response: *The area along route 100 leading from the hamlet of Millwood in New Castle to the Project location is a mixture of various zoning designations ranging from ¼, ½, and 1 acre residential (Random Farms the adjacent property in New Castle is 1 acre residential), as well as multifamily planned residential, and multifamily residence district - Millwood along with planned industrial, general industrial, retail business, and designed business (see zoning map below). The area supports a mix of industrial, business, retail, and residential uses. A relevant section of the New Castle zoning map and table of classifications follow.*

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ZONING

| | | | |
|---------------|---|-----------------|---------------------------------------|
| R-2A | TWO ACRE RESIDENCE | B-RO-150 | RESEARCH & OFFICE BUSINESS, 150 AC. |
| R-1A | ONE ACRE RESIDENCE | B-RO-20 | RESEARCH & OFFICE BUSINESS, 20 AC. |
| R-1/2A | ONE HALF ACRE RESIDENCE | B-RO-4 | RESEARCH & OFFICE BUSINESS, 4 AC. |
| R-1/4A | 11,250 SQ. FT. RESIDENCE | B-PO | PROFESSIONAL & OFFICE BUSINESS |
| MFPD | MULTI-FAMILY PLANNED DEVELOPMENT DISTRICT | B-D | DESIGNED BUSINESSES |
| MFR-M | MULTI-FAMILY RESIDENCE DISTRICT- MILLWOOD HAMLET | B-R | RETAIL BUSINESS |
| MFR-C | MULTI-FAMILY RESIDENCE DISTRICT- CHAPPAQUA HAMLET | B-RP | RETAIL BUSINESS & PARKING |
| | | I-P | PLANNED INDUSTRIAL |
| | | I-G | GENERAL INDUSTRIAL |
| | | — | ZONING BOUNDARY |
| | | — | OPEN DEVELOPMENT AREA (SECTION 280-a) |

E



Comment 95 (Planning Department letter, August 30, 2011): Page 66 - The text describes the Project as being low density, 1.15 units/acre as compliant with Goal 2-A of the Comprehensive Plan. This designation, however, refers to the Westchester County "Patterns" document. Please describe compliance in terms of the Yorktown Comprehensive Plan's policies and goals in particular Policy 5-1 and fully describe any mitigation measures cited in the document where such land use may not be in strict compliance with such policies and goals. Discuss the impact of this Project upon the Comprehensive Plan and the potential need to modify it accordingly.

Response: *The Applicant states that the existing text is accurate in describing the site's low density in compliance with Goal 2-A of the Comprehensive Plan. Goal 2-A of the Yorktown Comprehensive Plan reads "Provide for low-density development and preserve open space throughout Yorktown's residential neighborhoods, as discussed in Chapter 5, in a manner consistent with community character." As such, The Applicant believes that the Project's low density complies not only with the Westchester County "Patterns" document, but also the Goal 2-A from the Yorktown Comprehensive Plan.*

Additionally, Future Housing Development Policy 5-1 from the Yorktown Comprehensive Plan reads, "Upzone contiguous, generally undeveloped larger-lot areas and/or open space areas throughout Yorktown, thereby reducing the potential future residential build out and also protecting sensitive ecological resources and open space." The Applicant states that the Croton Overlook development would both reduce future residential build out and protect sensitive ecological resources and open spaces through its 45 acres of deed restricted open space.

The Applicant reasserts its position that the Croton Overlook Community is aligned with the goals and policies set forth in the Yorktown Comprehensive Plan.

Comment 96 (Planning Department letter, August 30, 2011): Page 71 - change the instances of "exert" to "Excerpt."

Response: *Comment noted and added to corrections page.*

Comment 97 (Planning Department letter, August 30, 2011): Page 78 - Correct "Homeowner's Associates" to "Homeowners' Association."

Response: *Comment noted and added to corrections page.*

Comment 98 (Planning Department letter, August 30, 2011): Page 79 - Second paragraph: Please indicate Glassbury Court is located in the Town of Yorktown.

Response: *Comment noted and added to corrections page.*

Comment 99 (Planning Department letter, August 30, 2011): Page 104 - Wildlife Resources: Last paragraph: Provide greater detail regarding the loss of 16.9 acres and habitat fragmentation. What species (t/e/special concern and development sensitive

species) will be impacted. Will species be extirpated? Does this area serve as critical habitat for any portion of these species life cycle? Please provide greater detail how the proposed landscape plan and the indicated planting of 12 acres of vegetation will provide mitigation for the lost hardwood forest habitat (also see page 105).

Response: *The area was not one identified in the MCA Croton to Highlands Biodiversity Study, or the Applicant's Biodiversity Assessment, as having high biodiversity. The removal of vegetation, surface grading and overall construction within the 19 acre limit of disturbance area will result in the removal of a portion of the Hardwood Forest habitat area identified under the Biodiversity Assessment. This area was determined to be least diverse, compared to other more diverse areas of the site, as existing vegetation does not contain the type and structure of vegetation species observed in other areas of the site. This habitat does currently provide seasonal food source and shelter for wildlife identified to exist and potentially exist within this habitat area. Observed species of special concern, the Eastern Box Turtle and some development-sensitive avian species observed within the limits of the nearby Con Edison right-of-way (Indigo Bunting, Blue-winged Warbler and Prairie Warbler) may potentially be impacted under the Project; however, these species likely occupy this habitat area for food and temporary shelter. Development-associated species (Species-Generalists), were observed within this habitat community (Croton-to-Hudson Biodiversity Plan, Balancing Development and the Environment in the Hudson River Estuary Catchment); MCA Technical Series Paper Series No. 7, 2004). Given that other more diverse areas of the site exist, species extirpation is not expected to occur as these areas are more favored for habitation. Further, this habitat is not expected to be critical to the life cycle of species since other more diverse portions of the site are equally, or more favored for food, shelter, breeding and hibernation. The strategic removal of vegetation within this habitat area and the implementation of a Landscape Plan will serve to compensate the loss of Hardwood Forest habitat to the fullest extent practicable. The Applicant advises that this Plan is currently being developed in consideration of comments received throughout the SEQRA process and will be finalized by way of the Site Plan Approval process.*

Comment 100 (Planning Department letter, August 30, 2011): Page 104 - Proposed mitigation: NYSDEC requires soil and stabilization with 7 days not 2 weeks.

Response: *Comment noted and added to corrections page.*

Comment 101 (Planning Department letter, August 30, 2011): Page 105 - Top of page: Please indicate what chemicals are to be applied. Provide information on IPM which not only includes pest management but also fertilizer and chemical applications.

Response: *All applications will be by a licensed NYS Pesticide Applicator. All applications will be in accordance with the manufacturer's recommendations and generally acceptable industry practices and in accordance with an Integrated Pesticide Management Plan (IPM) submitted by the applicator and accepted by the Homeowners' Association. This is a more responsible way to develop the site than should 15 Homes*

between 6,500 and 8,500 square feet be built on 4 acres each totaling 60 acres of disturbance. Individual homeowners are less likely to be familiar with best practices regarding fertilizer and pesticide application, which may lead to improper practices

Comment 102 (Planning Department letter, August 30, 2011): Page 106 - Wildlife Resources: Second paragraph: Discuss the role of the Con Ed ROW as a wildlife corridor and indicate if this function will be changed due to development.

***Response:** Some observations were made of this area relative to its proximity to that of the site and the types of vegetation and wildlife species observed. Typically, the landscape of right-of-way areas changes periodically in response to power line improvements and maintenance activities. As such, these areas are inhabited by various grass and shrub vegetation favored by species best adapted to such changes and are regarded as separate habitats which typically provide a “break” between adjoining more diversely vegetated areas. During the Biodiversity Assessment, the Prairie and Blue Winged Warblers were identified as inhabiting this area. Also, some bird species including the Red Tailed Hawk were observed to hunt within this area. Based on these observations and the vegetation characteristics of the area, the right-of-way does play a role in providing habitat, as well as for some species represents a connection between the more diverse vegetated areas within the Project site and that of the Kitchawan Preserve, located northwest of the site. Based on these observations, the functions within this separate habitat, including its habitat connection characteristics, are not expected to be diminished or impacted by the proposed development.*

Comment 103 (Planning Department letter, August 30, 2011): Page 108, #4 - Please indicate how many protected trees will be removed and provide details of mitigation.

***Response:** The tree survey located in the DEIS appendices’ “N” (tree Survey) indicates 856 trees are present in the area of disturbance. The Applicant assumes they will protect approximately 25% of these trees during construction. This leaves 642 trees to be removed. The Applicant is required by town code to place two trees on each lot which is 144 trees, the community garden will have approximately 200 trees installed leaving 298 to be installed at the planted berm as well as landscape planting through the site. The tree ordinance states that mitigation must be performed if more than 30% of a site is disturbed. The Applicant states that as it is only disturbing 29.4% it is not required to mitigate, nevertheless it is proposing to mitigate 1:1 tree mitigation.*

Comment 104 (Planning Department letter, August 30, 2011): Page 120 - The indicated limits of disturbance on the map are not clear. Provide entire site boundary to clearly define area of the site to be developed and area of site to be protected (not developed).

***Response:** The site plan (C-1) has been attached to the FEIS and the limit of disturbance line placed on it.*

Comment 105 (Planning Department letter, August 30, 2011): Page 134 - First paragraph: Indicate the duration of blasting, rock chipping and crushing. What are noise and dust impacts? Are any adjacent sites supplied by well water?

Response: *A detailed discussion of blasting, rock chipping and crushing is provided in the DEIS in DEIS section G (Noise, Air, and Construction Impacts) Many adjacent sites are supplied by well water. Due to the distance from the proposed areas of blasting the Applicant will conduct seismic monitoring during blasting. The Applicant states there will be no adverse impacts to the adjacent wells. As outlined in the DEIS Appendix Section I, "Blasting Mitigation Plan", all appropriate means and methods will be conducted to prevent any contravention of ground and well waters.*

Comment 106 (Planning Department letter, August 30, 2011): Page 137 - First paragraph: Indicate if ACOE request for a jurisdictional determination is required. Please indicate that s the property is in the NYCDEP watershed, only ACOE individual permits may be obtained (not nationwide). Please provide documentation that NYSDEC Article 15 and Article 24 permits are not required.

Response: *The Applicant will obtain a Federal Jurisdictional Determination and necessary US Army Corps of Engineers (USACE) as part of the permitting process. At this time, the Applicant expects that minimal disturbance of Federal Jurisdictional Wetlands will occur as part of constructing pedestrian walkway improvements to existing trails within the open space area. Please find below the NYSDEC letter stating an Article 15 permit is only needed if the Applicant disturb Cornell Brook (which it states it is not) and an Article 24 permit is not required at all.*

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New York State Department of Environmental Conservation
Division of Environmental Permits, Region 3
21 South Putt Corners Road, New Paltz, New York 12561-1620
Phone: (845) 256-3054 FAX: (845) 255-4659
Website: www.dec.ny.gov



August 12, 2010

Alice Roker, Clerk
Town of Yorktown Town Board
363 Underhill Avenue, P.O. Box 703
Yorktown Heights, NY 10598

TOWN CLERK'S OFFICE

AUG 16 2010

TOWN OF YORKTOWN NY

RE: **Response on Intent to be Lead Agency**
Project: Croton Overlook
DEC Tracking # 3-5554-00296/00002
Town of Yorktown, Westchester County

Dear Ms. Roker:

We have reviewed the Notice of Intent to be Lead Agency pursuant to the State Environmental Quality Review (SEQR) of the above referenced project which our office received on July 16, 2010.

Department Jurisdiction

Based upon our review of the circulated documents, it appears that the project may require the Department permits that are indicated below by a checked box:

- Article 15, Protection of Waters:** See enclosed map. Any disturbance to the Class B(ts) stream, Cornell Brook, will require a permit. Any unmapped streams with year-round flow which drain into this Class B(ts) stream are also protected and disturbance will require a permit. This may include any improvements to the existing path and bridge shown on the plans.
- Article 24, Freshwater Wetlands:** NYS freshwater wetland O-33, Class 1 is located across Saw Mill Road (NYS Route 100) from the project and DEC staff have determined that wetlands along the stream corridor of Cornell Brook are **not** eligible for inclusion under state jurisdiction. And it does not appear that the 100-foot adjacent area extends across the road onto this property.
- State Pollutant Discharge Elimination System (SPDES), Sanitary:** A permit for the subsurface discharge of greater than 1,000 gallons per day requires a SPDES permit. As the proposed discharge will likely be greater than 10,000 gallons per day, this will be a major project under Uniform Procedures and a minimum 30-day comment period will be required.
- Compliance with the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activities (GP-0-10-001):** For proposed disturbance of 5000 square feet or more of land within the NYC DEP Watershed. This site is within an MS4 area (Municipal Separate Storm Sewer System), so the SWPPP must be reviewed and accepted by the municipality and the MS-4 Acceptance Form must be submitted to the Department. Authorization for coverage under the SPDES General Permit is not granted until the Department issues any other necessary DEC permits.
- Other:** Section 401 of U.S. Public Law 95-217, and 33 USC 1341 of 1977, 1984, Water Quality Certification for projects requiring a federal permit. Issuance of this federal certification has been delegated to DEC in New York State. If any wetlands under jurisdiction of the Army Corp of

Page 1 of 2

RE: Response on Intent to be Lead Agency
Project: Croton Overlook
DEC Tracking # 3-5554-00296/00002
Town of Yorktown, Westchester County

Engineers are to be disturbed and a permit is required from the Corp, then a Water Quality Certification will be required from DEC.

By copy of this letter, we are advising project representatives of the potential need for these permits. It is possible that the New York State Department of Environmental Conservation permit requirements noted above may change based upon additional information received or as project modifications occur.

Additional Comments

In addition to the permit requirements noted above, the resources that are indicated below by a checked box should be evaluated during the review of this project under SEQR:

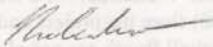
Cultural Resources: This site is in an area determined by New York State to have potential for archeological resources. A resources assessment and review by the New York State Office of Parks, Recreation and Historic Preservation is required. potential visual impacts on the Taconic Parkway must also be considered as this is a site on the National Registry of Historic Places.

Other: The Town of Yorktown must apply for a Water Supply permit for creation of a water district and taking of water from the NYCDEP as a third-party.

In addition to transmitting the above comments, this letter also serves to confirm that we have no objection to your board/agency assuming lead agency status for this project.

Questions pertaining to the Department's jurisdiction or related matters should be directed to the undersigned analyst assigned to the project. Please refer to the DEC project number identified above in all correspondence to the Department. Thank you.

Sincerely,


Rebecca Crist
Environmental Analyst
Division of Environmental Permits
(845) 256-3014

Enclosures as Indicated

Cc: Kim Calandriello, Croton Overlook Corporation
Town of New Castle Town Board
NYCDEP – Bureau of Water Supply, Valhalla

Comment 107 (Planning Department letter, August 30, 2011): Page 137 - Second paragraph: Indicate status of NYCDEP permit application.

Response: *The DEP is an involved agency under this SEQRA process and as such is reviewing this project pursuant to all requisite regulations.*

Comment 108 (Planning Department letter, August 30, 2011): Page 144 - Top of page: Summarize loss of buffer (square feet) and also function. Indicate how proposed mitigation will replicate change/lost function. Include all impacts including proposed recreational/trail facilities within wetland/wetland buffer.

Response: *There is a small, roughly 1,100 SF, wetland in the Con Edison Power Lines utility easement adjacent to the existing Dell Avenue. When the existing Dell Avenue is removed, this activity will be within the wetland buffer. The result of this action, however, is to replace existing asphalt with plantings and an earthen berm. The Applicant believes these improvements will prove less adversely impactful to the nearby wetlands and will be applying for a permit to the Planning Board during the site plan approval process.*

Additionally, the relocated Dell Avenue entrance at the North end of the site will have a minimal impact on the small (approximate 2,700 SF) wetland's buffer when the road is widened to meet Town specifications. The Applicant believes this loss of buffer will be mitigated by the creation of new wetlands within the extended detention micropool shown on the drawings.

Finally any trail improvements will be done on existing trails. The extent of minor widening if necessary will be reviewed as part of the permitting process with the Planning Board.

Comment 109 (Planning Department letter, August 30, 2011): Page 145 - First paragraph: Indicate that phosphorous containing fertilizer use will be in compliance with Westchester County regulations.

Response: *All phosphorous containing fertilizers will be applied in accordance with all applicable regulations, including Westchester County.*

Comment 110 (Planning Department letter, August 30, 2011): Page 147 - Last paragraph: Please clearly indicate if there was a potential archeo-sensitive site on the subject property.

Response: *The Applicant states there are no archeo-sensitive sites on the property. Please see the "all clear" letter issued by OPRHP and attached to the response to comment number 83.*

Comment 111 (Planning Department letter, August 30, 2011): Page 153 - Third paragraph: Please reference report in appendix.

Response: *Comment noted and added to corrections page.*

Comment 112 (Planning Department letter, August 30, 2011): Page 160 - Recreational Facilities-Please note that the Yorktown Parks and Recreation Department is not a division of the Department of Environmental Services.

Response: *Comment noted and added to corrections page.*

Comment 113 (Planning Department letter, August 30, 2011): Page 179 - Please indicate that this plan does not show the proposed wetland stormwater elements reflective of the water budget analysis.

Response: *This is correct. A separate plan has been prepared and submitted along with the water budget to assure the same volume of water goes to the wetland post –development as pre-development.*

Comment 114 (Planning Department letter, August 30, 2011): Page 181 - Please provide summary of pre and post construction pollutant (including phosphorous) loading with required WQv. Provide a table of pre and post construction water budget analysis.

Response: *The stormwater management system was designed with pollutant loading as a consideration. The Applicant recognizes adequate treatment must be provided and verification could be produced with more analysis, but believes this is not required at this time as the system must be designed to NYS Storm Water Design Manual requirements which require phosphorous treatment. The pre and post construction water budget analysis is found in Appendix V.*

Comment 115 (Planning Department letter, August 30, 2011): Page 186 - First paragraph: Provide detail of potential hydrological impacts to the wetlands if stormwater wetlands are used for irrigation purposes. Has this been considered in the water budget?

Response: *The Applicant indicates stormwater reuse for irrigation will only be employed where practical, and will not have any hydrological impacts to the wetlands. Irrigation requirements will not depend solely on stormwater reuse.*

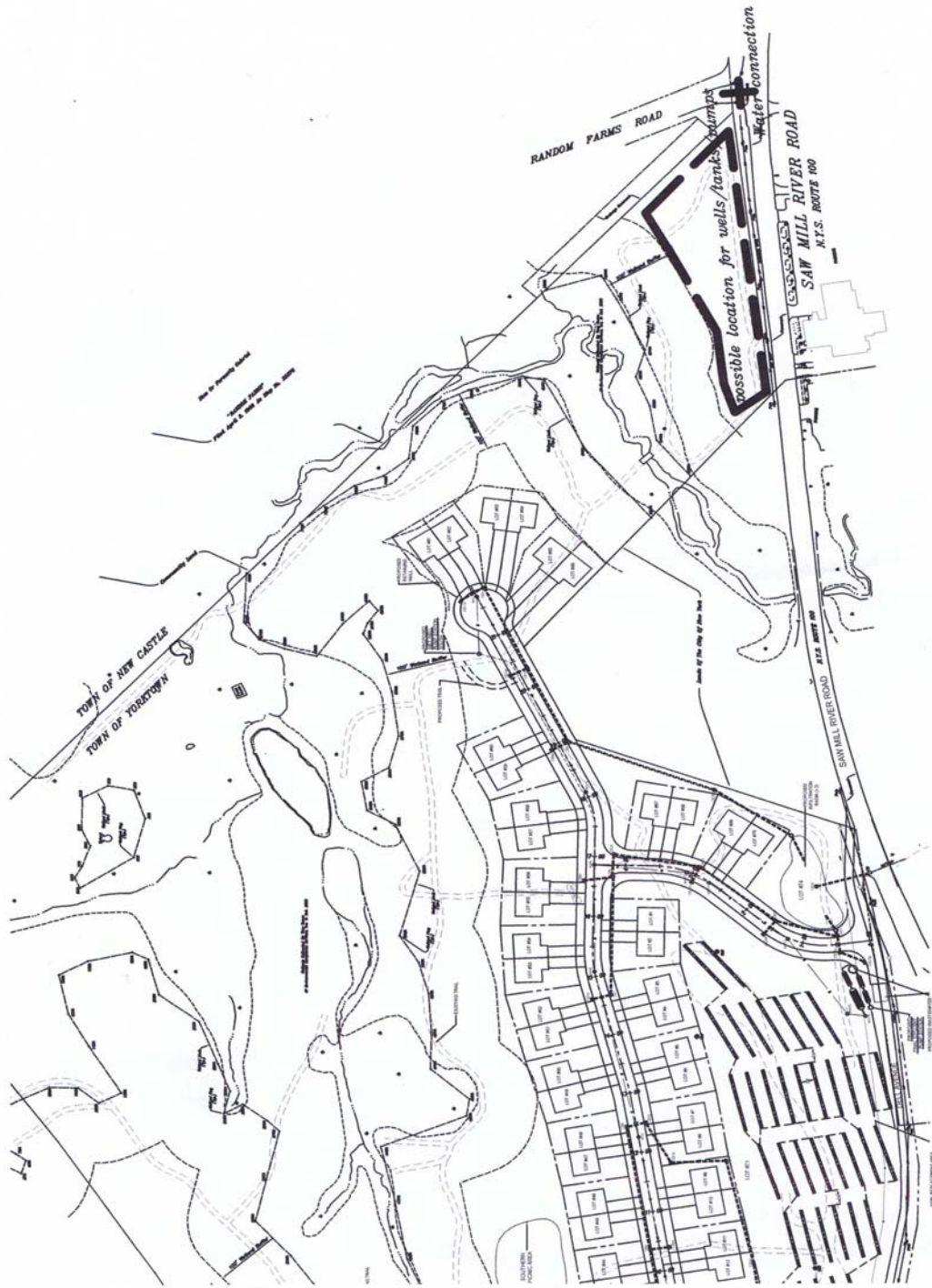
Comment 116 (Planning Department letter, August 30, 2011): Page 186 - Proposed Mitigation-First paragraph: Provide a plan indicating where potential wells would be located. Provide a location map which indicates location of water supply piping at New Castle border.

Response: *See below, insert map after Comment 117.*

Comment 117 (Planning Department letter, August 30, 2011): Page 209 - Potential Impacts-Second paragraph: Please clarify "...with increase decrease from the EMF source."

Response: *This is a typographical error and has been noted. The sentence should read "... with increased distance from the EMF source".*

[Balance of page intentionally left blank]



Comment 118 (Planning Department letter, August 30, 2011): Page 222 - Last paragraph: Please also discuss the use of IPM with applied fertilizer and chemicals (e.g. lawns, shrubs and trees).

Response: All applications will be by a licensed NYS person. All applications will be in accordance with the manufacturer's recommendations and generally acceptable industry practices and in accordance with an IPM submitted by the applicator and accepted by the Homeowners' Association.

Comment 119 (Planning Department letter, August 30, 2011): Page 226 - On-site Geology: Please provide description of the on-site geology. How does the geology impact proposed blasting and geothermal unit installation?

Response: Onsite geology is described in detail in the DEIS section 5, Groundwater and geology, as well as in DEIS appendices section "I" Site plans/test pit plan.

The geology of the area is classified as Fordham Gneiss, Biotite according to the Westchester County Environmental Planning Atlas, Map 2, August 1977 and the Yorktown Environmental Data Base Maps, Geology map, 1987.

Generally present in rolling to hilly uplands, this rock formation weathers to a clayey or sandy residual soil. Water is found in the weathered zone near the surface, with maximum yields at the major fault zones. A major fault is indicated along the eastern edge of the property. Permeability is via secondary fractures, with the median depth to wells found at 157 feet, with an average well yield of 11 gallons per minute. This should provide adequate accommodation for the geothermal systems, and be able to sustain any related drilling or blasting with minimal impact on the surrounding area. The Applicant will do a pre-blast survey prior to any onsite activity, and will comply with any blasting permit requirements

Comment 120 (Planning Department letter, August 30, 2011): Page 227 - Proposed Geothermal: Please indicate what feasibility studies have been conducted to ensure this type of system may be installed on the site.

Response: Geothermal wells have been constructed throughout Westchester with success in various locations, including at least one near the proposed site. While there is no analysis per se that has been conducted a contractor who works in the field estimated that one well could service each duplex unit and indicated that the surrounding area could support the piping infrastructure.

1. Appendix D: Wetland Delineation:

Comment 121 (Planning Department letter, August 30, 2011): Attached letter from NYSDEC dated 8/12/10 indicates Article 15 and Article 24 permits may be required.

***Response:** Please refer to response to comment 107.*

Comment 122 (Planning Department letter, August 30, 2011): Section 2.1: Please provide correspondence from NYSDEC regarding status. Indicate status of ACOE and/or NYCDEP permits as required.

***Response:** See Response to Comment 106. Both the federal and state regulatory agencies will not begin their permitting review of the project until it is in the site plan review phase by the Town.*

Comment 123 (Planning Department letter, August 30, 2011): Section 5.0: Please quantify wetland and wetland buffer impacts (size in sq.ft. and functional impacts) and indicate mitigation to offset change/loss of function. Include potential disturbances for recreational facilities within the proposed open space area. Discuss water budget analysis as it relates to post-construction hydrology to the wetlands.

***Response:** There is a small, roughly 1,100 SF, wetland in the Con Edison Power Lines utility easement adjacent to the existing Dell Avenue. When the existing Dell Avenue is removed, this activity will be within the wetland buffer. The resultant of this action, however, is to replace existing asphalt with plantings and an earthen berm. The Applicant believes these improvements will prove less adversely impactful to the nearby wetlands.*

Additionally, the relocated Dell Avenue entrance at the North end of the site will have a minimal impact on the small (approximate 2,700 SF) wetland's buffer when the road is widened to meet Town Specifications. The Applicant states this loss of buffer will be mitigated by the creation of new wetlands within the extended detention micropool shown on the drawings.

Any trail improvements will be done on existing trails. The extent of minor widening if necessary will be reviewed with the conservation board before any work proceeds.

Finally the Applicant states drainage has been designed to assure there will be no change in the surface water hydrology.

1: Appendix J: Biodiversity Study:

Comment 124 (Planning Department letter, August 30, 2011): Cover page: correct the spelling of firm that prepared the document. Please indicate this is a draft report or partial submittal (see section 4.0).

Response: *The preparer's name is corrected on the cover page and has been added to correction page. The report as submitted is a Final Report.*

Comment 125 (Planning Department letter, August 30, 2011): Section 4.0: Please indicate when pending documents will be submitted.

Response: *As the report is final the Applicant states it knows of no outstanding documents.*

2: Appendix L Integrated Pest Management

Comment 126 (Planning Department letter, August 30, 2011): Please provide additional detail regarding how IPM will be utilized in the use of fertilizers and chemicals within the proposed development area to reduce impacts.

Response: *All applications will be by a licensed NYS applicator. All applications will be in accordance with the manufacturer's recommendations and generally acceptable industry practices and in accordance with IPM Program which is intended to reduce the use of chemicals and fertilizers, submitted by the applicator and accepted by the Homeowners' Association. This Integrated pesticide management plan will assure the proper use of chemicals so as to minimize any potential adverse impacts from their use.*

3: Appendix M: Phase 1 Environmental Report

Comment 127 (Planning Department letter, August 30, 2011): The report is improperly paginated.

Response: *Comment noted.*

Comment 128 (Planning Department letter, August 30, 2011): 4: Appendix Maps: 5-1 Map: Shading is unclear.

Response: *Comment noted.*

5: Appendix U: Water Budget Study:

Comment 129 (Planning Department letter, August 30, 2011): Study design should indicate analysis is to confirm no change in surface water hydrology (not stormwater volume) flow to the wetlands.

Response: *This is in fact the case; the report was for surface water hydrology.*

Comment 130 (Planning Department letter, August 30, 2011): Additional detail is required including: 1) soil test results (deep and percolation) in the area of the proposed biofilters, 2) cross section details. 3) Design calculations including pipe sizing, under drains, inlet, outlet and energy dissipation 4) structure details, 5)

planting details 6) description of required maintenance, the responsible party and how the basins will be maintained (including access).

Response: *The Applicant believes the report as submitted is sufficient to demonstrate there will be no change in the surface water hydrology.*

Comment 131 (Planning Department letter, August 30, 2011): Provide summary and conclusions regarding post-construction hydrological changes to the wetlands.

Response: *A summary/conclusion on this issue was presented in the DEIS under Section E, Wetland and Surface Water Resources; essentially, storm water collection basins constructed with filtered infiltration beds are proposed to be located and operated along eastern portions of the proposed limits of the development. Storm water generated by the development will be routed and treated within these basins to ensure that wetland hydrology is maintained. The Applicant believes based on the calculations and the basin design properties provided in the DEIS, Section E, Wetland and Surface Water Resources, the location, construction and sizing of these basins were designed to assure there would be no changes in wetland hydrology from the Project.*

Comment 132 (Planning Department letter, August 30, 2011): Study/plan should be incorporated into the SWPP Plan.

Response: *Comment is not clear.*

Comment 133 (Planning Department letter, August 30, 2011): Please note that the traffic study is mixed in with the water budget study. Provide a separate tab for the traffic study.

Response: *Comment noted.*

Comment 134 (Planning Board letter, September 6, 2011): Discussion of this impact in Book 1 references an Appendix D for deeper analysis. However, none of the materials in Book 2 are identified as Appendix D. Thus, we are unable to fully review this section of the DEIS

Response: *Comment noted.*

Comment 135 (Planning Board letter, September 6, 2011): However, one assumption made in the DEIS is sufficient to scrap its conclusions regarding the proposed Project's surface water – as well as other environmental-impacts. The DEIS avoids any assessment of the toxic materials to be used in maintaining lawns and plantings, claiming (in Appendix M) the homeowners association will retain a qualified integrated pest management firm and “it will not be necessary to use any pesticide that will harm the environment in anyway.” Interestingly, they cite no mechanisms requiring the homeowners to adopt IPM. Do they envision deed restrictions to ensure all condo owners are required to abide by and adopt an IPM?

Response: *The Homeowners' Association's Master Deed and By-Laws will require that the firm hired to perform lawn care and site maintenance be licensed to apply the required chemicals, and to provide the Homeowners' Association with an Integrated Pest Management Plan (IPM) that the Homeowners' Association approves, with the consent of the Town's Environmental Inspector. The Applicant notes this requirement can be incorporated as a part of the approving resolution by Yorktown's Planning Board. Furthermore the By-Laws will require homeowners to follow this plan also. All applications will be by a licensed NYS pesticide applicator. All applications will be in accordance with the manufacturer's recommendations and generally acceptable industry practices and in accordance with an Integrated Pesticide Management Plan (IPM) intended to reduce the use of chemicals and fertilizers, submitted by the applicator and accepted by the Homeowners' Association. The Applicant believes this is a more responsible way to develop the site than should homes between 6,500 and 8,500 square feet be built on 4 acres each totaling 60 acres of disturbance. This disturbance comes with all the associated lawn care chemicals with no procedures in place for controlling the application of these chemicals in any way. As the products on the market change over time, the Applicant suggests that the goal be agreed upon which is one of least toxic, non-phosphorous, and most biodegradable products and services should be used on this site both during construction and development as well as in the later years of maintenance.*

Comment 136 (Planning Board letter, September 6, 2011): **It is more reasonable to assume the association, like other condominiums in Northern Westchester, will outsource lawn and garden maintenance to a company like Scenic Landscaping, which will opt for the most cost-effective – not the most environmental friendly approach. What the DEIS lacks in an inventory of actual lawn chemical use by landscape companies (similar to what was presented in the DEIS for the Trump properties some years ago) and an analysis of the impact of these herbicides, fungicides and pesticides on the air, surface water, groundwater, and wildlife surrounding this site.**

Response: *The Integrated Pest Management Plan (IPM) intended to reduce the use of chemicals and fertilizers will manage and regulate the use of pesticides and fertilizers more efficiently than single homeowners who care for their properties without the benefit of such a tool. IPMs use a protocol that has been developed in coordination the Cornell Cooperative Extension, or other such reputable agencies. If outsourced any company would be required to follow an IPM and submit a list of products and procedures, which would be available for review.*

Please refer to the Applicants answer to the previous question. As stated in the DEIS Appendix section L, (Preliminary Integrated pesticide management plan) a properly implemented IPM will have no adverse impacts to the environment it would then fall upon the homeowners association to take whatever action was necessary from discharging the offending company to reporting a homeowner who habitually failed to comply with the IPM to the appropriate authorities. It is the Applicant's intent to express that the lot requirements and layout of the single family detached homes associated

with R1-160 alternative will cover more land area with more associated impacts to wetlands, buffers and slopes and because of these items make the alternatives unfeasible due to the large portion of the lots being unusable thereby encouraging people to expand illegally into the wetlands and buffers. These alternates will also cause the town to not realize the economic benefits from taxes (including school taxes).

These items also make it less environmentally responsible than the proposed RSP-1 zoning. Further more if one notes that the R1-160 plan has approximately 55 acres of disturbance and the R1-160 Cluster alternative has approximately 34.5 acres of disturbance with single family residences having no requirement to act environmentally friendly. The Applicant's proposal with its limited effected area of approximately 19 acres with its multiple layers of site protection for open space, wastewater treatment, and chemical use is certainly a more responsible development. Furthermore, Septic systems for individual homes and have a limited life expectancy and are subject to clogging and mal-function often due to homeowner ignorance of best practices. Due to site topography this would undoubtedly cause an adverse impact to the surface hydrology of the wetlands. In addition, the Applicant proposes to place a conservation easement to protect the wetlands and related buffers and other open spaces. A Homeowner's Association will be in place to ensure no encroachments are made to this set aside. "Property creep" has been known to happen when single family homes abut preserved lands as the homeowner expands his or her usable space. This is less likely to occur in an area with communal ownership.

Geothermal Heating & Cooling (Book1, p. 226)

Comment 137 (Planning Board letter, September 6, 2011): The DEIS's discussion of geothermal heating and cooling is insufficient and unrealistic. For example, it fails to identify or asses the "fluid transfer medium" to be used in this process. In addition, it appears to assume the possibility of the system ever failing or otherwise leaking this "medium" into the groundwater is zero.

Response: *The fluid referred to is a non toxic anti freeze safe for consumption, and available in any auto supply store as boat and r/v water tank anti freeze. Should a leak in the system occur the Applicant states there would be no negative effects to the groundwater. Each system will have an alarm to detect leaks.*

Water Treatment (Book 3)

Comment 138 (Planning Board letter, September 6, 2011): The **Membrane Bioreactor Engineering Report** indicates the proposed wastewater treatment process will remove carbon, phosphorous, and nitrogen from the Project's sewage, but other pollutants will require "post-treatment." However, the DEIS's lacks both an engineering report on these post-treatment options and an analysis of the environmental impacts of "other pollutants" remaining in the waste stream without post-treatment. the

makeup of the Project waste stream is especially important as the hydrogeology sections of the DEIS (see below) fail to establish whether and to what degree the nearby Croton Reservoir will be protected from these pollutants.

Response: *The Engineering Report includes a section called "Basics of MBR Technology". This section of the report provides a general overview of membrane bioreactor systems. The review comment refers to the last paragraph of this section which mentions nanofiltration and reverse osmosis. The Applicant states these are extremely high level treatment processes which are not applicable to the Croton Overlook Project. For example, nanofiltration and reverse osmosis are used in desalination applications converting seawater to potable water. Nanofiltration and reverse osmosis might also be used in an industrial wastewater treatment application where the treated effluent would be used in a highly sensitive manufacturing process. The Applicant indicates that nanofiltration and reverse osmosis are not required by the regulatory agencies, for this project. The Applicant directs your attention to the specific section of the engineering report which concludes the system will meet all regulatory standards. Finally the Applicant would like to point out that the flow confirmation letter is issued by the county Health Department in conjunction with the DEC and states "...we believe you have demonstrated that a disposal system can be constructed consistent with standards and should not contravene groundwater standards." It indicates that the Applicant may apply for its SPDES permit from the DEC.*

Groundwater Modeling Report (Book 3, Appendix X)

Comment 139 (Planning Board letter, September 6, 2011): The **Groundwater Modeling Report** included in the DEIS claims to employ a modeling procedure used widely at chemical production and CERCLA ("Superfund") sites. This appears to be correct. However, the DEIS applies this modeling in a very limited way. Where industry uses such modeling to determine, for example, the direction and speed of contaminated groundwater beneath a failed waste disposal site, the DEIS analysis appears limited to whether the soils at the Project site can absorb the quantity of effluent it is estimated the proposed Project will produce.

Response: *The author refers to the Groundwater mounding analysis in Appendix "w" as a groundwater modeling report. This is incorrect. The purpose of this report is to determine the sufficiency of the conductivity in the perched water table to accept the water charge being placed into it and how large the subsurface water mound will be. The County has stringent separation requirements between the top of the water mound and the bottom of the infiltration system. The author is correct insofar as the program is capable of modeling groundwater flows and a great many other things, these however where not part of the scope for the DEIS or required by any approving agency. The Applicant would like to note that the water entering the ground is clean potable water, (intermittent stream discharge quality), and soil percolation rates can be found in the*

DEIS appendices section "I" Site plans/test pit plan. Finally, the Applicant would like to point out that the flow confirmation letter issued by the County in conjunction with the DEC and states "...we believe you have demonstrated that a disposal system can be constructed consistent with standards and should not contravene groundwater standards." It indicates that the Applicant may apply for its SPDES permit from the DEC. The mounding analysis shows that the required separation of four feet is achievable between the bottom of the infiltration field and the top of the groundwater mound. This indicates there will be sufficient water conductivity through the Charlton soil to maintain the required separation. Percolation rates for the site are listed on the test pit plan found in the appendices of the DEIS.

Comment 140 (Planning Board letter, September 6, 2011): If I understand the proposed wastewater treatment plan correctly, treated wastewater will flow from the Membrane Bioreactor to the infiltrations system – and from the infiltration system to the groundwater. This wastewater, containing amounts of carbon, phosphorous, and nitrogen permitted by the NYSDEC, as well as numerous unregulated toxic materials, will form what industry calls a "plume" of contaminated water beneath the infiltration site. A more comprehensive analysis of groundwater than is offered by the DEIS will indicate whether, and how quickly, the flow of groundwater would pull the plume into neighboring wells, the Croton Reservoir, etc. In general, groundwater flows towards nearby rivers, which of course, in some respects the Reservoir is. A good example is the Tyson's Dump CERCLA site, where a plume of liquid waste migrated from the site into the nearby Schuylkill River via groundwater flow.

Response: *The source of the wastewater entering the Membrane bioreactor is from households, not industry. The makeup of this waste has been tracked by the industry and its make up (barring illegal activities) is widely recognized and therefore the items that must be treated for are commonly known which is how the regulatory agencies set the discharge standards. The discharge from the membrane bioreactor is the highest quality discharge the county and state require. It is called intermittent stream discharge because it is allowed to be discharged directly into streams. The Applicant indicates that It is safe for human consumption. This is the same standard the New York City Department of Environmental Protection has and is still spending millions of dollars to upgrade plants to the technology the Applicant will be using, so they reach this discharge standard. These plants then usually discharge into streams, where the Applicant has taken this one additional step and discharged it subsurface into an infiltration field similar to any standard leach fields a home septic system might have. This two stage treatment process is superior to the typical septic system because takes water that has already been cleaned to a level sufficient to be discharged into an intermittent stream and sends it through the infiltration field for one last rinse before being discharged into the environment. As the water flows through the soil the naturally occurring microorganisms will further clean it, just as they do in a home septic system. Furthermore, with wastewater treated to such a high standard, the Applicant believes it is assured its field will have none of the issues associated with single family septic*

systems and fields. This two stage treatment process is superior to the typical septic system because it takes water that has already been cleaned to a level sufficient to be discharged into an intermittent stream and sends it through the infiltration field for one last rinse before being discharged into the environment. Finally, the Applicant cannot comment knowledgably on the Tyson Dump situation, which appears to be a Superfund site in Upper Merion Township in Montgomery County, PA reported in 1983 which involved a great many heavy metals, volatile organic compounds as well as oil and grease. The Applicant does not believe the proposed rezoning is at all comparable with the Tyson Dump situation. A closer relationship to that situation can be found looking at the nearby Thomas J. Watson - IBM Research Center located on Route 134 which had a similar VOC plume that extended from its research facility many years ago. The lab dug out contaminated soils and pumped out any easily identified areas of liquid contamination. It put in monitoring wells to follow the travel path of the plume with extraction pumps located to pick up contaminants. There were monitoring wells to track the direction and progress of the cleanup. The cleanup was successful, nearby waterbodies remained unpolluted and all monitoring wells were able to be closed.

Finally, the Applicant has received a flow confirmation letter issued by the County Health Department in its capacity as an agent of the State Health Department which states "...we believe you have demonstrated that a disposal system can be constructed consistent with standards and should not contravene groundwater standards." It goes on to note the Applicant may apply for its SPDES permit from the DEC.

Comment 141 (Planning Board letter, September 6, 2011): The Board has concerns regarding this zone change request when the Trump Project is seeking a change from its original approval because of lack of sales. The prices have dropped significantly and there still are stagnant sales. What are the impacts on the schools if the Project is unsuccessful and the Applicant seeks a change to permit school age children?

Response: There is no proposal in front of the Town for the Trump Park Residences to change zoning. The Applicant believes that sales at Trump Park have picked up since the prices have been lowered to be more in line with market rates, and also reiterates that the two developments have little in common as one is a multi-level apartment complex that is condominium, while the other are house sized duplex units. The two projects have in common that they are both age-restricted projects and both protect significant open space. However, from a design and potential buyer perspective they are very different, each establishing themselves aimed at a unique part of the over 55 market.

The Applicant has demonstrated in the DEIS section V (Alternates) that should the development request a change to allow children there would be a total of 12 children (using industry accepted Rutgers multipliers) and the projected \$821,000 paid in school taxes would more than address the cost of adding children to the school system.

Comment 142 (Planning Board letter, September 6, 2011): The DEIS should identify and discuss similar existing and proposed Projects in the surrounding jurisdictions? How close are they to this Project? How might they affect the market absorption?

Response: *There are no similar projects being proposed in the Town of Yorktown in proximity to Croton Overlook.*

A major proposed project in New Castle is the re-development of the Reader's Digest property, known as Chappaqua Crossing. This project is a little more than six miles away from the Applicant's proposal, off of Route 22 on the eastern side of Chappaqua, adjacent to Horace Greeley High School on the site of the former Reader's Digest property. Chappaqua Crossing includes 199 units of senior age-restricted (55 years and older) market rate housing, 20 units of affordable senior age-restricted housing and 32 units of affordable non-age –restricted housing for a total of 219 housing units. The Proposal includes 234 apartment flats in three-story low rise residential buildings and 44 two-story townhouses. To determine demand for the market rate age-restricted units, age-and income-qualified households in the Chappaqua area and US Census data concerning migration trends were evaluated by the project sponsors. Analytical findings indicated demand for between 3,200 and 4,900 market-rate units.

Another major proposal is that of the redevelopment of the former King's College parcel in Briarcliff Manor, about six miles southwest of Croton Overlook, known as The Club. The Club at Briarcliff Manor will feature 325 Independent Living residences, numerous amenities and services and a 60-unit Supportive Living Center where a licensed and professional staff will provide assisted living, memory support and skilled nursing care on-site 24 hours a day. The Upper Village will feature 288 unfurnished one- and two-bedroom independent living apartments ranging in size from 930 square feet to 2,030 square feet and a Clubhouse in Tudor-style buildings. The Clubhouse will be connected to the Aquatics, Spa and Fitness Center and Supportive Living Center. The Lower Village will consist of 24 townhomes ranging in size from 2,097 square feet to 2,234 square feet, and 13 free-standing villages ranging in size from 2,769 square feet to 3,221 square feet designed for today's active adult lifestyle with first-floor master suites and attached two-car garages.

The projects in Briarcliff and Chappaqua are offering a different living style than the duplex attached homes offered in Croton Overlook. In Briarcliff as a Continuing Care Retirement Facility, the Club is targeting an older portion of the retiree population one that may need more services than those who would be interested in the Yorktown project. While all three projects have an age-restricted component associated with them, the Applicant believes the market demand will be adequate to fill all three properties.

Recognizing the real estate market has been depressed for the past several years; projects such as Croton Overlook have been selling well as they appeal to persons wishing to move from larger homes to ones that have fewer individual maintenance

requirements. This represents a unique niche in the marketplace. The Applicant anticipates this pattern will continue in the market for the foreseeable future.

Comment 143 (Planning Board letter, September 6, 2011): They are clear cutting the entire Project area and lopping off the crest of a hill. The visual impacts are unavoidable. The units are very linear and only 25' from one another, creating a visual impression of a linear mass. The DEIS does not discuss any mitigation in this regard. The Planning Board is very concerned about the visual impact and the overall design of the Project.

Response: The Applicant plans to discuss with the Planning Board using the flexibility standards to move some of the homes forward towards the street in an attempt to make the streetscape more appealing, and lowering our impervious area. The current design is in accordance with RSP-1 zoning requirements as the Applicant is required to provide. Finally the different styles of homes (please refer to response to comment 189 for preliminary renderings) will not allow for the appearance of a linear mass, therefore in the Applicants opinion mitigating this issue.

Comment 144 (Planning Board letter, September 6, 2011): They are showing a code compliant road connecting onto an existing non-compliant road (Dell) that is being partially removed. This road then connects to a NYS road. The DEIS does not fully describe this proposed condition of alternating sections of sub-standard and code compliant roadway and the potential impacts of the same.

Response: The Applicant proposes to pave the entire length of Dell Avenue to Town Code, so there will be no old sections left.

Comment 145 (Planning Board letter, September 6, 2011): There is little information, if any regarding the Random Farms subdivision. What is the distance to the closest residence? In what manner would this Project impact same and what mitigation is offered?

Response: From the back of the nearest house in Random Farms to the back of the nearest house on the proposed cul-de-sac is approximately 550 linear feet through dense woods. The Applicant does not believe there is any impact to Random Farms and does not believe there is any need for mitigation. See, Appendix E, the Visual Impact Assessment.

Comment 146 (Planning Board letter, September 6, 2011): There needs to be a discussion on the impact to the ambulance service; which agency will handle ambulance calls? What is the impact?

Response: The Yorktown Volunteer Ambulance Corps is currently tasked with responding to ambulance calls at this location. The corps has full time paramedics and volunteers who provide this service. They also have mutual aid agreements with the towns of New Castle, and Ossining.

The paramedic services are paid through an advanced life support district tax, paid by the property owners; the volunteers staff the basic life support response and hospital transport. The Corps bills to recover insurance payments for this service and also depends on community donations.

Comment 147 (Planning Board letter, September 6, 2011): Is this Project subject to the affordable housing settlement with Westchester County?

Response: *No it is not.*

In respect to the berm to damper the visual impacts of the Project:

Comment 148 (Planning Board letter, September 6, 2011): The grading plan does not appear to reflect the proposed berm

Response: The grading plan was developed prior to the consideration of constructing a berm to address potential visual impacts. A cross section of a conceptual berm design was prepared to demonstrate that appropriate screening of the project could be provided. The grading of this berm was considered at a conceptual level, but was not planned to be incorporated into the grading design until final plans are prepared. This visual analysis is provided *in the DEIS Appendix section E, (Visual impact assessment)*. Therefore, it is sufficient to say that the berm, or portions thereof, may enhance the aesthetics of the project and that it will not impact the stormwater management plan or impede stormwater runoff. See grading plan in the attachments.

Comment 149 (Planning Board letter, September 6, 2011): There is no proposed landscape plan. Is the berm feasible?

Response: *Yes.*

Comment 150 (Planning Board letter, September 6, 2011): The berm appears to block the flow of Stormwater; how does this affect the plans?

Response: *In fact the berm is not a “berm” in many places. It is merely extending the existing grade so it will not have a water damming effect. Refer to response to comment number 148. See grading plan in the attachments.*

Comment 151 (Planning Board letter, September 6, 2011): The berm might affect the sanitary sewer fields; has the County reviewed this change?

Response: *The Applicant advises that the County will not review a full set of drawings until permits are applied for, but states there will be no impact on the infiltration fields.*

Comment 152 (Planning Board letter, September 6, 2011): The berm is shown built up to the Con Edison property line, how will this impact their property?

Response: *As it is constructed entirely off the Con-Edison right of way the Applicant states it will not impact their property at all.*

Comment 153 (Planning Board letter, September 6, 2011): They are showing trees with heights of 29' on a 10' berm. Is this possible?

Response: *Yes, the height shown on the plans is a mature tree height they will be 10 to 15 feet tall when planted.*

Comment 154 (Planning Board letter, September 6, 2011): Is Con Edison going to permit trees of this caliper and height next to transmission towers and lines?

Response: *The Applicant states all plantings will be on private property. Con Edison will be consulted during the Planning Board site plan review.*

Comment 155 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Comprehensive Plan-Consistency - The Town adopted its Comprehensive Plan clear with respect to the Croton Overlook Project site. The Proposed Future Land Use Map of the Yorktown Comprehensive Plan clearly marks the Project site for R1-160 zoning or 4 acres per lot. The Proposed Land Use Map represents the clear intent of the Comprehensive Plan of the Town of Yorktown. Further, the Town Board took the next step by implementing the Comprehensive Plan when it rezoned the Project site from R1-80 to R1-160 about 6 months ago. Thus, the proposed Project and request rezoning is not consistent with the Comprehensive Plan. The courts of New York have consistently held that zoning must be based upon the recommendations of a well reasoned plan.

While the Project may be compatible with some of the broader goals of the Town with regards to promoting housing for people in all stages of development and other non-site specific goals discussed in the DEIS, it does not change the fact that the proposed Project is inherently inconsistent with the Future Land Use Plan and the present zoning for the Site. An analysis of the Project's basic incompatibility with the future land use plan and the recent upzoning, based on the Plan, of the site from R1-80 to R1-160, is thoroughly lacking in the DEIS. Further, since the proposed Project is inconsistent with the Proposed Land Use Map and therefore the Plan itself, we contend that if the Town Board entertains the proposed rezoning it must also amend its comprehensive plan to reflect this change in Town policy. Any amendment to the Comprehensive Plan would need to be adequately vetted as part of this SEQRA review process.

In addition, the Comprehensive Plan has additional recommendations for the R1-160 zone that the Town should pursue, in furtherance of adopted Town policy, that would adequately address some of the environmental concerns raised in the DEIS associated with development the site under existing zoning. Table 2-1 in the Comprehensive Plan recommends the following with respect to the Town's single-family residential districts.

All areas should be subject to natural resource protection requirements relating to wetlands, water bodies, steep slopes, tree clearing, etc.

Increased setback, building coverage, and impervious coverage requirements should be revisited for the R1-80, -160, and 200 zones.

Floor area ratio limits should be consistent with the Future Land Use Plan, the Town should move forward with the remaining recommendations for the R1-160 zone contained in its 2010 Comprehensive Plan.

***Response:** Although the Comprehensive Plan and the Town's subsequent rezoning place the Project Site in the Town's R1-160 zoning district, Croton Overlook is not inconsistent with either the Comprehensive Plan or the Town's Zoning Code. The Comprehensive Plan expressly contemplates that, where appropriate, the RSP-1 zone which meets the generally accepted definition of "floating zone" can be placed on a lower density residential district. Since a "floating zone" does not apply to any site until an application is made, by definition, the "floating zone" must always differ from the underlying zoning of the site. The use of "floating zones" as a means to accomplish various goals of a Comprehensive Plan -- including specifically for the purpose of providing senior housing -- has been regularly upheld by the New York State courts, including the court of appeals. Floating zones have been used in many other communities with great success. The Applicant asserts that in nearby Briarcliff Manor corporate campuses were "placed" in the middle of residential neighborhoods throughout the community to spread out the commercial development. Using the RSP-1 floating zone on top of the R1-160 is similar to the overlay zone considered by the Town in other locations. Croton Overlook is actually consistent with, and will advance, numerous goals and provisions of the Comprehensive Plan. These provisions include an expressly acknowledged need for senior housing and dispersal of varied forms of housing throughout the Town, as well as the stated goals of preservation of environmental resources and open space. The relatively small portion of the Croton Overlook site that will be developed achieves all of the aforesaid goals.*

The Applicant notes also that the Courts in New York have held that a Town's Comprehensive Plan is more than just the adopted document; it also includes "all available and relevant evidence of the municipality's land use policies." Relevant to Croton Overlook, the SEQRA Findings Statement adopted by the Town Board in connection with the Comprehensive Plan specifically includes a section entitled "Flexibility to Consider Senior/Active Adult Housing." (See Findings Statement at page 21). This section expressly acknowledges that "residentially-zoned areas outside of the hamlet centers may be suitable for development of senior or other group housing development." It further states that Projects such as Croton Overlook "should not be foreclosed solely because they are proposed outside of the hamlet areas until a site-specific assessment [has] been made." Accordingly, Croton Overlook is not only consistent with both the Comprehensive Plan and Zoning Code as they exist today, it is

also consistent with the Town's total planning strategy, and reflects the needs of the community.

The Croton Overlook site is distinguished from other large lots in the vicinity by its physical characteristics. The proposed housing is settled along a westerly knoll of the property overlooking the open space set asides. Croton Overlook will become its own community with minimal impact on the existing surrounding developments. A positive impact will be the addition of more consumers for the local services, shops and restaurants. Its position on the edge of several communities will present appeal particularly to those who already live in neighboring Chappaqua, Millwood, Ossining, Somers or Yorktown who might be interested in downsizing, or simply being in a community with nearby neighbors and fewer maintenance requirements than in a single family detached home on a larger lot.

While Yorktown has housing developments for 55 and older in other areas of the town, this would be the first such development in the southern end. The Town identified its Senior Independent Living zone (RSP-1) "to provide opportunities for senior citizens to find appropriately sized housing units for their years as empty nesters and young retirees." The plan further notes, "this zone helps to meet the growing demand among retirees and seniors for age-restricted housing, where they can live in greater tranquility with other people of the same age and in an environment more tailored to their needs." The property's unique characteristics lend itself to consideration of a change of zone to meet a community based need that is geographically diverse as envisioned in Yorktown's Comprehensive Plan

Comment 156 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): 2. Alternatives – The DEIS states that given the impacts of the R1-160 Zoning Compliant Conventional Development alternative that is "is not a practical alternative" (page 76) and further states that "there is no cluster zoning applicable to the R1-160 zoning," (page 49) thereby ruling out the R1-160 Zoning Compliant Cluster alternative. Neither of these statements is accurate nor is any supporting evidence presented to support these assertions. In fact, development of the site under existing zoning is the epitome of practical, and the Town Zoning Code dedicates an entire section to large lot clustering, with regulations specific to the R1-160 District (Town Code 300-216). The SEQR regulations (617.9b5v) state that "the description of and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment..." The description and evaluation of the Project alternatives provided in the DEIS is not sufficient to make a reasoned comparison of impacts. The assumed impact for the majority of the environmental categories discussed under the R1-160 alternatives are greater than for the proposed action although these claims are not substantiated by any analysis, documentation or facts. In fact most of these claims are readily refutable.

Response: *The statement in the DEIS that there is no cluster zoning applicable to the R1-160 zone is poorly stated. The Applicant recognizes that large lot clustering exists*

within the Town's zoning regulation One of the alternate uses of the site explored in the DEIS includes a cluster development fully compliant with town code section 300-216 through 300-223 large lot clustering. The Applicant as well as the Town's Conservation Board, noted the large lot cluster alternative, was a less favorable environmental treatment of the site than the RSP-1 "campus." The clustering plan located in the DEIS appendix X (alternatives) conforms to all the requirements of the town code for large lot clustering. It is the Applicant's intent to express that the lot requirements and layout of the single family detached homes associated with R1-160 alternative will cover more land area with more associated impacts to wetlands, buffers and slopes and because of these items make the alternatives unfeasible due to the large portion of the lots being unusable thereby encouraging people to possibly engage in "lot creep" into the wetlands and buffers. These alternates (due to the lower number of units) will also cause the Town to not realize the economic benefits from greater taxes (including school taxes). The Applicant maintains that the significant open space set aside under the RSP-1 plan and the more densely clustered housing provides a more compact environmentally sustainable treatment of the property, avoiding the sprawl issues associated with the large lot development, whether clustered or not.

Specifically, the Applicant believes these items also make it less environmentally responsible than the proposed RSP-1 zoning. Further more if one notes that the R1-160 plan has approximately 55 acres of disturbance and the R1-160 Cluster alternative has approximately 34.5 acres of disturbance with single family residences having no requirement to act environmentally friendly the project's limited effected area of approximately 19 acres with its multiple layers of site protection for open space, wastewater treatment, and chemical use is certainly a more responsible development. Furthermore, septic systems may have a greater possibility for failure than a well-managed package plant, which is held to a higher regulatory standard and check daily. Due to site topography this would undoubtedly cause an adverse impact to the surface hydrology of the wetlands. Keeping the design that of a close knit community, the development reduces the amount of impervious surface, minimizes the amount of habitat fragmentation and, deforestation. By keeping the larger part of the property intact and ever green various species of birds, amphibians, reptiles, flora and fauna will be able to live and enhance our ecosystem. The project Applicant has noted the heating and ventilation system will be powered by the temperature of the Earth with geothermal systems. The Applicant has noted that sustainability and green technology will be overarching goals in the establishment of this new community.

Comment 157 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): For example, the DEIS states that the R1-160 alternatives would produce more garbage than the proposed action because the as-of-right development would result in bigger families. Using the Rutgers multipliers – the same multipliers used by the Applicant to estimate school children – if all 15 as-of-right homes assumed by this alternative consist of 4 to 5 bedroom homes above the median home price (a worst case scenario) – the estimated total population would be 58 new residents as opposed to 140

Projected under the proposed Project. If the proposed Project would result in an additional 82 residents on the Project site as compared to the Project alternatives, how can the DEIS justify the statement that the alternatives would result in more solid waste due to the larger family size?

Response: Please see prior response #13 as comment 13 and comment 157 are identical.

Comment 158 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): The DEIS also states that the R1-160 alternatives are less environmentally responsible because of the larger homes that would result if developed under existing zoning. However, the DEIS states that the proposed age restricted duplex units would range in size from 2,400 to 4,000 (DEIS page 47) while the as-of-right homes would range from 3,200 to 6,000 (DEIS page 230). While the as-of-right homes could be bigger, under the alternatives there would be 55 fewer homes developed or approximately 120,000 to 190,000 square feet less floor space developed. The statement regarding environmental responsibility is not substantiated by the facts.

Response: *The crux of the differences between the two layouts, single family R1-160 and the clustered duplex units of the RSP-1 is the amount of land disturbance. The latter leaves the majority of the site in a natural state. It is the classic difference between suburban sprawl and compact development, concepts that have been the matter of discussion all over the country. Compact development is increasingly the preferred method of development; something Europeans learned a long time ago with their compact cities surrounded by agricultural lands. All in all, as noted in several earlier responses, the units clustered together on the eastern side of the property will leave more trees, wetlands, wet meadows. It will keep the valley and steep slopes open for wildlife corridors; it will use current technology and best practices to instill a "green" environment, with the power of a homeowner's association to enforce its rules and regulations.*

Comment 159 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Further, with regards to traffic the DEIS again states that the R1-160 alternatives would result in larger families and as such generate more traffic. However, a quick review of ITE trip generation rates shows that the proposed Project would result in approximately 244 daily trips while the as-of-right alternatives would only result in 180 daily trips. So again the DEIS claims that the proposed Project is less impactful without providing any supporting documentation. The DEIS states that the R1-160 alternatives would also result in great water demand based on the "larger family size." Again, no evidence is provided to support this statement and as demonstrated above, this assertion is not supported by the facts. Yet the DEIS concludes that the R1-160 alternatives would be more impactful without providing any analysis.

Response: *Traffic analysis information is in the DEIS Appendix under Section U., which the Applicant believes states clearly there is no adverse impact on traffic from this*

development. The Applicant also states this is confirmed by a letter from the DOT. The town code section 300-123, C (age oriented communities) states ... (the residents)... The manner in which they use the physical premises where they reside is less apt to disturb the peace and tranquility of the neighborhood than the use of property by younger persons with families, with greater outdoor activity, greater social activity taking place on the premises and greater traffic at all times off and onto the premises. The traffic analysis indicated there would be approximately 15 vehicle trips emanating from the proposed development during the M peak hour and 19 vehicle trips during the evening peak. The Level of Service (LOS) at the nearby juncture of Route 134 and Route 100 and at the meeting of Route 100 and Dell Avenue were both found to be unaffected by the increase in homes projected from Croton Overlook, operating at a LOS of B or better According to the traffic engineers from Creighton Manning Engineers LLC. The de minimis traffic impact did not meet the threshold of requiring a detailed traffic impact analysis

Comment 160 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): We urge the Town Board to take the requisite “hard look” at the alternatives, particularly the R1-160 Zoning Compliant Cluster alternative. This alternative would result in significantly fewer homes on smaller lots that could be situated as to avoid the important on-site natural features, including wetlands and steep slopes, while preserving a minimum of 40% of the Project site as open space. The Town Board is responsible for the adequacy and accuracy of the Final EIS, regardless of who prepares it. We therefore urge the Board to consider hiring an independent consultant to prepare a realistic and well designed cluster subdivision under existing zoning alternative to be included in the FEIS. We would also mention that the Town itself has the option of preparing the FEIS. At a minimum the Town should insist that the Applicant provide an objective and realistic analysis of alternatives in the FEIS.

Response: *The Applicant refers to the Yorktown Conservation Board’s letter of November 24, 2010 shown below:*

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MEMORANDUM

November 24, 2010

TO: Supervisor Siegel and Members of the Town Board

FROM: Conservation Board

SUBJECT: Croton Overlook-Rezoning Petition

PLAN: Sec 70.15 Block 1 Lots1&2

Dear Supervisor Siegel

Members of the Conservation Board walked the site of the proposed Croton Overlook development with the Applicant on Sunday, November 21, 2010.

This 64+acre site is home to a varied landscape of mature north eastern woodland, wetlands in the form of a meandering stream and a manmade pond, steep slopes and rock outcroppings, with healthy vegetation and wildlife typical of its environments. This property has been identified by the Advisory Committee on Open Space as one of its highest priorities for preservation.

Significantly, this property is also located in very close proximity to the Croton Reservoir. Environmental considerations mean that any development on this site must be thoroughly reviewed, and great care taken to ensure the highest degree of protection.

In view of this, the RSP1 zone represents a more desirable use of this property than either the current R180 or the proposed upzone to 4 acre residential. Both the 2 and 4 acre residential zones would allow big houses with big lawns, more fertilizer and septic systems spread across the entire area. Without commenting on the Applicant's proposal, which is still to be reviewed, the Conservation Board feels that the RSP1 designation would allow any development to concentrate the disturbance in such a way as to preserve more of the sensitive environmental features of the site.

Therefore the Conservation Board encourages the Town Board to rezone this property to the RSP1 zone.

Respectfully submitted:

....for the Conservation Board

cc: Planning Board

The Conservation Board notes that the RSP-1 zone on this site would lead to a more environmentally sustainable development. The Applicant agrees and puts forth that the clustering plan located in the DEIS Appendix X (alternatives) conforms to all the requirements of the Town Code for large lot clustering. It is the Applicant's intent to express that the lot requirements and layout of the single family detached homes associated with R1-160 alternative will permanently disturb more land area with more associated impacts to wetlands, buffers and slopes. It is also noted that with the R1-160 alternative it is more likely the yard use will start to expand into protected areas due to the large proportion of each lot that would need to be protected and many homeowner's desires to create greater lot utility. This alternative R1-160 development will also reduce the taxes collected from the project causing the Town and school district to not realize the greater economic benefits. As noted in other comments in this document, the Applicant notes that the R1-160 plan has approximately 55 acres of disturbance and the R1-160 cluster alternative has approximately 34.5 acres of disturbance.. The Applicant's limited affected area of approximately 19 acres with its multiple layers of site protection for open space, wastewater treatment, and more tightly controlled chemical use is, in the Applicant's opinion, a more responsible development. .These items also make it less environmentally responsible than the proposed RSP-1 zoning. Further more if one notes that the R1-160 plan has approximately 55 acres of disturbance and the R1-160 Cluster alternative has approximately 34.5 acres of disturbance with single family residences having no requirement to act environmentally friendly. The Applicants limited effected area of approximately 19 acres with its multiple layers of site protection for open space, wastewater treatment, and chemical use is certainly a more responsible development. Furthermore, Septic systems for individual homes are typically only two feet deep and have a limited life expectancy the Applicant usually sees failures of these leach fields causing effluent to rise out of the ground with the homeowners often choosing to do nothing about this due to financial restraints. Due to site topography this would undoubtedly cause an adverse impact to the surface hydrology of the wetlands.

Comment 161 (BFJ Planning letter on behalf of Random Farms, August 23, 2011):
3.Fiscal Impact Analysis – At the August 3, 2011 DEIS Public Hearing for the Croton Overlook Project, COC Project attorney, David Steinmetz indicated that a detailed fiscal impact analysis had been prepared for the Project and included in the DEIS. We note that no such analysis was provided in the DEIS or the DEIS appendix. This fiscal impact analysis should be included in the FEIS so that it can be adequately reviewed and considered by both the Town Board and the public.

Response: *Fiscal analyses are conducted in the DEIS in the following sections: Section A. Land Use, Zoning, and Public Policy, Section H. Community Facilities and Services, Section N. Fiscal and Socioeconomic Impacts, and Section V. Alternates. Each of these analyses is in compliance with the accepted scope and is of a sufficient level of detail to determine necessary conclusions. Under Section "V "(Alternatives) Table "V-1" lists fiscal impacts. Also in the same section on page 232 fiscal and socioeconomic impacts are discussed. The charts included in the DEIS show that the net cash flow to the*

public sector (Town, Schools and County) from Croton Overlook will be higher to the local taxing authorities than if any of the alternative scenarios were built on the site. The Applicant believes the costs associated with maintaining public services will also be outweighed by the revenues paid to the municipality and school district. No new parks or roads will need to be built at public expense as a result of this development. No new staffing is anticipated to be needed in the Town as a result of this development. The development will own and maintain most of its infrastructure needs such as its water and sewer operations. Taxes derived from this project will help offset rising government operation costs. One example is the Yorktown Heights Fire District, which has received its site plan approval for a new firehouse in the vicinity of the Project along Route 134. As part of the taxing district, the residents from Croton Overlook will share in the overall expenses of the Fire District's operations and capital expenditures, thus lightening the load for all.

Comment 162 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): 4. \$650,000 Payment – What is the purpose of the proposed \$650,000 payment? It does not appear that this payment is necessary to mitigate any Project impacts as no impacts to community services or facilities have been identified. In fact, the DEIS states that the Project would have a net benefit to the Town.

***Response:** The Applicant offered a contribution of \$650,000, to be used toward existing and proposed Senior Services, Activities and Recreation.*

Comment 163 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): The DEIS also states that the proposed action would be better for the Town than the as-of-right alternative because of this payment. This payment is therefore not mitigation for an environmental impact and should not be considered in anyway by the Town in making its decision on the Project. The merits or weaknesses of the application must speak for themselves.

***Response:** The Applicant believes that both the taxes generated on the proposed action, the contribution of \$650,000 and the lack of school children would be better for the Town than the as of right alternative, and believes that an as-of-right, single family home development would generate much less in tax revenue and add children to the schools. The Applicant states the \$650,000 is not mitigation for an environmental impact; it is a contribution to the Town in an area that would assist both the town and future residents of Croton Overlook.*

Comment 164 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): The introduction of a payment as an inducement to achieve a rezoning also raises troubling constitutional questions. Any zoning decision must of course be in accordance with the Town's Comprehensive Plan (which it is not – see other arguments on this issue), must be enacted in furtherance of a legitimate governmental purpose, and must show a reasonable relation between the end sought to be achieved and the means used to achieve that end.

The subject payment is however offered with no restrictions as to its use. It is simply an open gift to the Town, to be used in any manner the town wishes.

Response: *Comment noted. The \$650,000 contribution is intended to help the Town to meet these needs of its senior population, as well as enhance services that might be used by the residents of Croton Overlook.*

Comment 165 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): A payment offered in conjunction with a rezoning, without any rationale that is relevant to this property offered for such payment, could be read by some to imply an impermissible inducement to the Town’s decision makers. The FEIS should justify this payment under existing law or withdraw it.”

Response: *The Applicant is not aware of any law precluding the offer of a donation by a developer to a town under the conditions described above.*

Comment 166 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): In addition, we have the following specific comments on the DEIS; these comments follow the DEIS.

I. Executive Summary

Page 6 – Description of the Proposed Action – The DEIS states that “[t]he open space area will be deed restricted, serving as an active and passive recreational resource for the community.” It is not clear from the DEIS whether the deed restricted open space will be accessible to all Yorktown residents. If it is not, it is not accurate to characterize the open space as a resource for the community and include it as an overall benefit of the Project supportive of the Town’s Comprehensive Plan vision for Parks and Recreation (see DEIS page 69).

Response: *It is the Applicant’s intention the open space will be for the use of the Project Community’s residents and their visitors. The protection of the habitat and open space is of value to all Yorktown residents whether or not they are invited to walk the trails as the preservation of the open space will contribute to the general health of the area’s eco-system. This is similar to the lands surrounding the nearby homes at Random Farms and Cornell Woods, which also have protected open spaces that are not available to the general public for use.*

Comment 167 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 9 – B. Visual Resources – The text states that “[a]s drivers pass the site going either north or south on the Taconic State Parkway, they would have distant views of the proposed roofline, if mitigation practices were not employed.” There is no discussion of any proposed “mitigation practices;” a discussion of any proposed mitigation needed to mitigate the identified visual impact needs to be included or this reference should be removed and the impact fully disclosed.

Response: As described in the DEIS under the section E, (Visual Impact Assessment) “Mitigation Techniques” there will be a vegetated berm installed to help screen any view that may be possible from far off higher elevations such as the Taconic Parkway or Turkey Mountain, across the reservoir. The Applicant believes there are no visual impacts from Route 100.

Comment 168 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 12 – C. Flora and Fauna – The DEIS states that “physical impacts associated with the removal of vegetation will be mitigated by implementing a Storm Water Management Plan.” Is the storm water management plan referenced in the text the “Stormwater Pollution Prevention Plan” contained in DEIS appendix F? Please clarify.

Response: The removal of vegetation will occur in phases as noted in the Erosion and Sediment Control Plan which is part of the Storm Water Pollution Prevention Plan. In the DEIS Appendix section F, (Storm water pollution prevention plan) the Storm Water Management Plan details the sediment control mechanisms and is the material referred to on page 12 in the DEIS. References to the mitigation proposed to the impacts of vegetation removal are also discussed in the DEIS Section J (stormwater management) as well as DEIS Appendix G, (preliminary Erosion Control Plan and notes). The Applicant agrees to plant new trees as per the planting plan envisioned both on the Erosion Control Plan and as part of the overall site landscaping. Rain garden installation will be included with each unit to further channel surface stormwater into irrigation.

Comment 169 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 16 – F. Cultural Resources – The DEIS states that the “proposed Project requires OPRHP’s review due to the presence of a precontact (dating prior to European contact” archaeological site...” Given that OPRHP review is required, OPRHP should be added to the list of “Required Reviews and Approval” on pages 51-52. Has a copy of the DEIS been submitted to SHPO for review and comment? The Town Board should not make SEQR Findings until the Applicant can confirm and demonstrate that SPHO has been included in the SEQR review process and that a SPHO determination of “No Effect” has been issued...

Response: Please see the SHPO “no impact” letter below.

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**New York State Office of Parks,
Recreation and Historic Preservation**

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

May 02, 2011

Cece Saunders
Historical Perspectives, Inc.
P.O. Box 3037
Westport, Connecticut 06880-9998

Re: NYS Department of Environmental Conservation, SEQRA
Croton Overlook 3-5554-00296/00002: Yorktown/ YORKTOWN, Westchester County
10PR06814.003


Dear Ms. Saunders:

Thank you for requesting the comments of the Office of the State Historic Preservation Officer (SHPO). We have reviewed the submitted report *Phase I Archaeological Study: Croton Overlook, Town of Yorktown, Westchester County, New York* completed by Historical Perspectives, Inc. and received by our office April 4, 2011. We have reviewed the project in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the Field Services Bureau and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (6 NYCRR Part 617).

Results of the survey indicate that a total of 134 shovel tests were excavated with the project impact area. Neither precontact or early historical features were identified during the field investigation nor were any isolated precontact artifacts recovered. No evidence of a former nineteenth century occupation at the site was identified. A structure, present on the property during the twentieth century, did previously burn. Modern debris and the foundation associated with this structure were identified, but determined not to be significant historic properties.

It is the opinion of Historical Perspectives, Inc. that no further archaeological testing is warranted for this project. Based on the information provided in this report, our office recommends that there will be *No Impact* to any historic resources listed or eligible for listing in the State or National Registers of Historic Places.

Should you have any questions, please feel free to contact me directly at (518) 237-8643, Extension 3288 or via electronic mail at Brian.Yates@oprhp.state.ny.us. If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Wm. Brian Yates
Historic Preservation Specialist

II. PROJECT DESCRIPTION

Comment 170 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 41-42. Project purpose, needs and benefits – This section references the economic benefits of the Project and estimates the annual taxes to be generated by the Project. However as mentioned above under the general comments, no information as to how these number were calculated is provided. The fiscal analysis prepared for the Project needs to be included in the FEIS and the methodology used to determine future tax revenues needs to be provided.

***Response:** Please find listed below a table of taxes to be generated per unit as well as for the entire development. This information is based on a home sale (assessed value) of \$600,000. Tax information is from the Yorktown tax assessor Harold Girdlestone based on current tax rates.*

| <i>Tax Obligations and Service Fees</i> | <i>Tax Rates* (Dollars)</i> | <i>Annual Gross Tax Revenues Per Unit</i> | <i>Annual Gross Tax Revenues Generated - 70 Units</i> |
|---|-----------------------------|---|---|
| <i>Town</i> | <i>129.41</i> | <i>\$1,708.21</i> | <i>\$119,574.70</i> |
| <i>County</i> | <i>138.85</i> | <i>\$1,832.82</i> | <i>\$128,297.40</i> |
| <i>School District</i> | <i>888.98</i> | <i>\$11,734.54</i> | <i>\$821,417.80</i> |
| <i>Fire/Life support</i> | <i>17.87</i> | <i>\$235.88</i> | <i>\$16,511.60</i> |
| <i>County Refuse</i> | <i>13.09</i> | <i>\$172.79</i> | <i>\$12,095.30</i> |
| <i>Open Space</i> | <i>2.27</i> | <i>\$30.00</i> | <i>\$2,100.00</i> |
| <i>Trash Pickup</i> | <i>29.64</i> | <i>\$391.27</i> | <i>\$27,388.90</i> |
| | <i>Totals</i> | <i>\$16,105.51</i> | <i>\$1,127,385.70</i> |

Comment 171 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Further, the reference to the proposed \$650,000 one-time payment needs to be removed from the discussion of Projects benefits as discussed above in the general comments.

Response: *The \$650,000 contribution will remain in the DEIS as a Project benefit.*

Comment 172 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): This section also states under public benefits that the Project “would like to foster a relationship with our Community and the students of Yorktown’s Schools.” No specific mechanisms or proposals for achieving this relationship are discussed. We question the reality of this statement as an actual public benefit of the Project. Unless the Applicant can clearly demonstrate how they intend to achieve this goal, it should not be included as a public benefit of the proposed action.

Response: *The Applicant advises that it has spoken to two Yorktown Environmental Teachers, one, a middle school science teacher, the other a high school AP Environmental Science teacher, about working together during final design and construction, using the site as an outdoor classroom for the Environmental Science Groups and Classes. Areas of study would include; wastewater treatment, storm water management, erosion control, wetlands maintenance and plantings, etc.*

Comment 173 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): This section also discussed how the proposed action conforms to the Yorktown Master Plan. As discussed above, while the Project may be compatible with some of the broader goals of the Town with regards to promoting housing for people in all stages of development and the other non-site specific goals discussed in the DEIS, it does not change the fact that the proposed Project is inherently inconsistent with the Future Land Use Plan and the present Zoning for the Site. Please refer to the discussion of Comprehensive Plan Consistency included under the general comments above for additional discussion.

Comment 174 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Finally this section states that the proposed Project was designed to conform to the six specific “Design and Development Concepts” outlined in the Comprehensive Plan for the RSP-1 District. The proposed action is inconsistent with RSP-1 Design Concept #1 states the following: “Campus-like layout, forming a complete village or community (e.g., Jefferson Village.)” The proposed action does not form a complete village or community; no on-site amenities are proposed other than the mostly passive open space. Jefferson Village provides a pool, clubhouse, tennis, exercise room, is located in close proximity to medical facilities, and is within walking distance of shopping and the Jefferson Valley Mall. None of these amenities are proposed for the Croton Overlook Project and the Project is not consistent with this Comprehensive Plan design concept. The DEIS concludes the discussion of the design concepts by stating” Croton Overlook was designed to conform with these specific concepts, and

successfully comports with them all.” As demonstrated above, this statement is inaccurate as the Project is inconsistent with design concept #1. These inconsistencies need to be adequately addressed in the FEIS and considered in future discretionary decisions made by the Town Board regarding the Project.

Response: *The proposed development meets the RSP-1 Design and Development Concepts stated in the Comprehensive Plan. Aimed at empty nesters and early young retirees, it assumes its resident population will take advantage of the nearby fitness centers, outdoor recreation facilities and enjoy walking out of doors along the paths and trails that will be within the Croton Overlook Community. The congregate nature of the layout, with duplex homes and smaller individual footprints will lead to a neighborhood/community ambience for the development which considers Design Concept #1. The six concepts specifically call for a campus-like setting, forming a complete village or community. The Applicant agrees this will not be a complete village with multiple ancillary facilities but puts forth it will be a resident community due to the close proximity of the homes. The second tenet calls for a large minimum tract size, which is met. The third concept calls for significant open space and woodland buffers, which are part of the submitted plan. The fourth is a maximum density of 12 units per acre after the open space set aside, which is met. The fifth concept notes sanitary sewer service and public water should be available. The Applicant is proposing a sewage treatment plant and connection to the Town of New Castle public water supply. The sixth, and last concept listed in the Comprehensive Plan, is that all areas should be subject to natural resource protection requirements, which they are. With reference to the actual zoning for RSP- 1, this project meets the various criteria listed in Yorktown Zoning Code Article XIII Age Oriented Community §300-123 through 151, which gives the Town Board discretion within the criteria to consider the design of each individual project and still achieve the use desired.*

The Comprehensive Plan clearly calls for this type of housing, although the Zoning Map does not indicate future locations as these developments are located on a site specific analysis. As with Croton Overlook, any future proposed RSP-1, -2 or -3 Projects will require a zone change.

As stated in the SEQRA Finding Statement of the Yorktown 2010 Comprehensive Plan and Related Future Zoning Amendments and Local Laws, page 21, Flexibility to Consider Senior/Active Adult Housing; “Generally speaking, such development could be expected to cause only marginally-adverse impacts to community facilities due to increased demand for services (but not for schools). Senior housing also typically causes only nominal impacts to traffic because residents tend not to drive during peak hours, to utilities because residents place little additional burden on existing infrastructure, and to land use because the neighborhood already is residentially zoned. In addition, senior housing helps to provide needed diversity in housing type and affordability. While site-specific analysis of the propriety of senior housing in every residential district is beyond the scope of the GEIS, the Town Board finds that given the acknowledged need for such housing in the Town, along with any associated affordable units created pursuant to the

proposed inclusionary housing law, such Projects in most circumstances should not be foreclosed solely because they are proposed for outside of the hamlet areas until a site-specific assessment has been made. As with any newly-proposed land use, such a study would be conducted in accordance with the site plan or other planning processes, and subject to SEQRA review, during which review any such proposal's merits and drawbacks can be considered by the Town Board and/or the Yorktown Planning Board. The Town Board finds that this approach to a proposed senior housing Project sited outside of a hamlet center will not have any significant adverse environmental impact."

Comment 175 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 49. Proposed Development – The DEIS states that “[a]s there is no cluster zoning applicable to the R1-160 zoning, only the alternative of standard R1-160 zoning can be analyzed.” As discussed above under the general comments, this statement is incorrect. The Town Zoning Code dedicates an entire section to large lot clustering, with regulations specific to the R1-160 District (Town Code 300-216). Therefore, specific detail regarding development of the site under the R1-160 – cluster development must be fully analyzed in the FEIS and compared to development of the site under the proposed action.

Response: *Comment noted and correction on the correction page. Furthermore a cluster development is one of the proposed alternatives in the DEIS.*

Comment 176 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 76. Legal Basis – the DEIS states that the proposed 70 units will be sold as 55+ units and ensure that children will not reside in the development by placing covenants and restrictions with the homeowners association bylaws and placing restrictions on the individual property deeds (see DEIS page 78). The question of whether the units can be sold as age-restricted units is not the relevant question to ask. The better question is: what happens, assuming the units are sold to 55+ residents, once they are sold? How are the age restrictions enforced after the units are sold? The so-called age restrictions that the Applicant claims will limit their development's pressure on the Town's resources, particularly schools, will ultimately prove to be unenforceable and therefore harmful to the Town. The legal basis discussion focuses on the question of whether housing units, in the Project could be sold with legally enforceable restrictions on who may purchase the units. The discussion ignores the more important question of what happens once the units are sold. How does the Town enforce the age-restrictions after the units are sold and the Croton Overlook Corporation has moved on? The question now is not whether the Town of Yorktown may, under state and federal law; approve the construction of age-restricted housing, but rather what the impact will be if it does?

Response: *There are several ways to help assure no one under the acceptable age purchases at Croton Overlook. The first is the Homeowner's Association's Master Deed and By-Laws which will require anyone purchasing a home provide proof of age. As Croton Overlook is a subdivision, each home will have its own deed; these restrictions*

will be placed on the individual deeds also. The Applicant believes based on these deed restrictions, no bank will issue a mortgage to a buyer that is under-age, no title company will issue title insurance to an under-age buyer, and finally any attorney is obligated to disclose to a prospective seller or buyer of these deed restrictions regarding the age of the Project Community. As shown by existing Yorktown age oriented communities, Jefferson Village, Wynwood Oaks , Glassbury Court of Hunterbrook, Beaver Ridge, The Field Home and the Country House age oriented housing has been very successful in most of Yorktown. This development will be the first such proposal in the southern end of the Town. The Applicant does not see any reason to believe compliance with the age restriction will be an issue. Generally, people with children prefer to be in neighborhoods with other children, and clearly, this will not be such a place. There are numerous market-rate opportunities for families with children to find available housing. Croton Overlook is looking to establish its market niche on the active older adult.

Comment 177 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): The DEIS is silent on the issue of whether any town or other governmental body has successfully brought an action to enforce age restrictions in certificates of occupancy for private, owner occupied residences in such a community. Such a discussion needs to be provided. If no legal precedent is provided for such action, and the Town approves the proposed Project, the Town will be taking on the risk and expense of future enforcement. Is this a risk the Town is willing to take? In taking on this risk, the Town would be consciously accepting the prospect of being involved in litigating a costly and divisive “test case,” as the plaintiff, when the time comes that it must take action to enforce the age restrictions placed on the units. If that time comes, the Town of Yorktown will have the unfortunate choice of having to decide between suing its own citizens who are in violation of the age restrictions in the deeds and certificates of occupancy, possibly forcing them to leave their homes, or having to acknowledge the fact that the age restrictions were not viable in the long run, with the effect that the entire Croton Overlook Project would henceforth be free of any age restrictions at all. These issues are of key importance must fully explored and discussed in the DEIS.

Response: *The Applicant believes that the DEIS comports fully with the scoping document. The Town has several age restricted housing developments which have been operating for many years. As stated earlier in this document: COC can impose an age restriction on the development that would not violate housing discrimination laws. Federal and New York State laws prohibit housing discrimination against minor children or families with minor children (“familial status”) and New York law specifically prohibits discrimination based upon age. However, there are certain relevant exemptions under these laws.*

The New York State Human Rights Law,² establishes an exemption from its prohibition against housing discrimination based on “age” and “familial status” for “Housing for Older Persons” as defined in the federal Fair Housing Act (“FHA”). See N.Y. Exec Law §296 (5) (a) (exemption for housing intended and operated for occupancy by persons 55 years of age or older as defined in 42 U.S.C.3607 (b) (2)). Similarly, “Housing for Older Persons” is exempt from the FHA’s prohibition against discrimination in the sale or rental of housing based on “familial status.” See generally 42 U.S.C. §§ 3604, 3607.

“Housing for Older Persons” is defined, in relevant part, as follows: (i) “at least 80 percent of the occupied units must be occupied by at least one person who is aged fifty-five or older,” (ii) “the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent under this subparagraph;” and (iii) “the housing facility or community complies with rules issued by the Secretary for verification of occupancy . . .” See 42 U.S.C. § 3607 (b) (2) (C). These requirements must be satisfied for COC to qualify for the exemption.

COC will require that 100% of its homes be occupied by at least one person fifty-five years of age or older and must comply with the additional requirements for exemption consistent with both state and federal law, as described above. COC will memorialize these requirements in its Master Deed and By-Laws and Homeowners’ Association Declaration. There will also be a deed restriction, consistent with the above, on each property sold.

Further, to ensure compliance, the Town will be a third party beneficiary to said provisions of the Declaration and deed restriction. The Town will have the right, but not the obligation, to enforce these restrictions, conditions and covenants in the event that the Homeowners’ Association, or as noted in a prior comment, the mortgage lending institutions, fail to do so.

Comment 178 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): The FEIS should also include a discussion of how the Town of Yorktown would ensure compliance if the Applicant, subsequent to the granting of any zoning change, were to sell the development rights to Croton Overlook.

Response: *Should the development be sold all conditions of approval in the resolution would be binding on the purchaser. The Applicant has advised that it has no intention of selling the development. Assuming approvals are granted, COC intends to be the developer of the Croton Overlook community.*

² *In relevant part, according to the New York State Human Rights Law, it is unlawful to “refuse to sell, rent, lease or otherwise to deny to or withhold from any person . . . a housing accommodation because of the race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status. . .” See NYS Exec Law § 296 (5) (a) (1).*

V. EXISTING CONDITIONS, POTENTIAL IMPACTS, MITIGATION**A. Land Use and Zoning****Comment 179 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 66-67. Compliance with the Comprehensive Plan**

See general comments on Comprehensive Plan compliance above.

The Project is not compatible with the stated purpose of the RSP-1 as presented in Table 2-4 of Chapter 2- Land Use of the Comprehensive Plan. The Comprehensive Plan states that the purpose of the RSP-1 designation is “to provide opportunities for senior citizens to find appropriately sized housing units...in an environment more tailored to their needs.” The Project does not provide an environment specifically tailored to the needs of senior citizens. No amenities, other than the largely passive open space, are provided to meet the needs of future senior residents. This inconsistency must be addressed in the FEIS. Further, the DEIS states that the “Croton Overlook Project is specifically marketed to “empty-nesters” as it is an active adult 55 and over community.” What features of the proposed Project would specifically appeal to active adults 55+? As stated in the DEIS the deed restricted open space features “various forms of passive recreation for citizens of Croton Overlook.” No active recreation is proposed to meet the needs of active adults.

Response: *The full “Purpose”, as stated in Table 2-4: Senior Independent Living (RSP-1), Land Use Section, page 2-11 of the Comprehensive Plan is as follows: To provide opportunities for senior citizens to find appropriately sized housing units for their years as empty nesters and young retirees. This zone helps to meet the growing demand among retirees and seniors for age-restricted housing, where they can live in greater tranquility with other people of the same age and in an environment more tailored to their needs. The Applicant believes that the recreation as proposed meets the needs of a portion of active adults looking for this type of housing. There will be a community garden, butterfly gardens, bird sanctuaries, picnic areas and walking trails on its 40+ acres of open space. A major County bike path is nearby, as are numerous hiking and outdoor recreation opportunities. The site is close to the County’s Hudson Hills Golf Course, which is open to the public. It is near the Kitchawan Park Preserve, a County park and straddles between Teatown Lake Reservation, an environmental education center and nature preserve and Muscoot Farm, another County Park. It is close to the Lasdon Park and Arboretum, again a County facility. Down the road is the Millwood Swim Club and the Seven Bridges Field Club with paddle and swimming is also in close proximity. Both clubs have open membership. Club Fit, a family recreation center with tennis, swimming, group exercise classes and extensive fitness and related equipment is in close proximity. Near Club Fit there are various martial arts and other smaller fitness centers within easy reach along Route 100 and North State Road just a few miles away.*

In other words, the project area is in an ideal location for the active older adult to find leisure/recreational activities to get involved with.

In the Comprehensive Plan, Section 9, Parks and Recreation, page 9-15, the second bullet under National Trends & Standards, recreation is listed in order by participation level. The most popular forms of recreational activity (i.e., with the greatest number of participants) are: walking as exercise, swimming, exercise with equipment, bicycle riding, golf, camping, bowling, hiking, fishing (fresh water), basketball and aerobic exercise. The trails throughout the open space are both passive and active, due to the nature of the open space. As noted above, the Applicant believes Croton Overlook's location makes it ideal for bicycle riding, golf, camping, hiking and fishing. Many residents will likely have exercise equipment in their homes or belong to local gyms to satisfy a desire for exercise with equipment and basketball as noted above. nearby proximity to several linear trailways, golf courses and active parkland will also be readily available to Croton Overlook residents. Other Yorktown developments such as Wynwood Oaks, Glassbury have been developed with minimal onsite recreational facilities. Croton Overlook with its amenities and location will be appealing to a certain type of Active Adult.

Comment 180 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 67 – the DEIS states that approximately 85% of the 64.52 acre site will remain deeded open space. This is incorrect. If, as stated in the Project description, approximately 44-acres are to be deeded as open space, then only 68% of the site will be deed restricted open space. Further the document states that 52.58 acres will be deed restricted open space, not 44-acres as presented elsewhere in the document. These inconsistencies need to be corrected and the exact amount of open space to be deed restricted must be provided and consistently presented in the FEIS.

Response: *These typographical errors have been noted. The total Project acreage is 64.52-acres in size. The amount of open space to be deed restricted is approximately 45 acres. The amount of land to be developed for housing is approximately 19 acres.*

Comment 181 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 68-71 Compliance with the Westchester 2025 document. The DEIS purports consistency with Westchester 2025 Item 8 that states that “communities must create more “livable” neighborhoods for our aging population that features transit-oriented development.” The Federal Transit Administration defines transit-oriented development as “compact, mixed-use development within walking distance of public transportation” http://www.fta.dot.gov/publications/publications_11007.html. The proposed Project is not a transit-oriented mixed-use development, as no mix of uses nor transit is proposed nor is the Project site located in proximity to existing public transit. As stated in the DEIS the nearest public transit line to the Project site is the number 17 Bee Line Bus which runs along the Taconic Parkway approximately 2-miles west of the site. However, it should be noted that the number 17 bus is the Peekskill White Plains express bus and it does not run through nor does it have stops in

Yorktown. The bus that runs along the Taconic is the number 77 Express that only provides service in the AM and PM peak hours Monday through Friday. While the 77 bus does run along the Taconic approximately two miles from the Project site, the nearest stop on the number 77 bus to the Project site is at the FDR Park-in-Ride lot in Yorktown approximately 9 miles from the Project site (<http://transportation.westchestergov.com/timetables>). Based on this information the argument cannot be made that the proposed Project is supportive and consistent with the state Westchester 2025 goal.

Response: The Applicant believes that the development does comport with many of the goals sought by Westchester 2025, Westchester County's master planning document as it protects biodiversity and natural wildlife corridors along with open space, provides a selection of housing type that is unavailable in the nearby vicinity and which fills a need in the community, and seeks to utilize green technology in its construction and in the long-term homeowner maintenance. These are all goals enumerated in Westchester 2025. The DEIS was in error in stating it was a transit oriented development as well, although it has some proximity to county bus lines.

Westchester 2025, in its statement of context and policies adopted by the County Planning Board on May 6, 2008 and amended on January 5, 2010, notes that the County wishes to define, protect and enhance community character; decide appropriate development intensity; define the right density and mix of the county's downtowns; keep sustainable areas of the natural environment intact; manage stormwater responsibly; address an aging infrastructure with capacity limitation; increase opportunities for transit and regional mobility; adapt for a diversifying population and income mix; address energy sources and supplies; establish and strength regional partnerships; respond to housing needs; provide public access and views to and from the waterfront; serve multiple recreational needs; create a competitive position in the global market; better correlate property tax impacts with planning decision; reduce travel demands through land use decision; implement green building technologies; provide for flexible work sites including home based employment and diligently emphasize emergency planning and public safety. While no one project will meet every land use and environmental challenge, the Applicant puts forth that the majority of the aforementioned goals are evident in the proposed Croton Overlook proposal.

Comment 182 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 69 – the DEIS states that approximately 48 acres of deed restricted open space will be provided. This statement conflicts with other statements in the DEIS regarding the amount of deed restricted to be provided. Please clarify.

Response: This typographical error has been noted. The total Project acreage is 64.52-acres in size. The amount of open space to be deed restricted is approximately 45 acres. The amount of land to be developed for housing is approximately 19 acres

Comment 183 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 71 – The DEIS states that “there will be no visibility (of the Project) from any of the historic, culturally significant or nearby homes or roads.” This statement conflicts with the conclusions made in Section B. Visual Resources of the DEIS that state that they Project will be visible from the Taconic State Parkway, Turkey Mountain, Hilltop Hanover Farms, Kitchawan Preserve, Route 134, and Route 100. Please correct. In addition, the DEIS states that the visual resource assessment is in DEIS Appendix C, when it is in Appendix E. These inconsistencies and misstatements need to be addressed.

Response: *The conclusion of DEIS Section B. (Visual Resources) reads “the proposed methods of mitigation will sufficiently prevent all impacts to visual resources and preserve the surrounding viewshed”. Section B. discusses the possibility of this Project being visible from the listed locations, if mitigation techniques were not employed. Mitigation techniques are being employed, which are described in both the DEIS and the attached Visual Resource Assessment, which the Applicant believes fully mitigate any adverse impacts to the viewshed from the above listed locations. The typographical error of Appendix labeling has been noted.*

Comment 184 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 73. Zone Change Request – Based on the general comments regarding comprehensive plan consistency contained above as well as the previous comments contained in this section, we recommend that the Town Board deny the Zone Change Request as the Project as proposed does not conform to the Town’s Comprehensive Plan nor does it meet the basic design criteria set forth for the RSP-1 District (i.e. “environment more tailored to their need” and “complete village or community.”)

Response: *The application as presented addresses the goals enumerated in the Town’s Comprehensive Plan of presenting an environmentally sustainable housing option that allows for a diversity of housing type throughout the Town. By using a more compact development form, the RSP-1 is a good fit for this property as it protects the majority of the land as open space, improves an underutilized Town Road that is in poor condition and provides housing for a segment of the Town population that continues to grow, according to the most recent census figures. In addition the development is structured to maximize the tax revenues from the site, helping to offset escalating government operations costs.*

Comment 185 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 74. There are many inconsistencies on this page that conflict with information presented elsewhere in the document. It is stated that 45-acres of open space will be deed restricted and that the Project site is 62.76-acres in size. Please clarify the total Project acreage, amount of open space to be deed restricted, amount of land to be developed for housing, and the amount of land to contain the wastewater treatment plant.

Response: *The total Project acreage is 64.52-acres in size. The amount of open space to be deed restricted is approximately 45 acres. The amount of land to be developed for housing is approximately 19 acres. The wastewater treatment plant will occupy approximately a 1,500 SF (0.03 acres) area.*

Comment 186 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 77. Context and Public Policy – Please provide basis for gross tax revenue estimates.

Response: *Please find listed below a table of taxes to be generated per unit as well as for the entire development. This information is based on a home sale (assessed value) of \$600,000. Tax information is from the Yorktown tax assessor Harold Girdlestone based on current tax rates.*

| <i>Tax Obligations and Service Fees</i> | <i>Tax Rates* (Dollars)</i> | <i>Annual Gross Tax Revenues Per Unit</i> | <i>Annual Gross Tax Revenues Generated - 70 Units</i> |
|---|-----------------------------|---|---|
| <i>Town</i> | <i>129.41</i> | <i>\$1,708.21</i> | <i>\$119,574.70</i> |
| <i>County</i> | <i>138.85</i> | <i>\$1,832.82</i> | <i>\$128,297.40</i> |
| <i>School District</i> | <i>888.98</i> | <i>\$11,734.54</i> | <i>\$821,417.80</i> |
| <i>Fire/Life support</i> | <i>17.87</i> | <i>\$235.88</i> | <i>\$16,511.60</i> |
| <i>County Refuse</i> | <i>13.09</i> | <i>\$172.79</i> | <i>\$12,095.30</i> |
| <i>Open Space</i> | <i>2.27</i> | <i>\$30.00</i> | <i>\$2,100.00</i> |
| <i>Trash Pickup</i> | <i>29.64</i> | <i>\$391.27</i> | <i>\$27,388.90</i> |
| | <i>Totals</i> | <i>\$16,105.51</i> | <i>\$1,127,385.70</i> |

Comment 187 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 79. Proposed Mitigation – The DEIS states that the “architecture of the residential buildings includes varied roof lines, and the use of earth color tones.” However, this statement cannot be confirmed or supported as no architectural renderings of the

proposed development are provided in the DEIS. Architectural renderings must be provided in the FEIS.

Response: Several preliminary renderings are shown below.

B. Visual Resources

Comment 188 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 81. Existing Conditions – Figures B-1, B-2 and B-3 show photographs from the proposed Limit of Disturbance facing south, east and north; however, no map illustrating the limit of disturbance is provided. This map as well as a key map identifying the location of each photograph needs to be provided so that the Town and public can fully understand the visual impact of the Project.

Response: A map illustrating the positions which the photographs were taken from is included in the Visual Resource Assessment attached in the DEIS Appendix B (Visual Resources).

Comment 189 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 88. Proposed Mitigation – the DEIS states that “proposed mitigation techniques will include screening, as achieved by berms and planted vegetation, and the use of natural colors for the houses to blend into the scenery.” As stated above, architectural renderings need to be provided so that the impact of the proposed development can be fully understood and evaluated.

Response: Several preliminary renderings are shown below.

[Balance of page intentionally left blank]







C. Flora and Fauna

Comment 190 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 106/108/109 – the DEIS states that 47.9-acres of the site will remain protected and preserved open space. This number conflicts with other statements in the DEIS regarding the amount of open space to be preserved. Please clarify. Page 109 also states that the total site acreage is 62.7, which conflicts with other totals given in the document. Please clarify.

***Response:** These typographical errors have been noted. The total Project acreage is 64.52-acres in size. The amount of open space to be deed restricted is approximately 45 acres. The amount of land to be developed for housing is approximately 19 acres.*

Comment 191 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 108 – The DEIS includes as Project mitigation the requirement that “[c]onstruction activities will not be performed during periods of the year when mating and breeding life-cycles of development –sensitive species (avian and herpetofauna) are at a high.” The specific time of the year when construction activities should not be performed need to be clearly identified in the FEIS and taken into consideration in the discussion of construction impact (DEIS Section G.). Will the restrictions on construction activities impact the overall construction schedule? If so, how? How will this and all other required mitigation measures be monitored and enforced? Will monitors be on-site during construction activities?

***Response:** With respect to off-season construction, major construction, such as tree removal, rough grading and grubbing out the limits of disturbance across the 19 acre development area, would be performed between October and May of a given year. Once completed, home site, road, utility construction etc... would be performed all year long. The idea being that major construction activities would be performed when the least amount of wildlife would be present (i.e. migrating, breeding) to thereby avoid implications of extirpation (extinction) which were brought up in another recent comment. The Applicant advises that the construction schedule does not account for this as it was created before the Biodiversity study was written; furthermore it is a preliminary schedule which will be further refined. There will be an onsite construction manager/qualified inspector and the Town requires the use of an environmental inspector to monitor the compliance of the construction work with the approvals and ensure the appropriate environmental protection systems are employed.*

D. Soils, Topography, Steep Slopes and Geology

Comment 192 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 129 – the entire Project site boundary should be added to Figure D-3; Total area of Disturbance. It is hard to determine the amount of total site disturbance without the total Project site boundary illustrated.

Response: *The site plan C-1 is attached to this document and a limit of disturbance line has been added.*

Comment 193 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): All of the references included to the various studies contained in the DEIS appendix are incorrect.

Response: *The meaning of this comment is not understood.*

E. Wetlands and Surface Water Resources

Comment 194 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 136 – the DEIS states that “any planned improvements at this location will require NYCDEP approval.” NYCDEP is not included in the list of required reviews and approvals included in the Executive Summary of Project Description. Is NYCDEP approval required? If so, NYCDEP should be added to the list of “Required Reviews and Approvals” listed on pages 40-41 and the list of “Required Permits and Approvals” on pages 51.-52. What is the specific approval needed? Has a copy of the DEIS been submitted to NYCDEP for review and comment? The Town Board should not make SEQR Findings until the Applicant can confirm and demonstrate the NYCDEP has been included in the SEQR review process.

Response: *The Applicant advises that the DEP has been involved in the process from the start, all correspondence are shown in the DEIS and FEIS, and permit requirements have been added to Corrections page.*

Comment 195 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 141 – How many square feet of wetland buffer will be disturbed.

Response: *There are three locations wetland buffers will be disturbed. The wetland is in the Con Edison right of way and the buffer zone for it extends into the old section of Dell Avenue, which is being removed and the landscape buffering installed. This impervious asphalt area is being removed and replaced with pervious soil and plantings resulting in a positive impact. The area is approximately 2,500 square feet. The second is on the north end of the site where the town road is being brought up to town code. This area is approximately 7,200 square feet and the area disturbed is being covered with asphalt. The third is where existing trails will be disturbed for reconditioning.*

Comment 196 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 142/143 – What is the extent of the proposed buffer vegetation plantings? Will the buffer mitigation be 1:1 or greater? Buffer mitigation planting plans should be provided in the FEIS and should include a detailed description illustrating the amount and type of buffer vegetation plantings to be provided.

Response: *The buffer (as well as all tree removal) mitigation is 1:1. The buffer/screening drawings are located in DEIS Appendix E (Visual Impact Assessment) The Applicant believes the proposed buffer is not comparable to a tree replacement as it is being placed in a location where there are currently no trees and has asphalt pavement that will be removed and replaced with soil. It is the intent of the Applicant to provide landscaping that will present a pleasing entryway into the community with adequate trees, shrubs and flowering plants.*

F. Cultural Resources

Comment 197 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 144 – the DEIS states that the “proposed Project requires OPRHP’s review due to the presence of a precontact (dating prior to European contact” archaeological site...” Given that OPRHP review is required, OPRHP should be added to the list of “Required Reviews and Approvals” listed on page 40-41 and the list of “Required Permits and Approvals” on pages 51-52. Has a copy of the DEIS been submitted to SHOP for review and comment? Has the Applicant received a SPHO “Determination of No Effect”? the Town Board should not make SEQR Findings until the Applicant can confirm and demonstrate that SPHO has been included in the SEQR review process and that a SHOP “Determination of No Effect” has been received.

Response: *Please see the “No Impact” letter attached to the response to comment 83 above.*

G. Construction Impacts

Comment 198 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 156 – Table G01: Draft Construction Schedule – Does the construction schedule take into account the prohibition on construction activities during the nesting/breeding season set forth in DEIS Section C (page 108)

Response: *The construction schedule does not account for this as it was created before the Biodiversity Study was written; furthermore it is a preliminary schedule which will be refined. Any nesting and breeding seasons will be incorporated into the schedule to best protect the wildlife on the site during the development process.*

H. Community Facilities

Comment 199 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 159. The DEIS sites correspondence from Martin McGannon of the Yorktown Heights

Fire Department. A copy of this and all other referenced correspondence should be provided in the FEIS.

Response: *This is a mistake which has been corrected on the correction page. This was a verbal communication between the Applicant and Fire Chief McGannon.*

Comment 200 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 162. **Recreational Facilities – What are the Town’s recreation fees?? Will the proposed Project pay recreational fees? If not, how will this impact the Town’s recreational facilities?**

Response: *The town does not require a recreation fee for age-restricted developments. As noted above there are numerous recreational options for the residents of Croton Overlook besides taking advantage of the amenities provide by the Town’s parks and recreation programming and facilities. If a resident is to join the Town Pools, rather than a nearby private facility, the fees paid are what the Town has determined are appropriate to offset the operational costs of the pools. The taxes paid by each homeowner will contribute toward the Town operations, including parks and recreation.*

Comment 201 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 164. **School Children – How much does it cost the School district to educate a school child on an annual basis? The Applicant needs to provide analysis to demonstrate that the Project, should it be rezoned to eliminate age restrictions, can generate adequate tax revenues to fund any school children as well as other Town services (i.e. police and fire). There is not enough information provided for the DEIS to conclude that in the case of a future rezoning to allow unrestricted units that the Project “would have no financial impact on the Town of Yorktown.”**

Response: *The DEIS has shown under section V (Alternatives) that the Project as proposed will generate over \$800,000.00 in taxes for the Yorktown Central School District; in the same section it is shown (using the industry accepted Rutgers multiplier) that should the Project be sold without age restrictions that it would generate twelve additional children for the school district. In a worst case scenario, with the estimated 12 children that would attend the school system, and as reported to the Applicant by Gina Pitruzzello of the Yorktown central school district business office the cost to educate a student is \$22,000 per year to educate a single pupil, the \$264,000 total cost of educating 12 new pupils would be more than offset by the \$800,000+ in tax revenues paid to the school district from the owners in the development. If approved and developed as presented with no children attending the school, the district realizes additional tax revenue.*

I. Community Growth and Character

Comment 202 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 169. Employment Conditions and Economic Development – The DEIS states that the Project will generate 144 new residents. Elsewhere in the document this number is stated as 140. Please clarify. In addition, the DEIS states that the Project is expected to “generate \$16,105 per unit and \$1,127,350 annually.” How were these numbers determined? No detailed fiscal analysis is provided in the DEIS and the accuracy of these number cannot be confirmed. A detailed fiscal impact analysis needs to be included in the FEIS.

Response: *The correct number is 140 residents. Please find listed below a table of taxes to be generated per unit as well as for the entire development. This information is based on a home sale (assessed value) of \$600,000. Tax information is from the Yorktown tax assessor Harold Girdlestone based on current tax rates.*

| <i>Tax Obligations and Service Fees</i> | <i>Tax Rates* (Dollars)</i> | <i>Annual Gross Tax Revenues Per Unit</i> | <i>Annual Gross Tax Revenues Generated - 70 Units</i> |
|---|-----------------------------|---|---|
| <i>Town</i> | <i>129.41</i> | <i>\$1,708.21</i> | <i>\$119,574.70</i> |
| <i>County</i> | <i>138.85</i> | <i>\$1,832.82</i> | <i>\$128,297.40</i> |
| <i>School District</i> | <i>888.98</i> | <i>\$11,734.54</i> | <i>\$821,417.80</i> |
| <i>Fire/Life support</i> | <i>17.87</i> | <i>\$235.88</i> | <i>\$16,511.60</i> |
| <i>County Refuse</i> | <i>13.09</i> | <i>\$172.79</i> | <i>\$12,095.30</i> |
| <i>Open Space</i> | <i>2.27</i> | <i>\$30.00</i> | <i>\$2,100.00</i> |
| <i>Trash Pickup</i> | <i>29.64</i> | <i>\$391.27</i> | <i>\$27,388.90</i> |
| | <i>Totals</i> | <i>\$16,105.51</i> | <i>\$1,127,385.70</i> |

Comment 203 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 169. Comparison to nearby development. The DEIS provides one example to demonstrate the need for the type of housing proposed by the Project. One example is not adequate to make a determination that a need exists for such housing. There are many other examples of age-restricted housing converting to non-age-restricted housing in the area, including the 141 units in the Trump Park residences in Yorktown. A sample of one Project is not sufficient to support the need for the Project, particularly when there is an existing failed Project of a similar size already in Yorktown.

Response: *The National Association of Home Builders (NAHB) has estimated that by 2012 40% of all U.S. households will be 55 or older. According to the NAHB, the average age of an active adult home buyer is 61. While this market has been soft in the last several years with high unemployment and underemployment, there are apparent breaks in the market that show movement in a positive direction. Unless there is a major recession, sales have begun increasing and as the housing market and sellers can move their higher maintenance homes the market for age-restricted property will continue to grow.*

As noted earlier, Glassbury Court in Yorktown has nearly sold out and it is reaching out to a similar audience as Croton Overlook with a similar housing opportunity. The various developments being proposed or recently built in Westchester aiming at the 55 and older population are all slightly different offering a wide range of housing design, from rental apartment style to high or mid-rise condo to single family attached and stand alone housing. Census data indicates an increase in the number of older residents in the County. Croton Overlook will look to tap into this market, whose numbers continue to swell, both from existing Westchester residents and those who live in nearby New York City. Also please refer to the response for comment #142.

Comment 204 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Has a market study been prepared for the Project? Additional examples of other now or formerly age-restricted Project in the area should be discussed in the FEIS and the conclusions of this section adjusted accordingly. The FEIS should provide a detailed financial breakdown and analysis of the 55+ market in the area and should consider the impacts of the recession the target market.

Response: *The Applicant believes that using the "Population by Age Group in Yorktown" Table 5-3, page 5-17, in the Yorktown Comprehensive Plan, that there is currently and will continue to be a need for housing, designed specifically for the 55 and older citizens. From 1980 thru 2006-2008, there was a 32% increase in the 45-74 age groups. During that same time the 1-34 age groups decreased by 30%, while the 35-44 age group remained stable, with a slight increase, 15.2% to 16.4%. Based on these above numbers, which are also a fair representation of the population trend, with regard to age, in Westchester County and the success of the numerous Age Oriented Communities mentioned in the previous response, The Applicant believes there is a need*

for the Proposed Housing. Further, the 2010 Yorktown Comprehensive Plan SEQRA Findings Statement, page 21, states, “The 2010 Comprehensive Plan recognizes that the supply of senior housing, including less expensive senior housing, is limited in the Town. Accordingly, 2010 Comprehensive Plan Goals 2-F and 5-D state the Town’s desire to promote housing (including affordable workforce housing) for people in all stages of life, including seniors. Vision Statement 5.1 of the 2010 Comprehensive Plan also sets for the Town’s desire to remain a diverse community with diverse housing options.” Lastly, under Land Use in the Yorktown Comprehensive Plan, page 2-11, “Table 2-4: Senior Independent Living (RSP-1), Purpose: To provide opportunities for senior citizens to find appropriately sized housing units for their years as empty nesters and young retirees. This zone helps to meet the growing demand among retirees and seniors for age-restricted housing, where they can live in greater tranquility with other people of the same age and in an environment more tailored to their needs”. There is no separate market study or economic analysis for the plan.

Comment 205 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 173 – The DEIS purports to support the Comprehensive Plan goal. To “promote energy conservation and “green” buildings.” The DEIS states that, in support of this goal, the “proposed Croton Overlook homes will be constructed with a variety of environmentally responsible and green features. These proposed features will include, *wherever feasible*: geothermal heating and cooling, using recycled building materials, natural ventilation, solar panels, renewable lumber, sustainable community design” (emphasis added). Will any of these features be employed? What are the limitations to their feasibility? In order to claim that the Project is in support of this goal, the FEIS needs to state which of these measures will be employed by the Project and all proposed “green” building and energy conservation measures need to clearly outlined in the description of the proposed Project.

Response: *The Applicant believes that the DEIS clearly indicates the Applicant’s commitment to green construction. The Applicant states solar panels will be placed on public buildings, that geothermal heating will be used, and that renewable lumber will be used wherever possible. The entire development is using a sustainable community design starting with its compact layout and preservation of the surrounding open lands. The goal is to create homes that take advantage of energy conservation measures, including the geothermal units for each building, rain barrels to collect irrigation water, and IPM program built into the maintenance rules and other techniques that lend themselves to achieving a green community.*

J. Stormwater Management

Comment 206 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 174 – Existing Conditions – The DEIS states that “since this area discharges radially outward...” To what area is the DEIS referring? Please clarify.

Response: *The Project development area.*

L. Utilities, Water

Comment 207 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 184. Potential Impacts – Is the Applicant proposing that the Town of Yorktown create a new water district that would obtain its water supply from the Town of New Castle? If so, the DEIS does not demonstrate the feasibility of such a proposal nor has the DEIS shown that the Town of New Castle cannot refuse to supply water to the Project. The FEIS must clarify this issue and provide clear documentation as to New Castle’s willingness to provide water to the Project and the specific mechanism/agreement for obtaining this water. Water supply issues must be resolved prior to the completion of the SEQR review process.

Response: *Applicant advises of the following: (1) In March, 2010, it had a pre-application meeting with Yorktown Department Heads; (2) The availability of water from New Castle was confirmed by Yorktown’s Water Director; (3) COC’s consultant, Louise Doyle contacted Gerry Moerschell, New Castle’s Deputy Commissioner of DPW, and confirmed with him that sufficient capacity to supply water for the Project was available; (4) On September 16th, 2011 Mr. Theodore J. Muldoon of COC had verbal communication with Mr. Moerschell and once again confirmed that New Castle has surplus capacity that could be utilized to supply Croton Overlook. The Applicant notes that during subdivision and site plan approval the plan for delivering water will be finalized and a Yorktown Water District will be created for the purpose of taxing the individuals who would benefit from this particular water line and agreement on the purchase and delivery of water from the Millwood filtration plant will be entered into at that time with the Town of New Castle.*

The Applicant states that a meeting was held on October 4th, 2011 between Theodore J. Muldoon of COC, and Lawrence Paggi, PE project design engineer, and Mr. Moerschell, Deputy Commissioner of DPW, John C. Migliaccio, also from New Castle, and David Rambo, Water Superintendent Yorktown Consolidated Water District during which it was stated again by Mr. Moerschell that New Castle had capacity to supply the Croton Overlook project. The general requirements for supplying the project were reviewed, a meter pit and meter, backflow preventer, piping and valving configurations, storage requirements, and an inter-municipal agreement between Yorktown and New Castle. Mr. Moerschell has agreed to prepare a letter to this effect As referenced earlier an email from the Yorktown Water Superintendent regarding the aforesaid meeting is attached below.

From: [David Rambo](#)
To: [TJ Muldoon](#)
Cc: [Kenny Rundle](#)
Subject: RE:
Date: Tuesday, October 18, 2011 12:42:16 PM

TJ,
As you requested, I am writing to you and acknowledging being present and representing the Yorktown Consolidated Water District at the October 4, 2011 meeting at the Millwood Water Treatment Plant. This meeting was held to discuss the feasibility of the Town of New Castle to provide the Town of Yorktown with drinking water for the Croton Overlook project.

As Gerry Moerschell, Deputy Commissioner of Public Works pointed out, the New Castle Water District has adequate capacity to supply this development, however certain conditions, such as requiring on site water storage and proper metering must be met and agreed upon by both Towns. In addition, this newly created district shall have no adverse impact on their existing system and an Intermunicipal agreement must be in place.

I hope this help.

David Rambo
Water Superintendent
Town of Yorktown Consolidated Water District
1080 Spillway Road
Shrub Oak, NY 10588
(914) 245-6111 x 24

Mr. Moerschell's letter is shown below

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TOWN OF NEW CASTLE
DEPARTMENT OF PUBLIC WORKS

280 Hunts Lane, Chappaqua, New York 10514 • Ph. (914) 238-3968 • Fax (914) 238-6205

Anthony Vaccaro PE., Commissioner
Gerard C. Moerschell, Deputy Commissioner

October 28, 2011

Mr. Theodore J. Muldoon
Croton Overlook Corp.
P.O. Box 1132
Yorkton Heights, New York 10598

Dear Mr. Muldoon:

As discussed at a meeting, October 4, 2011, between you, your engineer, Lawrence Paggi, David Rambo, Town of Yorktown Water Superintendent and John C. Migliaccio, New Castle Supervisor of Water Systems and me, sufficient water supply capacity at the Millwood Water Treatment Plant exists to provide daily average flows of 18,000 gpd to your Croton Overlook project.

Of course, any decision on whether or not to supply water will be made at the discretion of the Town Board then in office, and I cannot make any commitment for the Town or the Board now.

Further if the Town Board decides to supply water a significant number of steps must be completed. These steps include, but are not limited to, the following:

1. The formation of a new municipal water district for Croton Overlook as required by the NYSDEC and NYCDEP.
2. Formation of the new water district must be approved by the Town of New Castle and the Town of Yorktown (known as the Towns).
3. The new district must negotiate an Intermunicipal Agreement with the Towns in a format approved by NYCDEP.
4. Complete engineering plans must be submitted to the Towns for their approval.
5. Supply to the new water district must not have any impact on the water storage capacity of the Town of New Castle; as such, the new district must provide for five days of maximum day use on-site gravity based water storage (ground level tank at a sufficient elevation to meet WCHD pressure standards).
6. All water mains and appurtenances must be installed at no cost, expense, obligation, or burden to the Town of New Castle.
7. A master meter pit must be installed with a SCADA system tied into the Town of New Castle's SCADA system at no cost, expense, obligation, or burden to the Town of New Castle. This meter pit shall meet the approval of the Towns and NYCDEP.
8. All necessary approvals and permits shall be obtained at no cost, expense, obligation, or burden to the Town of New Castle.

If you have any questions in this matter, please contact me at 914-238-3968.

Sincerely,

Gerard C. Moerschell
Deputy Commissioner, DPW

cc: Town Administrator Paderewski
Commissioner Vaccaro
Water Supply to Croton Overlook

N. Fiscal and Socioeconomic Impacts

Comment 208 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): How were the total taxes to be generated by the Project determined? No fiscal analysis is provided. The DEIS states that each unit is expected to generate \$16,105 but no formula is provided to determine how the Applicant arrived at this figure. Further, there is no basis to determine how the figures of the total annual taxes (\$119,575) or school taxes (\$821, 418) to be paid directly to the Town were calculated. The basis for determining the total annual taxes to be general if the Project were development as a condominium is also not provided. How were these figures determined?

Response: Please find listed below a table of taxes to be generated per unit as well as for the entire development. This information is based on a home sale (assessed value) of \$600,000. Tax information is from the Yorktown tax assessor Harold Girdlestone as per current tax rates.

| Tax Obligations and Service Fees | Tax Rates* (Dollars) | Annual Gross Tax Revenues Per Unit | Annual Gross Tax Revenues Generated - 70 Units |
|----------------------------------|----------------------|------------------------------------|--|
| Town | 129.41 | \$1,708.21 | \$119,574.70 |
| County | 138.85 | \$1,832.82 | \$128,297.40 |
| School District | 888.98 | \$11,734.54 | \$821,417.80 |
| Fire/Life support | 17.87 | \$235.88 | \$16,511.60 |
| County Refuse | 13.09 | \$172.79 | \$12,095.30 |
| Open Space | 2.27 | \$30.00 | \$2,100.00 |
| Trash Pickup | 29.64 | \$391.27 | \$27,388.90 |
| | Totals | \$16,105.51 | \$1,127,385.70 |

Comment 209 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 196 – the discussion of the \$650,000 payment should be eliminated from any discussion of the fiscal impacts of the Project as discussed above in the general comments.

***Response:** As noted above the information regarding taxes due per unit were provided by the Yorktown Assessor Harold Girdlestone. The NYS formula for taxes if this was developed as a condominium community is less than the proposed action, which in part, is why the application is structured as fee-simple construction with the units taxed the same as a single-family home. The \$650,000 contribution will remain in the DEIS as a Projected benefit.*

O. Traffic Conditions, Safety and Flow

Comment 210 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): The Traffic Section fails to adequately address the impact of the proposed action on area roadways as required by the adopted scoping document. The traffic analysis only addresses impacts of the Project at the intersections of NY Rt. 100/Dell Avenue and NY Rt. 100/NY Rt. 134, yet fails to address potential impacts at the intersections of Random Farms Drive and NY. Rt 100 and Seven Bridges Road/Hog Hill Road and NY. Rt. 100. Both of these local roadways are located within the immediate vicinity of the Project site and could be used by residents of the proposed Project to access points south of the site within the town of New Castle. Random Farm Drive is of particular concern as it provides the most efficient access to Millwood Road/NY. Rt. 133 and other points south and will be an attractive “short-cut” to new residents. Random Farms Drive is a local residential street and any increase in daily trips along this road would result in an impact to local residents, particularly if motorists using this short-cut are travelling at excessive speeds. Further, the impacts of new left turns off of Route 100 onto Random Farms Drive could also pose a safety threat at this intersection. It is impossible to access the potential impacts of the proposed action on these two local roadways and intersections as no analysis was provided in the DEIS. The FEIS must include such an analysis.

***Response:** A Traffic Analysis was performed and the NYSDOT letter the Applicant has provided in the DEIS appendices’ section U (traffic analyses information) states the Project generates no impact to the studied intersections. There will be no change in the levels of service (LOS) of the roads, which currently run at a Level B or better. It is unlikely that any driver would chose to drive through Random Farms coming from Croton Overlook and going to Mount Kisco or Millwood, or areas beyond those destinations. Hog Hill Road is narrow and both, Hog Hill and Random Farms Drive are extremely winding and an indirect way of reaching Route 133. It is much more likely the residents of the proposed development will choose to use Seven Bridges Road, a straight,*

wide more direct route to Route 133 that until recently was a Westchester County Road, connecting two main state roads together (Routes 100 and 133).

Q. Use and Conservation of Energy – Green Technology

Comment 211 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 209. The discussion of greenhouse gas emissions should incorporate the presentation format and categories used in the New York State Department of Environmental Conservation Policy “Assessing Energy Use and Greenhouse Gas Emission in Environmental Impact Statements” issued July 15, 2009. While the analysis presented in this Section references the above document, the analysis does not conform to the methodology presented there in and required by the adopted Scoping document for the Project. In particular, the DEIS should: (i) identify any Greenhouse gases other than CO₂ and convert them into their carbon dioxide equivalents, (ii) categorize and identify the gases by categories used in the DEC Policy, and (iii) identify the strategies which might be used from the Policy’s Section G, “Mitigation Measures,” and particularly those on “Building Design and Operation Measures,” and “Efficiency or Mitigation Measures for On-Site CHG Sources.” DEC officially adopted a protocol for reviewing DEISs for energy use and greenhouse gas emissions. This document should be used by the Applicant to structure their discussion and analysis and to identify modeling software and mitigating actions that could be addressed to reduce overall emissions.

***Response:** The Applicant indicates the EPA’s household emission calculator used in the DEIS “identifies any Greenhouse gases other than CO₂ and converts them into their carbon dioxide equivalents” and incorporates them into the calculations. The Applicant states gases considered as greenhouses gases are identified, presented and mitigated in the DEIS in section Q (use and conservation of energy, Green technology and infrastructure).*

Comment 212 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 210. The amount of natural gas and estimated annual electricity demand of the Project are not presented. This information is key to an analysis of greenhouse gas emissions. All consumption of natural gas and electricity demand should be converted into CO₂ equivalents for comparison purposes and the analysis needs to be presented in aggregate and on a per residential unit basis.

***Response:** The EPA’s household emission calculator used in the DEIS section Q (use and conservation of energy, Green technology and infrastructure) incorporates natural gas and estimated annual electricity demand and their CO₂ equivalents in the calculations.*

Comment 213 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 211/212. It is not clear from the DEIS analysis how much, if any excess material will be hauled off-site. If material will be removed from the Project site, the amount and type

of such material needs to be provided. Further, the number of truck trips needed to haul off any excess material must be provided and this should be examined as part of the greenhouse gas emission impacts and discussed under the traffic and construction impact section.

Response: *The Applicant asserts there is no surplus material from site, all cut and fill material as well as volumes are (including berm calculations) listed in the DEIS Section D. (Soils, Topography, and Steep Slopes).*

Comment 214 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 210. The DEIS states that the proposed Project will save an estimated 1,158,951 lbs of CO₂ emission per year as compared to if the community were constructed as average single family homes. There is no basis provided for how the Applicant arrived at this calculation. How does the Project save CO₂ emissions? Based on the Applicant's assertion that the proposed homes would only generate 24,554 lbs of CO₂ as compared to the 40,550 lbs of CO₂ generated by a standard single-family homes – the proposed action would generate 1,788,780 million lbs while the 15 homes generated under existing zoning would only generate 608,250, 1.18 million lbs less than the proposed action. If the single-family homes were construction using green building practices similar to the proposed action this number would only be 368,310 lbs, 1.42 million lbs of CO₂ less than the proposed action. The FEIS needs to explain the basis for determining the numbers presented and justify and explain the conclusions made in light of the above information.

Response: *The Applicant indicates that all calculations are provided in the DEIS section Q (use and conservation of energy, Green technology and infrastructure) in tables Q-1 and Q-2, and include values obtained from the green house protocol website, www.ghgprotocol.org.*

Comment 215 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Page 215. the DEIS indicates that the homes in the proposed development will attempt to reach Silver LEED Certification; however, the DEIS does not indicate the proposed components for specifically achieving this rating. The components for achieving LEED Silver should be provided and included in the Project description as component of the proposed action.

Response: *The Applicant indicates a commitment to achieve LEED certification through the use of energy efficient elements such as thermal heating and green site improvements. Additional LEED certification requirements will be considered during as the plan development*

Comment 216 (BFJ Planning letter on behalf of Random Farms, August 23, 2011): Detailed energy consumption and greenhouse gas emissions analysis should be presented for the DEIS alternatives. The alternatives analysis currently makes blanket

statements regarding energy use and greenhouse gas emissions without providing any real analysis.

Response: *The DEIS presents an analysis of energy consumption and greenhouse gas emissions in alternatives sufficient to provide a comparative analysis, which is the extent required of SEQRA.*

Comment 217 (NYC DEP letter, August 29, 2011): The description of the action and supporting documentation included in the DEIS are inconclusive in reasonably identifying the potential adverse impacts from the Project and do not include sufficient information to demonstrate that adverse impacts can be avoided or mitigated.

Response: *The Applicant understands the concerns NYC DEP might have about any development in the Croton Watershed. The Applicant believes that the proposed compact development design coupled with the large protected open space will produce a sustainable community that is less polluting than other alternative uses of the site. The Applicant acknowledges there are unavoidable adverse impacts to any site during construction but has, through the erosion and sedimentation plan, shown those impacts can be mitigated. The Applicant is proposing a higher level of waste water treatment than the alternative as of right construction scenario. The reviewers are directed to the various appendices detailing the construction sequencing, vegetation replacement and best practices that will minimize or mitigate any adverse impacts.*

Comment 218 (NYC DEP letter, August 29, 2011):

Numerous contradictions were noted in the DEIS and reference to design concepts, such as, green infrastructure, are then not considered in the supporting documents. DEP strongly urges the Board, as Lead Agency to request that the Project sponsor provide significant revisions and additional supporting documentation in the FEIS and its appendixes so an informed decision can be made with regard to findings.

Response: *The Lead Agency has identified three specific discrepancies between the site plans and written area of the DEIS which have been identified and are itemized and explained below:*

- 1. A Maintenance Building is referred to in the DEIS text, but is not in the plans. It should be noted there is no separate Maintenance Building structure but rather structure for the sewer facility that will house any needed maintenance equipment. This indicated on Page S-1 of the Site Plan.*
- 2. The geo-thermal wells for each unit have been noted in the text, pg. 226, but not located as of yet on the site plans. A sketch showing a preliminary generic location is attached to the response for comment 236.*
- 3. It is anticipated that a rain garden will be constructed for each unit using about 30% of the available yard area. A sketch showing the preliminary location is attached to the response for comment 236.*

Comment 219 (NYC DEP letter, August 29, 2011): The action is described as a cluster or conservation development. As such, this type of development provides many opportunities for protection of environmental resources and is encouraged; however, Croton Overlook proposes an intense development within approximately 20 acres for home sites, wastewater treatment and references to other ancillary uses that are not clearly identified, located or sized on the drawings.

Response: While recognizing that the development is located on a small portion of the site, the Applicant notes this is to accommodate a larger portion of the site to be left as dedicated open space. This then allows for more conservation opportunities than the alternate plans which would require approximately 34.5 acres of land for development limiting conservation opportunities. There are only two minor items that will be added to the development that are not shown on the plans. These are the rain gardens and the wells for geothermal heating and cooling. The Applicant believes, with the exception of the aforementioned two items that all uses of the site are clearly identified on the plans.

Comment 220 (NYC DEP letter, August 29, 2011): Typically, active recreational facilities, composting facilities and community gardens vaguely described in the DEIS require clearing, grading and possibly additional impervious surfaces. Even the passive recreational activities, such as the “picnic areas” and trails shown on the drawings may require clearing of vegetation and disturbance of soils.

Response: The composting area is intended to be in the community garden and the community garden is clearly shown on the plans complete with grading. The community garden is anticipated to be a mixed use garden with fruit trees, vegetables and will be fully designed in the site approval phase of permitting. The Applicant does not foresee the need to perform any clearing for the picnic areas and trails, as the trails are passive recreation they create far less disturbance than passive recreation facilities do. Should any clearing become necessary it would be addressed through the permitting process.

Comment 221 (NYC DEP letter, August 29, 2011): The situation is further complicated by the fact that the open space lot, which might be used for some, if not all of the activities, is populated predominantly by severely erodible steep slopes, wetlands, and wetland buffer. Use of this space for unspecified ancillary uses has the potential for significant adverse environmental impacts.

Response: The open space lot is contemplated for passive recreation only. While the Applicant has indicated that it is possible that a boardwalk may be integrated into the site to provide bird watching opportunities for the casual walker in the wet meadow area, this would be discussed and melded into the wetlands permit during the site plan review, or if added in later years, would be separately permitted. The access to the steep

slope area is on trails that have existed historically on the property. Finally, as the open space will be encumbered by deed restriction it will not be disturbed in the future.

Comment 222 (NYC DEP letter, August 29, 2011): The intensity of development as shown with references to additional development that of facilities not shown on the plans suggests that the action is not a true conservation development that will provide significant protection of the environment.

Response: *While the housing on the knoll represents intense use of that portion of the site, much more of the site will be protected. The only additional development not shown on the plans and mentioned in the text is a maintenance building, which as previously explained, is not going to be built. While the Applicant believes it is striving to make Croton Overlook an environmentally responsible development it has not represented itself as a conservation development. It has noted that more than two thirds of the land will remain undeveloped and will be deed restricted open space so it will remain in its natural state in perpetuity.*

III. Required Permit and Approvals

Comment 223 (NYC DEP letter, August 29, 2011): The list of required permits and approvals must be corrected. New York City DEP permits and approvals that are required include approval of a Stormwater Pollution Prevention Plan (SWPPP), the Waste Water Treatment Plant (WWTP) with subsurface disposal, the sewer collection system, and connection to water supply. While DEP has visited the site to delineate water courses, it is unclear what the “DEP jurisdictional water course approval” listed herein means.

Response: *Comment noted and correction made on the corrections page.*

IV., C. Flora and Fauna

Comment 224 (NYC DEP letter, August 29, 2011): The DEIS states that the physical impacts associated with the removal of vegetation will be mitigated by implementing a Storm Water Management Plan. This is not considered mitigation and as such, mitigation has not been proposed at all for the removal of vegetation.

Response: *All final plans will be reflective of DEP comments, recommendations and concerns expressed. The Applicant will have sufficient plantings in and around the new units to help address the concern regarding removal of vegetation. The reference to the stormwater plan refers to the containment of erosion and sedimentation that could occur once the land is cleared of vegetation for construction of the units. Temporary stormwater basins are shown in the DEIS appendices' section G (preliminary erosion control plans and notes), which during the construction phase will hold any surface flow from moving through the site. As noted on the plans and in the document copy, tree*

planting and wetland plantings will provide mitigation for impacts to site vegetation that is removed to create the housing and related infrastructure.

IV., D, Soils, Topography and Steep Slopes

Comment 225 (NYC DEP letter, August 29, 2011): The DEIS notes that there will be no adverse impacts to soils, topography or steep slopes; however, there appears to be significant amounts of disturbance in Chatfield Hollis Rock Outcrop soils (CuD) soils, which exhibit very shallow bedrock and a severe potential for erosion. On the Project site, these soils are located directly adjacent to the wetland buffer.

Response: *All final plans will be reflective of DEP comments, recommendations and concerns expressed. The Applicant advises that the Erosion Control Plan shown in the DEIS appendices' section "G" (Preliminary erosion control plans and notes) was specifically designed with this soil in mind. Furthermore soil class CuD is only 9.4% of the Project site, see pg. 123 of the DEIS. The Applicant acknowledges and agrees with the potential for erosion, but believes the plan lays out actions to appropriately mitigate adverse impacts. The Applicant advises it is willing to work with DEP and other agencies during the permitting process to refine the design of the plan, if appropriate.*

Comment 226 (NYC DEP letter, August 29, 2011): will include not only leveling and excavation for construction of residences but also steepening of slopes for final grading, and possibly the construction of bioretention basins and picnic areas on steep slopes.

Response: *The Applicant indicates there is no construction anticipated on steep slopes. The bioretention basins are located as shown in the Site Plan S-1 located in the DEIS appendices section "I" (site plans).*

Comment 227 (NYC DEP letter, August 29, 2011): This section states that the sequencing provided on the erosion and sediment control plans show that the impacts can be avoided or mitigated; however, this has not been demonstrated on either the plan, the discussion of blasting elsewhere in the DEIS or the construction schedule provided.

Response: *The Applicant advises that it recognizes the proximity of the NYC Reservoir to the site and understands the importance of a properly executed erosion and sedimentation control plan shown in the DEIS appendices' section G (Preliminary erosion control plans and notes) and that the Project plan has been designed specifically for the site to prevent soil erosion with the soils and topography in mind. Should there be specific additions to the plan that DEP wishes the developer to consider, these can be addressed during the review of the SWWP during the site plan approval phase.*

Comment 228 (NYC DEP letter, August 29, 2011): These two items imply that site work on a large portion of the 20 acres will occur within a very short time period and contradict the erosion and sediment control drawings. Neither document includes sufficient protection for these sensitive soils.

Response: *The Croton Overlook project is intended to be constructed as a single phase development plan with all of the buildings and infrastructure being completed without any interim period of construction inactivity. The New York State Department of Environmental Conservation (DEC) Phase 2 Stormwater regulations requires that areas of disturbance be limited to a maximum of 5 acres unless specific plans have been approved by the DEC to exceed 5 acres. A proposed construction sequence has been provided in the DEIS appendices' sections "F, and G" (the stormwater pollution prevention plan as well as the erosion control plan and notes) to demonstrate that "phases" of work will result in areas of disturbance of 5 acres or less. It is intended that each "phase" of the sequence will account, not only for active construction areas, but also for stockpiling and staging areas. Appropriate erosion and sediment control measures have been designed to provide adequate protection as the construction sequence is implemented. Once the project has been conceptually approved by the Town, details for specific staging and storage areas will be incorporated into the final design plans.*

Comment 229 (NYC DEP letter, August 29, 2011): In a letter to the Lead Agency dated March 3, 2001 regarding the scoping documents for this action, DEP requested that interim cut and fill balances, grading plans for each phase of construction and additional information be developed to demonstrate that the plan adequately consider the amount of area necessary to accommodate the work required in each phase of construction and can provide adequate protection.

Response: *The Applicant indicates that the construction sequence, in conjunction with the erosion and sediment control plan, establishes appropriate protective measures to mitigate potential adverse impacts associated with the disturbance of soils. Additional detail will be provided on the final design plans to address specific construction practices.*

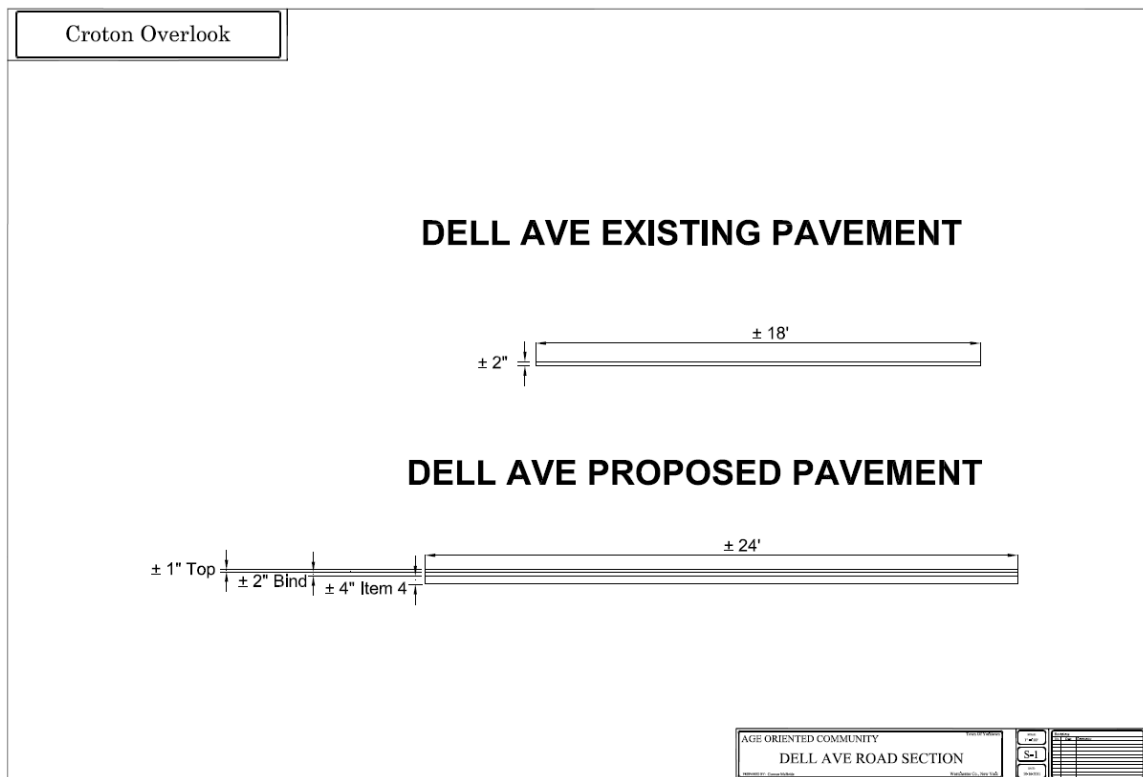
The site has been designed to avoid disturbance of soils that are characterized as having steep slopes, and appropriate stabilization measures, including installation of rolled erosion control materials, are proposed for stabilization of any slopes in excess of 3h: 1v.

The requirement for blasting is expected to be primarily limited to the roadway area where soils are classified with slopes ranging from smooth to rolling (3% to 16%), and post-blasting slopes will be reduced to more level grades. The relatively minor existing slopes, and the subsequent level grades will be adequately protected by standard practices as described on the erosion and sediment control plan. In addition, the subsequent, and nearly immediate stabilization that will occur as a result of the

construction of the infrastructure will further mitigate potential adverse impacts associated with disturbance in the areas where blasting is anticipated.

Comment 230 (NYC DEP letter, August 29, 2011): These requested items are not included in the DEIS and, based on the lack of detail and degree of contradiction in the various parts of the document, It can be concluded that the action as proposed in the DEIS does not adequately avoid or mitigate adverse impacts due to disturbance of soils, steep slopes and blasting.

Response: *The Applicant believes that the soils, slopes and construction schedule in the DEIS have been addressed. Please see response #229 above as well as Draft SWPPP which provides details on erosion and sediment controls and phasing. . Please find below a pavement section detailing the work on the northern end of Dell Ave.*



IV.E. Wetlands and Surface Water Resources

Comment 231 (NYC DEP letter, August 29, 2011): Improvements to Dell Avenue are briefly mentioned in this section. As discussed, the improvements will be located within 50 feet of a DEP delineated watercourse and 100 feet of a Town of Yorktown wetland. Since there are regulatory restrictions that may apply to the proposed but unspecified improvements, particularly if the improvements are proposed with the limiting distance of the watercourse where it becomes a reservoir stem, It is appropriate to present at least a conceptual design in the document so that regulatory conflicts can be avoided.

Response: *Improvements consist of bringing the pavement section in the northern end of Dell Avenue up to town code and potentially minor widening of the road by a few feet. The road drainage already exists. The Applicant believes that the road improvements will not be within the limiting distance of the stem stream. Please see paving detail and response to comment 230.*

Comment 232 (NYC DEP letter, August 29, 2011): **Additionally, measures to avoid or mitigate potential impacts from the improvements to the adjacent watercourse must be included. Furthermore, Dell Avenue is a town road. The drawings indicate that it will be removed for the installation of stormwater practices and the disposal area for the WWTP. It is also appropriate to include impacts and processes associated with abandoning this town road in the EIS.**

Response: *The development includes building a new road fulfilling the purpose to which Dell Avenue now serves but providing a safer, better access into the site. This road will be built to the Town standards. Much of the former Dell Avenue will be incorporated into the new road; however, a small portion of the existing road will be re-routed. The Applicant is seeking the “demapping” of portions of the existing Dell Avenue so that the land may be turned over to the Applicant for the purpose of buffering the site and miscellaneous other uses including using a portion of it as a stormwater filter and infiltration area. A wetlands permit will be obtained for work to be performed within any regulated distance to a watercourse or wetland. The area of Dell Avenue to be relocated will have the asphalt removed, and then it will be regraded for the landscape buffer, stormwater filter, and infiltration area. Erosion control measures for this work is shown in the DEIS appendix section “G” preliminary erosion control plans and notes.*

Comment 233 (NYC DEP letter, August 29, 2011): **The DEIS notes that a water budget analysis was conducted to determine the volume of water that would be discharged to the internal wetlands and associated design changes proposed. DEP agrees that maintaining predevelopment hydrology is important for avoiding impacts to surface waters. Please note; however, the proposed bioretention basins are located in the CuD soils discussed above which are steep, have high bedrock, and are prone to erosion. Construction and operation of bioretention in this area may not be feasible. Proximity to proposed residential units may also preclude placement of the practices in this area. These limitations should be further explored in the EIS.**

Response: *Soil percolation rates, as well as depth to bedrock can be found in the DEIS appendices section “I” Site plans/test pit plan. All soils, percolation rates and depths to bedrock where found to be suitable for the intended purposes. The Charlton-Chatfield (CuD) soils are common throughout Yorktown and underlie many developments. These soils are a result of glacial activity that wherein the material is predominantly made from granite, gneiss and schist. The soils are often very deep and well drained and are apparent in a range of slopes from steep to rolling to flat. Permeability is moderate or moderately rapid throughout the soil. Slopes range from 1 to 45 percent. The test pits and percolation tests were performed in the proposed bioretention areas to determine*

the sufficiency of the location for the proposed basins. None are on steep slopes, or in bedrock. The test pit information may be found in the DEIS appendices section "I" (site plans, test pit plan) the proposed retention basins were designed with the soil type being accounted for and none appear to have impediments for the proposed use.

Comment 234 (NYC DEP letter, August 29, 2011): DEP requested, in the above referenced letter on scoping, that a pollutant loading analysis be conducted as part of the EIS. This analysis would provide a reasonable estimate of potential increased in pollutants due to development and provide a basis for design of stormwater management practices to mitigate the impacts. While this is important in any proposed development of similar size, in a watershed that already exceeds its TMDL and is mandated to reduce phosphorus from development it is essential to demonstrate that the proposal can at least maintain, if not reduce loading of phosphorus and other pollutants of concern.

Response: *The proposed stormwater management system has been designed to meet the pollutant removal goals for enhanced phosphorus removal and to incorporate the additional water quality treatment requirements imposed by the NYCDEP (the construction of two types of stormwater management practices in series). Refer to the response to comment 89 above.*

The design criteria mentioned above reasonably demonstrates that the design of the stormwater management practices is expected to mitigate the impacts associated with the potential increase in pollutants due to development. If further analysis is determined to be warranted during site plan review this information will be provided at that time. All final plans will be reflective of DEP comments, recommendations and concerns expressed.

Comment 235 (NYC DEP letter, August 29, 2011): The standard stormwater practices both in the SWPPP and in the water balance analysis do not appear to fully meet all the design criteria set forth in the NYS Stormwater Design Manual. For example, most are located on slopes greater than those recommended, the tributary area to the micropool extended detention basin may not be sufficient to maintain water level, depth of filter media may not be sufficient to provide adequate treatment. In addition, volume available for treatment and attenuation of the micropool extended detention basin and/or the infiltration basin may be compromised by seepage from cut sections surrounding the disposal area for the WWTP. Practices that do not meet the design standards may not provide the expected treatment or attenuation and could result in an export of additional pollutants for the developed site. Revisions and additional information supporting the use of the proposed practices, as well as clarity regarding which design concept will proceed, is necessary.

Response: *The Applicant contends the bioretention basins are not located on any steep slopes and all stormwater designs are designed according to the standards set*

forth in the NYS Stormwater Design Manual (including required separations) by a competent Professional Engineer with more than 20 years of experience in this field of work.

The proposed stormwater management practices have been designed parallel to existing contours so that the basins are generally level along their lengths in the direction of the stormwater flow through the practices. The slope across the width of each practice has been mitigated by proposed grading that will accommodate the required storage capacity for each practice. The slopes and resulting storage volumes are demonstrated by the proposed grading.

The stormwater design manual recommends a minimum contributing drainage area of 10 acres to the micropool extended detention basin “unless adequate water balance and anti-clogging device installed”. The contributing area to this practice is approximately 6.9 acres, and a significant portion of this area is impervious. Therefore, the contributing area is expected to produce sufficient runoff to maintain an appropriate level in the practice. However, if additional review suggests that an insufficient quantity of runoff will be discharged to the practice, the smaller pocket pond practice can be considered with similar treatment capacities.

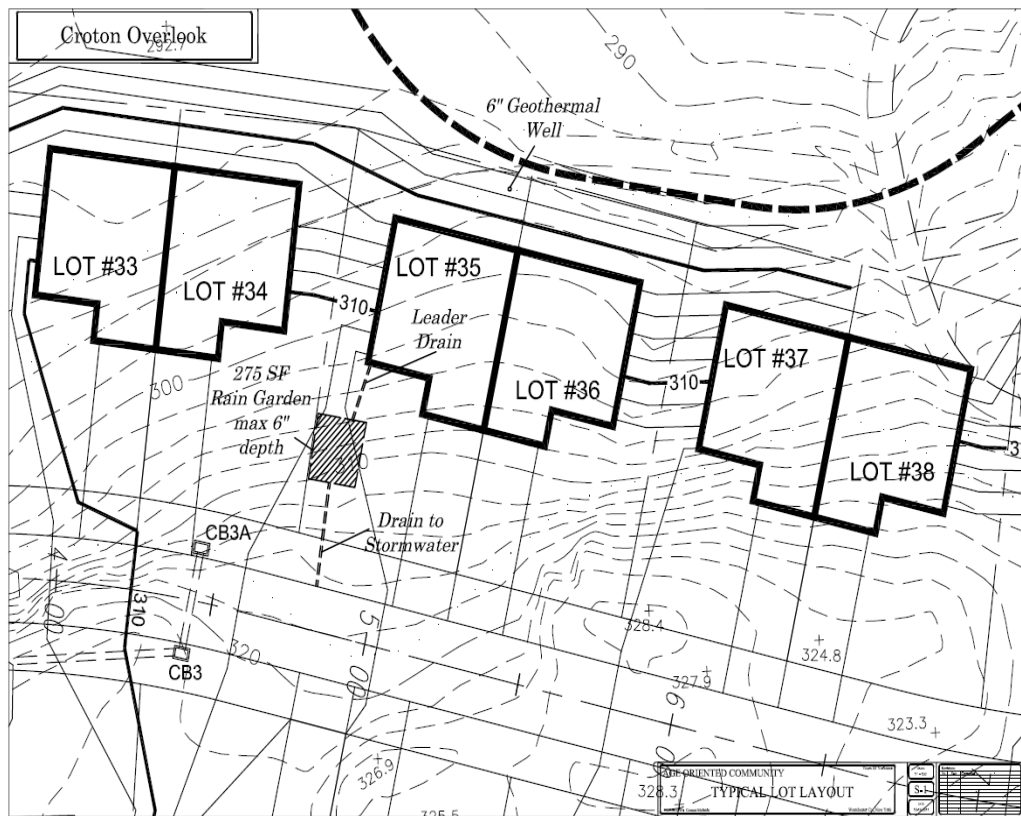
The design manual recommends a minimum filter bed depth of 18 inches for the surface sand filter practice. The proposed filter bed will be at least 18 inches deep to provide adequate protection as indicated in the manual.

Regarding the separation from the proposed sewage treatment system effluent infiltration area to the micropool extended detention basin and the infiltration basin, 90 feet and 100 feet of separation are provided respectively to these practices where the stormwater design manual requires only 25 feet. Furthermore, regarding the potential for these practices to be compromised by seepage from the sanitary infiltration area, we assume that the concern is stormwater quantity since the effluent discharge to sanitary system will be treated to intermittent stream standards prior to being discharged into the infiltration area. If the concern is in fact quantity, the volume of effluent discharged into the sanitary system has been designed at 16,800 gallons per day, which equates to an equalized flow less than 0.03 cfs. If an additional flow of 0.03 cfs were to be directed into the stormwater management system, this flow could be easily accommodated by either practice and would not compromise the integrity of these systems.

Comment 236 (NYC DEP letter, August 29, 2011): The DEIS notes that green infrastructure such as rain gardens will be used. DEP fully supports of the use of green infrastructure so long as it is designed to function properly for the site conditions and for the tributary volumes. In fact, these practices are not required by DEP and DEC stormwater regulatory programs. Although rain gardens are cited in the document, no types of green infrastructure for stormwater are shown on the plans. Given the intensity of development, it is questionable whether sufficient green practices can be

provided in the available areas to mitigate increase in runoff volume from the development. Considerably more detailed information is required to so demonstrate.

Response: Rain Gardens will be provided in each home's front yard and will require approximately 30% of each front yard. These gardens will be 200-275 sq. feet and will go from grade to 6" deep. They will be planted with ornamental planting which function to slow the water passing through them down sufficiently so the particulates fall from suspension thereby allowing cleaner water to enter the ground. It should be noted that this water then passes through another filter before being discharged onsite. Finally, please find below a sketch detailing the location of both the rain gardens as well as the geothermal wells.



Comment 237 (NYC DEP letter, August 29, 2011): The DEIS indicates that geothermal wells will be installed for heating/cooling. Drilling such wells is a potential source of sediment and sediment laden water for most drilling techniques commonly used. The magnitude of this potential source of sediment increase with the number of wells proposed. The document also notes that onsite wells for water supply can be drilled should connection to New Castle water supply not occur. Possible locations for and number of the wells should be provided so that associated impacts can be identified and adequate protection proposed.

Response: *Each home will have one geothermal well 6" in diameter. A possible location is shown in the response to comment 236. Any potential will be addressed through erosion control practices such as earthen berms, hay bales, and silt fence, Preliminary erosion control measures are shown in the DEIS appendices' section "G" preliminary erosion control plans and notes.*

Applicant advises of the following: (1) In March, 2010, it had a pre-application meeting with Yorktown Department Heads; (2) The availability of water from New Castle was confirmed by Yorktown's Water Director; (3) COC's consultant, Louise Doyle contacted Gerry Moerschell, New Castles Deputy Commissioner of DPW, and confirmed with him that sufficient capacity to supply water for the Project was available; (4) On September 16th, 2011 Mr. Theodore J. Muldoon of COC had verbal communication with Mr. Moerschell and once again confirmed that New Castle has surplus capacity that could be utilized to supply croton overlook. The Applicant believes that during subdivision and site plan approval the plan for delivering water will be finalized and a Yorktown Water District will be created and agreement on water will be entered into at that time with New Castle.

The Applicant states that a meeting was held on October 4th, 2011 between Theodore J. Muldoon of COC, and Lawrence Paggi, PE project design engineer, and Mr. Moerschell, Deputy Commissioner of DPW, John C. Migliaccio, also from New Castle, and David Rambo, Water Superintendent Yorktown Consolidated water district during which it was stated again by Mr. Moerschell that New Castle had capacity to supply the Croton Overlook project. The general requirements for supplying the project where reviewed, a meter pit and meter, backflow preventer, piping and valving configurations, storage requirements, and an inter-municipal agreement between Yorktown and New Castle. Mr. Moerschell has agreed to prepare a letter to this effect.

Please find below an email from the Yorktown Water Superintendent regarding the aforementioned meeting.

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From: [David Rambo](#)
To: [TJ Muldoon](#)
Cc: [Kenny Rundle](#)
Subject: RE:
Date: Tuesday, October 18, 2011 12:42:16 PM

TJ,

As you requested, I am writing to you and acknowledging being present and representing the Yorktown Consolidated Water District at the October 4, 2011 meeting at the Millwood Water Treatment Plant. This meeting was held to discuss the feasibility of the Town of New Castle to provide the Town of Yorktown with drinking water for the Croton Overlook project.

As Gerry Moerschell, Deputy Commissioner of Public Works pointed out, the New Castle Water District has adequate capacity to supply this development, however certain conditions, such as requiring on site water storage and proper metering must be met and agreed upon by both Towns. In addition, this newly created district shall have no adverse impact on their existing system and an Intermunicipal agreement must be in place.

I hope this help.

David Rambo
Water Superintendent
Town of Yorktown Consolidated Water District
1080 Spillway Road
Shrub Oak, NY 10588
(914) 245-6111 x 24

Mr. Moerschell's letter is shown below:

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TOWN OF NEW CASTLE
DEPARTMENT OF PUBLIC WORKS

280 Hunts Lane, Chappaqua, New York 10514 • Ph. (914) 238-3968 • Fax (914) 238-6205

Anthony Vaccaro PE., Commissioner
Gerard C. Moerschell, Deputy Commissioner

October 28, 2011

Mr. Theodore J. Muldoon
Croton Overlook Corp.
P.O. Box 1132
Yorkton Heights, New York 10598

Dear Mr. Muldoon:

As discussed at a meeting, October 4, 2011, between you, your engineer, Lawrence Paggi, David Rambo, Town of Yorktown Water Superintendent and John C. Migliaccio, New Castle Supervisor of Water Systems and me, sufficient water supply capacity at the Millwood Water Treatment Plant exists to provide daily average flows of 18,000 gpd to your Croton Overlook project.

Of course, any decision on whether or not to supply water will be made at the discretion of the Town Board then in office, and I cannot make any commitment for the Town or the Board now.

Further if the Town Board decides to supply water a significant number of steps must be completed. These steps include, but are not limited to, the following:

1. The formation of a new municipal water district for Croton Overlook as required by the NYSDEC and NYCDEP.
2. Formation of the new water district must be approved by the Town of New Castle and the Town of Yorktown (known as the Towns).
3. The new district must negotiate an Intermunicipal Agreement with the Towns in a format approved by NYCDEP.
4. Complete engineering plans must be submitted to the Towns for their approval.
5. Supply to the new water district must not have any impact on the water storage capacity of the Town of New Castle; as such, the new district must provide for five days of maximum day use on-site gravity based water storage (ground level tank at a sufficient elevation to meet WCHD pressure standards).
6. All water mains and appurtenances must be installed at no cost, expense, obligation, or burden to the Town of New Castle.
7. A master meter pit must be installed with a SCADA system tied into the Town of New Castle's SCADA system at no cost, expense, obligation, or burden to the Town of New Castle. This meter pit shall meet the approval of the Towns and NYCDEP.
8. All necessary approvals and permits shall be obtained at no cost, expense, obligation, or burden to the Town of New Castle.

If you have any questions in this matter, please contact me at 914-238-3968.

Sincerely,

Gerard C. Moerschell
Deputy Commissioner, DPW

cc: Town Administrator Paderewski
Commissioner Vaccaro
Water Supply to Croton Overlook

The Applicant advises that it has no reason to believe water will not be available from New Castle. It is not anticipated that there will be the need to drill water wells although there are clearly adequate locations onsite where water wells and a storage tank with pumps could be located, One such location is detailed in the Applicants response to comment 116 and as stated previously, standard drilling practices are sufficient to control the sediment from the drilling operation. As the rest of the surrounding area is served through onsite wells the Applicant surmises it would not be difficult to reach sufficient water beneath the Earth's surface should the situation require it.

Comment 238 (NYC DEP letter, August 29, 2011): This section misstates the definition of reservoir stem and associated limiting distances. By definition, a reservoir stem means any watercourse segment which is tributary to a reservoir and lies within 500 feet or less of a reservoir pursuant to Section 18-16 of the *Rules and Regulations for the Protection from Contamination, Degradation, and Pollution of the New York City Water Supply and its Sources* (Watershed Regulations. The limiting distance to a reservoir stem associated with new impervious surfaces, septic systems, etc. is 300 feet. It is recommended that a map showing all reservoir stems and watercourses near any proposed improvements on and off site be included in the documentation so that associated restrictions can be assessed.

Response: *The Applicant believes there are no reservoir stems within 300 l.f of any onsite project area. The Applicant asserts that the 300' buffer from the reservoir stems stops well short of the property and as the drainage and runoff from wetland B is intermittent it does not qualify as a watercourse segment/reservoir stem.*

IV.G. Noise Air and Construction Impacts

Comment 239 (NYC DEP letter, August 29, 2011): Discrepancies in the phasing shown on the erosion and sediment control plans, construction schedule and blasting narrative indicate that adequate controls for avoidance of impacts from erosion and sedimentation during construction have not been provided. It is highly recommended that these documents be reviewed and revised for consistence, that interim grading plans, cut and fill balances, etc., be developed.

Response: *The preliminary construction schedule was created before the erosion and sediment control plan and was not rewritten to conform to it. This will be done during site plan review and permitting. A new grading plan has been added to the FEIS and the Applicant believes this has no impact on any significant environmental impact, furthermore the Applicant is not aware of any inconsistencies between the blasting narrative and the DEIS appendices' sections F, and G (the stormwater pollution prevention plan as well as the erosion control plan and notes) but will work with DEP to ensure the sequencing, erosion and sedimentation prevention practices are sufficient to meet the needs of the project and prevent any soils from traveling from the site.*

Comment 240 (NYC DEP letter, August 29, 2011): It is highly recommended that these documents be reviewed and revised for consistence, that interim grading plans, cut and fill balances, etc., be developed. It is recommended that the Applicant review the statements regarding blasting relative to the proposed grading and areas of high bedrock to confirm when and how often during construction blasting operations will occur and how much disturbance can realistically be anticipated for this operation, rock crushing and stockpiling. When developing a more consistent and realistic construction schedule, road improvements and ancillary recreation facilities, etc., should be included.

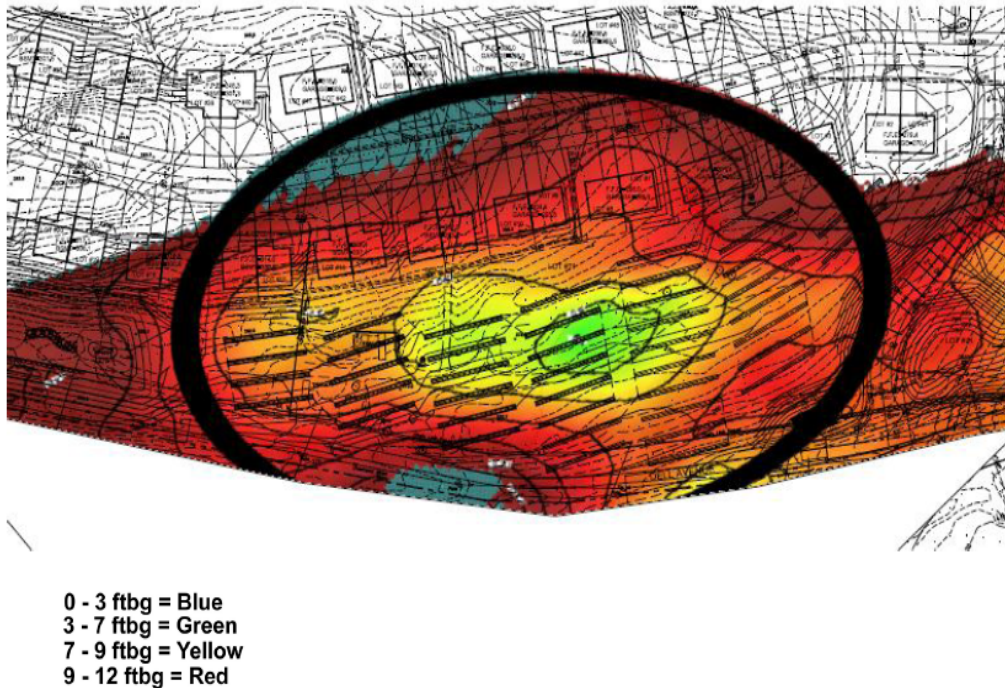
Response: *The Applicant believes the plans identify the impacts of the proposed development and the methodology by which they are mitigated Upon zone change approval, the final site plan will contain a more detailed construction schedule developed in conjunction with the Town of Yorktown and the NYCDEP.*

IV.J. Stormwater Management

Comment 241 (NYC DEP letter, August 29, 2011): In addition to the stormwater comments discussed in Section E above, it must be reemphasized that the mounding analysis provided for the WWTP disposal area does not consider the proximity of the stormwater practices to the disposal area. While this effluent may be clean water, seepage from cut slopes adjacent to the disposal area and into the stormwater collection system and management practices could compromise the volume available in the practices for treating and attenuating runoff from the site. It is recommended that the proposed grading for the site be overlaid on the mounding contours to determine whether or not this is a potential impact.

Response: *All final plans will be reflective of DEP comments, recommendations and concerns expressed. The Applicant states that all stormwater designs are designed according to the standards set forth in the NYS Stormwater Design Manual (including required separations) and by a competent Professional Engineer with more than 20 years of experience in this field of work. A grading plan which is overlaid with groundwater mound contours overlaid is shown below. This demonstrates there is clearly sufficient separation between the stormwater practices and the groundwater mound.*

CROTON OVERLOOK
MOUNDING ANALYSIS WITH SITE PLAN OVERLAY



Comment 242 (NYC DEP letter, August 29, 2011): The DEIS notes that stormwater will be reused for irrigation of community gardens and lawns. DEP fully supports the use of this green infrastructure concept; however, standard stormwater practices that depend on minimum volumes of water to sustain vegetation could be negatively impacted. This should be considered when development green infrastructure and stormwater design. In addition, infrastructure for collecting stormwater to be reused as well as irrigation methods must be considered given the intense use of the developed area.

Response: *Minimum levels in the basins will be maintained to sustain any plantings required by the basins design. Stormwater reuse for irrigation will only be employed where practical and irrigation requirements will not depend solely on stormwater reuse.*

Comment 243 (NYC DEP letter, August 29, 2011): The document misstates the purpose and extent of the Watershed Regulations in several locations. The “Rules and Regulations for the Protection from Contamination, Degradation and Pollutants of the New York City Water Supply and Its Sources” are not guidelines provided by NYSDEC”

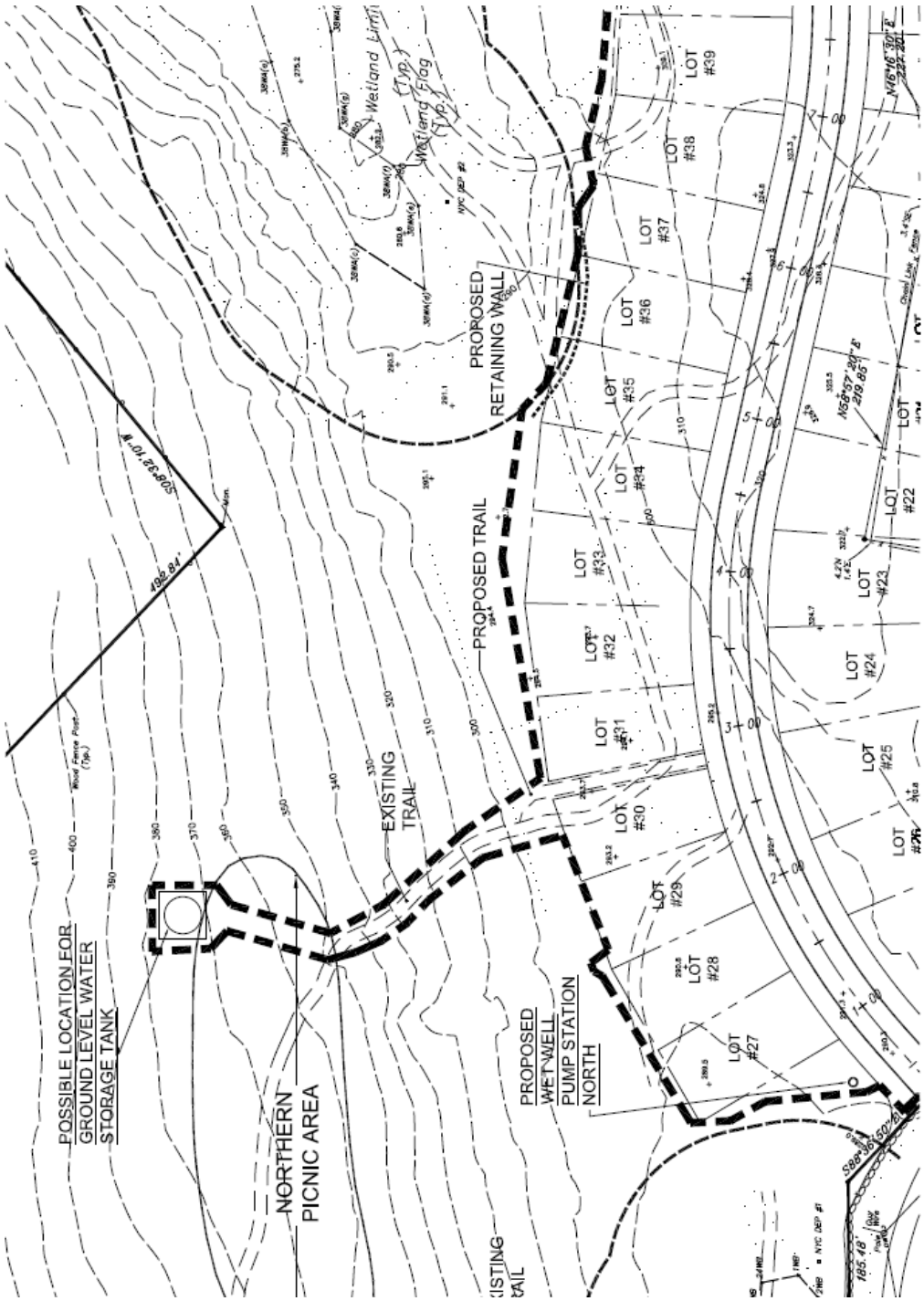
Response: *This is a typographical error the “Rules and Regulations for the Protection from Contamination, Degradation and Pollutants of the New York City Water Supply and Its Sources” are in fact issued from NYCDEP.*

IV.L. Utilities, Water

Comment 244 (NYC DEP letter, August 29, 2011): **The DEIS does not discuss construction of any infrastructure for the water supply other than piping. Pump stations and/or water storage facilities may be required. These facilities must be located and sized so that potential adverse impacts associated with construction and maintenance of the facilities can be assessed. In addition, if the newly formed water district will serve other existing or proposed development, the DEIS must include an appropriate discussion. This section must be expanded to include infrastructure needed to bring water to the site and, if necessary, store it.**

Response: *A meeting was held on October 4th, 2011 between Theodore J. Muldoon of COC, and Lawrence Paggi, PE project design engineer, and Mr. Moerschell, Deputy Commissioner of New Castle DPW, John C. Migliaccio, also from New Castle, and David Rambo, Water Superintendent, Yorktown Consolidated Water District during which it was stated (again) by Mr. Moerschell that New Castle had capacity to supply the Croton Overlook project. The general requirements for supplying the project were reviewed, a meter pit and meter, backflow preventer, piping and valving configurations, storage requirements, and an inter-municipal agreement between Yorktown and New Castle. The project plan for the water distribution system will be developed in more detail in coordination with the DEP, New Castle, Yorktown and the Applicant during the site plan review phase.*

The Applicant advises there is sufficient land available onsite for installation of an underground tank with pumps for water storage. One potential location to place storage tanks/pumps, or wells should the need arise, exists outside of the wetland buffer on the corner of Random Farms Drive and Route 100 across from Traveler’s Rest See response to comment number 116 for a location plan. A second location for gravity storage is shown below. The total amount of additional disturbance for either of these locations is between 3,000 and 4,000 square feet. The Route 100 location would be underground and the location on the hill (shown below) would be a round tank 30’ in diameter and approximately 25’ tall. As the hillside location has mature trees between 40 and 60 feet tall surrounding it there will be no impact to the viewshed. Vehicular access to the tanks would be along existing pathways accessible by smaller utility vehicles. The new water district is intended to serve only the Croton Overlook development.



Comment 245 (NYC DEP letter, August 29, 2011): As noted above, New Castle obtains water from the New York City water supply and this site is not currently in the water district. Forming a new water district that will use NYC water supply as its source requires coordination and approval from DEP. The Applicant is encouraged to contact Paul Aggarwal, Deputy Chief of Community Water Supply at 914-773-4456.

Response: *The Applicant will coordinate with the appropriate personnel once authorization to begin forming the district is obtained. This approval has been added to the Applicants list of approvals.*

Comment 246 (NYC DEP letter, August 29, 2011): The DEIS indicates that on-site wells will be installed should connection to New Castle water supply not be feasible. Information regarding availability of groundwater for this alternative, the feasibility and infrastructure needed to supply water from on-site wells should be discussed in greater detail.

Response: *The Applicant refers you to the response to comment number 116 which shows a location that would be suitable for wells/tanks/pumps. It is felt there are other adequate locations onsite where water wells and/or a storage tank and/or pumps could be located, if necessary. As stated previously, standard drilling practices are sufficient to control the sediment from the drilling operation. Most Yorktown residents in the area receive water from private wells; therefore, the Applicant sees no reason that Croton Overlook residents will face problems obtaining water through a common private well system should the need arise.*

IV.M. Utilities, Sewer

Comment 247 (NYC DEP letter, August 29, 2011): The Applicant is proposing a community sewage treatment system consisting of equalization tank with pumps, fine screens and a membrane bioreactor. The effluent will be discharged to the subsurface. The significance of potential impacts associated with the proposed action is heavily dependent on the adequacy of proposed sewage treatment systems. As such, it is imperative that detailed information be provided during the SEQRA review prior to issuing a findings statement.

Response: *The Applicant advises that DEP engineer Mr. Daniel Shedlo has worked with the Applicant to review the specifics of the wastewater operations along with all other governing agencies to assure the plant is fully compliant with all governing regulations. A fully designed system complete with engineer's report has been submitted in accordance with all applicable regulations. These documents are also sealed by a NYS licensed engineer proficient in this area of design. See appendix sections "O (Engineers report and plans for proposed wastewater treatment facility), P(plans and specifications for pump stations), Q (flow confirmation letter), and R(Wastewater emergency response*

plan)”. The flow confirmation letter is issued in conjunction with the DEC and states “...we believe you have demonstrated that a disposal system can be constructed consistent with standards and should not contravene groundwater standards.” The Applicant believes that sufficient detailed information has been provided to evaluate the proposed wastewater treatment system.

Comment 248 (NYC DEP letter, August 29, 2011): The Applicant must submit technical data/parameters on the membranes proposed for wastewater treatment and include manufacturer’s information, performance parameters, membrane material, nominal pore size, cleaning requirements, anticipated longevity, etc.

Response: The DEIS appendices’ section “O” (Engineers report and plans for proposed wastewater treatment facility) contains manufacturer’s information. The attached membrane module specifications include additional detailed information.

Performance parameters are included in the Engineering Report.

Per the attached membrane module specifications, the membrane material is polyethersulfone (PES).

As stated on page 10 of the Engineering Report, the membranes are ultra filtration plate type. Per the attached membrane module specifications, the pore size is less than one micron (µm).

The membrane cleaning procedure is described on page 12 of the Engineering Report.

The anticipated longevity of the membranes is 10 years. This information is included in the Engineering Report under the section titled “O&M Cost”.

Below are listed the specifications for the membranes:

Specifications Ultrafiltration MaxFlow Plate Membrane Modules



| | | Model#: <i>MaxFlow</i> <i>U06-001</i> | Model#: <i>MaxFlow</i> <i>U20-002</i> | Model#: <i>MaxFlow</i> <i>U70-002</i> |
|-----------------------|-------|---|--|--|
| | | Aeration Channel# none | Aeration Channel# B20-002 | Aeration Channel# B70-002 |
| Operating Data | | | | |
| Operating pressure | [psi] | 0.3 - 5.7 | | |
| pH | | 2 - 11 | | |
| Temperature range | [°F] | 34 - 140 | | |
| Operation | | continuoss / intermittent; pumped & graavity flow | | |
| Cleaning chemicals | | acid, caustic, oxidant, tensidee | | |

Croton Overlook Development

FEIS

Yorktown, NY

| | | | | |
|------------------------------|-----------------|------------------------------|--------|----------|
| Module Data | | | | |
| Membrane material | | PES | | |
| Membrane surface | [ft!] | 72 | 241 | 754 |
| Material module | | PUR, PVC | | |
| Pore size | ["m] | < 0.1 | | |
| Permeability, water | [gal/ft!*d*psi] | > 63 | | |
| Flux rate, activated sludge | [gal/ft!*d] | 8 - 20 | 8 - 25 | 8 - 29.5 |
| MLSS | [mg/l] | 8,000 - 25,000 | | |
| Back wash pressure | [psi] | 0.7 | | |
| pH, normal operation | | 4 - 9 | | |
| pH, cleaning | | 2 - 11 | | |
| Demand of cleaning solution | [gallons] | 8 | 24 | 90 |
| Design of filter bags | | Sandwich | | |
| Module housing | | PVC | | |
| Width | [inches] | 7.3 | 15.4 | 29.0 |
| Height | [inches] | 42.9 | 41.7 | 42.1 |
| Height with aeration channel | [inches] | - | 59 | 59.4 |
| Depth | [inches] | 12.4 | 18.4 | 28.3 |
| Depth with filtration pipe | [inches] | 15.6 | 22.2 | 32.5 |
| Weight, dry | [lbs] | 46 | 118 | 275 |
| Weight, wet/filled | [lbs] | 131 | 371 | 1,115 |
| square footage module | [ft!] | 0.62 | 1.96 | 5.17 |
| # connections | | 2 | | |
| Filtration pipe diameter | [inches] | 1 | 1 1/4 | 2 |
| Aeration | | | | |
| Design | | tube diffuser | | |
| # tubes | | 1 | 3 | 5 |
| Material | | PVC, PE, stainless steel PVC | | |
| Aeration bubble size | | medium-sized bubbles | | |
| Air demand per module | [scfm] | 2.9 | 8.8 | 28.5 |
| Picture | | | | |

| | | | |
|--|---------|-------------------------------|-------------------------------|
| | U06-001 | M20-002 B20-002 U20-002 | M70-002 B70-002 U70-002 |
|--|---------|-------------------------------|-------------------------------|

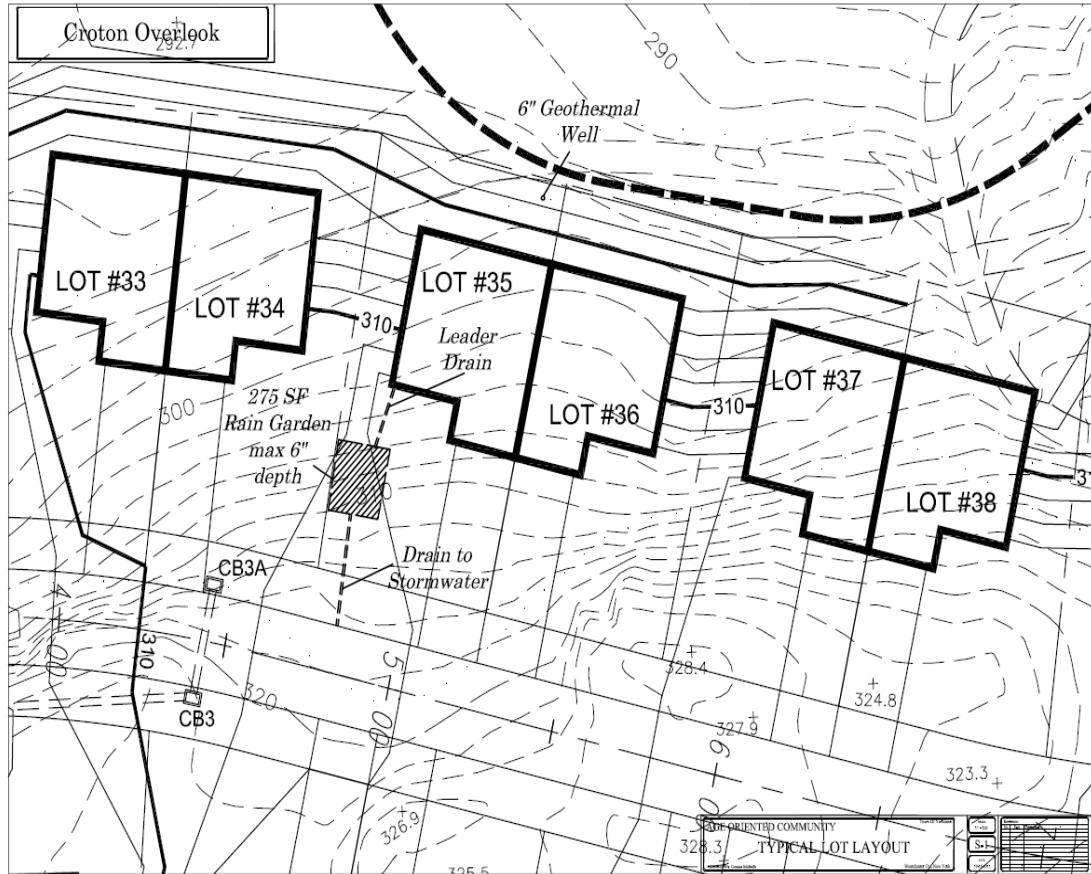
Comment 249 (NYC DEP letter, August 29, 2011): Additionally, a list of at least five wastewater treatment facilities in New York City watershed and in New York State using the proposed membrane, observed influent/effluent wastewater characteristics and performance data along with operators’ contact information must be submitted.

***Response:** There are a number of membrane bio reactor plants in use in the water shed. Some of them are the Lewisboro Elementary School WWTP in South Salem, NY. The contractor was Standard Construction and the WWTP uses hollow fiber membranes manufactured by Pall Corporation. Independent Sewage Works, Inc. in the Town of Southeast serves the Home Depot Plaza off Rt-312 and it has a Zenon MBR. The Meadows at Dean's Corners in the Town of Southeast has been approved for an Ovivo MBR which uses the Kubota membranes. DMV Nutritional located in Delhi, NY has the same Ovivo MBR with Kubota membranes. Further, the Applicant will confirm through the permitting process that the proposed membrane treatment satisfies the microfiltration definition of the NYC watershed rules and regulations. As the membranes are ultra filtration membranes, the Applicant so certifies.*

IV.O. Use and Conservation of Energy, Green Technology and Infrastructures

Comment 250 (NYC DEP letter, August 29, 2011): Reference is made to the installation of geothermal wells for heating and cooling as well as construction of maintenance buildings for the subdivision. Neither of these types of facilities is shown on the plans. As previously mentioned, the intensity of development within the designated 20 acres may result in the location of these facilities being within wetland buffers or on steep slopes that have severe potential for erosion. In order to access any potential adverse environmental impacts, the facilities must be sized, located and assessed in the EIS.

***Response:** As previously stated, there will be no maintenance building; the geothermal wells are 6” in diameter and each house only needs one well. The wells will be located within the limits of disturbance, which is protected by the erosion control plan. , the area of disturbance is 19 acres and there is no construction anticipated to be performed in wetlands or wetland buffers, or on steep slopes. Please find shown below a sketch showing a typical location for a geothermal well.*



Comment 251 (NYC DEP letter, August 29, 2011): In concept, DEP fully supports the use of green technology throughout the action. It is unclear whether or not the green technology mentioned in the DEIS will function adequately to achieve the intended goals.

Response: The green technology utilized is primarily in the use of geothermal heating to save on energy use, rain barrels and storm water reutilization to supplement irrigation needs. The development integrates current energy conservation measures into its design and materials for both the housing units and the ancillary facilities. The plan incorporates green site planning methods.

Comment 252 (NYC DEP letter, August 29, 2011): It is recommended that information be provided to demonstrate the feasibility of the measures proposed. In addition, the Lead Agency may wish to consider ways in which the Applicant can demonstrate commitment to the inclusion of green infrastructure.

Response: It is the Applicant's opinion that its documents clearly indicate The Projects commitment to open space preservation as well as green practices, as discussed in DEIS section Q (Use and Conservation of Energy, Green Technologies and

Infrastructure). The Lead Agency will consider fully the necessity to include these initiatives when making its decision on the petition.

V. Alternatives

Comment 253 (NYC DEP letter, August 29, 2011): The Lead Agency may wish to consider further detail regarding the R1-160 cluster compliant alternative and other, less intensive cluster type developments for this site. Specifically it is recommended that alternatives avoiding or further limiting construction on CuD Soils, limit recreational and other uses of all steep slopes erosive soils, wetlands and wetlands buffers be considered. Grading plans that significantly reduce blasting and overall disturbance or that simplify construction phasing are also suggested.

Response: *In total the area of steep slopes in the Project area is well under one quarter acre (.22/ acre). See slopes map in Appendix N. Furthermore, soil class CuD is 9.4% of the Project site, with differing depths to bedrock and varying permeability making its impact due to construction likewise dependent on location. The Project intends to avoid disturbing most of the overall site and has a development envelope of 19.2 acres out of 64.52 acres. The development is configured to avoid virtually all of the wetlands and buffer areas and the majority of the steep slopes. The units and facilities are clustered along one side of the property with the balance of the lands protected as open space in perpetuity. The Applicant believes its plan reduces blasting as well as the overall disturbance to the site and still accomplishes the Applicant's objectives. The alternates shown in the DEIS use significantly more land than the proposal, have homes which would be significantly larger (six to eight thousand square feet for the alternates and 2,400 for the proposal, have greater lawn areas with no pesticide management plans, and each alternate lot has its own individual septic field which are prone to failure. Also, the R1-160 alternate would require significantly more disturbance and blasting.*

Comment 254 (NYC DEP letter, August 29, 2011): It is unclear that statements included in the DEIS regarding environmental benefits of the Project over the R1-160 zoning compliant and the R1-160 cluster compliant can be substantiated. For example, the document implies that both these alternatives are not as protective of wetlands and surface waters because lots. While these features may become inclusive in individual lots, protection can still be accomplished through individual deed restrictions, etc. The section also notes that these alternatives would result in larger families resulting in greater use of water. This is not necessarily accurate as the number of individuals on site would be significantly less and may result in a corresponding lower use of water.

Response: *The Applicant states the clustering plan located in the DEIS appendix X (alternatives) conforms to all the requirements of the town code for large lot clustering. It is the Applicant's intent to express that the lot requirements and layout of the single*

family detached homes associated with R1-160 alternative will cover more land area, 34 acres as opposed to 19 with the corresponding increase in water consumption for irrigation, with more associated impacts to wetlands, buffers and slopes and because of these items make the alternatives impractical due to the large portion of the lots being unusable. This will then promote people expanding illegally into the wetlands and buffers. These alternates will also cause the town to not realize the economic benefits from taxes (including school taxes).

These items also make it less environmentally responsible than the proposed RSP-1 zoning. Further more if one notes that the R1-160 plan has approximately 55 acres of disturbance and the R1-160 Cluster alternative has approximately 34.5 acres of disturbance with single family residences having no requirement to act environmentally friendly. The Applicants proposal's limited effected area of approximately 19 acres with its multiple layers of site protection for open space, wastewater treatment, and chemical use is certainly a more responsible development.

Comment 255 (NYC DEP letter, August 29, 2011): The document also states that the use of septic systems invariably adversely affect groundwater. Although inadequately designed, installed or maintained septic systems are known sources of groundwater degradation, properly installed and maintained SSTs can and do function with no adverse impact to groundwater in many cases. Given the decrease in flow volumes that may result from zoning compliance development, the current design, construction and maintenance standards for SSTs, and the dispersion of flows for the area of development, there is no support for this statement.

Response: *Typical wastewater infiltration fields are a recognized source of pollutant loading and even properly installed ones have a limited life and are prone to failure due to organic matter passing through the septic tank and entering the infiltration field. This then causes additional pollutant loading and the buildup of a biological mass within the soil causing the infiltration system to eventually fail, and as most standard home infiltration fields are only two feet deep this then causes effluent to break out of the ground causing health hazards and environmental issues. A new local law required by the DEP for septics in the watershed requires inspection of on site septic systems once every five years. A treatment plant has an individual SPEDES permit and has more stringent requirements related to its operation and maintenance, and numerous layers of responsibility including governmental oversight to assure its proper operation and discharge even with the new law for septic systems. The Applicant will be discharging intermittent stream quality water, directly into subsurface leaching fields, while individual lot septic fields discharge untreated effluent which rely on microorganisms to purify it. There are many known instances in which this latter system has not prevented effluent and associated pollutants from reaching aquifers.*

Appendix G. Preliminary Erosion Control Plan and Notes

Comment 256 (NYC DEP letter, August 29, 2011): The DEIS references a percent slope plan in Appendix G, yet this plan was not included in this Section of the DEIS.

Response: *Comment noted.*

Appendix W. Groundwater Mounding Analysis

Comment 257 (NYC DEP letter, August 29, 2011): It is unclear whether the surface elevations used in the computer model match the elevations on the Project drawings. Specifically, the model appears to be referenced to a USGS Quadrangle while the site plan appears to be based on field-surveyed topography. This is critical, as the anticipated rise in groundwater elevation due to effluent discharge could seep out of cuts in the surrounding Project area and/or hydraulically influence the adjacent stormwater management structures. The model should be reviewed accordingly.

Response: *The surface elevations used in the model were obtained from a Digital Elevation Model (DEM), an online database for New York State. At the time the mounding analysis was completed Project elevations and site specific topography was unavailable for installation into the model and therefore could not be correlated to the DEM elevation values. However, the model results are still valid relative to the proposed subsurface sewage disposal system (SDS) and proposed stormwater structures as there are no proposed soil cuts in the disposal area. The Applicant states both the groundwater mounding analysis and the topographic survey used the USGS Quadrangle datum therefore they are based on the same elevations.*

Comment 258 (NYC DEP letter, August 29, 2011): The report indicates that the computer model inputs were based on a subsurface discharge area of 4 acres in size. Please note that this 4-acre area represents the entire disposal area, which includes both primary and reserve areas. Typically, the reserve disposal area is constructed and brought into service in case of failure of the primary system. As such, the model appears to underestimate recharge due to wastewater effluent and should be adjusted accordingly.

Response: *The Applicant will install all of the rows of galleys for both the primary and reserve areas at one time. It is also intended to designate every other row of galleys to function as the primary area, and the unused rows of galleys in between will remain for reserve area. In this manner, the Applicant states that the effluent from the primary area and the reserve area will be distributed over the entire absorption area, rather than just one half of the area as previously proposed. This was agreed upon as the most efficient way to maximize longevity of the system. Thus, the Applicant asserts the model results are applicable to the proposed wastewater disposal area, and mounding will not be a concern.*

Comment 259 (NYC DEP letter, August 29, 2011): The Groundwater Modeling Report indicates that several elevations were chosen during model setup, such as “initial head” and “river stage.” The Project sponsor must justify these values and explain how they were obtained. River elevation should be defined relative to the Croton Reservoir spillway elevation. The elevations that were plugged into the model were taken from the USGS Quadrangle map of the reservoir. In order to input the value of the dam elevation into the model the HES would have to determine if the elevation of the Dam and of the modeled reservoir are all in the same elevation dataset. To date this has not been confirmed. The initial head value inputted into the model is based on values of surrounding elevations and observed depth to water values collected in the field from the existing on-site monitor wells. Additionally, a uniform initial head was applied to the whole modeled area in order to provide proper wetting. the river stages within the model are based off of elevations from the USGS quadrangle.

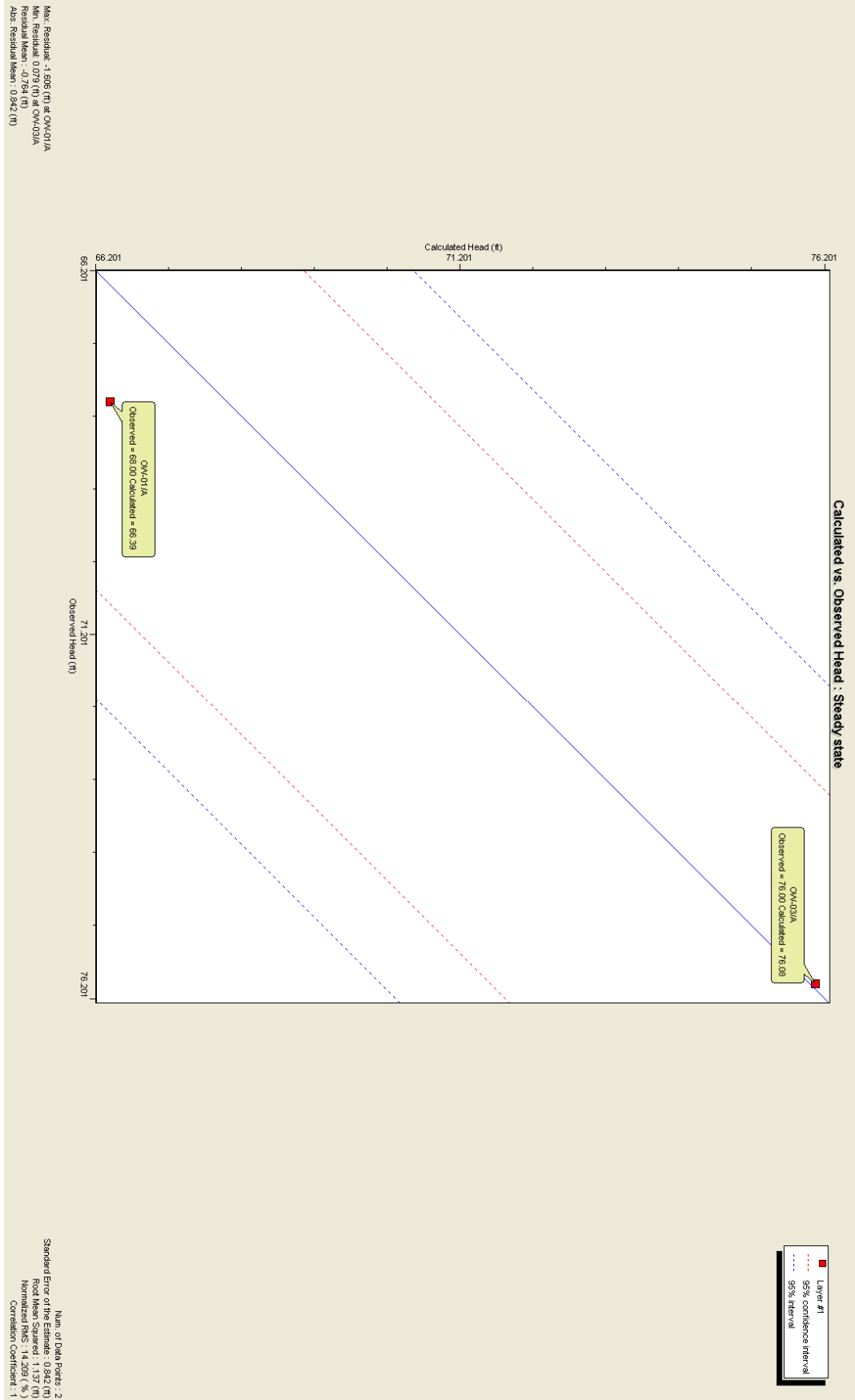
Response: *The majority of all inputted values were obtained from available sources at the time of model construction (i.e. USGS maps, Topographic quadrangles, DEMs, field measurements). The Applicant states both the groundwater mounding analysis and the topographic survey used the USGS Quadrangle datum therefore they are based on the same elevations.*

Comment 260 (NYC DEP letter, August 29, 2011): Table 1 indicates that the model run time is 365 days. Most subsurface effluent failures experienced by DEP occur after several years of operation; therefore the model should assess long-term mounding, on the order of 10-20 years of service.

Response: *The Applicant believes that as it will be discharging intermittent stream quality water (drinking water quality) from its plant it will have no organics entering the infiltration field and causing a biological mass or biomass buildup. This is the difference between a septic field and an infiltration field, the author refers to effluent infiltration failures, and this would be specific to a septic field – not a clean water infiltration area such as the Applicant proposes. The Applicant therefore believes that there would be no reason to believe that a failure over time would therefore occur so it sees no value in running this model.*

Comment 261 (NYC DEP letter, August 29, 2011): The Project sponsor should provide calibration data from the computer model to verify the results. Water elevation data from the monitoring wells should be used and be located on the graphical model output.

Response: *The requested calibration information is attached below. The model was calibrated to actual field collected groundwater levels.*



Plans

Comment 262 (NYC DEP letter, August 29, 2011): The site plans show a potential land swap with NYC at the southern end of the Project. Some information should be provided about this land swap and its impact to alter the Project.

Response: *Originally the applicant had approached the NYCDEP in an attempt to perform a "land swap." The applicant would deed to the DEP the land it owns on the corner of route 100 and Random Farms Drive (including the stream running across its property) in return for the DEP deeding over a portion of the land it owns on Route 100. However, the applicant was recently notified by the DEP that a land swap or sale was not possible.*

Carbon Dioxide Calculations:

Comment 263 (Yorktown Energy Advisory Committee letter, August 29, 2011): In section Q, beginning on page 209 of the DEIS, the Applicant calculates the carbon footprint of the 70 Croton Overlook units using geothermal energy vs. 70 single family homes using fossil fuels. Table Q-1, page 211. The 70 geothermal units produce 1,718,500 lbs of CO₂ compared with 2,835,500 lbs of CO₂ per year produced by 70 fossil-fuel single family homes. Adding in tree loss, accounting for another 41,951 lbs. they arrive at a net saving of 1,158,951 lbs of CO₂ per year over the fossil fuel alternative. Actually, tree loss will be the same for these two alternatives.

However, this is not a complete comparison. They do not compare the Croton Overlook 70-unit Project with a Project under current zoning. Theoretically, you could build 15 homes on 4 acre lots. Given, the environmental constraints, the real number might be closer to 8 homes. There is also the no-build option to consider.

In the worst case of 15 single family houses heated by fossil fuel,, using the figures presented in the DEIS, the fuel use for the 15 single family homes is 15 x 40,550 lbs per year, equal to 608,250 lbs per year. To this we could add tree loss for perhaps 30 acres, adding another 105,000 lbs for a total of 713,250 lbs of CO₂ per year. Of course, this is the worst case. There would be fewer than 15 houses and they could also have geothermal or solar heating.

For 8 conventional houses using fossil fuel and a 16 acre tree loss area, the CO₂ production is 8 times 40,550 lbs plus 16 acres times 3,500 lbs, equal to a total of 380,400 lbs of CO₂ per year.

Thus, the figures, including tree loss, are more like:

70 units with geothermal heating: 1,760,451 lbs of CO₂ per year.

15 conventional houses with fossil fuel heating: 713,250 lbs of CO₂ per year.

9 conventional houses with fossil fuel heating: 380,400 lbs of CO₂ per year.

No build option: 0 lbs additional of CO2 per year.

The DEIS has presented an inadequate comparison of energy use alternatives. The figures on CO2 emission should be calculated by the Applicant for the current zoning and no-build alternatives.

***Response:** Comment noted. Please see the tree survey in the DEIS appendices section N environmental plans/ tree survey which shows more trees would be removed for either alternate proposed. The Applicant maintains the as- of right R1-160 plan should be evaluated at 15 homes. The Applicant notes numerous green building strategies are being employed in this development including the use of geothermal heating and ventilation, which will reduce the energy consumption of the homeowners significantly into the future.*

Comment 264 (Yorktown Conservation Board letter, September 16, 2011): A true clustering plan should be discussed as an alternative to the present linear configuration, and assess the impacts of each.

***Response:** The clustering plan located in the DEIS Appendix X (alternatives) conforms to all the requirements of the town code for large lot clustering. It is the Applicant's intent to demonstrate that the lot requirements and layout of the single family detached homes associated with R1-160 alternative will cover more land area with more associated impacts to wetlands, buffers and slopes and because of these items make the alternatives less desirable as stated in the Conservation Board memo attached to the response for comment number 160.*

The R1-160 plan has approximately 55 acres of disturbance and the R1-160 Cluster alternative has approximately 34.5 acres of disturbance with single family residences having no requirement to act environmentally friendly. The Applicant's proposal limits the affected area of approximately 19 acres of development and the majority of the property left as open space. The membrane treatment for wastewater and the required IPM protocols ensure an environmentally responsible development.

Comment 265 (Yorktown Conservation Board letter, September 16, 2011): We would also like to see a thorough discussion of the impact of the proposed lighting plans vis a vis night sky compliance. While the DEIS addresses the view of the development from different areas adjacent to the property it does not address the night time glow that will emanate from 70 houses and street lights that will change the aspect of the nighttime sky in that portion of town.

***Response:** The DEIS in section Q (use and conservation of energy, green technology and infrastructure) addresses the "dark sky compliance" issue. Finally any lighting must comply with the Yorktown's lighting ordinance.*

Comment 266 (Yorktown Conservation Board letter, September 16, 2011): Consideration should be given to the impact on the site if part of the Project is

uncompleted, and ways to minimize any adverse impact due to partial non-completion.

Response: *All final plans will be reflective of Conservation Board comments, recommendations and concerns expressed. It should be noted that the Projects infrastructure is to be built out entirely at the beginning of the Project. Should lots remain vacant due to lack of sales they would merely remain as grass areas until sold. Finally, bonding would not be released until the construction was completed.*

Comment 267 (Yorktown Conservation Board letter, September 16, 2011): Review the Project's waste management plan and its impacts both during and after construction. The percentage of waste material by weight that will be diverted should be identified and the impacts assessed. The Conservation Board recommends sustainable construction waste management practices and would be happy to provide details.

Response: *All final plans will be reflective of Conservation Board comments, recommendations and concerns expressed and the Applicant has indicated it will work with the Conservation Board through the permitting process to assure this happens.*

Comment 268 (Yorktown Conservation Board letter, September 16, 2011): There will be significant loss of habitat in a heavily forested area of the development site. The DEIS claims that because of the utility ROW there is less disturbance to wildlife as it is already a disturbed area. Many animals use this and rely on the verge where a clearing such as the ROW and a forested area join. There are often more species found in these areas. Development and clearing along this area will cause serious disturbance. The loss of habitat by preserving on site wetlands is not mitigation. Further efforts should be identified to prevent or at least minimize these impacts should be explored. Additionally, the DEIS states that construction will be curtailed during mating seasons and at other times to protect the resident populations as much as possible. We would like additional clarification on how the times will be determined and monitored.

Response: *The DEIS indicates the level of disturbance and expected impacts for the types of wildlife observed and expected to inhabit the site, all of which are based on an extensive amount of information gathered under a Biodiversity Assessment. This Assessment has been required to be completed for the Project in order to better determine on-site habitat conditions and address concerns for possible habitat fragmentation, as well as other important expressed concerns. The Applicant believes that as noted in this document and in the DEIS, mitigation will be achieved by way of minimizing the amount of vegetation removed and in a north-south configuration. This is recommended in order to minimize habitat fragmentation potentials. Also, the planting of indigenous vegetation species will take place by way of the implementation of a landscape plan, which will serve to replace removed vegetation, as well as enhance other areas of the site along Dell Avenue, and thus provide additional "edge" environment along the Con Edison right-of-way.*

The DEIS does not indicate that the Con Edison right-of-way is a “disturbed area”, nor that wildlife is less disturbed for this reason. In fact, the DEIS notes that this area was not studied under the Biodiversity Assessment and thus, no definitive conclusions can be made about this area. The DEIS does note that “development sensitive species” were observed to inhabit this area, based on the types of indigenous low shrub, grass and trees species observed to exist in this area from a distance. Further, it is noted that species which may inhabit the right-of-way, may very well find the on-site Hardwood Forest habitat favorable for food and temporary shelter. Whether or not more or less species exist at the connection of these areas cannot be definitively determined, but only implied based on observed habitat conditions.

It is important to note that a large portion of the Harwood Forest community will remain; more mobile forms of wildlife are expected to be absorbed within the adjoining, more diverse areas of the site including the Highland Hardwood Forest community along the eastern limits of the site which displays similar habitat characteristics to that of the Hardwood Forest community. Preservation and protection of the remaining habitat communities at the Croton Overlook property as Open Space will ensure that displaced animals will have the opportunity to seek alternative habitat and maintain the most diverse habitats identified at the property.

As noted in the DEIS, the initial clearing of a portion of the Hardwood Forest habitat (which includes the open Disturbed Area of the site) will affect wildlife populations; in light of this, it has been recommended that clearing activities be conducted between October and May as the most critical period of a given year when the types of species observed and expected to inhabit these areas will be present. Initial clearing activities can be monitored to ensure that the least amount of vegetation is removed and that mitigation plantings occur in a timely manner.

Comment 269 (Yorktown Conservation Board letter, September 16, 2011): The plan calls for replanting of Dell Ave after hardpan is removed and stormwater bioretention basins installed. This would then be a site for passive recreation. We would like clarification on how this would replace the function in Wetland B.

Response: *The bioretention basins are not designed to replace any of the functionality of any currently existing onsite wetlands. Wetland b will not be impacted by improvements to Dell--buffer mitigation will be developed to replicate lost buffer function in final design plans. Specific flow analysis coupled with preliminary designs are provided in the DEIS appendix section V (water budget and plans) which the Applicant stresses, demonstrates that there will be no change in surface hydrology of the wetlands.*

Comment 270 (Yorktown Conservation Board letter, September 16, 2011): The DEIS seems to suggest 2 trees per lot as tree replacement for 12 acres of tree removal. We suggest that the TCAC review the proposed tree removal and mitigation plans and comment.

Response: *An analysis of the tree survey found in the DEIS appendices' section "N" shows 856 trees are present in the area of disturbance. The Applicant assumes they will protect approximately 25% of them during construction. This leaves 642 trees to be removed. The Applicant is required by town code to place two trees on each lot for a total of 144 trees; the community garden will have approximately 200 trees, 298 trees therefore, will be planted on the berm as well as landscape planting through the site. The tree ordinance states that mitigation must be performed if more than 30% of a site is disturbed. As the Applicant is disturbing 29.4% and proposing to provide 1:1 mitigation for this loss. The Applicant indicates it will work with the Tree Advisory Commission during the site plan review.*

Comment 271 (Yorktown Conservation Board letter, September 16, 2011): The Conservation Board recommends making the interior roadways of development low salt areas because of the site's proximity to the reservoir. This is not an unusual approach, other areas of town have this requirement.

Response: *The Applicant proposes to dedicate the road as a town roadway and if accepted by the Town as such it will be maintained by the highway department using its protocols. The Applicant states it has no issue being in a low salt area provided safety concerns are addressed.*

Comment 272 (Yorktown Conservation Board letter, September 16, 2011): The Conservation Board again discussed that if the property is not rezoned from the present designation that the Applicant consider ways of using materials other than lawns to minimize the need for chemical use and frequent cutting, to offer native plant and animal life a more natural habitat (as the area is one of relatively few minimally disturbed spaces)

Response: *Comment noted.*

Comment 273 (Yorktown Conservation Board letter, September 16, 2011): In addition to our own comments, we agree that the review of this proposal should include:

a. information on the impact of carbon dioxide emissions in all phases of construction and at completion.

Response: *All final plans will be reflective of Conservation Board comments, recommendations and concerns expressed. The DEIS in section Q (use and conservation of energy – green technology) presents an analysis of energy consumption and greenhouse gas emissions in several categories including during construction and after construction is completed.*

b. address the impact of a lack of public transportation in the area.

Response: *Westchester County eliminated a local bus route along Route 100 due to reduced funds in its transportation budget and low ridership. There is no other form of public transportation to any resident in this vicinity. Trains are only a few miles away*

in Chappaqua, Katonah, Mt. Kisco and Croton or Ossining. It is assumed residents in the Croton Overlook development will drive their own cars. The traffic analysis indicates, even with this situation, the traffic impact on nearby roads and intersections will be minimal.

c. The impact and plans for a potential waste water treatment facility failure.

Response: *Operation of the Plant will be by a licensed operator hired by the Public Transportation Company. The plant will be manned as required by the Operational Permit (SPDES) issued by the DEC. Typically this requires adequate site inspections and testing of the plant's process wastewater and discharge to ensure proper operation in accordance with all regulatory agencies. Also required are redundant systems (pumps, electrical generator, and the like) as well as holding capacity for more than one day's flow in case of extreme failure. In addition there is a requirement for an alarm system which will notify the operator should any failure occur. The Operation Permit requires the operator to respond immediately to an alarm, thereby assuring 24 hour a day, 7 days a week monitoring of the operation. a biodiversity study, and ask that it also include potential efforts to mitigate the impact of construction on the resident wildlife population.*

All final plans will be reflective of DEP comments, recommendations and concerns expressed. This is Discussed in DEIS appendix section j (biodiversity study). The Applicant states that its Biodiversity Assessment completed for the Project includes recommendations aimed at mitigating habitat loss, as well as minimizing impacts to wildlife and habitat fragmentation potentials, relative to the site's proximity to nearby diverse habitats.

Comment 274 (New York State Department of Environmental Conservation letter, October 13, 2011): State Pollutant Discharge Elimination System (SPDES), Sanitary

A permit for the subsurface discharge of greater than 1,000 gallons per day requires a SPDES permit. As the proposed discharge will likely be greater than 10,000 gallons per day, this will be a major project under Uniform Procedures and a minimum 30-day comment period will be required once an application is received and deemed complete.

Response: *Comments noted.*

Comment 275 (New York State Department of Environmental Conservation letter, October 13, 2011): Water Supply

This parcel is not currently within a Water Supply district. The DEIS indicates the Applicant's intent to connect to the Town of New Castel water system which is supplied by connection to the NYC Catskill Aqueduct. The Town of New Castle cannot

extend their district into another municipality. Therefore one of the following is required:

- The Applicant must apply for and obtain a Water Supply permit pursuant to Article 15, Title 15 of the Environmental Conservation Law for creation of a private water supply system purchasing water from the Town of New Castle.
- The Town of Yorktown must apply for and obtain a Water Supply permit pursuant to Article 15, Title 15 of the ECI, for the creation of a water supply district to serve this development and must enter a municipal agreement with the Town of New Castle for the sale of water to Yorktown.

Whether the Applicant or the Town is seeking the permit the submittal and issuance of the Water Supply permit must be concurrent with the processing of all other Dec permits.

Response: *Comments Noted.*

Comment 276 (New York State Department of Environmental Conservation letter, October 13, 2011): Freshwater Wetlands & Protection of Waters

Any disturbance to the Class B(ts) stream. Cornell Brook, will require a permit. Any unmapped streams with year round flow which drain into the Class B(ts) stream are also protected and disturbance will require a permit. This may include any improvements to the existing path and bridge shown on the plans.

As previously indicated in the Lead Agency response, NYS freshwater wetland O-33 and its regulated 100 foot adjacent area do not extend across the road onto this property.

If any wetlands under jurisdiction of the Army Corp of Engineers are to be disturbed and a permit is required from the Corp. then a Water Quality Certification will be required from Dec pursuant to section 401 of U.S. Public Law 95-217, and 33 USC 1341 of 1977, 1984. Issuance of this federal certification has been delegated to DEC in New York State.

Response: *The Applicant believes no disturbance to Cornell Brook requiring a permit is anticipated at this time. The Applicant acknowledges there are no DEC regulated freshwater wetlands or buffers on the project site, and recognizes that should an ACOE permit be required a water quality certification will be required from the DEC.*

Comment 277 (New York State Department of Environmental Conservation letter, October 13, 2011): State Pollutant Discharge Elimination System (SPDES)-Stormwater

For proposed disturbance of 5000 square feet or more of land within the NYC DEP Watershed this project requires coverage under the SPDES General Permit for

Construction Activity (GP-0-10-001). This site is within an MS4 area (Municipal Separate Storm Sewer System), so the SWPPP must be reviewed and accepted by the Town of Yorktown and the MS-4 Acceptance Form must be submitted to the Department prior to issuance of the sanitary SPDES permit. Authorization for coverage under the SPDES General Permit is not granted until the Department issues any other necessary DEC permits.

Response: *Comment noted*

Comment 278 (New York State Department of Environmental Conservation letter, October 13, 2011): Cultural Resources

This site is in an area determined by New York State to have potential for archeological resources. A resources assessment and review by the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) is required potential visual impacts on the Taconic Parkway must also be considered as this is a site on the National Registry of Historic Places. A determination of impacts from OPRHP is a requirement of a complete application for DEC permits.

Response: *Please refer to response to comment 169 and the attached “no impact” letter from SHIPPO.*

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APPENDIX A

ADDITIONAL LEAD AGENCY COMMENTS

[Following numbers refer to Comments above. Please see respective Responses]

1. Age issue: How would the 100% age restriction be enforced upon resale? Who would monitor it? Would deed restrictions be adequate?

2. Flow issue. The issue isn't the flow volume but DEP approval of their proposed sewage disposal system. More information is needed on what that system will look like (if this has not already been provided in one of the appendices). Question also of how much detail is required to review a rezoning request as opposed to a subdivision plan, and when would DEP's detailed review kick in.

13. Garbage generation. I'm not sure if FEIS is consistent in using the correct multiplier number for SF and RSP-1 populations. There may be over counting for SF units.

14. Traffic. Response does not appear to address the question

15. Water usage. No proof

16. Demand on services. Doesn't address all services; just talks about school children count

32. Trump. 3rd paragraph statements need proof. Other statements are COC opinions. The question itself is vague

39. Sewage. Consistent comment about COC's optimism on getting approval

40. DEP permit. See question 2.

45. Water. More confirmation needed from New Castle

46. Treatment plant. More specifics needed on plant maintenance

47. Treatment plant. On whose assumption would Town take over plant?

48. Rent/children. Where is enforcement mechanism?

53. + EMF. All these questions and answers needed to be checked out technically

63. Response did not address the comment

74. et al. Correct spelling. Should be “Buehl” instead of Buchi”

141. “should Applicant request a change of zone...” contradicts other statements about deed restrictions not EVER permitting children

146. Ambulance. The “corps” does not provide the paramedics. This is provided by the Town’s contract with a third party vendor.

147. Affordable housing. Modify response to reflect “pending” nature of Affordable Housing Law

176. Age restrictions. Deed restrictions on some of developments cited are not relevant. Do the other controls work???

177. Response implies that town has gotten involved. Certainly not at Trump. What else is Applicant referring to??

201. Does FEIS use Yorktown cost numbers? Numbers with and without overhead? And why respond to cost if there are children as everything else says deed restrictions so no children.

203. Correct statements about Glassbury, Country House and Field Home as not relevant examples. Also some statements about Trump need to be qualified given the “rumors” about rentals with school age children.

229. Missing DEP requested info (several comments on this issue). At what point would these be required? Rezone or subdivision plan?

235. Rain gardens in front yard. As this is a fee simple development, will homeowner’s assoc. mandate/enforce the 30% requirement?

243. Water supply. To show wells/pumps or not. All keyed to New Castle comments. Will any statement of New Castle capacity factor in projected growth in New Castle? What does its plan say about future growth?

248. Treatment plant. Can require additional info on how these plants have worked in the field elsewhere? I note that they were asked for this but didn’t provide it.

V. WRITTEN COMMENTS AND LETTERS

Councilman Nicholas Bianco

1

I would like the applicant to discuss the possibility of putting up a bond for a number of years as security in case of failing to pay back taxes.

We are unaware of a financial surety instrument that guarantees that future purchaser of units will pay their taxes – let alone one posted by the developer. We understand that there is a common misconception that Yorktown has a long term problem with senior/age restricted developments, but this simply is not the case. Numerous examples of successful senior/age restricted developments within Yorktown can be cited. Jefferson Village, Wynwood Oaks, Beaver Ridge, Hunterbrook Ridge, The Field Home at Glassbury Court, and the Country House all have been successfully built, sold, and with taxes paid, all without issue. In fact Beaver Ridge and Wynwood Oaks have ten year waiting lists, while the Field Home (Glassbury) is looking to add 100 independent living units to their development, and the Westchester Rehabilitative Facility is looking to increase their facility.

This misconception comes down to one development, Trump/Cappelli, that the Town has had problems with. These problems began at the started well before development, when the project was going through the approval process. This site was first proposed as an assisted living facility, then as an assisted living facility with some independent living apartments, and finally as a luxury age oriented facility. We understand that there has been talk of the developer asking the Town Board for a zone change to market rate housing. During this process taxes were not paid because units were not sold. This was due to a number of reasons. This development was finally conceived and built as a high end, mid rise, condominium building, not something you typically see in northern Yorktown. In addition at the same time the real estate market was in free fall and these units were trying to be sold well above their market prices.

It should be noted that the taxes that were not being paid, at Trump/Cappelli, were on units that had not been sold. There were no people living in these units, with no services being used and certainly no school children going into the system. Due to the way taxes are calculated on the Condominium Buildings and Site Plans, full taxes were due on the whole building, when the site and building were complete and received a Certificate of Occupancy.

Croton Overlook will be developed as a subdivision not a condominium. Currently taxes on the land are calculated as open space. Once all approvals have been received by the Planning Board, and the subdivision map is filed, the property will be taxed as 1 lot of open space, 1 lot for the Waste Water Treatment Facility and fields, and 70 individual building lots. Full taxes on each unit will not be assessed until Certificate of Occupancies are issued. While there will likely be 2 or 3 models built, the developer will not be applying for Building Permits until the homes have been sold, as there will be several designs and locations to choose from.

Lastly, we are unaware of the town ever requesting and obtaining this kind of surety from any other developer of any other development within the town and There is no rational basis to treat Croton Overlook different from all other projects.

Alice Roker

From: Susan Siegel
Sent: Wednesday, August 03, 2011 9:25 AM
To: Alice Roker; 'David Steinmetz'
Subject: FW: The "Croton Overlook" Project

From: jenniesunshinevo@gmail.com [mailto:jenniesunshinevo@gmail.com] **On Behalf Of** Jennie Sunshine
Sent: Tuesday, August 02, 2011 11:21 AM
To: Supervisor
Cc: Patty Peckham
Subject: RE: The "Croton Overlook" Project

Dear Supervisor Siegel,

Unfortunately, I will be unable to attend tonight's Town Board Meeting in Shrub Oak. However, I would like to convey my opinion regarding the "Croton Overlook" project that the Board will be addressing this evening:

I am against this project for many reasons, but the chief reason being that it is redundant. We already have numerous senior housing choices in our area. In fact, a beautiful, new housing development has almost been completed immediately adjacent to Stop & Shop in Baldwin Place. In addition, the Trump facility, I understand, is still 1/2 empty. Furthermore, Jefferson Village always has space and many Yorktown homes of all sizes and shapes are for sale at this time. I believe creating yet another building project at this delicate economic time is not appropriate or needed.

Thank you for your time and attention.

Sincerely,

Jennie Sunshine
98 Ravenscrest Road
Yorktown Heights, NY 10598
914-245-2005
SunSNP@gmail.com

Alice Roker

From: Susan Siegel
Sent: Wednesday, August 03, 2011 9:26 AM
To: Alice Roker; 'David Steinmetz'
Subject: FW: Croton Overlook DEIS

-----Original Message-----

From: Mark Michaels [mailto:mark@tantrapm.com]
Sent: Tuesday, August 02, 2011 3:31 PM
To: Supervisor; nicgin245@aol.com; Terrence Murphy; vishnuv@optonline.net; Jim
Cc: Open Space
Subject: Croton Overlook DEIS

Dear Supervisor Siegel, Councilman Bianco, Councilman Martorano, Councilman, Murphy, Councilman Patel:

I am writing about today's hearing on the Croton Overlook Draft Environmental Impact Statement, which I will be unable to attend. As an initial matter of process, I believe it is unfair to Yorktown residents to conduct a hearing on such an important matter at an unusual hour, in an outdoor setting on a hot summer evening. For example, my mother, who is 86 and has been a Yorktown resident and property owner for decades, is physically unable to attend but could do so were the hearing to be held in an indoor, air-conditioned facility. For this reason, I strongly encourage you to hold a second hearing at Town Hall in September. Such a measure would also afford residents a more reasonable period of time to review and absorb the lengthy DEIS.

Regarding that document, I have noticed several statements that raise questions about its sufficiency and quality. Some of the inaccuracies are minor, but others are more substantial. I am a layman not a biologist, but these errors were immediately obvious to me.

In the Executive Summary, there are several conflation of avian families and genera:

Picoides is a woodpecker genus. The family is Picidae

For raptors, the families are Accipitridae, Cathartidae, and Falconidae. Buteonidae is a genus. It is likely that raptors from at least one other genus are present. The property appears to include suitable habitat for Cooper's and Sharp-shinned Hawks, both of which are species of special concern in New York.

The only listed species mentioned is the eastern box turtle (special concern), but other such species may well be present, at least seasonally. Some habitat is probably suitable for spotted turtles (a species of special concern in New York), and conceivably for wood turtles (also special concern).

The conclusion that all the animal species listed are "highly mobile" is flatly false, at least with regard to the box turtle. Box turtles have specific home ranges and display a high degree of site fidelity, facts that are well-documented in the literature. Habitat disruption in this location is likely to cause turtles to wander onto nearby roads and lead to a significantly higher level of mortality.

Regarding the connectivity with the corridor that exists to the west: it is true that Route 100, in particular, is quite disruptive and deadly to reptiles and amphibians, as well as birds and mammals.

Nevertheless, there's still some connectivity, not only because these are two lane roads that animals frequently cross but also because of the streams that flow into the Croton Reservoir. The DEIS seems to overemphasize the disruption and also to overlook the fact that power line rights of way provide both corridors and nesting sites for a variety of turtle species.

While the sponsors are proposing an array of green components for this project, the viability of the entire enterprise seems highly questionable in the current economy and would likely be so even if the housing market were more favorable, particularly since the location of the development is far from many amenities. If the proposed development were to fail, a successor project would likely be far less green and would likely impose a considerably greater burden on local services. This is a problem the town has faced in the past, and in my opinion, this risk far outweighs any potential benefit the project might bring to the town.

On a personal note, I drive Route 100 regularly, as do many in South Yorktown. As I leave Millwood and approach the Reservoir, not only do I feel that I am returning home, I'm acutely aware of the transition from being in a heavily developed area to a more bucolic and pristine setting. This proposed project is located at the gateway to our town, and as I see it, the DEIS understates the potential negative impact on visual resources that the construction of a multi-unit development would have at the gateway to Yorktown. It would damage my quality of life if this important visual resource were spoiled.

Thank you for your consideration,

Mark Michaels
427 Spring Drive
Yorktown Heights, NY 10598



**Town of Yorktown
Utilities Oversight Committee
363 Underhill Avenue
Yorktown Heights, New York 10598
914-962-5722**

August 24, 2011

I have reviewed the Croton Overlook Draft Environmental Impact Statement (DEIS) posted on the Town of Yorktown Web site (accessed August 20, 2011). Upon review, I have determined that the analysis with recommendations submitted prior by the Town of Yorktown Utilities Oversight Committee (dated March 4, 2011) has not been addressed. I am re-presenting a summary of my comments on the "Technical Report of Site Investigation for Electromagnetic Transmissions" by Croton Overlook Corporation dated September 14, 2010. This site investigation regarding electromagnetic fields (EMF) is part of the appendix to the DEIS and is also referenced in Section P of the current DEIS.

The site investigation by Croton Overlook Corporation was located at Section 70.15, Block 1, Lot 2 in the Town of Yorktown in Westchester County, New York. The date and time of the investigation were September 13, 2010 between 11:00 AM to 3:00 PM. Data was collected using a single axis EMF meter. The site investigation and report preparation were done by Connor McBride, an environmental engineer for the Croton Overlook Corporation.

My comments remain as follows:

1. To avoid the question and potential of bias, Croton Overlook Corporation should have used the services of a fully independent electromagnetic field (EMF) consultant instead of an employee of Croton Overlook Corporation for Croton Overlook Corporation.
2. There was no way to determine if the single-axis EMF meter met the manufacturer's specification since no calibration certificate was included in the report.
3. The data collection methodology for a single-axis meter was invalid since readings in all cases of single-axis meter use must be taken with full three-axis orthogonality (no rotating for highest reading).
4. The resultant (or FINAL) magnetic field value when using a single-axis meter was not calculated using the root-sum-square method.
5. Due to variability of conditions and power consumption, a professional site survey should have utilized timed sampling over a multi-day period over various



**Town of Yorktown
Utilities Oversight Committee
363 Underhill Avenue
Yorktown Heights, New York 10598
914-962-5722**

seasons, and during peak electric load times.

6. The report failed to mention the 30 years of population based health effects studies (epidemiology) that have demonstrated a fairly consistent, yet unproven, association between this type of exposure and an elevated risk of childhood leukemia in exposed populations. The field level at which this association was seen is far lower than the 1,000 milligauss reference point cited in the report.

I would like to further note that the question of human safety and exposure to EMF continues to be a controversial area. The National Institute of Environmental Health Sciences (NIEHS) recommends “continued education on practical ways of reducing exposures to EMFs”.¹ And, a recently published study suggests that the children of mothers exposed to high levels of magnetic fields during pregnancy are at increased risk of developing asthma.² EMF exposure remains both a controversial issue and one that is the subject of ongoing scientific study.

In summary, I continue to recommend that this study be redone using a fully independent EMF consultant and that the deficiencies noted above and prior should be addressed and corrected.

Respectfully,

Daniel Lefkowitz, D.P.M.

¹ <http://www.niehs.nih.gov/health/topics/agents/emf/> .

Accessed August 23, 2011.

² http://www.nlm.nih.gov/medlineplus/news/fullstory_114885.html .

Accessed August 23, 2011.



STEVE KATZ
Assemblyman 99th District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

August 2, 2011

Supervisor Susan Siegel
393 Underhill Avenue
Yorktown Heights, NY 10598

Re: Croton Overlook

Dear Supervisor Siegel:

I am writing in support of the Croton Overlook Community Project. As you are aware the development of the Croton Overlook Community is not expected to result in significant adverse environmental impact which cannot be avoided. This project will create much needed jobs for our neighbors and tax revenue for the town of Yorktown. I urge you to respond favorably to the findings contained in the DEIS to undertake this important project.

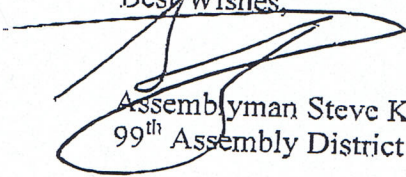
The Croton Overlook Project plays a fundamentally important role in creating affordable housing for seniors who are the anchor of our community here in Westchester. Affordable housing for our seniors is critically important for Yorktown and Westchester County as a whole. Moreover, this project will make Yorktown a more desirable place to live.

As the DEIS notes this project incorporates a variety of environmentally sensitive design and maintenance practices to offset any identified short or long term adverse impacts, and significant unavoidable adverse impacts, would result from the development of this project.

Yorktown has always been a leader in providing appropriate affordable housing for seniors and I urge you to reaffirm the town's strong commitment by looking favorably upon this request.

My door always remains open to you should you have any questions or concerns.

Best Wishes,



Assemblyman Steve Katz
99th Assembly District

To: Town of Yorktown Town Board

Subject: Croton Overlook Draft Environmental Impact Statement
Public Review Comments

Date: August 23, 2011

From: Sarah K. Yackel, AICP, Associate Principal

We have reviewed the Draft Environmental Impact Statement (DEIS) submitted by Croton Overlook Corporation (COC) with respect to the proposed Croton Overlook project located on approximately 64-acres east of the intersection of NYS Route 134 and 100. We make the following comments on the DEIS for your consideration and look forward to receiving detailed responses to each comment in the Final Environmental Impact Statement (FEIS) for the project. The following comments follow the format of the DEIS, prefaced by some general thematic comments.

GENERAL COMMENTS

- 1. Comprehensive Plan Consistency** - The Town adopted its Comprehensive Plan in June 2010. With adoption of the Plan, the intent of the Town was made clear with respect to the Croton Overlook project site. The Proposed Future Land Use Map of the Yorktown Comprehensive Plan clearly marks the project site for R1-160 zoning or 4 acres per lot. The Proposed Land Use Map represents the clear intent of the Comprehensive Plan of the Town of Yorktown. Further, the Town Board took the next step by implementing the Comprehensive Plan when it rezoned the project site from R1-80 to R1-160 about 6 months ago. Thus, the proposed project and requested rezoning is not consistent with the Comprehensive Plan. The courts of New York have consistently held that zoning must be based upon the recommendations of a well reasoned plan.

While the project may be compatible with some of the broader goals of the Town with regards to promoting housing for people in all stages of development and the other non-site specific goals discussed in the DEIS, it does not change the fact that the proposed project is inherently inconsistent with the Future Land Use Plan and the present zoning for the Site. An analysis of the project's basic incompatibility with the future land use plan and the recent upzoning, based on the Plan, of the site from R1-80 to R1-160, is thoroughly lacking in the DEIS. Further, since the proposed project is inconsistent with the Proposed Land Use Map and

therefore the Plan itself, we contend that if the Town Board entertain the proposed rezoning it must also amend its comprehensive plan to reflect this change in Town policy. Any amendment to the Comprehensive Plan would need to be adequately vetted as part of this SEQR review process.

In addition, the Comprehensive Plan has additional recommendations for the R1-160 zone that the Town should pursue, in furtherance of adopted Town policy, that would adequately address some of the environmental concerns raised in the DEIS associated with developing the site under existing zoning. Table 2-1 in the Comprehensive Plan recommends the following with respect to the Town's single-family residential districts.

- All areas should be subject to natural resource protection requirements relating to wetlands, water bodies, steep slopes, tree clearing, etc.
- Increased setback, building coverage, and impervious coverage requirements should be revisited for the R1-80, -160, and -200 zones.
- Floor area ratio limits should be considered in order to limit potential for McMansions.

Rather than rezone the site, which is inconsistent with the Future Land Use Plan, the Town should move forward with the remaining recommendations for the R1-160 zone contained in its 2010 Comprehensive Plan.

- 2. Alternatives** - The DEIS states that given the impacts of the R1-160 Zoning Compliant Conventional Development alternative that it "is not a practical alternative" (page 76) and further states that "there is no cluster zoning applicable to the R1-160 zoning," (page 49) thereby ruling out the R1-160 Zoning Compliant Cluster alternative. Neither of these statements is accurate nor is any supporting evidence presented to support these assertions. In fact, development of the site under existing zoning is the epitome of practical, and the Town Zoning Code dedicates an entire section to large lot clustering, with regulations specific to the R1-160 District (Town Code §300-216). The SEQR regulations (617.9b5v) state that "the description of and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment..." The description and evaluation of the project alternatives provided in the DEIS is not sufficient to make a reasoned comparison of impacts. The assumed impact for the majority of the environmental categories discussed under the R1-160 alternatives are greater than for the proposed action although these claims are not substantiated by any analysis, documentation or facts. In fact most of these claims are readily refutable.

For example, the DEIS states that the R1-160 alternatives would produce more garbage than the proposed action because the as-of-right development would result in bigger families. Using the Rutgers multipliers - the same multipliers used by the applicant to estimate school children - if all 15 as-of-right homes assumed by this alternative consist of 4 to 5 bedroom homes above the median home price (a worst case scenario) - the estimated total population would be 58 new residents as opposed to 140 projected under the proposed project. If the proposed project would result in an additional 82 residents on the project site as compared to the project alternatives, how can the DEIS justify the statement that the alternatives would result in more solid waste due to the larger family size?

The DEIS also states that the R1-160 alternatives are less environmentally responsible because of the larger homes that would result if developed under existing zoning. However, the DEIS states that the proposed age restricted duplex units would range in size from 2,400 to 4,000 (DEIS page 47) while the as-of-right homes would range from 3,200 to 6,000 (DEIS page 230). While the as-of-right homes could be bigger, under the alternatives there would be 55 fewer homes developed or approximately 120,000 to 190,000 square feet less floor space developed. The statement regarding environmental responsibility is not substantiated by the facts.

Further, with regards to traffic the DEIS again states that the R1-160 alternatives would result in larger families and as such generate more traffic. However, a quick review of ITE trip generation rates shows that the proposed project would result in approximately 244 daily trips while the as-of-right alternatives would only result in 180 daily trips. So again the DEIS claims that the proposed project is less impactful without providing any supporting documentation. The DEIS states that the R1-160 alternatives would also result in greater water demand based on the "larger family size." Again, no evidence is provided to support this statement and as demonstrated above, this assertion is not supported by the facts. Yet the DEIS concludes that the R1-160 alternatives would be more impactful without providing any analysis.

We urge the Town Board to take the requisite "hard look" at the alternatives, particularly the R1-160 Zoning Compliant Cluster alternative. This alternative would result in significantly fewer homes on smaller lots that could be situated as to avoid the important on-site natural features, including wetlands and steep slopes, while preserving a minimum of 40% of the project site as open space. The Town Board is responsible for the adequacy and accuracy of the Final EIS, regardless of

who prepares it. We therefore urge the Board to consider hiring an independent consultant to prepare a realistic and well designed cluster subdivision under existing zoning alternative to be included in the FEIS. We would also mention that the Town itself has the option of preparing the FEIS. At a minimum the Town should insist that the applicant provide an objective and realistic analysis of alternatives in the FEIS.

3. **Fiscal Impact Analysis** - At the August 3, 2011 DEIS Public Hearing for the Croton Overlook project, COC project attorney, David Steinmetz indicated that a detailed fiscal impact analysis had been prepared for the project and included in the DEIS. We note that no such analysis was provided in the DEIS or the DEIS appendix. This fiscal impact analysis should be included in the FEIS so that it can be adequately reviewed and considered by both the Town Board and the public.
4. **\$650,000 Payment** - What is the purpose of the proposed \$650,000 payment? It does not appear that this payment is necessary to mitigate any project impacts as no impacts to community services or facilities have been identified. In fact, the DEIS states that the project would have a net benefit to the Town. The DEIS also states that the proposed action would be better for the Town than the as-of-right alternative because of this payment. This payment is therefore not a mitigation for an environmental impact and should not be considered in any way by the Town in making its decision on the project. The merits or weaknesses of the application must speak for themselves.

The introduction of a payment as an inducement to achieve a rezoning also raises troubling constitutional questions. Any zoning decision must of course be in accordance with the Town's Comprehensive Plan (which it is not - see other arguments on this issue), must be enacted in furtherance of a legitimate governmental purpose, and must show a reasonable relation between the end sought to be achieved and the means used to achieve that end.

The subject payment is however offered with no restrictions as to its use. It is simply an open gift to the town, to be used in any manner the town wishes.

A payment offered in conjunction with a rezoning, without any rationale that is relevant to this property offered for such payment, could be read by some to imply an impermissible inducement to the Town's decision makers. The FEIS should justify this payment under existing law or withdraw it."

In addition, we have the following specific comments on the DEIS; these

comments follow the format of the DEIS.

I. Executive Summary

- Page 6 - Description of the Proposed Action - The DEIS states that "[t]he open space area will be deed restricted, serving as an active and passive recreational resource for the community." It is not clear from the DEIS whether the deed restricted open space will be accessible to all Yorktown residents. If it is not, it is not accurate to characterize the open space as a resource for the community and include it as an overall benefit of the project supportive of the Town's Comprehensive Plan vision for Parks and Recreation (see DEIS page 69).
- Page 9 - B. Visual Resources - The text states that "[a]s drivers pass the site going either north or south on the Taconic State Parkway, they would have distant views of the proposed roofline, if mitigation practices were not employed." There is no discussion of any proposed "mitigation practices;" a discussion of any proposed mitigation needed to mitigate the identified visual impacts needs to be included or this reference should be removed and the impact fully disclosed.
- Page 12 - C. Flora and Fauna - The DEIS states that "[p]hysical impacts associated with the removal of vegetation will be mitigated by implementing a Storm Water Management Plan." Is the storm water management plan referenced in the text the "Stormwater Pollution Prevention Plan" contained in DEIS appendix F? Please clarify.
- Page 16 - F. Cultural Resources - The DEIS states that the "proposed project requires OPRHP's review due to the presence of a precontact (dating prior to European contact" archaeological site..." Given that OPRHP review is required, OPRHP should be added to the list of "Required Reviews and Approvals" listed on pages 40-41 and the list of "required Permits and Approvals" on pages 51-52. Has a copy of the DEIS been submitted to SHPO for review and comment? The Town Board should not make SEQR Findings until the applicant can confirm and demonstrate that SPHO has been included in the SEQR review process and that a SPHO determination of "No Effect" has been issued..

II. PROJECT DESCRIPTION

- Page 41-42. Project purpose, needs and benefits - This section references the economic benefits of the project and estimates the annual taxes to be generated by the project. However as mentioned above under the general comments, no information as to how these numbers were calculated is provided. The fiscal analysis prepared for the project needs to be included in the FEIS and the methodology used to determine future tax revenues needs to be

provided. Further, the reference to the proposed \$650,000 one-time payment needs to be removed from the discussion of projects benefits as discussed above in the general comments.

This section also states under public benefits that the project "would like to foster a relationship with our Community and the students of Yorktown's Schools." No specific mechanisms or proposals for achieving this relationship are discussed. We question the reality of this statement as an actual public benefit of the project. Unless the applicant can clearly demonstrate how they intend to achieve this goal, it should not be included as a public benefit of the proposed action.

This section also discusses how the proposed action conforms to the Yorktown Master Plan. As discussed above, while the project may be compatible with some of the broader goals of the Town with regards to promoting housing for people in all stages of development and the other non-site specific goals discussed in the DEIS, it does not change the fact that the proposed project is inherently inconsistent with the Future Land Use Plan and the present Zoning for the Site. Please refer to the discussion of Comprehensive Plan Consistency included under the general comments above for additional discussion.

Finally this section states that the proposed project was designed to conform to the six specific "Design and Development Concepts" outlined in the Comprehensive Plan for the RSP-1 District. The proposed action is inconsistent with RSP-1 Design Concept #1. RSP-1 Design Concept #1 states the following: "Campus-like layout, forming a complete village or community (e.g., Jefferson Village)." The proposed action does not form a complete village or community; no on-site amenities are proposed other than the mostly passive open space. Jefferson Village provides a pool, clubhouse, tennis, exercise room, is located in close proximity to medical facilities, and is within walking distance of shopping and the Jefferson Valley Mall. None of these amenities are proposed for the Croton Overlook project and the project is not consistent with this Comprehensive Plan design concept. The DEIS concludes the discussion of the design concepts by stating "Croton Overlook was designed to conform with these specific concepts, and successfully comports with them all." As demonstrated above, this statement is inaccurate as the project is inconsistent with design concept #1. These inconsistencies need to be adequately addressed in the FEIS and considered in future discretionary decisions made by the Town Board regarding the project.

- Page 49. Proposed Development - The DEIS states that "[a]s there is no cluster zoning applicable to the R1-160 zoning, only the alternative of standard R1-160 zoning can be analyzed." As discussed above under the general comments, this statement is incorrect. The Town Zoning Code dedicates an

entire section to large lot clustering, with regulations specific to the R1-160 District (Town Code §300-216). Therefore, specific detail regarding development of the site under the R1-160- cluster development must be fully analyzed in the FEIS and compared to development of the site under the proposed action.

- Page 76. Legal Basis - The DEIS states that the proposed 70 units will be sold as 55+ units and ensure that children will not reside in the development by placing covenants and restrictions within the homeowners association bylaws and placing restrictions on the individual property deeds (see DEIS page 78). The question of whether the units can be sold as age-restricted units is not the relevant question to ask. The better question is: what happens, assuming the units are sold to 55+ residents, once they are sold? How are the age restrictions enforced after the units are sold? The so-called age restrictions that the applicant claims will limit their development's pressure on the Town's resources, particularly schools, will ultimately prove to be unenforceable and therefore harmful to the Town. The legal basis discussion focuses on the question of whether housing units, in the project could be sold with legally enforceable restrictions on who may purchase the units. The discussion ignores the more important question of what happens once the units are sold. How does the Town enforce the age-restrictions after the units are sold and the Croton Overlook Corporation has moved on? The question now is not whether the Town of Yorktown may, under state and federal law; approve the construction of age restricted housing, but rather what the impact will be if it does?

The DEIS is silent on the issue of whether any town or other governmental body has successfully brought an action to enforce age restrictions in certificates of occupancy for private, owner occupied residences in such a community. Such a discussion needs to be provided. If no legal precedent is provided for such action, and the Town approves the proposed project, the Town will be taking on the risk and expense of future enforcement. Is this a risk the Town is willing to take? In taking on this risk, the Town would be consciously accepting the prospect of being involved in litigating a costly and divisive "test case," as the plaintiff, when the time comes that it must take action to enforce the age restrictions placed on the units. If that time comes, the Town of Yorktown will have the unfortunate choice of having to decide between suing its own citizens who are in violation of the age restrictions in the deeds and certificates of occupancy, possibly forcing them to leave their homes, or having to acknowledge the fact that the age restrictions were not viable in the long run, with the effect that the entire Croton Overlook project would henceforth be free of any age restrictions at all. These issues are of key importance and must be fully explored and discussed in the DEIS.

The FEIS should also include a discussion of how the Town of Yorktown would

ensure compliance if the applicant, subsequent to the granting of any zoning change, were to sell the development rights to Croton Overlook.

V. EXISTING CONDITIONS, POTENTIAL IMPACTS, MITIGATION

A. Land Use and Zoning

- Page 66-67. Compliance with the Comprehensive Plan
 - See general comments on Comprehensive Plan compliance above.
 - The project is not compatible with the stated purpose of the RSP-1 as presented in Table 2-4 of Chapter 2- Land Use of the Comprehensive Plan. The Comprehensive Plan states that the purpose of the RSP-1 designation is "to provide opportunities for senior citizens to find appropriately sized housing units...in an environment more tailored to their needs." The project does not provide an environment specifically tailored to the needs of senior citizens. No amenities, other than the largely passive open space, are provided to meet the needs of future senior residents. This inconsistency must be addressed in the FEIS. Further, the DEIS states that the "Croton Overlook project is specifically marketed to "empty-nesters" as it is an active adult 55 and over community." What features of the proposed project would specifically appeal to active adults 55+? As stated in the DEIS the deed restricted open space features "various forms of passive recreation for citizens of Croton Overlook." No active recreation is proposed to meet the needs of active adults.
 - Page 67 - The DEIS states that approximately 82% of the 64.52 acre site will remain deeded open space. This is incorrect. If, as stated in the project description, approximately 44-acres are to be deeded as open space, then only 68% of the site will be deed restricted open space. Further the document states that 52.48 acres will be deed restricted open space, not 44-acres as presented elsewhere in the document. These inconsistencies need to be corrected and the exact amount of open space to be deed restricted must be provided and consistently presented in the FEIS.
- Page 68-71. Compliance with the Westchester 2025 document
 - The DEIS purports consistency with Westchester 2025 Item 8 that states that "communities must create more "livable" neighborhoods for our aging population that features transit-oriented development." The Federal Transit Administration defines transit-oriented development as "compact, mixed-use development within walking distance of public transportation" http://www.fta.dot.gov/publications/publications_11007.html. The

proposed project is not a transit-oriented mixed-use development, as no mix of uses nor transit is proposed nor is the project site located in proximity to existing public transit. As stated in the DEIS the nearest public transit line to the project site is the number 17 Bee Line Bus which runs along the Taconic Parkway approximately 2-miles west of the site. However, it should be noted that the number 17 bus is the Peekskill White Plains express bus and it does not run through nor does it have stops in Yorktown. The Bus that runs along the Taconic is the number 77 Express that only provides service in the AM and PM peak hours Monday through Friday. While the 77 bus does run along the Taconic approximately two miles from the project site, the nearest stop on the number 77 bus to the project site is at the FDR Park-in-Ride lot in Yorktown approximately 9 miles from the project site (<http://transportation.westchestergov.com/timetables>). Based on this information the argument cannot be made that the proposed project is supportive and consistent with the stated Westchester 2025 goal.

- o Page 69 - The DEIS states that approximately 48 acres of deed restricted open space will be provided. This statement conflicts with other statements in the DEIS regarding the amount of deed restricted to be provided. Please clarify.
- o Page 71 - The DEIS states that "there will be no visibility [of the project] from any of the historic, culturally significant or nearby homes or roads." This statement conflicts with the conclusions made in Section B. Visual Resources of the DEIS that state that the project will be visible from the Taconic State Parkway, Turkey Mountain, Hilltop Hanover Farms, Kitchawan Preserve, Route 134, and Route 100. Please correct. In addition, the DEIS states that the visual resource assessment is in DEIS Appendix C, when it is in Appendix E. These inconsistencies and misstatements need to be addressed.
- Page 73. Zone Change Request - Based on the general comments regarding comprehensive plan consistency contained above as well as the previous comments contained in this section, we recommend that the Town Board deny the Zone Change Request as the project as proposed does not conform to the Town's Comprehensive Plan nor does it meet the basic design criteria set forth for the RSP-1 District (i.e. "environment more tailored to their need" and "complete village or community.")
- Page 74. There are many inconsistencies on this page that conflict with information presented elsewhere in the document. It is stated that 45-acres of open space will be deed restricted and that the project site is 62.76-acres in size. Please clarify the total project acreage, amount of open

space to be deed restricted, amount of land to be developed for housing, and the amount of land to contain the wastewater treatment plant.

- Page 77. Context and Public Policy - Please provide basis for gross tax revenue estimates.
- Page 79. Proposed Mitigation - The DEIS states that the "architecture of the residential buildings includes varied roof lines, and the use of earth color tones." However, this statement cannot be confirmed or supported as no architectural renderings of the proposed development are provided in the DEIS. Architectural renderings must be provided in the FEIS.

B. Visual Resources

- Page 81. Existing Conditions - Figures B-1, B-2 and B-3 show photographs from the proposed Limit of Disturbance facing south, east and north; however, no map illustrating the limit of disturbance is provided. This map as well as a key map identifying the location of each photograph needs to be provided so that the Town and public can fully understand the visual impact of the project.
- Page 88. Proposed Mitigation - The DEIS states that "proposed mitigation techniques will include screening, as achieved by berms and planted vegetation, and the use of natural colors for the houses to blend into the scenery." As stated above, architectural renderings need to be provided so that the impact of the proposed development can be fully understood and evaluated.

C. Flora and Fauna

- Page 106/108/109 - The DEIS states that 47.9-acres of the site will remain protected and preserved open space. This number conflicts with other statements in the DEIS regarding the amount of open space to be preserved. Please clarify. Page 109 also states that the total site acreage is 62.7, which conflicts with other totals given in the document. Please clarify.
- Page 108 - The DEIS includes as project mitigation the requirement that "[c]onstruction activities will not be performed during periods of the year when mating and breeding life-cycles of development-sensitive species (avian and herpetofauna) are at a high." The specific times of the year when construction activities should not be performed need to be clearly identified in the FEIS and taken into consideration in the discussion of construction impacts (DEIS Section G.). Will the restrictions on construction activities impact the overall construction schedule? If so, how? How will this and all other required mitigation measures be monitored and enforced? Will monitors

be on-site during construction activities?

D. Soils, Topography, Steep Slopes, and Geology

- Page 129 - The entire project site boundary should be added to Figure D-3: Total Area of Disturbance. It is hard to determine the amount of total site disturbance without the total project site boundary illustrated.
- All of the references included to the various studies contained in the DEIS appendix are incorrect.

E. Wetlands and Surface Water Resources

- Page 136 - the DEIS states that "any planned improvements at this location will require NYCDEP approval." NYCDEP is not included in the list of required reviews and approvals included in the Executive Summary or Project Description. Is NYCDEP approval required? If so, NYCDEP should be added to the list of "Required Reviews and Approvals" listed on pages 40-41 and the list of "required Permits and Approvals" on pages 51-52. What is the specific approval needed? Has a copy of the DEIS been submitted to NYCDEP for review and comment? The Town Board should not make SEQR Findings until the applicant can confirm and demonstrate that NYCDEP has been included in the SEQR review process.
- Page 141 - How many square feet of wetland buffer will be disturbed?
- Page 142/143 - What is the extent of the proposed buffer vegetation plantings? Will the buffer mitigation be 1:1 or greater? Buffer mitigation planting plans should be provided in the FEIS and should include a detailed description illustrating the amount and type of buffer vegetation plantings to be provided.

F. Cultural Resources

- Page 144 - The DEIS states that the "proposed project requires OPRHP's review due to the presence of a precontact (dating prior to European contact" archaeological site..." Given that OPRHP review is required, OPRHP should be added to the list of "Required Reviews and Approvals" listed on pages 40-41 and the list of "Required Permits and Approvals" on pages 51-52. Has a copy of the DEIS been submitted to SHPO for review and comment? Has the applicant received a SHPO "Determination of No Effect"? The Town Board should not make SEQR Findings until the applicant can confirm and demonstrate that SHPO has been included in the SEQR review process and that a SHPO "Determination of No Effect" has been received.

G. Construction Impacts

- Page 156 - Table G-1: Draft Construction Schedule - Does the construction schedule take into account the prohibition on construction activities during the nesting/breeding season set forth in DEIS Section C (page 108)?

H. Community Facilities

- Page 159. The DEIS sites correspondence from martin McGannon of the Yorktown Heights Fire Department. A copy of this and all other referenced correspondence should be provided in the FEIS.
- Page 162. Recreational Facilities - What are the Town's recreational fees? Will the proposed project pay recreational fees? If not, how will this impact the Town's recreational facilities?
- Page 164. School Children - How much does it cost the School District to educate a school child on an annual basis? The applicant needs to provide analysis to demonstrate that the project, should it be rezoned to eliminate age restrictions, can generate adequate tax revenues to fund any school children as well as other Town services (i.e. police and fire). There is not enough information provided for the DEIS to conclude that in the case of a future rezoning to allow unrestricted units that the project "would have no financial impact on the Town of Yorktown."

I. Community Growth and Character

- Page 169. Employment Conditions and Economic Development - The DEIS states that the project will generate 144 new residents. Elsewhere in the document this number is stated as 140. Please clarify. In addition, the DEIS states that the project is expected to "generate \$16,105 per unit and \$1,127,350 annually." How were these numbers determined? No detailed fiscal analysis is provided in the DEIS and the accuracy of these numbers cannot be confirmed. A detailed fiscal impact analysis needs to be included in the FEIS.
- Page 169. Comparison to nearby development - The DEIS provides one example to demonstrate the need for the type of housing proposed by the project. One example is not adequate to make a determination that a need exists for such housing. There are many other examples of age-restricted housing converting to non-age-restricted housing in the area, including the 141 units in the Trump Park Residences in Yorktown. A sample of one project is not sufficient to support the need for the project, particularly when there is an existing failed project of a similar size already in Yorktown. Has a market study been prepared for the project? Additional examples of other now or formerly age-

restricted projects in the area should be discussed in the FEIS and the conclusions of this section adjusted accordingly. The FEIS should provide a detailed financial breakdown and analysis of the 55+ market in the area and should consider the impacts of the recession on the target market.

- Page 173 - The DEIS purports to support the Comprehensive Plan goal to "promote energy conservation and "green" buildings." The DEIS states that, in support of this goal, the "proposed Croton Overlook homes will be constructed with a variety of environmentally responsible and green features. These proposed features will include, *wherever feasible*: geothermal heating and cooling, using recycled building materials, natural ventilation, solar panels, renewable lumber, sustainable community design" (emphasis added). Will any of these features be employed? What are the limitations to their feasibility? In order to claim that the project is in support of this goal, the FEIS needs to state which of these measures will be employed by the project and all proposed "green" building and energy conservation measures need to be clearly outlined in the description of the proposed project.

J. Stormwater Management

- Page 174. Existing Conditions - The DEIS states that "since this area discharges radially outward..." To what area is the DEIS referring? Please clarify.

L. Utilities, Water

- Page 184. Potential Impacts - Is the applicant proposing that the Town of Yorktown create a new water district that would obtain its water supply from the Town of New Castle? If so, the DEIS does not demonstrate the feasibility of such a proposal nor has the DEIS shown that the Town of New Castle cannot refuse to supply water to the project. The FEIS must clarify this issue and provide clear documentation as to New Castle's willingness to provide water to the project and the specific mechanism/agreement for obtaining this water. Water supply issues must be resolved prior to the completion of the SEQR review process.

N. Fiscal and Socioeconomic Impacts

- How were the total taxes to be generated by the project determined? No fiscal analysis is provided. The DEIS states that each unit is expected to generate \$16,105 but no formula is provided to determine how the applicant arrived at this figure. Further, there is no basis to determine how the figures of the total annual taxes (\$119,575) or school taxes (\$821,418) to be paid directly to the Town were calculated. The basis for determining the total annual taxes to be generated if the project were developed as a

condominium is also not provided. How were these figures determined?

- Page 196 - The discussion of the \$650,000 payment should be eliminated from any discussion of the fiscal impacts of the project as discussed above in the general comments.

O. Traffic Conditions, Safety and Flow

- The Traffic Section fails to adequately address the impact of the proposed action on area roadways as required by the adopted scoping document. The traffic analysis only addresses impacts of the project at the intersections of NY Rt. 100/Dell Avenue and NY Rt. 100/NY Rt. 134, yet fails to address potential impacts at the intersections of Random Farms Drive and NY. Rt. 100 and Seven Bridges Road/Hog Hill Road and NY. Rt. 100. Both of these local roadways are located within the immediate vicinity of the project site and could be used by residents of the proposed project to access points south of the site within the Town of New Castle. Random Farm Drive is of particular concern as it provides the most efficient access to Millwood Road/NY. Rt. 133 and other points south and will be an attractive "short-cut" to new residents. Random Farms Drive is a local residential street and any increase in daily trips along this road would result in an impact to local residents, particularly if motorists using this short-cut are travelling at excessive speeds. Further, the impacts of new left turns off of Route 100 onto Random Farms Drive could also pose a safety threat at this intersection. It is impossible to access the potential impacts of the proposed action on these two local roadways and intersections as no analysis was provided in the DEIS. The FEIS must include such an analysis.

Q. Use and Conservation of Energy - Green Technology

- Page 209. The discussion of greenhouse gas emissions should incorporate the presentation format and categories used in the New York State Department of Environmental Conservation Policy "Assessing Energy Use and Greenhouse Gas Emissions in Environmental Impact Statements" issued July 15, 2009. While the analysis presented in this Section references the above document, the analysis does not conform to the methodology presented therein and required by the adopted Scoping document for the project. In particular, the DEIS should: (i) identify any Greenhouse gases other than CO₂ and convert them into their carbon dioxide equivalents, (ii) categorize and identify the gases by categories used in the DEC Policy, and (iii) identify the strategies which might be used from the Policy's Section G, "Mitigation Measures," and particularly those on "Building Design and Operation Measures" and "Efficiency or Mitigation Measures for On-Site GHG Sources." DEC officially adopted a protocol for reviewing DEISs for energy use and greenhouse gas emissions. This document should be used by the applicant to structure their

discussion and analysis and to identify modeling software and mitigating actions that could be addressed to reduce overall emissions.

- Page 210. The amount of natural gas and estimated annual electricity demand of the project are not presented. This information is key to an analysis of greenhouse gas emissions. All consumption of natural gas and electricity demand should be converted into CO₂ equivalents for comparison purposes and the analysis needs to be presented in aggregate and on a per residential unit basis.
- Page 211/212. It is not clear from the DEIS analysis how much, if any excess material will be hauled off-site. If material will be removed from the project site, the amount and type of such material needs to be provided. Further, the number of truck trips needed to haul off any excess material must be provided and this should be examined as part of the greenhouse gas emissions impacts and discussed under the traffic and construction impact section.
- Page 210. The DEIS states that the proposed project will save an estimates 1,158,951 lbs of CO₂ emissions per year as compared to if the community were constructed as average single family homes. There is no basis provided for how the applicant arrived at this calculation. How does the project save CO₂ emissions? Based on the applicant's assertion that the proposed homes would only generate 24,554 lbs of CO₂ as compared to the 40,550 lbs of CO₂ generated by a standard single-family homes - the proposed action would generate 1,788,780 million lbs while the 15 homes generated under existing zoning would only generate 608,250, 1.18 million lbs less than the proposed action. If the single-family homes were constructed using green building practices similar to the proposed action this number would only be 368,310 lbs, 1.42 million lbs of CO₂ less than the proposed action. The FEIS needs to explain the basis for determining the numbers presented and justify and explain the conclusions made in light of the above information.
- Page 215. The DEIS indicates that the homes in the proposed development will attempt to reach Silver LEED Certification; however, the DEIS does not indicate the proposed components for specifically achieving this rating. The components for achieving LEED Silver should be provided and included in the project description as components of the proposed action.
- Detailed energy consumption and greenhouse gas emissions analyses should be presented for the DEIS alternatives. The alternatives analysis currently makes blanket statements regarding energy use and greenhouse gas emissions without providing any real analysis.

VI. ALTERNATIVES

- See general comments above for comments related to alternatives.

Thanks for your consideration of the above comments. We look forward to reviewing responses to each comment made in the FEIS. Should you have any questions or comments, please don't hesitate to contact me at [s.yackel@bfjplanning .com](mailto:s.yackel@bfjplanning.com) or 212-353-7375.



**Environmental
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August 29, 2011

Ms. Alice Roker, Town Clerk
Town of Yorktown Town Board
363 Underhill Avenue
Yorktown Heights, New York 10598

TOWN CLERK'S OFFICE

AUG 29 2011

TOWN OF YORKTOWN NY

**Re: Croton Overlook -- DEIS
Town of Yorktown, Westchester County, NY
Tax map #: 70.15-1&2 and 70.11-1-16
DEP Log#: 2010-CNC-0479-SQ.1**

Dear Ms. Roker and Members of the Town Board:

The New York City Department of Environmental Protection (DEP) has received the Draft Environmental Impact Statement (DEIS) for the above-referenced project.

DEP has reviewed the following documents for the above captioned project: 1) DEIS, dated May 23, 2011, last revised July 9, 2011 and accepted July 12, 2011 and 2) site plans prepared by Lawrence J. Paggi, P.E., last revised May 12, 2011.

Based upon the review of the documents received, DEP has a number of concerns about potential water quality impacts resulting from the project. As you are aware, the proposed project is located in relatively close proximity to the New Croton Reservoir. The applicant is proposing to disturb approximately 19 acres of mostly hardwood forest during construction, or about 30% of the project site. In particular, the potential adverse impacts of greatest concern to DEP are related to increases in the rate, volume, and pollutant load of stormwater runoff during and after construction.

DEP respectfully submits the following comments for the Board's consideration:

I. Executive Summary

The description of the action and supporting documentation included in the DEIS are inconclusive in reasonably identifying the potential adverse impacts from the project and do not include sufficient information to demonstrate that adverse impacts can be avoided or mitigated. Numerous contradictions were noted in the DEIS and references to design concepts, such as, green infrastructure, are then not considered in the supporting documents. DEP strongly urges the Board, as Lead Agency, to request that the project sponsor provide significant revisions and additional supporting documentation in the

FEIS and its appendixes so that an informed decision can be made with regard to findings.

The action is described as a cluster or conservation development. As such, this type of development provides many opportunities for protection of environmental resources and is encouraged; however, Croton Overlook proposes an intense development within approximately 20 acres for home sites, wastewater treatment and references to other ancillary uses that are not clearly identified, located or sized on the drawings. Typically, active recreational facilities, composting facilities and community gardens vaguely described in the DEIS require clearing, grading and possibly additional impervious surfaces. Even the passive recreational activities, such as the "picnic areas" and trails shown on the drawings may require clearing of vegetation and disturbance of soils. The situation is further complicated by the fact that the open space lot, which might be used for some, if not all of these activities, is populated predominantly by severely erodible steep slopes, wetlands, and wetland buffer. Use of this space for unspecified ancillary uses has the potential for significant adverse environmental impacts. The intensity of development as shown, with references to additional development of facilities not shown on the plans suggests that the action is not a true conservation development that will provide significant protection of the environment.

III. Required Permit and Approvals

1. The list of required permits and approvals must be corrected. New York City DEP permits and approvals that are required include approval of a Stormwater Pollution Prevention Plan (SWPPP), the Waste Water Treatment Plant (WWTP) with subsurface disposal, the sewer collection system, and connection to water supply. While DEP has visited the site to delineate water courses, it is unclear what the "DEP jurisdictional water course approval" listed herein means.

IV. C. Flora and Fauna

1. The DEIS states that the physical impacts associated with the removal of vegetation will be mitigated by implementing a Storm Water Management Plan. This is not considered mitigation and as such, mitigation has not been proposed at all for the removal of vegetation.

IV. D. Soils, Topography and Steep Slopes

1. The DEIS notes that there will be no adverse impacts to soils, topography or steep slopes; however, there appears to be significant amounts of disturbance in Chatfield Hollis Rock Outcrop soils (CuD) soils, which exhibit very shallow bedrock and a severe potential for erosion. On the project site, these soils are located directly adjacent the wetland buffer. Regrading will include not only leveling and excavation for construction of residences but also steepening of slopes for final grading, and possibly the construction of bioretention basins and picnic areas on steep slopes. The potential for erosion of these soils both during and after construction is extremely high

2. This section states that the sequencing provided on the erosion and sediment control plans show that the impacts can be avoided or mitigated; however, this has not been demonstrated on either the plan, the discussion of blasting elsewhere in the DEIS or the construction schedule provided. These two items imply that site work on a large portion of the 20 acres will occur within a very short time period and contradict the erosion and sediment control drawings. Neither document includes sufficient protection for these sensitive soils.
3. In a letter to the Lead Agency dated March 3, 2001 regarding the scoping document for this action, DEP requested that interim cut and fill balances, grading plans for each phase of construction, and additional information be developed to demonstrate that the plan adequately considers the amount of area necessary to accommodate the work required in each phase of construction and can provide adequate protection. These requested items are not included in the DEIS and, based on the lack of detail and degree of contradiction in the various parts of the document, it can be concluded that the action as proposed in the DEIS does not adequately avoid or mitigate adverse impacts due to disturbance of soils, steep slopes and blasting.

IV. E. Wetlands and Surface Water Resources

1. Improvements to Dell Avenue are briefly mentioned in this section. As discussed, the improvements will be located within 50 feet of a DEP delineated watercourse and 100 feet of a Town of Yorktown wetland. Since there are regulatory restrictions that may apply to the proposed but unspecified improvements, particularly if the improvements are proposed within the limiting distance of the watercourse where it becomes a reservoir stem, it is appropriate to present at least a conceptual design in the document so that regulatory conflicts can be avoided. Additionally, measures to avoid or mitigate potential impacts from the improvements to the adjacent watercourse must be included. Furthermore, Dell Avenue is a town road. The drawings indicate that it will be removed for the installation of stormwater practices and the disposal area for the WWTP. It is also appropriate to include impacts and processes associated with abandoning this town road in the EIS.
2. The DEIS notes that a water budget analysis was conducted to determine the volume of water that would be discharge to the internal wetlands and associated design changes proposed. DEP agrees that maintaining predevelopment hydrology is important for avoiding impacts to surface waters. Please note; however, the proposed bioretention basins are located in the CuD soils discussed above which are steep, have high bedrock, and are prone to erosion. Construction and operation of bioretention in this area may not be feasible. Proximity to proposed residential units may also preclude placement of the practices in this area. These limitations should be further explored in the EIS.
3. DEP requested, in the above referenced letter on scoping, that a pollutant loading analysis be conducted as part of the EIS. This analysis would provide a reasonable estimate of potential increases in pollutants due to development and provide a basis for design of stormwater management practices to mitigate the impacts. While this is important in any

proposed development of similar size, in a watershed that already exceeds its TMDL and is mandated to reduce phosphorus from development, it is essential to demonstrate that the proposal can at least maintain, if not reduce loading of phosphorus and other pollutants of concern.

4. The standard stormwater practices both in the SWPPP and in the water balance analysis do not appear to fully meet all the design criteria set forth in the NYS Stormwater Design Manual. For example, most are located on slopes greater than those recommended, the tributary area to the micropool extended detention basin may not be sufficient to maintain water level, depth of filter media may not be sufficient to provide adequate treatment. In addition, volume available for treatment and attenuation the micropool extended detention basin and/or the infiltration basin may be compromised by seepage from cut sections surrounding the disposal area for the WWTP. Practices that do not meet the design standards may not provide the expected treatment or attenuation and could result in an export of additional pollutants for the developed site. Revisions and additional information supporting the use of the proposed practices, as well as clarity regarding which design concept will proceed, is necessary.
5. The DEIS notes that green infrastructure such as rain gardens will be used. DEP fully supports the use of green infrastructure so long as it is designed to function properly for the site conditions and for the tributary volumes. In fact, these practices are now required by DEP and DEC stormwater regulatory programs. Although rain gardens are cited in the document, no types of green infrastructure for stormwater are shown on the plans. Given the intensity of development, it is questionable whether sufficient green practices can be provided in the available areas to mitigate increase in runoff volume from the development. Considerably more detailed information is required to so demonstrate.
6. The DEIS indicates that geothermal wells will be installed for heating/cooling. Drilling such wells is a potential source of sediment and sediment laden water for most drilling techniques commonly used. The magnitude of this potential source of sediment increase with the number of wells proposed. The document also notes that onsite wells for water supply can be drilled should connection to New Castle water supply not occur. Possible locations for and number of the wells should be provided so that associated impacts can be identified and adequate protection proposed.
7. This Section misstates the definition of reservoir stem and associated limiting distances. By definition, a reservoir stem means any watercourse segment which is tributary to a reservoir and lies within 500 feet or less of a reservoir pursuant to Section 18-16 of the *Rules and Regulations for the Protection from Contamination, Degradation, and Pollution of the New York City Water Supply and its Sources (Watershed Regulations)*. The limiting distance to a reservoir stem associated with new impervious surfaces, septic systems, etc., is 300 feet. It is recommended that a map showing all reservoir stems and watercourses near any proposed improvements on and off site be included in the documentation so that associated restrictions can be assessed.

IV. G. Noise Air and Construction Impacts

1. Discrepancies in the phasing shown on the erosion and sediment control plans, construction schedule and blasting narrative indicate that adequate controls for avoidance of impacts from erosion and sedimentation during construction have not been provided. It is highly recommended that these documents be reviewed and revised for consistency, that interim grading plans, cut and fill balances, etc., be developed. It is recommended that the applicant review the statements regarding blasting relative to the proposed grading and areas of high bedrock to confirm when and how often during construction blasting operations will occur and how much disturbance can realistically be anticipated for this operation, rock crushing and stockpiling. When developing a more consistent and realistic construction schedule, the sequence for installation of geothermal wells, water supply infrastructure, road improvements and ancillary recreations facilities, etc., should be included.

IV. J. Stormwater Management

1. In addition to the stormwater comments discussed in Section E above, it must be reemphasized that the mounding analysis provided for the WWTP disposal area does not consider the proximity of the stormwater practices to the disposal area. While this effluent may be clean water, seepage from cut slopes adjacent to the disposal area and into the stormwater collection system and management practices could compromise the volume available in the practices for treating and attenuating runoff from the site. It is recommended that the proposed grading for the site be overlaid on the mounding contours to determine whether or not this is a potential impact.
2. The DEIS notes that stormwater will be reused for irrigation of community gardens and lawns. DEP fully supports the use of this green infrastructure concept; however, standard stormwater practices that depend on minimum volumes of water to sustain vegetation could be negatively impacted. This should be considered when developing green infrastructure and stormwater design. In addition, infrastructure for collecting stormwater to be reused as well as irrigation methods must be considered given the intense use of the developed area.
3. The document misstates the purpose and extent of the Watershed Regulations in several locations. The "Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and Its Sources are not guidelines provided by NYSDEC.

IV. L. Utilities, Water

4. The DEIS does not discuss construction of any infrastructure for the water supply other than piping. Pump stations and/or water storage facilities may be required. These facilities must be located and sized so that potential adverse impacts associated with construction and maintenance of the facilities can be assessed. In addition, if the newly formed water district will serve other existing or proposed development, the DEIS must

include an appropriate discussion. This section must be expanded to include infrastructure needed to bring water to the site and, if necessary, store it.

5. As noted above, New Castle obtains water from the New York City water supply and this site is not currently in the water district. Forming a new water district that will use NYC water supply as its source requires coordination and approval from DEP. The applicant is encouraged to contact Paul Aggarwal, Deputy Chief of Community Water Supply at (914) 773-4456.
6. The DEIS indicates that on-site wells will be installed should connection to New Castle water supply not be feasible. Information regarding availability of groundwater for this alternative, the feasibility and infrastructure needed to supply water from on-site wells should be discussed in greater detail.

IV. M. Utilities, Sewer

1. The applicant is proposing a community sewage treatment system consisting of equalization tank with pumps, fine screens, and a membrane bioreactor. The effluent will be discharged to the subsurface. The significance of potential impacts associated with the proposed action is heavily dependent on the adequacy of proposed sewage treatment systems. As such, it is imperative that detailed information be provided during the SEQRA review prior to issuing a findings statement. The applicant must submit technical data/parameters on the membranes proposed for wastewater treatment and include manufacturer's information, performance parameters, membrane material, nominal pore size, cleaning requirements, anticipated longevity, etc. Additionally, a list of at least five wastewater treatment facilities in New York City watershed and in New York State using the proposed membranes, observed influent/effluent wastewater characteristics and performance data along with operators' contact information must be submitted. Further, the applicant must confirm that the proposed membrane treatment satisfies the microfiltration definition of the NYC watershed rules and regulations.

IV. O. Use and Conservation of Energy, Green Technology and Infrastructure

1. Reference is made to the installation of geothermal wells for heating and cooling as well as construction of maintenance buildings for the subdivision. Neither of these types of facilities are shown on the plans. As previously mentioned, the intensity of development within the designated 20 acres may result in the location of these facilities being within wetland buffers or on steep slopes that have severe potential for erosion. In order to access any potential adverse environmental impacts, the facilities must be sized, located and assessed in the EIS.
2. In concept, DEP fully supports the use of green technology throughout the action. It is unclear whether or not the green technology mentioned in the DEIS will function adequately to achieve the intended goals. It is recommended that information be provided to demonstrate the feasibility of the measures proposed. In addition, the Lead

Agency may wish to consider ways in which the applicant can demonstrate commitment to the inclusion of green infrastructure.

V. Alternatives

The Lead Agency may wish to consider further detail regarding the R1-160 cluster compliant alternative and other, less intensive cluster type developments for this site. Specifically, it is recommended that alternatives avoiding or further limiting construction on CuD Soils, limit recreational and other uses of all steep slopes, erosive soils, wetlands and wetlands buffers be considered. Grading plans that significantly reduce blasting and overall disturbance or that simplify construction phasing are also suggested.

It is unclear that statements included in the DEIS regarding environmental benefits of the project over the R1-160 zoning compliant and the R1-160 cluster compliant can be substantiated. For example, the document implies that both these alternatives are not as protective of wetlands and surface waters because lots. While these features may become inclusive in individual lots, protection can still be accomplished through individual deed restrictions, etc. The section also notes that these alternatives would result in larger families resulting in greater use of water. This is not necessarily accurate as the number of individuals on site would be significantly less and may result in a corresponding lower use of water. The document also states that the use of septic systems invariably adversely affects groundwater. Although inadequately designed, installed or maintained septic systems are known sources of groundwater degradation, properly installed and maintained SSTs can and do function with no adverse impact to groundwater in many cases. Given the decrease in flow volumes that may result from zoning compliance development, the current design, construction and maintenance standards for SSTs, and the dispersion of flows for the area of development, there is no support for this statement.

Appendix G. Preliminary Erosion Control Plan and Notes

1. The DEIS references a percent slope plan in Appendix G, yet this plan was not included in this Section of the DEIS.

Appendix W. Groundwater Mounding Analysis

1. It is unclear whether the surface elevations used in the computer model match the elevations on the project drawings. Specifically, the model appears to be referenced to a USGS Quadrangle while the site plan appears to be based on field-surveyed topography. This is critical, as the anticipated rise in groundwater elevation due to effluent discharge could seep out of cuts in the surrounding project area and/or hydraulically influence the adjacent stormwater management structures. The model should be revised accordingly.
2. The report indicates that the computer model inputs were based on a subsurface discharge area of 4 acres in size. Please note that this 4-acre area represents the entire disposal area, which includes both primary and reserve areas. Typically, the primary disposal area is constructed and operated and the reserve absorption area is only constructed and brought into service in case of failure of the primary system. As such,

the model appears to underestimate recharge due to wastewater effluent and should be adjusted accordingly.

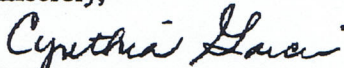
3. The Groundwater Modeling Report indicates that several elevations were chosen during model setup, such as 'initial head' and 'river stage'. The project sponsor must justify these values and explain how they were obtained. River elevation should be defined relative to the Croton Reservoir spillway elevation.
4. Table 1 indicates that the model run time is 365 days. Most subsurface effluent failures experienced by DEP occur after several years of operation; therefore, the model should assess long-term mounding, on the order of 10-20 years of service.
5. The project sponsor should provide calibration data from the computer model to verify the results. Water elevation data from the monitoring wells should be used and be located on the graphical model output.

Plans

1. The site plans show a potential land swap with NYC at the southern end of the project. Some information should be provided about this land swap and its impact to alter the project.

Thank you for the opportunity to provide comments. You may reach me at cgarcia@dep.nyc.gov or (914) 773-4455 with any questions or if you care to discuss the matter further.

Sincerely,



Cynthia Garcia
SEQRA Coordination Section

- C: Colonel J. Boulé, USACOE, Region 8
A. Ciesluk, NYSDEC, Region 3
W. Gorton, P.E., NYSDOT
E. Burroughs, WCDOP
L. Carrea, P.E., WCDOH
L. DeSisto, Yorktown Planning Board
DOPW, Town of New Castle
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Croton Overlook Corporation

Department of Planning

Susan Siegel
Supervisor**TOWN OF YORKTOWN
PLANNING DEPARTMENT**

Yorktown Community and Cultural Center, 1974 Commerce Street, Yorktown Heights, New York 10598, Phone (914) 962-6565, Fax (914) 962-3986

MEMORANDUM

To: Town Board
From: Planning Department
Engineering Department
Environmental Consultant
Date: August 30, 2011
Subject: Croton Overlook- Draft Environmental Impact Statement

TOWN CLERK'S OFFICE

AUG 30 2011

TOWN OF YORKTOWN NY

The following are the comments of the Planning Department, Engineering Department and the Environmental Consultant regarding the subject item:

Book One:

Page 6: There are instances in which the existing zoning designation of the property is listed as R-160, rather than the correct designation of R1-160. Please correct throughout the document.

Page 11: View from North County Trailway, 1st paragraph: Provide correct run (origin and terminus) of North County Trailway.

Page 12/13: Flora and Fauna: 5th paragraph: 1) Please provide greater detail regarding mitigation of what habitat is lost and how that loss specifically will be mitigated. 2) The document indicates here that the open space will be preserved through a conservation easement but in other areas indicates it will be preserved through deed restriction. Please correct inconsistencies and provide additional details of how the open space will be preserved. 3) Please indicate if the property contains any NYSDEC natural communities of significance.

Page 13: The text indicates that the removal of Dell Avenue will allow for the creation of passive recreation. This is not evident on any of the accompanying plans, and it appears as though Dell Avenue will largely be the location for the landscaped berm. Please clarify.

Page 13: Wildlife Resources: Second paragraph: Please provide summary of NYS Natural Heritage and US Fish and Wildlife reports regarding presence/absence of endangered, threatened and species of special concern. Please also summarize presence or absence of a significant wildlife corridor and any potential impacts and mitigation.

Page 15: Wetlands and Surface Water Resources: First paragraph: Please include in the summary all regulatory agencies (NYSDEC, ACOE, NYCDEP-watercourses, T/O Yorktown).

Page 16: First full paragraph: Please clearly indicate if the 1,100 SF wetland in the Con Ed ROW is to be

directly impacted or if only the buffer of this wetland will be impacted.

Page 16: Cultural Resources: First Sentence: Indicates the project "requires" OPRHP review. As the study is complete, it is more clear of the work "required" is used.

Page 19: The text claims that the North County Trailway is adjacent to the property and that the hamlet of Millwood is a "short walk" away. Please indicate actual distances.

Page 20: The term "market Rate" appears to be used to describe non-age restricted housing. Isn't it correct that the proposed units will be' although age restricted, sold at prevailing real estate price points and be subject to market forces? This term appears through out the document, please clarify.

Page 21: The battle of Pines Bridge took place in 1781, not 1788.

Page 21: The text states that the project will include a relocation of Dell Avenue. Please describe more fully the parameters and impacts of such relocation including real estate transfers with the Town to effect such relocation.

Page 27: Discuss the safety of the intersections in terms of the project LOS for each intersection to be utilized by the project.

Page 23: Stormwater Management: Second paragraph: Please briefly indicate how phosphorous loading will be addressed.

Page 47: Proposed Development: First sentence-Please indicate that COC is seeking Town Board approval for a zoning map change.

Page 48: First Paragraph: Please provide additional details of the Homeowners Association. Indicate whether the applicant intends to provide deed restrictions for individual units concerning age-restrictions.

Page 49: The text states that there " is no cluster zoning applicable to the R1-160 zoning." Please clarify and correct.

Page 52: the title of Para. IV. (A) should be consistent with the Table of Contents as "Land Use, Zoning and Public Policy."

Page 53, 57, 63: Please indicate the zoning designations and allowable densities of the Random Farms development and the areas leading to and in the hamlet of Millwood in the Town of New Castle.

Page 66: The text describes the project as being low density, 1.15 units /acre as compliant with Goal 2-A of the Comprehensive Plan. This designation , however, refers to the Westchester County "Patterns" document. Please describe compliance in terms of the Yorktown Comprehensive Plan's policies and goals, in particular Policy 5-1, and fully describe any mitigative measures cited in the document where such land use may not be in strict compliance with such policies and goals. Discuss the impact of this project upon the Comprehensive Plan and the potential need to modify it accordingly.

Page 71: change the instances of "exert" to "Excerpt."

Page 78: Correct "Homeowner's Associates" to "Homeowner's Association."

Page 79: Second paragraph: Please indicate Glassbury Court is located in the Town of Yorktown.

Page 104: Wildlife Resources: Last paragraph: Provide greater detail regarding the loss of 16.9 acres and habitat fragmentation. What species (t/e/special concern and development sensitive species) will be impacted. Will species be extirpated? Does this area serve as critical habitat for any portion of these species life cycle? Please provide greater detail how the proposed landscape plan and the indicated planting of 12 acres of vegetation will provide mitigation for the lost hardwood forest habitat (also see page 105).

Page 104: Proposed mitigation: NYSDEC requires soil stabilization within 7 days not 2 weeks.

Page 105: Top of page: Please indicate what chemicals are to be applied. Provide information on IPM which not only includes pest management but also fertilizer and chemical applications.

Page 106: Wildlife Resources: Second paragraph: Discuss the role of the Con Ed ROW as a wildlife corridor and indicate if this function will be changed due to the development.

Page 108: #4: Please indicate how many protected trees will be removed and provide details of mitigation.

Page 120: The indicated limits of disturbance on the map are not clear. Provide entire site boundary to clearly define area of the site to be developed and area of site to be protected (not developed).

Page 134: First paragraph: Indicate the duration of blasting, rock chipping and crushing. What are noise and dust impacts? Are any adjacent sites supplied by well water?

Page 137: First paragraph: Indicate if ACOE request for a jurisdictional determination is required. Please indicate that as the property is in the NYCDEP watershed, only ACOE individual permits may be obtained (not nationwide). Please provide documentation that NYSDEC Article 15 and Article 24 permits are not required.

Page 137: Second paragraph: Indicate status of NYCDEP permit application.

Page 144: Top of page: Summarize loss of buffer (square feet) and also function. Indicate how proposed mitigation will replicate changed/lost function. Include all impacts including proposed recreational/trail facilities within wetland/wetland buffer.

Page 145: First paragraph: Indicate that phosphorus containing fertilizer use will be in compliance with Westchester County regulations.

Page 147: Last paragraph: Please clearly indicate if there was a potential archeo-sensitive site on the subject property.

Page 153: Third paragraph: Please reference report in appendix.

Page 160: Recreational Facilities-Please note that the Yorktown Parks and Recreation Department is not a division of the Department of Environmental Services.

Page 179: Please indicate that this plan does not show the proposed wetland stormwater elements

reflective of the water budget analysis.

Page 181: Please provide summary of pre and post construction pollutant (including phosphorous) loading with required WQv. Provide a table of pre and post construction water budget analysis.

Page 186: First paragraph: Provide detail of potential hydrological impacts to the wetlands if stormwater wetlands are used for irrigation purposes. Has this been considered in the water budget?

Page 186: Proposed Mitigation-First paragraph: provide a plan indicating where potential wells would be located. Provide a location map which indicates location of water supply piping at New Castle border.

Page 209: Potential Impacts-Second paragraph: Please clarify "...with increase decrease from the EMF source".

Page 222: Last paragraph: Please also discuss the use of IPM with applied fertilizer and chemicals (e.g. lawns, shrubs and trees).

Page 226: On-site Geology: Please provide description of the on-site geology. How does the geology impact proposed blasting and geothermal unit installation?

Page 227: Proposed Geothermal: Please indicate what feasibility studies have been conducted to ensure this type of system may be installed on the site.

Book Two:

1: Appendix D: Wetland Delineation:

Attached letter from NYSDEC dated 08/12/10 indicates Article 15 and Article 24 permits may be required.

Section 2.1: Please provide correspondence from NYSDEC regarding status. Indicate status of ACOE and/or NYCDEP permits as required.

Section 5.0: Please quantify wetland and wetland buffer impacts (size in sq. ft., and functional impacts) and indicate mitigation to offset change/loss of function. Include potential disturbances for recreational facilities within the proposed open space area. Discuss water budget analysis as it relates to post-construction hydrology to the wetlands.

Book Three:

1: Appendix J: Biodiversity Study:

Cover Page: correct the spelling of firm that prepared the document. Please indicate this is a draft report or partial submittal (see Section 4.0).

Section 4.0: Please indicate when pending documents will be submitted.

2: Appendix L Integrated Pest Management

Please provide additional detail regarding how IPM will be utilized in the use of fertilizers and chemicals

within the proposed development area to reduce impacts.

3: Appendix M: Phase I Environmental Report:

The report is improperly paginated.

4: Appendix Maps: S-1 Map: Shading is unclear.

5: Appendix U: Water Budget Study:

Study design should indicate analysis is to confirm no change in surface water hydrology (not stormwater volume) flow to the wetlands.

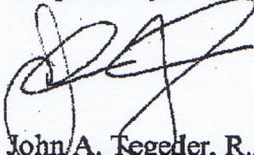
Additional detail is required including: 1) soil test results (deep and percolation) in the area of the proposed biofilters, 2) cross section details, 3) design calculations including pipe sizing, underdrains, inlet, outlet and energy dissipation 4) structure details, 5) planting details 6) description of required maintenance, the responsible party and how the basins will be maintained (including access).

Provide summary and conclusions regarding post-construction hydrological changes to the wetlands.

Study/plan should be incorporated into the SWPPP plan.

Please note that the traffic study is mixed in with the water budget study. Provide a separate tab for the traffic study.

Respectfully submitted,



John A. Tegeder, R.A.
Director of Planning

cc: Town Engineer
Environmental Consultant
Town Clerk

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**1450 Old Logging Road West
Yorktown Heights, NY 10598**

August 30, 2011

The Town Board
Town Hall
363 Underhill Avenue
Yorktown, NY 10598

TOWN CLERK'S OFFICE

AUG 30 2011

TOWN OF YORKTOWN NY

Re: Croton Overlook

Dear Members of the Town Board:

As two "senior citizens" eager to see more senior housing in Yorktown, we must register our serious concerns about the proposal to build a 70-unit development on the 64-acre site opposite Route 100 and Route 134.

Environmental Impact

We totally agree with the points made in the letter from the Saw Mill Audubon Society. The possibility of a sewage system failure above the New York City water supply should be reason enough to not approve this project.

The Wrong Site for Senior Housing

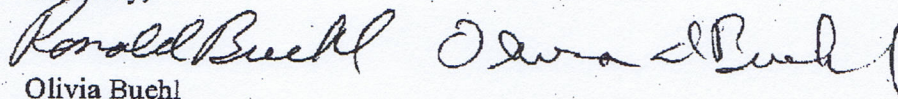
There is no public transportation. The site is far from fire and emergency medical services. There is no pedestrian-accessible shopping. Residents would be completely reliant on using cars, and would be more apt to spend their money in Millwood than Yorktown.

Shaky Economic Premise

These homes are relatively large and will likely cost more than \$500,000 each. Why would people pay top dollar for a home with a view of power lines? As the failure of the Trump senior housing project on Route 6 has shown, if units don't sell to their intended market, the developer may try to reduce the age limit. This would mean who knows how many children could live there, costing the town more in schooling costs than is realized in real estate taxes.

For all these reasons, we strongly advise you to vote against this poorly conceived project.

Sincerely,



Olivia Buehl
Ronald Buehl

TOWN CLERK'S OFFICE

AUG 29 2011

TOWN OF YORKTOWN NY

Yorktown Energy Advisory Committee

www.yorktownny.org/generalpage/energy-advisory-committee-4

August 26, 2011

Alice Roker, Yorktown Town Clerk
363 Underhill Avenue
Yorktown Heights, NY 10598

Subject: EAC Comments on Croton Overlook DEIS

I. Carbon Dioxide Calculations:

In section Q, beginning on page 209 of the DEIS, the applicant calculates the carbon footprint of the 70 Croton Overlook units using geothermal energy vs. 70 single family homes using fossil fuels, Table Q-1, page 211. The 70 geothermal units produce 1,718,500 lbs of CO₂ compared with 2,835,500 lbs of CO₂ per year produced by 70 fossil-fuel single family homes. Adding in tree loss, accounting for another 41,951 lbs, they arrive at a net saving of 1,158,951 lbs of CO₂ per year over the fossil fuel alternative. Actually, tree loss will be the same for these two alternatives.

However, this is not a complete comparison. They do not compare the Croton Overlook 70-unit project with a project under current zoning. Theoretically, you could build 15 homes on 4 acre lots. Given, the environmental constraints, the real number might be closer to 8 homes. There is also the no-build option to consider.

In the worst case of 15 single family houses heated by fossil fuel, using the figures presented in the DEIS, the fuel use for the 15 single family homes is 15 x 40,550 lbs per year, equal to 608,250 lbs per year. To this we could add tree loss for perhaps 30 acres, adding another 105,000 lbs for a total of 713,250 lbs of CO₂ per year. Of course, this is the worst case. There would be fewer than 15 houses and they could also have geothermal or solar heating.

For 8 conventional houses using fossil fuel and a 16 acre tree loss area, the CO₂ production is 8 times 40,550 lbs plus 16 acres times 3,500 lbs, equal to a total of 380,400 lbs of CO₂ per year.

Thus, the figures, including tree loss, are more like:

70 units with geothermal heating: 1,760,451 lbs of CO₂ per year.

15 conventional houses with fossil fuel heating: 713,250 lbs of CO₂ per year.

8 conventional houses with fossil fuel heating: 380,400 lbs of CO₂ per year.

No-build option: 0 lbs additional of CO₂ per year.

The DEIS has presented an inadequate comparison of energy use alternatives. The figures on CO₂ emission should be calculated by the applicant for the current zoning and no-build alternatives.

2. Certification:

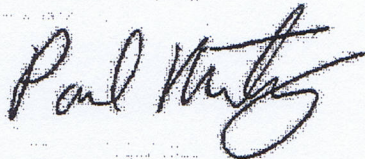
The DEIS states:

"The homes in the proposed Croton Overlook development are anticipated to be Energy Star Certified, meeting all applicable Energy Star requirements set forth by the US EPA guidelines."

and

"The homes in the proposed Croton Overlook development will attempt to reach Silver LEED Certification."

The applicant uses the words "anticipated" and "will attempt." If the applicant is serious about Energy Star and/or LEED certification, then there should be a commitment made to meet those standards and acquire the certifications.

A handwritten signature in black ink, appearing to read "Paul Moskowitz". The signature is written in a cursive, flowing style.

Paul Moskowitz, Ph.D.
Chair,
Yorktown Energy Advisory Committee

Comments from Sharon Robinson, Town Engineer.

Appendix F:

- 1) Stormwater Pollution Prevention Plan: Page 3: Section 1.0, #2: Indicate that in addition to the NOI a MS4 Acceptance Form must be obtained.
- 2) 2) Page 4, #2: Indicate access to the construction site must be provided to the Town of Yorktown.
- 3) 3) A Notice of Completion from NYCDEP has not been included. The Town of Yorktown will commence detailed review of the SWPPP in accordance with the Town of Yorktown Town Code upon submittal of this document by the applicant
- 4) The Town of Yorktown will commence a detailed review of the proposed sanitary sewer infrastructure and treatment in accordance with the Town of Yorktown's existing regulations upon complete submittal of the plans and specifications.

TOWN OF YORKTOWN PLANNING BOARD

Yorktown Community and Cultural Center, 1974 Commerce Street, Yorktown Heights, New York 10598, Phone (914) 962-6565, Fax (914) 962-3986

MEMORANDUM

To: Town Board
From: Planning Board
Date: September 6, 2011
Subject: Croton Overlook
Request for Rezone DEIS
Section 75.15 Block 1 Lot 2

The following are comments of the Planning Board regarding the above referenced subject:

Surface Water Impacts (Book 1, p. 221)

Discussion of this impact in Book 1 references an Appendix D for deeper analysis. However, none of the materials in Book 2 are identified as Appendix D. Thus, we are unable to fully review this section of the DEIS.

However, one assumption made in the DEIS is sufficient to scrap its conclusions regarding the proposed project's surface water – as well as other environmental – impacts. The DEIS avoids any assessment of the toxic materials to be used in maintaining lawns and plantings, claiming (in Appendix M) the homeowners association will retain a qualified integrated pest management firm and “it will not be necessary to use any pesticide that will harm the environment in anyway.” Interestingly, they cite no mechanisms requiring the homeowners to adopt IPM. Do they envision deed restrictions to ensure all condo owners are required to abide by and adopt an IPM?

It is more reasonable to assume the association, like other condominiums in Northern Westchester, will outsource lawn and garden maintenance to a company like Scenic Landscaping, which will opt for the most cost-effective – not the most environmental-friendly approach. What the DEIS lacks is an inventory of actual lawn chemical use by landscape companies (similar to what was presented in the DEIS for the Trump properties some years ago) and an analysis of the impact of these herbicides, fungicides, and pesticides on the air, surface water, groundwater, and wildlife surrounding this site.

Geothermal Heating & Cooling (Book 1, p. 226)

The DEIS's discussion of geothermal heating and cooling is insufficient and unrealistic. For example, it fails to identify or assess the “fluid transfer medium” to be used in this process. In addition, it appears to assume the possibility of the system ever failing or otherwise leaking this “medium” into the groundwater is zero.

Wastewater Treatment (Book 3)

The Membrane Bioreactor Engineering Report indicates the proposed wastewater treatment process will remove carbon, phosphorous, and nitrogen from the project's sewage, but removal of other pollutants will require "post-treatment." However, the DEIS's lacks both an engineering report on these post-treatment options and an analysis of the environmental impacts of "other pollutants" remaining in the waste stream without post-treatment. The makeup of the project waste stream is especially important as the hydrogeology sections of the DEIS (see below) fail to establish whether and to what degree the nearby Croton Reservoir will be protected from these pollutants.

Groundwater Modeling Report (Book 3, Appendix X)

The Groundwater Modeling Report included in the DEIS claims to employ a modeling procedure used widely at chemical production and CERCLA ("Superfund") sites. This appears to be correct. However, the DEIS applies this modeling in a very limited way. Where industry uses such modeling to determine, for example, the direction and speed of contaminated groundwater beneath a failed waste disposal site, the DEIS analysis appears limited to whether the soils at the project site can absorb the quantity of effluent it is estimated the proposed project will produce.

If I understand the proposed wastewater treatment plan correctly, treated wastewater will flow from the Membrane Bioreactor to the infiltration system – and from the infiltration system to the groundwater. This wastewater, containing amounts of carbon, phosphorous, and nitrogen permitted by the NYSDEC, as well as numerous unregulated toxic materials, will form what industry calls a "plume" of contaminated water beneath the infiltration site. A more comprehensive analysis of groundwater than is offered by the DEIS will indicate whether, and how quickly, the flow of groundwater would pull the plume into neighboring wells, the Croton Reservoir, etc. In general, groundwater flows towards nearby rivers, which of course, in some respects the Reservoir is. A good example is the Tyson's Dump CERCLA site, where a plume of liquid waste migrated from the site into the nearby Schuylkill River via groundwater flow.

The Board has concerns regarding this zone change request when the Trump project is seeking a change from its original approval because of lack of sales. The prices have dropped significantly and there still are stagnant sales. What are the impacts on the schools if the project is unsuccessful and the applicant seeks a change to permit school age children?

The DEIS should identify and discuss similar existing and proposed projects in the surrounding jurisdictions? How close are they to this project? How might they affect the market absorption?

They are clear cutting the entire project area and lopping off the crest of a hill. The visual impacts are unavoidable. The units are very linear and only 25' from one another, creating a visual impression of a linear mass. The DEIS does not discuss any mitigation in this regard. The Planning Board is very concerned about the visual impact and the overall design of the project.

They are showing a code compliant road connecting onto an existing non-compliant road (Dell) that is being partially removed. This road then connects to a NYS Road. The DEIS does not fully describe this proposed condition of alternating sections of sub-standard and code compliant roadway and the potential impacts of same.

There is little information, if any, regarding the Random Farms subdivision. What is the distance to the closest residence? In what manner would this project impact same and what mitigation is offered?

There needs to be a discussion on the impact to the ambulance service; which agency will handle ambulance calls? What is the impact?


Is this project subject to the affordable housing settlement with Westchester County?

In respect to the proposed berm to damper the visual impacts of the project:

- The grading plan does not appear to reflect the proposed berm
- There is no proposed landscape plan is the berm feasible?
- The berm appears to block the flow of storm water; how does this affect the plans?
- The berm might affect the sanitary sewer fields; has the County reviewed this change?
- The berm is shown built up to the Con Edison property line, how will this impact their property?
- They are showing trees with heights of 29' on a 10' berm. Is this possible?
- Is Con Edison going to permit trees of this caliper and height next to transmission towers and lines

Should you have any questions, please do not hesitate to call this office.

Respectfully submitted,



John A. Tegeeder, R.A.
Director of Planning

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MEMORANDUM

September 16, 2011

TO: Town Clerk
FROM: Conservation Board
SUBJECT: Croton Overlook

Dear Ms. Roker:

Please be advised that at our September 15, 2011 meeting we again discussed aspects of the above referral. We would like to stress that this is a very sensitive site, with its proximity to the Reservoir, and is also listed as a top open space priority site by Yorktown's ACOS. Any proposal for development on this site should be done with these facts in mind.

The Conservation Board reviewed the "Draft Scope for Draft Environmental Impact Statement (DEIS)", Revision 1 dated February 15, 2011 prepared by the applicant, as well as comments made at the public hearing.

We offer the following comments:

1. A true clustering plan should be discussed as an alternative to the present linear configuration, and assess the impacts of each.
2. We would also like to see a thorough discussion of the impact of the proposed lighting plans vis a vis night sky compliance. While the DEIS addresses the view of the development from different areas adjacent to the property it does not address the night time glow that will emanate from 70 houses and street lights that will change the aspect of the nighttime sky in that portion of town.
3. Consideration should be given to the impact on the site if part of the project is uncompleted, and ways to minimize any adverse impact due to partial non-completion.
4. Review the project's waste management plan and its impacts both during and after construction. The percentage of waste material by weight that will be diverted should be identified and the impacts assessed. The Conservation Board recommends sustainable construction waste management practices and would be happy to provide details.
5. There will be significant loss of habitat in a heavily forested area of the development site. The DEIS claims that because of the utility ROW there is less disturbance to wildlife as it is already a disturbed area. Many animals use this and rely on the verge where a clearing such as the ROW and a forested area join. There are often more species found in these areas. Development and clearing along this area will cause serious disturbance. The loss

of habitat by preserving on site wetlands is not mitigation. Further efforts should be identified to prevent or at least minimize these impacts should be explored. Additionally, the DEIS states that construction will be curtailed during mating seasons and at other times to protect the resident populations as much as possible. We would like additional clarification on how the times will be determined and monitored.

6. The plan calls for replanting of Dell Ave after hardpan is removed and stormwater bioretention basins installed. This would then be a site for passive recreation. We would like clarification on how this would replace the function in Wetland B.
7. The DEIS seems to suggest 2 trees per lot as tree replacement for 12 acres of tree removal. We suggest that the TCAC review the proposed tree removal and mitigation plans and comment.
8. The Conservation Board recommends making the interior roadways of development low salt areas because of the site's proximity to the reservoir. This is not an unusual approach, other areas of town have this requirement.
9. The Conservation Board again discussed that if the property is not rezoned from the present designation that the applicant consider ways of using materials other than lawns to minimize the need for chemical use and frequent cutting, to offer native plant and animal life a more natural habitat (as the area is one of relatively few minimally disturbed spaces)
10. In addition to our own comments, we agree that the review of this proposal should include:
 - a. information on the impact of carbon dioxide emissions in all phases of construction and at completion.
 - b. address the impact of a lack of public transportation in the area.
 - c. the impact and plans for a potential waste water treatment facility failure.
 - d. a biodiversity study, and ask that it also include potential efforts to mitigate the impact of construction on the resident wildlife population.

Finally, we recognize New York State and City as well as the Westchester County Department of Health must give approvals for the proposed waste management system or the project cannot move forward. We request the right to reopen our evaluation when DEC and DEP provide information about what they require for permitting.

Respectfully submitted:

A rectangular box containing a handwritten signature in black ink. The signature reads "Phyllis Bock" in a cursive script, with a long horizontal flourish extending to the right.

... for the Conservation Board

Cc: Referring Agency
Supervisor and Town Board members
Town Clerk
Engineer
Planning
Environmental Consultant
Conservation Board Members

New York State Department of Environmental Conservation

Division of Environmental Permits, Region 3

21 South Putt Corners Road, New Paltz, New York 12561-1620

Phone: (845) 256-3054 FAX: (845) 255-4659

Website: www.dec.ny.gov



Joe Martens
Commissioner

October 13, 2011

Alice Roker, Clerk
Town of Yorktown Town Board
363 Underhill Avenue, P.O. Box 703
Yorktown Heights, NY 10598

**RE: Croton Overlook
DEC Tracking # 3-5554-00296/00002
Town of Yorktown, Westchester County
Comments on the Draft Environmental Impact Statement (DEIS)**

Dear Ms. Roker:

I apologize for the delay in response. The Department Environmental Conservation (DEC) has reviewed the Draft Environmental Impact Statement (DEIS) accepted by the Town of Yorktown on July 9, 2011 pursuant to the State Environmental Quality Review (SEQR) of the above referenced proposal. This proposal includes development of a 70-unit adult housing complex including a new public water supply system and new sanitary discharge. The following comments relate to DEC jurisdiction.

State Pollutant Discharge Elimination System (SPDES), Sanitary

A permit for the subsurface discharge of greater than 1,000 gallons per day requires a SPDES permit. As the proposed discharge will likely be greater than 10,000 gallons per day, this will be a major project under Uniform Procedures and a minimum 30-day comment period will be required once an application is received and deemed complete.

Water Supply

This parcel is not currently within a Water Supply district. The DEIS indicates the applicant's intent to connect to the Town of New Castle water system, which is supplied by connection to the NYC Catskill Aqueduct. The Town of New Castle cannot extend their district into another municipality. Therefore one of the following is required:

- The applicant must apply for and obtain a Water Supply permit pursuant to Article 15, Title 15 of the Environmental Conservation Law for creation of a private water supply system purchasing water from the Town of New Castle; OR
- The Town of Yorktown must apply for and obtain a Water Supply permit pursuant to Article 15, Title 15 of the ECL for the creation of a water supply district to serve this development and must enter a municipal agreement with the Town of New Castle for the sale of water to Yorktown.

Whether the applicant or the Town is seeking the permit, the submittal and issuance of the Water supply permit must be concurrent with the processing of all other DEC permits.

Freshwater Wetlands & Protection of Waters

Any disturbance to the Class B(ts) stream, Cornell Brook, will require a permit. Any unmapped streams with year-round flow which drain into this Class B(ts) stream are also protected and disturbance will require a permit. This may include any improvements to the existing path and bridge shown on the plans.

RE: Croton Overlook
DEC Tracking # 3-5554-00296/00002
Town of Yorktown, Westchester County
Comments on the Draft Environmental Impact Statement (DEIS)

As previously indicated in the Lead Agency response, NYS freshwater wetland O-33 and its regulated 100-foot adjacent area do not extend across the road onto this property.

If any wetlands under jurisdiction of the Army Corp of Engineers are to be disturbed and a permit is required from the Corp, then a Water Quality Certification will be required from DEC pursuant to section 401 of U.S. Public Law 95-217, and 33 USC 1341 of 1977, 1984. Issuance of this federal certification has been delegated to DEC in New York State.

State Pollutant Discharge Elimination System (SPDES) – Stormwater

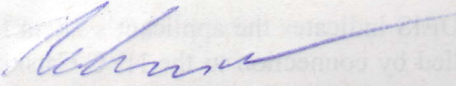
For proposed disturbance of 5000 square feet or more of land within the NYC DEP Watershed, this project requires coverage under the SPDES General Permit for Construction Activity (GP-0-10-001). This site is within an MS4 area (Municipal Separate Storm Sewer System), so the SWPPP must be reviewed and accepted by the Town of Yorktown and the MS-4 Acceptance Form must be submitted to the Department prior to issuance of the sanitary SPDES permit. Authorization for coverage under the SPDES General Permit is not granted until the Department issues any other necessary DEC permits.

Cultural Resources

This site is in an area determined by New York State to have potential for archeological resources. A resources assessment and review by the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) is required. potential visual impacts on the Taconic Parkway must also be considered as this is a site on the National Registry of Historic Places. A determination of impacts from OPRHP is a requirement of a complete application for DEC permits.

If you have any questions regarding these comments, please contact me at (845) 256-3014.

Sincerely,



Rebecca Crist
Environmental Analyst

Cc: Kim Calandriello, Croton Overlook Corporation

Ecc: Maria Tupper-Goebel, NYCDEP
Town of New Castle Supervisor

VI. PUBLIC HEARING TRANSCRIPT

TOWN OF YORKTOWN
COUNTY OF WESTCHESTER

-----x

PUBLIC HEARING:
CROTON OVERLOOK - DEIS

-----x

Shrub Oak Memorial Park
Shrub Oak, New York
August 2, 2011
7:10 p.m.

B E F O R E :

SUSAN SIEGEL, SUPERVISOR

NICHOLAS J. BIANCO, COUNCILMAN

JAMES L. MARTORANO, COUNCILMAN

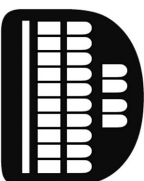
VISHNU PATEL, COUNCILMAN

ALICE E. ROKER, TOWN CLERK

JEANNETTE KOSTER, TOWN ATTORNEY

DANIEL POZIN, SPECIAL COUNSEL

JOHN WINTER, BUILDING INSPECTOR



1 **A P P E A R A N C E S :**

2

3 **ZARIN & STEINMETZ**

4 **Attorneys for the Applicant**

5 **81 Main Street, Suite 415**

6 **White Plains, New York 10601**

7 **BY: DAVID S. STEINMETZ, ESQ.**

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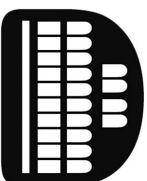
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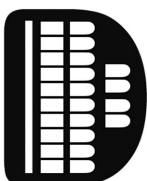


1 SUPERVISOR SIEGEL: I would like to open
2 up a second public hearing. This is on the
3 DEIS, the draft environmental impact
4 statement for Croton Overlook, a proposed
5 70-unit development off of 1 -- Route 130
6 roughly opposite Trav -- 100, I apologize,
7 across from the Traveler's Rest. That's how
8 everybody can identify your site. And we
9 turn this over to David Steinmetz, attorney
10 for the developer.

11 MR. STEINMETZ: Good evening, Madam
12 Supervisor --

13 SUPERVISOR SIEGEL: Oh, David, just let
14 me note that we have a stenographer here this
15 evening. Okay.

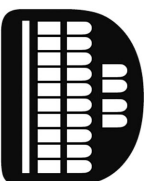
16 MR. STEINMETZ: Good evening, Madam
17 Supervisor, members of the town board --
18 David Steinmetz from the law firm of Zarin &
19 Steinmetz representing Croton Overlook Corp.
20 As the supervisor indicated, we're here
21 tonight in connection with a rezoning
22 application for my client's property, which
23 is a 65-acre parcel of land located at or
24 about the intersection of Route 100 and 134.



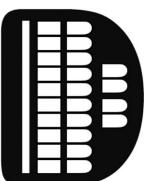
1 The request is that the property be
2 placed into the RSP-1 floating zone. I'm
3 going to try to be brief. I just want to
4 explain why we're here and the purpose of
5 tonight's public hearing. We believe that
6 our rezoning request is in not only the
7 town's best interest, but entirely consistent
8 with the town's recently amended
9 comprehensive plan.

10 The proposal that my client has presented
11 to the town would yield 70 active adult
12 housing units nestled behind a large knoll or
13 a ridge safely behind the power lines that
14 run along Route 100. There's an offer to
15 create 45 acres of protected and preserve
16 open space, on-site recreation, no school-age
17 children in this active adult community, a
18 projected \$1.1 million net tax fiscal benefit
19 to our community and an offer of \$650,000 for
20 additional community benefits.

21 Tonight's a public hearing on our DEIS or
22 our draft environmental impact statement. My
23 client and our development team have worked
24 for a considerable period of time in



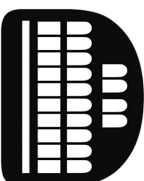
1 cooperation with the town board, having
2 scoped the project and identified issues, as
3 well as the town's professional staff. We
4 submitted a rather extensive document that
5 has been reviewed by the town, accepted
6 simply at this point as complete with regard
7 to scope, content, and adequacy. Tonight is
8 an opportunity for the public to comment on
9 the DEIS with regard to this application.
10 We have a stenographer with us tonight,
11 because we're required by law to respond in
12 writing to all of the comments that we
13 receive tonight. Tonight is not an
14 opportunity for a debate or dialogue between
15 the board and the applicant or between the
16 applicant and the public. Tonight is an
17 opportunity for us to hear the public, hear
18 the board, take their comments down, and we
19 will return to your board, rather
20 expeditiously, with a final environmental
21 impact statement, an FEIS. An FEIS is,
22 again, a written compilation of all of
23 tonight's comments, comments that may come in
24 from outside governmental agencies, the



1 board, and we'll respond to all of those in
2 writing.

3 The issues that we've addressed very
4 briefly in this DEIS, and it's on the town's
5 Web site, it's available for review, and that
6 is what we're here for, we've addressed
7 things like sanitary sewer and how we're
8 handling that; how we're handling that in
9 proximity to the Croton Reservoir system;
10 biodiversity on site; wetlands on site;
11 visual impacts, both from this property and
12 of this property. There's a whole photo
13 simulation, grading, cut and fill. We went
14 through painstaking detail on a fiscal
15 analysis.

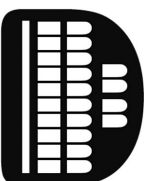
16 I mentioned earlier about the 1.1 gross
17 revenue benefit. This property's currently
18 in the R-160 zone. If this property were
19 developed in accordance with the R-160 zone,
20 our consultants have concluded that it would
21 yield \$342,000 of tax benefit to the
22 community as opposed to 1.1 million were it
23 to be rezoned. It would be not the \$820,000
24 benefit to Yorktown School System either.



1 The RSP-1 zone that we're speaking has a
2 zoning district that was created by the town
3 to allow for this type of senior active
4 community. It's allowing for independent
5 living units in a setting of -- and this a
6 quote out of the code -- greater tranquility.
7 It's an ideal location for greater
8 tranquility. We noted that the town board's
9 finding statement in connection with the
10 recent comprehensive plan actually said,
11 senior communities don't have to be in hamlet
12 centers, they can be examined and located
13 elsewhere.

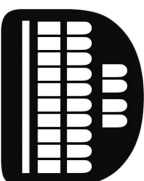
14 It's our possession and the position of
15 the consultants that have written this that
16 in today's day and age and today's world,
17 active seniors are able to get in vehicles
18 and travel and get to shopping. They don't
19 need to be in hamlet areas as they were
20 previously. Today's active seniors are a
21 different breed from when this was drafted in
22 1960 originally.

23 The alternative, were we not to rezone
24 the property R-160, we'd have estates --



1 estate properties of no less than four acres.
2 We'd have school children who would have a 25
3 minute bus ride to all of our Yorktown
4 schools. We would have other potential uses
5 on this property. You could have schools;
6 you could have government buildings; you have
7 farms, stables, greenhouses, depositing of
8 waste materials. You actually have a quarry
9 under uncertain situations. We believe each
10 of those instances would be of greater impact
11 to the property and greater impact to the
12 community in the R-160, and RSP-1 is a far
13 more beneficial proposal.

14 A number of people have said to us and my
15 client, isn't this another repeat of the
16 Trump/Cappelli project, and look at that down
17 the road and what's happening there. There's
18 a major difference, a very significant
19 difference. Number one, it's a very
20 different price point between the Trump
21 project and what's being talked about here.
22 Secondly, this is not a high-rise apartment
23 style living. This is a -- this is an
24 independent living townhouse type of

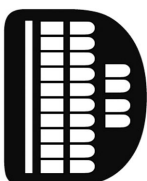


1 fee-simple unit -- fee-simple as opposed to
2 the Trump project, which is a condominium
3 project, which yields far lower fiscal
4 benefit to our community than a fee-simple
5 project.

6 Now, my client is very well aware that
7 the Random Farms Homeowners Association,
8 which backs up to our property, has been
9 dogging this project. In fact, there's a
10 representative here tonight for Random Farms
11 and the 100 or so multi-million dollar homes
12 in the Town of Chappaqua that are, I'm sure,
13 going to do what they can to put their
14 opinion in tonight.

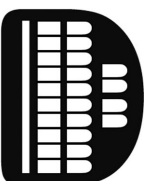
15 It's important to remember that those 100
16 multi-million dollar homes have been cited
17 for violations by the state for discharging
18 effluent into the groundwater and the surface
19 water that we have here in Yorktown. They
20 violated those consent orders. Quite
21 frankly, we're not even sure the status of
22 those consent orders.

23 But I wanted to state, and I said it in
24 the past, my client offered to meet with



1 Random Farms openly and have a dialogue. It
2 was rejected. They're here. They have a
3 right to say what they want to say. They're
4 not residents of our town, and they have been
5 found to have been violators of state law.
6 We submit that this project avails itself of
7 a floating zone and generates housing for
8 empty nesters. It preserves open space. It
9 will not add stress to our school system. It
10 will actually benefit our school system. It
11 will be minimally visible from beyond the
12 site itself, and it will be a welcome
13 addition to our community with a new stock of
14 housing.

15 We look forward to hearing the comments
16 from the public and from your board and the
17 other agencies. We genuinely appreciate the
18 time that the town's professional staff, Ms.
19 Robinson and Mr. Tegeder, have put in
20 detailed review, turning things around,
21 getting us comments and putting us in a
22 position where tonight the public can comment
23 on this document. So we look forward to
24 hearing those comments and responding in due



1 course. Thank you.

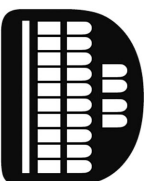
2 SUPERVISOR SIEGEL: Thank you, David.

3 Thank you, David.

4 And just let me repeat that a complete
5 copy of the DEIS is available; a hard copy is
6 available at the John C. Hart Library in
7 Shrub Oak, and it can also be downloaded from
8 the Web site; and it can be downloaded in
9 sections so you don't have to do the whole
10 thing. This is volume one of three volumes,
11 and I guarantee you the other two volumes are
12 twice as big as this one. Okay. Does anyone
13 -- for the record, if you do come up to
14 speak, there is a pad at the podium, so we'd
15 ask you to please write your name and address
16 down.

17 MR. BIANCO: I'm here to listen tonight
18 on this, but I do have some comments, and I
19 just want to make them quickly.

20 First of all, again, I would like us or
21 the applicant to send this DEIS, especially
22 with school children, to the Yorktown Board
23 of Education. Maybe you have and they didn't
24 respond. Did you send it to them, and

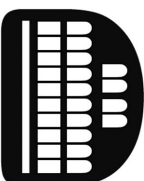


1 there's no response from them, okay, then I
2 apologize.

3 I have a question on 12 children out of
4 70 units. It's unfortunate that the school
5 district doesn't -- doesn't ask us to do
6 anything about it. I have a problem. I
7 think that number is kind of low, but that's
8 neither here or there. Maybe we could talk
9 to them. I'm call them and ask them.

10 Another thing too I don't see here, and I
11 had asked for it, and that's the -- in case
12 this ends up like -- there's supposed to be a
13 federal law that says you can't do 55 plus or
14 there has to be a certain percentage; that's
15 not answered here. Maybe you can answer
16 that. Why is that? Is there a federal law?
17 Maybe you could put a covenant in your deed
18 restriction? That would be great if you
19 could do that so we don't have to answer that
20 question.

21 Of course the \$64 question -- the \$64,000
22 question is New York City DEP approval. And
23 I'm just going to say this right upfront,
24 without that, this ain't going nowhere, guys,



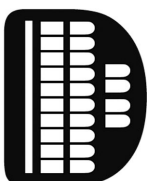
1 and you know that and I know that. So that
2 needs to be answered, and I don't know, I get
3 a fuzzy feeling from talking to New York City
4 DEP, I know it takes two weeks for them to
5 mail a letter. I don't know about a fuzzy
6 feeling, so I just want to get that up
7 straight. But I'm here to listen to all of
8 the comments of the people.

9 MR. STEINMETZ: Thanks, Nick.

10 SUPERVISOR SIEGEL: Okay. I have some
11 comments, some questions, but I'll reserve
12 that to the end because somebody else might
13 bring them up. Yes. David, you have
14 returned the pad. I know it's difficult
15 times for lawyers, but it's --

16 MR. STEINMETZ: The pad is there.

17 MS. YACKEL: Good evening, Supervisor
18 Siegel and members of the board. My name is
19 Sarah Yackel, and I'm associate principal at
20 BFJ Planning. We're here tonight
21 representing Random Farms community. I'm not
22 going to address David's comments on that at
23 this time. I just -- we just want to provide
24 tonight some initial comments on the DEIS and

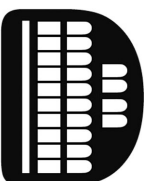


1 the Croton Overlook project. We will be
2 submitting more complete comments on the DEIS
3 in association with John Kirkpatrick, legal
4 counsel for Random Farms, prior to the
5 closing of the comment period, which we
6 understand is the 15th of August.

7 SUPERVISOR SIEGEL: Correct.

8 MS. YACKEL: The town adopted its
9 comprehensive plan just a little over a year
10 ago in June of 2010. With adoption of the
11 plan, the intent of the town was made clear
12 with respect to the Croton Overlook project
13 site. The proposed future land use map of
14 the Yorktown comprehensive plan clearly marks
15 the project site for R-1160 zoning or
16 four-acre lots. The proposed land use map
17 represents that their intent of the plan.

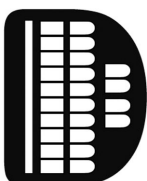
18 Further, the town board took the next
19 step by implementing the comprehensive plan
20 recommendation when it rezoned the project
21 site from R-180 to R-1160 about six months
22 ago. Thus, a proposed project and requested
23 rezoning is not consistent with the
24 comprehensive plan.



1 The courts of New York have consistently
2 held that zoning must be based upon the
3 recommendations of a well reasoned plan. As
4 Mr. Steinmetz mentioned, while the project
5 may be compatible with some of the broader
6 goals of the town with regards to promoting
7 housing for people in all stages of
8 development and the other non-site specific
9 goals discussed in the DEIS, it does not
10 change the fact that the proposed project is
11 inherently inconsistent with the future
12 land-use plan and the present zoning for the
13 site.

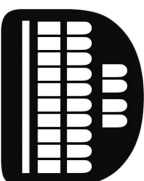
14 An analysis of the project basic
15 incompatibility with the future land use plan
16 and the recent up-zoning based on the plan of
17 the site from R-180 to R-1160 is thoroughly
18 lacking in the DEIS.

19 Further, since the proposed project is
20 inconsistent with the proposed land use map,
21 and therefore the plan itself, we contend
22 that if the town board entertains the
23 proposed rezoning, it must also amend its
24 comprehensive plan to reflect this change in



1 town policy. Any amendment to the
2 comprehensive plan would need to be
3 adequately vetted as part of this SEQRA
4 review process.

5 In addition, the comprehensive plan has
6 additional recommendations for the R-1160
7 zone that the town should pursue in
8 furtherance of adopted town policy that would
9 adequately address some of the environmental
10 concerns raised in the DEIS associated with
11 developing the site under existing zoning.
12 The table 2-1 in the comprehensive plan
13 recommends the following with respect to the
14 town's single-family residential districts.
15 All areas should be subject to natural
16 resource protection requirements relating to
17 wetlands, water body, steep slopes, tree
18 clearing, et cetera. Increased setbacks,
19 building coverage, and impervious coverage
20 requirements should be re-visited for the
21 R-1160 zone. And floor area or ratio limits
22 should be considered in order to limit the
23 potential for McMansions. Rather than rezone
24 the site, which is inconsistent with the

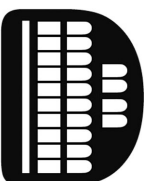


1 proposed land use plan, the town should move
2 forward with the remaining recommendations
3 for the R-1160 zone in the 2010 comprehensive
4 plan.

5 The DEIS states that given the impacts of
6 the R-1160 zoning compliant conventional
7 development alternative, that it is not a
8 practical alternative, and further states
9 that there is no cluster zoning applicable to
10 the R-1160 zoning, thereby ruling out the
11 cluster alternative. Neither of these
12 statements is accurate and no supporting
13 evidence is presented to support these
14 assertions.

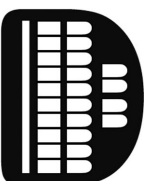
15 In fact, development of the site under
16 existing zoning is an epitome of practical
17 and the town zoning code dedicates an entire
18 section to large lot clustering. So to say
19 those things don't exist is not accurate.

20 The SEQRA regulations state that the
21 description of an evaluation of each
22 alternative should be at a level of detail
23 sufficient to permit a comparative
24 assessment. A description and evaluation of



1 the project alternative provided in the DEIS
2 is not sufficient to make a reasonable
3 comparison of all the impacts. The assumed
4 impact from the majority of the environmental
5 categories discussed under the R-1160
6 alternative that both standard subdivision
7 and cluster are greater than for the proposed
8 action, although these claims are not
9 substantiated by any analysis, documentation
10 or facts -- in fact, most of these claims are
11 readily refutable.

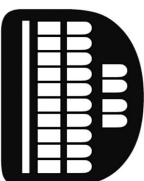
12 For example, the DEIS states that the
13 R-1160 alternative will produce more garbage
14 than the proposed action because the
15 as-of-right development would result in
16 bigger families. Using the Rutgers
17 multipliers, which are the same multipliers
18 used by the applicant to estimate school
19 children, if all 15 as-of-right homes consist
20 of four to five bedroom homes at above medium
21 home price, the estimated total population
22 would be 58 new residents as opposed to 140
23 projected under the proposed project. The
24 proposed action would result in an additional



1 82 residents on the project site as compared
2 to the project alternative. How can the DEIS
3 justify the statement, the alternatives would
4 result in more solid waste due to larger
5 family size.

6 Further, with regards to traffic, the
7 DEIS again states that the as-of-right
8 alternatives would result in larger families
9 and as such, generate more traffic. However,
10 a quick review of the ITE trip generation
11 rate shows that the proposed project would
12 result in approximately 244 daily trips,
13 while the as-of-right alternative would only
14 result in a 180 daily trips. So again, the
15 DEIS claims that the proposed project is less
16 impactful without providing any supporting
17 documentation.

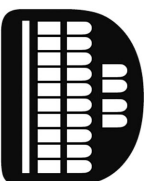
18 The DEIS states that the R-1160
19 alternatives would also result in greater
20 water demand based on the larger family size.
21 Again, no evidence is provided to support
22 this statement. Yet the DEIS concludes that
23 the alternatives would be more impactful
24 without providing any of the required and



1 necessary analysis.

2 We urge the board to take a requisite
3 hard look at the alternatives, particularly
4 the R-1160 cluster alternative. This
5 alternative would result in the development
6 of only 15 homes on smaller lots that would
7 be -- that could be situated as to avoid the
8 important on-site natural features including
9 the wetlands and the steep slopes or
10 preserving the minimum of 40 percent of the
11 project that is open space.

12 The town board is -- is responsible for
13 the adequacy and accuracy of the final EIS
14 regardless of who prepares it. We therefore
15 urge the board to consider hiring an
16 independent consultant to prepare realistic
17 and well-designed cluster subdivision under
18 existing zoning under an existing zoning
19 alternative to be included in the FEIS.
20 We would also mention that the town itself
21 has the option of preparing the FEIS. And at
22 a minimum the town should insist that the
23 applicant provide an objective and realistic
24 analysis of alternatives.



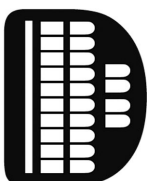
1 I do want to respond to just one thing
2 that David said in regards to the fiscal
3 analysis. He said that a detailed and hardy
4 fiscal analysis was prepared, but I did not
5 see that in the DEIS. It's not in the
6 appendix. So we would request that that be
7 provided as well.

8 Just one thing in closing: We would
9 request that the town board extend the public
10 comment period on the DEIS to allow the
11 public more time to review the document. We
12 note that while the DEIS was accepted on July
13 12th, copies of document were not made
14 available to the public for review on the
15 town's Web site until July 22nd.

16 As a 30-day review period is required, we
17 would respectfully request that the comment
18 period be extended until Monday, August 22nd,
19 which we think is very reasonable, it's just
20 one week, which is 30 days from July 22nd.
21 Thanks.

22 MR. BIANCO: I just want to read these
23 letters that we received.

24 SUPERVISOR SIEGEL: We are going to



1 change the tape. Take a break.

2

3 (Recess taken.)

4

5 SUPERVISOR SIEGEL: This is tape two for
6 the Yorktown Town Board meeting for Tuesday,
7 August 2nd, 2011. We are in the middle of a
8 public hearing on the draft environmental --
9 draft environmental impact statement
10 otherwise known as the DEIS for the Croton
11 Overlook proposed rezoning application.
12 I think, Nick, we left off, you were going to
13 read some letters into the record.

14 MR. BIANCO: Right. There's a letter
15 here from Assemblyman Katz that says he's in
16 favor of the project.

17 There's a letter here from utilities --

18 MR. MULDOON: Well, read that.

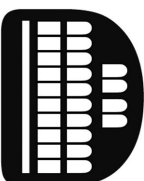
19 MR. BIANCO: Excuse me?

20 MR. MULDOON: Read that one.

21 MR. BIANCO: You want to read it all.

22 SUPERVISOR SIEGEL: No.

23 MR. BIANCO: No. Just read it. We also
24 have a letter from Utilities Oversight



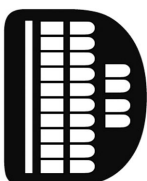
1 Committee. Dr. Patricia Podolak said she
2 would like this meeting be adjourned because
3 she did not -- they did not receive a copy of
4 the DEIS, and they have concerns about the
5 high tension wires.

6 SUPERVISOR SIEGEL: They had a copy of
7 the DEIS.

8 MR. BIANCO: They did get it. That's
9 what she said. Okay. Fine. I'm just
10 reading what people said they had. Okay.

11 This one is from Mr. Michaels of Spring
12 Drive. He's basically saying that he would
13 not be able to attend, and he would like to
14 have this postponed. And he has questions
15 about the -- about vegetation analysis and
16 the Woodpecker genus, some corrections over
17 there. I will give this to the applicant to
18 look at.

19 We have a letter from Jenny Sunshine from
20 98 Ravencrest Road, who basically says that
21 the Croton Overlook project that the board
22 will be addressing this evening, she's
23 against the project for many reasons. She
24 mentions the Cappelli project and the Trump



1 project. And that's all.

2 SUPERVISOR SIEGEL: Okay. Thank you.
3 Is there anybody else who wishes to speak?
4 Go ahead.

5 MR. MOSKOWITZ: My name is Paul
6 Moskowitz. And first I'd like to speak on
7 behalf of the Energy Advisory Committee. I'm
8 the chair of the Yorktown Energy Advisory --
9 Energy Advisory Committee.

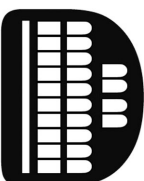
10 SUPERVISOR SIEGEL: Did you sign in?

11 MR. MOSKOWITZ: I did.

12 SUPERVISOR SIEGEL: Okay. Thank you.

13 MR. MOSKOWITZ: Unfortunately, our
14 committee has not had time to go over the
15 DEIS, and we respectfully request that the
16 hearing not be closed and that we at least
17 have another hearing for the public at the
18 town board's convenience, which would mean
19 the next town board meeting or the one after
20 that.

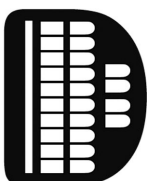
21 I noticed -- I have noticed that there
22 were many people who could not speak tonight
23 for very many reasons -- many of them are
24 away. Certainly, one of the town board



1 members is not even here. In case people
2 haven't noticed, it is August and people take
3 vacation, and it's really hard to get people
4 together. I think this is an important
5 subject and I believe -- I suggest that on
6 behalf of our committee at least that we
7 continue this into September after Labor Day
8 after vacations. So that's my first comment.

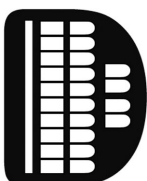
9 Now, speaking as an individual, not to be
10 confused with the committee: I'm also
11 concerned, as is Mr. Steinmetz, about
12 comparisons with the Trump building, which is
13 less than a mile from here, about half a mile
14 from here. And I can't help but make
15 comparisons between that enterprise and this
16 one. And I sort of made a little list
17 comparing characteristics, and I'd like to
18 just briefly go over this. Of course when
19 somebody says briefly, he's going to be here
20 forever, but I won't be.

21 So in terms of numbers of units, both of
22 these developments are major developments.
23 The Trump building is just one building.
24 It's on Route 6 with over 100 units, about a



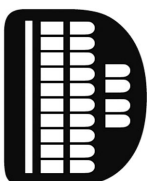
1 half mile from here. Although it is along
2 Route 6, I cannot in any way think of it
3 being within a hamlet either. That is, there
4 is no contact between that building and the
5 nearby Shrub Oak hamlet. The Croton Overlook
6 is also isolated. In this case though, it
7 will be over 70 units, and they will be many
8 buildings, but they will be clumped together,
9 and they too will be isolated from the
10 nearest hamlet. The nearest hamlet in that
11 case would be Millwood, which is about two
12 miles away by road.

13 Both of these required rezoning to a
14 higher density, both the Trump building and
15 this one. In this case we are replacing what
16 could be possibly maybe a dozen at most,
17 maybe 10 single-family homes with 77 homes.
18 I believe I read 77. Maybe that's wrong, but
19 it's certainly over 70 in the DEIS. And I
20 believe that this has never been the aim of
21 the people of the Town of Yorktown.
22 We went through years of hearing on the
23 comprehensive plan, and if we had one thing
24 that we agreed on -- we disagreed on many



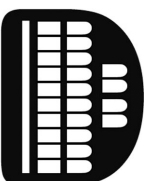
1 things, but we did agree that we would like
2 to limit the future growth of the town
3 because our schools are being overwhelmed,
4 our roads are being overwhelmed, and our
5 services. The services that we render to the
6 citizens of the Town of Yorktown are just
7 terrific, but the more people you have the
8 more services you require, and that includes
9 road repair and maintenance, our school
10 systems, the highways -- I mentioned roads --
11 fire, ambulance, administration, police, of
12 course. All of this is very expensive.

13 The applicant has said that if they can't
14 make a go of it for senior housing, then out
15 of those 77 units there would only be 12
16 school children. I can't believe that. I
17 mean, you take typical communities of
18 Yorktown, and it's usually at least one --
19 one school student per house. So you're
20 talking about 77, or let's just round it off,
21 70 school children from that development if
22 they can't make a go of it as senior housing.
23 What does that cost? Is it \$20,000 a
24 student, \$25,000 a student, 25 times 70 is



1 many millions of dollars. You never recover
2 that cost in taxes. And of course the people
3 who bear the burden of those Yorktown
4 residents are the Yorktown school district.
5 As far as recreation goes for this site, the
6 Trump -- the Trump enterprise has both active
7 and passive recreation. They have tennis
8 courts and also walking paths. As far as I
9 can see, Croton Overlook has only passive
10 recreation, no active recreation.

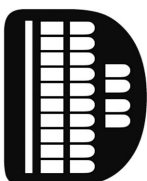
11 As far as public transportation goes,
12 both of these share a common fault, and that
13 is you have seniors, people over 55. There
14 is no place that you could get to from these
15 two locations without a private car. Trump
16 has a slight edge because across the street,
17 and that street is Route 6, you have a small
18 shopping complex. However, there is no
19 pedestrian crossing at Barger Street and
20 Route 6. You take your life into your hands
21 if you try to cross the street there. I did
22 it once; I had to have tennis sneakers on,
23 it's not -- it's not what you would want to
24 do on a regular basis. There is no traffic



1 crossing. Essentially, Route 6 isolates that
2 complex from the shopping which is nearby
3 across the street, but inaccessible.

4 In the case of the Croton Overlook, the
5 nearest shopping is in Millwood about two
6 miles away along Route 100, also not
7 accessible to pedestrians. So you're doing
8 the same thing in both cases.

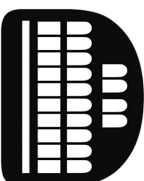
9 As far as emergency services go for the
10 Trump property, we have a firehouse down
11 Route 6, about two miles away in Mohegan
12 Lake. The firehouse for Croton Overlook is
13 the one in Yorktown Heights, which is five
14 miles away. Now, that does not say that we
15 might not build another firehouse south of
16 the reservoir. The fire department, Yorktown
17 Heights Fire Department has wanted to do that
18 for years. Of course -- of course we bear
19 the burden for the cost of doing something
20 like that. Otherwise, you have five miles,
21 not over wide roads like Route 6, you have
22 five miles over essentially back roads to get
23 to this place. There is no direct route by
24 fire truck. Maybe the fire department can



1 tell us how long it would take them to get
2 from the Yorktown Heights firehouse to this
3 location. My guess is that it's at least ten
4 minutes, if not more.

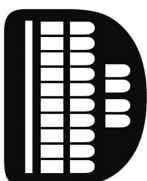
5 The view, well, Trump has a great view of
6 the Taconic Parkway, and that's about it.
7 This is not a great sales point. Croton
8 Overlook has a view of the power lines. I
9 know I would not want to get up every
10 morning, look out my front window and see --
11 look up to high tension power lines. I think
12 that this is a toss-up between Trump and the
13 power lines. Power lines are mostly silent,
14 although if you walk near them you can hear
15 them buzzing, so they're not totally silent,
16 but some people do have a fear of living near
17 high tension power lines. Whether that fear
18 is justified or not, it's going to limit
19 sales, just as the noise from the Taconic
20 Parkway has undoubtedly limited sales at the
21 Trump property.

22 So the bottom line is, what's the
23 occupancy like? The Trump property, as far
24 as I know, it's still mostly empty. I would



1 not term this a success in any sense of the
2 word, not a business success. And I have
3 grave misgivings about this development, that
4 if this is built, we risk doing the same
5 thing.

6 For the Trump property, they didn't pay
7 their taxes for three years. They're up to
8 about a million dollars. Fortunately, our
9 turn board is diligent and got them to pay
10 their taxes, but nonetheless, for that
11 three-year period it was the citizens of the
12 Town of Yorktown, the taxpayers, who were
13 left holding the bag. And I've also heard
14 many rumors, so they must be true of course,
15 that the Trump people are going to come back
16 and ask for a lifting of the age restriction.
17 And I believe that. I believe that. I
18 predicted that when it was first built. I'm
19 not here to tell you I told you so about
20 Trump, but they will do that, they will come
21 and they'll ask for a lifting of the age
22 restriction, in which case it's the taxpayers
23 of the like Lakeland School District who will
24 have to bear that burden.



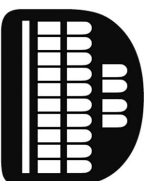
1 So I think that this is a risk. It's one
2 thing for a business owner to take a risk.
3 That's fine. That's the American way. You
4 got money, you -- you put down your
5 investment; you open your business. But
6 here, it's the Town of Yorktown which is
7 being asked to take the risk.

8 This is not development by right. It
9 requires a rezoning, which will effectively
10 increase the density by a factor of six or
11 seven over what you would have if it were
12 remained zoned as it is today. So it is we,
13 the taxpayers of Yorktown who will bear the
14 risk here, not the developers. So I'd ask
15 the town board to look very carefully and
16 think about this before -- before they make a
17 decision. Thank you.

18 MR. BIANCO: Thank you.

19 SUPERVISOR SIEGEL: Thank you, Paul.

20 MR. SCHROEDER: Good evening, folks.
21 I'm John Schroeder. And I'm speaking on
22 behalf of the Yorktown Land Trust tonight,
23 and my comments will be extremely brief
24 because we're not prepared to make a comment

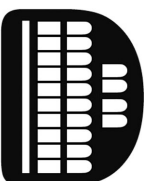


1 tonight due to the lateness of the
2 information being sent to us and the timing
3 of our ability to meet. We've not been able
4 to review the information, and so we would
5 respectfully request that the hearing be
6 adjourned until such time that's appropriate
7 so that we can sit down, review the
8 information and come back with comments.

9 We are one of the interested parties that
10 have been circulated on this project. So
11 that's it, and I will sign in.

12 MS. ROKER: Thank you, John.

13 MR. SETTEMBRINO: Good evening. I'm
14 here as the co-chair. My name's John
15 Settembrino of the Advisory Committee on Open
16 Space. And I echo John Schroeder's comments
17 about not having enough time to evaluate this
18 particular project. I would like to know if
19 the board received our memo from our
20 committee stating that and hopefully will be
21 duly noted. We need more time to evaluate
22 this. And in one of our evaluation processes
23 that we did a few years ago, we surveyed this
24 property prior to this whole development

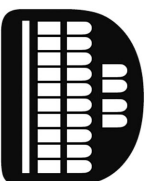


1 project, and we have a pro forma that we have
2 created. And this particular piece of
3 property was rated top preservation property
4 with all the features on it and so on. So we
5 had made the recommendation that the property
6 be preserved or be purchased by the town. So
7 I just want you to enter that for the record.
8 Thank you for your time.

9 MS. ROKER: Thank you.

10 MR. KELLNER: Hi. I'm Bill Kellner.
11 I'm a resident of Yorktown, and I'm the vice
12 president of Saw Mill River Audubon. And I'd
13 like to take the opportunity at this public
14 meeting to read a letter that our executive
15 director, Anne Swaim, executive director of
16 the Saw Mill River Audubon wrote to express
17 some of our organization's concerns about the
18 project.

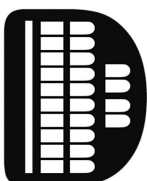
19 Saw Mill River Audubon is deeply
20 concerned about the proposed Croton Overlook
21 development and welcomes this opportunity to
22 offer comments. Because our organization
23 spans more than a dozen towns and villages in
24 Northern Westchester and includes over 1000



1 members from this area, we are -- we are
2 particularly concerned by any development
3 project that impacts more than one town.
4 Croton Overlook is such a project.

5 Croton Overlook's impacts are not limited
6 to the area within the borders of the Town of
7 Yorktown. Its potential impacts extend most
8 immediately south into the Town of New Castle
9 and regionally to potential impacts on New
10 York City reservoir drinking water. These
11 impacts are not merely short-term
12 construction impacts, but potential long-term
13 infrastructure impacts. While there may at
14 first appear to be a financial gain for the
15 Town of Yorktown from this project, we would
16 urge the town board to consider the potential
17 long-term losses both to Yorktown and to
18 other towns, especially the less wealthy
19 communities to our south that depend on New
20 York City drinking water.

21 In specific, our comments are: We affirm
22 that the Town of Yorktown conservation board
23 observations that this is a particularly
24 challenging property for development with

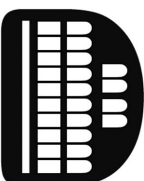


1 steep slopes and wetlands, and that it is
2 also a property rightfully listed as high
3 priority for protection by the Yorktown
4 Advisory Committee on Open Space, which we
5 just heard about.

6 We further affirm that the proposed
7 zoning change is incompatible with the
8 conditions of the property because of these
9 factors and because of other issues listed
10 below.

11 We do recognize an attempt to cluster
12 development and to protect most of the
13 property as open space. However, this does
14 not fully mitigate the site challenges. More
15 explanation is also needed about the
16 long-term protection of the open space given
17 apparent plans to clear-cut portion of that
18 space for gardening and hilltop vistas as
19 described on the project's Web site.

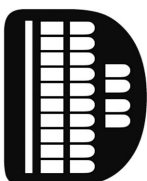
20 We affirm other comments regarding the less
21 than desirable siting of senior housing where
22 there is a lack of public transportation to
23 the nearest shopping area, which we know is
24 not in the Town of Yorktown but to the south



1 in the Town of New Castle as Paul mentioned.
2 We would re-emphasize this last point which
3 should be addressed in -- as well. Positive
4 and negative impacts on the hamlet of
5 Millwood should be addressed.

6 Also should be addressed are bike
7 pedestrian site access given the safety
8 concerns of Routes 100, 134 alongside the
9 nearby North County Trailway. We echo the
10 concerns of other comments that the Town of
11 Yorktown has not fared well with past
12 developer promises on senior housing. We --
13 we suggest that this past track record and
14 ongoing negative economic conditions call for
15 closer analysis about this project's
16 long-term economic viability and impacts,
17 including impacts of additional traffic and
18 school populations should the age
19 restrictions fail.

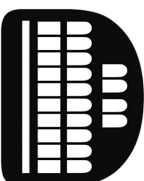
20 Contrary to the developer's assertions,
21 more and not less in-depth consideration is
22 needed on the question of view-shed impact
23 from this proposal, including the views from
24 opposite shores of the reservoir as well as



1 approaches from Routes 100 and Route 134.
2 Anecdotal evidence strongly suggests that
3 this property may be a wildlife corridor in
4 our area. It is -- it also currently offers
5 an un -- an area of unbroken forest canopy
6 vital for forest interior nesting birds.

7 There should be discussion and study of
8 these two wildlife habitat issues, as well as
9 map and discussion of the proposed projects
10 -- how the proposed project's habitat loss
11 interacts with the last two decades of
12 habitat loss in the immediate area. A
13 picture over time of habitat loss might help
14 decision-makers consider the cumulative loss
15 of wildlife habitat that has already happened
16 in this area and better evaluate the value of
17 remaining parcels such as this one.

18 As recommended in the Croton to Highland
19 Fire Diversity Plan, we encourage that there
20 be a hard look at impacts beyond individual
21 project sites that is considered cumulative
22 impacts on town and region-wide skills. Too
23 often the rationale has been to view past
24 impacts as justification for future impacts

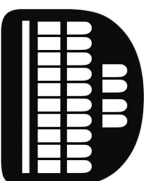


1 instead of considering cumulative impacts
2 over time as a strong encouragement for wiser
3 land use decisions.

4 We strongly concur with the Yorktown Land
5 Trust that a town-wide perspective on this
6 parcel suggests that, quote, this is the
7 gateway into the town in a low density -- in
8 a low density area with high environmental
9 quality concerns, unquote. Related to this,
10 we also urge that there be better
11 documentation of the current low-density
12 conditions of the surrounding area with map
13 and analysis of land use in a one-mile
14 radius. We believe this might also help
15 decision-makers consider the stark
16 differences between this proposed project and
17 its surroundings.

18 We are particularly dismayed to see a
19 project that proposes as new discharge of
20 treated sewerage flow into New York City
21 reservoir drinking water. This seems
22 extraordinarily short-sighted and ill-advised
23 in this day and time.

24 We suggest that there is the need to

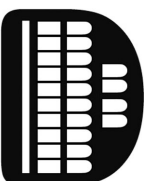


1 explore the possibility of not receiving New
2 York City DEP waiver for this discharge. And
3 that's something I believe that Councilman
4 Bianco mentioned. There's a need to analyze
5 the failures of other nearby sewage treatment
6 facilities and to address the question of the
7 Town of Yorktown liability in the event of
8 discharge failure and/or business failure of
9 this development project.

10 Our clean water is a resource we are
11 charged to protect for generations to come,
12 even in lean financial times when a developer
13 might appear to offer the town near-term
14 financial gain. We recognize the optimism of
15 engineers who might assert that such a
16 failure is unlikely.

17 Further economic downturns and/or poor or
18 absent maintenance of facilities are
19 potential realities suggesting otherwise.
20 The relative wealth of our reservoir water is
21 an inheritance we cannot risk, certainly not
22 for private gain or even for a town financial
23 gain.

24 Overall, we urge the town to recognize



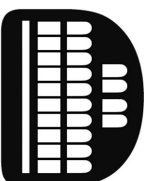
1 the inter-municipal and regional impacts of
2 this project in a SEQRA process, in any
3 question of rezoning, and in all other
4 ongoing discussions and decisions regarding
5 this proposal. To this end, we believe an
6 analysis of the Town of New Castle -- of
7 impact from the Town of New Castle
8 immediately across the southern border of
9 this project needs to be looked at. And
10 finally, we appreciate this opportunity to
11 comment. Thank you.

12 MR. BIANCO: Thank you, Bill.

13 SUPERVISOR SIEGEL: Anybody else?

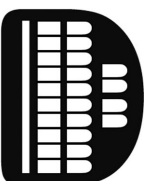
14 MR. FRANK: Good evening. Howard Frank,
15 Yorktown taxpayer, 2963 Curry Street,
16 Yorktown Heights.

17 Everybody really was very well spoken and
18 very well prepared. The only thing I did not
19 specifically hear over the years that this
20 has been proposed is hearsay about the sewer
21 system. Originally, I believe the -- the
22 press did report on the hookup to the IBM
23 sewer, which also goes to Ossining. And that
24 should be the number one top item in the DEIS



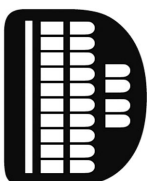
1 is sewerage and where the placement of this
2 particular sewer system is. What -- what is
3 the nature of the stream, what the flows are,
4 and is it a seasonal stream, is it a
5 year-round stream, and I haven't seen the
6 site plan, but whenever I look at it, whether
7 it's a one-family house or 70-some odd units,
8 that's the first thing I would look at is the
9 sewer system, how they're going to be
10 handled, because the history of
11 multiple-housing with multiple sewer systems
12 are not very good, especially in Yorktown
13 where there's always been problems where they
14 can't wait to get into a municipal sewer
15 system. So I would hope you make that a top
16 requirement in this DEIS as far as -- even
17 though it is a draft, how many feet it is to
18 the nearest municipal sewer system. Thank
19 you.

20 MR. CASSIDY: Good evening. Larry
21 Cassidy, Yorktown resident.
22 We've heard a lot of no, no, no tonight from
23 many different people, many who don't live in
24 Yorktown. This is a project that's going to



1 specifically impact Yorktown. Any
2 development that's taken place over the years
3 has taken place usually in the northern part
4 of Yorktown. As they mentioned earlier in
5 one of the earlier statements and this
6 evening, this is a gateway to Yorktown
7 Heights. Let this gateway be a beautiful
8 house where people 55 and older, who are not
9 old, I'm sorry, I resemble that remark, but
10 55 and older transportation becomes less of
11 an issue than when you're talking about
12 senior citizen housing.

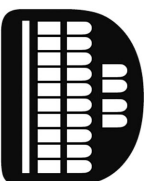
13 But there are a couple of different
14 issues. The southern part of Yorktown is so
15 underdeveloped and the northern part is so
16 overdeveloped. I think it's about time that
17 the southern part got a little bit of -- a
18 little development so that they can be part
19 of this -- this Town of Yorktown that we all
20 love. We can leave it as trees. No, that's
21 the safe way. Be safe. Leave it as a tree,
22 nothing will happen, but what about those
23 people who might love living in Yorktown and
24 this will give them the opportunity to live



1 here in Yorktown as 55 and older and not a
2 burden on the school systems and keep this --
3 this town vibrant. If we stay still and
4 leave trees in the woods, that's what
5 Yorktown's going to be, trees in the woods,
6 and we'll be overtaken by Cortlandt, we're
7 going to be overtaken by Millwood. They're
8 all going to grab on a development like this
9 if they get the opportunity. We have the
10 opportunity to do this. This is private
11 property. You have to be very careful what,
12 I believe, we as Yorktown residents and the
13 board does with private property. This is
14 great development.

15 An issue of fires that was brought up
16 earlier, the Millwood Fire Station, less than
17 a mile away, which is already there, there's
18 going to be mutual aid, and I understand that
19 Yorktown has fire department facilities all
20 ready -- all permits are ready to go. Fire
21 is not going to be an issue down in that
22 part.

23 If we stop and say no, if George
24 Washington said no, we can't make it across



1 that river, where would America be today.
2 Let's move Yorktown forward with a
3 development that will help Yorktown. It will
4 not be a burden to the school system. And
5 over a million dollars a year, I think we can
6 use that in our budget. Thank you very much.

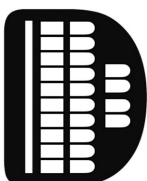
7 SUPERVISOR SIEGEL: Thank you, Larry.
8 Are there any other comments from the public?

9
10 (No response.)

11
12 SUPERVISOR SIEGEL: I would like to just
13 raise some questions so they go into the
14 record.

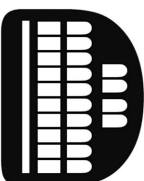
15 On page 184 of the DEIS you talk about
16 the availability of public water and you say
17 your -- your first option is to tap into the
18 water system in New Castle, and if that
19 doesn't work, you would do well water. Could
20 you supply documentation from the Town of New
21 Castle that they will -- of their intention.
22 Okay.

23 On page 187, which deals with the
24 operation of the sewerage treatment plant,



1 which goes into more detail of what Mr. Frank
2 said, who will operate the plan, will it be
3 manned, and what hours, will it be manned
4 24/7; you talk about taking samples daily;
5 what will the alarm system be in terms of who
6 reports to who; a much more detailed
7 maintenance-type program I think we need.
8 Yorktown has had experience where a local
9 system has failed, so we are very sensitive
10 to that.

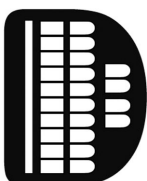
11 And also, the whole structure of the
12 transportation company, is that going to be
13 the same board of directors of the homeowners
14 association will maintain -- will be the, I
15 assume, the directors of the transportation
16 company. And one of my concerns is what if
17 they want to keep their homeowners dues low
18 and they don't vote to have sufficient funds
19 to do the proper maintenance of the
20 transportation company. What types of
21 protection are there. I know in your report
22 you do have -- in your annual budget monies
23 to go into a reserve fund because you do
24 obviously anticipate replacement. But I'm



1 more concerned, we have had examples here of
2 homeowners associations that have gone
3 defunct, and so again, we learn by our
4 examples, and we have had these negative
5 examples. So I think we need a little more
6 sense of security on that.

7 Okay. And then also on the school-age
8 children, you do address the issue that Nick
9 raised about the federal law and the
10 requirement on the 55 and over, and you do
11 talk about having deed restrictions
12 preventing sale to less than 55. My concern
13 is, can you put deed restrictions in that the
14 owner cannot rent to people under 55 or
15 people with children, because again, we learn
16 from experience, and we're hearing just
17 rumors that that is happening, you know,
18 elsewhere in Yorktown. So I think those are
19 some specific issues that I would like
20 addressed. Thank you.

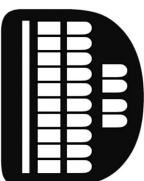
21 MR. MARTORANO: Thank you, Susan. It
22 seems to me there are two main things.
23 Number one, of course, the first overall
24 issue is does the proposed zoning advance



1 long-term town objectives. I know you've
2 argued at length that they do. It is has
3 been suggested tonight that they don't and
4 that the proposed rezoning does not advance
5 long-term town objectives. That's the first
6 issue, I think, for the town board, and
7 assuming they answer that in the affirmative;
8 the second issue is, is there sufficient
9 mitigation of site challenges that have been
10 -- we've talked about tonight. And that's a
11 matter of detail and we're going to get into
12 that. For me, the specific details involve
13 what's been suggested tonight involving water
14 and sewerage. We had several years back a
15 former proposal of the Hog Hill Development,
16 as you know, and the water issue was the
17 killer, I thought. And to me that's going to
18 be, you know, the details of that are going
19 to be very important to the board's
20 consideration, but I thank you for your
21 presentation today.

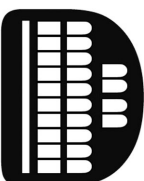
22 SUPERVISOR SIEGEL: Okay. I think I --
23 do you want to say something David?

24 MR. STEINMETZ: Yes. As I said at the



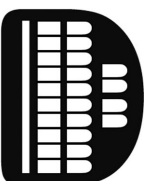
1 outset, tonight's not really the opportunity,
2 nor is it appropriate for us to respond
3 chapter and verse, but suffice it to say very
4 briefly, Mr. Moskowitz hopefully will give me
5 enough time to respond because I used the
6 word briefly, I shouldn't, you're right Paul.
7 Mr. Frank obviously hasn't had a chance to
8 fully study the DEIS. He'd learn more about
9 our sanitary sewer system. It's not
10 discharging surface water as the board knows,
11 there's a redundant system that involves
12 cleansing through the earth as well.
13 I'm very pleased that some of the speakers
14 like Mr. Moskowitz, like Mr. Kellner
15 obviously had an opportunity to study the
16 situation and provide significant comments
17 tonight. For those speakers who said that
18 they may not have had a sufficient time, I do
19 just want to mention two quick things.

20 One, we did submit the documentation
21 early in July. I think the date as we said
22 earlier was July 12th. The SEQRA regulations
23 specifically 617.12 say that the public
24 hearing must provide for an opportunity of



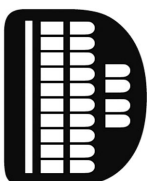
1 comment not less than 30 days from the date
2 of filing. Ms. Yackel may not have been able
3 to pick it up online, but the document was on
4 file. And I know Sarah and her firm and
5 their special counsel that are representing
6 them, they've been watching this carefully.
7 They knew when we filed, and they certainly
8 if they didn't, could have called Alice and
9 the document was there at town hall. And
10 again, no one called me and said David, I
11 can't wait until Robin can get it online, can
12 you get me a copy. We certainly would have
13 done that.

14 In addition, as you all know, the SEQRA
15 regulations require, regardless of what the
16 town board may do tonight, that the public
17 has a continuing opportunity to respond. In
18 fact, the SEQRA regulations require that
19 there be no fewer than ten days for more
20 study, ten days for more thought, and ten
21 days for more letters. All that having been
22 said, my client would be certainly pleased if
23 the board were to keep that hearing comment
24 period open until the 15th. That provides



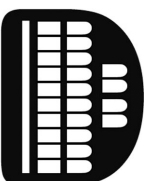
1 for 13 days of further study. Two weeks for
2 anyone who hasn't had a chance to get their
3 last word in, we would invite that. We would
4 just ask Alice that any written comments that
5 come in, and any letters that Nick has or
6 others may have, my client and I need that so
7 we can go through that.

8 The other thing that I just want mention,
9 and I'm sure Dan Pozin is familiar with this,
10 boards often forget that there are some
11 general rules in the SEQRA regulations. The
12 SEQRA regulations emanate from the
13 Environmental Conservation Law. The SEQRA
14 regulations are the New York State
15 Environmental Quality Review Act regulations.
16 It actually says in 617.3, agencies like your
17 board, lead agency, must, mandatory, must
18 carry out the terms and requirements of this
19 part with minimum procedural and
20 administrative delay. It goes on to say that
21 agencies, quote, must expedite all SEQRA
22 proceedings in the interest of prompt review.
23 I'm not asking you to take a shortcut. We're
24 not asking you to avoid giving the public a



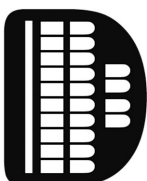
1 full and fair opportunity to comment, but
2 what we're asking you to do, we've had a
3 handful of speakers, they've made some --
4 some of them have made some very meaningful
5 comments, we've got them, the stenographer
6 has them, we're obligated to respond. The
7 SEQRA regulations require that we proceed
8 with minimum administrative delay. Give the
9 public another two weeks to respond in
10 writing.

11 We would ask that you close the public
12 hearing. We would ask that you afford us the
13 chance to respond. The public will have
14 every opportunity to review our, literally,
15 comment-by-comment response. That's the
16 format that's SEQRA requires. Your comments
17 have to be codified in such a way that we can
18 identify who made what comment and we have to
19 respond. They had a chance to review it.
20 People continue to review it. We would ask
21 that you close the public hearing tonight.
22 There have been no -- with all due respect to
23 the speakers, there really have been no new
24 or unusual issues that have been raised



1 tonight for the first time. Actually, the
2 only thing that I -- in my notes find, I
3 don't remember anyone ever saying previously
4 is they would like to know the impact to
5 Millwood. I bet if Millwood businesses were
6 here tonight, you'd have Rocky's Deli and a
7 line of others standing up saying when can
8 you start construction. But we're happy to
9 put that in the FEIS, and I appreciate that
10 suggestion.

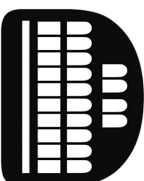
11 We look forward to continuing the review
12 with your board. And it should be said,
13 because again with rezonings people often
14 forget, we're here on the SEQRA process on a
15 rezoning. The board is not being asked to
16 vote on an approval. We're not in the zone
17 yet. So all you're doing is moving forward
18 with an environmental review process.
19 There's still an FEIS. There's still a
20 finding statement. There will be public
21 hearings that are still required subsequent
22 to that, and we must then return to the
23 planning board for both site plan and
24 subdivision review in front of the planning



1 board. We're got a number of things that
2 still have to be addressed.

3 My client wants me to say this, he wants
4 me to know -- he wants you to know, every day
5 that we sit on this property and the process,
6 not only does he have costs associated with
7 the development process, there's \$2200 a day
8 in carry costs, taxes, mortgage servicing, et
9 cetera. There's a real genuine impact to a
10 human being and entity that owns this
11 property. It has to be balanced with the
12 community's desire to comment. We think a
13 fair compromise and a fair balance, close the
14 public hearing, and let us move forward.
15 Thank you.

16 SUPERVISOR SIEGEL: Thank you, David.
17 David, I -- John -- before our planning
18 director, John Tegeder, says something, I
19 want to say thank you to our highway
20 superintendent, Eric DeBartolo, who provided
21 the outdoor lights, because as some people
22 know, I was concerned about the length of
23 this hearing and the lights are making it
24 possible for us to continue. So my thanks to



1 Eric. Go ahead, John.

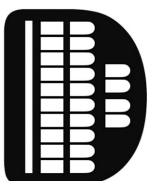
2 MR. TEGEDER: Good evening. The
3 planning board is on summer schedule. Their
4 last meeting as you read in one of your memos
5 before was July 11th, a day before it was
6 deemed complete. They are meeting a week
7 from yesterday. So I think that extending
8 the written comment period a little bit would
9 probably be helpful, and I don't know how the
10 board is going to proceed until next Monday.
11 So they could actually request some
12 additional time. I don't know that at this
13 point because they haven't met since July
14 11th, but I think it would be prudent, given
15 some of the other commentary to possibly keep
16 the written comment period open at least --
17 not talking about the --

18 SUPERVISOR SIEGEL: All right. John, the
19 planning board is meeting when, what date?

20 MR. STEINMETZ: The 15th.

21 MR. TEGEDER: The 8th.

22 SUPERVISOR SIEGEL: The 8th. Do you
23 think that if they meet on the 8th, discuss
24 this. Have the planning board members seen a



1 copy of the DEIS?

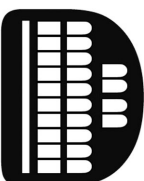
2 MR. TEGEDER: They have not, no. They
3 will receive it in their package at the
4 end --

5 SUPERVISOR SIEGEL: The weekend before
6 that.

7 MR. TEGEDER: So I don't know what
8 degree each member will get through it over
9 the weekend. They're usually pretty good.
10 So I don't know how they're going to be able
11 to proceed on the 8th. I can't predict that.

12 SUPERVISOR SIEGEL: Okay. Thank you for
13 your comment on that. David and TJ, the
14 applicant, I know that you're under a
15 timeframe because you need the written
16 comment to prepare the FEIS. Can -- if we
17 extended the comment period another week from
18 the 23rd --

19 MR. STEINMETZ: 22nd would be the
20 following Monday or the -- whatever -- the
21 22nd or the 23rd, the difference is
22 insignificant. As I said, my client and I
23 know we have to work with John, we have to
24 work with the planning board going forward.

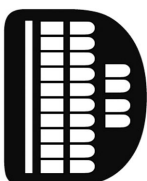


1 If they need to have a chance to study this,
2 if they need that extra week, and we -- I
3 didn't realize they were on summer schedule
4 and -- certainly this document was submitted
5 back in July, why it didn't get distributed
6 to them, I guess is a separate issue for the
7 town, but regardless, if you need another
8 week, take another week. We are not going to
9 stand in the way of the planning board having
10 a real meaningful review.

11 SUPERVISOR SIEGEL: John, would that --
12 would the 22nd give the planning board
13 sufficient time?

14 MR. TEGEDER: That will give them more
15 time. I know an extra week would be much
16 appreciated.

17 SUPERVISOR SIEGEL: Okay. And -- and it
18 gives the other -- the groups, you know, I
19 think, ample time. I mean it was made
20 available online. I heard July 20th,
21 somebody else said the 21st, so it gives them
22 a full month for people. And if somebody's
23 lucky enough to be away for a month on
24 vacation, hopefully there's somebody else on



1 an advisory board that can kind of chip in or
2 everybody takes a laptop with them and can
3 download the chapter, because most of these
4 advisory boards will be reading very
5 selective chapters and not necessarily the
6 whole thing.

7 MR. STEINMETZ: We have no objection.

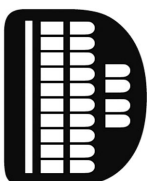
8 MR. BIANCO: Dan, and I don't want to
9 delay this, but some people said that they
10 wanted us to adjourn it. Is that legally
11 possible or is that impossible according to
12 SEQRA?

13 MR. POZIN: Yeah. Just to answer
14 Mr. Bianco's question, Mr. Steinmetz was
15 correct in that the general goal of SEQRA is
16 to move projects along as quickly as
17 possible. However, the regulations provide
18 for minimum of time for review. The 30 days
19 from the filing of the DEIS which was either
20 on July 12th or 16th, I'm not sure, you know,
21 that's a minimum period for review and for
22 comment. You know, if this board felt it was
23 necessary to hold a public hearing further,
24 that's an option. We could certainly close



1 it and continue to receive written comment.
2 You know, I think you have a couple --
3 basically those are your choices. You know,
4 you're not prohibited from keeping it open;
5 you're not compelled to close it.

6 SUPERVISOR SIEGEL: Just logistically,
7 the next board meeting is August 9th, which
8 is a work session that has a full agenda. I
9 don't know if that gives any of the groups
10 who haven't commented sufficient time to do
11 that in the one-week period, whether that
12 would even change the extending the comment
13 period to August 20th. Again, the offer is
14 there, if the board wants -- and September
15 6th, which is the next meeting, I think we
16 already have about four or five public
17 hearings scheduled. So it would be -- I
18 mean, even though we anticipate short public
19 hearings, we can never tell. So that would
20 really make it a problem. And then on the
21 20th, we also have a group of public hearing
22 scheduled. So from a logistics point of
23 view, it would be very difficult. So I would
24 think that the best compromise would be to



1 close the public hearing, extend the comment
2 period through -- what did you say, the
3 22nd --

4 MR. STEINMETZ: The 22nd.

5 SUPERVISOR SIEGEL: -- through August
6 22nd. And I think that that should give
7 sufficient time. And if I'm not mistaken,
8 Dan, didn't I read something that people can
9 still submit comments after the official
10 comment period has ended? And I'm sure -- so
11 you would make every effort to respond -- are
12 they obligated to today respond in the FEIS?

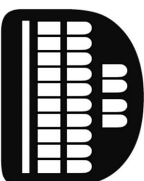
13 MR. POZIN: You could ask them to
14 respond.

15 SUPERVISOR SIEGEL: We could ask you. So
16 if somebody missed the 20th and got it in the
17 24th or the 25th, you would going overboard
18 and try to get it in so that we could accept
19 it -- accept the FEIS on the 6th, September
20 6th, and then the board will have time to
21 review it at the September 27th work session.

22 MR. STEINMETZ: That all sounds fine.

23 SUPERVISOR SIEGEL: Does that sound --

24 MR. STEINMETZ: We will -- we will go



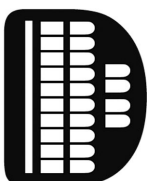
1 overboard.

2 MR. BIANCO: Yeah. I'm just puzzled by
3 the request to have more time, not for the
4 sake of more time, but people say well, it's
5 August, it's summertime, people can't make
6 it. I was very surprised of the low turnout
7 this evening on such an important project,
8 especially from various groups. And I don't
9 want to prolong this for the sake of
10 prolonging it; I really don't want to do
11 that, but I'll ask the applicant, and I don't
12 care how many public hearings are on on
13 September 6th, I'm sure none is going to be
14 as important as this is to the community. Do
15 you have a problem with us adjourning this
16 until September 6th?

17 MR. STEINMETZ: Nick, I'll respond to
18 that --

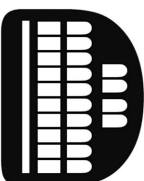
19 MR. BIANCO: Sure.

20 MR. STEINMETZ: -- very straight up.
21 It's August. There were six, seven speakers.
22 Ironically, go back and look at the public
23 record. We had a stenographer there as well.
24 At the scoping session we had six or seven



1 speakers. Four of them are identical. So
2 what I come away from that, because I'm at
3 too many of these public hearings too many
4 nights a week, too many weeks a month, you
5 may think there's overwhelming public
6 interest, there isn't.

7 We sit as someone said in southern
8 Yorktown. We sit in a very undeveloped
9 section of our town. There aren't a lot of
10 residents down there that this is, quote, in
11 their backyard. There are 90 of them in
12 Chappaqua, and they're paying for consultants
13 to monitor this very carefully. And you
14 know, Sarah did a very thorough job. She
15 came in with a seven-page letter that she
16 read, and I'm sure were going to get
17 something in writing as well. So straight
18 up, Nick, this has been a full and fair
19 opportunity for the public to speak. They've
20 got three more weeks to put in written
21 comments. You're not doing anything wrong.
22 Your counsel's not telling you you're doing
23 anything wrong. Yeah, I would oppose and
24 adjournment under these facts and



1 circumstances. It's totally appropriate to
2 close, keep the hearing comment period open.
3 We'll be back.

4 MR. BIANCO: Extend the comment period
5 another week.

6 SUPERVISOR SIEGEL: Yes. We're going to
7 extend -- be extended to August 22nd. That's
8 the close of business, Alice, on the 22nd.
9 And again, copies of the DEIS are available,
10 hard copy, in the John C. Hart Library.
11 What?

12 MR. MARTORANO: What about extending the
13 comment period --

14 MR. STEINMETZ: We just did.

15 MR. BIANCO: No. One more week.

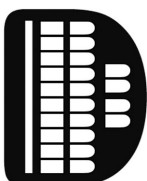
16 MR. STEINMETZ: Oh, another week.

17 MR. BIANCO: -- after that. September --
18 we'll do -- September 6th we'll do the --

19 SUPERVISOR SIEGEL: You can't have that.
20 They won't --

21 MR. MULDOON: The problem is, Nick, to
22 be fair --

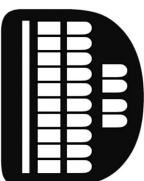
23 SUPERVISOR SIEGEL: TJ, go up to the
24 mike, please.



1 MR. BIANCO: Close the public hearing and
2 comment until September 1st.

3 MR. MULDOON: Here's the problem, that
4 certain people hold their letters to the last
5 minute to send them. We need to have enough
6 time to respond. I've said that we will --
7 we will make every effort if it comes in
8 after the 22nd to answer it, and we will.
9 But if we say it's going to be September 1st,
10 I'll get things on September 5th and you'll
11 ask me to answer them. And so we need to
12 draw definitive boundaries here, and I think
13 you know us at this point. We're willing to
14 do whatever we can do to be responsive to get
15 you your information.

16 SUPERVISOR SIEGEL: I -- having had so
17 many meetings dealing with Croton Overlook
18 over -- well over a year, I tend to support
19 your contention, David, that it's the same
20 group of people, and we have very legitimate
21 concerns from our volunteer advisory boards,
22 and we do want to hear from them and give
23 them ample time. And I -- I think that that
24 does and gets the project moving, complies



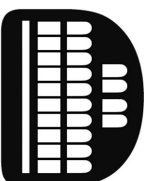
1 with the SEQRA law and deals with all the
2 other logistics, because many people like
3 Bill Kellner who came up here and gave a
4 detailed statement and did have the time, for
5 the record and for the FEIS, it frankly makes
6 no difference whether he read it into a
7 microphone or he submitted it in a statement,
8 you still have to answer the very same
9 questions, and the record will show exactly
10 what he said. And most people do tend to
11 write out their statements. And we're not
12 looking for polished, polished statements; it
13 could be very, you know, informal. So -- all
14 right. I would like a motion -- does anyone
15 want to make a motion to close the public
16 hearing?

17 MR. PATEL: I'm going to make a motion
18 to close the public hearing on COC tonight.

19 SUPERVISOR SIEGEL: Do I have a second?
20 I'll second that.

21 All in favor? Aye.

22 MR. MARTORANO: Well, on the condition
23 that there has to be a condition that we keep
24 the period of comment open. I think we



1 should keep it open until the next hearing.

2 SUPERVISOR SIEGEL: Well, let me -- let
3 me -- all right. Just a second. Let me --
4 let's revise the motion. All right. The
5 initial motion is that -- that Vishnu's
6 making is to close the public hearing, leave
7 the comment period open until August 20th.
8 That's the first motion.

9 MR. STEINMETZ: 22nd.

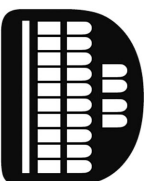
10 SUPERVISOR SIEGEL: 22nd. Okay. I think
11 TJ has made a point that if you do it August
12 -- September 1st, remember, he's going to
13 come back to us with a finished document in a
14 book like this for September 6th. So on a
15 practical level he needs some time. So let's
16 do -- we're going to vote on the motion to
17 close the public hearing and extend the
18 comment period to August 22nd. And I will
19 second that.

20 All in favor of that? Aye.

21 MR. BIANCO: Nay.

22 SUPERVISOR SIEGEL: Nay. You want to
23 make a second motion?

24 MR. MARTORANO: Make a motion that we



1 close the public hearing (indiscernible).

2

3 (Conversation at dais without
4 microphone.)

5

6 MR. BIANCO: Make a motion that we close
7 the public hearing and leave the comment to
8 August 30th.

9 MS. ROKER: What day of the week is
10 August 30th?

11 MR. STEINMETZ: That's a Tuesday.

12 MR. BIANCO: That gives them a week.

13 MR. MULDOON: We'll be working hard.

14 MR. MARTORANO: Second.

15 SUPERVISOR SIEGEL: All right. This is
16 to close the public hearing and extend the
17 comment period to August 30th.

18 Do I have a second?

19 MR. MARTORANO: Second.

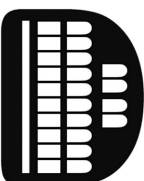
20 SUPERVISOR SIEGEL: All in favor.

21 (Members respond "aye.")

22 SUPERVISOR SIEGEL: Opposed?

23 (No response.)

24 (Time noted: 8:19 p.m.)



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C E R T I F I C A T E

I, MARCI LOREN DUSTIN, a Certified Court Reporter and Notary Public of the State of New York, do hereby certify that the transcript of the foregoing proceedings, taken at the time and place aforesaid, is a true and correct transcription of my shorthand notes.

Marci Loren Dustin

MARCI LOREN DUSTIN



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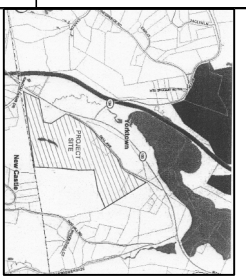
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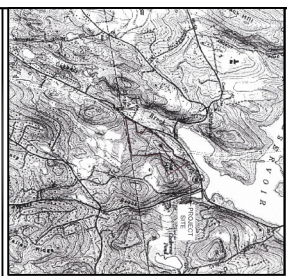
| | | | | |
|--|--|---|--|--|
| <p>together (2) 25:4;26:8</p> <p>told (1) 31:19</p> <p>tonight (25) 3:21;5:7,10,13,13, 16:9;10,14;10:22; 11:17;13:20,24; 24:22;32:22;33:1; 42:22;48:3,10,13; 49:17;50:16;52:21; 53:1,6;65:18</p> <p>tonight's (4) 4:5,21;5:23;49:1</p> <p>took (1) 14:18</p> <p>top (3) 34:3;41:24;42:15</p> <p>toss-up (1) 30:12</p> <p>total (1) 18:21</p> <p>totally (2) 30:15;63:1</p> <p>town (60) 3:17;4:11;5:1,5; 7:2,8;9:12;10:4;14:8, 11,18;15:6,22;16:1,7, 8;17:1,17;20:12,20, 22;21:9;22:6;24:18, 19,24;26:21;27:2,6; 31:12;32:6,15;34:6; 35:3,6,8,15,16,22; 36:24;37:1,10;38:22; 39:7;40:7,13,22,24; 41:6,7;43:19;44:3; 45:20;48:1,5,6;50:9, 16;57:7;62:9</p> <p>townhouse (1) 8:24</p> <p>towns (2) 34:23;35:18</p> <p>town's (7) 4:7,8;5:3;6:4; 10:18;16:14;21:15</p> <p>town-wide (1) 39:5</p> <p>track (1) 37:13</p> <p>traffic (4) 19:6,9;28:24;37:17</p> <p>Trailway (1) 37:9</p> <p>tranquility (2) 7:6,8</p> <p>transportation (6) 28:11;36:22;43:10; 46:12,15,20</p> <p>Trav (1) 3:6</p> <p>travel (1) 7:18</p> <p>Traveler's (1)</p> | <p>3:7</p> <p>treated (1) 39:20</p> <p>treatment (2) 40:5;45:24</p> <p>tree (2) 16:17;43:21</p> <p>trees (3) 43:20;44:4,5</p> <p>trip (1) 19:10</p> <p>trips (2) 19:12,14</p> <p>truck (1) 29:24</p> <p>true (1) 31:14</p> <p>Trump (17) 8:20;9:2;23:24; 25:12,23;26:14;28:6, 6,15;29:10;30:5,12, 21,23;31:6,15,20</p> <p>Trump/Cappelli (1) 8:16</p> <p>Trust (2) 32:22;39:5</p> <p>try (3) 4:3;28:21;60:18</p> <p>Tuesday (2) 22:6;67:11</p> <p>turn (2) 3:9;31:9</p> <p>turning (1) 10:20</p> <p>turnout (1) 61:6</p> <p>twice (1) 11:12</p> <p>two (13) 11:11;13:4;22:5; 26:11;28:15;29:5,11; 38:8,11;47:22;49:19; 51:1;52:9</p> <p>type (2) 7:3;8:24</p> <p>types (1) 46:20</p> <p>typical (1) 27:17</p> | <p>43:15</p> <p>undeveloped (1) 62:8</p> <p>undoubtedly (1) 30:20</p> <p>unfortunate (1) 12:4</p> <p>Unfortunately (1) 24:13</p> <p>unit (1) 9:1</p> <p>units (8) 4:12;7:5;12:4; 25:21,24;26:7;27:15; 42:7</p> <p>unlikely (1) 40:16</p> <p>unquote (1) 39:9</p> <p>unusual (1) 52:24</p> <p>up (16) 3:2;9:8;11:13; 12:12;13:6,13;30:9, 11;31:7;44:15;50:3; 53:7;61:20;62:18; 63:23;65:3</p> <p>upfront (1) 12:23</p> <p>upon (1) 15:2</p> <p>up-zoning (1) 15:16</p> <p>urge (5) 20:2,15;35:16; 39:10;40:24</p> <p>use (8) 14:13,16;15:15,20; 17:1;39:3,13;45:6</p> <p>used (2) 18:18;49:5</p> <p>uses (1) 8:4</p> <p>Using (1) 18:16</p> <p>usually (3) 27:18;43:3;56:9</p> <p>utilities (2) 22:17,24</p> | <p>7:17</p> <p>verse (1) 49:3</p> <p>vetted (1) 16:3</p> <p>viability (1) 37:16</p> <p>vibrant (1) 44:3</p> <p>vice (1) 34:11</p> <p>view (5) 30:5,5,8;38:23; 59:23</p> <p>views (1) 37:23</p> <p>view-shed (1) 37:22</p> <p>villages (1) 34:23</p> <p>violated (1) 9:20</p> <p>violations (1) 9:17</p> <p>violators (1) 10:5</p> <p>Vishnu's (1) 66:5</p> <p>visible (1) 10:11</p> <p>vistas (1) 36:18</p> <p>visual (1) 6:11</p> <p>vital (1) 38:6</p> <p>volume (1) 11:10</p> <p>volumes (2) 11:10,11</p> <p>volunteer (1) 64:21</p> <p>vote (3) 46:18;53:16;66:16</p> | <p>water (14) 9:19;16:17;19:20; 35:10,20;39:21; 40:10,20;45:16,18, 19;48:13,16;49:10</p> <p>way (5) 26:2;32:3;43:21; 52:17;57:9</p> <p>wealth (1) 40:20</p> <p>wealthy (1) 35:18</p> <p>Web (4) 6:5;11:8;21:15; 36:19</p> <p>week (13) 21:20;55:6;56:17; 57:2,8,8,15;62:4; 63:5,15,16;67:9,12</p> <p>weekend (2) 56:5,9</p> <p>weeks (5) 13:4;51:1;52:9; 62:4,20</p> <p>welcome (1) 10:12</p> <p>welcomes (1) 34:21</p> <p>well-designed (1) 20:17</p> <p>Westchester (1) 34:24</p> <p>wetlands (4) 6:10;16:17;20:9; 36:1</p> <p>what's (4) 8:17,21;30:22; 48:13</p> <p>whenever (1) 42:6</p> <p>whole (5) 6:12;11:9;33:24; 46:11;58:6</p> <p>wide (1) 29:21</p> <p>wildlife (3) 38:3,8,15</p> <p>willing (1) 64:13</p> <p>window (1) 30:10</p> <p>wires (1) 23:5</p> <p>wiser (1) 39:2</p> <p>wishes (1) 24:3</p> <p>within (2) 26:3;35:6</p> <p>without (5) 12:24;19:16,24; 28:15;67:3</p> <p>Woodpecker (1)</p> |
| | U | V | W | |
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| <p>Y</p> | <p>1</p> | <p>1</p> | <p>7</p> |
| <p>YACKEL (4) 13:17,19;14:8;50:2 year (3) 14:9;45:5;64:18 year-round (1) 42:5 years (7) 26:22;29:18;31:7; 33:23;41:19;43:2; 48:14 yesterday (1) 55:7 yield (2) 4:11;6:21 yields (1) 9:3 York (8) 12:22;13:3;15:1; 35:10,20;39:20;40:2; 51:14 Yorktown (48) 6:24;8:3;9:19; 11:22;14:14;22:6; 24:8;26:21;27:6,18; 28:3,4;29:13,16; 30:2;31:12;32:6,13, 22;34:11;35:7,15,17, 22;36:3,24;37:11; 39:4;40:7;41:15,16; 42:12,21,24;43:1,4,6, 14,19,23;44:1,12,19; 45:2,3;46:8;47:18; 62:8</p> | <p>1 (1) 3:5 1.1 (2) 6:16,22 10 (1) 26:17 100 (9) 3:6,24;4:14;9:11, 15;25:24;29:6;37:8; 38:1 1000 (1) 34:24 11th (2) 55:5,14 12 (2) 12:3;27:15 12th (3) 21:13;49:22;58:20 13 (1) 51:1 130 (1) 3:5 134 (3) 3:24;37:8;38:1 140 (1) 18:22 15 (2) 18:19;20:6 15th (3) 14:6;50:24;55:20 16th (1) 58:20 180 (1) 19:14 184 (1) 45:15 187 (1) 45:23 1960 (1) 7:22 1st (3) 64:2,9;66:12</p> | <p>3 30 (3) 21:20;50:1;58:18 30-day (1) 21:16 30th (3) 67:8,10,17 4 40 (1) 20:10 45 (1) 4:15 5 55 (8) 12:13;28:13;43:8, 10;44:1;47:10,12,14 58 (1) 18:22 5th (1) 64:10</p> | <p>8 70 (6) 4:11;12:4;26:7,19; 27:21,24 70-some (1) 42:7 70-unit (1) 3:5 77 (4) 26:17,18;27:15,20 8 8:19 (1) 67:24 82 (1) 19:1 8th (4) 55:21,22,23;56:11 9 90 (1) 62:11 98 (1) 23:20 9th (1) 59:7</p> |

VIII. SITE PLAN WITH LIMITS OF DISTURBANCE LINE.



AREA MAP SCALE 1"=400'
TOWN MAP SECTION 10A, BLOCK 1, LOTS 1 & 2



LOCATION MAP SCALE 1"=200'
TAKEN FROM U.S.G.S. MAP

TOWN OF YORKTOWN PLANNING BOARD

OWNERS CERTIFICATION
WE, THE UNDERSIGNED OWNERS OF THE PROPERTY SHOWN HEREON, HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF AND THAT WE HAVE NOT BEEN ADVISED BY ANY OTHER PARTY THAT THE INFORMATION CONTAINED HEREIN IS FALSE OR MISLEADING.

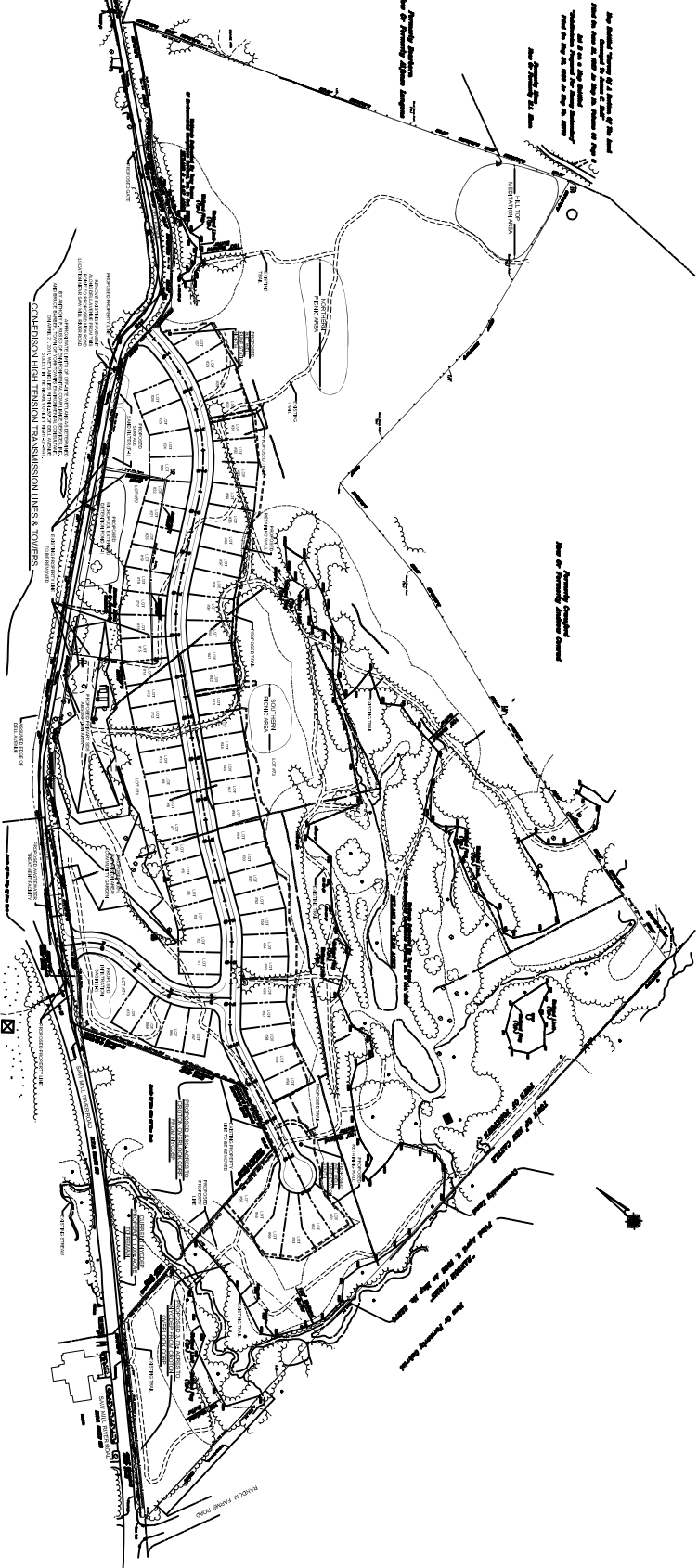
SURVEYORS CERTIFICATION
I, DONALD S. COULMAN, U.S. LICENSE # 46922, CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT I HAVE NOT BEEN ADVISED BY ANY OTHER PARTY THAT THE INFORMATION CONTAINED HEREIN IS FALSE OR MISLEADING.

TOPOGRAHIC DATA: U.S.G.S.
PLANNED DEVELOPMENT: TOWN OF YORKTOWN, NEW YORK
DATE OF TOPOGRAHIC SURVEY: 2011
SCALE: 1"=200'
SOURCE: U.S. GEOLOGICAL SURVEY, WASHINGTON, DC
TOWN OF YORKTOWN, NEW YORK
SECTION 10A, BLOCK 1, LOTS 1 & 2

LEGEND
PROPOSED BOUNDARY
EXISTING BOUNDARY
PROPOSED DRIVEWAY
EXISTING DRIVEWAY
PROPOSED SIDEWALK
EXISTING SIDEWALK
PROPOSED UTILITY POLE AND CLOSET
EXISTING UTILITY POLE AND CLOSET
PROPOSED LOT
EXISTING LOT
PROPOSED DRIVEWAY
EXISTING DRIVEWAY

WETLAND NOTES:
THE RESULTS OF THE WETLAND SURVEY CONDUCTED BY THE CONSULTING ENGINEER ARE SHOWN ON THE ATTACHED SHEET. THE RESULTS OF THE WETLAND SURVEY ARE SUBJECT TO THE ACCURACY OF THE DATA PROVIDED BY THE CLIENT AND THE ACCURACY OF THE FIELD SURVEY. THE CONSULTING ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS OBSERVED WETLANDS IN THE AREA. THE RESULTS OF THE WETLAND SURVEY ARE SUBJECT TO THE ACCURACY OF THE DATA PROVIDED BY THE CLIENT AND THE ACCURACY OF THE FIELD SURVEY. THE CONSULTING ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS OBSERVED WETLANDS IN THE AREA.

SITE DATA:
TOTAL NUMBER OF LOTS: 18
TOTAL NUMBER OF DRIVEWAYS: 18
TOTAL NUMBER OF UTILITY POLES AND CLOSETS: 18
TOTAL NUMBER OF SIDEWALKS: 18
TOTAL NUMBER OF DRIVEWAYS: 18
TOTAL NUMBER OF UTILITY POLES AND CLOSETS: 18
TOTAL NUMBER OF SIDEWALKS: 18



CROTON OVERLOOK

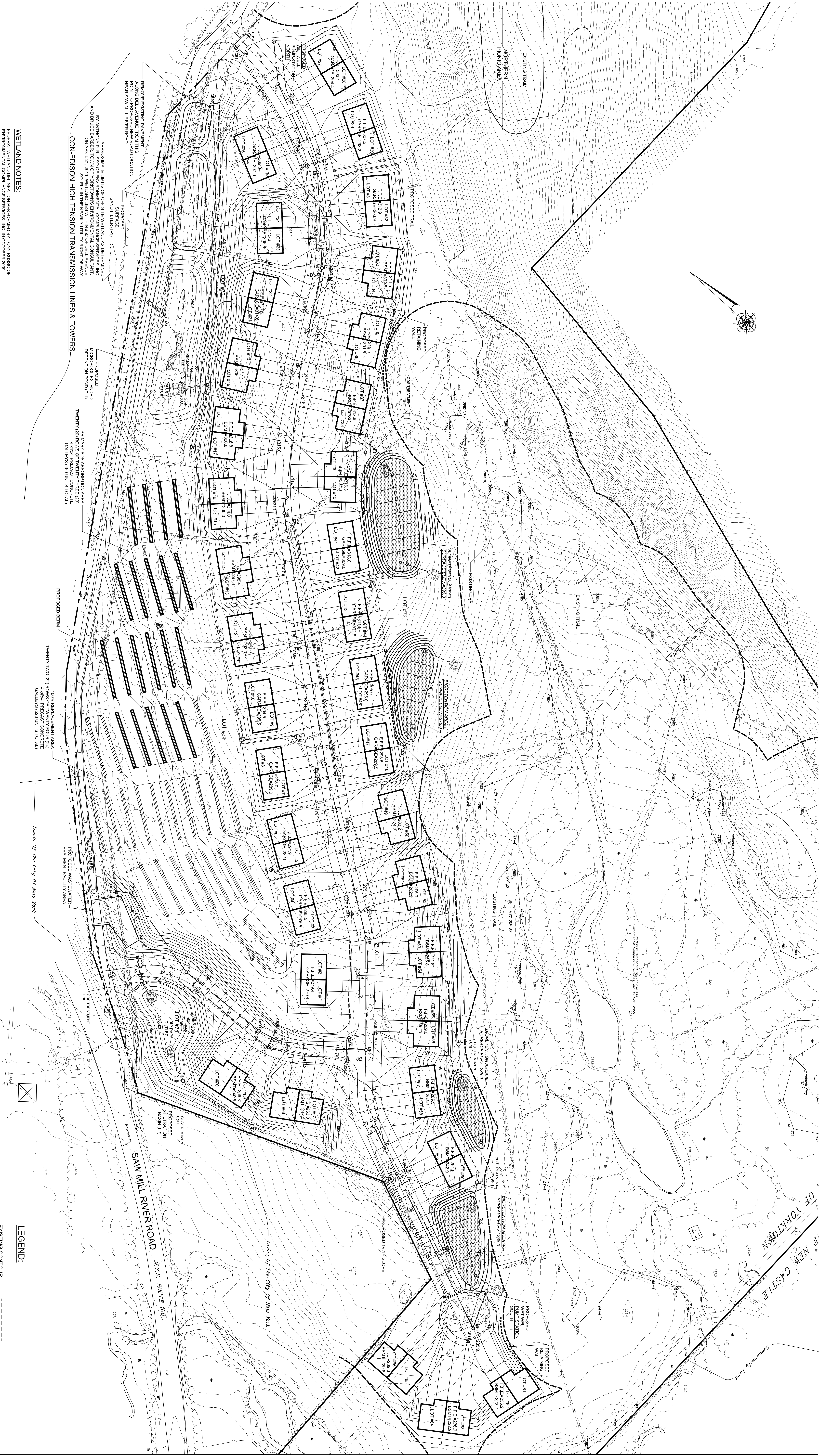
SAW MILL RIVER ROAD & DELL AVENUE
TOWN OF YORKTOWN, WESTCHESTER COUNTY, NEW YORK
CONCEPTUAL SUBDIVISION AND SITE PLAN

LAWRENCE J. PAGGI, PE,PC
CONSULTING ENGINEERING
43 BROAD STREET
FISHKILL, NEW YORK 12524

Site Planning
Professional
Assessment

DATE: 01-11-11
SCALE: 1"=100'
SHEET #: C1
1 of 3

VIII. GRADING PLAN WITH BERM.



WETLAND NOTES:
 FEDERAL WETLAND Delineation performed by TONY RUSSO OF ENVIRONMENTAL CONSULTANTS, INC. ON AUGUST 11, 2010. THE BOUNDARIES OF THE WETLAND ARE SHOWN THROUGHOUT AND WETLAND WERE CONFIRMED IN THE FIELD BY BRUCE BARBER, TOWN OF YORKTOWNS WETLAND CONSULTANT, ON AUGUST 11, 2010. THE SETBACKS OF 200 FEET FROM THE WETLAND BOUNDARIES WERE CONFIRMED IN THE FIELD BY BRUCE BARBER, TOWN OF YORKTOWNS WETLAND CONSULTANT, ON APRIL 21, 2011. THE WETLAND BOUNDARIES ARE TAKEN FROM THE PLAN ENTITLED "TOPOGRAPHICAL SURVEY OF THE PROPERTY PREPARED FOR LOT DIVERS AND DEVELOPMENT PREPARED BY SCHEIDT & SCHUBERT, P.C., L.L.C. AND FINISHED ON MAY 9, 2011. NO WORK SHALL BE PERFORMED WITHIN WETLAND OR WETLAND BUFFER.

NOTE:
 THE FINAL DIMENSIONS OF ANY BERMS SHALL BE DETERMINED DURING SITE PLAN REVIEW.

- LEGEND:**
- EXISTING CONTOUR
 - PROPOSED CONTOUR
 - PROPOSED HOME SITE & DRIVEWAY
 - PROPOSED RETAINING WALL
 - FEDERAL WETLAND BOUNDARY
 - EXISTING STONE WALL
 - EXISTING TREE LINE
 - EXISTING WELL
 - EXISTING CATCH BASIN AND CULVERT
 - EXISTING UTILITY POLE
 - EXISTING CHAIN LINK FENCE

LAWRENCE J. PAGGI, PE, PC
 CONSULTING ENGINEERING
 43 BROAD STREET
 FISHKILL, NEW YORK 12524

Civil, Structural & Site Engineering
 Site Planning
 Environmental Assessment

CROTON OVERLOOK
 SAW MILL RIVER ROAD & DELL AVENUE
 TOWN OF YORKTOWN, WESTCHESTER COUNTY, NEW YORK

Revisions:

JOB NUMBER:
 09-1111-16
 DATE:
 MAY 12, 2011
 SCALE:
 1" = 50'

SHEET #
S1
 1 of 1