

# ***FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS)***

## **PROPOSED 1000 TAYLORS LANE SUBDIVISION Village of Mamaroneck Westchester County, New York**

### **State Environmental Quality Review Act (SEQRA) Lead Agency:**

Village of Mamaroneck Planning Board  
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Lee Wexler (Chairman)  
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## I. INTRODUCTION/EXECUTIVE SUMMARY

### A. Summary Description of Proposed Action

#### Description, History & Evolution of the Proposed Action

The DEIS Proposed Action was the subdivision of an existing 5.169-acre lot into three residential lots compliant with the requirements of the R-15 Zoning District of the Village of Mamaroneck. Alternatives to the DEIS Proposed Action included variations of a two-lot subdivision and a three-lot subdivision with limits to the areas of disturbance. As a result of comments from the public, Planning Board, and the Planning Board's staff and consultants, as well as further study by the Applicant, an enhanced version of DEIS Alternative V.C.I has become the Applicant's Proposed Action, as shown at Exhibit 1 ("FEIS Proposed Action") following page 68 of this document.

The FEIS Proposed Action is the subdivision of the property into three conforming residential lots, including one lot on which the current residence and yard will remain, along with the following features:

- Conservation easement area of 141,277 square feet (3.243 acres, or 63% of the lot area)
- Restricted building envelopes defined by the zoning setbacks for the front and side yards, and by a setback of 30 feet from the 100' freshwater wetland buffer line in the rear of Lot 3 and 60 feet from the 100' freshwater wetland buffer line in the rear of Lot 1.
- Limitations on floor area ratios ("FAR") of the future single family dwellings on the two new lots by a calculation of the land area outside of the wetland buffer, rather than the total lot area.
- Use of native plants and shrubs for landscaping purposes consistent with the Village Planning Board's Coastal Planting Guide.
- Restrictions on the use of inorganic fertilizers, herbicides and pesticides.
- Minimization of land disturbance through the use of retaining walls.

One residence is currently established on the property and will remain on the central lot of the proposed subdivision. Under the FEIS Proposed Action, this central lot will be bounded on the northeast and southwest by two proposed new lots. No new streets are proposed; each of the three lots would have driveway access off of Taylors Lane with adequate sight distance in both directions. No development is proposed at this time for the two new lots created by the subdivision, nor is any additional development proposed on the Applicants' existing property. At the request of the Planning Board, Exhibit 1.a was developed to illustrate the *potential future development* associated with the FEIS Proposed Action.

The FEIS Proposed Action is borne from one of the key alternatives identified by the Planning Board during its review of the DEIS (DEIS Alternative V.C.I). The other key alternative identified by the Planning Board is DEIS Alternative V.C.2 which has become FEIS Exhibit 4. FEIS Exhibit 4 is a four-lot subdivision in which the fourth lot is designated as a "conservation lot" with similar boundaries as the conservation easement area shown in the FEIS Proposed Action. The main difference between the FEIS Proposed Action and FEIS Exhibit 4 is a function of ownership. In the FEIS Proposed Action the conservation area would be owned in

fee simple by the owner of the respective lot and the Westchester Land Trust or other qualified entity would hold an easement over such area. In FEIS Exhibit 4, the conservation area is subdivided from the residential lot, thereby reducing the residential lot size and permitting fee simple ownership by the Westchester Land Trust or other qualified entity. The reduced lot size offered by FEIS Exhibit 4 does not change the development potential of the two new lots due to the FAR limitations proposed as part of the FEIS Proposed Action, whereby FAR would be limited to lot area located outside of the wetland buffer. Also, in both the FEIS Proposed Action (Exhibit 1) and FEIS Exhibit 4 the same or similar amount of land would be preserved for conservation purposes.

The remaining alternatives presented herein are included at the request of the Planning Board, although the project sponsor has stated that they are not consistent with its “objectives and capabilities” 6 NYCRR 617.9(b)(5)(v). According to the Applicant, its objectives are to utilize their 5+ acre property in a manner consistent with the Village of Mamaroneck Zoning Code. The Applicant states that they acquired this property with the understanding that the existing zoning permitted the property to be subdivided and understood that while the five-lot subdivision permitted by strict application of the zoning requirements may not be reasonable, a three-lot subdivision with lots over three times larger than the minimum permitted in the R-15 District balances all relevant interests.

The in-depth review of this subdivision application resulted in a substantial improvement over the DEIS Proposed Action which was simply a zoning compliant three-lot subdivision. The mitigation measures included in the FEIS Proposed Action, listed above, represent a substantial improvement over the DEIS Proposed Action. As a result of the proposed mitigation measures, the FAR of the houses on proposed Lots 1 and 3 were reduced by over 70% and over 60% of the Property is marked for permanent conservation. In addition, restrictions on landscaping and fertilization methods would be imposed, land disturbance will be minimized through the use of retaining walls, and the proposed building envelopes are shifted as far from the wetland buffer as practicable.

Two additional alternatives set forth in this document are a two-lot subdivision (FEIS Exhibit 3) and the No Action alternative (FEIS Exhibits 2 and 2a). In the Applicant’s opinion, while these two alternatives may be perceived as less impactful on the environment by limiting (or eliminating) the proposed building lots, Table V.A.2 demonstrates that even after installation of customary accessory improvements that would be permitted by the Village Code (see FEIS Exhibits 2a and 3), the degree of the reduction in environmental impacts is negligible compared to considerable impact on the Applicants’ objectives. For these reasons and those stated herein, the Applicants’ preferred alternative (FEIS Exhibit 1) is the FEIS Proposed Action.

#### Procedural History

The project was classified as a Type I action pursuant to the State Environmental Quality Review Act (SEQRA), and the Village of Mamaroneck Planning Board is the designated Lead Agency. A Draft Environmental Impact Statement (DEIS), dated July 19, 2012, was prepared for this project, and accepted by the Village Planning Board on July 25, 2012. The Planning Board held a Public Hearing on September 12, 2012, and left the public comment period open until October

19, 2012. In addition, the Village Harbor and Coastal Zone Management Commission (HCZMC) held meetings on August 15, 2012, September 19, 2012, and October 17, 2012, and, as an involved agency, provided comments on the DEIS to the Planning Board. The HCZMC will review the proposed subdivision for consistency with the Local Waterfront Revitalization Program (LWRP) upon completion of the SEQRA process.

This Final Environmental Impact Statement (FEIS) has been prepared to provide responses to all comments on the DEIS received by the Village Planning Board. Copies of all written correspondence and comments are included in the Appendix to this document. Comments made during the Public Hearing were recorded and transcribed, and a copy of the transcript is also included in the Appendix. Where appropriate, similar comments have been grouped together to avoid repetition, and the outline of the FEIS document follows the general outline of the DEIS. Where no text appears after an outline header, no comments were received. Several of the alternative Site Plans prepared for the project have been updated and revised in response to comments on the DEIS, and these plans are included in Section V of this document.

## **B. Summary of Significant Impacts and Proposed Mitigation Measures**

*No comments received.*

## **C. Summary of Alternatives**

### **Comment I-C-1**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"SUMMARY OF ALTERNATIVES (pg. 2) [pdf pg. 7]."*

*SI-10. "Issue: The included summary does not seem to reflect the current range of alternatives and there remains, both here and in the referenced section, no discussion as to whether the applicant is prepared to actually consider and accept any of the proposed alternatives."*

### **Response I-C-1**

*The Applicant has proposed a three-lot residential subdivision of the property. As part of the review of the application, the Planning Board requested that a variety of alternatives be analyzed in the Draft Environmental Impact Statement (DEIS) in order to evaluate the impacts and benefits associated with each scenario. The Applicant's objective is to subdivide the parcel into three lots, but the ultimate decision on how the property will be subdivided is the Planning Board's. A detailed discussion and summary of the various alternatives considered can be found in Section V of this document.*

## **D. List of Involved and Interested Agencies**

### **Comment I-D-1**

Rebecca Crist, Environmental Analyst, NYSDEC, letter dated May 14, 2013

*"State Historic Preservation Act*

*The site is an area of archeological sensitivity as designated by the NY State Office of Historic Preservation (SHPO). Phase 1A and 1B surveys were included in the DEIS and SHPO was listed as an involved or interested agency, but it does not appear that a determination of impact has been made by SHPO. As indicated in the DEIS, a determination of impact from SHPO is a required element for completeness of the DEC tidal wetland permit application."*



**Response I-D-1**

*SHPO responded in a letter dated October 7, 2010 addressed to Ms. Crist that the proposed subdivision would have “no impact upon cultural resources”. That letter is included in the Appendix following the May 14, 2013 letter from Ms. Crist.*

**E. List of Permits and Approvals Required****Comment I-E-1**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*“DEC SPDES General Permit for Stormwater Discharges from Construction Activities” (pg. 3) [pdf pg. 8]”*

*SI-11. “Issue: It is appreciated that this has been included and that its inclusion was suggested by the NYSDEC. However, it should also be noted that if each of these lots is developed individually in the future and the areas of disturbance kept below the state's threshold (which would currently be the case with the suggested potential development plans for each individual lot), then this DEC permit would not be required and this additional level of development oversight would not come into play.”*

**Response I-E-1**

*Comment noted. The stormwater management measures described in the DEIS were developed in accordance with the 2010 New York State Stormwater Management Design Manual and the requirements of the Village of Mamaroneck. As stormwater regulations continue to change, development of the new lots will be undertaken in compliance with current local and State regulations.*

**Comment I-E-2**

Sven Hoeger, Environmental Consultant to the HCZMC: letter dated September 15, 2012

*8.c. “Lastly, I would like to request that the applicant correctly reflect guidance given by the New York State Department of Environmental Conservation with letter of July 30, 2010, whereby the filing of an Article 25 Tidal Wetland Permit will be required. This requirement was omitted from the discussion of regulations on page 23.”*

**Response I-E-2**

*Comment noted. As illustrated on Exhibit IV.D.1-1 and described on page 21 of the DEIS, the Tidal Wetland Adjacent Area extends onto the subject property. Under NYS DEC regulations (6 NYCRR Part 661.6) subdivision of a parcel which contains Tidal Wetlands or Adjacent Areas requires a Permit under Article 25.*

## II. DESCRIPTION OF PROPOSED ACTION

### A. Regional Location

*No comments received.*

### B. Site Description

#### Comment II-B-1

Daniel S. Natchez & Associates: letter dated September 7, 2012

*“The property slopes from east to west, with the highest elevation (approximately 30') along Taylors Lane, and the lowest elevation (approximately 6') in the southwest corner of the property.” (pg. 3) [pdf pg. 8]”*

*SI-12. “Issue: No datum is defined in this description.”*

#### Response II-B-1

*The topographic survey used as the base for all of the plans submitted for this application was updated to NAVD 1988 datum in 2010.*

### C. Description of Proposed Action

*No comments received.*

### III. PURPOSE AND NEED FOR PROPOSED ACTION

#### A. Background and History

All of the comments on this section relate to the construction of the existing residence, and are therefore grouped together for response purposes.

##### Comment III-A-1.1

Barbara Novick: undated letter, sent to Planning Board September 6, 2012

*1.d. "In the DEIS section on "Background and History", there is no discussion of the development that was done to create the existing house and grounds at 1000 Taylors Lane. That project (which was completed only a few years ago) included clearing an area that extended into the wetland buffer and adding a significant amount of fill to regrade the lot. All of which was done without appropriate local or state wetland permits."*

*1.f. "In considering additional development of this sensitive area, we believe any calculation should take into account the existing structure, grading, and clearing of buffer land. Any new clearing, grading or building should be downsized to compensate and ameliorate the aggregate damage across the entire parcel, and the resulting impacts on the wetlands."*

##### Comment III-A-1.2

Daniel S. Natchez & Associates: letter dated September 7, 2012

*2a. "The DEIS's section on "Background and History" fails to mention that the original construction of the existing house and associated development, including considerable clearing, grading and wall construction within the 100 foot freshwater wetlands buffer and NYSDEC Tidal Wetlands adjacent area was done without obtaining the appropriate local or state permits for such work. It is requested that a full and proper background be completed by the Applicant to assist in reviewing the proposed subdivision."*

*2m. "'No disturbance is proposed on Lot 2" - because it was previously disturbed without obtaining all the needed approvals!"*

##### Comment III-A-1.3

Susan Berenzweig: letter dated September 8, 2012

*3.b. From one's seat in an office it may be difficult to envision the actually tangible (potentially destructive) changes in the natural world that would follow should construction on this property—particularly construction of homes similar to the one already standing on this property. This brings up the uncomfortable fact that the home that was built first on this property may have violated the integrity of the wetland buffer and disregarded other environmental concerns by the clearing and grading the site, mitigating the impact of water runoff, and placing part of the structure within the wetland buffer. Besides the fact that this should never have happened once, this letter is written so it does not happen again."*

**Comment III-A-1.4**

David & Ellen Freeman: letter dated September 10, 2012

*4.a. "We are not opposed in principal to the concept of this property's being subdivided so that one or two additional houses can be built. However, neither the DEIS, nor the applicants' prior actions in constructing their own residence (in apparent disregard of existing regulations), gives us confidence that these activities will be undertaken in a way that protects the wildlife, the outstanding scenic qualities, and the unique ecosystem of The Nature Conservancy's Otter Creek Preserve."*

**Comment III-A-1.5**

Mark King (Nature Conservancy): letter dated September 12, 2012

*6.e. "...we would be pleased to see additional attention given to the fact that previous development activity occurred within the wetland boundary and every effort must be made to see that this doesn't not happen again should the subdivision be approved."*

**Comment III-A-1.6**

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

*14.e. The applicant should discuss the alleged nonconformities of the existing residence on the property, as related to compliance with State and local wetland regulations.*

**Comment III-A-1.7**

Daniel S. Natchez & Associates: letter to HCZMC dated October 4, 2012

*"Provide a complete history of the development of the existing house, including all permits received, as well as disclosure of other properties in the area surrounding Magid Pond owned or controlled by the Applicant. The fact that the Alters were issued a building permit by the Village and the development occurred despite many available alternatives that would not have required disturbance of the buffer is key to understanding the current concern with respect to the proposed subdivision."*

*"The Alters acquired this large undeveloped piece of property upon which they proposed the construction of a new house."*

*"The existing house possibly along with its landscaping/rear yard development were apparently issued both a Building Permit and Certificate of Occupancy by the Village even though its development should have also required, at a minimum, Wetlands Permits from the Village and the NYSDEC."*

*"The existing house, retaining wall and rear yard fill extend into the 100 foot wetland buffer by up to 69 feet amounting to approximately 1/4 acre in total size."*

*“The current staff at the Village Building Department has suggested that it looks like mistakes were made at the time of the Alters' application - but a CO was issued and what's done is done.”*

*“The Alters also own two undeveloped parcels of land on the west side of Magid Pond within Shore Acres which were previously listed for sale.”*

**Response III-A-1.1 through 1.7**

*Prior work on the existing parcel was performed pursuant to a Building Permit duly issued on May 26, 2004 by the Village of Mamaroneck. The development of this lot proceeded on the basis of a certified survey prepared by a licensed Land Surveyor that depicted all governing buffer zones, including New York State Tidal and Freshwater Wetlands adjacent areas. Work proceeded on the parcel only after regulatory and Building Department review, and a Certificate of Occupancy was issued on February 1, 2005 by the Village of Mamaroneck when the project was completed. To the extent that it is now alleged that such work required a wetland permit, such allegation is an enforcement issue to be pursued at the discretion of the Village of Mamaroneck.*

*As it pertains to this application, the Planning Board has the authority to impose reasonable conditions on the approval of the proposed subdivision provided that such conditions are supported by the Record. Future plans for the development of two new homes will be prepared in accordance with all applicable laws, rules and regulations. Implementation of those future development plans will be with the oversight of the Village Building Department, Engineering Department, and all other local and state agencies having jurisdiction.*

*Prior disturbance within the wetland buffer was 1551 square feet for structures (including a small portion of the residence, a deck, screened porch, and stairs), and 8571 additional square feet of grading for the backyard. The Applicant's ownership of any other non-contiguous properties is not relevant to this project.*

**B. Need and Benefits of Proposed Action**

*No comments received.*

#### **IV. EXISTING ENVIRONMENTAL CONDITIONS/ANTICIPATED IMPACTS AND MITIGATION**

##### **A. Land Use**

##### **1. Existing Conditions**

###### **Comment IV-A-1.1**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*2i. "Adequacy of Taylors Lane in its current condition adjacent to this area. Taylors Lane is particularly narrow in this area with many view obstructions to driveway entrances and a tight turn at the corner between Shadow Lane and Colonial Court. The addition of a driveway in this area, particularly in the vicinity of proposed Lot 3, will further aggravate already dangerous conditions. The DEIS does not consider the condition of Taylors Lane adjacent to the property or provide site distance analysis relative to the proposed driveway connections. Does the road meet current subdivision width requirements?"*

###### **Response IV-A-1.1**

*Taylor's Lane is an existing public road which provides direct access to 16 homes, as well as access to the 32 residences on Colonial Court and Barrymore Place. It is the Village's responsibility to maintain a safe road for all residents in the area. Subdivision road specifications set forth in the Village Code do not apply to existing Village roads. However, in 2012 the Project Engineer reviewed the proposed location of drives to access Lot 1 and Lot 3, and determined that there is adequate stopping sight distance (SSD) for both lots for cars traveling at the posted speed limit on Taylors Lane. For Lot 3 the sight distance to the vehicle approaching the crest of the hill on Taylors Lane was measured at 150 feet. There are two intersections (Barrymore Lane and Colonial Court) and another driveway between the curve in Taylors Lane and the potential driveway serving Lot 3, so it is unlikely that a car traveling on that part of Taylors Lane would achieve a speed of 25 mph. It is further noted by the Project Engineer that both the driveway for Lot 1 and the driveway for Lot 3 could be shifted to achieve better sight distance at the time of final site design, as appropriate based on consultation with the Village Engineer.*

##### **2. Potential Impacts**

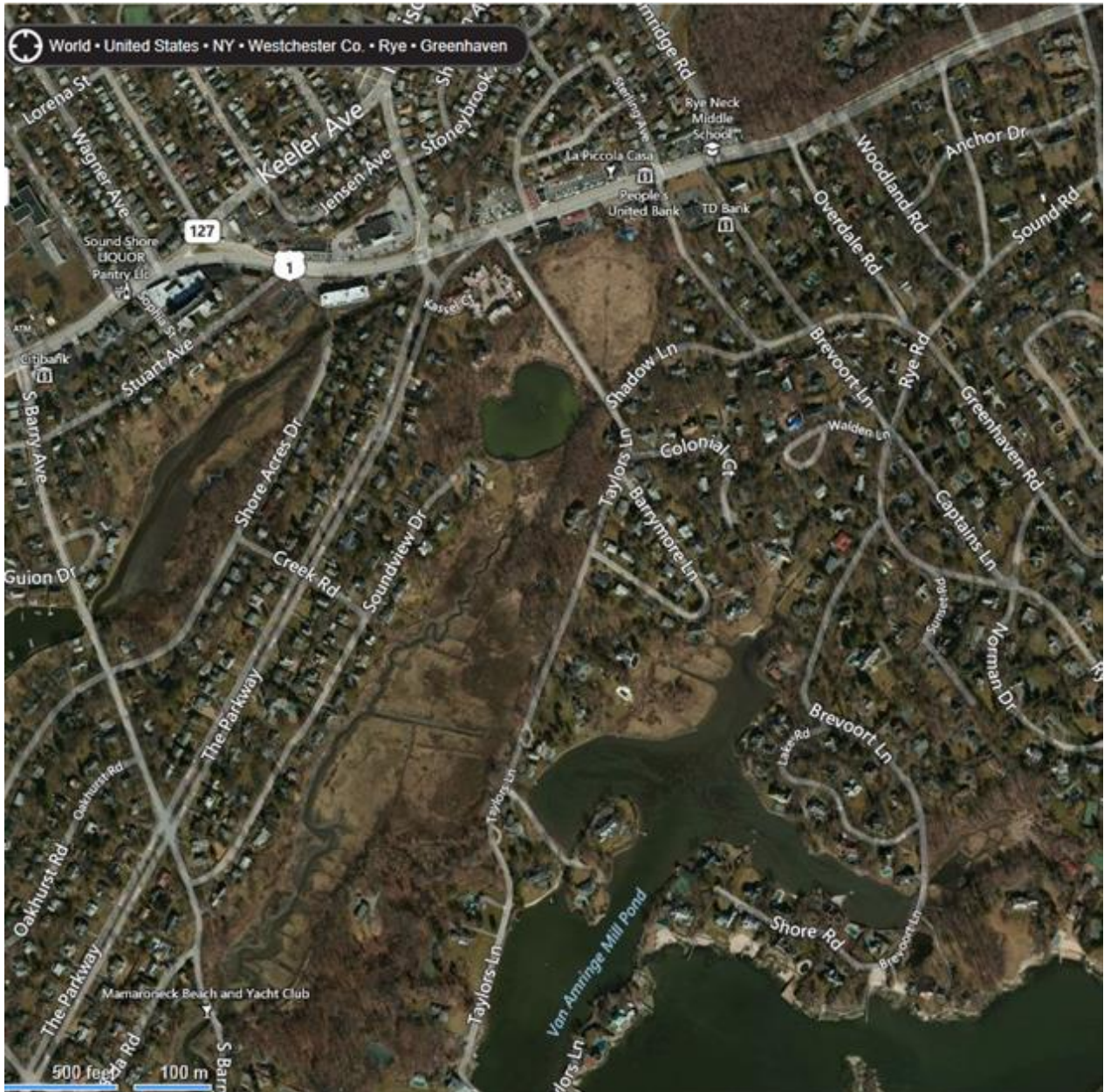
###### **Comment IV-A-2.1**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*2g. "The Applicant claims that the proposed addition of two large new houses "will preserve the visual conditions of the area." It is respectfully submitted that such a statement is a stretch at best, as there is no way that the addition of two large new houses will preserve the current visual conditions and the DEIS does not even offer any photographs of the site as viewed from the surrounding properties, including the Nature Conservancy property, Soundview Drive and the Parkway. The construction of the existing house on the property certainly had considerable impact to the previously existing visual conditions of the area."*

**Response IV-A-2.1**

*As seen in this aerial photograph, in the Applicant's opinion, the addition of two new residences along Taylor's Lane is entirely consistent with the surrounding residential areas, including Barrymore Lane, Colonial Court and Soundview Drive.*





*Photographs taken from a variety of directions (in both leaf-on and leaf-off conditions) are provided below. These photos indicate that the existing residence does not have a significant impact on the visual conditions of the area. Any future development of the proposed new lots would also preserve these visual conditions by preserving the vegetated buffer.*



**Leaf – on view northeast across Otter Creek toward site and existing residence. (5-11-2015)**



**Leaf-off view to the north, up Otter Creek toward Magid Pond (existing residence and neighboring residential property on right). (4-07-2015)**





**Leaf-on view southeast across Magid Pond toward site and existing residence. (5-11-2015)**



**Leaf-on view east across Otter Creek toward site and existing residence. (5-11-2015)**





**Leaf-off view east across Otter Creek showing existing residence on subject parcel. (4-07-2015)**



**Leaf-off public views from end of Soundview Drive – 1 (4-7-2015)**





**Leaf-off public views from end of Soundview Drive – 2 (4-7-2015)**



**Leaf-off public view from Taylors Lane, north of Magid Pond (4-7-2015)**

**Comment IV-A-2.2**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"...each of the three lots would have driveway access off of Taylors Lane." (pg. 1) [pdf pg. 6]"*

*SI-3. "Issue: Will the L-shaped lot (Lot 3) be allowed more than one access point? i.e. can they build a driveway in the direction of Barrymore Ln AND Shadow Ln or only in the direction of Barrymore Ln? Will this lot be allowed to access Taylors Lane from behind the existing neighbor's house?"*

**Response IV-A-2.2**

*The land behind the neighboring lot to the north is mainly wetlands or wetland adjacent area. In the Applicant's opinion, it is highly unlikely that any development would be permitted (by the Village or NYS DEC) in this location, and the Applicant is only proposing access to Taylor's Lane near Barrymore Avenue.*

**Comment IV-A-2.3**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*SI-4. "There is no site distance analysis provided for either of the proposed driveway locations."*

**Response IV-A-2.3**

*The Applicant is proposing subdivision of the parcel and is not applying for a permit for a driveway at this time. At such time that the new lots are developed the Village will determine the best location for the new driveways.*

**Comment IV-A-2.4**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*SI-5. "There is no discussion of the adequacy of Taylors Lane in this area to accommodate new development and two or more additional driveway connections. It is noted that the road condition in this area is poor and particularly narrow. Will improvements to the road be needed or will an already bad situation be allowed to be made worse?"*

**Response IV-A-2.4**

*Taylor's Lane is an existing public road which provides direct access to 16 homes, as well as access to the 32 residences on Colonial Court and Barrymore Place. In the Applicant's opinion, the addition of two driveway connections will not create an adverse impact on the existing condition of Taylor Lane and no road improvements are necessitated by the application.*

**Comment IV-A-2.5**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"The proposed 3-lot subdivision would create lower-density residential properties compared with most of the surrounding patterns of development. The wetlands and wetland buffers on the properties will not be impacted or cleared, thereby retaining the character of the nearby tidal wetlands and the surrounding areas." (pg. 6) [pdf pg. 15]*

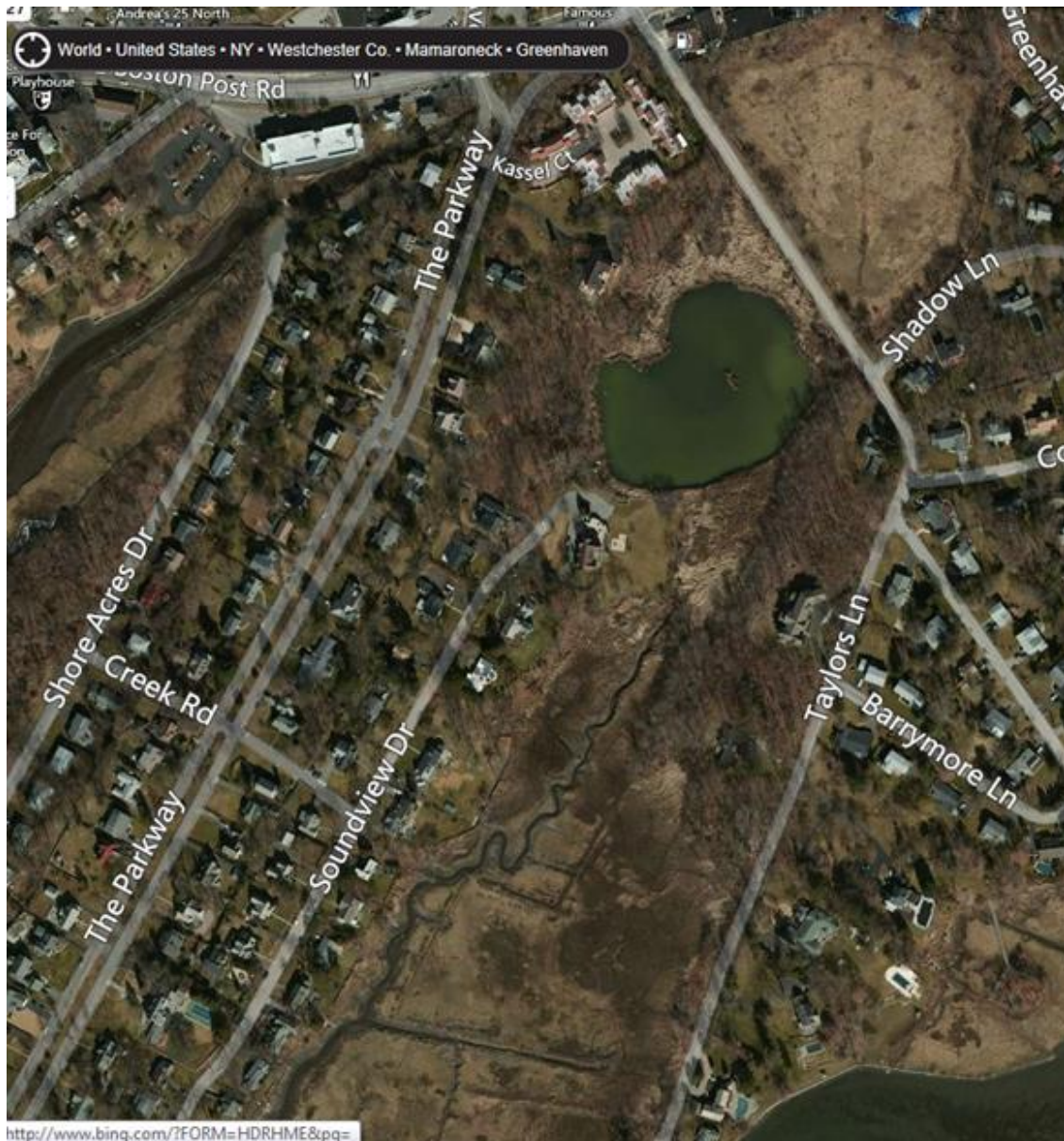


*(Emphasis added)*”

SI-22. “There has also been little analysis provided as to how the theoretical lower density development would impact current views from the adjacent CEAs and the residences located along Soundview Drive or The Parkway.”

#### Response IV-A-2.5

*As seen in the aerial photograph provided in Response IV-A-2.1, most of the residences located along Soundview Drive are south of the proposed new lots, and will not have a direct line of sight. Similarly, the majority of the residences along The Parkway are separated from Otter Creek by the residences along both sides of Soundview Drive.*



*As seen in the aerial photograph above, the remaining residences along The Parkway may see the house on Lot #3 across Magid Pond, but they are actually closer to the Novick property at the northerly end of Soundview Drive.*

#### **Comment IV-A-2.6**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*2c. "The quote from the revised LWRP that development within Mamaroneck since 1984 has likely affected the number of species present in the Village seems to have been included so as to suggest that these Critical Environmental Areas are somehow less important, when in fact it would seem that such a finding would warrant even greater protections."*

#### **Response IV-A-2.6**

*The Applicant advises that the quote was provided to illustrate that some of the information in the 1984 document may be inaccurate due to the length of time that has passed since it was researched and published. It was not intended to suggest that the Critical Environmental Areas within the Village have diminished value.*

#### **Comment IV-A-2.7**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"The Fish and Wildlife Policies have been addressed in detail in Section IV. D. Wetlands and Watercourses, and Section IV. E. Vegetation and Wildlife of this document. (pg. 7) (pdf pg. 16]"*

*SI-24. Issue: No specific mention is made of any LWRP policy in either of the referenced sections. "The Flooding and Erosion Hazards Policies are discussed in detail in Section IV. F. Surface Water Resources and Stormwater Management, including on and off-site existing conditions, along with potential project impacts and mitigation. (pg. 7) [pdf pg. 16]"*

*SI-25. "Issue: No specific mention is made of any LWRP policy in the referenced section."*

*"BMP's for the proposed project are discussed in Section IV.F.3 Proposed Mitigation. In addition, Section IV.F.1. Existing Conditions, and 2. Potential Impacts offer in-depth analysis of surface water and stormwater management on the property. Section IV. D. Wetlands and Watercourses address how impacts to on and off-site wetlands and their functions will be avoided. (pg. 8) [pdf pg. 17]"*

*SI-26. "Issue: No specific mention is made of any LWRP policy in the referenced sections."*

*SI-27. "It would have seemed preferable to include a specific review of each policy as opposed to sending the reader in search of the policies and then finding answers within the general topics of discussion. Would a more in-depth review/discussion of each individual policy reveal more about the project in relation to the LWRP policies?"*

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"...development that has occurred in Mamaroneck since the first LWRP was adopted in 1984 has likely affected the number of wildlife species present in the Village." (pg. 5) [pdf pg. 13]"*

*SI-19. "Issue: This comment again seems to have been incorporated to somehow diminish the importance of the designation of the subject CEAs. If in fact the suggestion is true can it not be further assumed that future development would further affect the wildlife here? Does this not suggest greater environmental protection rather than less?"*

Daniel S. Natchez & Associates: letter to HCZMC dated October 4, 2012

*"Specifically address the LWRP policies in the usual fashion of listing each policy with a specific meaningful response to each policy as opposed to referring to other sections within the DEIS which allows for misinterpretations and confusion. While Sven Hoeger in his 9/15/12 memo has attempted to begin to piece together discussions from the DEIS with the actual policies of the Village LWRP it would be appropriate for these policies to be addressed within the FEIS in one place rather than flipping from section to section and making assumptions as to what is actually meant. It also should state that the HCZMC will make its own interpretations and findings with respect to each policy."*

Victor M. Tafur: letter to HCZMC dated October 19, 2012

*In a previous letter, dated October 12, 2012, I mentioned a SEQRA regulation – at 6 NYCRR §617.9 (b)(5)(vi) – that requires that all environmental impact statements must include an explanation of the action's consistency (or inconsistency) with the local waterfront revitalization program (LWRP). I also noted that the DEIS for the 1000 Taylors Lane Subdivision failed to meet this requirement. At the HCZMC meeting of October 17, 2012, I raised the issue and the applicant explained that the DEIS included a discussion of the LWRP in section IV, at pages 6-8, dealing with potential land use impacts. Thus, to clarify, the DEIS does refer to the LWRP and its policies, which is a good starting point. Nonetheless, I respectfully submit that the DEIS' consistency analysis is insufficient, as it simply asserts consistency and mentioned topics relating to the various LWRP policies covered in the DEIS. Also, it does not explain how the alternatives relate to the policies and the consistency determination. Thus, I urge the HCZMC, as well as the Planning Board, request that this information be included in the Final EIS for the 1000 Taylors Lane DEIS Subdivision. Other key topics, connected to the LWRP analysis, which also need further discussion, are the DEIS's "growth-inducing aspects of the proposed action" and other effects (DEIS section VI) as well as the description and evaluation of "the range of reasonable alternatives to the action that are feasible," (DEIS section V), as per 6 NYCRR 617.9 (b)(5)(iii) and (v).*

#### **Response IV-A-2.7**

*The following text reviews each policy of the Village LWRP (as written) as it relates to the proposed subdivision. The policies in this section are listed individually below.*

***Responses are provided to the applicable policies to illustrate how the proposed development plan for 1000 Taylors Lane is consistent with the policies in this program. The HCZMC will ultimately be responsible for determining whether the proposed subdivision is consistent with the LWRP policies of the Village.***

#### Development Policies

Policy 1. Restore, revitalize, and redevelop deteriorated and under-utilized waterfront areas.

***Response 1: The property is not located within the waterfront area as specified in the LWRP (page 23).***

Policy 2. Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal water.

***Response 2: The property is not located on or adjacent to coastal water. It is located adjacent to a tributary (Otter Creek) to coastal waters. Because of the environmental sensitivity of Otter Creek, this location would not be ideal for the development of facilities such as boatyards, beach clubs, or marinas. Water-dependent uses, such as passive boating and wildlife viewing would be compatible with Otter Creek and the Westchester Land Trust property. However, accessing these activities via the subject property would not be ideal, as keeping an undisturbed buffer between any proposed development and the creek is a primary goal of the FEIS Proposed Action.***

Policy 3. Not Applicable.

Policy 4. Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.

***Response 4: Otter Creek is a tidal watercourse and is not a harbor area. Please also see Response 2.***

Policy 5. Not Applicable.

Policy 6. Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.

***Response 6: The LWRP states (with regard to Policy 6): "Expedite permit procedures in order to facilitate the siting of development activities at suitable locations. Continued development, where possible and appropriate, is desirable. In order to encourage such suitable development, permit procedures should be reviewed to determine if existing controls can be simplified in an effort to expedite desired development in areas suitable for such development."***



***The subject property is zoned residential and, in the Applicant's opinion, the proposed subdivision (with the FEIS Proposed Action) is a reasonable and appropriate use of the property.***

#### Fish and Wildlife Policies

Policy 7. Significant coastal fish and wildlife habitats, as identified on the N.Y. Coastal Area Map (when finalized), shall be protected, preserved, and where practical, restored so as to maintain their viability as habitats.

Policy 7a. Significant coastal fish and wildlife habitats, as identified in this document, shall be protected, preserved, and where practical, restored so as to maintain their viability as habitats.

***Response 7 and 7a: The LWRP recognizes Otter Creek and its surrounding habitat as a significant coastal fish and wildlife habitat. According to the Applicant, consideration for protecting and preserving the nearby fish wildlife habitats was paramount in the development of the FEIS Proposed Action. At a minimum, 100-foot wetland buffers of mainly forest will be maintained on the property, and Best Management Practices, including stormwater management and erosion and sediment control (as detailed below and in the DEIS Section F. Surface Water Resources and Stormwater Management and in Section B. Soils 3. Mitigation) will be utilized during and after any future development to ensure protection of the wetlands and coastal habitat. The buffers will keep a protective vegetative habitat between Otter Creek and any development, and the Applicant will accept reasonable deed restrictions relative to the use of fertilizers, herbicides or pesticides on the new lots. This will help protect and preserve the significant habitat on the east side of the creek.***

***In order to comply with the DEC Phase 2 Storm Water Pollution Prevention Plan (SWPPP) regulations and the regulations of the Village of Mamaroneck, each of the proposed new lots would have its own stormwater management facilities. The stormwater management facilities would ensure that: (1) the peak rate of runoff from each of the two new lots is no greater following their development than at present, and (2) the water quality volume is captured and treated in accordance with the 2010 New York State Stormwater Management Design Manual.***

***The 2010 New York State Stormwater Management Design Manual does require the use of green infrastructure techniques in the design of stormwater management measures. According to the Applicant, the site plans for the two new lots illustrate the use of green infrastructure in the design in order to provide a level of pre-treatment of the runoff from the new impervious surfaces and to reduce the volume of runoff by providing opportunities for infiltration into the site soils and through biological uptake by vegetation.***

***According to the Applicant, at a minimum, the methods that will be incorporated into the site design plan (and will be a condition of Building Permit approval) include: (1)***

*conservation of natural areas – the preservation of the entire freshwater wetland buffer as a wooded area, (2) sheet flow from roof drains and other impervious surfaces to vegetated swales, (3) the use of a vegetated swale to convey runoff from the new impervious surfaces to the stormwater management facility on the lot, (4) tree and shrub planting using native species adjacent to new impervious surfaces, (5) disconnection of roof runoff to pervious areas of the lots, (6) rain gardens to manage and treat the runoff from the developed lot, and (7) sheet flow of treated and managed runoff from the rain gardens and subsurface rechargers to the wooded wetland buffer area where there would be additional opportunity for infiltration into the site's soils and biological uptake from vegetation.*

*A variety of erosion and sediment control measures would be installed on both of the new house lots prior to construction in order to assure that the impacts to the wetland buffer, and the tidal and freshwater wetlands, will be minimized or avoided.*

*The plans (see DEIS Exhibit IV.F. 3-1) depict various erosion and sediment control measures that would be installed prior to and during construction of the house lots including: (1) silt fence at the downgradient limit of disturbance to trap sediment while permitting runoff water to pass through the fabric, (2) construction fencing as an added measure at the limits of disturbance to ensure that construction does not impact areas of the site to be left in their current state, such as the wooded wetland buffer, (3) stabilized construction entrances to both lots to minimize the tracking of mud and soil from the disturbed areas of the site to the public streets, (4) check dams in vegetated swale to minimize the transport of sediment in the swale, (5) inlet protection surrounding catch basins to minimize the amount of sediment that would be conveyed into the storm drainage piping. See Exhibit IV. F. 3-1 in the DEIS, Erosion and Sediment Control Plan. The construction sequence for lot development is located in Appendix F of the DEIS.*

*Following the construction of the house lots, the sites would be stabilized with vegetation. The disturbed ground surfaces would be spread with a minimum of 4" of topsoil from the stockpiles. Lawn areas would be established, and trees and shrubs would be planted in accordance with the Village Planning Board's Coastal Planting Guide to further stabilize the ground surface. Plants would also be installed in the rain garden on Lot 1. The plants would stabilize the rain garden while providing opportunities for biological uptake of nutrients, such as nitrogen and phosphorus.*

*A detailed discussion of the future condition pollutant loading with calculation is shown in the DEIS Section F. Storm Water Resources and Stormwater Management 2. Potential Impacts (page 35 of the DEIS). Please also see Response 8.*

Policy 8. Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bioaccumulate in the food chain or which cause significant sublethal or lethal effect on those resources.

***Response 8: The FEIS Proposed Action incorporates designs for stormwater management facilities in accordance with the 2010 New York State Stormwater Management Design Manual. According to the Applicant, these stormwater facilities will ensure that the peak runoff rate from each of the two new lots is not greater following their development than at present. Also, according to the Applicant, the water quality volume is captured and treated in accordance with the regulations in the manual.***

***According to the Applicant, the FEIS Proposed Action includes full protection of the 100-foot wetland buffers, as well as restricted building envelopes on the Proposed Lots in order to limit the area of development and the size of the future single family dwellings. Please also see Responses 7 and 7a.***

Policy 9. Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks and developing new resources.

***Response 9: The first portion of this policy deals with expanding access to recreational use of coastal areas. Please see Policies 1, 2, and 4 and their responses for a discussion on this portion of Policy 9. The second portion of this LWRP policy deals with “upgrad[ing] coastal water quality to the point where the extensive shellfish beds in the area (now closed due to close proximity to the Sewage Treatment Plant) are considered safe to re-open. According to the Long Island Sound Study (accessed online at [longislandsoundstudy.net](http://longislandsoundstudy.net)), the major causes of pathogenic contamination are: rivers (51.6%), which includes upstream point (e.g. sewage treatment plants) and nonpoint sources (e.g., failing septic systems), and urban runoff (47.3%), which includes combined sewer overflows. Sewage treatment plants and industrial sources discharging directly to the Sound account for 1.1% of pathogenic contamination.***

***The proposed lots have sewer connections available, and septic systems would be unnecessary. Therefore, the only potential impact to water quality would be from urban runoff from future development of the lots. Prevention of water quality impacts would be accomplished through the use of stormwater management facilities, BMP’s, erosion and sediment control plans, wetland buffers, and restrictions to the building envelope. Please see discussion in Responses 7, 7a, and 8.***

Policy 10. Further develop commercial finfish, shell-fish and crustacean resources in the coastal area.

***Response 10: The property is zoned residential, and commercial fishing is not a compatible use of the property. Therefore, this policy does not apply.***

#### Flooding and Erosion Hazard Policies

Policy 11. Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.

***Response 11: This policy states that “Local, state, and federal laws regulate the siting of buildings in erosion hazard areas, coastal high hazard areas, and floodways; and these regulations are adequate to implement this policy.”***

***According to the Applicant, the FEIS Proposed Plan has been developed in accordance with local, state, and federal laws. Building Department oversight and approval will ultimately be required for development in the future. In addition, input from the public, including neighboring property owners, has been considered and a consistency determination from the Mamaroneck Harbor and Coastal Zone Management Commission will be required. A Tidal Wetland Permit from the DEC must be obtained and will be a condition of the Planning Board’s subdivision approval.***

Policy 12. Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features.

***Response 12: The natural protective features on the subject site include wetlands and trees. The wooded wetlands and 100-foot wetland buffer on the property will remain unchanged. No activities will be permitted within the 100-foot wetland buffer other than passive recreation consistent with its current use and the use of the adjacent Otter Creek Preserve and the trees within the buffer will not be disturbed, in accordance with the approval constraints as determined by the Village Planning Board. In addition, future landscaping along the periphery of the freshwater wetland buffer will minimize impacts by utilization of the Village Planning Board’s Coastal Planting Guide as a policy guide for such landscaping.***

Policy 13. The construction and reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years.

***Response 13: This policy states “On a State level, this policy is directed primarily at coastal erosion; however, on a local level, this policy is directed primarily at riverine erosion. Erosion control structures are often needed to stabilize riverbanks to mitigate the accumulation and transport of silt, which can diminish river-carrying capacity and/or increase harbor siltation. This policy is not directed at temporary structures erected to control siltation during construction projects.”***

***The subject site is not located on or near a harbor; it is located along a tidal watercourse (Otter Creek). The portion of the property along the creek is protected from erosion by trees (closest to, and on, the property) and reeds (within the mainly off-site tidal wetlands). According to the Applicant, because of the low gradient and dense vegetation in the tidal wetlands, no structures are needed to control their natural water movement.***

Policy 14. Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development.

***Response 14: This policy refers to the potential for human-influenced activities to exacerbate flooding and erosion in coastal areas. These activities include building structures such as groins, or impermeable docks which could lead to shore recession; the failure to observe property drainage or land restoration practices (such as BMP's) for soil erosion and stormwater management; and the placing of structures in identified floodways, increasing base flood level.***

***The FEIS Proposed Action does not propose the construction of any structures within the 100-year floodplain, or within wetlands or their 100-foot wetland buffers. A stormwater management plan and BMP's have been developed for the site in order to prevent increases in erosion and sedimentation and flooding levels. Please see Responses 7 and 7a.***

Policy 15. Not Applicable.

Policy 16. Not Applicable.

Policy 17. Wherever possible, use nonstructural measures to minimize damage to natural resources and property from flooding and erosion.

***Response 17: According to the LWRP, nonstructural measures to minimize damage to natural resource and property from flooding and erosion includes the setback of buildings and structures, the planting of vegetation and the installation of sand fencing and draining, the reshaping of bluffs, and the floodproofing of buildings or their elevation above the base flood level. Included in this policy is the use of BMP's for erosion and sediment control as well as stormwater discharge.***

***Activities near the wetland and within the 100-foot wetland buffer have been avoided, and therefore, in the Applicant's opinion, reshaping of any environmental features or installing fencing would not be conducive to protecting these areas. However, the houses and structures are located outside of the 100-year floodplain. In addition, the basement elevations of the 2 houses on the preferred plan for potential site development are located at 1.5 feet (Lot 1) and 4.5 feet (Lot 3) above current 100-year flood levels. Living spaces are located much higher, at elevations 10 feet above the respective basement levels. BMP's, including an Erosion and Sediment Control Plan will be utilized during construction, and stormwater discharge will be regulated with stormwater management facilities on each lot.***

#### General

Policy 18. To safeguard the vital economic, social and environmental interests of the State and the Village of Mamaroneck, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the State and this Village have established to protect valuable coastal resource areas.

***Response 18: The LWRP states that “Proposed major actions may be undertaken in the coastal area if they will not significantly impair valuable coastal waters and resources. This policy applies to actions which would affect natural resources identified in this Program, water levels and flows (both saltwater and riverine), and recreation.”***

***In the Applicant’s opinion, the preferred plan for potential future development has addressed and avoided or mitigated any possible impacts to wetlands, water resources (both quality and quantity), and environmental resources including wildlife habitat. Further, it is the Applicant’s opinion that the proposed project will not impair the surrounding waters or natural resources. Because the property is private, public recreation does not occur on site. Any recreational activities that occur off site will not be impacted by site activities.***

#### Public Access Policies

Policy 19. Protect, maintain and increase the levels and types of access to public water-related recreation resources and facilities so that these resources and facilities may be fully utilized by all the public in accordance with reasonably anticipated public recreation needs and the protection of historic and natural resources. In providing such access, priority shall be given to public beaches, boating facilities, fishing areas, and waterfront parks.

***Response 19: The property is privately owned and zoned residential. In the Applicant’s opinion, this policy does not apply to this subdivision application. Please also see responses 1, 2, and 4.***

Policy 20. Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly owned shall be provided, and it should be provided in a manner compatible with adjoining uses. Such lands shall be retained in public ownership.

***Response 20: The property is not publicly owned nor is it adjacent to any publicly-owned foreshore.***

#### Recreation Policies

Policy 21. Water-dependent and water-enhanced recreation shall be encouraged and facilitated and shall be given priority over nonwater-related uses along the coast, provided it is consistent with the preservation and enhancement of other coastal resources and takes into account demand for such facilities. In facilitating such activities, priority shall be given to areas where access to the recreation opportunities of the coast can be provided by new or existing public transportation services and to those areas where the use of the shore is severely restricted by existing development. In addition, water-dependent recreation uses shall have a higher priority over water-enhanced recreation uses.

***Response 21: The property is not located on directly coastal water, nor is it located in a harbor; it is located adjacent to a tributary (Otter Creek) to coastal waters. Because of***

*the environmental sensitivity of Otter Creek, in the Applicant's opinion, this location would not be ideal for the development of public facilities for water-related recreation, such as boatyards, beach clubs, marinas, dry storage, or maintenance and repair yards. In addition, the property is zoned residential, and these activities would not be permitted.*

Policy 22. Development, when located adjacent to the shore, shall provide for water-related recreation, as a multiple use, whenever such recreational use is appropriate in light of reasonably anticipated demand for such activities and the primary purpose of the development. In the Village of Mamaroneck, this also applies to redevelopment of waterfront property.

*Response 22: This policy refers to multiple uses of a property where facilities are being developed or re-developed. Because the subject property is zoned residential and is privately owned, any large-scale activities or multiple uses would not be permitted on site. In addition, the property is not located adjacent to the shore.*

Policy 23. Protect, enhance and restore structures, districts, areas, or sites that are of significance in the history, architecture, or archeology or culture of the Village of Mamaroneck.

*Response 23: The Sites of Historic or Architectural Importance, as listed in the LWRP (pages 18-20), does not show any sites on or near the subject property. The sites in this category closest to the subject property are #1 – The Mill (located southwest of Van Amringe Mill Pond), #18 – The Gatehouse (located at the southwest end of Otter Creek), #19 – Site of Deall's Dock (located south of Van Amringe Mill Pond), and #40 – Stanford White-designed gatehouse and stables (Mamaroneck Beach & Yacht Club). In addition, CITY/SCAPE: Cultural Resource Consultants were hired to conduct a Phase 1A Literature Review & Sensitivity Analysis. The report, which was completed in July of 2011, determined that of the 5 archaeological sites in the Village of Mamaroneck, none are located on or adjacent to the property, and therefore none would be impacted by the proposed subdivision. In addition, no buildings listed on, or eligible for listing on, the National Register of Historic Places are located in the vicinity of the project. The Phase 1A report concluded that there is no potential for historic resources on the property, however there was a moderate potential to contain prehistoric cultural resources. In response to this finding, a Phase 1B Archaeological Field Reconnaissance Survey was conducted for the property. The testing results include a determination that no prehistoric sites exist on the property and no cultural resources of any kind were recovered. Therefore, the conclusions of the Archaeological Field Reconnaissance Survey include: "...no cultural resources will be impacted by the proposed project...and the proposed subdivision may be allowed without further concern for historical, architectural, archaeological or cultural resources." Both the Phase 1A and Phase 1B reports are included in Appendix G of the DEIS. The October 7, 2010 letter from SHPO also concludes that the proposed subdivision would have "no impact upon cultural resources." (See, Appendix).*

#### Scenic Quality Policies

Policy 24. Not Applicable.

Policy 25. Prevent impairment of scenic resources of Statewide or local significance.

***Response 25: According to the LWRP, impairment includes: a. the irreversible modification of geologic forms, the destruction or removal of vegetation, the destruction or removal of structures, wherever the geological forms, vegetation, or structures are significant to the scenic quality of an identified resource; b. the addition of structures which because of siting or scale will reduce identified views or which because of scale, form, or materials will diminish the scenic quality of an identified resource; and c. signs not in compliance with the local sign ordinance.***

***Although the LWRP states that “No scenic resources of statewide significance have been identified in the Village of Mamaroneck...” Otter Creek and Magid Pond have been listed as Conservation Areas or Open Space, therefore it is presumed that these scenic resources would fall under this policy and be protected from impairment by activities that may occur on the subject site in the future. No physical impacts (geologic, vegetative, or structural) will occur to Otter Creek or Magid Pond. A vegetative buffer will remain on the subject property, which in the Applicant’s opinion would help obstruct any views of future structures from Otter Creek or Magid Pond. Signs are not proposed for the property.***

#### Agricultural Lands Policy

Policy (#26). Not Applicable.

#### Energy and Ice Management Policies

Policy 27. Not Included

Policy 28. Not Applicable

Policy 29. Not included.

#### Water and Air Resources Policies

Policy 30. Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, and sewage, into coastal waters will conform to State and National water quality standards.

***Response 30: The subject property is privately owned and is zoned and proposed for residential use.***

Policy 31. State coastal area policies and purposes of approved Local Waterfront Revitalization Programs will be considered while modifying water quality standards;



however, those waters already overburdened with contaminants will be recognized as being a development constraint.

***Response 31: The State has classifications for major waterbodies, and water quality standards applicable to those classifications. These classifications are reviewable, and Local and State coastal management policies shall be factored into the review process for coastal waters. However, these considerations shall not affect any water pollution control requirement established by the State pursuant to the Federal Clean Water Act. The land and water uses proposed in the LWRP are consistent with this policy, and the water quality classifications are appropriate for the uses proposed.***

***Otter Creek is “Class SC” which is not regulated under State standards. However, potential activities on the subject property would conform with New York State regulations regarding erosion and sediment control and stormwater management. These activities are detailed in the DEIS in Section F. Surface Water Resources and Stormwater Management, and in Section B. Soils (3. Mitigation).***

Policy 32. Not Applicable.

Policy 33. Best Management Practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.

***Response 33: Sewer overflows are not applicable to this property. As discussed in Responses 7, 7a, 8, and 31, BMP’s and stormwater management are proposed for any future development activities. These activities are detailed in the DEIS in Section F. Surface Water Resources and Stormwater Management, and in Section B. Soils (3. Mitigation).***

Policy 34. Discharge of waste materials from vessels into coastal waters will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.

***Response 34: This policy does not apply to the subject property.***

Policy 35. Dredging and dredge spoil disposal in coastal waters will be undertaken in a manner that meets existing State dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.

***Response 35: Dredging is not proposed for the subject property.***

Policy 36. Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters: all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.

***Response 36: Petroleum and other non-household hazardous materials will not be shipped to the site, nor stored on it.***

Policy 37. Best Management Practices will be utilized to minimize the nonpoint discharge of excess nutrients, organics and eroded soils into coastal waters.

***Response 37: Stormwater management facilities and Best Management Practices (BMP's) are proposed for any future development that may occur on the property in the future. The stormwater management plan and BMP's were developed to prevent erosion and sedimentation from the site, and to prevent uncontrolled stormwater runoff from impervious surfaces on the site. In the Applicant's opinion, this results in the reduction or elimination of potential nonpoint source pollution from the site and protects the nearby waterbodies (including Otter Creek). Please also see Responses 7, 7a, and 8.***

Policy 38. The quality and quantity of surface water and groundwater supplies will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.

***Response 38: In the LWRP, this policy refers to private wells. However, for the purpose of this FEIS, the conservation and protection of groundwater will also apply to Otter Creek (none of the portions of the property to be developed are within the watershed of Magid Pond). As discussed above, the quality of surface water and groundwater supplies will be protected through the use of stormwater management facilities and BMP's. The quantity of surface and groundwater supplies will be conserved because there will be no changes to the amount of stormwater runoff that reaches the groundwater. The stormwater management facilities are designed to collect surface water runoff and return them to the groundwater. The peak runoff rate is not increased (as required by Village regulations), the quantity of runoff infiltrating into the groundwater will not be reduced.***

Policy 39. The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas, will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land and scenic resources.

***Response 39: There will be no transport, storage, treatment or disposal of solid wastes on the property.***

Policy 40. Not Applicable

Policy 41. Not included.

Policy 42. Not included.

Policy 43. Not included.

Policy 44. Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.

**Response 44:** *According to the Applicant, proposed development plans have been developed with the protection of wetlands as a high priority and in compliance with Village of Mamaroneck and New York State Department of Environmental Conservation regulations. According to the Applicant, the tidal and freshwater wetlands on and near the property (including Otter Creek) will not be disturbed or impacted by the proposed development plans, 100-foot wetland buffers will be preserved surrounding the wetlands, and wetland habitat and functions will be preserved. Please also see Responses 7, 7a, and 8.*

#### **Comment IV-A-2.8**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"...the preservation of the freshwater wetland and its 100-foot buffer, as well as the tidal wetland and its buffer area, will preserve the visual conditions of the surrounding area." (pg. 8-9) [pdf pg. 17-19] "* (emphasis added)

*SI-32. "Issue: Even the proposed theoretical development plan with no intrusion into the wetlands or buffers will not "preserve" the visual conditions. The addition of any new structures will compromise the existing visual conditions. The limiting of the extent of development and preservation of the wetland and buffer areas will help mitigate the visual impact but it is disingenuous to suggest that the existing conditions would be preserved, and once again, there is nothing actually proposed that would limit potential site development and ensure the preservation of the wetlands or, more particularly, wetlands buffer."*

*SI-33. "In fact, the DEIS does not even include photographs illustrating the current views from the Nature Conservancy property or from the existing residences located along Soundview Drive and The Parkway, let alone how the potential development would affect such views."*

#### **Response IV-A-2.8**

*This quote is mis-quoted by Mr. Natchez, and the comments that relate to it have been taken out of context. The full text of the DEIS in this paragraph reads: "aspects of the proposed project will ensure that it will blend in with the surrounding land uses and preserve the character of the community. The eventual future placement of houses on the two new lots and their relationship to the street and public right-of-way is typical of the other houses in the area. In addition, the preservation of the freshwater wetland and its 100-foot buffer....will preserve the visual character of the surrounding area." (emphasis added) The subject property is located amid single family houses and, in the Applicant's opinion, the placement of additional homes is entirely consistent with the visual character of a residential area.*

#### **Comment IV-A-2.9**

Doug Jung (email sent October 18, 2012 to Gerry Diamond; Ann Powers)

7.a.c. *“The addition of two very large homes on top of the already very large home on the site would change the character of the neighborhood significantly; we would lose the quiet, rustic nature of the area north of Taylors Lane, the setting that Otter Creek helps create.*

#### **Response IV-A-2.9**

*Although the majority of the homes in the vicinity of the property to the east of Taylors Lane are smaller, they are also located on smaller lots which are more closely clustered. Several homes in the neighborhood, located to the south of the property on the east side of Taylors Lane, are on larger lots and are proportionately larger, and many have amenities such as pools. Conceptually, based upon minimum lot area requirements alone, the Village of Mamaroneck Zoning Code would allow for a more intense development of a 5-lot subdivision. The proposed 3-lot subdivision allows for greater preservation of wetlands and open space.*

#### **Comment IV-A-2.10**

Daniel S. Natchez & Associates: letter to HCZMC dated October 4, 2012

*Provide a more detailed examination as to how the clearing and development of the lots will visually impact the area both from Otter Creek/Magid Pond as well as Taylors Lane, potentially including such tools as Photoshop renderings, Sketch-Up modeling, etc., as well as what additional measures would help mitigate such an impact. It is stated in the DEIS that the proposed addition of two large new houses "will preserve the visual conditions of the area," however, the addition of two large new houses will undoubtedly have an impact."*

*"It would also be useful to consider in such an analysis the potential development of the two additional undeveloped lots owned by the Alters on the northwest side of Magid Pond."*

#### **Response IV-A-2.10**

*The DEIS was prepared to examine potential impacts associated with the subdivision of 1000 Taylors Lane. The ownership or disposition of other lands by the Applicant is not relevant to this subdivision application. The aerial photographs (see Response IV-A-2.1 and IV-A-2.5) above give an overview of the relative size and proximity of surrounding homes, while the recent photographs taken in both leaf-on and leaf-off conditions illustrate screening by vegetation which is to remain.*

#### **Comment IV-A-2.11**

George Mottarella, acting Village Engineer: Memo dated February 24, 2015

*"One major point of discussion is the absence of sewer access to this property. It appears that other homes on Taylors Lane independently pump their sewage to a gravity sewer system in Barrymore Lane. The Barrymore Lane sewer then flows to the Sewer pump station on Brevoort Lane which is owned and operated by the City of Rye. Permission for any sewer connections that add additional sewage flow to this pump station shall be obtained from the City of Rye. The applicant is*

*also required to demonstrate that this system has adequate capacity to handle the additional sewage flows from the proposed subdivision.”*

#### **Response IV-A-2.11**

***The Applicant’s Professional Engineer contacted the City of Rye Engineering Department regarding access to the sewer system in Barrymore Lane. No information on capacity was available, but it was discovered that there is an inter-municipal agreement between the City of Rye and the Village of Mamaroneck to provide sewer service to this section of the Village. It is anticipated that the new proposed lots would be able to connect to this system once permission is obtained from the City of Rye.***

#### **Comment IV-A-2.12**

Daniel S. Natchez & Associates: letter to HCZMC dated October 4, 2012

*Present acceptable restrictions to include in the language of the future deeds of Lots 1, 2 and 3 pertaining to construction/expansion of houses and amenities, and specifically including **building envelopes**. Once any subdivision is approved, future building and development would, based on current Village protocols, likely be able to take place without further land use board oversight.”*

*“The Applicant to date has proposed the subdivision of the property with no restrictions on future development.”*

*“The Applicant has suggested a theoretical development plan with relatively modest proposed construction plans for each property.”*

*“The DEIS has assessed the environmental impacts based upon the theoretical development plan.”*

*“The resulting lots without appropriate restrictions would allow for potential development well beyond the theoretical development plan that is the focus within the DEIS.”*

*“Inappropriate development of the proposed lots has the potential to create a significant environmental impact and a finding of being inconsistent with the LWRP.”*

(note: italics in original text have been changed to underline in this document)

#### **Response IV-A-2.13**

***The Applicant provided a “Full Build-Out” Alternative in the DEIS to demonstrate a worst case scenario for development of the two new lots. (See, DEIS Exhibit V.D.1) The Planning Board may impose reasonable conditions on the future development of each lot to protect environmentally sensitive portions of the site.***

#### **Comment IV-A-2.14**

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

14.a. *The applicant should discuss the potential for future additional subdivision of the property beyond the proposed three lots, including an estimate of the number of possible new lots.*

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"The property is zoned R-15 which requires a minimum lot size of 15,000 s.f." (pg. 2) [pdf pg. 7]"*

SI-6. *"Issue: Would these lots be allowed to be subdivided again? What is to prevent the new lot owners from subdividing and developing multiple homes? Again there are a number of alternatives discussed within the DEIS but there is no discussion to date as to whether the Applicant will consider modifying their current proposal in favor of any of the potential alternatives or what other means might be implemented to restrict future development, including re-subdivision, and alert potential buyers of the lots as to the environmental constraints associated with the lots.*

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

14.q. *The applicant should quantify the potential for future subdivision of the property.*

#### **Response IV-A-2.14**

*As raw land (without the existing house), the subject property could be divided into five residential building lots as shown on DEIS Exhibit V.C.4. From south to north, the five lots would be: Lot 1, 91870 s.f., Lot 2, 30,846 s.f., Lot 3, 26,794 s.f., Lot 4, 25,133 s.f. and Lot 5, 50,502 s.f.*

*If the existing house remains, then the property could be subdivided into three residential building lots (as proposed), one new lot to the north of the existing house, and one lot to the south of the existing house. The potential for additional residential lots is restricted by the lot frontage on Taylor's Lane.*

#### **Comment IV-A-2.15**

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

14.b. *The applicant should provide an analysis of the existing setbacks along Taylors Lane.*

#### **Response IV-A-2.15**

*According to the Zoning Code, the front yard setback for the R-15 Zone is 25'. Homes along Taylor's Lane are setback from the road anywhere from 25' to 115'. As seen in the aerial photographs below (from <http://giswww.westchestergov.com/gismap/>, accessed 4/22/2015), houses on and north of Barrymore Avenue are much closer to the road (25' – 55') than those south of Barrymore Avenue, along Taylors Lane, which are generally more than 100' from the road.*











*The table below lists the properties with houses fronting on or adjacent to Taylors Lane, and the approximate setback of the principal building on each lot as measured from Taylors Lane.*

<b>Table IV-A-2.15 Building Setback from Taylors Lane</b>	
<b>Street Address</b>	<b>Approx. Building Setback from Taylors Lane</b>
533 Taylors Lane	50'
600 Barrymore Lane	25'
1000 Taylors Lane (Subject Parcel)	55'
942 Taylors Lane (Out Parcel)	125'
1041 Taylors Lane	35'
670 Barrymore Lane	35'
655 Barrymore Lane	30'
941 Taylors Lane	260'
917 Taylors Lane	100'
907 Taylors Lane	175'
843 Taylors Lane	50'
825 Taylors Lane	55'
805 Taylors Lane	50'
770 Taylors Lane	50'
750 Taylors Lane	105'
730 Taylors Lane	115'
710 Taylors Lane	115'

### **3. Proposed Mitigation (Land Use)**

#### **Comment IV-A-3.1**

Barbara Novick: undated letter, sent to Planning Board September 6, 2012

*I.a. "The proposed subdivision... raises many environmental concerns... We are concerned that the recently completed DEIS skirts over several of these issues and we hope the Board will give them full consideration in determining what conditions or restrictions need to be included in the deeds of any newly created parcels as a result of the proposed subdivision."*

#### **Response IV-A-3.1**

*Specific environmental issues are discussed within their designated scoping locations in this document. Also see Response IV-A-3.2 and 3.3 regarding conditions and restrictions to the proposed lots.*

#### **Comment IV-A-3.2**

Barbara Novick: undated letter, sent to Planning Board September 6, 2012

*I.g. "During the scoping phase of this project, we understood that the Applicant would be including in the DEIS an alternative that included a defined building*

*envelope and potential development restrictions that could be incorporated as deed restrictions on the lots. In reviewing the DEIS, we were not able to find mention of any such alternative. We believe this is crucial to the approval process so that any future buyer of the subdivided parcels would understand the intentions of this Board and the restrictions are placed on this property given the sensitive nature of its environmental status."*

Daniel S. Natchez & Associates: letter dated September 7, 2012

*2h. "The Applicant still has not submitted site plans that include restricted building envelopes as originally requested in the Scope nor has the Applicant located the proposed houses on the potential development plans as close to Taylors lane as possible - as claimed within the DEIS. It is respectfully requested that the Applicant submit plans with a defined building envelope."*

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"The site plan for each of the lots demonstrates that construction of two new houses...can be built without directly impacting the Village and State-regulated freshwater wetland or its 100-foot buffer, or the tidal wetland." (pg. 1) [pdf pg. 6]"*

*SI-1. "...Does this demonstration hold true if the site plan is changed? The Applicant still has not submitted site plans that include restricted building envelopes nor has the Applicant located the proposed houses on the potential development plans as close to Taylors lane as possible- as claimed elsewhere within the DEIS. The DEIS contains several alternatives within the alternative section of the DEIS, however, there is still not an alternative that includes a defined building envelope and potential development restrictions that could be incorporated as deed restrictions on the lots, nor is there any indication as to whether any of the included alternatives would be acceptable to the Applicant."*

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"Construction of the proposed two new houses and associated infrastructure would involve approximately 1.01 acres of site development and vegetation removal, in addition to the 0.67 acre of the site that is developed." (pg. 4) [pdf pg. 10]"*

*SI-17. "Issue: This seems rather disproportionate. The existing lot has developed more than each of the new lots supposedly will. What prevents the new development from disturbing as much as the existing house disturbed? Are limitations to be put into place and properly monitored? While the alternatives section now includes the possibility of a conservation easement or a fourth lot to remain undeveloped, there is no discussion of whether any such restriction are acceptable to the Applicant and even the most restrictive alternatives do not include proposed building envelopes or potential language that could be incorporated as deed restrictions to limit the extent of new development on the lots."*

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"Restrictions of Building Envelopes to Move Potential Buildings as Close to Taylors Lane as Consistent with the Zoning Ordinance" "The potential buildings have been*

*located as close to Taylor's Lane as possible while respecting Zoning setbacks. As shown, the potential house would be consistent with other homes in the neighborhood." (pg. 9) [pdf pg. 19]"*

*SI-34. "Issue: They have not discussed the creation of a more restrictive building envelope, simply mentioning their theoretical development plan. They have also not located the house on Lot 1 in particular as close as possible to Taylors Lane, as the house could be moved roughly 20 feet closer to the road per the zoning restrictions."*

#### **Response IV-A-3.2**

***In the FEIS Proposed Action (Exhibits 1 and 1a) and FEIS Exhibit 4, the proposed building envelopes for the new lots, Lot 1 and Lot 3, are defined by the zoning setbacks for the front and side yards, and by a 30 foot setback from the 100' freshwater wetland buffer line in the rear of Lot 3 and a 60 foot setback from the freshwater wetland buffer line in the rear of Lot 1. The 100' wetland buffer line is significantly more restrictive than the rear yard zoning setback applicable in the R-15 District. To further protect the resources on these two lots, the building envelopes have been further reduced by a minimum of 30 feet from the wetland buffer boundary. Furthermore, the FEIS Proposed Action proposes to limit floor area ratios of the future single family dwellings on the two new lots by a calculation of the land area outside of the wetland buffer, rather than the total lot area. In addition, the maximum build-out for a 3-lot subdivision was studied as an alternative at DEIS Exhibit V.D.1 .***

#### **Comment IV-A-3.3**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"The proposed 3-lot subdivision would create lower-density residential properties compared with most of the surrounding patterns of development. The wetlands and wetland buffers on the properties will not be impacted or cleared, thereby retaining the character of the nearby tidal wetlands and the surrounding areas." (pg. 6) [pdf pg. 15] (Emphasis added)"*

*SI-20. "Issue: The lower density is only achieved by virtue of the proposed theoretical" development. The document alternately treats the theoretical development plan as "theoretical" or "proposed" when either term best suits their interest. There is still nothing actually proposed that in any way serves to limit the development of the three parcels to that which exists and is proposed, which is the key to validating most of the Applicant's conclusions."*

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"In that the applicant is not proposing any direct impacts to the tidal wetland or the area that is regulated by the NYSDEC under 6NYCRR Part 661, the Village of Mamaroneck wetlands regulations apply only to the subdivision of this property" (pg. 25-26) [pdf pg. 39-40]"*

*SI-52. "Issue: The concern here is that a future developer of the subject lots could propose massive houses outside of the wetlands buffer and never be asked to come before the Planning Board unless suitable restrictions are incorporated into the approval of the subdivision."*

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"Clearing will not be permitted beyond the proposed limit of disturbance during construction." (pg. 30) [pdf pg. 44]"*

*SI-56. "Issue: Does this hold true if the design is changed? Again, the document at times assumes the theoretical development plan as real and at time as simply a suggestion, and there do not appear to be any real proposed restrictions on the future development of the parcels."*

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"The envelope of development for each of the lots has been minimized to the maximum extent practicable..." (pg. 30) [pdf pg. 44]"*

*SI-58. Issue: But there is nothing suggested to limit the envelope of development in fact.*

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"...(the 2 new lots will not contain impervious surfaces, however development of the lots with residences and driveways could produce up to about 12,000 square feet of new impervious surfaces)." (pg. 44) [pdf pg. 67]"*

*SI-71. "Issue: Considerably greater areas of impervious surface could be created if appropriate development restrictions are not incorporated into any approval of the subdivision."*

Susan Berenzweig: letter dated September 8, 2012

*3.c. "In previous meetings and letters, those of us interested in these issues have urged the Planning Board to define a building envelope and potential restrictions at the time of subdivision so there is not future conflict or misunderstanding for whomever might do the building. I have read the September 7 letter and detailed "suggested issues" addendum from Daniel S. Nachez and Associates, Inc. I hope you closely consider these specific points identifying environmental problems in the DEIS line by line."*

David & Ellen Freeman: letter dated September 10, 2012

*4.d. "The lack of any concrete proposals to restrict building envelopes so that there is as minimal an environmental impact as possible, including no visual impact on the viewsheds within the Preserve."*

Barbara Novick to HCZMC dated September 25, 2012

*"...Therefore, we are asking that any subdivision approval include specific conditions on both the size of the area that can be disturbed and the location of that disturbance: 9.b.a. 1. Clearly, a smaller footprint situated closer to Taylors Lane will have less environmental impact than a larger footprint placed closer to the wetlands."*

Mark Sherrid: letter to HCZMC dated October 6, 2012

12.b. 1. *I would hope for a small footprint for the houses, situated close to Taylors Lane....*

Daniel S. Natchez & Associates: letter dated October 11, 2012

*"The building envelope concept is one which those concerned with the Application have repeatedly suggested be specifically discussed and examined in the FEIS along with possible deed or similar development restrictions...It is believed that a detailed analysis of the building envelope and/or other restrictions is relevant for the Planning Board as Lead Agent to include in undertaking the completion of the FEIS."*

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

*14.h. Alternative C (limits to Area of Disturbance) should discuss the potential for building envelope restrictions to control the size and location of the new houses.*

#### **Response IV-A-3.3**

*Building envelopes have been added to all of the subdivision alternatives in the FEIS. The proposed building envelopes are defined by the zoning setbacks for the front and side yards, and by a line 30 feet from the 100' freshwater wetland buffer line in the rear of Lot 3 and 60 feet from the 100' freshwater wetland buffer line in the rear of Lot 1. The 100' freshwater wetland buffer line is far more restrictive than the rear yard setback otherwise permitted by zoning, and the additional setbacks on the new lots serve to move the houses closer to Taylors Lane. The FEIS Proposed Action also proposes to limit the floor area ratio of the future single family dwellings on the two new lots by a calculation of the land area outside of the wetland buffer, rather than the total lot area.*

#### **Comment IV-A-3.4**

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

*14.i. Alternative C should discuss how the proposed conservation easement or conservation could be managed. The applicant has indicated that this easement could be given over to the Nature Conservancy; have there been any discussions to gauge their interest?*

#### **Response IV-A-3.4**

*The land that would be subject to the Conservation Easement under the various alternatives is contiguous to land owned by The Westchester Land Trust (WLT). Therefore, the WLT would be the first to be offered any easement once the subdivision receives preliminary approval. Alternatively, the conservation easement could be held by the Village of Mamaroneck or any other public body or not-for-profit conservation organization. The WLT has previously documented its interest in acquiring this easement (or the same area in fee simple)(see, WLT Letter dated May 13, 2015 and included in the Appendix). The conservation easement would be recorded in the Westchester County Clerk's Office, Division of Land Records, prior to the issuance of a building permit.*



**B. Soils****1. Existing Conditions**

*No comments received.*

**2. Potential Impacts****Comment IV-B-2.1**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*2j. "Soils -the soils report contained within the DEIS suggests that there may be issues with a number of the soils present on site that will need to be addressed at the time of development but does not suggest just what those types of measures may be, making it difficult to ascertain full impact of development. A full explanation and outline of proposed construction measures would provide a clearer picture to work with in properly considering the environmental impacts of building a structure on these soils and adjacent to the wetland."*

**Response IV-B-2.1**

*Currently, only a subdivision application is being presented. A specific construction plan will be prepared when actual construction is being planned, if it is ever to occur at all. A construction plan will be submitted to, and approved by, the Building Department prior to the issuance of a building permit for the development of any new lot approved as part of this subdivision application. An Erosion and Sediment Control Plan was provided (DEIS Figure IV.F.3-1) as a necessary step to protect the adjacent wetlands from potential future development. Potential impacts due to soil limitations have been further discussed in FEIS responses IV-B-2.4 and IV-B-2.5 later in this document.*

**Comment IV-B-2.2**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*SI-35. "(pg. 11) [pdf pg. 22] Issue: How much of the site will become Udorthents, smoothed (Ub) type soil/how much imported fill will be required?"*

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

*14.c. The applicant discusses anticipated fill generated by excavation of the two new lots, but not the need for fill to grade the lots for construction of two new houses. The proposed first-floor elevation of the house on Lot 3 is indicated as above the existing grade, but here is no discussion of the fill that would seem to be required for this to be possible.*

**Response IV-B-2.2**

*Calculations have been made of the amount of excavation (cut) and excavated material placed as fill on Lot 3. The volume material proposed to be excavated for this lot essentially balances the fill that is required.*

*Excavation Calculation: (i) The house on Lot 3 is about 3,550 s.f. in footprint. The*

*basement floor elevation is proposed to be 17.5 feet. The bottom of the slab is 17.0 feet. One foot of stone would be placed under the slab for drainage purposes. The average grade within the building footprint is 19.5 feet. Therefore, the excavation is calculated to be (3,550 s.f. x 3.5') 12,425 c.f. or 460 cubic yards (c.y.). (ii) The side yard is to be graded for residential use. The area of the side yard is 1165 s.f. The proposed average grade is to be 20 feet and the existing average grade is 21.5 feet. The excavation is therefore (1165 s.f. x 1.5') 1,747 c.f. or 65 c.y.*

*The total excavation is therefore about 525 c.y.*

*Excavated Material Placed As Fill Calculation: (i) The driveway area for this lot covers 1,630 s.f. The average depth of fill to be placed for the driveway (minus the pavement and subgrade aggregate) is 3.5 feet. Therefore, the amount of fill to be placed is (1,630 s.f. x 3.5) 5,705 c.f., or about 210 c.y. (ii) An area of fill will also be placed in the rear yard behind the house. This area covers about 1,850 s.f. The average existing grade in this area is about 15'. The proposed average grade is about 18.5'. Therefore, the amount of fill to be placed would be (1,850 s.f. x 3.5') 6,475 c.f. or about 240 c.y. (iii) The area of fill to be placed along the house façade and extending about 15 feet covers an area of 1,245 s.f. The average existing grade in this area is about 25 feet. The average proposed grade is about 26.5 feet. The fill needed would therefore be (1,245 s.f. x 1.5') 1,865 c.f., or 70 c.y. The total excavated material placed as fill is therefore about 520 c.y.*

#### **Comment IV-B-2.3**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*SI-36. "What impact will this [the proposed fill] have on drainage to the wetland?"*

#### **Response IV-B-2.3**

*The proposed fill will not impact the drainage to the wetland, as the wetland hydrology is sustained by both surface runoff and regional ground water. On-site stormwater management facilities will insure that the runoff from the future development will not have an adverse impact on downstream water bodies or wetlands.*

#### **Comment IV-B-2.4**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"'Very limited' indicates that the soils have one or more features that are unfavorable for the specified use. The limitations generally cannot be overcome without major soil reclamation, special design, or expensive installation procedures. Poor performance and high maintenance can be expected. The information provided is not site specific, however, and does not eliminate the need for on-site investigation and analysis specific to the proposed project by professionals experienced in engineering." (pg. 14) [pdf pg. 25]"*

*SI-37. "Issue: This report suggests the limitations of the existing soil "cannot be overcome" without extensive measures."*

#### **Response IV-B-2.4**

*Some of the soils, such as the wetland soils, are severely limited due to wetness and organic matter content. Most of the limitations of the upland soils are due to steepness and/or shallow depth to bedrock, which can be overcome by reduction of grade and/or removal of bedrock, if necessary. There are several areas of soil on the property, however, that are very suitable for development. Charlton soils are a major component of two of the soil complexes on the property (CrC and CsD). Charlton soils are well drained, deep to bedrock, and have slopes ranging from 3 to 15% (for CrC).*

#### **Comment IV-B-2.5**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*SI-38. "(pg. 15) [pdf pg. 26] Table IV. B. 1-3. Issue: All soils within the acceptable boundaries of construction are listed as somewhat- to very-limited. This suggests soils may have to be removed and replaced with Ub soil type."*

*SI-39. "(pg. 16) [pdf pg. 27] Table IV. B. 1-4. Issue: All soils have limitations for construction of roads (driveways) and lawns/landscaping. This site is not ideal for development."*

*"Based on the descriptions, properties, and limitations of the soils, listed in the above two tables, much of the upland portions of the property appear to be suitable for the proposed potential development." (pg. 17) [pdf pg. 28]"*

*SI-40. "Issue: Such a statement does not seem to be consistent with the information provided in the referenced tables. There appear to be several limitations, and there is little if any discussion as to how those limitations would be overcome."*

*"Overall, the soils on the property in the areas proposed for development will likely be well suited for many development activities, if considerations are made for the limitations." (pg. 17) [pdf pg. 28]"*

*SI-41. "Issue: How will these 'considerations' effect the adjacent wetland? The first portion of the quoted statement seems to directly contradict the information provided in the DEIS's soils analysis."*

#### **Response IV-B-2.5**

*The categories of "not limited," "somewhat limited," and "very limited" are applied to an entire soil complex, not to the individual soil types or map units. Therefore, soil complex CrC received a "somewhat limited" designation for slope, because the steepest portions of this complex may have 15% slope. The other portions of this complex will be less than 15% (as low as 2%) which will not have the same limitations as the areas with 15% slope. However, since the soils are complexed together, they all receive the same rating, which is based on the most-limited portions of the complex. No removal or replacement of soils is anticipated to occur during development of this site, and there is no impact to the wetlands anticipated.*

**Comment IV-B-2.6**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"It is also anticipated that the construction of the footings, foundation and basement would require some rock removal. Some of this rock could [be] used to create the stone wall that is depicted on the west side of the rain garden." (pg. 18) [pdf pg. 30]"*

*SI-44. "Issue: Recognition that rock removal and possibly blasting will likely be required appears to be a change from previously anticipated conditions. In Appendix A: SEQR Documentation, page 4 of the Full Environmental Assessment Form (page 7 of the pdf document) states that no blasting will occur as responded to question 8. How much rock removal is anticipated?"*

**Response IV-B-2.6**

*The response on the EAF was updated in the DEIS to include the possibility of rock removal. The actual amount of rock removal that potentially will be required is estimated to be approximately 600 cubic yards for the house and foundation on Lot 1, and approximately 60 cubic yards for the house and foundation on Lot 3. These estimates are based on the soil types and results from the deep hole testing that was done for the stormwater management facilities. However, the actual amount of rock that will need to be removed cannot be determined until actual development plans are prepared. If rock removal is necessary it will be performed in accordance with all applicable laws, rules and regulations.*

**3. Proposed Mitigation (Soils)****Comment IV-B-3.1**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"Movement of vehicles and storage of building materials and vehicles beyond the designated construction areas will also be avoided by the installation of orange geogrid fence along the entire grading and clearing limit line." (pg. 19) [pdf pg. 31]"*

*SI-45. "Issue: This should be prohibited, not 'avoided.' It may be appropriate to require that chain link fencing be installed so as to better prohibit movement of vehicles and storage of building materials beyond the designated construction areas. Where will materials be stored and vehicles parked during construction?"*

**Response IV-B-3.1**

*Comment noted. A construction plan will be submitted to, and approved by, the Building Department prior to the issuance of a building permit for the development of any new lot approved as part of this subdivision application. Enforcement of the limits of disturbance will be part of the Building Department construction oversight. All materials will be stored on the construction site in a secured trailer or container, and all construction vehicles will be parked on site (off of Taylor's Lane).*

**C. Topography and Slopes****1. Existing Conditions**

*No comments received.*

## 2. Potential Impacts

### Comment IV-C-2.1

Daniel S. Natchez & Associates: letter dated September 7, 2012

*2n. "Slopes - The Applicant continues to frame the discussion with respect to percentages of the development with slopes over 25% while seeming to ignore their own soils analysis wherein the identified CsD soil type, which typically includes slopes of 15% to 35%, is stated in the Applicant's own information as being too steep for dwellings." SI-46. "(pg. 20) [pdf pg. 33]"*

*"The majority of disturbance for the eventual construction of the two new house lots would occur on slopes that are less than 25%. In all, less than 1% of the area of disturbance on Lot 1 would take place on slopes greater than 25%; on Lot 3, about 6% of the area of disturbance would be on slopes over 25%." (pg. 20) [pdf pg. 33]"*

*SI-47. "Issue: This section of the DE IS continues to refer to steep slopes as only those areas over 25%, yet this is in direct contrast to the soils report within the DEIS wherein steep slopes are indicated to begin at 15% and stated as being too steep for dwellings. Percentage of development on steep slopes will be considerably higher when thus considered."*

Daniel S. Natchez & Associates: letter to HCZMC dated October 4, 2012

*Correct the inconsistencies in the DEIS wherein the Applicant's own soils analysis is contradicted with respect to what is considered to be steep slopes. While the Village code to our knowledge does not define what slope constitutes a steep slope, many other communities in Westchester do and that threshold typically is set at 15%, consistent with the descriptions in the DEIS's soils reporting. The percentages of development occupying areas of steep slope, and thus potential impacts associated with same, are far greater when the 15% threshold is used, particularly with respect to Lot 3."*

### Response IV-C-2.1

*The Village of Mamaroneck Comprehensive Plan states "Generally, development of steep slopes greater than 15% is difficult, though not impossible, due to construction costs and the undesirability of road grades that exceed 10%. In addition, during construction, soil erosion and surface water runoff can increase as a result of the clearing of vegetation from steep slopes. It is recommended that steep slopes be added as development constraints for the Planning Board to consider under the Village's site plan and subdivision controls." However, steep slopes are not defined in the Village Code.*

*In Section C. Topography and Slopes 2. Potential Impacts, of the State Environmental Quality Review Act (SEQRA) Final Scope for 1000 Taylors Lane, information was requested for "Discussion of disturbance, if any, to steep (25%+) slopes." This is why 25% was considered the definition of "steep slopes" for this document.*

*Therefore, the discussion of slopes (15% versus 25%) is not an inconsistency, but rather a situation where steep slopes have not been defined by the Village. Regardless of what the definition of 'steep slopes' is, any future activities that may involve disturbance within*



*areas of steeper slopes will be carefully undertaken in compliance with the guidelines of State and Village regulations for erosion and sediment control and stormwater management.*

**Comment IV-C-2.2**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*Issue: Table IV. C. 2-1 Area of Disturbance by Slope is missing information on Lot 1."*

**Response IV-C-2.2**

*The second column of Table IV. C.2-1 on page 18 of the DEIS contains the areas of disturbance, by slope range, for Lot 1, but the header for the column was missing the words "Lot 1". The corrected table is below.*

Table IV. C. 2-1 Areas of Disturbance by Slope		
	Lot 1	Lot 3
Slope Range	Area of Disturbance	Area of Disturbance
0-15%	0.4756 ac.	0.1191 ac.
15-25%	0.1155 ac.	0.2801 ac.
25-35%	0.0104 ac.	0.0246 ac.
> 35%	0 ac.	0.0003 ac.

**3. Proposed Mitigation (Topography and Slopes)**

*No comments received.*

**D. Wetlands and Watercourses**

**1. Existing Conditions**

**Comment IV-D-1.1**

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

*14.d. The applicant should include the need for an Article 25 Tidal Wetland Permit from the NYSDEC in its discussion of the NYSDEC's applicable regulation of wetlands on page 23 (this permit is correctly discussed among the required permits noted on page 25).*

**Response IV-D-1.1**

*The Applicant will be required to apply for and obtain an Article 25 Tidal Wetland Permit as a condition of any subdivision approval granted by the Planning Board.*

## 2. Potential Impacts

### Comment IV-D-2.1

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"The site plan for each of the lots demonstrates that construction of two new houses...can be built without directly impacting the Village and State-regulated freshwater wetland or its 100-foot buffer, or the tidal wetland." (pg. 1) [pdf pg. 6]"*

SI-2. *"Lastly, the quoted statement itself would appear to be an admission that there will be indirect impacts to the Village and State regulated freshwater and tidal wetlands."*

*"Fully detailed site plans have been prepared to demonstrate that development of the new lots can be accomplished with no disturbance to the tidal wetland, tidal wetland buffer, DEC Freshwater wetland J-2, nor the 100-foot DEC adjacent area." (pg. 2) [pdf pg. 7]"*

SI-7. *"Issue: No direct disturbance does not necessarily mean no impact- and the question of how direct disturbance is prevented in the future remains."*

### Response IV-D-2.1

*Potential indirect impacts, such as impacts from untreated stormwater during and after construction, and increased nutrient loads from the developed portions of the new lots, is discussed in detail in the Stormwater Management Report which was prepared for the project. Potential future disturbance to the wetlands or wetland buffer is purely speculative, but the proposed conservation easement is intended to protect the most sensitive portions of the lots from future disturbance.*

### Comment IV-D-2.2

Daniel S. Natchez & Associates: letter dated September 7, 2012

2f. *"Preventing development within the formal buffer may be sufficient wetland protection along more typical wetland areas within the Village but it is respectfully submitted that it is not sufficient adjacent to these particular identified CEA's, and thus additional restrictions on development are warranted."*

### Response IV-D-2.2

*Although there are no codified requirements for additional restrictions for areas adjacent to the Otter Creek CEA, under the FEIS Proposed Action, 1.8 acres of the site will be protected by a proposed Conservation Easement. The Easement will cover all of the Freshwater Wetland and Tidal Wetland adjacent areas on each of the new lots (Lots 1 and 3) as well as a portion of Lot 2 which contains the existing house. It is anticipated by the Applicant that the language of the Conservation Easement will restrict use within the protected area to passive use by the property owner.*

### Comment IV-D-2.3

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"The proposed 3-lot subdivision would create lower-density residential properties compared with most of the surrounding patterns of development. The wetlands and wetland buffers on the properties will not be impacted or cleared, thereby retaining the*

*character of the nearby tidal wetlands and the surrounding areas." (pg. 6) [pdf pg. 15] (Emphasis added)"*

*SI-21 part 2. Additionally, any disturbance or use of the land will have some form of impact on the wetland and associated resources, including but not limited to noise, light, pets and fertilizers."*

Daniel S. Natchez & Associates: letter dated September 7, 2012

*SI-61. "'Future Condition Drainage Area 1a.2 (FDA-1a.2) is 3,405 s.f. in size and would consist of the portion of the property which would contribute runoff to the design line on Lot 1, but not, due to topography, to the rain garden. This drainage area is mostly lawn, but includes a portion of the low retaining wall in the rear yard." "Future Condition Drainage Area 1b (FDA-1b) is 4,255 s.f. in size and consists of lands to the south of the driveway which would contribute runoff to the design line to the south of the property. This area would consist of mostly lawn and with some woods." (pg. 34) [pdf pg. 50]"*

*SI-63. "Are these areas allowed to be fertilized? If so, this may have a negative impact on the wetlands."*

#### **Response IV-D-2.3**

*The non-regulated portions of Lot 1 and Lot 3 (i.e. areas outside of the wetland and wetland buffer) are subject to the same regulations that apply to other residential lots in the area. As seen in the recent aerial photographs in Response IV-A-2.15, several of the residences on Soundview Drive have lawn areas which extend all the way to the wetland edge. Any lawn area associated with Lot 1 or Lot 3 would be at least 100' from the wetland edge.*

### **3. Proposed Mitigation (Wetlands and Watercourses)**

*No comments received.*

## **E. Vegetation and Wildlife**

### **1. Existing Conditions**

#### **Comment IV-E-1**

Sven Hoeger, Environmental Consultant to the HCZMC: letter dated September 26, 2012

*"To assist the commission in determining consistency with the LWRP, the Commission should request additional, specific information in the FEIS about the species inhabiting Otter Creek and Magid Pond and the impact that the proposed subdivision would have on significant habitats of those species."*

*"Commentary:*

*The intent of the LWRP is the protection of the environment while fostering responsible development along the line of the 44 LWRP policies. This subdivision proposal generally follows standard design practices and does take standard setbacks to wetlands into consideration. As such it does not raise serious concerns with regard to the LWRP policies. However, the application mentions the proximity to "significant fish and wildlife habitat areas", yet omits detailed*

information about those areas. The LWRP policy directly addressing this issue is policy 7a, which clearly states, that “Significant coastal fish and wildlife habitats, as identified on the N.Y. coastal Area Map (when finalized), shall be protected, preserved, and where practical, restored so as to maintain their viability as habitats.” As I will explain in detail later, detailed species lists for both Otter Creek and Magid Pond will assist the Commission, in determining consistency with the LWRP, to assess the impact of the proposed subdivision on Otter Creek and Magid Pond natural areas. The FEIS should focus on groups of organisms that might need buffering with exceeding those provided for in standard regulations and laws.

The DEIS states that the applicant consulted with the New York Natural Heritage Program (NYNHP) regarding the known presence of endangered, rare or threatened species at or near the site and received a letter stating that none such species were known from the general vicinity (DEIS pg. 29, June 9, 2012 letter from NY natural Heritage Program). Such a letter statement is often regarded as sufficient proof that an area does not require extraordinary steps of protection beyond those already provided for by local and state laws and regulations. The proposed subdivision has been developed on this assumption and shows all legally required setbacks, buffers and treatment facilities. The referenced NY Heritage communication however cautions: “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.” Since Otter Creek and Magid Pond are known and listed areas of significant habitat, the applicant would aid the Commission in its decision making process by providing species lists for invertebrates, amphibians, reptiles, mammals and birds in particular – and lists of plants for a better picture of the habitat characteristics.

Legal setbacks are NOT cure-alls for all habitat requirements of every species that may inhabit the protected areas. A 100-foot setback from a freshwater wetland and a 300-foot setback from a tidal wetland allow for errors made in determining the exact location of the wetland edge; these setbacks are generally adequate to protect the wetlands from threats of erosion and sediment accumulations, but they DO NOT address the habitat requirements of all species that may occur in those wetlands. For many species, a 100-foot wide wetland buffer is more than sufficient. However, there are other species that will require larger – and potentially significantly larger – wetland buffers to complete their respective life cycles

The DEIS mentions that “According to the Nature Conservancy, the Otter Creek tidal wetlands feature more than 100 species of plants, abundant marine and terrestrial life, and more than 100 species of birds.” The DEIS however does NOT provide a list of those hundreds of species known to benefit from the protected status of Otter Creek. I suggest that the HCZMC request such a list, should it exist, to be included in the FEIS, to allow for a more educated review of the potential environmental impact the proposed subdivision could have on

*protected natural resources, especially on those animals that may not be endangered as of yet, but do require extended buffer zones beyond the limits of a wetland to complete their life cycles.*

*In the absence of a list of known species for Otter Creek and Magid Pond, the next best solution to “protect, preserve and maintain the viability as habitats” of Otter Creek and Magid Pond would be a restrained attitude toward development, such as proposed by the applicant as Alternative C – Limits to Area Disturbance, starting on page 42 of the DEIS. This alternative development proposal suggest the possibility of restricting development on portions of the proposed subdivision through a Conservation Easement or through the creation of a separate conservation parcel that could be deeded to a land trust.*

*Finally, the DEIS characterized this property as “second growth”, and the opposition to this development raised doubts about the correct location of the wetland delineation. I suggest that the Commission request that the correctness of the wetland delineation be confirmed by the Planning Board as part of the FEIS”.*

#### **Response IV-E-1**

*The Applicant was unable to find a list of the plants and birds specifically using the Otter Creek Preserve. The description of the Preserve given in the DEIS was adapted from The Nature Conservancy website:*

*<http://www.nature.org/ourinitiatives/regions/northamerica/unitedstates/newyork/placesweprotect/easternnewyork/wherewework/eastern-otter-creek-preserve.xml> As described, the interior portions of the Preserve are used by a “wide variety of waterfowl and other migratory birds” throughout the year, but the edges of the Preserve that would border the subdivision property are comprised mostly of Phragmites, which “forms a dense border around the marsh”. Numerous studies have found that dense stands of Phragmites have limited functional value as wildlife habitat, but that such stands can be very effective in buffering tidal marsh areas by capturing sediment and improving water quality.*

*As described above, no direct impacts are proposed to the wetland or wetland buffer under the current subdivision layout, and the Applicant is willing to incorporate limits to area disturbance through such measures as Conservation Easements or deed restrictions. Finally, when the proposed residential lots are developed they will be required to include stormwater management measures which will help to protect water quality leaving the property.*

*With respect to the amount of clearing that would be required under the proposed subdivision (see Figures 1, 4, and 6), the preservation of 3.2 acres of second growth forest is proposed. At the request of the Planning Board, the proposed building envelopes on the two new residential lots are defined by the existing zoning setbacks, and the rear setback line is proposed at 30 feet from the Freshwater Wetland Buffer (regulated wetland adjacent area) line. Based on a tree survey which was completed for the property in 2009, there are 42 regulated trees (8” DBH or greater) on Lot 1 outside of the regulated wetland adjacent*



*area, 19 of which are within the proposed building envelope. On Lot 3 there are 38 regulated trees outside of the wetland adjacent area, 20 of which are within the building envelope. While there are 47 trees within the proposed building envelopes that would likely be removed, there are a total of 279 regulated trees within the area proposed to be protected by the Conservation Easement under the FEIS Proposed Action. In accordance with § 342-76 of the Village Code, “the new residential lots shall be preserved in its natural state, insofar as practicable and environmentally desirable, by minimizing tree and soil removal. If development of the site necessitates the removal of established trees, special attention shall be given to the planting of replacements or to other landscape treatment”. Appropriate mitigation for tree removal shall be provided in the Findings Statement in accordance with guidelines established by the Planning Board. Preservation of the trees within the Conservation Easement area will provide both wildlife habitat and visual screening to the Otter Creek Preserve and Magid Pond. Although Section 342-16 of the Village Code applies to multifamily and nonresidential developments, the intent and goals of those standards could be applied to this residential subdivision to provide for natural landscaping for screening and shade purposes thereby ensuring high visual quality and reducing surface runoff and soil erosion.*

## **2. Potential Impacts (Vegetation and Wildlife)**

### **Comment IV-E-2.1**

Barbara Novick: undated letter, sent to Planning Board September 6, 2012

*1.b. “...The area under discussion provides a habiat for an incredibly diverse set of birds and mammals. We regularly see swans, geese, herons, egrets, ducks, wild turkeys, as well as deer, beaver, raccoon, turtles, and a host of other animals. The DEIS does not seem to address the impact on these animals even when an osprey nest is clearly in sight of the property. This area has been deemed a Critical Environmental Area for a reason and the utmost care should be taken in evaluating any application for development.”*

### **Response IV-E-2.1**

*The wildlife that is likely to be found in and near the Otter Creek Preserve was discussed in Section E of the DEIS. In addition, two species of bird have been observed by neighbors in the Preserve: the osprey and the bald eagle. The osprey (Pandion haliaetus) is a state-listed Special Concern species that has been documented in the area and nests in the Otter Creek Preserve. The osprey is a large bird that feeds almost exclusively on live fish and prefers to build a large stick nest on the top of a dead tree. Man-made structures such as buildings, towers, poles and platforms are also used as locations to build nests, as are large rocks on the ground in areas where trees are not abundant. The osprey is found along coastal and inland waterways with abundant fish populations. The stream channel of Otter Creek and trees within the Otter Creek Preserve which osprey may use for nesting are located off the property and would not be impacted by the potential activities proposed for the property.*

*A bald eagle (Haliaeetus leucocephalus) was seen in the Preserve by a neighbor. While this species is still listed as threatened in New York State, it was removed from the Federal Threatened and Endangered Species list in 2007, and the population has increased significantly in New York in the last 25 years. As the primary food for eagles is fish, they*

*are most likely to be found near open water, and may have been attracted to Magid Pond or Otter Creek looking for fish. As for the osprey, in the Applicant's opinion the hunting areas for the bald eagles would not be compromised by the proposed subdivision for the same reasons set forth above.*

*Avoidance of impacts to, and mitigation for, vegetation and wildlife has been carefully taken into consideration for the proposed project through limited areas of disturbance (see Response IV-E-1 above), planting of native species and use of organic materials on lawns. In addition, the final stormwater management plan to be designed and implemented at the time of construction of the single-family homes on the two new lots would meet all applicable water quality standards. Therefore, in the Applicant's opinion wildlife habitat likely to be found in the Otter Creek Preserve, including the nesting and hunting areas of the osprey and the hunting areas of the bald eagle, would not be compromised by the FEIS Proposed Action.*

#### **Comment IV-E-2.2**

Barbara Novick: undated letter, sent to Planning Board September 6, 2012

*I.e. "In the DEIS section "Adverse Impacts That Cannot Be Avoided", there is no mention of the impacts to tree removal, wildlife displacement, or similar real impacts which gives us great concern about the level of the Applicant's sensitivity to these issues."*

#### **Response IV-E-2.2**

*These impacts are discussed in detail in Section IV.E, Vegetation and Wildlife, of the DEIS and further discussed in this document. They were mentioned in Section VI.A, Adverse Impacts that Cannot be Avoided, simply to reflect the acknowledged impacts associated with this type of development when trees are cleared from portions of the site to locate homes and related infrastructure such as stormwater management facilities.*

#### **Comment IV-E-2.3**

All of the following comments relate to the Otter Creek Preserve, impacts to wildlife and wildlife habitat, and protection of the CEA:

Barbara Novick: undated letter, sent to Planning Board September 6, 2012

*I.h. "As you saw on your visit, Otter Creek is an unusual jewel in the Village of Mamaroneck. It is home to an incredible amount of wildlife, including many birds that nest in the tall trees and eat insects in the marsh and fish from the pond. The environment is a rare find and one that should be carefully preserved for the benefit of future generations. The wetland laws require it, and hopefully any project that is approved will reflect the importance of preserving this area."*

Daniel S. Natchez & Associates: letter dated September 7, 2012

*2o. "There is no substantive discussion of likely impacts to wildlife habitat resulting from the clearing of the portions of the lots to be developed beyond a basic discussion relating only to Osprey."*

Susan Berenzweig: letter dated September 8, 2012

3.a. *“Even though I have interest as a neighbor, the “neighbors’ most vulnerable to impact here do not have voices: the ospreys, hawks, bitterns, owls, songbirds, insects, otters, opossums, fish and other denizens of Long Island Sound. One look at the map demonstrates that it is Otter Creek Nature Preserve, stewarded by the Nature Conservancy, that will bear the largest brunt of the impact of construction on this land. In fact, it is just these concerns that prompted Mark King, Director of Protection Programs for the Nature Conservancy to write a strong letter to you dated January 10, 2011. In addition to several technical concerns identified in the letter, he raises the crucial and relevant point that there is a serious question of environmental impact that could result from development on the marsh and pond borders. The fact that it is designated a Critical Environmental Area should be given strong weight. You must address the zoning and planning questions differently than if the property were in the middle of a residential block, on the Parkway, for example. In the past few months, I have identified not only osprey, but rare Great Horned Owl and bitterns...”*

Daniel S. Natchez & Associates: letter dated September 7, 2012

2b. *“Discussion of impacts to the existing Critical Environmental Areas is extremely limited and fails to take into account the myriad species present and currently using the site, and the importance of these relatively undeveloped brushlands and woods adjacent to the Nature Conservancy and Magid Pond resources.”*

David & Ellen Freeman: letter dated September 10, 2012

*“We are particularly concerned about...”*

4.b. *“The DEIS’ lack of analysis of how the clearing of land, construction activities, and subsequent human habitation will affect wildlife resources, including the osprey which nest within sight of the proposed subdivision;”*

Doug & Rosa Jung: letter dated September 12, 2012

7.c. *Wildlife-the subdivision and its ultimate development would also displace the wildlife that currently lives there-the area is populated with numerous deer that walk through and eat in our backyards. There are large turtles, birds of all types including 2 swans that live in Otter Creek, as well as other mammals that live in the area and could potentially be displaced. They will have fewer places to go and spend more time on our lawns.*

### **Response IV-E-2.3**

*See Responses to Comments IV-E-1 and IV-E-2.1 above.*

### **Comment IV-E-2.4**

Daniel S. Natchez & Associates: letter dated September 7, 2012

2d. *“The Planning Board has previously rejected for inclusion in the scoping document for the DEIS the suggestion that the potential impacts to wildlife resources associated with the potential for increased domestic pet presence adjacent to and within*

*these CEA's be considered when all scientific evidence suggests such threats and impacts are all too real. Consequently there is no such discussion within the DEIS, nor really any substantial discussion of how the development will impact the existing wildlife that uses the subject and adjacent properties.*

- *Bird predation by outdoor cats is estimated at 1,000,000 deaths per day in the US. Outdoor cats also have significant impacts on numerous other small mammal, reptile and amphibian populations, and in reducing their populations can impact the higher order hunters that rely upon these food sources. The spring 2011 issue of Wildlife Society's journal "The Wildlife Professional," which can be found at <http://issuu.com/the-wildlife-professional/docs/feralcats> provides an excellent summary of these issues. While the link mentions "feral" cats the reference deals with all outdoor roaming domestic cats.*
- *Dogs are also not off the hook. Research at the Colorado State University in 2006 on behalf of the City of Boulder, Colorado, demonstrated a clear link between wildlife populations and behaviors along hiking trails where dogs were allowed and trails where dogs were prohibited. As noted in the study mule deer activity was significantly lower in proximity to trails in areas that allow dogs, and this effect extended at least 100 meters (300 feet) off-trail. Small mammals, including squirrels, rabbits, chipmunks, and mice, also exhibited reduced levels of activity in proximity to trails in areas with dogs, and this effect extended at least 50 meters (150 feet) off trail. Furthermore, the density of prairie dog burrows was lower within 25 m (75 feet) of trails in areas that allow dogs.*  
[/http://www.friendsofboulderopenspace.org/docmnents/dogs\\_wildlife\\_communities.pdf](http://www.friendsofboulderopenspace.org/docmnents/dogs_wildlife_communities.pdf)
- *While it is appreciated that the activity associated with one three-lot subdivision maybe considered a proverbial drop in the bucket compared to all of the existing development in Mamaroneck and the behavior of pet owners and their pets associated with existing residences, the fact is that the proposed subdivision is located within and directly adjacent to what have been identified as among the most critical habitats in the Village and, thus, aside from direct habitat reduction, the increased likelihood for additional pet activity related to these houses is real and the impact not necessarily inconsequential."*

#### **Response IV-E-2.4**

*The comment is outside of the scope of SEQRA. Nonetheless, the proposed residential subdivision is consistent with the surrounding residential development and does not pose any greater risk of wildlife impacts from domestic pets than is currently presented from the existing residences near the Otter Creek and Magid Pond CEAs.*

#### **Comment IV-E-2.5**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*"The response letter from the NYNHP dated June 9, 2010 indicates that they have no known records of rare or State-listed animals or plants, significant natural communities, or other significant habitats, on, or in the immediate vicinity of the site. A copy of the*

*response letter from the NYNYP is included in Appendix B of this document." (pg. 29) [pdf pg. 43]"*

*SI-53. "Issue: Given that Osprey, which is state listed as a species of Special Concern are known to exist in the immediate area, has the NYSDEC Division of Fish, Wildlife & Marine Resources office been alerted to its presence and an inquiry made to determine if its presence alters their findings and updates the NYNHP database? Furthermore, the letter from NYSDEC Division of Fish, Wildlife & Marine Resources states, "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. It does not appear that such an update has been pursued."*

Daniel S. Natchez & Associates: letter dated September 7, 2012

*SI-54. "The DEIS also does not seem to indicate whether there has been any direct contact with the US Fish & Wildlife Service, as was included within the Final Scoping document issued by the Planning Board. Furthermore the web-site printout from the USF&WS included in Appendix B of the DEIS specifically states, "After reviewing our website and following the steps outlined, we encourage both project proponents and reviewing agencies to contact our office to determine whether an accurate determination of species impacts has been made." The site conditions would appear to be potentially suitable habitat for the New England cottontail. The USF&WS homepage for the New England Cottontail can be found at*

*<http://www.fws.gov/northeast/indepth/rabbit/index.html>"*

#### **Response IV-E-2.5**

*Current information from US FWS on the New England Cottontail cited in this comment states that ongoing research on the current status of this species indicates that it is not likely to occur in densely developed areas, and would not inhabit the second growth hardwood forest that is found on this site.*

*We do not know if the osprey observation was reported to the NYSDEC Division of Fish, Wildlife & Marine Resources office. However, the NYSDEC Osprey Fact Sheet (<http://www.dec.ny.gov/animals/7088.html>) indicates that the southern coast of New York is within the osprey's breeding range and "Each year, both ground and aerial surveys are conducted by NYSDEC to document osprey nests in the state."*

*As noted in the DEIS, the osprey (*Pandion haliaetus*) has been documented in the area. The osprey is a large bird that feeds almost exclusively on live fish and prefers to build a large stick nest on the top of a dead tree. Man-made structures such as buildings, towers, poles and platforms are also used as locations to build nests, as are occasionally rocks on the ground. Osprey nests are quite large (up to 10 feet high), so if one was to be encountered on or near the site, it could be protected and avoided. The habitat of the osprey, including nesting and hunting areas, would not be compromised by the proposed subdivision.*



**Comment IV-E-2.6**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*SI-55. "The Final Scope also asked that the DEIS include a review of indirect impacts to existing vegetation resulting from any disturbance and use of the portions of the lots beyond the limit of disturbance line, and this does not appear to have been included."*

**Response IV-E-2.6**

*Indirect impacts to vegetation resulting from the proposed development would include increased sunlight at the clearing edge and changes in the wind patterns in the forest. These changes are minimized in the proposed development by keeping clearing to the area within the building envelope and not fragmenting the forest. Use of the lots beyond the proposed limit of disturbance will be limited to passive recreational enjoyment of the property (walking, bird watching, and wildlife observation), which is entirely consistent with the use of the adjacent nature preserve and the current use of the property.*

**Comment IV-E-2.7**

David & Ellen Freeman: letter dated September 10, 2012

*4.a. "We are not opposed in principal to the concept of this property's being subdivided so that one or two additional houses can be built. However, neither the DEIS, nor the applicants' prior actions in constructing their own residence (in apparent disregard of existing regulations), gives us confidence that these activities will be undertaken in a way that protects the wildlife, the outstanding scenic qualities, and the unique ecosystem of The Nature Conservancy's Otter Creek Preserve."*

**Response IV-E-2.7**

*Comment noted.*

**Comment IV-E-2.8**

Daniel S. Natchez & Associates: letter dated September 12, 2012 Suggested Special Conditions

*"SSC-4.) That no trees with trunks greater than six (6) inches diameter at breast height may be removed without specific approval of the Planning Board. To that end the filed subdivision map must include an inventory of all existing trees with trunks greater than six (6) inches diameter at breast height."*

*"SSC-6.) That no plant materials as listed on the NYS Invasive Species List shall be planted on any of the lots and that the initial development landscape plans for Lots 1 and 3 shall be reviewed and approved by the Planning Board."*

Mark King (Nature Conservancy): letter dated September 12, 2012

*6.c. "We would also like to see additional attention give the eventual use of non-native landscaping and vegetation and the effects of these on the adjacent preserve."*

**Response IV-E-2.8**

*The first two comments are “suggested special conditions” offered by Mr. Natchez for Planning Board consideration. It is the Applicant’s opinion that having a tree survey be part of a filed subdivision plat is highly irregular and will add unnecessary information to the Plat which will quickly become obsolete.*

*The Applicant does not object to a condition of approval concerning the prohibition of Invasive Plants when the lots are first developed.*

**Comment IV-E-2.9**

Mark King (Nature Conservancy): letter dated September 12, 2012

6.a. *“...We continue to have concerns regarding the completeness of [the DEIS}. Of particular concern is the failure to fully address potential impacts to the adjoining Otter Creek Preserve, especially in regard to the potential for construction related activities. As we have stated before Otter Creek is a sensitive environmental area and utmost care should be taken to avoid negative impacts resulting from construction.*

6.b. *Impacts to wildlife are of particular concern as the project is bound to have effects to birds and animal species that occur in the preserve, these should be more fully addressed.”*

Mark Sherrid: letter to HCZMC dated October 6, 2012

12.c. 2. *I hope that as much of the existing forest as possible can be preserved, both for its beauty and to prevent erosion.*

**Response IV-E-2.9**

*Please see Response IV-E-1, IV-E-2.1, 2.4, and 2.6 above. In addition, sediment and erosion control plans and Best Management Practices are detailed in the DEIS, Section F. Surface Water Resources and Stormwater Management, 3. Proposed Mitigation, and are shown on Exhibit IV.F.3-1 Erosion and Sediment Control Plan.*

**3. Proposed Mitigation (Vegetation and Wildlife)****Comment IV-E-3.1**

Daniel S. Natchez & Associates: letter dated September 7, 2012

2e. *“Simple protection of the wetlands buffer, if in fact it truly will be protected, does not necessarily mitigate impacts to wildlife.”*

*“The osprey... prefers to build a large stick nest on the top of a dead tree. Man-made structures such as building towers, poles and platforms are also used as locations to build nests, as are occasionally rocks on the ground.” (pg. 30) [pdf pg. 44]”*

SI-57. *“Given the disturbance to the upland woods that could provide nesting opportunities for Osprey, it might be appropriate to consider that a nesting platform be built on one or more lots to accommodate the osprey as mitigation for indirect impacts caused by development of these sites.”*

*"The area where the encroachment has occurred will be allowed to return to forest and will be monitored for potential invasive species." (pg. 30) [pdf pg. 44] "*

*SI-59. Issue: For how long will this area be monitored? Who will undertake such monitoring?*

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

*14.p. The applicant should discuss potential additional mitigation measures to address long-term impacts such as tree removal and increased impervious surfaces.*

### **Response IV-E-3.1**

*The Applicant will consider nesting platforms for Osprey and invasive species control as mitigation options as part of the NYSDEC Wetland Permit required for the residential subdivision. A Stormwater Management Plan has been developed for the subdivision to address potential impacts from increases in impervious cover on the site.*

## **F. Surface Water Resources and Stormwater Management**

### **1. Existing Conditions**

#### **Comment IV-F-1.1**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*SI-60. "(pgs. 32-33) [pdf pg. 47-48] Issue: Drainage condition areas do not appear to be delineated on any of the drawings submitted as part of the DEIS, nor are Design Points. What are the exact boundaries of these areas?"*

*SI-61. "Future Condition Drainage Area 1a.2 (FDA-1a.2) is 3,405 s.f. in size and would consist of the portion of the property which would contribute runoff to the design line on Lot 1, but not, due to topography, to the rain garden. This drainage area is mostly lawn, but includes a portion of the low retaining wall in the rear yard." "Future Condition Drainage Area 1b (FDA-1b) is 4,255 s.f. in size and consists of lands to the south of the driveway which would contribute runoff to the design line to the south of the property. This area would consist of mostly lawn and with some woods." (pg. 34) [pdf pg. 50] "*

*SI-62. "Issue: Do these areas lead to drainage that leads back to the wetland"?*

### **Response IV-F-1.1**

*A full Stormwater Management Report was prepared for the proposed subdivision, and was included as Appendix D. in the DEIS. The Stormwater Management Report was prepared in conformance with all applicable laws, rules and regulations. As discussed in Response IV-D-2.3 above, the proposed residential lots will be subject to the same restrictions as other residential properties in the vicinity of Otter Creek and Magid pond.*

*The existing and proposed drainage areas are described on pages 3 and 4 of the Stormwater Management Report, and are depicted graphically on the following pages.*

## **2. Potential Impacts (Surface Water Resources and Stormwater Management)**

### **Comment IV-F-2.1**

Barbara Novick: undated letter, sent to Planning Board September 6, 2012

*l.c. "We are particularly concerned about Magid Pond. The quantity and quality of the water are both important to the health of the pond and in turn the plants and animal life that it supports. Schemes that divert runoff may be as detrimental as plans that do not treat runoff at all, especially given the limited watershed that feeds the pond. I recall a similar situation in a neighboring community where one property owner diverted water resulting in damage to an adjacent wetland. This type of damage is virtually impossible to reverse, making it extremely important to avoid this outcome."*

### **Response IV-F-2.1**

*The runoff from the property that currently feeds the watershed of Magid Pond and Otter Creek will not be diverted to another location. The runoff will infiltrate the soil through stormwater management systems, or will flow (as it currently does) into the wetlands. All of the runoff from the property is currently conveyed westward to Otter Creek. In the future condition, runoff from the individual lots will be conveyed in a westward direction to stormwater management facilities on each of the lots. Following water quality treatment and peak rate attenuation in the stormwater management facilities, the runoff will be discharged to the ground surface where it will be conveyed toward the freshwater and tidal wetlands that are associated with Otter Creek. In order to minimize potential water quality impacts to the downstream waterbodies and wetlands, a Stormwater Pollution Prevention Plan has been prepared by the project engineer. This plan is discussed in detail in Section F. Surface Water Resources and Stormwater Management. In addition, erosion and sedimentation control practices, which have been designed and would be installed in accordance with the New York State Standards and Specifications for Erosion and Sediment, would reduce the potential erosion during construction. A detailed erosion control plan has been prepared for the property, and is discussed above, in Section B. Soil, 3. Proposed Mitigation. Post-construction monitoring would include the monitoring and maintenance of the stormwater basins and other stormwater treatment features.*

### **Comment IV-F-2.2**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*2k. "Depth to bedrock on lot 1 is reported as generally less than 3' yet there is little discussion of how this will impact development and how the proposed/suggested rain garden will function. A more detailed cross section with calculations and a planting plan of the rain garden verifying its form and functionality would help in determining its validity on this site."*

### **Response IV-F-2.2**

*Raingardens are flexible best management practices which can be adapted to a variety of site conditions. Once the house and other site improvements are determined for Lot 1, a rain garden or similar bioretention facility can be designed to capture and treat runoff from the site.*

**Comment IV-F-2.3**

Daniel S. Natchez & Associates: letter dated September 7, 2012

2p. *"There is no discussion as to whether the proposed reduction of runoff from Lot 3 as a result of stormwater management measures associated with development could negatively impact Magid Pond- which is of particular concern given the limited watershed that feeds the pond."*

*"The proposed 3-lot subdivision would create lower-density residential properties compared with most of the surrounding patterns of development. The wetlands and wetland buffers on the properties will not be impacted or cleared, thereby retaining the character of the nearby tidal wetlands and the surrounding areas." (pg. 6) [pdf pg. 15] (Emphasis added)"*

SI-21. *"Of course the wetlands and buffer areas will be impacted. The Applicant demonstrates this later in the water runoff table showing a reduction in water to the wetland.)"*

*"The grading of these steeper slope areas [on both lots] would result in a ground surface that is significantly less sloping, and a reduced risk of erosion once these areas are stabilized with vegetation." (pg. 20) [pdf pg. 33]"*

SI-48. *"Issue: This could reduce stormwater runoff to the wetland, causing the potential for adverse effects."*

SI-64. *"(pg. 34) [pdf pg. 50] Table IV. F. 2-1. Issue: Future condition flows to the design line for Lot 1 is reduced 40% for 1-year storm. Future condition flows to the design line for Lot 3 is reduced 25% for 2-year storm."*

*"The results in the table show that peak rates of runoff would be reduced if the two lots were developed in the future with the stormwater management mitigation measures proposed, as compared to current peak runoff rates." (pg. 35) [pdf pg. 51]"*

SI-65. *"Issue: Reductions in runoff to the wetlands can have adverse effects, particularly with a freshwater pond with limited contributing watershed such as the Magid Pond."*

David & Ellen Freeman: letter dated September 10, 2012

4.c. *"The plans for handling of drainage and storm runoff, which could significantly alter the delicate balance needed to maintain the health of both the fresh water and salt water wetland which adjoin the proposed subdivision"*

Mark Sherrid: letter to HCZMC dated October 6, 2012

12.a. *"...I am concerned that if the houses in the proposed development are too big it will adversely affect the run-off into the creek and pond. The quantity and quality of the water are important to the health of the pond, an in turn to the plant and animal life that it supports. Damage will be virtually impossible to reverse. We must avoid an adverse outcome."*



Daniel S. Natchez & Associates: letter to HCZMC dated October 4, 2012

*“Provide an analysis of potential adverse effects from the potential **decrease** of freshwater run-off into Magid Pond, which is of particular concern given the limited watershed that feeds the pond. Sven Hoeger notes in his 9/15/12 memo that the suggested stormwater detention/infiltration systems will **only overflow** during storm events that produce more than 2.8 inches of rain (the one-year storm), which means there will be **no overflow from most of the precipitation events in this area.**”*

#### **Response IV-F-2.3**

*The stormwater management measures proposed for the new residential lots are designed in accordance with the New York State Stormwater Design Manual to treat both runoff volume (so called runoff reduction) as well as water quality leaving the developed site. The reduction in runoff refers to the developed condition, and will not impact the groundwater recharge to Magid Pond, which will be sustained through infiltration practices. Surface runoff from the majority of the new lots that are outside of the limit of disturbance will continue to reach Magid Pond as it currently does.*

#### **Comment IV-F-2.4**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*SI-49. “There is no evidence of erosion within the existing thickly vegetated steep slopes. It will be the disturbance of these areas that opens the potential for erosion, and the referred to reductions in slope are only attained by virtue of creating walls and berms to allow for development and for what seems to be the only way to provide the required stormwater management given the slopes and depth to bedrock.”*

*“Article II, Section 186-9 of the Village Code, Erosion and Sediment Control, notes that '[d]evelopment shall reflect the topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible. In the design of cut and fill slopes, consideration must be given to the length and steepness of the slope, the soil type, upslope drainage area, groundwater conditions, and other applicable factors.’” (pg. 21) [pdf pg. 34]”*

*SI-50. “Issue: Is it possible to create a more reserved design to create less of an impact on the grading? Perhaps no basement on the grounds that it will have a lesser impact on the site and surrounding wetlands? It would seem the only way these lots can be developed is the very cuts and fills that are recommended to be avoided, particularly with respect to meeting current stormwater requirements.”*

*“Untreated stormwater runoff during and after potential future construction has the potential to reduce the water quality of downgradient wetland and watercourses. Development of the subject property would increase the impervious surfaces on the site, which could cause an associated increase in stormwater peak flow rates and an increase in nutrient and contaminant loads discharging to wetlands and surface waters.” (pg. 24) [pdf pg. 38]”*

SI-51. "Issue: Some portions of the developed area of the site's runoff are to be left untreated according the stormwater management plan. Why is this so and why should it be acceptable?"

"Furthermore, the grading of the property could be done without impacting the flood storage of the Otter Creek floodplain." (pg. 38) [pdf pg. 54] (*Emphasis added*)"

SI-67. "Issue: It could be. Will it be? Again it is a question of measures being implemented to ensure limitations on disturbance."

#### **Response IV-F-2.4**

*The Stormwater Management Plan was prepared at the direction of the Planning Board and included in the DEIS to demonstrate that the proposed subdivision could be accomplished without impacts to the wetland buffer areas and water quality. A final Stormwater Management Plan will be required for each of the new lots as part of the Building Permit Application process. It is the Applicant's opinion that the two new lots can be developed in a manner that is fully compliant with the Stormwater Management regulations of the Village and the State.*

*According to the most recent FEMA Preliminary FIRM Data Viewer in which the Base Flood Elevations (BFE) have been updated with the most recent information, the flood zone associated with Otter Creek is at elevation 13 feet. The project does not propose any impacts to the flood storage of Otter Creek. No grading or changes in elevation would occur in any portion of the property below 13 feet. Therefore, all of the development associated with future construction on the two new lots created by the subdivision would be located outside of the floodplain. As a result, there will be no change in the flood storage that is currently available.*

#### **Comment IV-F-2.5**

Mark King (Nature Conservancy): letter dated September 12, 2012

6.d. "We are also concerned with the long term maintenance of project elements such as drainage and stormwater features as any future failure of these elements could impact the preserve."

Doug & Rosa Jung: letter dated September 12, 2012

7.b. "Finally even in the application itself, the design of the proposed houses include special rainwater runoff mitigation plans/devises, which is an admission by the designers that the proposed buildings/lots would negatively impact the water absorption characteristics naturally in place today. Should this proposal go through what assurances do we have that the ultimate owners will incorporate such techniques in their home site?"

Doug Jung (email sent October 18, 2012 to Gerry Diamond; Ann Powers)

7.a.b. "The documents prepared by the applicant and their consultants purport that 2 homes constructed with various run-off mitigation devices or features, will not substantially increase flood risk in this area...assuming those devices work, what assurance does this neighborhood, and the Village have to ensure that

*should these homes be built, that these devices would be constructed and property maintained? Would the Village inspect them annually (at the homeowners expense)? ...”*

#### **Response IV-F-2.5**

*As part of any Stormwater Management Plan submitted to NYS DEC a long term maintenance schedule for the proposed facilities must be submitted, and the responsible party identified. As the current application is for a subdivision and not a building permit or site plan, a final maintenance plan has not been prepared. When a Stormwater Management Plan is submitted to NYS DEC, a maintenance plan will be prepared in accordance with all applicable laws, rules and regulations.*

*The future owners of the lots would be responsible for maintenance of the stormwater management systems on their lots, pursuant to a construction, inspection and maintenance agreement to be recorded against the properties.*

*For the property owner with a bioretention facility on the property, the following describes the required maintenance of the stormwater management practice:*

#### **MAINTENANCE OF BIORETENTION FACILITIES**

##### **1. Maintenance:**

- (i) Replacement of diseased or sickly plants, mulching of the surface of the bioretention facility, removal of weeds and invasive plants, as well as thinning of plants to maintain the desired appearance.*
- (ii) Weeding and watering are essential the first year when plants are becoming established. Weeding is typically minimized with the use of a weed-free mulch layer. Re-mulch the surface of the bioretention facility annually.*
- (iii) Prune plants if they start to get “leggy” and floppy. Cut off old flower heads from wildflowers and herbaceous plants after the plant is done blooming.*
- (v) Inspect for sediment accumulations or heavy organic matter where runoff enters the bioretention facility and remove with a shovel and rake as necessary. The top few inches of planting soil mix should be removed and replaced if the water ponds for more than 48 hours. Re-mulch following such planting soil mix removal.*
- (vi) If the overflow device is an earthen berm or lip, check for erosion and repair as soon as possible. If this continues, a harder armoring of stone may be necessary.*
- (vii) Check the elevation of the surface of the bioretention facility annually to ensure that the maximum ponding depth does not exceed 6”. Make sure all appropriate elevations have been maintained, no settlement has occurred and no low spots have been created in the bioretention facility and/or the berm around the facility perimeter.*
- (viii) Mow the grass filter strip between the bioretention facility and the level spreader weekly during the growing season or as per the adjacent lawn areas. Maintenance of level spreader as per noted above.*

**Comment IV-F-2.6**

Doug & Rosa Jung: letter dated September 12, 2012

*7.e. “In summary, the application subdivision of the 1000 Taylors Lane property should be denied and the natural or current eco-system remain untouched to support and aid in flood mitigation.”*

Doug Jung (email sent October 18, 2012 to Gerry Diamond; Ann Powers)

*7.a.a “....we oppose the subdivision on the grounds that this community already suffers from significant flooding and infrastructure issues with the current population. The additional building of two very large homes directly adjacent to an area that mitigates area flooding would only aggravate an already tenuous situation. This community comprised of Taylors, Barrymore, Colonial Court and part of Shadow Lane suffers flooding and power loss even when other communities in the Village do not.*

Sven Hoeger, Environmental Consultant to the HCZMC: letter dated September 15, 2012

*8.b. Policy #11. “Flooding of the basement of the proposed building on lot #1 could occur if flood levels exceed the 100-year floodplain by a mere 1.5 feet. Technically the applicant is compliant with LWRP Policy #11, however, I, as your environmental consultant, recommend that the Village of Mamaroneck Harbor and Coastal Zone Commission clearly advise applicants Mr. and Mrs. Alter of the potential for flooding, should the prevailing sea level rise prediction come to pass.”*

**Response IV-F-2.6**

***Chapter 186 of the Village Code, Flood Damage Prevention; Erosion and Sediment Control, specifies the construction standards for residential structures:***

**§ 186-5. Construction standards.**

**C. Elevation of residential structures (except coastal high hazard areas). The following standards, in addition to the standards in §§ 186-5A(2) and (3) and 186-5B, apply to structures located in areas of special flood hazard as indicated.**

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood level.**

***The Federal Emergency Management Agency has established a Base Flood Elevation for the adjacent Zone AE associated with Otter Creek at elevation 13 feet. The houses on the property will not be located in Zone AE; rather, they would be located in Zone X (i.e. not subject to flood) adjacent to the Zone AE. Even though construction will occur in Zone X and outside of Zone AE, the proposed homes on Lots 1 and 3 are shown to comply with the***

*more stringent requirement associated with Zone AE. According to the Village of Mamaroneck Code Section 186-5.C.(1), new construction and substantial improvements within Zone AE shall have the lowest floor (including basement) elevated to or above two feet above the base flood level. On Lot 1, the proposed house is shown with a first floor elevation of 25 feet, and the basement is to be set with a floor elevation of at least 15 feet, or 2 feet above the BFE. On Lot 3, the proposed house is shown with a first floor elevation of 27.5 feet, and the basement is to be set with a floor elevation of at 17.5 feet, or 4.5 feet above the BFE.*

*The addition of two houses along Taylors Lane is a de minimus addition to the already-existing infrastructure of the area.*

#### **Comment IV-F-2.7**

Rebecca Crist, Environmental Analyst, NYSDEC, letter dated May 14, 2013

*“Future storm surge vulnerability*

*This property is vulnerable to storm surge and rising sea levels. Global sea levels continue to rise steadily due to the melting of the polar glaciers and ocean expansion due to warming. By 2100, experts project sea level to rise in New York City and Long Island by as many as six feet (55-72 inches) under certain scenarios<sup>1</sup>. These rates are for the rapid ice melt scenario that is now considered by experts to be the most likely to occur, due to continued high emissions of greenhouse gases.*

*Under the site plans provided in the DEIS, with structures built at 12 to 18-foot elevations, future structures at this site could be inundated by storm surges in combination with future elevated high tides (such as the recent 11-foot surge).*

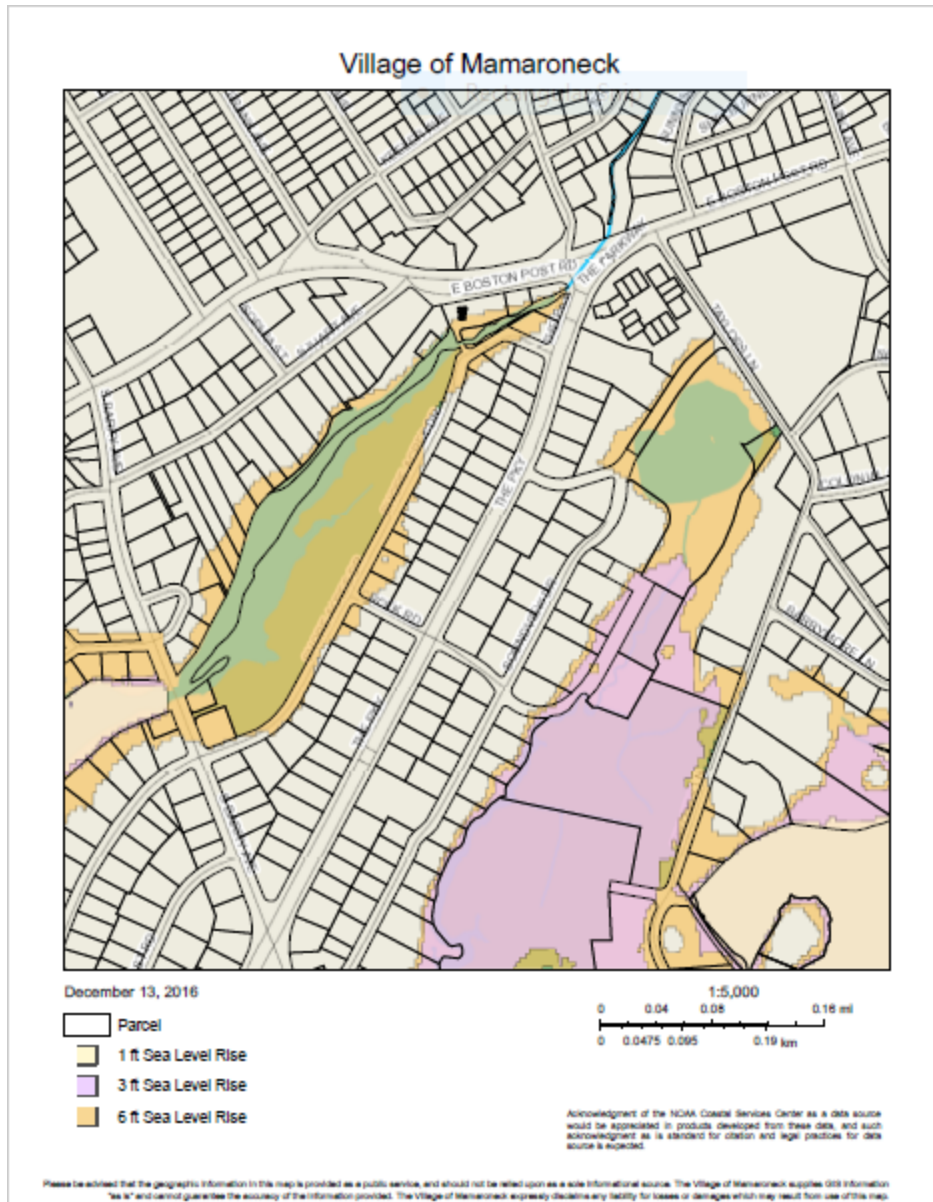
*DEC recommends that the Final EIS address the likely impacts of projected sea level rise on both the current and proposed structures and on the wetland adjacent areas. The Village may wish to require a larger set-back to insure adequate buffer for the freshwater and tidal wetlands and the Otter Creek Critical Environmental Area (CEA).*

#### **Response IV-F-2.7**

*Predictions on sea-level rise (due to climate change) have produced projections of sea-level rise by 2100 ranging from 2 to 4 feet, with some estimates (as noted in letter above) reaching a high of 6 feet or 2 meters. However, the topographic relief on the subject property is such that the proposed building envelopes are well outside of the area predicted to be impacted by a 2-meter rise in sea level. The figure, taken from information provided on the Village of Mamaroneck GeoPortal website, below shows the areas that are predicted to be impacted by a 2-meter rise in sea level:*

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<sup>1</sup> Source: New York State 2100 Commission



**Source:** <http://96.56.82.68/flexviewers/Parcel%20viewer/>

*The Federal Emergency Management Agency has established a Base Flood Elevation for the adjacent Zone AE associated with Otter Creek at elevation 13 feet. The houses on the property will not be located in Zone AE; rather, they would be located in Zone X (i.e. not subject to flood) adjacent to the Zone AE. Even though construction will occur in Zone X and outside of Zone AE, the proposed homes on Lots 1 and 3 are shown to comply with the more stringent requirement associated with Zone AE. According to the Village of Mamaroneck Code Section 186-5.C.(1), new construction and substantial improvements within Zone AE shall have the lowest floor (including basement) elevated to or above two feet above the base flood level. On Lot 1, the proposed house is shown with a first floor elevation of 25 feet, and the basement is to be set with a floor elevation of at least 15 feet, or 2 feet above the BFE. On Lot 3, the proposed house is shown with a first floor elevation of*



**27.5 feet, and the basement is to be set with a floor elevation of at 17.5 feet, or 4.5 feet above the BFE.**

### **3. Proposed Mitigation (Surface Water Resources and Stormwater Management)**

#### **Comment IV-F-3.1**

Daniel S. Natchez & Associates: letter dated September 12, 2012: Suggested Special Conditions

*“SSC-9.) That sufficient stormwater management systems be designed and approved by the appropriate Village Boards/Commissions, the Village Engineer or Consulting Engineer and the Village Building Inspector to assure that adequate erosion and stormwater controls are provided to prohibit any degradation of both the Freshwater and Tidal Wetlands, including assuring that the freshwater wetland water supply volume coming from the properties is not reduced from pre development volume.”*

*“SSC-10.) That all catch basins or drain inlets receiving stormwater runoff from driveways, motorcourts or similar areas intended for use by vehicles shall be provided with hydrocarbon filter inserts or similar measures for reducing potential pollutants in stormwater and that all such stormwater be directed to drain into the stormwater detention/filtration system (such as a rain garden or similar system as approved by Planning Board and Village Engineer) located on site.”*

*“SSC-11.) That the owners of the respective lots 1, 2 and 3 shall submit annual letters to the Building Department demonstrating that the storm water system has been properly maintained. If the Building Department finds that the stormwater system has not been properly maintained, the landowner shall be held responsible for remedying said condition as well as all adverse effects to any and all affected wetland and wetland buffer areas within a reasonable timeframe as determined by the Planning Board.”*

*“SSC-12.) That no land disturbing activities beyond routine yard and garden maintenance shall be carried out without prior review and approval by the appropriate Village Boards/Commissions, the Village Engineer or Consulting Engineer and the Village Building Inspector to assure that adequate erosion and stormwater controls are provided.”*

*“SSC-13.) That As-Built Topographic Surveys shall be required to be submitted to the appropriate Village Boards/Commissions and Building Department as part of the approval for any new construction or work that disturbs the land on Lots 1, 2 or 3 demonstrating compliance with the above development requirements, and with said surveys including as-built invert elevations relating to all required stormwater management features.”*

**Response IV-F-3.1**

*These “suggested special conditions” are common practice for municipalities regulating stormwater management practices, and could be incorporated as part of the Building Permit process. Under the SPDES General Permit for Stormwater Discharges from Construction Activity (NYSDEC Permit No. GP-0-10-001), the New York State Department of Environmental Conservation requires that: “[F]or construction activities that require post-construction stormwater management practices and meet subdivision 2a. of this Part, the owner or operator must, prior to submitting the Notice of Termination (“NOT”), ensure that for post-construction stormwater management practices that are privately owned, the owner or operator has modified their deed of record to include a deed covenant that requires operation and maintenance of the practice(s) in accordance with the operation and maintenance plan.” (Part 2a specifies the conditions under which a Notice of Termination may be filed. These are: “All construction activity identified in the SWPPP has been completed; and all areas of disturbance have achieved final stabilization; and all temporary, structural erosion and sediment control measures have been removed; and all post-construction stormwater management practices have been constructed in conformance with the SWPPP and are operational.”)*

*Thus, the State of New York requires specific actions for private properties in order to close out the SPDES General Permit. Specifically, these are: (1) that there be a stormwater operation and maintenance plan that spells out the practices that are required in order to maintain the stormwater management practices, and (2) that the deed of record for the private property be modified to include a deed covenant that requires operation and maintenance of the stormwater management practices.*

*In order to ensure that the future owners of the private property will operate and maintain the stormwater management measures on their property, the homeowner will receive a stormwater operation and maintenance manual describing the specific tasks which need to be taken to maintain the facilities. The manual will also be filed with the Village Building Department in accordance with the standard provisions of the Village’s Construction, Inspection and Maintenance Declaration. The manual will note what maintenance activities need to be taken, the frequency of the activities, and the season at which taking the maintenance activities is optimal.*

## V. ALTERNATIVES TO THE PROPOSED PROJECT

### Summary of Alternatives Considered in the FEIS

As a result of comments from the public, Planning Board and its staff and consultants, as well as further study by the Applicant, Alternative V.C.I from the DEIS has become the Applicant's Proposed Action, as shown at Exhibit 1 ("FEIS Proposed Action"). The FEIS Proposed Action is the subdivision of their property into three conforming residential lots, including one lot on which their current residence and yard will remain. The FEIS Proposed Action includes a conservation easement area of 141,277 square feet and restricted building envelopes defined by the zoning setbacks for the front and side yards, and by a setback of 30 feet from the 100' freshwater wetland buffer line in the rear of Lot 3 and a setback of 60 feet from the 100' freshwater wetland buffer line in the rear of Lot 1. The FEIS Proposed Action further proposes to limit floor area ratios of the future single family dwellings on the two new lots by a calculation of the land area outside of the wetland buffer, rather than the total lot area. No development is proposed at this time for the two new lots created by the subdivision, nor is any additional development proposed on the Applicants' existing property. At the request of the Planning Board, Exhibit 1.a was developed to illustrate the *potential future development* associated with the FEIS Proposed Action.

The Applicants have addressed the alternatives suggested through comments on the DEIS, as presented in this document, to examine potential development activities, or what *could possibly occur* on the property *in the future*. The complete list of alternatives presented for discussion in the FEIS, as agreed upon by the Planning Board, include:

#### **Exhibit 1 Proposed Action – (showing Building Envelopes & Conservation Easement)**

This plan represents the Proposed Action (subdivision only), and residential development of the two new lots, but includes a significant Conservation Easement Area which would be placed over portions of all three residential lots to avoid disturbance in the wetland buffers. This plan also includes a proposed building envelope that is restricted to 30 feet from the wetland buffer boundary in the rear of Lot 3 and 60 feet from the wetland buffer boundary in the rear of Lot 1, and by the front and side yard setbacks of the R-15 District. Lastly, this plan restricts the lot area used in calculating FAR to that portion of the lot outside of the wetland buffer.

#### **Exhibit 1a Proposed Action (showing Buildings, Driveways & Conservation Easement)**

This alternative shows the Proposed Action (subdivision only) with residential development of the two new lots, including building footprints, driveways and stormwater management facilities. This plan also includes a significant Conservation Easement Area which would be placed over portions of all three residential lots to avoid disturbance in the wetland buffers. This plan also includes a proposed building envelope that is restricted to 30 feet from the wetland buffer boundary in the rear of Lot 3 and 60 feet from the wetland buffer boundary in the rear of Lot 1, and by the front and side yard setbacks of the R-15 District. Lastly, this plan restricts the lot area used in calculating FAR to that portion of the lot outside of the wetland buffer

#### **Exhibit 2 No Action/Existing Condition**

This plan shows the existing conditions on the property.

**Exhibit 2a No Action/Potential Development without Planning Board Review**

The No Action alternative does not contemplate subdivision of property, but is shown with the addition of amenities (pool, tennis court, shed, stormwater management facilities) which could be developed on the property under the current zoning without approval from the Planning Board.

**Exhibit 3 Two Lot Subdivision**

This alternative illustrates the subdivision of the property into 2 residential lots: the northeastern lot containing the existing residential development with additional amenities, and the new lot (to the southwest) as a new residential development.

**Exhibit 4 Four Lot Subdivision**

This alternative is similar to Exhibit 1 and 1a, except that the property would be subdivided into four lots: one lot containing the existing residential development, two new lots (one to the northeast and one to the southwest of the existing residence) to be residentially developed within the defined building envelopes described above, and the fourth, largest lot to remain undeveloped. The large lot would be in approximately the same location as the Conservation Easement Area (in Exhibit 1 and 1a), closest to the wetlands. The large lot would be designated as a non-building lot.

**Exhibit 5 Three Lot Subdivision (One Conservation Lot)**

This alternative was suggested by a member of the Planning Board, and contemplated subdivision of the property into three lots: one lot containing the existing residential development, one lot (to the southwest of the existing residence) to be residentially developed, and the third, largest lot to remain undeveloped as a Conservation Lot. The Conservation Lot would eliminate the northeast residential lot.

For reference, the alternatives considered in the DEIS were as follows:

- V.A.1 No Action (similar to the FEIS alternative Exhibit 2.a No Action)
- V.B.1 Two Lot Subdivision (similar to FEIS alternative Exhibit 3 Two Lot Subdivision, but with second lot to the northeast instead of the southwest)
- V.B.2 Two Lot Subdivision (similar to FEIS alternative Exhibit 3 Two Lot Subdivision)
- V.C.1 Limits to Area of Disturbance (similar to the FEIS alternative Exhibit 1 Limits to Area of Disturbance – Proposed Action with Conservation Easement)
- V.C.2 Limits to Area of Disturbance (similar to the FEIS alternative Exhibit 4 Four Lot Plan with Conservation Easement)
- V.D.1 Maximum Build-Out of Three Lot Subdivision (this plan was eliminated from the FEIS alternatives)

During its review of the Draft Environmental Impact Statement (DEIS), the Village of Mamaroneck Planning Board asked the Applicants to evaluate several alternatives to the

Proposed Action. At that time, the Proposed Action consisted of a simple three-lot subdivision with no conservation easement or restricted building envelopes (“DEIS Proposed Action”). Public comment received during review of the DEIS also identified alternatives for consideration.

To be clear, the alternatives to the FEIS Proposed Action are *not* what the Applicants are proposing, but are being presented to allow comparison among the various development scenarios. The Applicant maintains that several of these alternatives, although specifically identified and requested during the SEQRA review, are inconsistent with the “objectives and capabilities of the project sponsor” for the reasons set forth in the Executive Summary of this document. (SEQRA, 6 NYCRR 617.9(b)(5)(v)).

According to the Applicant, the preferred proposal is the FEIS Proposed Action which includes a reduction in FAR of over 70% over the DEIS Proposed Action, an avoidance of physical disturbance to the wetland buffer through the permanent preservation of over 60% of the Property, use of native plants and shrubs for landscaping purposes, restrictions on the use of inorganic fertilizers, herbicides and pesticides, minimization of land disturbance through the use of retaining walls, as well as relocation of the proposed building envelopes as far from the wetland buffer as practicable. In this regard, the Applicant maintains that the FEIS Proposed Action mitigates all relevant environmental impacts to the maximum extent practicable. The Applicant further maintains that Exhibit 3 Two Lot Subdivision with New Lot to the Southwest, and Exhibit 5 Three Lot Subdivision with One Conservation Lot are not consistent with their objectives. In the first of these alternatives, only two residential lots would be created, and in alternative Exhibit 5 Three Lot Subdivision with One Conservation Lot, a third parcel would be created but not developed.

In the Applicant’s opinion, when comparing the FEIS Proposed Action (FEIS Exhibit 1 and 1a) with the No Action alternative (FEIS Exhibits 2 and 2a) and the Two Lot Subdivision alternative (FEIS Exhibit 3), the areas of disturbance are relatively similar due to the accessory structures and amenities that would be permitted without review by the Planning Board. (See Table V.A.2)

The following text relates to comments received during the Public Hearing on the DEIS (development alternatives discussed during the Public Hearing may no longer be in consideration for the FEIS):

#### **A. Alternative A – No Action**

##### **Comment V-A-1.1**

Daniel S. Natchez & Associates: letter dated September 7, 2012

““A. Alternative A-No Action” (pg. 40) [pdf pg. 56]”

*SI-69. “This is not a true ‘no action’ alternative. It is appreciated that the applicant is trying to show that they could create as much disturbance to the site through the construction of amenities as would be created by the theoretical development shown on the proposed subdivision plans. While this may be true to some extent, it does not really represent an apples to apples comparison in several respects, including but not limited to:*

*“There would be stormwater options potentially available for the swimming pool and tennis court that are not available for house construction;”*

*“The provision of such amenities outside of the wetlands buffer reduces the pressure to provide such amenities within the buffer;”*

*“The pool and tennis court would have far less visual impact than the potential houses; the pool and tennis court would likely be used far less often than two new houses;”*

*“The amenities do not come along with increased disturbance to wildlife caused by increased numbers of people and their associated cats and dogs.”*

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

*14.f. The applicant has provided a No Action alternative that indicates the potential amenities that could be constructed on the property under the allowable FAR and coverage requirements. These amenities should also be shown, as allowable, for each of the other alternatives presented, to indicate their maximum potential build-out.*

#### **Response V-A-1.1**

*Amenities, such as swimming pools and garden sheds are depicted on each of the other alternatives. There is insufficient space to construct a tennis court on any of the new lots which are depicted in the alternatives.*

#### **B. Alternative B – Two Lot Subdivision**

##### **Comment V-B-1.1**

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

*14.g. Alternative B (Two-Lot Subdivision) should discuss the potential for further subdivision.*

#### **Response V-B-1.1**

*Alternative B (Two Lot Subdivision) – under these two alternatives (DEIS Alternative V.B.1 and V.B.2, similar to FEIS Exhibit 3), it is possible to re-subdivide the large lot to create the third lot much in accordance with the FEIS Proposed Action.*

#### **C. Alternative C - Limits to Area of Disturbance of Three Lot Subdivision**

##### **Comment V-C-1.1**

Sven Hoeger, Environmental Consultant to the HCZMC: letter dated September 15, 2012

*8.a. “...two equally interesting scenarios with regard to Otter Creek and Magid Pond, both of which could “protect, preserve, and .... maintain their viability as habitats”. One...Conservation Easement over much of the undeveloped portions of the new subdivision lots or transfer property rights to the Nature Conservancy. The other...create a 4-lot subdivision, where the fourth lot would be configured similar to the conservation easement. The applicant does not mention what would*



*happen to this lot, but it is safe to assume that it would never be built on and would therefore act as a permanent buffer protection the wetlands.”*

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

14.j. The discussion of Alternative C on p. 42 does not make a clear comparison between the allowable FAR, building coverage and setbacks for the three lots with a conservation easement vs. the three lots plus a fourth conservation lot. It would seem that creation of a fourth lot would make these requirements more stringent than would a conservation easement, but Table V.A-2 indicates that Alternative C.2 (creation of an open space lot) would allow for greater building coverage and FAR. The applicant should clarify this.

#### **Response V-C-1.1**

*Table V.A.2 has been revised and is included below as two parts (following Response V-E-1). In Part 1 of the table, the Development Coverage, which includes all impervious surfaces (buildings, driveways and retaining walls) and other site features such as decks and walkways, is well below the maximum allowable building coverage for the R-15 Zoning District, which is 35% for all of the alternatives. As can be seen in Part 2 of the table, creation of a fourth lot (Exhibit 4) would not significantly change the FAR for Lot 1 or Lot 3, but would reduce the FAR for Lot 2 (the existing house lot) by about 30%. In all cases the estimated development coverage is well below the FAR for the lots.*

#### **Comment V-C-1.2**

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

14.k. *The Planning Board has requested analysis of a fifth alternative: a three-lot subdivision, consisting of one new buildable lot, one conservation lot and a lot containing the existing house. This alternative is a slight variation on Alternative C-2 (see attached sketch). This new alternative should be compared to the proposed action as with all the other alternatives (see discussion below).*

#### **Response V-C-1.2**

*See FEIS Exhibit 5 Three Lot Subdivision with One Conservation Lot – This new alternative depicts two new residential lots in addition to one conservation lot which extends over much of the wetland and wetland buffer area. In the Applicant’s opinion, this Alternative does not afford any greater protection to the wetlands than the proposed action and is not feasible based on the objectives of the Applicant.*

#### **D. Alternative D – Maximum Build-Out of Three Lot Subdivision**

*No comments received.*

#### **E. Comparison of Alternatives to Proposed Action**

#### **Comment V-E-1**

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

14.l. *Table V.A-2 compares the proposed action and the alternatives in terms of building coverage and floor area ratio, but not in terms of key environmental impacts of the proposed action vs. the alternatives. The table, and accompanying discussion, should be expanded to include the potential impacts for each topic*

*area contained within the DEIS: land use, soils, topography and slopes, wetlands and watercourses, vegetation and wildlife, and surface water resources and stormwater management. Where quantitative comparison is possible (i.e. for impervious surface areas, vegetation removal) it should be provided; otherwise, a qualitative comparison is appropriate.*

**Comment V-E-2**

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

*14.m. In addition, each alternative should be compared to the proposed action (subdivision of the property) with potential development (see Figure II.C-2). Because alternatives B, C and D each assume additional residential development, comparing them to the proposed action without additional development is not an accurate comparison.*

**Response V-E-1 and 2**

*Table V.A-2 has been updated; Part 1 (next page) compares the environmental impacts between the proposed action and all other alternatives (including No Action). The values for “Development Coverage” and “Disturbed or Cleared Area” are estimated from the lot layouts illustrated in Exhibits, and the total percentage is calculated using the total lot areas. The values given for the development coverage have been rounded for ease of administration at the time of site plan review. The majority of the area in “development coverage” is the impervious area associated with the building and driveway, with the remainder being items such as walkways, patios and retaining walls.*

Table V.A.2 (part 1) Comparison of Proposed Action and Alternatives (updated for FEIS Comment V-E-1 &amp; 2)

Action or Alternative	Land Use		Soils	Topography and Slopes	Wetlands and Watercourses	Vegetation and Wildlife Habitat	Surface Water Resources and Stormwater Management	Area within Conservation Easements or Lots (sq. ft.)
	Development coverage (bldgs., walls, patios, decks, sheds, etc.) (sq. ft.)	Disturbed or cleared area (sq. ft.)	Area to be graded (sq. ft.)	Slopes >15% to be cleared or graded (sq. ft.)	Minimum distance from wetland to area of disturbance	Forested habitat to remain (acres)	Proposed Stormwater (SW) Management Practices	
Exhibit 1 Proposed Action – Building Envelopes and Conservation Easement	Lot 1: 6500 Lot 2: 10500 Lot 3: 6000 Total: 10500 <b>Total: 4.7%</b>	Lot 1: 24771 Lot 2: 29300 Lot 3: 17129 Total: 71203 Total: 31.6%	Lot 1: 0 Lot 3: 0	Lot 1: 0 Lot 3: 0	NA	4.500	None proposed	141,277
Exhibit 1a Proposed Action - Buildings and Drives	Lot 1: 6500 Lot 2: 10500 Lot 3: 6000 Total: 22885 <b>Total: 10.2%</b>	Lot 1: 24771 Lot 2: 29300 Lot 3: 17129 Total: 71203 Total: 31.6%	Lot 1: 26785 Lot 3: 15200	Lot 1: 5484 Lot 3: 13286	Lot 1: 100 feet Lot 3: 100 feet	3.294	Lot 1: SW management facility Lot 3: SW infiltration facility	141,277
Exhibit 2 No Action / Existing Condition	Lot 1: 0 Lot 2: 10500 Lot 3: 0 Total: 10500 <b>Total: 4.7%</b>	Lot 1: 0 Lot 2: 29300 Lot 3: 0 Total: 29300 Total: 13.0%	Lot 1: 0 Lot 3: 0	Lot 1: 0 Lot 3: 0	NA	4.500	None proposed	0
Exhibit 2.a No Action / Potential Development without Planning Board Review	Lot 2: 23000 Total: 23000 <b>Total: 10.2%</b>	Lot 2: 71600 Total: 71600 Total: 31.8%	Lot 2: 35503	Lot 2: 14,708	Lot 2: 100 feet	3.344	Lot 2: SW management facility & SW infiltration facility	0
Exhibit 3 Two Lot Subdivision	Lot 1: 6500 Lot 2: 15000 Lot 3: N/A Total: 21500 <b>Total: 9.5%</b>	Lot 1: 24771 Lot 2: 46432 Lot 3: N/A Total: 71203 Total: 31.6%	Lot 1: 23780 Lot 2: 11420	Lot 1: 5090 Lot 2: 7625	Lot 1: 100 feet Lot 2: 100 feet	3.489	Lot 1: SW management facility Lot 2: SW infiltration facility	0
Exhibit 4 Four Lot Subdivision	Lot 1: 6500 Lot 2: 10500 Lot 3: 4000 Lot 4: 0 Total: 21000 <b>Total: 9.3%</b>	Lot 1: 24771 Lot 2: 29303 Lot 3: 17129 Total: 71203 Total: 31.6%	Lot 1: 24531 Lot 3: 16913	Lot 1: 5484 Lot 3: 13286	Lot 1: 100 feet Lot 3: 100 feet	3.294	Lot 1: SW management facility Lot 3: SW infiltration facility	141,277

**Table V.A.2 (part 1) Comparison of Proposed Action and Alternatives (updated for FEIS Comment V-E-1 & 2)**

Action or Alternative	Land Use		Soils	Topography and Slopes	Wetlands and Watercourses	Vegetation and Wildlife Habitat	Surface Water Resources and Stormwater Management	Area within Conservation Easements or Lots (sq. ft.)
	Development coverage (bldgs., walls, patios, decks, sheds, etc.) (sq. ft.)	Disturbed or cleared area (sq. ft.)	Area to be graded (sq. ft.)	Slopes >15% to be cleared or graded (sq. ft.)	Minimum distance from wetland to area of disturbance	Forested habitat to remain (acres)	Proposed Stormwater (SW) Management Practices	
Exhibit 5 Three Lot Subdivision	Lot 1: 6500 Lot 2: 10500 Lot 3: 0 Total: 17000 <b>Total: 7.5%</b>	Lot 1: 24771 Lot 2: 29303 Lot 3: 0 Total: 54074 Total: 24.0%	Lot 1: 24531 Lot 3: 0	Lot 1: 4837 Lot 3: 0	Lot 1: 100 feet	3.694	Lot 1: SW management facility	158,185

**Table V.A.2 (part 2) Comparison of Proposed Action and Alternatives for Potential Development**

<b>Action or Alternative</b>	<b>Lot Area (sq. ft.)</b>	<b>Building Envelope Area (sq. ft.)</b>	<b>Area Outside of Wetland Buffer (sq. ft.)</b>	<b>Allowable Floor Area* (sq.ft.)</b>
<b>Exhibit 1: Proposed Action – Building Envelopes and Conservation Easement (also Exhibit 1a)</b>				
<b>Lot #1</b>	106,996	11,907	29,532	7,974
<b>Lot #2</b>	52,051	N/A	N/A	14,054
<b>Lot #3</b>	66,115	6,695	18,570	5,014
<b>Exhibit 2: No Action / Existing Conditions</b>				
<b>Existing Lot</b>	225,162	N/A	N/A	60,794
<b>Exhibit 3: Two Lot Subdivision</b>				
<b>Lot #1</b>	106,996	N/A	29,532	28,889
<b>Lot #2</b>	118,166	N/A	18,570	31,905
<b>Exhibit 4: Four Lot Subdivision</b>				
<b>Lot #1</b>	28,842	11,907	28,842	7,787
<b>Lot #2</b>	36,473	N/A	N/A	9,848
<b>Lot #3</b>	18,570	6,695	18,570	5,014
<b>Lot #4</b>	141,277	N/A	0	0

Action or Alternative	Lot Area (sq. ft.)	Building Envelope Area (sq. ft.)	Area Outside of Wetland Buffer (sq. ft.)	Allowable Floor Area* (sq.ft.)
<b>Exhibit 5: Three Lot Subdivision</b>				
<b>Lot #1</b>	28,842	N/A	28,842	7,787
<b>Lot #2</b>	38,147	N/A	N/A	10,300
<b>Lot #3</b>	158,173	N/A	0	0

\*Local Law W 2016, which reduced the FAR in this zone from 0.35 to 0.27, was adopted by the Village Board on November 28, 2016.



**Comment V-E-3**

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

*14.n. Table V.A-2 should show total building coverage for the entire site for each alternative.*

**Response V-E-3**

*Table V.A-2 has been updated; Part 2 (previous page) was created to show building envelopes and floor area ratios by lot for the Proposed Action and each alternative. The floor area ratios adopted by the Village Board in Local Law W-2016 are included in the table.*

## VI. OTHER ENVIRONMENTAL EFFECTS

### A. Adverse Impacts that Cannot be Avoided

#### Comment VI-A-1.1

Barbara Novick: undated letter, sent to Planning Board September 6, 2012

*1.e. "In the DEIS section "Adverse Impacts That Cannot Be Avoided", there is no mention of the impacts to tree removal, wildlife displacement, or similar real impacts which gives us great concern about the level of the Applicant's sensitivity to these issues."*

Daniel S. Natchez & Associates: letter dated September 7, 2012

*2q. "The DEIS's concluding section, Adverse Impacts That Cannot Be Avoided, makes no mention of the impacts to tree removal, wildlife displacement and disturbance or similar very real impacts."*

*"Some of these impacts and mitigation are discussed within previous chapters of this document." (pg. 44) [pdf pg. 67] (Emphasis added)"*

*SI-70. "Issue: It would seem that all anticipated mitigation should be included. This implies that there is more that is not being disclosed."*

#### Response VI-A-1.1

*These project related impacts and the proposed mitigation measures designed to compensate for them have been identified and discussed within the body of the DEIS and FEIS text.*

### B. Irreversible and Irretrievable Commitment of Resources

*No comments received.*

### C. Use and Conservation of Energy

*No comments received.*

### D. Growth-Inducing Cumulative and Secondary Aspects

*No comments received.*

**VII. APPENDICES FROM DEIS****A. SEQR Documentation**

*No comments received.*

**B. Project Correspondence**

*No comments received.*

**C. Wetland Delineation Report**

*No comments received.*

**D. Stormwater Management Report and Pollutant Loading Calculations**

*No comments received.*

**E. Critical Environmental Areas and Former Taylors Lane Landfill Report****Comment AP-E-1**

Daniel S. Natchez & Associates: letter dated September 7, 2012

*SI-77. "Issue: What is the point of including the Taylors Lane landfill Report along with the CEA documents? Is the applicant trying to discredit once again the validity of the CEA designation? The fact that there have been past environmental abuses at another adjacent site should not suggest that environmental abuses should be allowed on the subject site, further compounding what may be existing stresses on these critical wetland areas. Having raised the issue of the Taylors Lane landfill, has the Applicant considered the potential for cumulative or reverse impacts?"*

**Response AP-E-1**

*The Applicant was asked, in the Final Scope of the DEIS, to provide a "[d]escription of...surrounding land uses within 1/4 –mile of the project site." In addressing this requirement, the background of the area was researched and a report for the Taylors Lane landfill was readily available online. Including the report was simply a matter of reporting information.*

**F. Erosion Control/Construction Sequence for Lot Development****Comment AP-F-1**

BFJ Planning, Village Planning Consultants: memo dated October 11, 2012

*14.o. The applicant discusses best management practices for sediment and erosion control (Appendix F) but should also discuss BMPs for traffic, noise and air quality impacts.*

**Response AP-F-1**

*No impacts to traffic patterns, noise, or air quality are anticipated for the proposed three lot subdivision.*

**G. Phase 1A Literature Review & Sensitivity Analysis & Phase 1B Archaeological Field Reconnaissance Survey**

*No comments received.*