

PUBLIC COMMENT
HAMPSHIRE COUNTRY CLUB PLANNED RESIDENTIAL DEVELOPMENT

DECEMBER 2017 DEIS -SUBMITTED VIA EMAIL

ADDITIONAL COMMENTS

RECEIVED March 15, 2018

THROUGH

April 4, 2018

65 03 15 2018 Hampshire CC WEIS Public Comment

66 03 19 2018 Hampshire CC KARELL Public Comment

67 03 19 2018 MEARA attachments:

1 Statement of Stephen L Kass

Attachment 67 03 19 2018 MEARA **attachment 2** Pro Forma Advisors Hampshire Country Club Nine Hole Golf Course

Attachment 67 03 19 2018 MEARA **attachment 3** Final Report of Lisa Liquori with Exhibits A G

Attachment 67 03 19 2018 MEARA **attachment 4** TYLI Hampshire DEIS Findings Memo

Attachment 67 03 19 2018 MEARA **attachment 5** CA Rich Consultants, Memo on Environmental Contamination Geology and Groundwater

Attachment 67 03 19 2018 MEARA **attachment 6** Statement of Christine Fazio

Attachment 67 03 19 2018 MEARA **attachment 7** Statement of Karen Meara with Exhibits 1through5

Attachment 67 03 19 2018 MEARA **attachment 8** Statement of Celia Felsner with Exhibit A

68 03 30 2018 Hampshire CC Traffic Commission Comments

69 04 02 2018 Hampshire CC GGOLDSTEIN Public Comment

70 04 02 2018 ANONYMOUS Hampshire Public Comment

71 03 29 2018 Hampshire CC GREENHAUS Public Comment

72 04 02 2018 Hampshire CC NEGRIN Public Comment

73 04 03 2018 Hampshire CC RSPATZ Public Comment

MAR 15 2018

Elene Spanakos Weis, Esq.
14 West Drive
Larchmont, NY 10538

BUILDING DEPT.

March 14, 2018

Planning Board
Village of Mamaroneck
Mamaroneck, NY 10543

Re: Written Comments
February 14, 2018 Meeting

Dear Ladies and Gentlemen:

I attended the Village of Mamaroneck Planning Meeting on February 14, 2018. I planned to speak but the list of speakers outlasted my babysitting deadline. Below are reasons in support of **rejecting** the application of the proposed development of the Hampshire Country Club in Mamaroneck.

I am a Town of Mamaroneck resident, in the unincorporated section and I attended the meeting to support the MUFSD. Our Community's pride and value structure is anchored by the reputation of our public schools. (NOTE: I consider our "Community" to be the entire Town of Mamaroneck including the unincorporated section, and the incorporated, Villages of Larchmont and Mamaroneck. Although, I understand that the 3 jurisdictions are separate legal entities.) It is my opinion (that is not shared by the MUFSD) that the MUFSD currently faces an overcrowding crisis that already compromises the quality of education. One of my children has 32 students in classes at Hommocks and other of my children have had upwards of 27 children in Murray Avenue Elementary School classes. (NOTE: This problem is not only a school specific problem based on empty nester flight. This is a MUFSD/Community problem. When MUFSD began to explode in size in 2011, MUFSD started to move the Pre-K program and the self-contained or co-teach special education classes to Central, Murray and Chatsworth to accommodate Mamaroneck Avenue School's growth and the smaller class size guidelines.) Since my assessed property taxes are no longer fully deductible, this school overcrowding is especially troublesome. It has diminished the quality of education by: creating space and budget constraints that drive the most critical curriculum and learning based decisions; and large class sizes overwhelm teachers and create classroom management problems that overlook the educational needs of the cooperative student population. This project, in any form, would send the existing overcrowding crisis into the abyss. A 55 and over community would not be helpful in abating this issue either as the last few empty nesters in our Community would move there and their houses would be bought by more families with multiple children.

School overcrowding is only one of the key reasons why this application should be denied. As outlined in the record of the meeting, the negative impact on the

ENVIRONMENT, ECOLOGY, LOCAL TRAFFIC, NOISE AND TRAFFIC IMPACT ON HOMMOCKS SCHOOL AND AIR QUALITY are all critical reasons to deny this application. However, the risk of flood is the one reason that requires an absolute denial from the VOM Planning Board.

Our Community has suffered from significant flood losses through the years. I was surprised to learn that the proposed plan involved the use of landfill to reach FEMA flood level requirements as well as disturb natural water flow patterns and wetlands. (See Attached Exhibit A for the applications, B and C, on articles for the 2007 Floods and Hurricane Sandy). Furthermore, as outlined in the NY Times article on New Orleans, and our recent March Nor'easters, super storms and flooding are only getting worse. (See Attached Exhibit D.) Three, the VOM is currently pursuing a Flood Mitigation Plan through the Army Corp. of Engineers to deal with flooding from the Mamaroneck and Sheldrake Rivers. (Exhibit E, attached press release) I am concerned that an application that significantly augments the VOM's flood profile would compromise Federal approval of existing flood risks. Four, phone cameras and social media have documented many people trapped in their homes with rising waters during and after super storms in recent years. In 1992, a man on Cove Road was swept away during the storm surge. (See Exhibit F, page 2 of Army Corp. of Engineers). I have grave concerns that this project significantly increases the risk profile for storm surges, in particular, loss of life and the safety of our first responders who will have to rescue residents. Finally, the *VOM Sea Level Rise and Flooding Paper*, dated February 2017, (Exhibit G, as attached) the VOM issued several recommendations to prevent flooding along the Sound. Such recommendations include planting native planting and RESTORING wetlands and the installation of berms to protect storm surge and sea level rise. The application as filed, involve the disturbance to wetlands including the disruption of surrounding environment and ecology that acts as a natural barrier to floodwaters. I am concerned that should this project move forward and flood losses occur as a result, the legal defense profile for VOM would have been significantly compromised by the publication and online availability of this Report (knowledge has been established).

The good news is that the Planning Board of the Village of Mamaroneck has the winning playbook in its possession. One of the premiere cases involving the zoning of recreation spaces is the Town of Mamaroneck and Bonnie Briar Case. The TOM successfully changed the zoning from residential to recreation with flood mitigation as one of the key arguments. (Exhibit H as attached.) Please note the attached article in the NY Law Journal on the legacy of this groundbreaking case. (Exhibit I).

After attending this meeting, I cannot imagine any justification to approve this application other than fear of litigation by Westport Capital. (Please see the above Town of Mamaroneck case where the Town ultimately prevailed in Court.) Westport Capital has one objective: to maximize profit from its investment as well as to satisfy its legal requirement to maximize profits for its investors. The Planning Board's objectives and obligations are thankfully, more socially redemptive. Our

entire Community applauds you for your leadership, courage, time and efforts in these challenging times.

Respectfully yours,

Elene Spanakos Weis

CC: Tom Murphy, Mayor, Village of Mamaroneck
Nancy Seligson, Supervisor, Town of Mamaroneck
Robert Shaps, Superintendent, MUFSD (without attachments)
Melanie Gray, President, Board of Education, MUFSD (without attachments)

Any questions -

917.363.7746

EXHIBIT A



Village of Mamaroneck Building Department

169 Mt. Pleasant Avenue

Mamaroneck, N.Y. 10543

914-777-7731 Fax 914-777-7792

www.village.mamaroneck.ny.us

Application # _____

Permit # _____

Flood Plain Development Permit Application

SECTION 1: GENERAL PROVISIONS

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit is invalid if no work is commenced within six months of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.

1. Project address:

1025 Cove Rd., a/k/a 1107 Cove Rd. N., Mamaroneck, NY 10543

Section	Below	Block	Below	Lot	Below	What year was your house built ?
---------	-------	-------	-------	-----	-------	----------------------------------

2. Owners name and address :

Hampshire Recreation, LLC

1025 Cove Rd., a/k/a 1107 Cove Rd. N., Mamaroneck, NY 10543

Section 9 Block 35, Lot 700, Block 36, Lot 1, Block 42, Lot 568, 659, & 367, Block 43, Lot 1, 12

E-Mail Address :

Phone #: 914-698-4610

3. Applicants name and address (Please print) :

Hampshire Recreation, LLC

1025 Cove Rd., a/k/a 1107 Cove Rd. N., Mamaroneck, NY 10543

E-Mail Address :

Phone #: 914-698-4610

4. Architect/Engineer name and address:

VHB

50 Main St., Ste. 360, White Plains, NY 10606

E-Mail Address :

Phone #: 914-467-6600

5. Contractor name and address:

TBD

License # :

Expiration date:

Phone #:

6. What is the cost of construction?

7. Description of work:

Planned residential development, including 105 residential units (44 single-family homes and 61 townhomes).

Structural Development (Please check all that apply)

- ☐ Repair/ Replacement ☒ New Structure ☒ Residential (1-2 Family) ☐ Demolition
☐ Alteration ☐ Addition ☐ Multi Family ☐ Non-Residential (Flood Proofing ?)

Other Development Activities (Please check all that apply)

- ☒ Grading Property (Up to 6" of Soil)
☒ Filling in Property ☒ Excavation (Except for Structural Development checked above)
☒ Water Course Alteration (including Dredging or Channel Modifications) ☒ Drainage Improvements
☐ Water or sewer system ☒ Road, Street or Bridge Construction ☒ Subdivision
☐ Other (Please Specify)

I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE)



DATE 6/26/15

SECTION 2:**FLOODPLAIN DETERMINATION (To be completed by LOCAL ADMINISTRATOR)**

The proposed development is located on FIRM Panel No. (Check the one that applies)

- | | | | |
|--------------------------|-------|--------------------------|--|
| <input type="checkbox"/> | 0351F | Dated September 28, 2007 | The proposed development is in or adjacent to a flood area. |
| <input type="checkbox"/> | 0353F | Dated September 28, 2007 | |
| <input type="checkbox"/> | 0354F | Dated September 28, 2007 | The 100 year flood elevation at this site is: _____ Ft. NAVD |
| <input type="checkbox"/> | 0361F | Dated September 28, 2007 | Is the proposed development located in a floodway? |
| <input type="checkbox"/> | 0362F | Dated September 28, 2007 | <input type="checkbox"/> Yes <input type="checkbox"/> No |

Signed

Date

SECTION 3:**ADDITIONAL INFORMATION REQUIRED (To be completed by LOCAL ADMINISTRATOR)**

The applicant must submit the documents checked below before the application can be processed:

- ☐ A site plan showing the location of all existing structures, water bodies, adjacent roads, lot dimensions and proposed development.
- ☐ Development plans and specifications, drawn to scale, including where applicable: details for anchoring structures, proposed elevation of lowest floor (including basement), types of water resistant materials used below the first floor, details of floodproofing of utilities located below the first floor, details of enclosures below the first floor, openings in
- ☐ Elevation Certificate
- ☐ Subdivision or other development plans (If the subdivision or other development exceeds 50 lots or 5 acres, whichever is the lesser, the applicant must provide 100-year flood elevations if they are not otherwise available).
- ☐ Plans showing the watercourse location, proposed relocations, Floodway location.
- ☐ Topographic information showing existing and proposed grades, location of all proposed fill.

☐ Top of new fill elevation _____ Ft. G NGVD 1929/ G NAVD 1988 (MSL)

☐ Other:

SECTION 4:

PERMIT DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

I have determined that the proposed activity:

A. ☐ Is

B. ☐ Is not

in conformance with provisions of Local Law # 8-1987. This permit is hereby issued subject to the conditions attached to and made part of this permit.

SIGNED _____, DATE _____

Additional
comments:

If BOX A is checked, the Local Administrator may issue a Development Permit upon payment of designated fee.

If BOX B is checked, the Local Administrator will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Local Administrator or may request a hearing from the Planning Board.

Variance Requested ☐ Yes
☐ No

Variance Approved ☐ Yes
☐ No

Conditions:

SECTION 5:

AS-BUILT ELEVATIONS (To be submitted by APPLICANT before Certificate of Compliance is issued)

The following information must be provided for project structures. This section must be completed by a registered professional engineer or a licensed land surveyor (or attach a certification to this application). Complete 1 or 2 below.

1. Actual (As-Built) Elevation of the top of the lowest floor, including basement (in Coastal High Hazard Areas, bottom of lowest structural member of the lowest floor, excluding piling and columns) is: _____ FT. G NGVD 1929/ NAVD 1988 (MSL).

Attach Elevation Certificate FEMA Form 81-31

2. Actual (As-Built) Elevation of floodproofing protection is _____ FT. G NGVD 1929/ G NAVD 1988 (MSL).

Attach Floodproofing Certificate FEMA Form 81-65

NOTE: Any work performed prior to submittal of the above information is at the risk of the Applicant.

SECTION 6:**COMPLIANCE ACTION (To be completed by LOCAL ADMINISTRATOR)**

The **LOCAL ADMINISTRATOR** will complete this section as applicable based on inspection of the project to ensure compliance with the community's local law for flood damage prevention.

INSPECTIONS:

DATE	BY	DEFICIENCIES ?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
DATE	BY	DEFICIENCIES ?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
DATE	BY	DEFICIENCIES ?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

SECTION 7:**CERTIFICATE OF COMPLIANCE (To be completed by LOCAL ADMINISTRATOR)**

Certificate of Compliance issued: DATE: _____

BY: _____

EXHIBIT B

Nor'easter Produced Worst Flooding in Local Memory

See More Photos: Nor'easter Slams Larchmont & Mamaroneck

by Judy Silberstein

(April 19, 2007) The April 15 nor'easter was the worst ever experienced by most residents and officials in Larchmont, Town of Mamaroneck and Village of Mamaroneck. "The worst suffering is coming from residents and businesses in the Village of Mamaroneck," said Town Supervisor Valerie O'Keeffe. There, flooded streets delayed firefighters from reaching a smoky fire at 243 Knollwood Avenue in Harbor Heights that ultimately claimed the life of 85-year-old Jacques Kirsch. (See:Obituaries.) Mayor Phil Trifiletti, touring the emergency shelter at Mamaroneck High School and shaken by the death of his neighbor from a few doors away, nevertheless noted, things could have been even worse.

Homes and stores inundated in the early March deluge were hit even harder this time. Damage spread to many more homes and businesses, with estimates of financial impacts running into the tens of millions of dollars. Among those hit twice were the Whittemores and others on Howard Avenue, many of whom had only recently completed renovations and returned home. Jim Whittemore was rescued by boat from his flooded second floor by Mamaroneck Village firefighters who battled the current for almost twenty minutes to reach him, according to Carolyn Whittemore, his mother.

Over 220 residents, many from low-lying Washingtonville neighborhoods, took shelter in the high school gym, where the Red Cross provided cots, blankets food and information. NY Governor Elliot Spitzer visited the center and reviewed the devastation along with state, county and local political leaders, who along with New York's representatives to Congress are requesting that President George Bush declare parts of Westchester a disaster area eligible for federal help.



Governor Eliot Spitzer surrounded by state, county and local leaders outside Mamaroneck High School, calls Mamaroneck the "epicenter" of the flooding and promised assistance.

"I hope they can help," said Randolph Scott, 49, who had grabbed a jitney to the high school after climbing out a window to escape from his basement apartment at Old White Plains Road and New Street. "I've lived in Mamaroneck thirty years and never

seen it as bad." Newly appointed Mamaroneck Village Trustee Tony Fava said he had five feet of water in his office at Waverly and Mamaroneck Avenue.

Up in the Harbor Heights section of Mamaroneck Village, the Mamaroneck River again overflowed its banks filling basements and ground floors of surrounding homes. "It's been dormant for 20 years," said Peggy Jackson, whose basement was completely submerged and ground floor got 8 feet of water. The neighborhood association she heads has been meeting for months with all levels of government, including the Army Corps of Engineers, to find "small, medium and giant fixes" to recently recurring flooding that they view as "part overdevelopment upriver and part weather cycle."

7 Inches and More of Rain

For this flood event, the weather received most of the blame. There was only so much officials and residents could do to contain or prepare for such heavy rain.

More than 7 inches of rain fell over 15 hours from noon on Sunday, April 15 to 3 am on Monday, according to estimates from Mamaroneck Town Administrator Steve Altieri. An email update from the Town said, "The equivalent of two months of rain fell in twelve hours. The heavy rains swelled local brooks and rivers releasing torrents of water throughout the Town." The water level at the Larchmont Reservoir had been dropped 114 inches below the spillway, but by dinner time Sunday, the water had risen and spilled over, "which was an incredible sight," said Mr. Altieri.

Especially hard hit in Mamaroneck Town were homes on East and West Brookside Drives. The "brook," a section of the Sheldrake River, flooded adjacent roads and homes causing Con Edison to shut off power to an area that included neighboring streets. More homes were flooded when their sump pumps lost power (a topic that consumed much of the public discussion at the Town Council meeting on Wednesday, April 18).

In Larchmont Village "people had flooding who have never had water," said Larchmont Deputy Mayor Marlene Kolbert, who was filling in as Mayor Liz Feld recuperated from a hospital stay for cardiac tests. (See: Mayor Hospitalized for Cardiac Tests; VOL Prepares for Storm.) Among the newly flooded were the Kolberts, who had water in their basement for the first time in thirty years.

Even some Pine Brook Drive residents in the lowest-lying block, who are more experienced with high water, were caught by surprise. Larchmont firefighters had to use a Zodiac inflatable boat offered by the Larchmont Yacht Club to reach and rescue people from a number of homes. "Firefighters motored it right up to the front door of several homes," said Deputy Fire Chief PJ Abrahamson.



An orange highlights the movement of two firefighters motoring an inflatable boat along Pine Brook Drive in Larchmont to rescue residents trapped by the high water. Photo by Joe Clifton.

Flint Park flooded, turning into a lake by midday Sunday, but the plot staked out by the Larchmont Board for its proposed artificial turf field remained dry, according to Joe Bedard, manager of Larchmont's Department of Public Works.

"One big problem we had was the flow of raw sewage," said Deputy Chief Abrahamson. Along Hall Avenue the pressure on the pipes was "blowing the sewer caps off basement traps," and allowing sewage to spill into houses. There were also cases where home heating oil mixed with sewage and rain water seeped into homes.

Hard to Believe, But It Could Have Been Worse

As bad as it was, officials in all three communities recognize it could have been worse.

Most of the flooding was as a result of intense, concentrated rain – rather than gale force winds and super high tides, as had been predicted. High tides did cause additional flooding in many neighborhoods, mostly by backing up the storm sewers, rivers and brooks that empty into Long Island Sound. But had the winds combined with the tides, there could have been much more damage, especially for homes right on the Sound.

"In the end, it wasn't really a coastal storm," said Deputy Mayor Kolbert. "The water only came a little over the seawall."

That said, the damage is severe and recovery will take many weeks. The deputy mayor along with officials in Mamaroneck Town and Village were advising residents, who were understandably eager to get started with cleanup, to first photograph and document their losses to help with private insurance claims and possible assistance from the Federal Emergency Management Agency (FEMA).



Geysers spouted out of overcharged sanitary sewers near Manor Park on Monday, April 16.

EXHIBIT C


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Hurricane Sandy Update: dangerous tides, coastal flooding; Evacuate near LI Sound

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Everyone is encouraged to be advised of the following dangerous tides and coastal flooding information excerpted from the National Weather Service website

Based on the information below, we anticipate additional possible flooding that is between three feet and five feet ADDITIONAL, ABOVE what was experienced at mid-day today, when much of the fields and park areas in Harbor Island Park were flooded

THE VILLAGE OF MAMARONECK HAS ISSUED AN EVACUATION ORDER FOR THE ORIENTA AND SHORE ACRES NEIGHBORHOODS THAT ARE SUBJECT TO TIDAL FLOODING

Source: National Weather Service

HISTORIC AND LIFE THREATENING COASTAL FLOODING EXPECTED THROUGH TUESDAY MORNING for SOUTHERN WESTCHESTER-NEW YORK .

345 PM EDT MON OCT 29 2012

COASTAL FLOOD WARNING REMAINS IN EFFECT UNTIL 3 PM EDT TUESDAY for LONG ISLAND SOUND

* TIDAL DEPARTURES . BETWEEN 6 TO 11 FT ABOVE TONIGHT INTO TUESDAY MORNING THE HIGHER END OF THE RANGE RELEGATED TO THE HISTORICALLY MOST VULNERABLE AREAS ALONG NEW YORK HARBOR .

WESTERN LONG ISLAND SOUND

* HIGH SURF OF 6 TO 12 FT WAVES ARE EXPECTED ALONG EXPOSED EASTERN AND NORTHEASTERN FACING PORTIONS OF LONG ISLAND SOUND THE DESTRUCTIVE WAVES ON TOP OF THE STORM SURGE WILL CAUSE OVERWASHES AND SIGNIFICANT DAMAGE TO COASTAL STRUCTURES NEAREST TO SEA LEVEL.

* TIMING THROUGH TUESDAY...WITH THE HIGHEST STORM TIDE OCCURRING WITH TONIGHTS HIGH TIDE CYCLE THE WORST IS EXPECTED AT AND AFTER 6 P.M THIS EVENING.

* IMPACTS . A HISTORIC AND LIFE THREATENING COASTAL FLOOD EVENT CONTINUES WITH MAJOR COASTAL FLOODING TONIGHT. AND ADDITIONAL COASTAL FLOODING EARLY TUESDAY MORNING

PROBABILITY IS HIGH FOR SIGNIFICANT INUNDATION AND DAMAGE TO STRUCTURES IN HISTORICALLY FLOOD PRONE SPOTS

PRECAUTIONARY/PREPAREDNESS ACTIONS

A COASTAL FLOOD WARNING MEANS THAT FLOODING IS EXPECTED OR OCCURRING COASTAL RESIDENTS IN THE WARNED AREA SHOULD BE ALERT FOR RISING WATER. AND TAKE APPROPRIATE ACTION TO PROTECT LIFE AND PROPERTY.

THE VILLAGE OF MAMARONECK HAS ISSUED AN EVACUATION ORDER FOR THE ORIENTA AND SHORE ACRES NEIGHBORHOODS THAT ARE SUBJECT TO TIDAL FLOODING


[Click here for weather forecast](#)

For more information view the National Weather Service website at www.weather.gov



EXHIBIT D

<https://nyti.ms/2sPhvLj>

The New York Times

U.S.

FORTIFIED BUT STILL IN PERIL, NEW ORLEANS BRACES FOR ITS FUTURE

In the years after Hurricane Katrina, over 350 miles of levees, flood walls, gates and pumps came to encircle greater New Orleans. Experts say that is not enough.

By JOHN SCHWARTZ and MARK SCHLEIFSTEIN FEB. 24, 2018

NEW ORLEANS — Burnell Cotlon lost everything in Hurricane Katrina — “just like everyone else,” he said.

When the flawed flood wall bordering his neighborhood here in the Lower Ninth Ward gave way in August 2005, the waters burst through with explosive force that pushed his home off its foundations and down the street. What was left: rubble, mud and mold.

Not far from his rebuilt home stands a rebuilt flood wall, taller and more solidly anchored in its levee than the old one. On the other side of that lies the canal whose storm-swollen waters toppled the old wall, letting Lake Pontchartrain spill into the neighborhood and then sit, more than 10 feet deep, for weeks on end. As an added shield, an enormous gate closes the canal off from the lake when storms approach. Similar gates can secure the city’s other major canals. In all, federal, state and local governments spent more than \$20 billion on the 350 miles of levees, flood walls, gates and pumps that now encircle greater New Orleans.

“I hope and pray that the money was well spent and it is a decent system,” said Mr. Cotlon, who opened the first grocery store in the still-recovering neighborhood in 2014.

This year, New Orleans celebrates its 300th birthday. Whether it will see 400 is no sure thing.

As Jean Lafitte and other vulnerable little towns that fringe the bayous plead for some small measure of salvation, New Orleans today is a fortress city, equipped with the best environmental protection it has ever had — probably the strongest, in fact, that any American city has ever had. Yet even the system's creators have conceded that it may not be strong enough.

The problem, in the argot of flood protection, is that the Army Corps of Engineers designed the new system to protect against the storms that would cause a "100-year" flood — a flood with a 1 percent chance of occurring in any given year. And that, experts say, is simply insufficient for an urban area certain to face more powerful storms.

"All along we knew that 100-year was somewhat voodoo math," said Garret Graves, a Republican congressman from Louisiana and former chairman of the state's Coastal Protection and Restoration Authority. Indeed, the corps has stopped calling its handiwork a hurricane protection system, opting instead for the more modest Hurricane & Storm Damage Risk Reduction System.

How that came to be is a story of money and politics and, perhaps, a degree of Louisiana fatalism. In simplest terms, though, it comes down to a mismatch between limited resources and limitless amounts of water.

If New Orleans is culturally and culinarily unique among American cities, it is also uniquely vulnerable: Half the city lies below sea level, and is sinking still, and the buffer of protective wetlands that can knock down the force of incoming hurricanes is eroding away.

Climate change threatens to make these problems far worse. The rising oceans will strengthen storm surges, and increased moisture in the atmosphere will add to the drenching rains that regularly overwhelm the city's aging drainage system. Scientists also suggest that a warming world will bring stronger hurricanes.

"Climate change is turning that 100-year flood, that 1 percent flood, into a 5 percent flood or a 20-year flood," said Rick Luettich, a storm surge expert and vice chairman of one of the New Orleans area's two regional levee authorities.

By that inexorable logic, the 500-year flood becomes a 100-year flood, and so on.

The corps itself has repeatedly acknowledged that the new system will not prevent future floods. “There’s still going to be a lot of people that will be inundated,” the corps’s former commander, the retired Lt. Gen. Robert L. Van Antwerp, warned as far back as 2009. In storms at 200- to 500-year levels, the corps has said, New Orleans could still suffer breaches like those experienced during Katrina.

As he ends his eight-year run at City Hall, the mayor, Mitch Landrieu, sounds as if he has a bit of the prophet about him. The combination of sea level rise, subsidence and coastal erosion, he said in an interview, poses an “existential threat” for New Orleans.

“What we should have done,” Mr. Landrieu said, “is build to a 10,000-year flood standard, which is what the Netherlands built to, and we didn’t, and that was for the country a monetary decision.”

Now, he fears, his city itself could join a variety of landmarks that, as a popular local song puts it, “ain’t dere no more.”

A DEVIL’S BARGAIN

The Army Corps spent nearly 50 years building the old hurricane protection system for New Orleans. More than 1,400 people died in the city when it failed. So in the aftermath of Katrina, Congress thought big.

Funding measures that passed beginning in late 2005 outlined a three-stage program for restoring a shattered and sodden New Orleans. The first step was to repair the broken levees and flood walls to what they were before the storm. At the same time, the corps would develop a plan to offer “interim protection,” that 100-year level, achievable within several years. Finally, Congress called on the secretary of the Army, who oversees the corps, to “consider providing protection for a storm surge equivalent to a Category 5 hurricane — a storm, that is, more powerful than Katrina.”

A range of experts consulted by the corps called for defense of that level or

higher. Indeed, a study by Dutch engineers found that central New Orleans needed protection against the kind of storm that might show up once in 5,000 years.

In the end, though, the interim level became the benchmark. One central factor was a congressional compromise reached during the George W. Bush administration that came to be known locally as the Devil's bargain. Under the deal, New Orleanians would remain eligible for federal flood insurance if the system could be brought up to the 100-year level — the protection needed for insurance eligibility in what the government defines as a flood zone. An insurance standard became a proxy for a safety standard.

Though the corps produced a 4,000-page report with a host of alternatives, it offered no recommended course of action. That, along with the financing, largely fell to the state. By 2012, the state's Coastal Protection and Restoration Authority had already issued two versions of its own master plan, the later one calling for Katrina-level or greater protection for New Orleans. But when the third plan was released in 2017, predictions for the effects of climate change had outstripped ambition: The seas were rising so fast, the authors concluded, that with its \$50 billion price tag for greater New Orleans and the south Louisiana coast, the hoped-for protection was out of reach. What's more, that much money might never become available.

Sidney Coffee, who led the state authority from 2005 to 2008, said the state had to balance the needs of the city with those of the rest of Louisiana. "The state has always wanted the best, the highest level of protection that could be afforded for New Orleans," she said.

Knowing that the new flood walls and earthen levees weren't high enough to stop a Katrina-like surge, the corps built in features intended to keep them standing, including erosion-fighting measures like concrete "splash pads" to prevent overflow from washing away supporting soil. Deeper pilings will help the walls stay upright. Gates to keep Lake Pontchartrain from pouring in should mean less water to pump out after a storm.

Because of measures like these, "what resulted from the design was much more like a 500-year system than a 100-year system," said Ed Link, an engineering professor at the University of Maryland who led the corps-sponsored investigation of the levee failures in Katrina. With an emphasis on improving evacuation protocols, even supplying transportation for pets, fewer deaths are

expected during the next Katrina.

But the flooding could still be severe — during a 500-year flood, as much as five feet deep in the half of the city that sits below sea level. In August, a thunderstorm dumped between six and nine inches of rain over parts of the city within a three-hour period, overwhelming antiquated pumps — some dating to 1912 — and causing extensive flooding. Updating the drainage system will cost at least \$1 billion through 2026, and perhaps much more.

CHALLENGES AHEAD

One of the most spectacular features of the city's new defenses is a 1.8-mile-long wall that cuts across wetlands at a corner of Lake Borgne, east of the city. It stands 26 feet above the water line and cost \$1.1 billion. Its support piles reach more than 100 feet into the muck of the lake. Its top is crenelated like a castle wall.

And it illustrates how, in many parts of New Orleans, upgrading further is not feasible.

The wall was designed for a 100-year storm, with some extra height to compensate for subsidence and estimated sea level rise over 50 years. But at this location, Katrina sent a far stronger surge.

There is no easy fix. While earthen levees can be raised by adding dirt, raising the wall even higher would be impractical, said Robert Turner, director of engineering and operations for the regional levee authority that operates the barrier. A cap of an additional foot could be built, he said, but “if you try to go higher than that over time, you can stress the pile foundations that hold this barrier in place.”

To many local officials, 500-year protection is a fantasy. Susan Maclay, the head of the levee authority for the New Orleans-area communities on the west bank of the Mississippi River, said that finding the money to maintain the current system was daunting. The financially squeezed state government, too, is searching for a way to pay its share of the hurricane protection system — \$100 million a year for the next 30.

“You’re so focused on killing the snakes right in front of you that you can’t, it’s just not feasible, to think beyond the immediate problem,” Ms. MacLay said.

All the while, the rest of the state is waiting for its own 100-year protection.

“It’s difficult to sell, on the state level, elevating New Orleans protection to 500 when you have places such as Jean Lafitte, Terrebonne Parish, Houma, New Iberia and other places that have zero level of protection, or at best 10-year protection,” said Jerome Zeringue, a state representative. New Orleanians, he said, “should lessen their expectations.”

The rest of the nation, too, awaits a higher level of protection from the effects of climate change: Major cities like New York and Miami, but also smaller communities like Galveston, Tex., want costly projects of their own. “The rest of the coast, and the rest of the country, needs help,” said Col. Michael Clancy, commander of the New Orleans district of the corps.

Still, more must be done, said Mr. Graves, the Louisiana congressman. The projects to protect the state so far are tremendous, but what is to come will have to be “tremendouser,” he said, adding, “People say we can’t afford to do this — I would say we can’t afford not to.”

Repairing hurricane damage is always far more expensive than providing protection. Katrina cost between \$120 billion and \$150 billion, Mr. Graves noted. The new system has already saved hundreds of millions of dollars in smaller storms like Hurricane Isaac in 2012. “When a big one comes,” he said, “that project will pay off multiple times over.”

New Orleans residents like Artie Folse hope that is true. But Mr. Folse is also wary. His house near Lake Pontchartrain had to be rebuilt from the studs up after Katrina. If the next storm overwhelms the city’s defenses, he said, “I can’t do it again.”

Follow John Schwartz and Mark Schleifstein on Twitter: @jswatz and @MSchleifstein.

Sara Sneath of NOLA.com | The Times-Picayune contributed reporting.

Designed and produced by Danny DeBelius.





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EXHIBIT E

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SCHUMER, GILLIBRAND, ENGEL: MAMARONECK RESIDENTS ARE AT SEVERE RISK OF THEIR HOMES & BUSINESSES BEING FLOODED YET AGAIN; AS REPORT SITS ON ARMY CORPS' DESK, REPS URGE IMMEDIATE REVIEW AND APPROVAL TO REDUCE FLOODING RISK FROM THE MAMARONECK AND SHELDRAKE RIVER BASINS

In 2007, A Nor'easter Storm Produced Record Flooding In and Near The Village Of Mamaroneck, Causing Loss of Life, Costing Millions In Damages And Forcing Close To 40% Of Residents To Seek Evacuation Assistance; Reps Say Residents In Mamaroneck And Sheldrake River Basins Remain At Risk To Severe Flooding

Approving Army Corps "Chief's Report" On The Flood Risk Management Is A Key Step In Addressing Flooding, But Is Being Held Up By Bureaucratic Red Tape; Reps Call On Army Corps To Do Its Part And Review And Sign The Report To

Move Project Forward Quickly For The Village Of Mamaroneck

Schumer, Gillibrand, Engel: Red Tape Delaying Protection of Mamaroneck Homeowners From Future Floods

U.S. Senate Minority Leader Charles E. Schumer, U.S. Senator Kirsten Gillibrand, and U.S. Representative Eliot Engel today urged the U.S. Army Corps of Engineers (USACE) to swiftly review the Chief's Report on the flood risk management for the Mamaroneck and Sheldrake River Basins in the Village of Mamaroneck, New York. The federal representatives said that without progress on this project residents and business owners in the area remain at risk to severe flooding. The federal representatives said the area has already suffered loss of life and serious damage due to floodwaters from the Mamaroneck and Sheldrake River Basins. In 2007, over \$50 million worth of damage was done by a nor'easter storm floods. The storm resulted in loss of life, displaced thousands of residents and caused severe damage to the Village's infrastructure. Senators Schumer and Gillibrand and Representative Engel said the Chief's Report must be promptly reviewed and signed so the project may move to the authorization phase. Schumer, Engel, and Gillibrand said a swift review of this project will help ensure continued commitment to the lives and safety of the residents of the Village of Mamaroneck, New York.

"Making sure the Village of Mamaroneck is protected from future flooding is critical for public safety and property preservation of homes and businesses," said **Senator Schumer**. "Floods have hammered this area before and we can't wait another year before we implement a better flood protection plan for the whole community, which is why we need Army Corps to promptly review and approve this plan. The Army Corps signing this report is essential to saving lives and protecting the Village of Mamaroneck from the storms of the future."

"It is critical that the Army Corps of Engineers immediately approve the report that will allow Congress to authorize the flood risk management project for the Village of Mamaroneck," said **Senator Gillibrand, a member of the Senate Environment and Public Works Committee, which oversees the Army Corps of Engineers**. "The lives and livelihoods of New Yorkers are at stake, and we must be proactive in ensuring that these heavy storms do not create yet another disaster. The Village Of Mamaroneck has suffered enough loss, and it is unacceptable to wait any longer to take action. I will continue to urge the Army

Corps of Engineers to take this first step in ensuring that the Mamaroneck and Sheldrake River Basins are guarded against future flooding, and will work to ensure that this project is authorized by Congress in the next Water Resources Development Act.”

“Flooding in Mamaroneck has caused hundreds of millions of dollars in damages and tragically taken the lives of two of our citizens. I have seen the heartbreak and loss experienced by residents of the community, and I have witnessed their hard work to recover and rebuild,” said **Rep. Engel**. “After I testified before the Army Corps in March, I was pleased to see that its Civil Works Review Board advanced the Mamaroneck and Sheldrake Flood Risk Management Study, and now it’s time for the Army Corps to approve the final Chief’s Report to enable this project to move forward. This plan is technically feasible, environmentally appropriate, economically justified, and absolutely necessary.”

Senators Schumer, Gillibrand, and Representative Engel said the vital project which seeks to reduce flood risk for the Mamaroneck and Sheldrake River Basins and thus protect residents and business owners will include the construction of retaining walls and a diversion culvert. The project would also enable the deepening and widening of river channels, structure elevation, and the removal/replacement of 2 vehicular bridges that constrict flood flow. The recommended plan is estimated to reduce average annual damages by approximately 87 percent and will help reduce the risk of loss of life. Schumer, Gillibrand, and Engel said it is vital that once the report has been reviewed, it is promptly signed so that it can go to the next step wherein Congress can act to authorize and fund this project.

Senators Schumer, Gillibrand, and Representative Engel explained in April 2007, a nor’easter storm produced record flooding in the Village of Mamaroneck, equivalent to the one percent flood event. The 2007 event caused over \$50 million in damages and impacted over 50 percent of total structures within the study area. The storm resulted in floodwaters peaking on the Mamaroneck River in approximately four hours and in approximately six hours on the Sheldrake River. As such, the evacuation time for approximately 19,000 residents in the Village of Mamaroneck was severely restricted and created a high-risk situation. Over 40 percent of Mamaroneck residents required evacuation assistance prior to floodwaters peaking including a large population of children that attended a school located within the epicenter of the severe flooding. However, this was not the only flood event in the basin. Additionally, two deaths have occurred as a result of flooding in the project area in the last 25 years, most recently in 2007.

A Copy of Schumer, Gillibrand, and Engel's Letter Appears Below

Dear Lt. Gen. Semonite:

We write to urge you to promptly review the U.S. Army Corps of Engineer's Chief's Report on the flood risk management for the Mamaroneck and Sheldrake River Basins in the Village of Mamaroneck, New York. As you know, it has been recommended to authorize a plan to reduce flood risk through the construction of retaining walls and a diversion culvert, the deepening, and widening of river channels, structure elevation, and the removal/replacement of 2 vehicular bridges that constrict flood flow. The recommended plan is estimated to reduce average annual damages by approximately 87% and will help reduce the risk of loss of life. It is our hope that once the report has been reviewed, you will promptly sign and recommend the plan to reduce flood damage in the Village of Mamaroneck for Congress to authorize and fund the project.

In April 2007, a Nor'easter storm produced the flood of record for the Village of Mamaroneck, equivalent to the one percent flood event. The 2007 event caused over \$50 million in damages and impacted over 50 percent of total structures within the study area. A one percent flood event, the storm's resulted in floodwaters peaking on the Mamaroneck River in approximately four hours and in approximately six hours on the Sheldrake River. As such, the evacuation time for approximately 19,000 residents in the Village of Mamaroneck was severely restricted and created a high risk to life safety. Over forty percent of residents required evacuation assistance prior to floodwaters peaking including a large population of children that attend a school located within the area of the most severe flooding. However, this was not the only flood event in the basin. Two deaths have occurred as a result of flooding in the project area in the last 25 years, most recently in 2007.

We urge you to ensure the Chief's Report on the flood risk management for the Mamaroneck and Sheldrake River Basins is promptly reviewed and signed so the project may move to the phase where Congress can act to authorize and fund this project. As you know, a final Chief's Report must be approved in order for this project to move forward. A swift review of this project will help ensure continued commitment to the life safety of the residents of the Village of Mamaroneck, New York. Should you have any additional questions, please do not hesitate to contact our offices.

Sincerely,

Charles E. Schumer
United States Senator
Kirsten Gillibrand
United States Senator
Eliot L. Engel
Member of Congress

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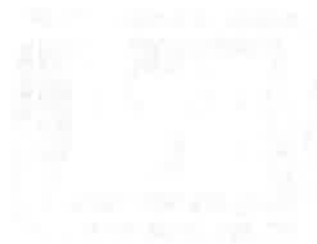
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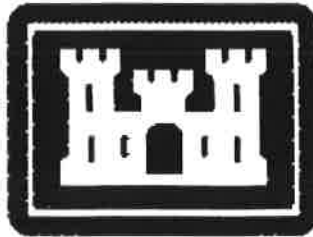
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EXHIBIT F



FLOOD RISK MANAGEMENT
GENERAL REEVALUATION REPORT
&
ENVIRONMENTAL IMPACT STATEMENT
FOR
THE VILLAGE OF MAMARONECK
MAMARONECK & SHELDRAKE RIVER BASINS
NEW YORK

FINAL REPORT



US Army Corps of Engineers
New York District

APRIL 2017

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**DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK NY 10278-0090**

EXECUTIVE SUMMARY

A severe flood risk persists in the Village of Mamaroneck based on the frequent recurrence of flood events and the associated damages sustained. The largest floods of record resulted from the storms of October 1955, June 1972, September 1975 and April 2007. In addition, there have been 19 other significant flood events from July 1889 to present. Extensive damages and loss of life have occurred during these major flood events. Damages within the Mamaroneck and Sheldrake River Basins for the June 1972 and September 1975 floods alone amounted to approximately \$18,000,000 and \$92,000,000, respectively, based on conditions of development at the time and October 2016 price levels. The flood waters from these storms inundated large areas of industrial, commercial and residential property in the Village of Mamaroneck.

There are over 700 structures in the study area, of which approximately 75% are residential. The area is fully developed and urbanized and because of its close proximity to NYC, is a commuting hub for the workforce in the region. Both rivers run along the two major transportation corridors that cross the Village of Mamaroneck: I-95 and the Metro-North Railroad, operated by the Metropolitan Transportation Authority (MTA). I-95, also known as the "New England Thruway," is the major highway between New York City and Boston and is the busiest transportation corridor in the Northeast. Regional access is provided by Metro-North Railroad commuter rail service and is a major commuter rail line, which is located near the confluence at Columbus Park. This line is known as the busiest commuter line in the nation. Access to the train station and I-95 is cut-off during storm events.

The April 2007 storm was a nor'easter that caused flood damage to over 300 residential and 100 commercial structures and disrupted the lives of thousands of people and was equivalent to the 1% flood event with estimated damages of well over \$50,000,000. Floodwaters peak on the Mamaroneck River in approximately 4 hours and in approximately 6 hours on the Sheldrake River during the 1% flood event. The resident's evacuation time is severely restricted leading to high risk to life safety. Four hundred fifteen (415) repetitive FEMA Flood Insurance Claims in the Village of Mamaroneck have been recorded prior to the April 2007 flood. Repetitive claims are the result of long-time residents being unable or unwilling to move out of the flood risk area due to lack of real estate opportunities that are affordable. During the September 1992 flood, one person drowned when the car he was traveling in was swept away in the floodwaters while attempting to evacuate. Additionally, during the April 2007 flood, a person died in a house fire because flood waters prohibited emergency vehicles from responding to the person's home to provide emergency and medical care.

The Red Cross estimates indicated that more than 200 people were evacuated in the Village of Mamaroneck during the September 1975 flood. Additionally, several police, fire, schools, daycare, and senior care facilities are located within the 1% floodplain. With the rapid rate of rise of floodwaters, warning and evacuation activities are severely limited adding to the already high risk to life safety to residents and emergency responders. Flooded roadways pose significant life safety risks by impeding access for emergency vehicles and impeding travel to safety. Flood waters can elevate up to a depth of 8-10 feet, as recorded during the April 2007 flood, within 4-6 hours which leave evacuation, transportation, and



emergency services extremely limited, if not impossible. This is well represented by the two deaths that have already occurred. Based on the rapidness that disruptions occur, transportation and business disruptions are also devastating. Evacuation of schools, daycares, hospitals and senior care centers are at the greatest risk to an already vulnerable population because of impacted transportation that is located within the impacted area. The threat to life safety is realized while attempting to evacuate or during the height of the flood event because of the rapidness that the damaging flood waters rise.

Study Background

Originally, on November 17, 1986, a plan for flood risk management in the Village of Mamaroneck was authorized for construction in Section 401(a) of the Water Resources Development Act (WRDA) (PL 99-662, 99th Congress, 2nd Session). The 1989 GRR which recommended channel modification, constructing retaining walls, replacing six bridges, removing one bridge, and a diversion tunnel from Fenimore Road to the west basin of Mamaroneck Harbor. The 1989 GRR was recommended at an authorized cost of approximately \$68,500,000 (\$160,000,000 at October 2016 price level) but was never constructed. The 2017 GRR NED plan first cost is approximately half of the cost of the plan authorized in WRDA 1986 recommended in the 1989 GRR while providing the same project purpose and environmental outputs. The NED plan would save the federal government, non-federal partners and the local taxpayer appreciable funds for project implementation while producing the same outputs.

Recommendations

The plan recommended for construction in the 2017 Final GRR is the National Economic Development plan (NED plan) which consists of over 7,500 linear feet of channel modification work along the Mamaroneck and Sheldrake Rivers, with various channel widths and depths within the Village of Mamaroneck.

The river would be realigned at the confluence with a 25 foot wide by 8 foot high, 390 foot long culvert that would be located under the railroad station parking lot to alleviate the poor channel alignment. Trapezoidal channel improvements would consist of a natural bed channel of sloped or pitched vegetated banks. Retaining walls would be constructed in those areas where the trapezoidal channel cannot be constructed, typically where buildings, roads or other features may be affected. The channel bottom would remain natural except in the location of the Station Plaza Bridge, which currently has a concrete bottom where it crosses the Mamaroneck, and the Halstead Avenue Bridge.

Removal and replacement of existing retaining walls and utilities would be necessary along the length of the channel including Waverly Avenue Bridge and Ward Avenue Bridge. Several small bridges would be removed, including Center Avenue Bridge and two footbridges in Columbus Park, which would be replaced. In addition to channel modification along both rivers, the NED plan would have a nonstructural component along the Mamaroneck and Sheldrake rivers that includes structure elevation, ringwall levees, and/or floodproofing.





Summary of the NED Plan

NED Plan Costs and Benefits

The first cost (the present value of implementation not including inflation) for the NED plan proposed in this reevaluation totals **\$82,252,000** (October 2016 price level). The fully funded cost of **\$93,739,000** is calculated at October 2016 price level and escalated to the midpoint of construction (March 2023), at a 2.875% interest rate and is the basis of the cost share in the Project Partnership Agreement (PPA). The cost share analysis for this project is 65 percent Federal and 35 percent non-federal. The non-federal cost share includes 100% of the cost of the estimated lands, easements, right-of-way, relocations, and disposal



(LERRD) requirements. The non-federal sponsor is the New York State Department of Environmental Conservation (NYSDEC). The Federal share of the project's first cost is **\$53,464,000** the non-Federal share is **\$28,788,000**.

The federal government would design the project, prepare detailed plans/specifications and construct the project, exclusive of those items specifically required of the non-federal sponsor. The non-federal sponsor is responsible for all lands, easements, right-of-ways, and relocations and disposal areas (LERRD) costs and all operation, maintenance, replacement, repair and rehabilitation (OMRR&R) costs. The LERRD costs are applicable to the non-federal share of the initial project costs. For example, the approximate LERRD costs of **\$19,145,000** borne by the non-federal sponsor are applicable to the **\$28,788,000** share of non-federal project costs. The 5% minimum cash requirement by the non-federal sponsor is calculated from structural plan costs only.

Cost Apportionment	
Federal Project Cost (65%)	\$53,464,000
Non-Federal Project Cost (35%)	\$28,788,000
Lands & Damages	\$5,001,000
Relocations	\$14,144,000
5% Cash Requirement	\$3,976,000
Cash or In-Kind Service balance	\$5,667,000
Project First Cost*	\$82,252,000
*Does not include OMRR&R and IDC¹	

Calculated at October 2016 price level 2.875% interest rate

Financial Analysis

The October 2016 first cost as noted above is \$82,252,000. The fully funded cost is \$93,739,000 (escalated to the midpoint of construction – March 2023). Annual costs are approximately \$3,646,500 and annual benefits are \$3,820,500 with a benefit to cost ratio (BCR) of approximately 1.05 which yields total annual net benefits of about \$174,000 for the NED plan.

NED Plan Economic Summary	
	NED Plan
Total Annual Benefits	\$3,820,500
Total Annual Costs	\$3,646,500
Net Benefits	\$174,000
BCR	1.05

Calculated at October 2016 price level and 2.875% interest rate

¹ Interest during construction



Non-Federal Responsibility

The non-federal sponsor is the cost share partner for design and construction. During the construction phase of the project, the non-federal sponsor would acquire all LERRD detailed herein. Upon construction completion the non-federal sponsor would be responsible for the operation, maintenance, replacement, repair and rehabilitation (OMRR&R) of the project.

Consideration of future work after construction that may be proposed by the non-federal sponsor on or near the Mamaroneck River and Sheldrake River, must comply with the intent, goals and objectives of the NED plan. Modification to structures by others (such as bridges) that currently exist within the project alignment must be submitted for approval to USACE to ensure that the functionality of the project is not compromised. Further, the functionality of the project due to modifications may affect the non-federal sponsor's ability to submit a request to FEMA for revisions to the Floodplain Maps for the study area.

Environmental Analysis

The GRR report includes an environmental analysis documented in detail in an accompanying Environmental Impact Statement (EIS) conducted under the National Environmental Policy Act (NEPA). The NED plan, based on the optimal plan for flood risk management in the Mamaroneck and Sheldrake River Basins as detailed in the GRR and based on NED plan criteria, will result in an overall long-term benefit to natural resources and inhabitants of the area and region due to the substantial reduction in flood risk that will be realized.

The impacts, which are expected to have negligible cumulative effects overall, are primarily associated with sedimentation, dust and waste generated by rock excavation, the clearing and grading of construction and staging sites, and other channel modifications. In addition, the channel improvements will have long-term beneficial effects on flood-induced stream channel erosion and streambed scour.

Short-term impacts to native fish and wildlife populations within the area will be limited to the construction period. No rare, threatened, or endangered species or their critical habitat will be adversely affected by the NED plan. Impacts to vegetation resulting will be minimized and mitigated by replanting of the riparian areas to pre-construction conditions, to the maximum extent feasible.

Mitigation for adverse effects to historic properties, the Ward Avenue Bridge, Metro-North Railroad Bridge, and the stone retaining walls thematic district, will include consideration of incorporation of these elements into the NED Plan and the documentation of these resources

Summary

The primary opportunity presented in the 2017 GRR is the potential to reduce future damages to property and to decrease risks to life safety. Damages to property from such storm events present a significant risk to public health and life-safety. If storm risk management measures can be incorporated, then damage to property and loss of life may be effectively reduced and even avoided. This GRR reevaluates the studies performed for the 1977 Feasibility Report and the 1989 General Design Memorandum (1989 GDM) as well as identifies and affirms federal interest in a solution for flooding in the Village of Mamaroneck.



EXHIBIT G



Sea Level Rise and Flooding Village of Mamaroneck



Village of Mamaroneck Planning Department

Assistance provided by Westchester
County GIS

February 2017

Planning.VillageofMamaroneck.org

Prepared by Greg Cutler, Assistant Village Planner

Introduction

The Village of Mamaroneck is a coastal village with approximately 9 miles of coastline along the Long Island Sound, the majority of which is developed. As global warming occurs and arctic ice sheets continue to melt, our oceans will continue to rise. This will be disruptive to coastlines throughout the globe, including the coastline in Mamaroneck.

The Village has a diverse mix of uses along its coastline, including water-dependent uses such as boatyards and water-enhanced uses such as recreational facilities to residential and private club facilities. As sea level rises the Village will face ever-increasing economic risks to these vital assets. As a community with a Local Waterfront Revitalization Plan (LWRP), the Village has made its coastal character a priority by implementing long-term policies that preserve and enhance the quality of Mamaroneck as a waterfront community.

This report will act to supplement the Village in its long-range planning framework with respect to sea level rise by outlining several probable scenarios. Scenarios that will be assessed include expected impacts related to strictly sea level rise as well as expected impacts from sea level rise coupled with 100 year and 500 year flood events. These scenarios will look at properties that will be impacted at 1, 3, and 6 feet of sea level rise. In each scenario the economic risks will be outlined in 2017 dollars based on the most recent assessment numbers by the Town of Mamaroneck and Town of Rye. This report will also consider the most recent scientific modeling with respect to projected time frames. Lastly, this report will outline several recommendations to increase coastal resiliency and mitigate the expected impacts of sea level rise.



Sea Level Rise Scenarios

Utilizing NOAA sea level rise data the Planning Department assessed impacts on buildings and sewer infrastructure at 1, 3, and 6 feet of sea level rise. The map below details the locations of buildings that will be directly impacted by sea level rise. Utilizing the most recent assessment data provided by the Town of Mamaroneck and Town of Rye the total economic impact sea level rise is outlined in the table below.

Sea Level Rise	Total Buildings Value	# of Structures	Acres	% of Total Landmass Lost	Timeline
1 Foot	\$5,613,900	8	42	2%	NYSERDA Model: 2050s Rapid Ice Melt: 2030s
3 Feet	\$26,791,100	34	96	5%	NYSERDA Model: 2080s Rapid Ice Melt: 2060s
6 Feet	\$181,059,050	248	330	17%	NYSERDA Model: Past 2100 Rapid Ice Melt: 2090s

*Buildings were joined to assessment data for entire property, value represents amalgamated value of buildings on a lot. Value of tax exempt structures not represented.

Even at just one foot of sea level rise the Village faces a substantial risk to \$5.6 million in residential and commercial assets. At three feet of sea level rise the Village faces a potential loss of up to \$26.8 million and 5% of total landmass as early as the 2060s. At six feet of sea level rise the Village faces a total risk of up to \$181 million in residential and commercial assets, as early as the 2090s according the rapid ice melt scenario. This represents a loss of 17% of the Village's landmass and over 30% of the landmass below Boston Post Road. Loss of property of this magnitude will certainly impact the Village's overall budgeting over the long term. While sea level rise is a slow moving phenomenon the Village should consider implementing policies and capital improvements that will begin to address sea level rise now in an effort to protect property and quality of life. The investment in protective measures is justified in light of the potential costs. Further analysis is warranted to assess the costs and benefits of raising or replacing seawalls along Village owned properties. As noted in the LWRP the Village should also explore options for implementing native plantings and restored wetlands adjacent to or in place of new seawalls. This could be beneficial to both water quality and as a mitigating factor against wave action during storm events. The Village has worked with Westchester County Planning to restore a natural habitat and remove a portion of the seawall along the West Basin of Harbor Island Park and could continue this work up the coastline.

Recommendations

1. Repair and replace failing seawalls with new higher walls. The useful life of the seawall should incorporate accepted NYS sea level rise projections and build to them. For instance if the useful life of a new seawall is 60 years it should be built to accommodate three feet of sea level rise. Given the historic nature of the Village's seawalls, particularly those along the shore in Harbor Island



Coastal Flooding in Harbor Island Park

Park, efforts should be made to reinforce and raise seawalls rather than replace entirely. This approach may have the added benefit of reduced costs. Repair and reinforcement of sea walls will not only benefit Village parkland but also serve to protect the Westchester County Treatment Plant located adjacent to Harbor Island Park. The treatment plant will be subject to inundation at 6 feet of sea level rise. To that end the Village may consider a partnership with Westchester County to improve resiliency near the treatment plant.

Precedent: Seawalls are used in the Netherlands to protect inland areas from flooding and sea level rise.

2. Plant native plantings and restore wetlands where possible. Wetlands serve not only as vital habitats for the diverse ecology of the Long Island Sound, but also serve to lessen wave action during coastal storm events. Native plantings work to stabilize the shoreline by preventing and slowing erosion while also filtering pollutants out of the water.
3. Begin tracking sea level rise at Harbor Island Park to inform future projections using high-accuracy locally derived data.
4. Reduce local contributions to carbon emissions through energy reduction programs.



Harbor Island Wetland Restoration

5. Explore ways to address sea level rise along privately owned areas of the shoreline, through either code requirements or incentives.
6. Permit the raising of homes to heights that incorporate expected sea level rise. Current freeboard requirements of two feet above base flood elevation work towards that goal, but may need to be revisited as the sea rises. Concurrently, the Village should consider revising height limits to measure height from the base flood elevation.
7. Consider installation of vegetated berms to protect from both storm surge and sea level rise. Berms may also serve a secondary purpose of increasing public access to the waterfront.
8. Explore the use of other structural interventions including automated flood walls that retract to maintain view sheds.

Precedent: Both berms and automated flood walls are proposed under New York City's Big U project to mitigate flooding and sea level rise impacts on Lower Manhattan.



9. Raise or relocate critical infrastructure such as pump stations and force mains in areas that are expected to be inundated.
10. Raise or relocate facilities (managed retreat).

Precedent: The City of Beacon recently moved a proposed project on city-owned properties further uphill in recognition of SLR.

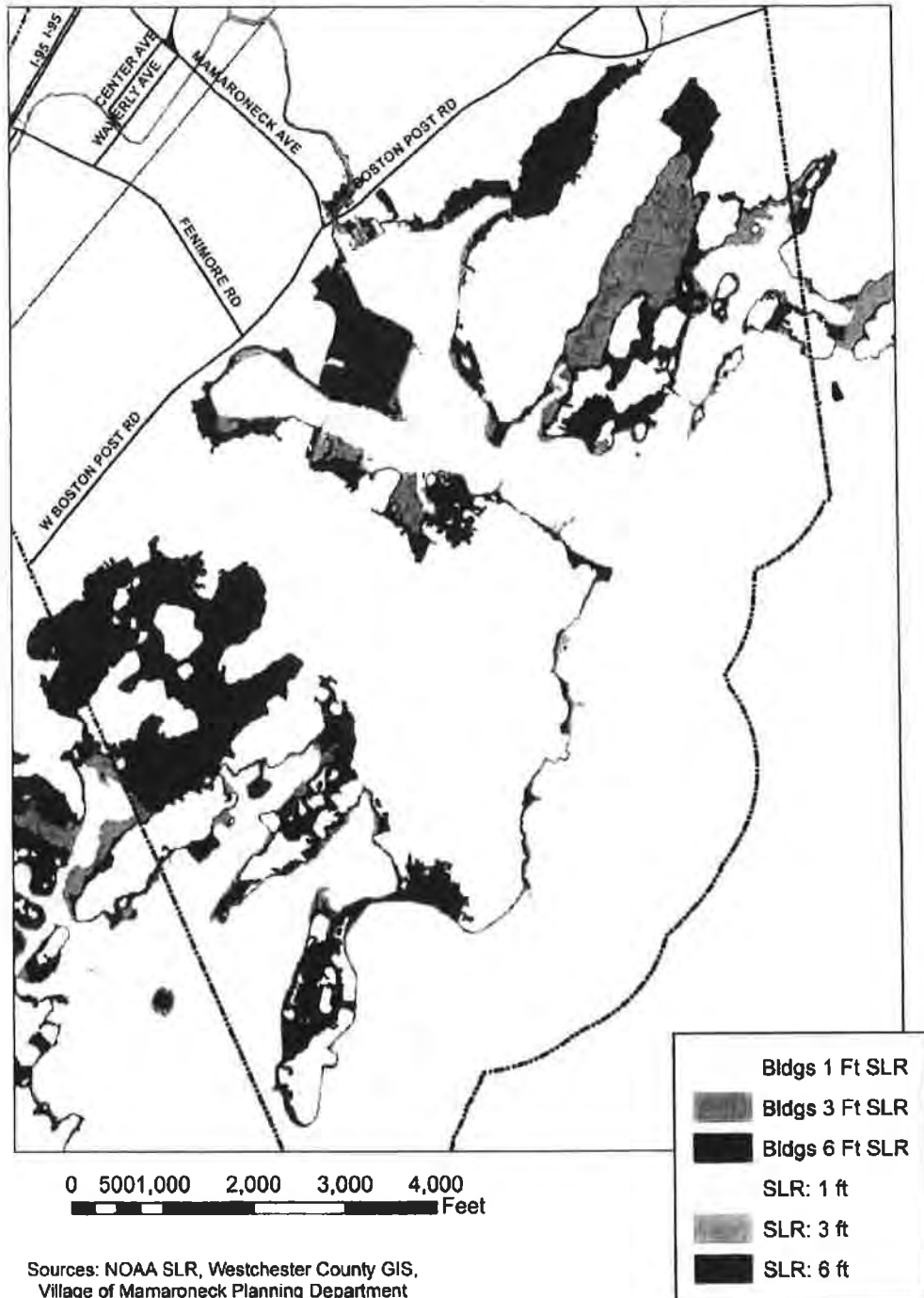
NYSDA SLR Model Use Disclaimer: This electronic tool provides estimated projections of the potential impact of future sea-level rise and storm surge on inundation and coastal flooding that could occur in portions of New York State. The estimated projections of future sea level are based on the best available scientific information but have large uncertainties and are subject to change as the state of the science evolves. The values do not reflect the likelihood of changes in climate or sea level.

This tool is intended to be used only as a screening-level tool to consider potential policy responses to sea-level rise and coastal flooding. It is not intended for, nor suitable for, navigation, site-specific analysis for permitting or other legal purposes. The data and maps in this tool are provided "as is," without warranty to their performance, merchantable state, or fitness for any particular purpose. There is no warranty that access to content will be uninterrupted or error-free; that content will be virus-free; or that content will be complete, accurate, or timely. The entire risk associated with the results and use of these data is assumed by the user. Under no circumstances, including but not limited to negligence, shall the creators of this mapping tool be liable for any direct, indirect, incidental, special, or consequential damages.

NOAA SLR Mapper Use Purpose & Disclaimer: The purpose of this data viewer is to provide coastal managers and scientists with a preliminary look at sea level rise and coastal flooding impacts. The viewer is a screening-level tool that uses nationally consistent data sets and analyses. Data and maps provided can be used at several scales to help gauge trends and prioritize actions for different scenarios.

The data and maps in this tool illustrate the scale of potential flooding, not the exact location, and do not account for erosion, subsidence, or future construction. Water levels are shown as they would appear during the highest high tides (excludes wind driven tides). The data, maps, and information provided should be used only as a screening-level tool for management decisions. As with all remotely sensed data, all features should be verified with a site visit. The data and maps in this tool are provided "as is," without warranty to their performance, merchantable state, or fitness for any particular purpose. The entire risk associated with the results and performance of these data is assumed by the user. This tool should be used strictly as a planning reference tool and not for navigation, permitting, or other legal purposes.

Sea Level Rise



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January 2017

Commerce & Infrastructure

Commerce

The Village has a number of vital marine businesses located in areas that will be inundated due to sea level rise. During the first iteration of the LWRP in the mid-1980s the Village made the preservation of these water-dependent uses a major priority by adopting new marine commercial zones and marine recreational zones.

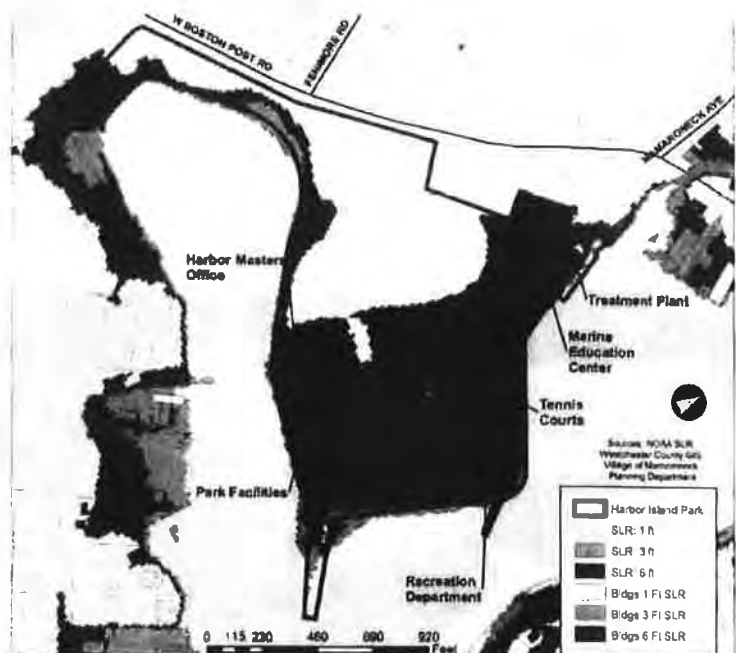
Many of the business in these zones face economic risk related to sea level rise. Appropriate action to improve resiliency along the shorelines within marine commercial and recreational zones is necessary for the long-term economic success of these businesses.



Mamaroneck Water Treatment Plant (Westchester County) and commercial boatyards

Infrastructure & Facilities

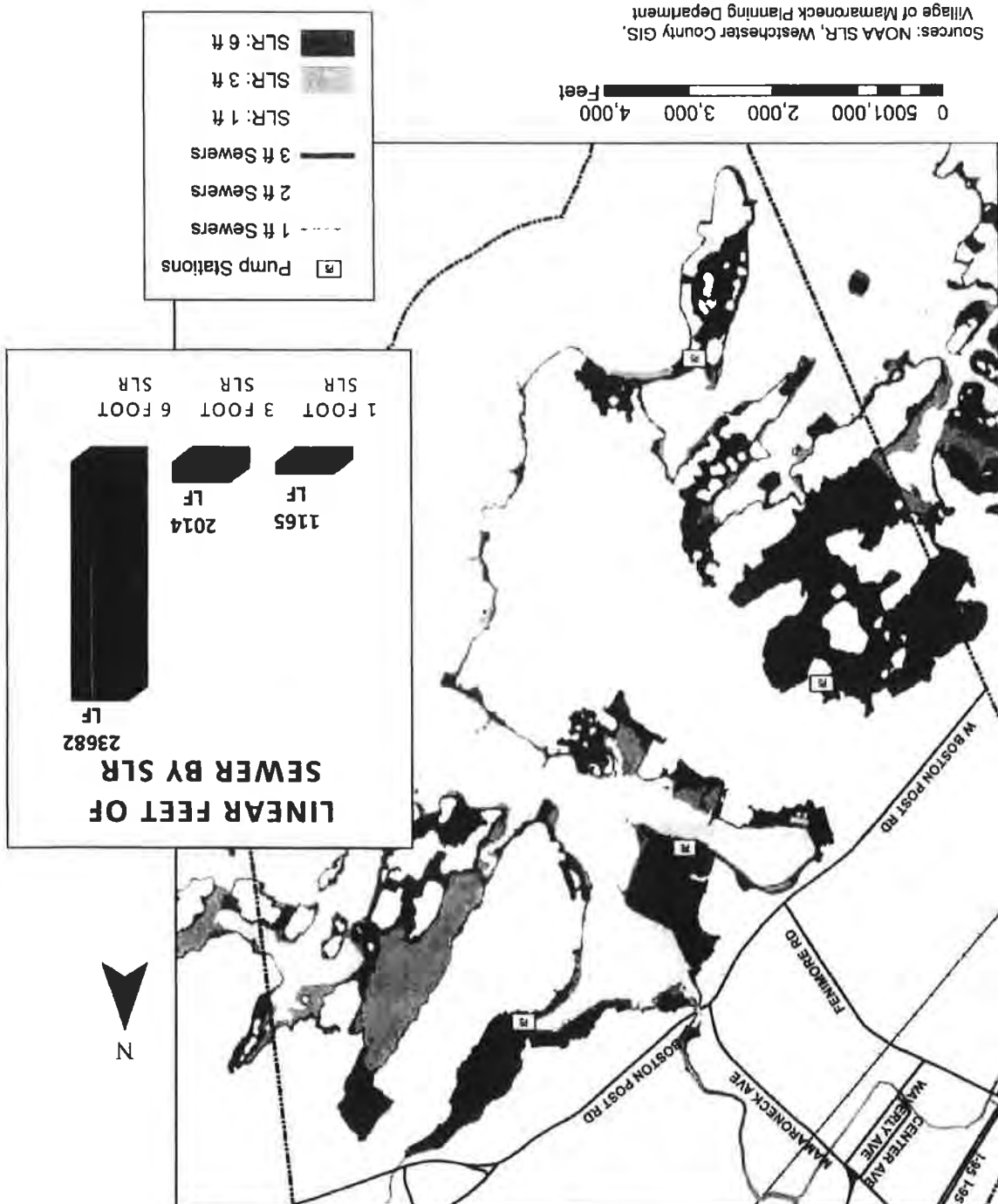
As a coastal community, the Village faces unique risks to its infrastructure as a result of sea level rise. The Village recognizes that the sanitary sewer system is aging and as a result may be prone to issues of inflow and infiltration, where ground water enters the system through cracks in the pipes. This issue may be further irritated by sea level rise as inundation and a heightened water table will lead to increased levels of inflow. Other critical infrastructure at risk include sanitary sewer pump stations and force mains, sewer and drainage manholes and outfalls, and Village-owned roadways and buildings. Harbor Island Park is the most at risk Village property as it is low lying and hosts the recreation department offices, the pavilion recreational space, the Harbor Master's office, the Marine Education Center, and the entire parks department facilities. All of these locations are at risk of inundation due to sea level rise.





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Pump Stations & Sewers Impacted by SLR



Sources: NOAA SLR, Westchester County GIS, Village of Mamaroneck Planning Department

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Flood Event Scenarios

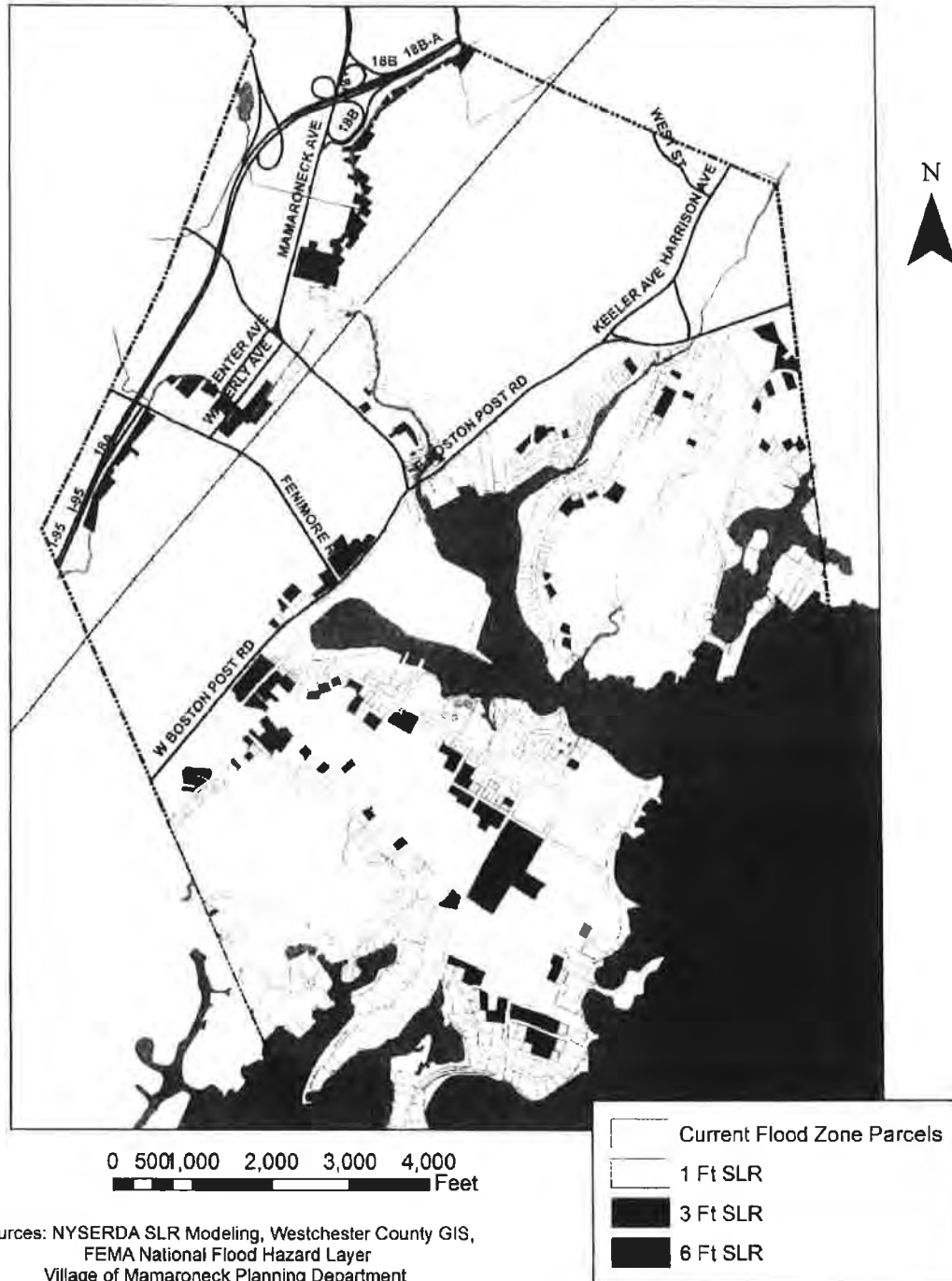
In an effort to understand the expected economic impacts of sea level rise a closer look at the compounding effects on coastal flooding was performed. The Village Planning Department utilized information provided by NYSDA and Westchester County GIS to inform the scenarios outlined below. The first scenario reviews a 100 year interval storm as applied to 1, 3, and 6 feet of sea level rise. The second scenario reviews a 500 year interval storm as applied to 1, 3, and 6 feet of sea level rise.

100 Year Flood Scenario

Sea Level Rise	Total Value Building Only (in 2017 dollars)	25%-75% Damage (in 2017 dollars)	# of Additional Properties	Timeline
1 Foot	\$30,456,200	\$7,614,050-\$22,842,150	56	NYSDA Model: 2050s Rapid Ice Melt: 2030s
3 Feet	\$79,656,146	\$19,914,037-\$59,742,110	164	NYSDA Model: 2080s Rapid Ice Melt: 2060s
6 Feet	\$166,610,419	\$41,652,605-\$124,957,814	327	NYSDA Model: Past 2100 Rapid Ice Melt: 2090s

With just a one foot rise in sea level an additional 56 properties are added to the 100 year flood zone, representing a value of over \$30 million. Since the timeline for a one foot scenario is anywhere from 13 to 33 years it is important for the Village to integrate adaptation and resiliency measures into its planning framework as expeditiously as possible. As sea levels rise the Village may expect even greater coastal flooding and higher levels of damage with up to 327 additional properties being added to the 100 year flood zone at 6 feet of sea level rise, which could occur as soon as the 2090s. If feasible and economically sound measures are taken now the Village will be better equipped to handle the increasing sea level rise later on. It is important to note that these scenarios describe only the difference between the existing conditions and expected conditions, not the overall expected damages.

Sea Level Rise + 100 Year Storm



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January 2017

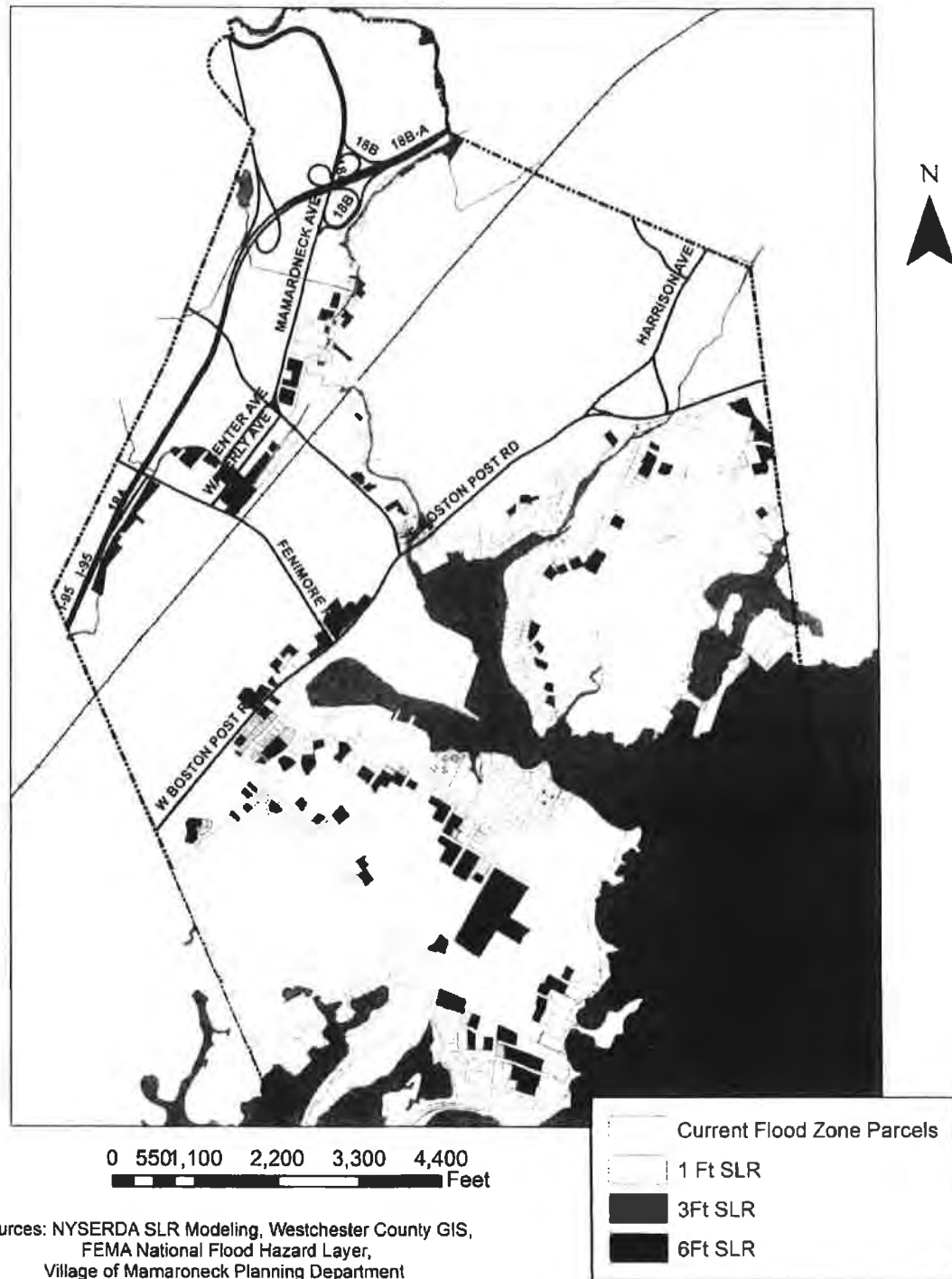
500 Year Flood Scenario

Sea Level Rise	Total Value Building Only (in 2017 dollars)	25%-75% Damage (in 2017 dollars)	# of Additional Properties	Timeline
1 Foot	\$50,131,096	\$12,532,774-\$37,598,322	144	NYSERDA Model: 2050s Rapid Ice Melt: 2030s
3 Feet	\$99,636,119	\$24,909,030-\$74,727,089	227	NYSERDA Model: 2080s Rapid Ice Melt: 2060s
6 Feet	\$189,636,918	\$47,409,230-\$142,227,689	404	NYSERDA Model: Past 2100 Rapid Ice Melt: 2090s

In the event of a 500 year flood the Village could face the most significant loss of property. With just a one foot rise in seal level an additional 144 properties are added to the 500 year flood zone, representing a value of over \$50 million. The risk to property grows as sea level rises with a total value near \$100 million at three feet, and near \$190 million at 6 feet. A 500 year flood occuance has a 0.2% chance of occuring in any given year. However as climate change progresses there is a consensus among multiple climate models for this region that the interval between storms will continue to decrease while the intensity of storms increases.¹ The compounding effect of sea level rise, flooding, and growing intensity and frequency of storms, may increase the total risk to life and property in the Village of Mamaroneck and warrants investments in resiliency measures to lessen these risks.

¹ Melillo, Jerry M., Terese (T.C.) Richmond, and Gary W. Yohe, Eds., 2014: Climate Change Impacts in the United States: The Third National Climate Assessment. U.S. Global Change Research Program, 841 pp. doi:10.7930/J0Z31WJ2.

Sea Level Rise + 500 Year Storm



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January 2017

EXHIBIT H

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2

BONNIE BRIAR SYNDICATE, INC., APPELLANT, v. TOWN OF MAMARONECK, ET AL., RESPONDENTS.

94 N.Y.2d 96 (1999).

November 23, 1999

1 No. 176

[99 NY Int. 0155]

Decided November 23, 1999

This opinion is uncorrected and subject to revision before publication in the New York Reports.

Stuart R. Shamberg, for appellant.

Robert S. Davis, for respondents.

American Planning Association; Natural Resources

Defense Council, et al.; State of New York, *amici curiae***LEVINE, J.:**

Plaintiff owns a 150-acre tract of land in the Town of Mamaroneck which, since 1921, has been used as a private golf course. This appeal addresses whether the change in zoning of plaintiff's property in 1994, from residential to solely recreational use, constituted a regulatory taking under the Fifth and Fourteenth Amendment (<http://www.law.cornell.edu/constitution/constitution.amendmentxiv.html>)s to the United States Constitution. Resolution of this question requires us to ascertain the appropriate standard to be applied in reviewing the sufficiency of the relationship between the Town's interests and the rezoning determination on this purely regulatory taking claim.

The Bonnie Briar Country Club has leased the land from plaintiff since 1921. The following year, the area in which the Club is located for the first time became subject to a zoning ordinance. The land was zoned for residential use, permitting single family detached homes on lots of at least 15,000 and, in some areas, 30,000 square feet. The area surrounding Bonnie Briar was similarly zoned, and over the years has been developed in accordance with those zoning restrictions.

In the 1960's, the Town of Mamaroneck began to focus on its diminishing open spaces and in 1966 developed a "Master Plan" in order to address the issue in a comprehensive manner. This Master Plan recommended that Bonnie Briar remain a golf course. A Master Plan "Update" in 1976 recommended that another neighboring golf course -- the Winged Foot -- also affected by the rezoning in Local Law 6, remain a golf course. In 1985, the two golf course properties were included in a land use study, "Westchester 2000." That study also recommended the

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retention of the golf course properties as recreational areas and open spaces, concluding that development of these properties would increase the risk of flooding from the Sheldrake River. A portion of plaintiff's property is within the flood plain of the Sheldrake River. In its current non-developed state, the land helps control flooding by acting as a natural detention basin for rising river waters due to storms.

In 1986, the Towns of Mamaroneck and Larchmont together adopted a "Local Waterfront Revitalization Program" (LWRP) for a comprehensive examination of land-use policies. The LWRP was primarily concerned with, and sought effectively to protect against, the flooding potential in both the flood plain and coastal areas. The LWRP identified flood damage to the Town's wetlands, fish and other wildlife habitats and streams, cautioning the Town to prepare itself for further adverse effects that would result from future changes in land use.

The LWRP found that the Town golf clubs were "appropriate uses which, in addition to their ecological, recreational, architectural and scenic value, provide open space and natural water retention. They should remain in their present use if possible."

In 1988 the Town retained Shuster Associates, a private planning firm, to assist in formulating its comprehensive plan to address and best implement the goals stated in the LWRP. Shuster examined a number of varying development options and issued a report and addendum considering three alternative developmentschemes. These development schemes did contemplate some residential development, not unlike that subsequently proposed by plaintiff.

Because rezoning these golf course properties required a review pursuant to the State Environmental Quality Review Act ("SEQRA"), on May 30, 1990, defendant Town Board declared its intention to serve as lead agency for the purpose of conducting the SEQRA review and retained yet another planning firm to assist in the review process. After preparation of a Generic Environmental Impact Statement in 1991, the Board issued a Findings Statement in completion of its SEQRA review in 1994. The Findings Statement described in great detail how the various proposed development and rezoning schemes would impact this environmentally sensitive area.

Specifically, the Findings Statement noted that the area was facing "long-term pressure toward continuing urbanization in an already over-developed landscape," noting that "less than 5% of the Westchester County watershed of the Long Island Sound remains open space." In response to these concerns over dwindling existing open spaces and to ensure their retention, the Board determined that zoning the Winged Foot and Bonnie Briar club properties solely for recreational uses was the best alternative.

In addition, the Findings Statement explained that further residential development would frustrate the Town's goal of preserving recreational opportunities for Town and area residents, noting that 70% of Bonnie Briar's membership resided within a five-mile radius of the property.

In *Agins v. Tiburon* (447 US 255 ([/supct-cgi/get-us-cite?447+255](#))), the United States Supreme Court articulated the general test for determining whether "[t]he application of a general zoning law to particular property effects a taking" (*id.*, at 260). *Agins* held that a zoning law effects a regulatory taking if either: (1) "the ordinance does not substantially advance legitimate state interests" or (2) the ordinance "denies an owner economically viable use of his land" (*id.*). Plaintiff has abandoned its claim that it has been denied all economically viable uses of its land. Thus, its only remaining claim is that the "substantially advance" alternative regulatory taking-prong of *Agins* is not met here because there is an insufficiently "close causal nexus" (*Manocherian v. Lenox Hill Hosp.*, 84 NY2d 385 ([/nyctap-cgi/nyctap.cgi?84+385](#)), 392; *Rent Stabilization Assoc. of New York City v. Higgins*, 83 NY2d 156 ([/nyctap-cgi/nyctap.cgi?83+156](#)), 174; see, *Nollan v. California Coastal Commn.*, 483 US 825 ([/supct-cgi/get-us-cite?483+825](#))). between the rezoning measure and the legitimate public interests defendants sought to achieve.

Relying on this Court's decisions in *Seawall Assocs. v. City of New York* (74 NY2d 92 ([/nyctap-cgi/nyctap.cgi?74+92](#))) and *Manocherian v. Lenox Hill Hosp.* (*supra*), plaintiff claims that Local Law 6 fails to meet the *Agins* standard because there is not a "close causal nexus" between the Town's objectives and Local Law 6. Plaintiff argues that this was demonstrated as a matter of law, because in the opinion of the Shuster planning firm the same three objectives could be accomplished by less restrictive land control, permitting some residential development. We disagree with plaintiff's analysis and reject its proposed standard of review.

The close causal nexus standard urged by plaintiffs was derived from two United States Supreme Court cases, *Nollan v. California Coastal Commn.* (*supra*) and *Dolan v. Tigard* (512 US 374 ([/supct-cgi/get-us-cite?512+374](#))). In *Nollan*, the Supreme Court applied the "substantially advances" prong of the *Agins* standard for a regulatory taking in the context of an exaction. In that case, the State had conditioned the granting of a permit to build a larger residence upon the owners' conveyance of a public easement across the property. In that specific circumstance, the Supreme Court applied the *Agins* standard to require an "essential nexus" between the property interest exacted from the owner and the identified legitimate governmental objective.

Seven years later, the Supreme Court decided *Dolan v. Tigard* (*supra*), another exaction case, in which the municipality conditioned a permit for an expansion of a commercial establishment upon a dedication of portions of the owner's property for recreational and flood-control uses. In *Dolan*, the Court elucidated its "essential nexus" requirement in such cases. The Court explained that the essential connection is more than merely some relationship, but, on the other hand, the municipality need not "demonstrate that its exaction is directly proportional to the specifically created need" (*id.*, at 388-390). The Court adopted an intermediate position, i.e., that the essential nexus is a "rough proportionality" between the required exaction and the governmental interests involved (*id.*, at 391).

Following the Supreme Court's *Nollan* and *Dolan* decisions, there was considerable disagreement as to the reach of those holdings. There were takings scholars who read the cases as creating a new standard for all regulatory takings (see, Peterson, *Land Use Regulatory "Takings" Revisited: The New Supreme Court Approaches*, 39 Hastings LJ 335, 351; Kmiec, *The Original Understanding of the Takings Clause is Neither Weak Nor Obtuse*, 88 Colum L Rev 1630, 1648–1654). Indeed, even Justice Brennan, in his dissent in *Nollan*, expressed concern over the heightened level of scrutiny, predicting its general application in takings cases: "the Court demands a degree of exactitude that is inconsistent with our standard for reviewing the rationality of a State's exercise of its police power for the welfare of its citizens" (*Nollan v California Coastal Commn.*, *supra*, at 842–843).

Other takings scholars opined that the heightened level of judicial scrutiny was applicable only in the specific context of an exaction (see, Michelman, *Takings*, 1987, 88 Colum L Rev 1600, 1608–1609; Manheim, *Tenant Eviction Protection and the Takings Clause*, 1989 Wis L Rev 925, 949–950, nn 146, 149; Tribe, *American Constitutional Law* § 9–4, at 599, n 20 [2d ed]). Judges on this Court likewise differed in interpreting this line of cases (compare, *Seawall Assocs. v City of New York*, 74 NY2d 92 (/nyctap.cgi/nyctap.cgi?74+92) , with *id.*, at 117 [Bellacosa, J., dissenting]; compare, *Manocherian v Lenox Hill Hosp.*, 84 NY2d 385 (/nyctap.cgi/nyctap.cgi?84+385), with *id.*, at 400 [Levine, J., dissenting]).

The issue was finally resolved by the United States Supreme Court in *City of Monterey v Del Monte Dunes* (526 US ___, 143 L Ed 2d 882), [n1] in which the Court reaffirmed the continued viability of the *Agins* standard in regulatory takings that do not involve an exaction. In *Del Monte*, the Court expressly held that where, as here, "the landowner's challenge is based not on excessive exactions but on a denial of development * * * the rough proportionality test of *Dolan* is inapposite" (*id.*, 143 L Ed 2d, at 900).

Plaintiff concedes that *Del Monte* clearly removed *Dolan*'s "rough proportionality" inquiry from a general regulatory takings analysis. It asserts, instead, that because the Supreme Court failed expressly to declare as inapplicable *Nollan*'s "essential nexus" test, a reviewing court is still bound to determine if a generally applicable zoning regulation has a close nexus with the interests sought to be furthered. We disagree.

Two reasons persuade us to reject plaintiff's contention that *Del Monte* has left *Nollan*'s "essential nexus" test applicable in all takings cases. First, as we have previously demonstrated, the "rough proportionality" test articulated in *Dolan* was nothing more than the Court's explication of the required closeness of the connection between the condition of development and the governmental objective under the essential nexus standard in an exaction case. Thus, in explicitly rejecting the application of the "rough proportionality" test when, as here, the zoning law merely "den[ies] * * * development" (*City of Monterey v Del Monte Dunes*, *supra*, 143 L Ed 2d, at 900), limiting its application to those cases involving exactions, the Supreme

Court necessarily rejected the applicability of the "essential nexus" inquiry to general zoning regulations as well. Second, our disagreement with the plaintiff's reading of *Del Monte* is confirmed by the Court's treatment of the other major issue before it in that case : whether, in a 42 USC § 1983 (</uscode/42/1983.html>) damage action for an unconstitutional taking, the plaintiff was entitled to have a jury consider the validity of that alleged taking. Although the *Del Monte* Court was divided over the issue of the availability of a jury trial, all concurring and dissenting Justices agreed upon the applicable standard and that the charge given by the trial court accurately reflected the current standard for regulatory takings analysis when no exaction is involved. The trial court in *Del Monte* instructed the jury that

"one of your jobs as jurors is to decide if the city's decision here *substantially advanced* any such legitimate public purpose.

"The regulatory actions of the city or any agency *substantially advanc[e] a legitimate public purpose* if the action bears a *reasonable relationship* to that objective" (*City of Monterey v Del Monte Dunes, supra*, 143 L Ed 2d, at 899 [emphasis supplied] [alterations in the original]).

Importantly, this charge makes no reference at all to a necessary *essential nexus* between the regulation at issue and the governmental interests at stake.

Here, Local Law 6 easily qualifies as a valid regulatory denial of development pursuant to a generally applicable zoning law. Because zoning plaintiff's property for solely recreational use bears a reasonable relation to the legitimate objectives stated within that law (to further open space, recreational opportunities and flood control), the regulatory action here substantially advances those purposes (*see, City of Monterey v Del Monte Dunes, supra*, 143 L Ed 2d, at 899).

As we have already described in detail, this shift in the zoning districts was in response to years of study and documentation regarding the recurrent flooding problems and concerns. The LWRP concluded that "in addition to their ecological, recreational, architectural and scenic value, [the properties' exclusive use as golf courses] provide[s] open space and natural water retention." Consequently, the LWRP recommended that the golf courses "should remain in their present use if possible."

That defendant Board had before it other less restrictive options to choose from in arriving at its ultimate conclusion with respect to zoning is irrelevant. So long as the method and solution the Board eventually chose substantially advances the public interest, it is not this Court's place to substitute its own judgment for that of the Zoning Board (*see, Rent Stabilization Assoc. of New York City, Inc. v Higgins*, 83 NY2d 156 (</nyctap/cgi/nyctap.cgi?83+156>), 174 ["The question before us, however, is not the general wisdom or desirability of * * * [the regulation]-- that is a question for the legislature"]). It is similarly not for this Court to determine if, in regulating land use, the rezoning determination was more stringent than one might reasonably conclude was necessary to further public objectives (*see, Keystone Bituminous Coal Assoc.*, 480 US 470

([/supct/cgi/get-us-cite?480+470](#)), 487 n 16 ["That a land use regulation may be somewhat overinclusive or underinclusive is, of course, no justification for rejecting it"]).

We have considered plaintiff's remaining claims and find them to be without merit.

Accordingly, the order of the Appellate Division should be affirmed, with costs.

Order affirmed, with costs. Opinion by Judge Levine. Chief Judge Kaye and Judges Bellacosa, Smith, Ciparick and Wesley concur. Judge Rosenblatt took no part.

Decided November 23, 1999

Notes

¹ As shown in both *Del Monte Dunes* and *Eastern Enterprises v Apfel* (524 US 498 ([/supct/cgi/get-us-cite?524+498](#))), no majority has accepted the invitation to rework the *Agin* standard (*see*, the response of the Court to the contentions of the amici in *Del Monte*, *supra*, 143 L Ed 2d, at 901). We similarly decline to address or revisit that standard.

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[1 1]
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EXHIBIT I

Recreation Districts and the Legacy of 'Bonnie Briar'

In his Zoning and Land Use Planning column, Anthony S. Guardino discusses how more and more local governments throughout the state are relying on a 1999 Court of Appeals decision to enact zoning changes that preserve open space and other natural resources.

By **Anthony S. Guardino** | UPDATED NOV 21, 2017 at 01:47 PM

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Anthony Guardino

Many, and perhaps even most, court decisions simply resolve a legal dispute between the litigants and are never heard of again. They are not cited in briefs or memoranda of law or by any other court. This is as true in the zoning and land use planning context as it is with other areas of law.

Then there is the decision that not only ends a legal fight but that influences and affects future behavior. The decision that has significant practical implications for people and businesses, and for their communities.

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The New York Court of Appeals issued such a decision in late November 1999. Thoughts then primarily were focused on Thanksgiving (two days later), the coming calendar change from 1999 to 2000, and what some in the media and elsewhere characterized as the Y2K problem, and many probably missed the court's opinion when it came down. Yet it has profoundly influenced many New York towns and villages, and their residents.

In *Bonnie Briar Syndicate, v. Town of Mamaroneck* (<http://94 N.Y.2d 96>), 94 N.Y.2d 96 (1999), the court upheld a change to the zoning of certain real property in the town of Mamaroneck from residential to solely recreational use. In the nearly two decades that have passed since the court issued its decision, *Bonnie Briar* has been relied on by local governments across the state as the basis for their ability to create recreation districts limiting permitted uses in those areas to those that preserve open space and other natural resources.

The Rezoning Process

The *Bonnie Briar* case involved a 150-acre tract of land in the town of Mamaroneck that was owned by the Bonnie Briar Syndicate Inc. (the Syndicate) and that, beginning in 1921, was leased to the Bonnie Briar Country Club for use as a private golf course.

In 1922, the land for the first time became subject to a zoning ordinance when it was zoned for residential use, permitting single-family detached homes, some on parcels having a minimum lot area of 15,000 square feet. The area surrounding the golf course was similarly zoned, and over the years was developed in accordance with those zoning restrictions.

In the 1960s, the town began to focus on its diminishing open spaces. In 1966, it developed a "master plan" that recommended that Bonnie Briar remain a golf course.

A 1976 update to the master plan recommended that another neighboring golf course –Winged Foot Golf Club – also remain a golf course.

Then, in 1985, the two golf course properties were included in a land use study that also recommended their retention as recreational areas and open spaces, concluding that development of these properties would increase the risk of flooding from the Sheldrake River. While undeveloped, the land helped control flooding by acting as a natural detention basin for rising river waters due to storms.

In 1986, the town of Mamaroneck along with the neighboring town of Larchmont together adopted a local waterfront revitalization program (LWRP). The LWRP found that the two golf clubs were "appropriate uses" that, in addition to their ecological, recreational, architectural, and scenic value, provided "open space and natural water retention." It said that they "should remain in their present use if possible."

In 1988, Mamaroneck retained a private planning firm to assist in formulating a comprehensive plan to address and best implement the goals stated in the LWRP. The planner examined a number of options and issued a report considering three

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development schemes. The development schemes contemplated some residential development.

Rezoning the golf course properties required a review pursuant to the State Environmental Quality Review Act (SEQRA) and, on May 30, 1990, the town board of Mamaroneck declared its intention to serve as lead agency for the purpose of conducting the SEQRA review. After preparation of a generic environmental impact statement in 1991, the town board issued a findings statement to complete its SEQRA review in 1994.

The findings statement noted that the area was facing "long-term pressure toward continuing urbanization in an already over-developed landscape," observing that "less than 5 percent of the Westchester County watershed of the Long Island Sound remains open space."

In addition, the findings statement explained that further residential development would frustrate Mamaroneck's goal of preserving recreational opportunities for town and area residents, pointing out that 70 percent of Bonnie Briar's membership resided within a five-mile radius of the property.

Finally, in connection with concerns over flooding, the findings statement said that, without even considering further development beyond Mamaroneck's control, residential development within the town could increase the flooding already experienced by many area homeowners.

Based on all of these considerations, the findings statement concluded that a recreation zone best achieved the objectives of town, state, regional, and federal policies that guided the town's comprehensive planning process.

Accordingly, the town board decided to rezone the Bonnie Briar and Winged Foot club properties exclusively for recreational use to achieve the goals of (1) preserving open space, (2) providing recreational opportunities for town and other area residents, and (3) mitigating flooding of both coastal and flood plain areas. Toward that end, it enacted Local Laws, 1994, No. 6.

The Challenge

Just months prior to the passage of Local Law No. 6, the Syndicate retained its own planning firm and submitted a preliminary subdivision plan for the golf club property to the Mamaroneck town board. The Syndicate's plan provided for the construction of 71 residential lots, leaving approximately 112 acres of standing open space on the existing 18-hole golf course site.

Then, after the town board enacted the zoning change, the Syndicate sued, contending that Local Law No. 6 effected an unconstitutional taking of its property without just compensation. The town board moved for summary judgment with respect to the Syndicate's taking claims. The Supreme Court denied this motion, but the Appellate Division reversed, granting the town board's motion and remitting to Supreme Court for the entry of judgment declaring the law constitutional as applied.

The case reached the Court of Appeals.

The Court of Appeals Decision

The Court affirmed.

In its decision, the court explained that a zoning law effected a regulatory taking if either the ordinance did not "substantially advance" legitimate state interests or the ordinance denied an owner economically viable use of the owner's land. The Syndicate had abandoned any claim that it had been denied all economically viable uses of its land, so the Syndicate's only remaining claim before the court was that Mamaroneck had not met the "substantially advance" regulatory taking prong. The Syndicate contended that there was an insufficiently "close causal nexus" between the rezoning measure (Local Law No. 6) and the legitimate public interests the town board sought to achieve. The Syndicate argued that this had been demonstrated as a matter of law because, in the opinion of the planning firm retained by the Mamaroneck town board, the same objectives the town sought to achieve (that is, to further open space, recreational opportunities and flood control) could be accomplished with some residential development permitted.

The court rejected the Syndicate's arguments, holding that Local Law No. 6 "easily" qualified as a valid regulatory denial of development pursuant to a generally applicable zoning law. It explained that because zoning the Syndicate's property for solely recreational use bore "a reasonable relation to the legitimate objectives stated within that law," the regulatory action substantially advanced those purposes.

The court acknowledged that the Mamaroneck town board had other less restrictive options to choose from in arriving at its ultimate conclusion with respect to zoning, but ruled that that was "irrelevant." It concluded, however, that as long as the method and solution the town board eventually chose "substantially advance[d] the public interest," the court could not substitute its own judgment for that of the town board – nor could it determine if, in regulating land use, the rezoning determination "was more stringent than one might reasonably conclude was necessary to further public objectives."

Districts Created

Many local governments have authorized recreation districts since *Bonnie Blair*. For example, the town of New Paltz created the "Town of New Paltz Wallkill River Recreation Overlay District" to serve the combined purposes of "recreation, open space preservation, floodplain management, wildlife protection and scenic resource preservation." The town of Big Flats amended its zoning law to permit recreation conservation districts to keep open areas "in their natural, undeveloped, or unbuilt condition."

Most recently, the Long Island town of Brookhaven amended its zoning laws to create a recreation district "to permit golf courses including accessory uses and activities that recognize the unique relationship such courses have within a community, allowing commercial recreational opportunities while providing a desirable amenity."

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The amended Brookhaven zoning law lists the permitted uses in the district – public or private golf courses and country clubs – as well as customary accessory uses, structures, and buildings including catering halls, clubhouses, driving ranges, health clubs, and spas. The amendment also includes provisions regarding lot size, setbacks, structure height, required netting, and outdoor storage.

Conclusion

Since *Bonnie Blair*, there has been a growing trend of local governments adopting recreation districts. The court's decision on the Syndicate's regulatory taking claim under the Fifth and Fourteenth Amendments has, for all practical purposes, eliminated that as an objection to recreational districts. Although other avenues of attack are available for property owners, it is clear that local governments that carefully study, plan, and create recreation districts to achieve legitimate environmental and planning goals should be able to withstand court challenges to those decisions.

Anthony S. Guardino is a partner with Farrell Fritz in Hauppauge. He can be reached at aguardino@farrellfritz.com.

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**Marc Karell, PE
1506 Henry Avenue
Mamaroneck, NY 10543**

March 19, 2018

Village of Mamaroneck Planning Board
Mamaroneck, NY 10543
Email: bsherer@vomny.org

Re: Hampshire Country Club

Dear Messrs. Verni, Mendes, Litman, Sjunneemark and Ms. Savolt:

I have lived in the community for nearly 30 years, raised my children here, and am a professional engineer with a sub-specialty in environmental engineering. I serve on the Village of Mamaroneck Committee for the Environment; however, please note the thoughts in this letter comes from me personally and are not necessarily the opinions of the Committee or any of its individual members.

I am aware of the controversy over proposed development plans on the Hampshire site and wish to express my opinion regarding certain aspects of the DEIS currently being reviewed and discussed at public hearings. I have 30 years of experience working on projects involving toxic and other airborne pollution at industrial and other sites. I am an adjunct professor at New York Medical College, teaching a course on air pollution. Reviewing the DEIS, I believe that the subject is adequately described and mitigated.

In addition, having lived in this community for a long time and observed the numerous development battles that have resulted in millions of dollars of litigation expenses borne by the taxpayers, I am fearful that this current controversy will end up in a similar manner. I understand the concern that the Village and some residents have with the site's redevelopment; however, the current situation of the property not being utilized as originally designed is not sustainable. I would like to push both sides to look for a compromise solution that will allow the site to be re-developed in an intelligent way with minimal environmental and other impacts.

I am also a volunteer who works for At Home on the Sound, and understand the importance of addressing the needs of seniors and "empty nesters". We need to provide adequate housing that caters to these groups to make the Village a vibrant, diverse place.

While I appreciate the concerns of some Village residents regarding traffic, flooding and the environment, I believe you as a board are responsible to use science and facts in making final decisions concerning any redevelopment, and not emotion. If the current DEIS is shown to be inadequate from a scientific point of view or if the document shows that the redevelopment will result in significant adverse impacts, then the board should provide specific comments concerning those issues. If the DEIS is complete and demonstrates that the proposed project will result in no significant adverse impacts, then it should be approved and redevelopment proceed in a timely fashion. It is likely that the lower impact condominium alternative, if restricted to 55+, would provide a greater net tax benefit which would benefit all taxpayers in the Village.

I implore the board to evaluate the DEIS and approve it or provide specific comments to ensure that the proposed project will have no significant adverse effects on traffic, the environment, and the school system. We also need a respectful discourse among the members of the community. Not moving forward on a project simply because one is fearful of an effect unlikely to occur, is against development of any kind, or because of "NIMBY" is not a smart approach for the Village, and will discourage good projects in the future. I am sure there is a solution that can successfully address the concerns of neighbors as well as prospective 55+ community residents who wish to remain here as well as the members of Hampshire who support its ongoing operation as a membership club with a golf course.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Marc Karell". The signature is fluid and cursive, with the first name "Marc" and last name "Karell" clearly distinguishable.

Marc Karell

Betty-Ann Sherer

From: Meara, Karen E. <Meara@clm.com>
Sent: Monday, March 19, 2018 4:34 PM
To: Betty-Ann Sherer
Cc: lsteinman@MccarthyFingar.com; Kass, Stephen
Subject: Materials for submission to Planning Board from Mamaroneck Coastal Environment Coalition
Attachments: 1) Statement of Stephen L. Kass-c.pdf; 2) Pro Forma Advisors, Hampshire Country Club Nine Hole Golf Course-c.pdf; 4) TYLI Hampshire DEIS Findings Memo_8241889_1-c.PDF; 5) CA Rich Consultants, Memo on Environmental Contamination, Geology and Groundwater-c.pdf; 6) Statement of Christine Fazio-c.pdf; 8) Statement of Celia Felsher with Exhibit A-c.PDF

Dear Ms. Sherer,

Attached please find copies of (or links to) eight written statements and reports upon which the Feb. 14, 2018 oral testimony of representatives of Mamaroneck Coastal Environment Coalition was based. We would be grateful if you could forward them to members of the Village Planning Board. Two of the reports (#3 and #7) are too large to email, so we have attached a link below. To access those two reports, recipients will need to enter their names and email addresses. No password is required. Do not hesitate to contact me should you have questions. Thank you

<https://carterledyard.sharefile.com/d-s80fcb1123ab4e66a>

Best,

Karen

Karen E. Meara, Esq.
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**STATEMENT OF STEPHEN L. KASS
ON BEHALF OF
MAMARONECK COASTAL ENVIRONMENT COALITION
to the
PLANNING BOARD, VILLAGE OF MAMARONECK**

February 14, 2018

As the Chairman noted, tonight's hearing is on DEIS, not the applicant's proposed subdivision; however, as we will show, the DEIS fails to meet the requirements of SEQRA that it identify and take a "hard look" at the proposed project's foreseeable environmental impacts and compare those impacts to a range of reasonable alternatives. We will also show that the DEIS and the project itself (1) are based on false – indeed contradictory – economic assumptions; (2) are inconsistent with the Village's Comprehensive Plan and Zoning expectations; (3) are environmentally irresponsible; and (4) are unlawful under both New York State and Village law.

Specifically, we submit and intend to show that:

First, contrary to DEIS, the existing Hampshire club with its 18-hole golf course IS financially viable, and the club with a 9-hole course is NOT viable;

Second, contrary to the DEIS, the Village's Comprehensive Plan contemplates either recreational open space or low-density development for this CEA, not high-density development of the sort proposed by the applicant;

Third, contrary to the DEIS, the project would:

(1) require massive amounts of fill to be imported to this flood plain site, far more than even the 84,000 cubic yards conceded by the applicant;

(2) require the disturbance of soil and groundwater that is likely already contaminated from many years of golf course treatment;

(3) present risks of exposure to those contaminants (including arsenic, pesticides and methane) to homeowners and their families when the project is completed and to neighbors and school children during construction;

(4) require up to 280 truck trips a day for almost a year immediately past the Hommocks School playgrounds and the already congested Weaver Street/Boston Post Road intersection, with potentially significant traffic, air quality and noise impacts during construction that the DEIS completely fails to analyze;

(5) expose a large number of new residents to the risk that they will be unable to leave their neighborhood (or be accessible to emergency vehicles) in the event of another coastal storm surge like Sandy; and

(6) exacerbate the overcrowding of the Mamaroneck School District, which is already facing severe capacity challenges.

Fourth, contrary to the DEIS, the applicant's proposed project is unlawful and may not be constructed because:

(1) The project is in blatant and gross violation of Village Code Section 186-5(c), which unambiguously prohibits placement of fill below the flood plain where that would reduce the hydrological storage capacity of the site --- precisely what the applicant is proposing. In fact, the applicant here is seeking to

deposit almost 239,000 cubic yards of fill below the flood plain of this CEA, which when compacted would reduce the storage capacity of the site by more than 45 million gallons, a figure that is more than twice the entire capacity of the Harbor Island sewage treatment plant.

- (2) As my colleague Karen Meara will explain in detail, the project's proposed density far exceeds both the density permissible under New York State law and the density contemplated by Village law. When corrected to comply with those laws, the permissible number of units that could lawfully and practically be built on this CEA is far less than claimed by the applicant for both its proposed project and the "No-Fill" Alternative F included in the DEIS. When further corrected to comply with Section 186-5 's ban on the reduction of hydrological storage capacity, we believe the total number of homes that could realistically be built on this site is approximately 21 homes, not the 105 proposed by the applicant.
- (3) The project's ingress and egress is entirely dependent on three private roads (Cove, Cooper and Eagle Knolls) for which the Hampshire Club has, at best, only an implied easement for its country club use. Any change of use for those roads to service a large-scale residential subdivision requires the consent of the adjacent owners of those roads, which the applicant has not, and will not, secure.
- (4) The amendment or replacement of the existing Hampshire Club lease for the entire site requires the consent of the Club's separate not-for-profit corporation, so that that corporation can continue to operate the clubhouse and truncated 9-hole golf course. That consent is not possible under New York State law so long as all the directors of that corporation are affiliated with the applicant, as we believe they are. Independent directors with fiduciary duties to the Club's membership are hardly likely to approve a new lease that, as we will show, will almost certainly destroy the Club.

In view of these serious --we believe fatal -- problems with the applicant's proposal, the Planning Board not only should but must deny the present application. Apart from its clear violations of State and Village law and its conflicts with the Village Comprehensive Plan and Zoning Code, the Planning Board could not possibly make the statutory finding required by SEQRA that, among the reasonable alternatives, the proposed action avoids or minimizes adverse environmental impacts to the maximum degree feasible.

A word about alternatives: the so-called "As of Right" Alternative B in the DEIS both destroys the site's open space and violates Section 186-5, while the so-called "No-Fill" Alternative F grossly overstates any conceivably permitted density on that alternative's reduced building area, which we believe is approximately 21 units even under the current R-20 zoning. Similarly, Alternative G, the applicant's wished-for condominium plan, has a density five or six times that actually feasible and permissible on the R-20 portion of the site (and depicts an alternative that the Village Board of Trustees has already declined to entertain). In the supplemental DEIS that we believe is required here, any such condominium alternative should be

scaled at the same density, approximately 21 units, as the number of single family homes actually permitted and feasible on this site.

In short, the Planning Board could not reasonably or responsibly make the findings required by SEQRA for this application. The Board can, and must, deny the present application and require the applicant, if it wishes, to resubmit a legally permissible proposal with a supplemental or revised DEIS that more accurately discloses the impacts of its project and compares those impacts to reasonable and lawful alternatives with a density comparable to that actually feasible on this CEA.

With this overview, the other members of our team who will address this proposed action in the attached statements are:

1. Gene Krekorian, a noted expert on golf course economics, who will discuss the feasibility of both the existing 18-hole Hampshire golf course and the 9-hole golf course proposed by the applicant;
2. Lisa Liquori, an experienced land-use planner from Fine Arts & Sciences, Inc., who will discuss the consistency of the applicant's proposal with the Village's Comprehensive Plan, Zoning Code and LWRP;
3. Neil Porto, an experienced engineer with T.Y. Lin International, who will explain that the applicant's cut and fill projections substantially understate both the extent of fill required to be imported to the site and the resulting traffic, slope stability and related impacts of the applicant's regarding plans for the site;
4. Charles Rich, from C.A. Rich , Inc., who will discuss the environmental risks associated with soil, groundwater and airborne contaminants as a result of the applicant's site disturbance activities;
5. Christine Fazio, a colleague with Carter Ledyard & Milburn with substantial experience in air quality analysis and permitting, who will discuss the need for quantitative air quality and noise analysis during the proposed project's construction period;
6. Karen Meara, a Carter Ledyard & Milburn colleague with extensive land use expertise, who will explain how the applicant's proposal violates both New York State and Village density requirements; and
7. Celia Felsher, the President of MCEC, who will explain how the applicant's project, as well as its condominium alternative, fail to provide safe and adequate egress for residents and access for emergency service vehicles under foreseeable flooding conditions and

**why that condominium alternative is otherwise inappropriate for this
Critical environmental area.**

Thank you for your consideration of these comments.



Summary Report:

Hampshire Country Club Nine Hole Golf Course Economic Viability Assessment

Mamaroneck, Westchester County, NY

Prepared for: **Village of Mamaroneck Planning Board**

Prepared by: **Pro Forma Advisors, LLC**

February 2018

PFAID: 11-098

Version: 1.2



Introduction

Hampshire Country Club is a non-proprietary (non-equity) country club located in the Town of Mamaroneck, Westchester County, New York. A non-proprietary club is one in which the members have no equity interests. The Hampshire Country Club facilities include an 18-hole regulation length golf course, 35,000 square foot clubhouse, seven Har-Tru (clay) tennis courts, a Junior Olympic (25-meter) outdoor swimming pool, wading pool, and other support facilities. Formerly, the country club was member-owned and operated as a proprietary (full-equity) club until its acquisition in 2010 by the current owner, which leased the club to a non-profit operating company controlled by the same owner.

The owner of the club is proposing conversion of the club's golf course from an 18-hole regulation length to a 9-hole regulation layout, freeing-up property for development of 105 residential units. The clubhouse, non-golf club amenities and support facilities would be retained.

Pro Forma Advisors was retained to conduct an evaluation of both the viability of the existing Hampshire Country Club with its 18-hole golf course and the viability of the proposed 9-hole configuration, with particular focus on the potential operating performance of the club with a scaled down golf amenity. The analysis considers the role and operating characteristics of nine hole golf courses/clubs, experience of private 9-hole clubs in the New York Metro region, and projected economics of Hampshire Country Club with both its current 18-hole golf course and the proposed 9-hole golf course configuration.

A brief summary of findings is presented below, with documentation and analysis presented in subsequent sections of the report.

Summary of Findings

Key findings and conclusions regarding the economic viability of converting Hampshire Country Club's golf course from 18- to 9-holes are summarized as follows:

- ▶ Hampshire Country Club competes in the mid-segment of the Westchester County family country club market. It is one of only a few non-equity clubs serving this market, with the vast majority organized as proprietary non-profit 501 (C-7) clubs. The club's facilities are consistent and competitive with other clubs serving this market segment.
- ▶ The national and regional golf markets have experienced soft conditions over the last 10-15 years due to a series of factors including substantial overbuilding during the late 1990s and early part of the new century, an overall decline in golf participation, lingering effects of the 2008 major recession, and increasing operating expenses. The decline has been widespread, and affected virtually all segments of the industry. The market has shown signs of stabilizing over the last several years, although there continues to be market correction. Importantly, the regional golf market, although also affected by overbuilding of golf courses and decline in golf participation, has fared relatively better than the national market as play levels have been much less adversely affected and there has been fewer golf course closures compared to national trends.
- ▶ An analysis of Hampshire Country Club conducted by Pro Forma Advisors in April 2014 concluded that the country club is capable of producing positive net operating income (earnings before interest, income taxes, depreciation and amortization--EBITDA), although not at a level sufficient to justify the \$12.1 million purchase price of the club in 2010. Current analysis indicates that this conclusion remains valid, with projected net operating income supporting a golf club value in the \$5 million range.
- ▶ Nine-hole golf courses are an integral part of the overall golf industry. There are 4,100 nine-hole courses in the U.S., accounting for just over 25 percent of the nation's total golf course inventory. These nine-hole golf courses largely serve beginner, junior and senior golfers.
- ▶ Most nine-hole golf courses operate as public access facilities. There are relatively few private clubs with nine hole golf courses. In general, both public access and private clubs with only a nine-hole golf course draw from a much narrower market area, and have more limited appeal, compared with facilities with 18-hole courses.
- ▶ Despite the theory that golfers, in the current environment, increasingly prefer shorter courses since they require less time to play, these shorter courses have experienced a much more acute decline in utilization than regulation length 18-hole golf courses. Moreover, although nine-hole courses represent 25 percent of the total golf course inventory, 54 percent of the golf courses that closed in 2016 across the country are nine-hole courses.



- ▶ Of the 42 private country clubs located in Westchester County, only one club (Pleasantville Country Club) offers a nine-hole course. The other 41 include an 18-hole golf course, as well as tennis and swim amenities.
- ▶ In addition to the one private country club in Westchester County offering 9 holes of golf, there is a small number of similar clubs in other areas of the New York Metro offering only 9-hole golf courses. These clubs vary considerably in orientation, quality, amenity packages, and cost. Many of the 9-hole golf courses serve as community amenities rather than free-standing private country clubs.
- ▶ The private country clubs in the region which operate with a nine-hole golf course generally are more focused on tennis and swim recreation, and command a lower full membership dues structure than those clubs offering an 18-hole golf course.
- ▶ An analysis of Hampshire Country Club with a nine-hole golf course, versus the existing club with an 18-hole layout, indicates that the club with a nine-hole course cannot be operated at the same level without a significant subsidy. Assuming the same country club experience (club conditions and level of service), the economics of Hampshire Country Club are indicated as follows:

Hampshire Country Club Stable Year Comparative Economics (thousands of constant 2018 dollars)		
	18-Hole	9-Hole
Gross Revenue	\$6,593	\$4,505
Less: Cost of Sales	785	699
Gross Profit	\$5,808	\$3,806
Less: Operating Expenses	\$5,320	\$4,425
Net Operating Income (EBITDA)	\$488	(\$619)

- ▶ Operating with an 18-hole golf course, and organized as a not-for-profit non-equity club, at a stabilized operating level with 250 golfing members and a small complement of tennis/sports and social/house members, Hampshire Country Club is projected to generate just under \$500,000 in annual net operating income (EBITDA--earnings before interest, taxes other than real property taxes, depreciation and amortization) on annual gross revenue of about \$6.6 million.
- ▶ With a 9-hole regulation length golf course, the club would operate at an annual deficit of over \$600,000, thus requiring a subsidy/member assessment.
- ▶ Projections for Hampshire Country Club with a 9-hole course assume a standard and safe golf course layout, routed to accommodate walking golfers. As the proposed golf course layout is disjointed, with



Pro Forma Advisors LLC

three separate blocks of golf holes scattered around residential areas, thus creating a less than desirable golf course experience, the projections for the 9-hole option may be overly optimistic.

- ▶ Development of moderate density residential housing in close proximity to Hampshire Country Club potentially would result in modest additional support for club memberships. Based on typical membership to residential unit ratios and a series of other factors and assumptions, it is estimated that addition of 105 residential units might generate 8-12 full golf memberships and a complement of tennis/sports and social/house memberships. Even if all of these memberships were in addition to the membership otherwise projected, that would still not result in stable year positive net operating income.



Golf Market Conditions

The following contains a brief overview of the national and regional golf markets as a basis for evaluating demand for the subject golf facility.

National Golf Market Trends

Nationwide, golf play increased steadily between the mid-1980s and 2000. As shown in Exhibit 1, during this period, the total number of annual rounds played nationally increased at an average rate of 2.4 percent per year. This unprecedented growth in golf play during this period was due to a number of factors including:

- ▶ An increase in the number of golfers;
- ▶ The increasing importance of golf-oriented real estate;
- ▶ Expansion of the golf tourism industry;
- ▶ One of the longest economic expansions in the nation's history.

The increase in golf demand and the popularity of golf-related housing development during the 1990s stimulated extraordinary expansion of the national golf course inventory, primarily between 1995 and 2002, as summarized in Exhibit 2. Over the 1990-2010 period, the inventory of golf courses in the United States increased by 34 percent, while the U.S. population registered only a 24 percent gain, and golf demand (play) increased only 12 percent over this same period.

Right after the new century started, the first signs of industry problems surfaced, and have persisted for the past 10-15 years. The National Golf Foundation (NGF) reports that since 2001, annual golf play in the United States declined from 518 million to 468 million rounds in 2016, or about 10 percent. The golf participation rate, after rising steadily through 2003, has fallen steadily from 12.4 percent in 2004 to a current level estimated at only 8.2 percent. The golf market also was significantly impacted by the 2008 national economic recession, which has had lingering effects on golf demand.

Since 2002, the construction of new courses has declined sharply, and the rate at which courses have closed has accelerated. Between 2006 and 2016, for example, the number of courses closed exceeded new course openings. New courses have been added to the inventory since 2006 at an annual rate of 70-75 courses per year, while course closings have averaged about 145 per year over this period. Nearly 1,500 golf courses have closed over the past 10 years. The rate at which golf courses are closing is expected to decline as the market continues its correction and moves toward equilibrium. As described below under the "regional" golf market review, the regional market has fared much better than the national market, with a more modest decline in play levels over the past 10 years compared with national trends.



Pro Forma Advisors LLC

Exhibit 1: Indicators of U.S. Golf Demand (1985-2016)

Year	Rounds (millions)	# of Golfers ¹ (millions)	Participation Rate ²	Golf Ball Sales ³ (millions of dozens)
1985	365	17.5	10.2	36.0
1990	400	27.8	13.5	42.0
1995	420	25.0	11.6	46.0
2000	518	28.8	11.7	52.2
2001	518	29.5	11.9	50.0
2002	502	29.5	12	46.7
2003	495	30.4	12.4	43.4
2004	499	29.5	11.5	43.4
2005	489	29.3	11.2	43.6
2006	493	29.4	11.2	44.0
2007	490	29.5	11.1	43.5
2008	431	28.6	10.7	42.2
2009	477	27.1	10	40.1
2010	475	26.1	9.6	... ^{5/}
2011	463	25.7	9.2	... ^{5/}
2012	490	25.3	9.0	... ^{5/}
2013	465	24.7	8.9	... ^{5/}
2014	457	24.7	8.5	... ^{5/}
2015	465	24.1	8.2	... ^{5/}
2016	468	23.8	8.0	---
Average Annual Growth				
1985-1990	1.8%	9.7%	---	3.1%
1990-1995	1.0%	(2.1)%	---	1.8%
1995-2000	4.3%	2.9%	---	2.6%
Subtotal	2.4%	3.4%	---	2.5%
2000-2005	(1.1%)	0.3%	---	(3.5%)
2005-2010	(1.0%)	(2.3%)	---	(2.1%) ^{4/}
2010-2016	(0.4%)	(1.6%)	---	... ^{5/}

1/ Represents golfers over 12 years of age. 2/ Estimated by PFA. 3/ Estimated by PFA based on "soft goods" sales recorded by Data Tech and golf ball manufacture sales. 4/ For period 2005-2009. 5/ Data for 2010-2015 not available in comparable format.
Source: National Golf Foundation; Golf Data Tech; and Pro Forma Advisors LLC.



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Exhibit 2: Number of Golf Courses¹ - U.S.

Year	Annual Courses Added	Annual Courses Closed	Total Golf Courses ²	Average Annual Percent Change
1990	---	---	11,105	---
2002	315	15	14,725	2.96%
2006	120	60	14,968	0.8%
2007	115	95	14,988	0.13%
2008	70	105	14,953	(0.23%)
2009	50	100	14,903	(0.33%)
2010	45	110	14,838	(0.44%)
2011	35	140	14,733	(0.71%)
2012	14	155	14,592	(0.96%)
2013	14	157	14,449	(0.98%)
2014	11	174	14,289	(1.13%)
2015	17	177	14,129	(1.12%)
2016	15	211	13,933	(1.39%)
¹ 18-hole equivalents. ² Includes courses added, less courses closed., 2006-2016 Source: National Golf Foundation; and Pro Forma Advisors				



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The mid- to long-term outlook for the regional golf market is uncertain at this time. Most golf markets, weather adjusted, have stabilized over the last several years. Some analysts believe that the aging baby boomer population (participation and frequency of play increase with age), few if any additions to the golf course inventory, and an improvement in overall economic conditions suggest continued stabilization or possible marginal industry growth. Others suggest that continued market correction over the near-term, largely achieved through further reduction in the inventory of golf courses, will be necessary to reach equilibrium and long-term stability.

Regional Market Trends

The regional golf market, although affected by overbuilding of golf courses and decline in golf participation, has fared relatively better than the national market. Exhibit 3 presents trends in golf rounds, comparing the State of New York and New York Metro area with national statistics. The exhibit shows the number of golf rounds, expressed as an index based on annual change in play for the period shown (2006=100).

Compared to the U.S. average shown, the State of New York, and in particular the New York Metro, have produced markedly superior performance. While the national number of rounds has declined 13 percent over the 2006-2013 period, the New York Metro has experienced relative stability over this same period, with rounds down much more modestly.

The rate of golf course closures in the New York Metro also has been much lower than experienced in other areas of the U.S. In Westchester County, two golf courses have closed since 2010. Ridgeway Country Club in White Plains closed in 2011 after being purchased by the French-American School of New York for a reported \$8.5 million. Interestingly, at that time, a feasibility study was conducted by Greenwich Golf Partners for the City of White Plains regarding potential City acquisition. The study projected annual net operating income, before debt service, at \$1.2 million, about \$100,000 more than estimated debt service based on the purchase price of the club and needed capital improvements. The City elected not to proceed with the acquisition.

More recently, in August 2017, Elmwood Country Club in White Plains, was sold and closed. A development group acquired the club for \$13 million, with plans for residential development of the property. The underlying property was zoned for residential land uses.



Exhibit 3: Trends in Golf Rounds Played*					
Year	United States			State of New York	New York Metro
	Public	Private	Total		
2006	100.0	100.0	100.0	100.0	100.0
2007	99.7	98.4	99.5	101.7	97.9
2008	97.7	96.7	97.7	102.2	97.8
2009	97.4	95.0	97.1	5.7	95.7
2010	95.5	91.9	94.9	108.3	98.4
2011	93.1	89.4	92.5	98.9	91.8
2012	99.2	91.9	97.8	107.2	98.6
2013	90.6	79.3	88.2	101.5	93.9
2014	88.6	79.4	86.7	99.9	93.8
2015	90.7	79.1	88.2	104.3	99.5
2016	91.5	78.6	88.8	107.1	105.3
2017 ^{1/}	89.0	79.4	87.0	95.3	100.8
* Index of golf rounds played, based on reported percentage annual changes (2006=100). Source: Golf Data Tech, "Rounds Played Report," ; National Golf Foundation; and Pro Forma Advisors LLC.					



Competitive Clubs

There are 42 private golf and country clubs in Westchester County, of which only one features a nine-hole golf course. This is an extremely low ratio, even given that there are many Westchester County club members who reside outside the County. Most of the clubs are proprietary equity clubs (member-owned) operated as non-profit 501 C-7 organizations. There are a limited number of non-proprietary (non-equity) clubs which are operated as for-profit entities and privately owned. Hampshire Country Club is unusual in that it is a non-proprietary club that is required to operate on a not-for-profit basis.

Based on a 2014 survey, selected characteristics of a number of mid-market, family oriented country clubs with 18-hole golf courses in Westchester County are presented in Exhibit 4. The surveyed clubs include:

- ▶ Brynwood Country Club, Armonk
- ▶ Knollwood Country Club, Elmsford
- ▶ Westchester Hills Country Club, White Plains
- ▶ Pelham Country Club, Pelham
- ▶ Elmwood Country Club, White Plains (closed in late-2017)

Key findings from the survey of private clubs with 18-hole golf courses is summarized below.

- ▶ All but one of the country clubs surveyed are proprietary equity (member-owned) clubs. The facilities offered at the clubs are generally very similar, comprised of an 18-hole regulation length golf course (par 70-72), extensive clubhouse, outdoor tennis complex with 6-8 courts, and a swim complex. Most clubs have added a fitness component in recent years.
- ▶ The maximum number of memberships with golf privileges is about 300-350. Most of the clubs have current full golf memberships of between 250 and 300.
- ▶ The clubs typically offer a tennis/sports membership and a social/house membership. The tennis/sports membership allows access to all club facilities other than the golf course, and the social/house membership to all club facilities except the golf and tennis facilities. The number of non-golf members generally totals between 75 and 150.
- ▶ Initiation fees or deposits for full golf memberships at the surveyed equity clubs ranges from \$8,000 to \$25,000, although there are a number of clubs in the market which offer incentive programs with no initiation fees. The initiation fee is forfeited when the member resigns. The one non-equity club does not have an initiation fee.
- ▶ The annual cost of full golf membership (dues, locker, capital assessment, food and beverage minimum) ranges from about \$14,000 to \$20,000, with tennis/sports and social/house annual membership costs reduced by \$5,000 to \$10,000.



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- ▶ The annual membership turnover rate typically ranges from 6 to 8 percent per year, although in recent years the rate has been as high as 10 percent at some clubs.
- ▶ The source of market varies considerably by course. Most of the mid-market courses derive 70-90 percent of members residing within 5- to 10-miles of the club, although some clubs only draw about one-half of their members from the local market. The balance of members reside outside the local market, including many from Manhattan. The extent of non-local membership depends primarily on the positioning of the club, quality of facilities, and ease of access.
- ▶ Annual rounds typically range from 15,000 to 20,000, comprised of member play, member guest play, and outside tournament play. Member play normally averages in the range of 60 rounds per membership per year. Guest play generally accounts for about 10 percent of total play.
- ▶ Members at all of the surveyed clubs have the option to walk, use a cart, or play with a caddy. Cart fees range widely from \$23 to \$35 per player. Cart utilization typically ranges from 60 to 70 percent.
- ▶ Guest greens fees are in the range of \$70 to \$80 on weekdays, and \$80 to \$100 on weekends, plus cart/caddy. Outside tournament greens fees tend to be somewhat higher than guest greens fees. Tournament play generally is limited to Mondays when the course is closed to members.



Exhibit 4: Characteristics of Selected Private 18-Hole Golf Clubs			
Club	Brynwood Country Club	Knollwood Country Club	Westchester Hills CC
Location	Armonk	Elmsford	White Plains
Equity/Non-Equity	Non-Equity	Equity	Equity
Year Opened	1974	1894	1919
Facilities	18-hole golf (par 70); 7 tennis courts; Junior Olympic pool; fitness center	18-hole golf (par 71); four tennis courts (proposed); pool; fitness	18-hole golf (par 70); two tennis courts; pool
Golf Course Architect	Al Zikorus	Lawrence Van Etten/Tillinghast	Walter Travis
Current Golf Members	350	260	270
Current Sports/Social Members	100	40	75
Initiation Fee (family)			
Golf	---	\$12,500	\$8,000
Tennis/Sports	---	\$10,000	---
Social	---	\$5,000	---
Transfer Fee (golf)	---	100%	100%
Annual Dues (family)			
Golf	\$20,000	\$13,000	\$15,000
Tennis/Sports	\$9,000	\$9,700	\$5,000
Social	---	\$4,500	\$4,500
Source of Members			
Local	60%	90%	85%
Non-local	40%	10%	15%
Annual Membership Turnover	8%	7%	8%
Guest Greens Fees (accom.)			
Weekday	\$100 (incl. cart)	\$75	\$85
Weekend	\$125 (incl. cart)	\$95	\$85
Cart Fee Per Player	\$30	\$27	\$25
Annual Capital Contribution	no assessment		included in dues
Annual Food & Beverage Min.	\$1,500	\$2,000	included in dues
Annual Play	15,000	20,000	20,000



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Exhibit 4 (continued): Characteristics of Selected Private 18-Hole Golf Clubs

Club	Elmwood Country Club	Pelham Country Club
Location	White Plains	Pelham
Equity/Non-Equity	Equity	Equity
Year Opened	1930	1921
Facilities	18-hole golf (par 71); 6 tennis courts; Olympic pool; wading pool; fitness center	18-hole golf (par 71); 11 tennis courts; main pool; wading pool; fitness center
Golf Course Architect	A.J. Tillinghast	Devereaux Emmet
Current Golf Members	220	300
Current Sports/Social Members	75	150
Initiation Fee (family)		
Golf	\$7,500	\$25,000+\$10,000 bond
Tennis/Sports	---	---
Social	---	\$5,000
Transfer Fee (golf)	100%	\$25,000
Annual Dues (family)		
Golf	\$20,000	\$9,400
Tennis/Sports	\$15,000	---
Social	\$9,000	\$6,100
Source of Members		
Local	50%	85%
Non-local	50%	15%
Annual Membership Turnover	7%	7%
Guest Greens Fees (accom.)		
Weekday	\$75	\$75
Weekend	\$90	\$95
Cart Fee Per Player	\$35	\$23
Annual Capital Contribution	included in dues	\$2,150
Annual Food & Beverage Min.	included in dues	\$1,350
Annual Play	14,000	20,000



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A financial profile for a number of non-profit Westchester County country clubs, featuring an 18-hole golf course along with tennis, aquatic and other recreational amenities, is presented in Exhibit 5. The data is derived from IRS Form 990 filings by the non-profits for FY2015, the latest year available. The operating expenses shown in the exhibit exclude interest and depreciation.



Exhibit 5: Selected 18-Hole Westchester County Private Country Club Financial Reporting
(thousands of dollars)

	Knollwood Country Club	Westchester Hills	Elmwood Country Club	Pelham Country Club
	Elmsford	White Plains	White Plains	Pelham
Revenue				
Initiation Fees	\$116	\$487	---	\$210
Dues/Assessments	2,789	3,213	\$5,421	5,204
Golf Fees	---	617	368	---
Other Sports Fees	---	---	12	---
Food & Beverage/Retail	2,925	2,584	1,808	3,203
Other	---	65	160	---
Total	\$5,230	\$6,966	\$7,769	\$8,617
Less: Cost of Sales	<u>597</u>	<u>934</u>	<u>2,213</u>	<u>679</u>
Gross Profit	\$5,233	\$6,032	\$5,556	\$7,938
Expenses^{1/}				
Payroll & Benefits	\$2,312	\$3,673	\$2,436	\$4,194
Legal & Accounting	88	139	23	137
Golf Course R & M	810	183	574	664
Food & Beverage	439	---	---	256
General & Administrative	527	1,394	1,367	1,276
Other Expenses	<u>700</u>	<u>435</u>	<u>695</u>	<u>204</u>
Total ^{1/}	\$4,876	\$5,824	\$5,095	\$6,731
Net Operating Income	\$354	\$208	\$461	\$1,207

^{1/} Excludes interest and depreciation.

Source: IRS Form 990 filings for individual clubs; and Pro Forma Advisors, LLC



Nine-Hole Golf Courses

The national golf course inventory is comprised of public access and private golf facilities. The majority of U.S. golf facilities (71 percent) allow public access (municipal, privately-owned daily fee and semi-private), while 29 percent are designated as private. Nationally, there are about 4,100 nine-hole golf courses of the current total inventory of just over 16,000 golf courses, or about 24 percent of the total. The large majority of 9-hole courses are public, while a very small percentage are private. That is the vast majority of private golf facilities feature 18-hole regulation length golf courses.

In Westchester County, for example, only one of the 42 private clubs has a 9-hole course, with the other 41 offering one or more 18-hole course. Of the 13 public access golf courses in the county, two are 9-hole layouts, with the balance 18-hole configurations.

One important manifestation of the relative viability of 9- versus 18-hole golf courses is illustrated by the rate of golf facility closures across the country. In 2016, 54 percent of the 289 golf facilities closed in the United States were 9-hole courses (155 facilities), despite only accounting for 24 percent of the inventory. The other 46 percent of the closures during 2016 (135 facilities) were 18-hole courses. Clearly, 9-hole golf courses are much more vulnerable than 18-hole facilities due, in large part, to weaker operating economics.

There are a number of reasons which are proffered by golf industry observers in an attempt to explain the decline in golf participation, including competing recreational opportunities, rising cost, dissipation of the "Tiger Woods" effect, and more limited recreational time. With regard to the last factor, some analysts have suggested that many golfers are seeking a more abbreviated golf experience which should translate into greater demand for 9-hole golf courses. While this is an interesting theory, the data does not support this assertion. Specifically, the decline in play on 9-hole and shorter (executive and par-3) 18-hole golf courses has been much more precipitous compared with the decline in play on 18-hole regulation length courses.

The experience of the nation's largest municipal golf course system--the 17-course Los Angeles County municipal golf system--is illustrative of this point. For example, play on the County's six short courses (9-hole and 18-hole executive) is reported to have declined 41.4 percent over the 2007-2017 period compared with a 21.8 percent decline on its 13 regulation length 18-hole courses (see Exhibit 6). Similar experience has been observed in other major markets across the country.



Exhibit 6: Los Angeles County Golf System Golf Rounds Trends						
Type of Golf Course	Annual Rounds (000)			Percentage Change		
	FY2007	FY2012	FY2017	FY2007-FY2012	FY2012-FY2017	FY2007-FY2017
Regulation						
18-Hole Reg	1,296.1	1,116.0	1,013.7	(13.9%)	(9.2%)	(21.8%)
Short Courses						
9-Hole Reg	183.1	143.3	97.3	(21.7%)	(32.1%)	(46.9%)
18-Hole Exec	111.5	84.8	75.4	(24.0%)	(11.1%)	(32.4%)
Subtotal	294.6	228.1	172.7	(22.6%)	(24.3%)	(41.4%)
Total	1,590.7	1,344.1	1,186.4	(15.5%)	(11.7%)	(25.4%)

There is clearly a role for 9-hole and short 18-hole courses in the golf industry. In virtually all cases, the decision to build a short golf course is based on land availability. That is, these 9-hole and short 18-hole courses arise primarily because the land available for the golf course is constrained to less than the 120-150 acres generally required to construct a regulation length 18-hole golf course.

Nine-hole and short 18-hole golf courses generally serve a specific market niche, primarily seniors and beginner golfers. Clearly, this is a more limited subset of the overall golf market, and the disproportionate decline in new/beginner golfers in recent years portends further erosion of the demand for these shorter golfer courses.

Economists generally relate a recreation/entertainment facility's market draw to the length of the recreational experience. For example, a theme park offering a full day experience will derive attendance from a much broader market than a movie theatre offering a 2-hour experience. That is, the willingness of patrons to travel longer distances is directly related to the length of the recreational experience. As such, 9-hole golf courses, which offer a two hour recreational experience, draw from a narrower market than 18-hole regulation length courses which feature a 4-hour experience.

As noted, there is only one private country club in Westchester County (Pleasantville Country Club in Pleasantville) which offers only a 9-hole golf course. Pleasantville Country Club offers a 9-hole par-32 (2,173 yards) golf course designed by noted golf course architect A.J. Tillinghast, clubhouse/restaurant, two tennis courts and pool. The club is owned by the Pleasantville Country Club Homeowners Association, comprised of 72 homeowners. In addition to the 72 homeowners which have access to the club facilities, there are 150



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members from the community. Full family golf memberships require annual dues of \$4,600 (no initiation fee). Annual play is reported at only 7,000 rounds, less than one-half generated at most 18-hole private clubs.

In addition to the one private course in Westchester County with a nine-hole course, there are a limited number of other private country clubs in the New York Metro region which operate with only nine golf holes. A financial profile for several of these courses, based on their IRS 990 filing, are shown in Exhibit 6.

The basic characteristics of the regional private golf clubs featuring nine-hole golf courses are summarized below:

- ▶ Country clubs with 9-hole golf courses draw support from a more limited market than clubs offering an 18-hole golf course. There are many prospective country club members who are only interested in a regulation length 18-hole golf course.
- ▶ Most of these clubs were established more than 40 years ago. No private clubs with a nine-hole golf course have opened since 1976. Several of these clubs serve as an amenity to residential planned communities, with funding from the homeowners association.
- ▶ There is greater interest in the tennis and aquatics recreation facilities, and less on golf, at these clubs compared to similar country clubs offering 18-hole golf courses.
- ▶ Annual full family membership dues generally are substantially lower at regional country clubs with only nine golf holes compared to comparable clubs with 18 golf holes, which translates into lower club revenues and often the need for significant member assessments.
- ▶ Compared to 18-hole private clubs, the mix of memberships at clubs with only 9-hole courses is more weighted toward tennis and social categories than full membership (which allows use of the golf course and all other facilities).
- ▶ Clubs with only 9-hole golf courses are at a major disadvantage in competing for highly profitable outside golf tournaments.
- ▶ Guest greens fees at clubs with 9-hole golf courses are substantially below those at clubs with 18-hole courses.

In response to the premise that one of the reasons that golf demand has diminished relates to the length of time necessary to play golf, some golf professionals have suggested that the concept of reducing golf courses from 18-hole to 9-hole may have merit. While this discussion has occurred over a number of years, and a number of golf course owners have considered such a strategy, there are only a few instances across the country where this has been implemented, and where this has happened, it is driven by motivation to redevelop the surplus land to a more profitable commercial/residential use. The direct economics of reducing a golf course from 18- to 9-holes are not favorable.



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Exhibit 7: Financial Reporting at Selected New York Metro Private Country Club With 9-Hole Golf Courses (thousands of dollars)

	Hay Harbor Country Club	Bridgehampton Club	Birchwood Country Club
	Fishers Island, NY	Bridgehampton, NY	Westport, CT
Revenue			
Initiation Fees	\$210	---	\$19
Dues/Assessments	1,367	\$2,228	3,113
Golf Fees	---	43	---
Other Sports Fees	---	84	---
Food & Beverage/Retail	514	---	1,599
Other	---	61	4
Total	\$2,091	\$2,416	\$4,865
Less: Cost of Sales	<u>91</u>	<u>4</u>	<u>451</u>
Gross Profit	\$2,000	\$2,412	\$4,414
Expenses^{1/}			
Payroll & Benefits	\$1,067	\$1,071	\$2,507
Legal & Accounting	15	17	17
Golf Course R & M	---	92	237
Food & Beverage	---	---	129
General & Administrative	512	172	562
Other Expenses	<u>187</u>	<u>365</u>	<u>380</u>
Total ^{1/}	\$1,780	\$1,717	\$3,832
Net Operating Income	\$220	\$699	\$819

^{1/} Excludes interest and depreciation.

Source: IRS Form 990 for individual clubs; and Pro Forma Advisors, LLC

Hampshire Country Club Projected Performance

Projected stable year operating performance for Hampshire Country Club has been prepared for continuation of the club with an 18-hole golf course and an alternative where the golf course is scaled down to a 9-hole layout. The primary overriding assumptions are indicated as follows:

- ▶ The country club, under both alternatives, would be operated as a non-proprietary (non-equity) private facility. A limited number of outside tournaments would be hosted.
- ▶ The course maintenance quality and customer service would be comparable to the family-oriented private clubs in the region.
- ▶ Golf course maintenance would be provided by unionized employees.
- ▶ The club would be managed by a qualified professional golf course management company.
- ▶ Use of golf carts would be optional. The cart fee would be included in the guest greens fees for member guests, and tournament play. The club fleet of carts is assumed to be leased.
- ▶ A full complement of maintenance equipment is assumed to be leased. An allowance for the lease payment is included in the operating income statement as an expense item.
- ▶ The club would not be encumbered by any debt or facility lease payments.
- ▶ Projections for the 9-hole option assume a standard, or typical, golf course layout. The proposed 9-hole layout is inconsistent with this assumption (see golf course design discussion).
- ▶ All values are expressed in constant 2018 dollars.

Revenue Factors

The basic revenue and expense factors and assumptions employed in the analysis are indicated below.

Membership Fees and Dues

Three basic types of memberships are offered:

Membership	18-Hole Course			9-Hole Course		
	Number of Members	Initiation Fee	Annual Dues	Number of Members	Initiation Fee	Annual Dues
Full Golf	250	---	\$14,000	200	---	\$10,000
Sports/Tennis	50	---	6,000	50	---	6,000
House/Social	50	---	4,000	50	---	4,000
Total	350	---	---	300	---	---

As noted, it is assumed that there are no initiation fees or deposits for any of the membership categories.



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Course Utilization

Annual play would derive from members, member guests, and a limited number of outside tournaments.

Source	18-Hole Course		9-Hole Course	
	Annual Rounds	Percent Distribution	Annual Rounds	Percent Distribution
Members	16,250	87.8%	15,000	93.8%
Member Guests	1,750	9.5%	1,000	6.2%
Outside Tournament	500	2.7%	---	---
Total	18,500	100.0%	16,000	100.0%

Guest/Tournament Greens/Cart Fees

Average Fee per Round (including cart)

18-Hole Golf Course	\$100.00
9-Hole Golf Course	\$60.00

Member Cart Fees

Use of carts would be optional.

Cart Utilization

18-Hole Golf Course	75%
9-Hole Golf Course	50%

Cart Fee Per Player

18-Hole Golf Course	\$25.00
9-Hole Golf Course	\$15.00

Merchandise

Average Annual Expenditures/Member \$750 (both alternatives)

Average Expenditure Guest/Tournament \$10.00 (both alternatives)

Food & Beverage (both alternatives)

Members (average annual amount/member)	\$2,500
Guests/Tournament (average per round)	\$25.00



Outside Banquets/Special Events (annual) \$750,000

Other

Miscellaneous (annual)^{1/}

18-Hole Golf Course \$100,000

9-Hole Golf Course \$80,000

1/ Club rental, equipment repair, tennis and swim guest fees, food and beverage minimum forfeiture, other member services, facility/equipment rental, and other miscellaneous revenue.

Cost of Goods Sold

The direct cost of goods sold is indicated as follows (both alternatives):

Merchandise: 70 percent of gross merchandise revenue

Food & Beverage: 35 percent of gross food and beverage revenue

Projected Gross Profit

Based on the factors and assumptions presented above, projected annual gross profit for both alternatives, at stabilization, is presented in Exhibit 8. Gross profit is defined as gross revenue less direct costs of goods sold. Annual gross revenue is estimated at \$6.59 million for the 18-hole club and \$4.5 million for the 9-hole club. Most of the upper-mid-market clubs in Westchester County with 18-hole golf courses generate \$6 to \$8 million annually in gross revenue, while the clubs with 9-hole courses generally produce gross revenue in the \$2-\$4 million range. As such, the gross revenue projection for the 9-hole golf course alternative may be somewhat generous.

Deducting cost of sales from gross revenue yields gross profit of \$5.81 million for the 18-hole club and \$3.81 million for the 9-hole club.

Operating Expenses

Annual operating expenses at stabilization are projected in Exhibit 9. The expenses are expressed in constant 2018 dollars. Reduction of the Club's golf course from 18- to 9-holes, while retaining the clubhouse and all other amenities, would result in a reduction in club operating expenses. Golf course maintenance expenses would be reduced by nearly one-half, but there would be only very modest reductions in golf operations, and all other expenses would remain at roughly the same level regardless of the number of golf holes. This is a result of the relatively fixed operating expenses associated with most of the functions at Hampshire Country Club.



For the 18-hole alternative, the analysis assumes property taxes are based on an approximate \$5 million market value of the property, as affirmed by the Supreme Court of the State of New York, Appellate Division, in March 2016. For the 9-hole alternative, the analysis assumes property taxes are based on a \$3.8 million property value assessment.



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Exhibit 8: Projected Hampshire Country Club Stable Year Gross Profit (thousands of constant 2018 dollars)		
	18-Hole	9-Hole
Revenue		
Member Dues		
Full Golf	\$3,500	\$2,000
Sports/Tennis	300	300
House/Swim	200	200
Subtotal	\$4,000	\$2,500
Guest/Tournament Greens/Cart Fees	\$225	60
Member Cart Fees	305	105
Merchandise		
Members	\$262	\$225
Guest/Tournament	20	10
Subtotal	282	\$235
Food & Beverage		
Members	\$875	\$750
Guest/Tournament	56	25
Banquet/Special Events	750	750
Subtotal	\$1,681	\$1,525
Other/Miscellaneous	\$100	\$80
Total	\$6,593	\$4,505
Cost of Sales		
Merchandise	\$197	\$165
Food & Beverage	588	534
Total	\$785	\$699
Gross Profit	\$5,808	\$3,806



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Exhibit 10: Hampshire Country Club Projected Operating Expenses (thousands of 2018 dollars)

	18-Hole	9-Hole
Course Maintenance		
Salaries & Benefits	\$700	\$400
Services & Supplies	350	200
Water & Utilities	200	100
Maintenance Equipment	<u>100</u>	<u>75</u>
Subtotal	\$1,350	\$775
Golf Operations		
Pro Shop Salaries & Benefits	\$300	\$300
Cart Lease	80	45
Outside Staff/Services	100	80
Services & Supplies	<u>50</u>	<u>40</u>
Subtotal	\$530	\$465
Tennis/Swim Club	\$150	\$150
Food & Beverage	\$840	\$780
Clubhouse Undistributed	\$700	\$700
Member Services	\$250	\$250
General & Administrative		
Salaries & Benefits	\$450	450
Insurance	75	60
Property Tax	125	95
Membership	100	100
Services & Supplies	250	225
Management Fees	<u>200</u>	<u>150</u>
Subtotal	\$1,200	\$1,080
Capital Improvement Reserve	<u>\$300</u>	<u>\$225</u>
Total	\$5,320	\$4,425



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Net Operating Income

Projected net operating income at stabilization is based on deducting operating expenses from gross profit. Net operating income is defined as "earnings before interest, taxes (other than real property taxes), depreciation and amortization" (EBITDA). At membership stabilization, Hampshire Country Club net operating income, expressed in constant 2018 dollars, is projected as follows:

Exhibit 10: Hampshire Country Club Stable Year Projected Net Operating Income (thousands of 2018 dollars)		
	18-Hole	9-Hole
Gross Revenue	\$6,593	\$4,505
Less: Cost of Sales	<u>785</u>	<u>699</u>
Gross Profit	\$5,808	\$3,806
Less: Operating Expenses	<u>\$5,320</u>	<u>\$4,425</u>
Net Operating Income (EBITDA)	\$488	(\$619)



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Golf Course Design

The proposed 9-hole golf course routing plan is comprised of three separate blocks of holes, separated by street crossings and significant distances between these blocks. The design appears to be dictated by the residential development site planning rather than to meet high quality design standards. The long distances between greens and tees on many of the holes makes the proposed layout difficult for walking golfers. One of the key advantages of 9-hole courses is that they satisfy golfer preferences to walk the course rather than use power carts.

Further, there also are several holes which require the golfer to "backtrack" from a green to the next tee. This design feature may expose golfers to unsafe conditions as that golfers on the tee may not be sufficiently buffered from approaching golf shots from golfers on the prior hole.

The financial projections for the 9-hole option assume that the course is designed with a standard, or typical, routing plan which accommodates walking golfers. Under the proposed routing plan, projections may be optimistic.

Impact of Residential Development

Residential housing in close proximity to Hampshire Country Club would represent a potential source of market support for the Club. There are many factors which influence the propensity of families to join a community oriented golf or country club including the club characteristics (type and quality of facilities and amenities offered, membership pricing, positioning/orientation of the club, and the like), propensity to play golf, type and value of residential housing, competitive club options, among others.

In golf-course oriented recreationally communities, the ratio of club golf membership to residential units can be as high as .2, while in more diverse suburban communities the ratio is much lower, typically in the range of .05 to .10. Thus, a 105-unit residential project in close proximity to Hampshire Country Club would likely generate demand for 5-10 full golf memberships, plus a small complement of tennis and social members.

An alternative method of measuring the impact is to apply ratios of income qualified households to private country club memberships. In most communities, there is one membership supportable for every 15 income qualified households. Based on this ratio, and assuming that each residential unit in a project at Hampshire Country Club was income qualified, a 105-unit project would produce demand for about 8 full golf memberships. Even if all of these memberships were in addition to the membership otherwise projected, that would still not result in stable year positive net operating income.

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Memorandum

Fine Arts & Sciences, LLC

To: Village of Mamaroneck Planning Board
From: Lisa Liquori
Subject: Hampshire Country Club PRD preliminary DEIS
Date: February 14, 2018

Thank you for the opportunity to submit these written comments in connection with your February 14, 2018 public hearing on the preliminary Draft Environmental Impact Statement for the Hampshire Country Club Planned Residential Development.

Introduction

The Hampshire Country Club Property is defined by its unique and special qualities. Several Village planning studies recognize the fragile and inherently vulnerable environmental conditions of the site and have formally designated the property as one requiring a more rigorous review of development than other areas in the Village. In brief the property is:

- **The largest tract of open space within the Village and makes an important contribution to the open space character of the Village and the region.¹**
- **A Special Flood Hazard Area subject to frequent flooding and storm surge from the Long Island Sound. During 100-year base flood conditions, which have been occurred many times in recent years, most of the property is underwater and the roads leading to the property become flooded and impassable.²**
- **A Critical Environmental Area, one of 7 in the Village. In addition to serving as a flood storage area during storm conditions, the site is riddled**

¹ See Exhibit A: Major Parks and Open Space Mamaroneck Comprehensive Plan Update Figure 10-1

² See Exhibit B: Hampshire Country Club "100 Yr. Flood" (approx. 12' elev) Existing Conditions Map

with sensitive National Inventory Wetlands, waterbodies, streams and drainage courses. Approximately 80% of the soils are characterized as unsuitable for residential development having high ground water table, rock outcroppings, shallow depth to bedrock and other limitations. The site supports a large number of mature trees, which, together with the open space and wetlands, contribute to the high quality Hommocks Conservation wildlife habitat.³

The proposed development involves clear cutting, blasting, earthmoving, digging, regrading and filling 55 acres of land- an area larger than the largest Park in the Village. The proposal will strip the property of its essence and transform the low lying, open space into an unnatural, potentially unstable landform with a 16 foot high berm topped with 105 dwelling units. As explained below, the development project is contrary to the Village Comprehensive Plan, fails to meet the minimum Special Permit, subdivision and site plan standards for development, is inconsistent with Local Waterfront Revitalization Policies and recommendations, is at odds with the designation of the property as a Critical Environmental Area and will increase pressure on schools.

1. The Project fails to comply with the Village Comprehensive Plan

- a. The Comprehensive Plan articulates the vision or overall image of what the community would like to be in the future and serves as the foundation for zoning. The Hampshire Country Club is the largest open space property within the Village and by virtue of its size alone, it substantially contributes to the special beauty, natural environment and diverse open space character articulated in the Comprehensive Plan 2025 Vision for the Village of Mamaroneck. But also, the Comprehensive Plan specifically singles out the Hampshire Country Club for adding to the Village's cherished open space character, scenic quality and recreational opportunities.⁴
- b. The Comprehensive Plan recommends preservation of the entire property and found that the existing R-20 Residential zoning would not accomplish this goal. The Comprehensive Plan explains that the zoning for the parcel is out-of-date, a classification that the original zoning code applied to parks and golf courses as a default position or holding zone. Applying updated zoning tools developed over the years, the Comprehensive Plan recommends rezoning the property to a recreation/open space classification. The Town of Mamaroneck zoning of the Bonnie Briar Club is offered as an example of the successful implementation of this zoning technique.⁵

³ See Exhibit C: Hampshire Country Club Development Constraints, Mamaroneck, NY

⁴ See Exhibit D: Village of Mamaroneck Comprehensive Plan Chapter 10: Open Space and Recreation P. 148

⁵ See Exhibit E: Village of Mamaroneck Comprehensive Plan Chapter 6: Environmental Protection Mamaroneck Harbor/Long Island Sound PP 63-64

- c. The Preliminary DEIS (PDEIS) asserts that the project complies with these Comprehensive Plan recommendations, but it does not. Instead, the project will replace the existing recreational open space with a 105 unit residential subdivision without a functioning golf course. The independent site specific financial assessment conducted by Pro Forma Advisors, Gene Krekorian, found that the economic viability of the proposed 9 hole golf course would not be viable and the golf course would likely fail.
- d. Alternatively, to allow some development of the property, the Comprehensive Plan recommends a cluster/open space subdivision, with permanently dedicated open space and the number of lots determined by a standards subdivision. To reduce the impacts from development, the Comprehensive Plan recommends lessening the intensity of development through rezoning the property to R-30 Residential, consistent with the zoning for the Town of Mamaroneck portion of the property.⁶
- e. The project does not comply with this alternative Comprehensive Plan recommendation either. The proposed 105 unit residential density greatly exceeds the number of lots depicted on a standard yield plan meeting all applicable zoning and other standards in either an R-30 or R-20 zoning district. The 9-hole golf course acreage is not offered for permanent preservation and the area discussed in the PDEIS for preservation is not delineated on the maps submitted for approval.

In sum, the PRD proposal is not consistent with the Comprehensive Plan recommendations, goals and implementation measures.

2. The Project fails to meet the required Planned Residential Development Special Permit, Site Plan or Subdivision Village standards established to minimize or avoid adverse environmental impacts to the maximum extent and protect the health, safety and welfare of the community.

A. Subdivision Plat Requirements Village of Mamaroneck Code §A348-20A -The most fundamental requirements for subdivision approval, a map depicting the location and dimensions of all proposed property lines, not been met. The preliminary subdivision map does not show the boundary between the golf course and the proposed homeowner's association open space. Not only does this fail to meet minimum standards, this is a significant omission for the following reasons:

- (1) All the environmental analyses, alternatives and project description in the PDEIS have been based on a 36 acre Homeowner Association reserved area, which has

⁶ Ibid

not been and most likely cannot be identified on a map. Based on the professional judgement of my firm together with Dodson & Associates, the potential acreage available for the HOA open space, after the area mapped for the fairways and golf course related improvements have been divided out, is significantly less than 36 acres.

- (2) There has been no offer to permanently preserve the golf course which is the only open space provided on the maps submitted.
- (3) The delineation of the golf course is required for the determination of residential yield. A 65 acre area was assumed to be the acreage available for determining yield (102 acres minus 36 acres golf course). However, the area available for residential development, after subtracting for the golf course, is likely to be closer to 50 acres. A 105 unit residential yield cannot not be achieved based on a map developed using the configuration and area available for residential development. A significantly lower number of units will be the maximum achievable on the property (refer to memo by K. Meara).

b. Subdivision Standards of Consideration-Public Safety: Village of Mamaroneck Code §A348-21A (3) and §A348-21A (5) Due to the occurrence of flooding, most of the property cannot be safely occupied in its existing condition without endangering human health and safety. Experience after Sandy and across the country with catastrophic and costly storm damage have led to the conclusion that one of the most effective means to reduce risk is to redirect development away from flood hazard areas altogether. But the project does not adhere to these emerging environmental planning principles. Whereas the proposed regrading and importation of fill may keep new buildings above 100 year flood elevations, the residential development complex will virtually become an island surrounded by water in certain storm conditions. The proposal will move new residents into a flood hazard area, a location where residents will not be able to get in or out of their homes during storms. Eagle Knolls Road, Hommocks Road, Cove Road and Cooper Avenue will all be inundated with floodwaters and unsafe for passage by new residents and first aid responders.⁷

c. Site Plan Ecological Considerations- Avoid Steep Slopes: Village of Mamaroneck Code § 342-76A(1) and §342-76A(2) The site contains large elevation changes ranging from ½ foot to 30 feet above sea level and areas of steep slopes ranging between 15% and 25%. According the LWRP Update: “Sloping topography typically has a greater propensity to erode and recommendations in our Comprehensive Plan include that steep slopes should be added as development constraints for the Planning

⁷ See Exhibit F Hampshire Country Club “100 Yr. Flood”(approx. 13’elev) Proposed Conditions Map

Board to consider under the Village's site plan and subdivision controls.”⁸ The project design does not attempt to preserve or avoid these areas, but proposes extensive earthmoving, cut and fill regardless of steep slopes for the residential development portion of the property.

- d. **Site Plan Ecological Considerations- Avoid areas of highly erodible soils, high ground water table, unique topographical and geological features: Village of Mamaroneck Code § 342-76A(1) and §342-76A(2)** Extensive areas of the site with high groundwater table conditions, extremely vulnerable to contamination, are proposed for disturbance, earthmoving and grading activities. There are also rock outcrops and shallow depth to bedrock conditions within areas proposed for residential development and utilities, not proposed to be avoided, but which will require blasting and removal. Soils rated by the Westchester County USGS as unsuitable for residential development in their existing form due to slow infiltration rates, wet substratum and rock outcrops cover approximately 80% of the entire site. Instead of developing a plan which avoids these unsuitable areas, the PDEIS suggests that constrained areas “may require structural fill” without providing an estimate of the amount or impacts of trucking and storing fill in a floodplain. The development does not work with the existing low lying bucolic terrain, but completely transforms the landscape and floodplains with an artificial, raised berm.
- e. **Site Plan Ecological Considerations- Avoid Stands of Mature Vegetation: Village of Mamaroneck Code § 342-76A(1) and § 342-76B** - The proposal calls for the clear cutting and destruction of all the vegetation within a 55 acre block of open space including the removal of 432 trees having a 25 inch or larger circumference (8” diameter). This extensive disturbance will have negative impacts on the site’s habitat, bucolic setting, soils, and noise.

As mitigation for the removal of the mature trees, the landscape plan proposes the planting of 432 trees, which is described in as a “one for one” replacement. But the proposed 2 to 2 ½ inch diameter replacement trees represents a significant reduction in the size and habitat value compared to the existing trees- 8” diameter trees cover 16 times the area as 2” diameter trees. The proposed vegetation is significantly less than typical one for one replacement standards.

- f. **Site Plan Ecological Considerations- Avoid Streams: Village of Mamaroneck Code § 342-76A(1)** No permit or evidence of consultation with the Army Corp of

⁸ Draft Village of Mamaroneck Local Waterfront Revitalization Program 2017 P. 36

Engineers is provided for the destruction, filling, grading and relocation of one of the streams traversing the site, identified on the Village LWRP map⁹ and the PDEIS.

- g. **Site Plan Noise Standards Village of Mamaroneck Code § 342-76L** Due to the complexity of the project, the amount and type of earthmoving required and the sensitive noise receptors in the project vicinity, a detailed noise mitigation plan is needed to evaluate the project, but has not been submitted (refer to memo from C. Fazio). Adverse noise impacts are anticipated from the blasting or rock ripping of bedrock and rock outcroppings, the estimated 280 truck trips per day required to transport fill to the site over the construction period, the cutting, chipping, grinding and removal of 432 large trees, and other construction activities.

In sum, the project fails to meet minimum Site Plan, Subdivision and Special Permit conditions required to approve a Planned Residential Development.

3. Project does not comply with and is inconsistent with the Village of Mamaroneck Local Waterfront Revitalization Plan Policies and recommendations

- a. **LWRP Section IV Proposed Land Uses and Projects and Alternatives-**The LWRP identifies the Hampshire Country Club as one of the Village's seven Critical Environmental Areas located largely within a floodplain, and containing several small ponds, tidal and fresh water streams and wetlands in proximity to the Long Island Sound and Hommocks Conservation Area. The adopted LWRP and the draft 2016 update support the Comprehensive Plan recommendations for preserving the entire property and rezoning to a public recreation zone or a lower density residential zone to preserve the open space to the greatest extent possible.¹⁰ As mentioned, the Project does not comply with either of these recommendations.
- b. **Public Access Policies 19, 20, 9-** A major thrust of the LWRP is public access to the waterfront for recreational, aesthetic and economic purposes. The objectives of Public Access Policies 19 -20 are to preserve and maintain existing public access to the waterfront, to prevent physical and visual loss of access, and to increase or expand public access where practical. Policy 9 also recommends increasing waterfront access in order to improve or expand recreational uses of coastal fish and wildlife resources. Reducing the possibility of increasing public access in the future is to be avoided.

⁹ Draft Village of Mamaroneck Local Waterfront Revitalization Program 2017 Figure 7- Riverine Buffers Map P. 25

¹⁰ See Exhibit G: Draft Local Waterfront Revitalization Program 2017 P. 88

- i. Under existing conditions, the private roads traversing the property provide scenic vistas, passive waterfront access and recreational opportunities. People walk, jog, bike and drive through the property and experience a remarkable open space landscape with views across ponds, wetlands and Delancey Cove.
- ii. Portions of Eagle Knolls and Cove roads are proposed for relocation and will eliminate many of the existing scenic waterfront and access opportunities. Although privately owned, the PDEIS acknowledges that the adjacent homeowners possess an implied easement to use these roads for access and thoroughfare to other roadways (PDEIS page 2-20). Under the proposal, the unique bucolic, scenic, open space and water views afforded by the existing roads will be lost and replaced by roadways framed with houses. The new road configuration will no longer connect in any direct way to the part of Cove Road offering water views and passive waterfront recreation opportunities. As noted in the LWRP Update,

“In the years since the original LWRP was enacted there has been an increased interest in passive waterfront recreation including but not limited to: kayaking, bird watching, canoeing, wind surfing, paddle boarding and fishing.”¹¹

The development will physically block the existing access and frustrate the potential to increase passive waterfront access and recreation in the future. In short, the project is not consistent with LWRP Policies 9, 19 and 20.

- c. **Scenic Resources Policies 24 & 25-** LWRP Policies 24 and 25 recognize the scenic values of the coast and recommends protection of these significant resources. While no scenic resources of statewide significance have been identified, the Village LWRP identifies all shorelines of Long Island Sound, harbors, brooks, marshes, streams, wetlands, large open spaces, parks and recreation areas as having local significance. Natural and man-made resources contribute to the scenic quality. Views both from and to the water and open space areas and within neighborhoods are to be considered and impairment of these scenic resources should be prevented.

- (1) As the largest tract of recreation and open space remaining in the Village, with an open green rolling landscape, dramatic rock outcroppings, stands of mature trees, wetlands and ponds, Hampshire Golf Course has scenic

¹¹ Draft Village of Mamaroneck Local Waterfront Revitalization Program 2016 P. 37

qualities of local significance and interest. The earthmoving, digging, regrading and filling will irreversibly modify the unique geologic character. The destruction and removal of 432 mature trees will impair the scenic resources. The amount of open space will be reduced and without a viable golf course, the maintenance of the landscape will likely be compromised.

- (2) The PDEIS analysis acknowledges but dismisses the importance of the project's visual impacts to scenic resources in local neighborhoods and views available from public roads and private properties surrounding the site including those from Hommocks Rd. Eagle Knolls Road, Cove Road, Fairway Green, and the dead ends of Protano Lane, Sylvan Lane, Fairway Lane, and a portion of Delancey Cove and Greacen Point Roads.
- (3) In addition to the impacts noted, protecting the open space and scenic beauty of the site encompasses more than just viewing the property from a few points along the perimeter of the property. The experience traveling through the property offers unobstructed views of locally significant scenic resources and visual waterfront access, which will be destroyed by the proposed road reconfiguration and residential development.

d. Development Policies 1, 2 & 5 – The development policies address coastal zone development, redevelopment and land uses.

- (1) Policy 1 recommends revitalization and restoration of coastal areas. In evaluating how this policy applies to the Village, the 2016 Update reinforces the recommendations of Scenic Resource Policies 24 & 25 to enhance scenic vistas, improve views of the water and not adversely affect views in an insensitive manner. As described, the project will not enhance but will adversely affect existing scenic views and vistas of significance.
- (2) Another focus of concern of Policy 1 is the preservation of the low-rise, low density character of the Village and the views of and to the water. As part of the PDEIS environmental evaluation of alternatives, the applicant has submitted, as Alternative G, a plan for a 5 story multi-family 121 unit waterfront condominium development with a 200 to 250 car subsurface garage project. This proposed development complex would be larger than the Post Road High School and as high as the Avalon complex. It would be out of

scale with the low-rise, low density character of the neighborhood and is inconsistent with LWRP Policy 1.

- (3) Policy 2 fosters the siting of water dependent uses and facilities on or adjacent to coastal waters. High rise residential structures, such as the Hampshire Country Club Alternative G proposal are not considered water dependent and are deemed to be inappropriate along the coastal waters of the Village. High rise structures would significantly alter the scenic character of the waterfront and block waterfront vistas.
- (4) Policy 5 encourages locating development in areas where there is adequate public services and facilities essential to serve development. Due to the fact that most of the Village is already developed, Policy 5 cautions that re-development, particularly proposals that increase the density of use, will be the most challenging, a statement fitting to the re-development of the Hampshire Golf Course.
- (5) Policy 5 expresses concern with the age, condition and capacity of existing infrastructure, including the sewage treatment system in the Village. In review of the Hampshire Golf Course PRD, the Village Engineer has determined that the capacity and condition of the existing sewer line that serves the existing club facilities is not adequate to serve the 105 unit residential development proposed. The engineer has recommended that sewage should be conveyed by a new pump station to the 10" line in Orienta Avenue. In response, the PDEIS states that implementation of this strategy is still under discussion and that the additional information required for assessment will be addressed during the site plan and building permit process. However, capacity of the 10" main, the capacity of Westchester County's pump station further downstream, and conditions of the existing piping need to be investigated as part of the PDEIS and LWRP consistency review process in order to determine whether utilities are adequate to serve additional flow from the proposed development.
- (6) Another concern expressed in LWRP Policy 5 is the impact from new development on the existing narrow streets in the Village. Truck traffic and increased vehicular movement can create bottlenecks and unacceptable conditions. Existing low lying roads and bridges are

subject to flooding and new development can exacerbate hazards to first responders, emergency vehicles and residents. The applicant proposes new roads within the development to meet modern day standards for width, condition and elevation above storm conditions, but all the access roads to the proposed new residential development- Eagle Knolls Road, Cooper Road and Cove Road- are narrow private roads which are underwater during various storm conditions.

- (7) During the 9 month construction period, all truck traffic is proposed to be funneled through the Hommocks Road access to the property. At a minimum construction will result in an estimated 280 truck trips per day for just the importation of fill (refer to Ty-lin memo). Not only will this stress the traffic circulation at Hommocks School, the community recreation facilities and the surrounding neighborhood all served by a narrow winding road, it will increase traffic backups at the failing Hommocks/Boston Post Road intersection.

- e. Fish and Wildlife Policies 7, 7a, 8-** There are no State-designated Significant Fish and Wildlife Habitats in Mamaroneck (Policy 7). But, Policy 7a, adapted to local conditions, identifies Hommocks Conservation Area as a locally designated significant fish and wildlife habitat, meriting the same protection as a State-designated significant habitat area. Hampshire Golf Course is a locally designated Critical Environmental Area recognized as a highly sensitive drainage area with the potential for impacting the Hommocks Marsh and coastal waters. Thus, development of the Hampshire Golf Course could impact a significant fish and wildlife area and a locally designated Critical Environmental Area. Policy 8, the protection of fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants of local concern including herbicides and pesticides also applies to the proposed development.

- (1) In order to raise the building sites above the flood plain elevations, as proposed, the site will require a net import of approximately 274,000 cubic yards of fill, or three times the amount estimated in the PDEIS (refer to Ty-lin memo). Contrary to best management practices, these soils will be stockpiled and stored on-site, in flood plains during the 9 month construction period. Floodwaters have inundated the site rapidly but even under ordinary rain events, erosion, movement and transport of unstable stockpiled materials can cause sedimentation, siltation and adverse impacts to Hommocks Conservation Area.

- (2) The extremely limited testing of surficial soils conducted as part of the PDEIS analysis revealed pesticides, arsenic and lead contamination at levels above NYSDEC standards for unrestricted or residential use. In addition, petroleum contamination was found in 2 soil samples in locations where former fuel tanks were located. The testing needed to determine the horizontal and vertical extent of contamination has not been conducted and, with the significant amount movement and stockpiling of soils proposed, contaminants from these soils could have an adverse impact on fish and wildlife resources within the Hommocks Conservation area.
- (3) The PDEIS dismisses the existing and potential ecological value of the Hampshire site because it is a golf course. But, with easy access to food, water and cover, the Golf Course provides a refuge for migratory song birds, the bald eagle and supports the nearby Hommocks preserve. The National Audubon Society has highlighted the habitat values of golf courses and recommends preservation of mature trees and other core habitats on golf courses. With the removal of 432 mature trees and the fragmentation of the open space, this plan will diminish the habitat value of this CEA and the Hommocks preserve.
- (4) Part of the mitigation for habitat loss offered in the PDEIS is the proposal to create 36 acres of Homeowner Association Open Space consisting of grassland and brushland, not requiring chemical applications. But, as mentioned, the area of proposed non-golf course open space has been overstated and in order to establish the new landscaping proposed within HOA Open Space, application of fertilizers and other chemicals is likely. Similarly, establishing the greens for the proposed relocated fairways may increase the amount of chemical use. No reduction in the storage, use or application of harmful chemicals on golf course is offered.
- (5) Floodplains provide critical natural habitat, water quality as well as flood storage benefits. The placement of fill impairs these functions and should be avoided to the greatest extent possible. The extensive alteration of the site will eliminate natural protective features that guard against stormwater runoff, sedimentation and siltation of habitat and water quality both on and off site.

f. Flooding and Erosion Policy 12- The objective of Policy 12 is to maintain natural protective features to help safeguard coastal lands and property from

damage and to reduce danger to human life resulting from flooding and erosion. Alterations to natural features which provide flood protection should be avoided.

(1) Without massive regrading and filling, development of the Hampshire Golf would endanger human life. The property serves as a flood storage area and is largely underwater during frequent storm conditions. The floodplain areas, wetlands, large mature trees, stable soils and landforms provide natural protection against flooding and erosion impacts. The proposed clear cutting, grading, blasting and earthmoving of 55 acres of land will weaken the fragile natural features and reduce capabilities to safeguard against flood damage.

(2) Among the lessons learned from Superstorm Sandy is the importance of maintaining natural coastal features. One of the most effective means to reduce risk from flooding is to redirect new development away from flood hazard areas altogether. The massive regrading and fill proposed may keep buildings above the areas of 100 year storms, but won't keep residents out of harm's way. During 100 year flood plain conditions, the roadways leading to and from the proposed development are inundated with as much as 6 feet of water on Eagle Knolls Road and 2 ½ feet on Cove Road. The proposed development will create hazardous conditions for emergency responders as well as new residents.

g. General Policy 18- To be consistent with Policy 18, proposed actions may only be undertaken if they minimize adverse impacts and do not significantly impair valuable waters and other resources.

- By designating the Hampshire Golf Course as a Critical Environmental Area and requiring a rigorous review of the development proposal through the preparation of a Draft Environmental Impact Statement, the Village is using tools available to evaluate the project. But, for the reasons already stated, the project does not minimize adverse impacts on the environment.

h. Water Resources Policy 33- The objective of Policy 33 is to assure that best management practices will be used to control stormwater runoff and combined sewer overflows draining into coastal waters.

- Extensive regrading to create a 16 foot high ridge is proposed in order to raise the building sites above flood elevations. As mentioned, more than 270,000 cubic yards of net fill and excavation of existing soils will be stockpiled on site to accomplish this transformation. Stockpiling materials in floodplains violates best management practices because flooded and water saturated soils are unstable. The standard stormwater runoff measures proposed are not

effective to prevent stormwater runoff and water quality impacts of the large amounts of materials proposed for storage and disturbance in a flood plain.

- i. **Air Quality Policy 41-** Policy 41 prohibits development that will cause state or national air quality standards to be violated. Within the Village, the Clean Act requirements are recognized as the minimum air quality control standards.

(1) Various concentrations of arsenic, lead and pesticides (4, 4'DDD, 4, 4'DDE, 4, 4-DDT, Aldrin, alpha-Chlordane, and Dieldrin) have been detected on the Hampshire Country Club property. The extensive earthmoving and excavation of 55 acres of land with contaminated soils has a high potential to create airborne contamination, particularly hazardous to the nearby Hommocks School children and neighboring residents.

(2) Motor vehicles are a principle source of air pollution in the Village. In addition, diesel exhaust has been classified as a potential human carcinogen by the US Environmental Protection Agency and the International Agency for Research on Cancer and contributes to respiratory and cardiovascular illnesses and premature death. Children, the elderly, and individuals with pre-existing respiratory conditions are the most vulnerable but everyone is susceptible to health hazards from diesel pollution (see memo from C. Fazio).

According to the independent analysis conducted by Ty-lin, 270,000 cubic yards of clean fill will be required for the proposed grading plan, which would result in 280 truck trips per day during the construction period (see Ty-lin memo). All the construction vehicles are proposed to access the site via Hommocks Road, directly abutting the Hommocks Middle School and community recreation area.

(3) The site was formerly a wetland and was filled to create a golf course before the 1920's. The limited soil testing conducted as part of the PDEIS detected a buried peat layer either directly within or near the planned residential development. The generation and accumulation of methane gas can be anticipated to exist from these conditions and could present an environmental impact to residents in the proposed development and surrounding community.

In short, the development proposal is not consistent Policies 1, 2, 5, 7, 7a, 8, 9, 12,18, 19, 20, 24, 25, 33, 41 or the land use and alternatives recommendation of the Local Waterfront Revitalization Plan.

4- The project is at odds with the designation of the property as a Critical Environmental Area. The Hampshire Golf Course is one of seven Critical Environmental Areas within the Village and is characterized by: “tidal and freshwater wetlands; open space and recreation; floodplains; highly sensitive drainage area with the potential to affect the Hommocks Conservation Area”¹². The Hommocks Conservation Area, which is vulnerable to impacts from development of the Hampshire site, is characterized by: “marsh, woodland, meadows; shorebird, waterfowl, upland bird nesting area; open space; environmental education; passive recreation.”¹³

- a. As discussed in the LWRP Fish and Wildlife Policy evaluation, the adverse impacts to the existing and potential ecological value of the site are largely dismissed in the PDEIS. Potentially large impacts to the natural environment and human safety will result from:

- Development of the largest tract of open space
- Removal of 432 large trees and habitat of 55 acres
- Siltation of wetlands and water bodies from the destabilization of 55 acres of land during construction and stockpiling of 270,000 cubic yards of materials within a flood plain
- Fugitive dust from movement of contaminated soils
- Groundwater contamination from movement and stockpiling of contaminated soils and substratum
- Continued and potentially increased use of pesticides, fertilizers and herbicides to maintain and establish new fairways and open space.

5- The project will increase pressures on local schools

While the owner/developer claims that there will be significant increased tax revenues from the Project, the development may, in fact, represent a net cost to the School District or, at best, provide only modest additional tax revenue. Further, the Mamaroneck Public Schools are experiencing capacity limits and classroom space shortages. Whereas the District is exploring alternative solutions the increased student enrollment from the Project will exacerbate the problems and limit the strategies available.

- a. **PDEIS estimate of projected school aged children is inaccurate and may in fact underestimate new enrollment by 30% to 60%.**

¹² Draft Village of Mamaroneck Local Waterfront Revitalization Program 2017 P. 30

¹³ Ibid

- (1) In order to evaluate fiscal impacts, the DEIS Scoping Outline required that school aged children projections be based on Mamaroneck School District data rather than generalized sources. Instead, the PDEIS applied Rutgers University Center for Urban Research multipliers based year 2000 US Census data for York State. During the February 14, 2018 public hearing, Dr. Robert Shapp, Superintendent of Mamaroneck Schools, explained that these figures are outdated and not applicable to Mamaroneck. Between 2010 and 2017, for example, the District experienced a 13% student population growth compared to a 4% prediction for the same time period. Mamaroneck Schools are highly desirable and the close proximity of the development project, within walking distance to the schools increases desirability even more. But school desirability and locally based school projections, were not considered in the PDEIS evaluation.
- (2) Based on up-to-date, locally based multipliers and considering and the desirability of the School District, the 57 new student projection asserted in the PDEIS is an unrealistic, gross underestimation. A preliminary estimate offered by Dr. Shapp during the public hearing ranged between 74 and 91 new students, or 30 % to 60% higher than the PDEIS figures.

b. PDEIS overestimates taxes to be generated by development, not supported by local real estate and up-to-date valuations

- i. The PDEIS asserts that the total assessed value of the proposed 105 residential units will be \$193,700,000 based on a \$2.6 million value for each of the 44 single family 4 bedroom homes and \$1.3 million for each of the 61 attached carriage house 3 bedroom units. However, based on real estate comps in the Orienta Neighborhood, 4 bedroom houses are more likely to sell at approximately \$2 million and 3 bedroom attached townhouses for approximately \$940,000, representing approximately 25% less than PDEIS projected values. Thus, school taxes anticipated to be generated by the residential development will be approximately \$1,948,045 or 25% lower than owner/developer projection of \$2,597,393.
- ii. Compounding the residential school tax revenue projection errors, golf course tax revenues have also been overestimated in the PDEIS. The golf course currently generates \$173,321 in school taxes based on an assessed value of \$12 million. Due to a Tax Certioraris proceeding, the assessed value of the golf course has been reduced to \$5.3 million. Thus, it could be anticipated that the school taxes generated from the golf course will be

reduced by approximately ½ or \$86,660 in the future. And, by reconfiguring the course from 18 to 9 holes, it is likely that the value of the golf course will be reduced further.

- iii. At best, the residential and golf course proposed development may be expected to generate between \$1,861,385 not \$2,597,393; or 28% less than projected in the PDEIS.

c. The Mamaroneck School District will likely incur higher than typical per student costs because several schools are already filled to capacity. The PDEIS per pupil cost estimate is too low and not based on metrics appropriate for Mamaroneck School.

- (1) Mamaroneck Schools are experiencing critical school capacity challenges including instructional space limitations. Strategies under consideration for the near term, each of which has budgetary implications, include: class size adjustments and increased staffing, re-zoning elementary schools to include flex enrollment, lease/purchase of modular classrooms, instructional space redesign (Mamaroneck UFSD Board of Education 1/23/18 Power Point Presentation).
- (2) The PDEIS discounted the \$25,389 cost per pupil expenditure (total budget divided by total enrollment) based on State Aid and other revenue streams not derived from local real estate taxes. Provided State Aid remains constant in the future, for which there is no guarantee, this projected decrease is a reasonable figure to use. However, the PDEIS further reduces this cost per pupil by 87% on the assumption that new student costs should be based on program costs only. As mentioned, Mamaroneck Schools are experiencing educational and physical space capacity problems. Whereas programmatic or marginal costs are appropriate to determine expenses to educate new students some situations across New York State, including those with declining school district enrollments, they are not accurate for the specific circumstances in the Mamaroneck School District where additional teachers, administrative staff, new facilities, debt service and other budgeting costs are projected. Thus, instead of the \$15,893 expense applied in the PDEIS, a \$22,192 per pupil cost to educate students is an appropriate projection to evaluate the Project impacts on education.

In sum, it is likely that the development project will create a school tax burden and the existing school capacity challenges will be exacerbated. There are multiple and compound errors in the fiscal impact analysis in the PDEIS. More reliable estimates

of school aged children are available from the Mamaroneck School District and must be used. Local real estate sales figures should be used to inform projected residential values. The reduction in value of the golf course must be factored into the net school tax generation figures. School capacity challenges and realistic per pupil costs must be assessed.

Conclusion

Village Officials have identified and recognized the importance of the Hampshire Country Club property for protecting the character, preserving the environment and preventing public safety hazards in Mamaroneck. Both the Comprehensive Plan and the Local Waterfront Revitalization Program have singled out the property for more rigorous review of development than other properties within the Village and offer alternative tools and guidance to ensure adequate protection of the land and the surrounding community. But, the project does not comply with the Village Comprehensive Plan, is not consistent with the Local Waterfront Revitalization Plan, and fails to meet minimum standards for Site Plan, Special Permit or Subdivision approval. Alternative G, the stated preference of the applicant, is also not consistent with the LWRP.

As proposed, the 105 unit residential development PRD project will result in adverse impacts to the largest tract of open and recreation space in the Village, a flood hazard area, a Critical Environmental Area, steep slopes, ground and surface waters, mature vegetation, fish and wildlife habitat, noise, air quality, streets and infrastructure, coastal public access, scenic resources, and local schools.

List of Exhibits

EXHIBIT A- Major Parks and Open Space Map Mamaroneck Comprehensive Plan Update Figure 10-1

EXHIBIT B- Hampshire Country Club "100 Yr. Flood (approx. 12'elev) Existing Conditions Map

EXHIBIT C- Hampshire Country Club Development Constraints Map, Mamaroneck, NY

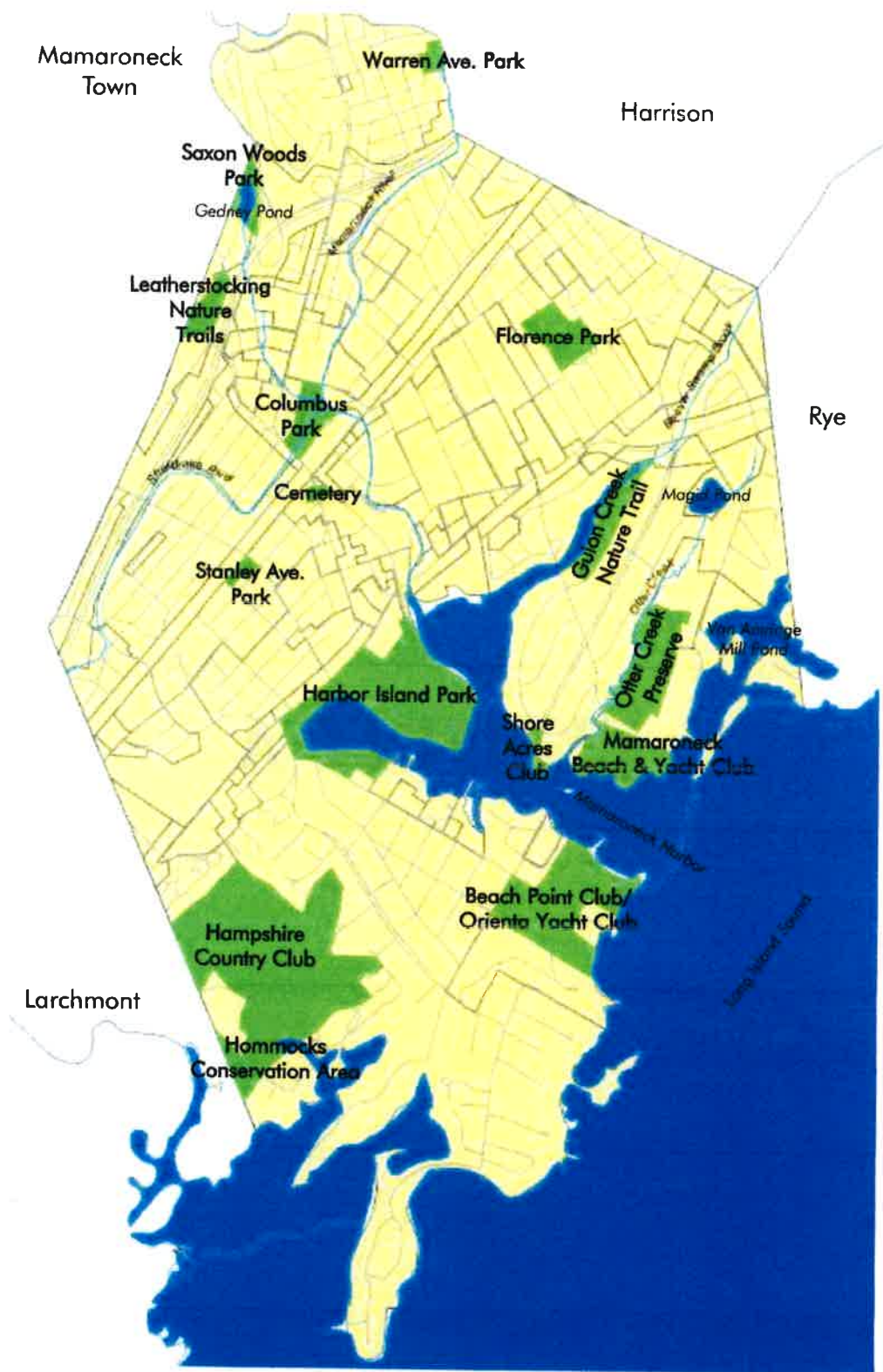
EXHIBIT D- Village of Mamaroneck Comprehensive Plan Chapter 10: Open Space and Recreation P. 148

EXHIBIT E- Village of Mamaroneck Comprehensive Plan Chapter 6: Environmental Protection Mamaroneck Harbor/Long Island Sound PP 63-64

EXHIBIT F- Hampshire Country Club "100 Yr. Flood" (approx. 13'elev) Proposed Conditions Map

EXHIBIT G- Draft Village of Mamaroneck Local Waterfront Revitalization Program 2017 P. 88

EXHIBIT A



MAJOR PARKS AND OPEN SPACE

FIGURE 10-1

EXHIBIT B

Hampshire Country Club - "100 yr Flood" (~12' elev) Existing


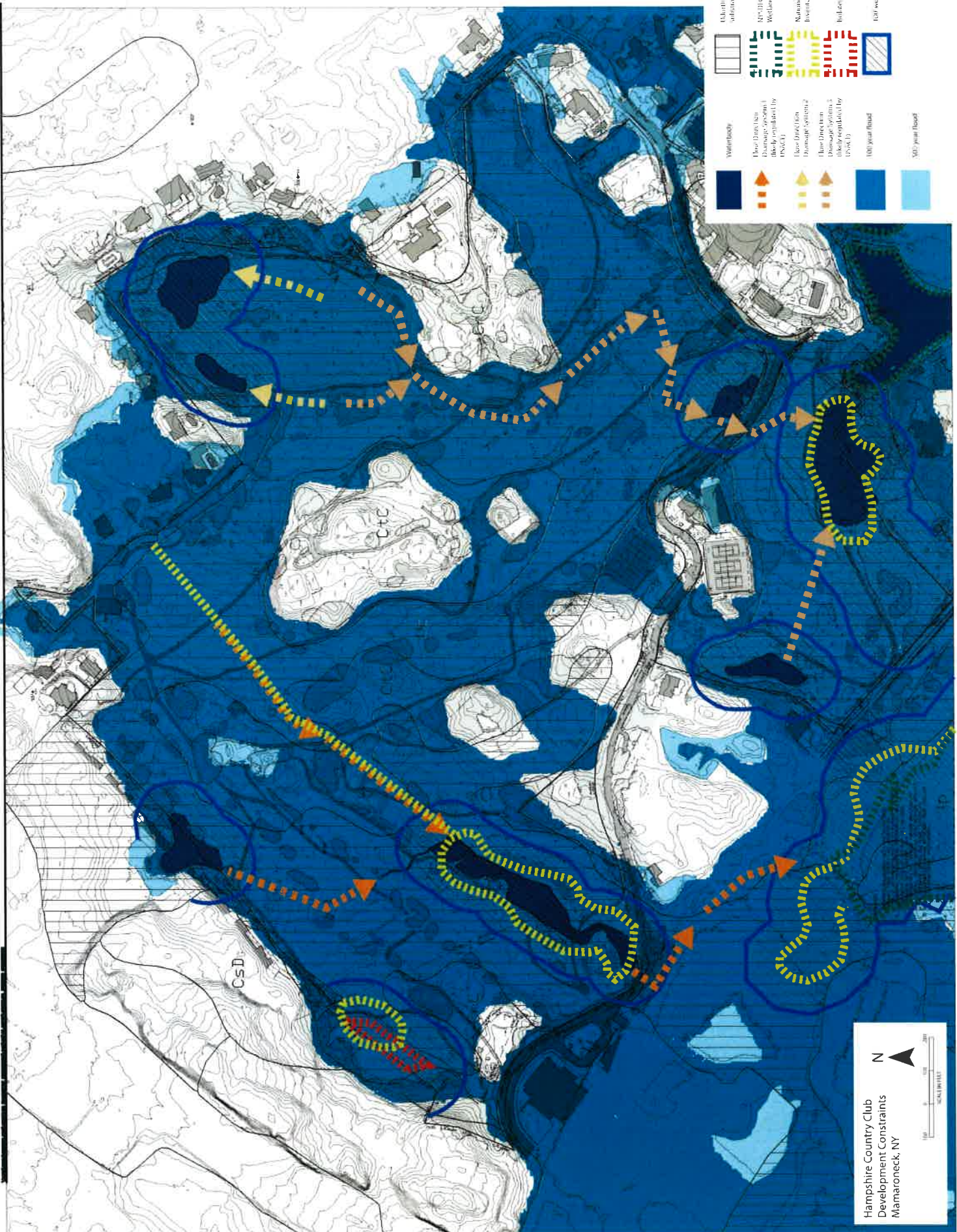
 Project Site Boundary



EXHIBIT C



Hampshire Country Club
Development Constraints
Mamaroneck, NY

N

0 100 200
Feet

0 100 200
Meters

EXHIBIT D

Village of Mamaroneck Comprehensive Plan
Chapter 10: Open Space and Recreation

Private Open Spaces

Mamaroneck has several private beach clubs that provide water-based recreation and waterfront access to their members. This includes Mamaroneck Beach and Yacht Club, Shore Acres Club, Beach Point Club and Orienta Beach Club (see Figure 10-1). While these facilities are not public, they add to the Village's open space character and the scenic qualities of the waterfront. As described below, the clubs play a role in Mamaroneck's waterfront recreational access, and the Village has policies in place to encourage such water-dependent and water-enhanced recreation. In addition to these waterfront clubs, Hampshire Country Club, located on Eagle Knoll Road in the western portion of Mamaroneck, includes an 18-hole golf course that comprises more than 80 acres of open space.

Westchester County and Town of Mamaroneck Facilities

In addition to the Village's network of parks and open spaces, there are several public areas within Mamaroneck that are under the jurisdiction of Westchester County, or are shared with the Town of Mamaroneck or nonprofit organizations:

- **Saxon Woods County Park:** 700-acre County park with a range of recreational facilities including a pool, picnic areas, trails and an 18-hole miniature golf course. A small portion of the park lies within the Village of Mamaroneck and largely consists of Gedney Pond and wooded areas.
- **Leatherstocking Nature Trails:** Nearly two miles long and encompassing about 30 acres, this trail system runs from New Rochelle to the Village of Mamaroneck. Maintained by the Town of Mamaroneck, the Leatherstocking Trail is accessed in the Village via Rockridge Road and Old White Plains Road. It also provides access to the Sheldrake River Trails, part of a larger Town-owned conservation area.
- **Hommocks Conservation Area:** A small portion of this 7.6-acre area maintained by the Town of Mamaroneck is located within the Village. The area, comprised of woodland, salt marsh and meadows, is located along Hommocks Road, just past the Hommocks Middle School soccer fields.
- **Otter Creek Preserve:** A 27-acre tidal marsh preserve owned by the Nature Conservancy. The area includes a half-mile trail that takes visitors past the tidal marsh and creek for which the preserve is named, through deciduous forest and along wet woodland depressions. A variety of waterfowl and other migratory birds make use of the marsh and estuary throughout the year.

10.3 Mamaroneck Harbor

Mamaroneck's waterfront along Long Island Sound is approximately nine miles long. The majority of this land is zoned residential and is occupied by single-family homes. Other zones along the harbor include PB Public District use, mapped on Harbor Island Park, the marine commercial zones including the commercial shipyards and the marine recreational zones accommodating the waterfront clubs.

EXHIBIT E

Village of Mamaroneck Comprehensive Plan
 Chapter 6: Environmental Protection/Mamaroneck Harbor/Long Island Sound

Table 6-4: Local Comprehensive Plans and Ordinances

Area-Wide Recommendations	Village-Specific Recommendations
<ul style="list-style-type: none"> Share services among municipalities. 	<ul style="list-style-type: none"> Adopt Stormwater Management Ordinance. (completed)
<ul style="list-style-type: none"> Conduct study of total impervious surfaces, set goals for reduction: existing and anticipated impervious surfaces should be mapped. 	<ul style="list-style-type: none"> Amend Tree Ordinance to regulate removal on private property and provide replacement whenever possible.
<ul style="list-style-type: none"> Improve enforcement: pass burden to developer. 	<ul style="list-style-type: none"> Look at permeability levels for all developments and new drainage for existing homes.
<ul style="list-style-type: none"> Preserve open space. 	
<ul style="list-style-type: none"> Participate in the creation of a regional stormwater management district in conjunction with the Long Island Sound Watershed Intermunicipal Council (The Village recently passed a resolution in support). 	
<ul style="list-style-type: none"> Practice Good Housekeeping: street sweeping and cleaning out catch basins. 	

Note: Taken from Controlling Polluted Stormwater: A Management Plan for the Sheldrake and Mamaroneck Rivers and Mamaroneck Harbor (2001), Westchester County

Critical Environmental Areas (see Figure 6-3)

A Critical Environmental Area (CEA) is a State or locally designated geographic area with special or unique physical and environmental characteristics. Typically, a CEA is established by identifying fragile or threatened environmental conditions within the State Environmental Quality Review Act (SEQR). There are seven local CEAs designated in Mamaroneck: Otter Creek, Guion Creek, Magid Pond, Van Amringe Millpond, Mamaroneck Reservoir, Hampshire Country Club and the Hommocks Conservation Area.

Development proposed in a CEA is subject to a more rigorous review than other areas. Proposed development wholly or partially within or substantially contiguous to a CEA under SEQR requires the lead agency to study potential impacts on the characteristics of a CEA in an Environmental Assessment Form (long-form) or Environmental Impact Statement.

As discussed above, Hampshire Country Club is one of the Village's seven critical environmental areas. As figure 6.2 indicates, almost the entire club is located within a 100-year floodplain. The floodplain issue, several ponds and wetland systems and the club's proximity to Long Island Sound all contribute to its environmental significance. For these reasons it may be appropriate to reconsider the R-20 zoning of the club property.

The R-20 designation is essentially a "holding zone" within the Village's zoning code and is a common circumstance with many older codes in New York State. The original code writers created a low-density residential zone to apply to parks and other open spaces as essentially a default provision. This was historically very common with golf courses.

With the development of more sensitive zoning techniques, it would be appropriate to consider other options for the golf course. Foremost among them is the option presented by Bonnie Briar Country Club in the adjacent Town of Mamaroneck. New York State's

Court of Appeals upheld the town's rezoning of the Bonnie Briar Country Club from residential to a recreation/open space zone a number of years ago. This represents one option for the Village to consider.

If the Village prefers to indicate some development option, then it has another example from the Town of Mamaroneck, which has rezoned a small part of Hampshire County Club that is within the Town R-30. Potentially, this zone would allow one single-family home per 30,000 square feet of land area rather than the village's current zoning of R-20, which would allow one single-family home per 20,000-square-foot lot. The R-30 zoning would work better in terms of a conservation or open space development on the Hampshire County Club. An open space or cluster development would allow the development to preserve a significant amount of the property as open space. In New York State, a cluster subdivision means that an applicant and a Planning Board must determine the lot count of a standard subdivision. Then the Planning Board may reduce the lot sizes that are required as long as the total number of lots that are allowed in the standard subdivision are not exceeded in the cluster subdivision. This allows a portion of the development to be preserved as open space. For example, if the Planning Board allowed an R-20 size lot in the R-30 zone it could preserve about a third of the area of Hampshire Country Club. If it allowed a 15,000-square-foot lot it could preserve approximately half of the area of Hampshire Country Club for open space. The R-20 lot size and the R-15 lot size represent adjacent areas of Orienta which are zoned R-20 and R-15, respectively. Thus a cluster subdivision could have the same lot sizes as the adjacent Orienta neighborhood but result in a 33% to 50% open space preservation of the Hampshire County Club.

Both of the above options would better preserve Hampshire Country Club in the future better than the existing R-20 zoning.

Similarly, the Shore Acres Club, a community clubhouse for Shore Acres residents, is located in an R-20 district at the end of the Parkway and bordering the Harbor. It is recommended that this property be rezoned to MR (Marine Recreation) to reflect the existing use as a club facility.

It should be noted that, while not officially designated as CEAs or Village conservation areas, many portions of Mamaroneck contain significant trees and other vegetation, which provide numerous environmental benefits. In addition to clear aesthetic advantages, trees can also reduce cooling and heating costs, mitigate the urban heat island effect, decrease noise pollution, improve air quality and reduce flooding impacts through soil stabilization.

Mamaroneck's Tree Committee promotes the planting and protection of street trees throughout the Village and makes recommendations on the best types of street trees. In addition, the Village participates in the National Arbor Foundation's Tree City, USA program, which requires member communities to spend at least \$2 per capita on a Community Forest Program. Finally, the Village Planning Board makes use of a landscaping consultant to review site and subdivision plans as appropriate and make recommendations on proper plant species and tree protection measures.

EXHIBIT F

Hampshire Country Club - "100 yr Flood" (~13' elev) Proposed

- Project Site Boundary
- Limit of Grading
- Limit of Grading (Alternative F)



EXHIBIT G

Local Waterfront Revitalization Program 2017

SECTION IV PROPOSED LAND USES AND PROJECTS AND ALTERNATIVES

This LWRP does not contemplate any large-scale changes to existing land uses and patterns or rezoning recommendations. The Village's Comprehensive Plan (adopted in two phases in 2008 and 2012) resulted in several significant zoning changes, and has recommended other zoning changes that should be considered, some of which are referenced below.

This section of the LWRP focuses primarily on specific projects and alternatives in the program area. These proposed projects and alternatives are intended to advance the policies contained in Section III (together with their related Explanations), including to enhance public use and enjoyment of the Village of Mamaroneck waterfront areas, strengthen the Village's ability to manage these areas in the public interest and enhance the environmental (in particular water) quality of the Village.

1) PROPOSED LAND USES

This LWRP does not propose any significant changes to land use patterns, and no changes to Mamaroneck's regulatory framework (e.g., zoning and subdivision regulations) are proposed, other than as noted to take into account existing recommendations under the Village's Comprehensive Plan.

Anticipated future uses within the Village are described below under six general land use categories.

a. Parks, Open Space and Access by the Public

Park and open space areas within the Village generally correspond with existing public and private open spaces, such as Village parks, nature preserves and trails and current private open space. Existing waterfront clubs, which constitute restricted public open space, are also indicated as marine recreational uses.

Hampshire Country Club, as described in Section II, is one of the Village's seven Critical Environmental Areas (CEAs). The property is also largely within a floodplain and contains several small ponds, tidal and fresh water streams and wetland areas. These aspects, together with Hampshire's proximity to Long Island Sound, contribute to its environmental significance. Currently, the majority of Hampshire is zoned [R-20](#), which has traditionally functioned as a "holding zone" in the Village of Mamaroneck (the Village's parks are also zoned [R-20](#)). The 2012 Comprehensive Plan recommends rezoning the Hampshire property – potentially to a public recreation zone or a lower-density residential zone – to preserve Hampshire's open space to the greatest extent possible. The Comprehensive Plan also recommends exploring a rezoning of the Village's parks and other major open spaces from [R-20](#) to a zone that better reflects their use.



TECHNICAL MEMORANDUM

To: Village of Mamaroneck Planning Board

From: Neil Porto, P.E., TY Lin International

Date: February 14, 2018

Re: Hampshire County Club Planned Residential Development
Evaluation of 12/13/17 Draft Environmental Impact Statement

Carter Ledyard & Milburn LLP has retained T.Y. Lin International to undertake an analysis of the Draft Environmental Impact Statement (DEIS) dated 12/13/17 prepared for the Hampshire County Club Planned Residential Development. As per our scope of work, we have focused on

- floodplain issues and associated regulations
- cut and fill volumes for the site
- sanitary sewer infrastructure assessment
- traffic analysis, especially truck traffic during construction
- soil issues

Reviewed Documents

TYLI received, or obtained from the Village of Mamaroneck's website the following documentation that was used to perform the analysis stated above:

- A PDF of a letter dated June 26, 2015, from Zarin & Steinmets to the Honorable Stewart E. Sterk and Members of the Village of Mamaroneck Planning Board, which detailed the intent of the proposed development;
- A PDF of a plan titled "Existing Conditions Plan", prepared by Vanasse Hangen Brustlin, Inc. (VHB) of White Plains, New York;
- A PDF of a partially completed Flood Plain Development Permit Application to the Village of Mamaroneck Building Department;
- A PDF of completed Full Environmental Assessment Form (EAF);
- A PDF of a plan titled "Preliminary Plat", prepared by VHB;
- A PDF of a plan titled "Sketch Site Plan", prepared by VHB;
- PDEIS (Undated), but published on the village website in April 2017
- PDEIS dated August 29, 2017
- DEIS dated December 13, 2017

Background

c:\nr\portbl\clmdocs\meara\8241843_1.docx\ndepasque\km

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Hampshire Recreation, LLC, and its co-developer Toll Brothers, Inc., propose to develop a planned residential community on a 94.5 acre portion of the existing Hampshire County Club, located in the Village of Mamaroneck, New York.

1. Flood Plain Issues

The floodplain management discussion references and utilizes the effective Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMS) from 2007, which place the flood elevation of the golf course largely at a Base Flood Elevation (BFE) of 12 NAVD 88.

It is important to note that FEMA has recently undertaken a new coastal study, which utilizes more modern data and modeling techniques, including storm surge and overland wave modeling. The results of the updated coastal study are reflected in the Preliminary FIRM, which shows an increase in BFE from 12' to 13' in large portions of the site. The Preliminary FIRM is in the process of being adopted, with the statutory appeal period having ended July 1, 2015. While the law in the Village of Mamaroneck does not require adherence to the Preliminary FIRM, both New York City and the State of New Jersey do have such requirements. The timetable for official adoption of the Preliminary FIRM was previously at the end of 2017, but that is not yet accomplished.

It should be noted that it is completely permissible for banks and other lending institutions to use preliminary data as a guide to determine whether a property may be mapped into a high risk area, allowing the borrower to be informed of any changes or requirements before finalizing the loan.

It should be noted that the Village of Mamaroneck Code, Section 186-5, Part A.3.c requires the following:

Whenever any portion of floodplain is authorized for development, the volume of the space occupied by the authorized fill or structure below the base flood elevation shall be compensated for by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or body of water can be credited as a compensating excavation”.

Thus there may be no net fill below the 100-Year floodplain elevation, unless geotechnical or hydrological studies demonstrate the hydraulic capacity of any additional soil to offset any difference between cut and fill volumes, or alternatively a hydrologic study is performed that shows that there is no impact.

We have reviewed Appendix J from the August 2017 DEIS, “Coastal Flooding Hydraulic Analysis,” and we do not take issue with the study, other than to state that the ultimate

layout and elevations of the possible future development were not known at the time of the study, and the analysis should be redone when, and if the final layout and elevations are determined.

2. Cut and Fill Analysis

As with previous iterations of our studies, the cut fill analysis was performed independently without the aid of the developer's CAD files, as they were not made available to TYLI staff. Using the available documents, TYLI prepared a cut and fill analysis of the Developer's preferred option and for Alternative F, the "No Net Fill" alternative, utilizing the 3D modeling software InRoads for MicroStation, which creates a digital terrain model (DTM) to perform the analysis.

The following is a summary of the methodology used for the overall cut and fill calculations:

1. TYLI inserted PDF (DEIS Exhibit 3C-2 for preferred option and DEIS Exhibit 4-6 for Alternative F) into Microstation and scaled file true size.
2. We traced existing contours assigning elevations to each contour line so a TIN surface/Digital terrain map (DTM) could be generated from this line work.
3. We reviewed the TIN Surface/DTM and add any single point spot shot as well as add any break lines to allow proper projection of triangulations.
4. We traced, created and reviewed the surfaces for the proposed contours.
5. After existing and proposed surfaces were generated Microstation tools were used to evaluate the differences between the surfaces and calculates the cut and fill.

For the cut and fill calculation for specific flood elevations (current and proposed FEMA Base Flood Elevations [BFEs]):

1. TYLI inserted PDF into Microstation and scaled file true size.
2. We created a border around area of development and assigned a single elevation and created the TIN Surface/DTM and saved file.
3. We traced proposed contours assigning elevations to each contour line so a TIN surface/DTM could be created from this line work.
4. We reviewed TIN Surface/DTM and add any single point spot shot as well as add any break lines to allow proper projection of triangulations.
5. After existing and proposed surfaces were generated, Microstation tools were used to evaluate the differences between the surfaces and calculates the cut and fill.

For the preferred alternative, the results of the analysis are as follows:

Overall Existing/Proposed Surfaces

Cut = 136,800 CY
Fill = 410,700 CY
Net = 273,900 CY (Fill)

Existing/Proposed Surfaces Below Elevation 12 (Current BFE)

Cut = 55,900 CY
Fill = 304,100 CY
Net = 248,200 CY (Fill)

Existing/Proposed Surfaces Below Elevation 13 (Preliminary BFE)

Cut = 67,500 CY
Fill = 303,000 CY
Net = 235,500 CY (Fill)

These values actually exceed our previous findings in 2015 of a net fill of 214,200 Cubic Yards on the alternative as it was proposed at that time.

For “Alternative F” which the developer claims is a “No net fill” alternative, our analysis of the topographic plans, conducted in a similar matter to that of the preferred alternative, shows that imported fill could indeed be expected under this scenario. Our results are as follows:

Overall Existing/Proposed Surfaces

Cut = 7,840 CY
Fill = 30,600 CY
Net = 22,760 CY (Fill)

Existing/Proposed Surfaces Below Elevation 12 (Current BFE)

Cut = 990 CY
Fill = 17,330 CY
Net = 16,340 CY (Fill)

Existing/Proposed Surfaces Below Elevation 13 (Preliminary BFE)

Cut = 1,880 CY
Fill = 23,700 CY
Net = 21,800 CY (Fill)

In reviewing the Developer’s existing and proposed site plans in 2015, TYLI observed that the Sketch Site Plan showed contour elevations that do not “tie in” to the existing topography throughout large portions of the site. There was no delineated Limit of Disturbance (LOD) on the plan, and no indication how the large discrepancies between existing and proposed elevations will be resolved. The current plans do rectify some of these deficiencies, but we recommend that they undergo further refinement. The LOD line seems to have no relationship to the contours, and extends out into the

reconfiguration of the golf course. To what extent is the reworking of the golf course part of the developers action? Does it engender additional cut/fill? These are questions the developer should answer.

3. Sanitary Sewer Assessment

The Full Environmental Assessment Form reviewed by TYLI stated that the potable water demand of the project was 39,490 gallons per day. TYLI questioned this, due to vague statements as to the actual composition of the “Carriage Homes.” This has been clarified in Table 3I-1 in the DEIS where it is clearly stated that the 44 single-family houses have 4 bedrooms each while the 61 units of Carriage Houses have an average of 3 bedrooms each, leading to the figure of 39,490 GPD of sewage.

The Developer originally proposed to tap into an existing 8” gravity sewer line located on Cove Road that serves the existing golf club facilities and is discharged to the Cove Road pump station where it is propelled through a 6” pressurized pipe to another 10” gravity sewer line located on Orienta Avenue and thence to the Mamaroneck Wastewater Treatment Plant by means of an intermediary pump station. The 8” Cove Road gravity sewer line, where the tie-in is proposed, was slipform lined in 2009 due to infiltration issues and age, and as a result of slip form lining, the inner diameter and capacity of this pipe is now reduced.

The developer’s engineer discussed the original is wastewater strategy with the Village Engineer, and it was determined that the 8” line in Cove Road was not an appropriate discharge point for the developments wastewater, due to maintenance issues arising from the hydraulics and perhaps the reduction in pipe diameter cited above. The Village stated that the sewage should be conveyed (apparently by a new pump station) to the 10” line in Orienta Avenue. The developer accepted this, and proposes to construct a new pump station within the development to convey the development’s waste water through an additional force main pipe to Orienta Avenue, bypassing the existing pump station on Cove Road. However, DEIS Exhibit 3I-1, Grading and Utility Plan still shows the development tying in to the Cove Road Pump Station (although it does avoid the 8” gravity line) and does not show implementation of the plan described in the DEIS text. The drawing should be revised to show the developers intent for sanitary sewage disposal. The developer should also demonstrate that the 10” line in Orienta Avenue, which is owned by the Village, has enough capacity for conveying the added flow to the County-owned main on Boston Post Road.

The DEIS states that implementation of this strategy is still under discussion. The Mamaroneck Wastewater Treatment Plant will be able to accommodate the estimated 39,490 GPD effluent associated with the project, but the means of conveying it there have not yet been determined. The DEIS also acknowledges that sewer infrastructure mitigations would be required by Westchester County, which will add to the cost of the project. The developer proposes to address these issues during the “site plan and building permit process.”

4. Traffic Analysis

In May 2017, TYLI conducted a thorough review of the traffic section of the April 2017 Pre-DEIS, as well as the Traffic Impact Study/Analysis Report prepared by VHB. The purpose of this traffic review was to identify any critical factors that would normally be considered in the analysis, to request for clarifications, as well as to request additional information/data (e.g., Synchro models) if the further review of the parameters and assumptions is deemed necessary.

The DEIS conclusion for post-construction is that the relatively low number of trips generated by the project will not have a significant traffic impact on the adjacent intersections analyzed in the DEIS. However, the report did not conduct in-depth construction traffic analysis and factors such as construction traffic (including truck traffic and construction employee traffic), the construction schedule, as well as the impact of construction traffic on ped/bike safety.

Additional comments on the traffic report that we recommend be addressed to the developer are as follows:

A. Trip Generation and Distribution: Trip generation analysis estimates the total number of trips that will be generated by adjacent development as well as by the project site. Trip Distribution determines how many of the aforementioned trips will pass the study corridors and intersections. Therefore, these two steps are critical in understanding the traffic impact.

It was stated in the report that *Trip Generation Manual, Ninth Edition* has been used for the analysis. Questions that need clarification:

- Pg 3M-20: The trip generation & distribution for the no-build vicinity developments should be shown in a map. The trips shown on Exhibits 3M-8 & 9 (max of 9 trips in one direction at a single intersection) seem very low given the development sizes as shown in Table 3M-8 (302 total units). Is it possible that some of the vicinity developments do not impact the studied intersections? Please explain the methodology used to estimate the trip distribution of vicinity development trips. A location map showing these vicinity developments should be provided as well.

SEE CHART, NEXT PAGE

Table 5 - Vicinity Developments

Development	Size
690 Mamaroneck Avenue	21 units
270 Waverly Avenue	96 units
620 W. Boston Post Road	6 units
422 E. Boston Post Road	13 units
151 Mamaroneck Avenue ⁽¹⁾	10 units
532 W. Boston Post Road	7 units
The Cambium (Town)	149 units

Note: (1) Subsequent to preparing the traffic analyses in this study, VHB was advised that this project is no longer going forward; however, the volumes are included in the analyses.

- Pg 3M-25: Provide more description for the townhouses to justify the use of Land Use Code 230 for “Residential Condominium/Townhouse”. Other land uses include rental, luxury, high & low rise townhomes.
- The meaning of the figure (map) on page 3M-28 is unclear. Please explain.
- Information included in Exhibit 3M-12 should be shown in two separate figures representing two access scenarios.
- Exhibits 3M-13 & 14: The trip distribution should show entering and exiting vehicles. The upstream total entering volumes and downstream total exiting volumes on several roadway links do not add up.

B. Synchro Analysis: Although the Synchro reports (LOS, timings, queue) have been included in appendices, the HCM LOS (not Synchro LOS) reports are needed to review the capacity analysis.

The report elaborated on base year ped/bike facility conditions, intersection volumes as well as the historical accident data in the study area. As shown in the Synchro reports the existing Ped/Bike/Truck data has been taken into consideration in the intersection LOS analysis. However, it appears the Ped/Bike/Truck volumes in the future years have not been forecasted to reflect future No-Build and Build conditions in the analysis. Growth rates should be applied to the existing Ped/Bike/Truck volumes (which should differ from vehicle traffic growth rate) and incorporated into future LOS analysis.

Additional questions that need clarification:

- Delay times – The report should be updated to reflect the “HCM” LOS and delay times. The Synchro reports they provided show they used the “Synchro” LOS and delay times, which is not standard practice. The LOS tables should be updated accordingly.
- Peak Hour Factors (PHF) should be updated to reflect values for each approach based on the existing traffic counts in lieu of one PHF for the entire intersection.

- In all the LOS analysis tables, V/C ratio values should be provided for locations with LOS “E” or worse.
- Pg 3M-33 and Tables 3M-10 & 15: The report states that future Build conditions will continue to have acceptable queue lengths. Further explanation is needed regarding the increase in queue length at Boston Post Rd & Old Boston Post Rd./Richbell Rd., as the WB left turn during peak hours exceeds the available storage length.

C. Traffic Impact During Construction: The main traffic concern with the proposed residential development has been the impacts of construction traffic during the build period, most crucially for the number and scheduling of trucks that would be needed to import fill to the project. The developer did not initially acknowledge these impacts, but in the 12/13/17 DEIS there is a one page section – Section 3M.3.h – devoted to this topic.

The following is the key construction traffic assumptions from the DEIS:

- Trucks would access the site from 8:15AM to 2:30PM as well as 4PM to 7PM for the stated purpose of avoiding peak school bus hours. the latter period would presumably be during months with longer daylight hours.
- Trucks are anticipated to use I-95 exiting at Exit 17 or 19 to use Boston Post Road (US Route 1) to get to Hommocks Road and Eagle Knolls Road. Trucks access will not be allowed on Orienta Avenue or East Cove Road. Trucks are not anticipated to use Old Boston Post Road/Richbell Road which has a significant number of ped accidents already.
- There will be 24 trucks in the first 9 months of the construction and the total number of trucks will then be reduced to 3 or 4 per day.
- Construction will be done in 3 stages; grading, structures and finishing.

The grading phase is estimated to bring 24 truck loads per day on a 5-day per week schedule for 9 months, a total of 4680 truck trips, assumedly for importation of fill. This would mean 24 round trips, or 48 truck trips (in and out). At 10 to 15 cubic yards of fill per truck, this represents about 47,000 to 70,000 CY of fill. However, the DEIS states that the importation of fill to the site would be 84,000 CY of fill. For the same amount of truck trips, the fill would require approximately 18 CY of fill per truck or, using standard trucks, 30 to 43 trucks rounds trips per day, 60 to 86 daily in and out, over the stated 9 month period. Following this grading phase, trucks are estimated to arrive at the site for house construction to 3 to 4 truck round trips per day, with the period of this traffic stated as “unknown.”

There are inconsistencies in the information presented in the DEIS for truck traffic associated with the fill operations:

- The developer states that trucks will bring 16 cubic yards of fill to the site with each trip, while the typical industry value is 10 to 15 CY per truck.
- The developers own fill number and number of truck trips suggests that 18 CY per truck was assumed, not the stated 16. This would require a large vehicle that would be heavier (due to both payload and truck size) that might cause additional damage to the local roads, as well as air and noise impacts.
- The purpose of the fill imported to the site is to support house foundations and serve as stable embankment, so considerable compaction in place will be required. No study was made on the effect of soil compaction on the effective soil volumes. Fifteen (15) cubic yards of soil in a truck will result in a small volume on site, once it is compacted. The developer should recalculate the number of truck trips based on “effective” cubic yards per truck or by recalculating the required fill.
- TYLI’s evaluation of the developers proposed grading plan found that the amount of imported fill is closer to 270,000 cubic yards. At 10 to 15 CY per truck this amounts to 18,000 to 27,000 truck trips. Accomplishing this over a 9 month period would lead to 90 to 140 truck round-trips per day, or 180 to 280 truck trips in and out. The impacts of these trips would greatly exceed the that identified in the DEIS.
- While the DEIS states that the roads at the site would be improved before and after the construction period, they do not state whether these roads, which would continue to be used by residents and the school complex during construction, would need interim or iterative repairs during the construction. Traffic enforcement agents may be required to maintain an organized flow in and out of the site. This should be examined by the developer.
- This limiting of hours and a pledge to repave Hommocks and Eagle Knolls Road are the only mitigation proposed for these truck trips. DEIS Section 3R.3.d. identifies Construction Noise as an impact, but there is no specific evaluation of noise at the school, and the construction duration is termed as “short.” It may not be appropriate to designate a two construction period as “short.” The construction period may also be extended depending on the sales of the new houses.

The DEIS identifies one route into this site for transportation of fill: Interstate 95 to U.S. Route 1 to Hommocks Road, location of Hommocks School, with pool and ice rink facilities. Our analysis of the additional construction truck traffic to this intersection shows that level of service could be impacted. Truck volumes could increase by approximately four additional trucks every two minutes, due to the fact that it will be impossible to meter the arrival of trucks. One truck was assumed to be added to each of the following movements per cycle: northbound right, southbound left, and westbound left and right turning movements. The overall intersection LOS could deteriorate from LOS C to D, with the Northbound right turn deteriorating from LOS C to F, and the Southbound left turn also going from C to F. Queues could increase by 85’ to 120’.

In addition to the above, the developer should address the following concerns as well as those identified above:

- Since the construction phasing is uncertain, sensitivity analysis is needed to understand the impact of construction schedule and construction demand on traffic impact and ped/bike safety.
- Pg 2-26: Truck access hours should be outside of vehicle peak hours 7AM to 9AM . Instead of starting at 8:15AM, it should be after 9:00AM.
- The developer should evaluate other uses of the school complex, including ice rink, pool, and community meetings, before committing to the 4PM to 7PM time period for truck traffic.
- Pg 3M-37, paragraph 1 & 2: Clarify the number of trips to be generated by construction employee activity. The total number of trips generated for construction should be shown and analyzed.
- Air quality effects of the truck traffic are identified as a possible impact in Section 3S.3.d, but no mitigations are proposed, besides following New York State laws and standards.

D. Crash History/Analysis: The DEIS provides accident data as summarized in section 3M.1.d – Accident Analysis. We anticipate that the additional truck traffic will have an impact on crash frequency during the construction period, and based on our analysis potentially increase crash frequency by 17 according to AASHTO methodology. Section 3M.3.h – Construction Traffic Impacts, should include an analysis on construction truck traffic and crash frequency.

5. Soil Resources

The developers preferred plan calls for a comprehensive regrading of the site for the purpose of locating the new houses at Elevation 16.0, 3.5' above the 100-year flood level. To achieve this, soil will be excavated and reused on site and additional fill will be imported to the site, as outlined in Section 4 above. To “minimize” the redistribution and importation of fill on site, steep, narrow berms are proposed to raise the ground level of the houses.

The major issues associated with this massive site regrading include:

1. Rock removal. The DEIS states that there is a “possibility” of blasting. Given that rock removal may reach 7 to 8 feet in some areas, and be required for some utility installation, blasting is likely and use of heavy equipment is a certainty. The DEIS does state that no existing rock outcroppings would be removed in order to implement the plan.

2. Excavation and embankment. The plan includes construction of steep slopes to raise the houses out of the flood plain. (It should be noted that some steep slopes already exist in the vicinity of the clubhouse, but at a further distance away from the structures than that proposed for the new houses.) Section 3C (Geology) of the DEIS identifies only 7.2% of the project site containing soils that are suitable to support the new houses. Thus the imported fill will have to serve that structural purpose.
3. Maintenance of slopes. The slopes created to support the houses must be carefully designed to resist both the loads associated with the houses and erosion from storm run-off. The DEIS describes the need to apply well-graded soil in the top two feet of the surface of the berms. The borings do confirm that below the topsoil, the soil could be characterized as well graded but does not address what is required in the “core” of these berms to support the homes (besides “structural soil”), or from where this soil will be sourced.
4. Foundations soil. The DEIS recommends slab-on-grade foundations for the houses, which will require an iterative process of placement and compaction to build up to the level required for the houses.
5. Contaminants. Some soil samples at the site tested positive for arsenic and pesticides. It is noted in the DEIS that soil reuse for residential developments is more stringent than for other uses, so a more definitive testing and reuse plan may be necessary. Mitigation is stated to be by capping with other soils, but further Testing may lead to the need of off-site disposal of soils, not contemplated in the DEIS.
6. Erosion and sediment control. Proper control of soils during construction, including excavations, embankment, soil storage and delivery for a project of this scales so close to protected waters will be a challenge. A preliminary soil erosion control plan is presented in the DEIS which outlines the standard measures to prevent excessive soil erosion. A preliminary Storm Water Pollution Prevention Plan (SWPPP), required by NYSDEC for a project of this type, is presented in Appendix H, including a draft of the forms to be filed with DEC.

Given these issues, re-grading the Hampshire Country Club to accommodate the developer’s preferred plan will require a massive, complex undertaking that will need to include soil testing, proper mixing and layering of soils, geotechnical analysis for support of houses and slope stability and careful erosion control to avoid spoiling adjacent wetlands.

Memorandum

**Environmental Contamination, Geology & Groundwater
for
Hampshire Country Club Proposed Action
Mamaroneck, NY**

Prepared for:

Village of Mamaroneck Planning Board (Lead Agency)

By:

**CA RICH Consultants, Inc., Plainview, NY
2/14/2018**

General

The analyses utilized in the DEIS prepared by VHB (December 2017) to develop the various findings of fact in connection with environmental contamination, geology, and groundwater conditions are inadequate to conclude that the mitigative measures described for the Proposed Action are prudent; and that the Proposed Action is even feasible and/or sufficiently protective of human health, safety, and the environment.

There is grossly insufficient information supporting the December 2017 DEIS relative to describing the nature and extent of soil contamination site-wide, the occurrence of shallow groundwater, shallow groundwater quality, and the necessary excavations into buried bedrock that will adequately provide the Planning Board with the means to ensure informed decision-making to support the proposed planning alternative: the permanent shallow burial of soil contaminated with arsenic and pesticides beneath newly-built homes.

Data is not developed to objectively evaluate the environmental impact(s) from the site preparation activities during construction (impacts from the proposed cut-&-fill, and the restorative backfilling that must occur to generate the raised soil platform), the possible impact from fugitive dust emissions during the proposed significant cut-and-fill activities to nearby receptors (Hommocks Middle School), the management and fate of potentially-degraded groundwater, the validation of the quality of imported clean fill that will comprise the 2' thick cover system proposed to thinly separate the relocated soil contamination beneath the 105 new homes; and the means and mechanism to suitably maintain various aspects of the cover system and cap during build-out and post-construction occupancy.

The absence of sufficient site investigation, specifically with reference to the significance of the soil contamination that has already been revealed on-site, is important, and arguably admitted in the DEIS - given that additional investigations and soil management plans subject to NYSDEC's applicable DER-10 Guidance are proposed to be prepared. However, simply saying that further study is promised subject to DER-10 Guidance neither guarantees that future data-gathering efforts will be sufficiently adequate, nor any mechanism for NYSDEC oversight or input once the SEQRA review process has been concluded.

If NYSDEC's DER-10 Guidance is followed, a thorough "*Investigation Work Plan*" (IWP) would typically be developed by the Applicant, and implemented, to delineate the areas of contaminated soil - and in doing so, provide an accurate volume of impacted soil to be handled. Based on those results, a subsequent "*Remedial Action Work Plan*" (RAWP) would then be prepared to include the specific excavation areas, construction health & safety protocols, and a site-specific fugitive dust monitoring program given the potential for risk-related exposure pathways to all the receptors present within the surrounding neighborhood (Hommocks Middle School and nearby homes). Such soil management documents, presumably prepared by the Applicant in the public interest, would be subject to review and approval - assuming NYSDEC, a DEIS reviewing agency, would remain involved in further review and ongoing monitoring of this project. However, in the absence of monitoring by the State, the adequacy and applicability of a Plan, once approved, specific modifications to that Plan, as-needed, and the ongoing implementation as well as compliance of the required on-site protocols and agreed-upon protective conditions during actual construction by the General Contractor, would likely fall to the Mamaroneck Village Engineer.

If the Proposed Action is approved - and once the development footprint is finalized - the Applicant states they intend to meet with NYSDEC prior to preparation of one of the aforementioned two Plans (detached homes or a single condominium building) to incorporate NYSDEC 'feedback', shared data, and Agency review into their overall technical approach. The fact that this possible State review is not assured, and that it will only occur "*after the development footprint is finalized*" - that is, after this SEQRA review is closed, presents a real problem. As such, it is recommended that the Applicant engage/prepare the further soil investigation Plans outlined above 'sooner rather than later', and that they be included in the current DEIS SEQRA review process.

It is recommended that the Lead Agency consider its need to ensure satisfactory implementation of the approved Soil Management Plan, based on jointly-approved further study, through utilization of an independent third party oversight by an expert. An independent third-party expert can witness further investigation, and collect sampling data during certain construction activities, as and where-needed, satisfying ongoing information needs objectively - on behalf of Village interests, confirming that both soil and shallow groundwater conditions are as expected. Alternatively, in the event of unknowns during construction, independent oversight will serve in a third party reviewing capacity to enable the Village Engineer to technically address site-related problems with

appropriate modifications, answer further public inquiries, thus facilitating cooperative progress during any approved build-out. One obvious objective for third party oversight will be to inspect and prevent any unintentional accidental or incidental comingling of contaminated earth materials with clean imported fill materials before and after construction of the new raised soil platform, as well as during subsequent grading, trenching for utilities, and post-construction landscaping.

Soil Contamination

The soil samples collected to date are too few in number and location to sufficiently characterize existing soil conditions for the contemplated cut-and-fill removal and relocation work. Such soil sampling of this kind is typically performed in stages where the initial testing is simply a first cut 'screening' tool to determine if an issue exists (i.e. detection of arsenic and pesticides, etc.). This is followed by further investigation to better define the vertical and horizontal nature and extent of any targeted contaminants to assist in the requisite design of appropriate and approvable site-specific mitigative soil management options.

All of the soil samples collected thus far are extremely shallow - between land surface and only 2' deep. Consequently, the test results from these surficial samples, although informative, are entirely inadequate to properly 'map' the nature and extent of arsenic or pesticide contamination (and other chemical constituents) across the entire property. The levels of arsenic or pesticide in soils greater than 2' deep are unknown. This extremely limited testing at only the two (2) depth horizons: 0-6" & 18-24", and from only 21 hand-dug soil coring locations across the existing 106-acre golf course, is not representative – averaging only about one sampling location per five acres.

Despite this exiguous database, the limited soil samples that were collected revealed contamination with pesticides, arsenic & lead at levels in excess of prevailing NYSDEC Part 375 Unrestricted Use Soil Cleanup Objectives (UUSCOs) and (to a lesser extent) Restricted Residential Soil Cleanup Objectives (RRSCOs) within a third of this relatively small sample set. Importantly, as many as six (6) of the surface soil samples exceeded Residential SCO's for Arsenic. One of these surface soil samples (SS-7) revealed arsenic at 56 mg/kg – roughly 3.5 times the residential Soil Cleanup Objective (SCO) guidance value of 16 mg/kg. Pesticides were found present in as many as 35 soil samples at levels exceeding 'unrestricted use' Soil Cleanup Objectives (UUSCOs). Additionally, four samples revealed pesticides present at concentration levels even exceeding 'restricted residential' use SCOs. No herbicides were detected in any of the samples. The April 2016 Limited Phase II Environmental Site Investigation prepared by GZA of New York, a report appended to the DEIS documenting the limited soil sampling work, indicates that the laboratory chemical analytical methodology for the soil testing was: for arsenic and lead: EPA Method 6010C, for organochlorine pesticides: EPA Method 8081B, and for the chlorinated herbicides: EPA Method 8151A.

For comparison purposes, if all of the onsite soil that is to be excavated and then reburied on-site to support construction of the raised soil platform, was instead, to be transported off-site to a regulated landfill, the routine requirements for that soil to be accepted at that landfill would mandate a sampling test frequency of at least one sample for every 1,000 tons brought into the landfill. In other words, at least a minimum of 300 samples (assuming a soil volume >200,000 yards) would require testing if all of this newly-generated soil was found contaminated and as such, potentially classified as either a regulated or hazardous waste.

Two (2) of the soil samples: SS-19 & SS-6, revealed residual petroleum contamination reportedly attributable to two former petroleum tank spills. Both of these two widely separated sampling locations are located outside of the Proposed Action's planned 'fill' raised soil development platform: the SS-19 location is to the north - adjacent to the Maintenance Shed at the end of Cooper Avenue, and the separate SS-6 location is to the south - next to the parking area at the existing Club House. Referring to these former fuel spills, the DEIS states that:

"Soil contamination will be delineated by evaluating soil samples taken at the identified elevation at increasing distance from SS-19 and SS-6 until samples indicate clean soil for the target contaminants. It is anticipated that the total soil to be relocated will be between 50 and 100 cubic yards. The delineated contaminated soil will be excavated and relocated under the core of the soil platform to ensure isolation from the proposed development with a minimum of 2 feet of clean soil cover".

However, the scope of any further spill-related investigation needed to determine the horizontal (and vertical) extent of this additional petroleum contamination is unknown. The Applicant estimates that the volume of the aforementioned petroleum contamination (to be relocated on-site) will be between only 50-100 cubic yards, but this quantity is speculative - wholly unsupported pending further investigation. It could be more than this amount. In addition, it is also not known whether there may be any underlying petroleum-impacted groundwater attributable to either, or both, of these former spills.

Despite the limited soil testing, there are already at least two (2) surficial soil areas outside of the soil platform contaminated with arsenic at levels above the applicable residential SCO standard of 16 mg/kg. And there are 36 acres of open space outside of the soil platform that will not be part of the 9-hole golf course included in the development. This land will presumably be owned and operated by an HOA. The DEIS does not indicate the type of use for this open space, further testing of it, or any soil protective measures proposed if it is to be considered for picnic area(s), and/or playground or dog park, etc. The applicability of the '16 mg/kg' arsenic guidance value is used as an action level for soil management since soil with arsenic levels greater than 16 mg/kg are considered potentially harmful to humans if excessive quantities are ingested (NYSDOH, *The Development of New York State Cleanup Objectives for Arsenic*). The supplemental soil sampling to be described in an Investigation Work Plan, yet to be prepared by the Applicant, should be designed to delineate all soil quality in excess of 16 mg/kg site-wide. This may best be accomplished by dividing all

of the property into at least an approximate 200-foot grid or smaller, with soil sampling within each grid collected at 0-6 inches, 6-12 inches, 12-18 inches, and 18-24 inch-depths.

The DEIS indicates that one of the three existing septic systems servicing the property will be tested (the one at the tennis pavilion). In addition, there are two (2) separated pad-mounted electrical transformers located on the south and north sides of the golf course. In addition to testing one of the three septic systems, surficial soils in proximity to both transformer pads should be tested for the possible presence of PCB isomers, particularly the higher-chlorinated pervasive isomers (i.e. 'Aroclor 1260'). Information as to whether surficial soil at either of these two transformer pad areas is either hazardous or non-hazardous (the possibility of residual leakage from older PCB-containing transformers) would be potentially important should these two transformer areas continue to be utilized to supply energy.

The lower-lying flood-prone flat areas across the southern part of the property may be indicative of those areas that had historically needed to be filled-in (formerly estuarine) to build the golf course back in the late 1920s. These tidal areas are where the surface of buried bedrock was geologically (glacially) eroded to relatively greater depths. The infilling of these wet areas with fill - that is now saturated with groundwater indicative of brackish (salty) conditions, has not been described. Although natural soils are mapped with descriptions as provided, there is no site-specific information describing where such artificial infilling occurred, nor are there any pertinent descriptions of the nature and extent of the artificial fill that was brought into the formerly agricultural property. The DEIS discussion of this historical infilling suggests that the fill was simply used for grading the surface and for contouring purposes, and nothing more. Consequently, the Applicant concluded that because this historical fill was used as a relatively thin veneer of cover to control topography, that it was, in general, deemed sufficient to test site soils only down to the 2' depth. Needless to say given the Proposed Action, a detailed description of the type, thickness, and nature of this historical infilling is now newly important, and should be investigated.

Ground Water

Neither the elevation of the very shallow water table, direction of groundwater flow, nor the quality of uppermost groundwater is provided. However, the chemical products applied on golf courses for turf management degrade in soil and change in time to varying degrees, and their breakdown products (chemical derivatives) can be evaluated in terms of mobility and health implications. For example, the pesticide 4,4'-DDT weathers to 4,4'-DDT and 4,4'-DDE. Decades ago, even Arsenic, a metal, was historically applied to golf courses as an effective pesticide.

If some of the impacted soils on-site are saturated with groundwater, the groundwater may become degraded as well. Potential human exposure pathways may involve children playing in dry, damp, or wet soils and ingesting that same soil. No information

describing if there is any chemical mixing of impacted soils with shallow groundwater on-site is available at this time.

There are two (2) active bedrock water supply wells in the northern part of the property drilled to 350-foot depths each which have historically been utilized to supply irrigation water across the golf course. The Proposed Action indicates it will continue to utilize these two rock wells for irrigation purposes. The quality of the groundwater pumped from these wells has not been provided. The safe sustained yields that would characterize further use of these wells is also not provided, but may not be available. This pumped groundwater is discharged to irrigation pond(s) and/or a detention basin on the course which is then distributed across the course to irrigate the turf. That portion of water not taken up by evapotranspiration either runs off as storm water and/or percolates downward into the subsurface. It would be informative for the Applicant to provide further information about the condition and projected 'life' of these wells.

Hydrogeologically, driller's well logs may be available to evaluate the construction details of the wells, and the number, depth, and possibly the correlation and orientation of the saturated bedrock fractures intercepted by them. Pumped groundwater withdrawals from rock wells typically induce an elliptical cone of depression in the water table (or potentiometric surface) parallel to bedrock fracture orientation, and such information would help determine the seasonal extent of the underlying groundwater 'capture zone' beneath the golf course. Knowing the geographic area indicative of the extent of the horizontal groundwater 'reach' outward from this pumping center that could possibly be affected by the cut-&-fill activities up on the land surface above may become important. Some discussion may also be informative regarding whether the Applicant anticipates a change to the elevation of the water table if the seasonal irrigation well pumpage is either increased or reduced (Editor's note: typical 18-hole golf course irrigation water usage in Westchester averages as much as 6 million gallons per month during an 8-9 month golfing season).

Where the necessary excavations of buried bedrock occur at shallow depths in either fully-saturated or partially-saturated soils, the pooling of 'perched' groundwater at the buried soil/bedrock interface may be expected. This 'perched' fluid mixing with degraded reworked soils may also become degraded and will need to be managed. If dewatering activities help facilitate the efficiencies of cut-and-fill excavations to minimize wet soil conditions and soil density, a description of the dewatering procedures, and the protective measures to contain the runoff of fluids from newly-stockpiled or staged soil, may need to be addressed.

The installation of several small-diameter evenly-spaced monitoring wells drilled down to the buried soil/bedrock interface, and possibly deeper into the underlying fractured bedrock below (as needed), would provide the means to collect water level data needed to construct a useful water table or potentiometric surface contour map. In addition, monitoring wells could be utilized to collect groundwater quality data for those areas where impacted soil has been, or will be, identified.

Knowing the elevation of the water table, and its configuration, especially where the underlying buried bedrock is relatively shallow, allows the Developer to anticipate and better manage varied soil conditions and any drainage modifications due to the cut-and-fill work for the newly-raised soil platform. And should poorly-sorted saturated soils be subject to excavation, mechanical screening may be required. Such screening may generate cobbles and boulders likely to be found unusable for the soil platform. A description of how these particular mixed-in coarser earth materials will be re-used or managed would be informative. If spread in-place, some dynamic compaction may be required to stabilize the selected screened soils, particularly to stabilize slopes.

Bedrock

There is an unknown quantity of rock removal to be expected. Significant bedrock outcrops are prominent and as such, an important site resource across the golf course and should be located and described. The relatively higher land areas within the 130-acre property represent harder erosion-resistant bedrock. The geotechnical test borings that were conducted were advanced to 'refusal'; but it is not evident whether 'refusal' represented buried bedrock, hard glacial till, gravel, clay, or simply a buried boulder. For example, only one bedrock core sample was used to characterize the geologic conditions across the entire golf course property which is hardly representative. At this singular location, the buried bedrock surface was described as a 'gneiss', but no information describes whether this same buried gneiss bedrock occurs across the entire property in a uniform fashion. This can be important in terms of ease of excavation. That is, whether that bedrock is fractured and faulted, and/or weathered, thus possibly subject to ripping, or if it is alternatively hardened and competent - necessitating the possibility of disruptive blasting.

Boring GZ-2 (located at the intersection of the relocated Eagle Knolls Rd & Hommocks Rd.) reportedly encountered bedrock at only 4' below land surface, and GZ-6 (located at proposed Lot #9) was even shallower with rock encountered at only 3' below land surface. According to the DEIS, the existing grade at this latter location will need to be lowered some 5-6', consequently several feet of bedrock removal may need to be ripped and/or blasted here. It is important that given the Proposed Action, the additional subsurface investigation across this property, in addition to describing further soil contamination, attempt to characterize the buried bedrock surface. Obviously, vibration monitoring may need to be considered should there be blasting planned in proximity to neighborhood homes or other existing buildings.

Soil Vapor

Borehole logs indicate a natural buried peat layer evident across the eastern (and part of the central) portion of the site (SS-9, SS-13) and that some unknown amount and quality of fill may have been historically deposited directly over this buried peat (i.e., to bring up and stabilize 'made land'). The presence of buried peat on-site indicates that

there may be a potential for the generation of naturally-occurring methane gas. Any possible threat of methane gas to future occupants is unknown and should be considered. If found present, any natural migration of methane could result in the possible accumulation of it over time directly beneath the newly-placed cap within the reworked soil platform. Such a condition, could, in turn, provide a further threat of soil vapor intrusion into the newly-built homes.

Although waterproofing is included in the Applicant's home design, it may not be sufficiently mitigative to prevent methane soil vapor from intruding into any planned basement storage areas to pollute interior air quality inside the homes. Concern for methane intrusion into the new homes through utility chases and/or other floor penetrations would then warrant consideration of specific mitigative measures designed for that purpose and/or as deemed prudent in a given situation. For example, if found suspect, the requirement for indoor air testing for methane during the heating season prior to occupancy, would ensure occupant safety, and if detected, the need for additional engineering controls.

Cut & Fill

".. All soil imported to the site will be from confirmed clean sources that will be used to construct the development platform. All imported soil will be in compliance with (NYSDECs) Residential Soil Cleanup Objectives (SCOs)."

To assess soil and groundwater impacts from the significant cut-&-fill operations, the DEIS indicates that NYSDEC will become involved to stipulate information needs and acceptability of further investigation results and mitigation measures, as needed. For example, in a regulated scenario under NYSDEC's DER-10, the Applicant would presumably identify the tentative quarry source(s) of clean soil/aggregate to be transported into the site. This will be a considerably large volume of soil and it's doubtful that so much 'clean fill' will originate from one singular source. The tentative location(s) of the quarry(s) sourcing the clean fill should be provided in the DEIS so that transport logistics are better understood. Typically, the quality of the imported fill is tested and inspected twice: once at the source as well as inspected upon its trucked arrival when dumped on-site. DER-10 specifies the minimum number of soil samples needed to qualify a clean fill source as acceptable (i.e. at least seven (7) discrete samples analyzed for volatile organic compounds (VOCs), and two (2) composite samples analyzed for semi-volatile organic compounds (SVOCs), inorganics, and PCBs/Pesticides in the first 1,000 cubic yards brought onto the property - with the remaining volume tested at a frequency of 2 VOCs and one composite sample for every additional 1,000 cubic yards (ref. NYSDEC DER-10, May 2010, Table 5.4e; p 159). The scope of fill testing may be subject to negotiation but how this will be accomplished post-SEQRA is not provided.

The DEIS also states:

"..for each soil source, soil sampling results for contaminate levels and requested engineering properties will be required for review and approval by the Village prior to import to the site".

Again, how this will be accomplished, or funded, is not provided. The Developer's geotechnical engineer will determine fill suitability, but from a practical perspective, this person is neither a NYSDEC nor Village representative and may not always be suitably available, as-needed, to track and validate the integrity of the transported source materials over the course of the several months of infilling – particularly if needed to do so daily perhaps in congested fashion as numerous trucks arrive subject to inspection before dumping.

It will be important to have the acceptable clean fill inspection protocol spelled-out, and it is suggested that part of this protocol include the provision for the Village to hire an independent third party expert charged with performance of this responsibility – funded by the Applicant. This expert would be expected to work in cooperation with the Village Engineer to ensure that compliance with the approved Soil Management Plan is adhered to as described.

In addition to the importation of clean fill from off-site sources, it is intended that over 200,000 cubic yards of fill (217,490) may be cut from specific areas of the site to grade the slopes of the raised soil platform. Information describing how this cut fill, once relocated, will suitably grade these slopes or how the newly-excavated areas subject to fill removal will be properly restored back to grade, and with what earth materials, remains incomplete. The DEIS should include a discussion, and general sketch(s), of the planned areas of disturbance affecting natural site features, and identify best management practices to be employed to mitigate the potential for possible deleterious impact(s) caused by the staging and moving of such a large volume of earth materials.

There may be a serious risk of ingestion of airborne contaminants from impacted dust particulate generated during these soil staging activities – especially relative to the voluminous truck trafficking stirring up dust. The close proximity of the Hommocks Middle School, its HVAC air intake system, the open air playground used by thousands of young students and Community club members during the year, as well as the nearby homes, all present potential human health exposure pathways that warrant preparation of a health-based risk assessment and an air monitoring program subject to review.

Soil testing to date indicates there may be a considerable volume of relocated soil impacted by historical golf course-related contaminants. The Applicant proposes to cover the relocated impacted soil with a blanket cover system of clean fill that is only 2 feet thick to serve as a buffer or protective cover. Such a cover system this thin should typically include emplacement of a demarcation barrier separating the clean topsoil and surficial fill from the underlying impacted fill. An example of such a barrier could be simple orange snowfencing. As part of any "*Remedial Action Work Plan*" stated to be

prepared by the Applicant for the Proposed Action, it is strongly recommended that the Applicant be required to install such a buried demarcation barrier(s). Because the contaminated soil is to be covered with at least 2' of clean soil in areas of the soil platform not improved with any impervious 'cap' (i.e. streets, driveways, building footprints, etc.), it will be important for lay people to recognize if/when the degraded soil is accidentally encountered by manual digging or excavation activities. This can be achieved with emplacement of an easily-visible buried demarcation barrier – say, for example, orange snow fencing to serve that specific purpose.

A cover system and a demarcation barrier is an engineering control which must be maintained and periodically inspected to ensure that it remains protective of human health. Such inspection and maintenance requirements would be set forth in a Site Management Plan (SMP). It is recommended that such an SMP be required. The SMP would also include an Excavation Plan to describe the procedures and protocols needed to control or 'regulate' any future penetrations through the cover system. Such penetrations may range from the installation and/or maintenance of underground utilities to specific tree plantings with root balls requiring excavations in excess of 2' deep.

Finally, it is recommended that an Institutional Control be put in place to ensure that any engineering controls outlined in the Proposed Action - such as the cap, clean soil cover, and suggested demarcation barrier - all remain properly maintained to avoid future contact with the relocated contaminated soil. Such an Institutional Control would consist of enforcement of the approved Site Management Plan as a living document, in perpetuity, presumably through application of a Deed Restriction.

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**STATEMENT OF CHRISTINE A. FAZIO
ON BEHALF OF
MAMARONECK COASTAL ENVIRONMENT COALITION
TO THE
VILLAGE OF MAMARONECK PLANNING BOARD**

FEBRUARY 14, 2018

Good evening, I am Christine Fazio of Carter Ledyard & Milburn and I will address specifically the environmental review contained in the DEIS related to potential noise and air quality impacts. My statement will be brief because there is essentially no analysis contained in the DEIS on potential noise and air quality impacts during construction of the proposed project to actually comment on. In fact, DEIS page 3R-4 states: "The contractor shall prepare a noise control plan to identify the potential for impact according to the specific construction equipment and usage that is expected. The noise control plan will quantify the potential for impact and indicate what type of noise measures are required." However, SEQRA requires that the lead agency conduct the required analyses as part of the environmental review and prior to making SEQRA findings, not after the fact after the developer has hired a contractor. Case law in New York requires strict compliance by lead agencies with SEQRA.

Overall, DEIS Section R on Noise provides only a very cursory discussion of potential noise impacts during construction. The discussion states that construction activities would occur between the hours of 8:00 am and 6:00 pm Monday through Saturday as required by the Village Noise Code, but no other qualitative or quantitative discussion of the potential noise impacts are provided. Given that project construction would involve approximately 180 to 280 truck trips per day over an approximate one-year period (with ongoing construction of the full project stated as unknown in the DEIS but expected to occur over at least a five-year period), a quantitative noise study needs to be conducted in order for the Village to meet the hard look requirements of SEQRA. First, ambient noise monitoring to determine the existing noise levels in decibels during the morning, afternoon, and evening hours must be performed over a several day period at the various sensitive receptor locations, including next to a number of residents and Hommocks Middle School. Based on the type of construction equipment and construction activities to occur on the project site, and the number and types of truck traffic entering and leaving the project site, the noise analysis must examine the potential increase in noise levels during the construction period. The lead agency would then need to determine what should be construed as a significant impact; for instance, it is very common for agencies to identify an increase in five decibels above background levels as a significant adverse noise impact. New York City uses three decibels as the significance threshold.

The Air Quality section provided in DEIS Section S is also inadequate as it applies to emissions during construction. The discussion seemingly just concludes that, due to a short construction period, no significant adverse air quality impacts are expected. However, as mentioned this evening, the number of diesel truck trips is estimated to be about 180 to 280 per day over about a one-year peak construction period during the filling operations, well over the 48 truck trips per day stated in the DEIS. And full project construction is likely to last over five years. Accordingly, air quality dispersion modeling of pollutants, including at a minimum carbon monoxide and particulates, using EPA-approved models, is essential in order for the Village to

have taken the requisite hard look at construction-related air quality impacts as required under SEQRA.

The public health concern related to increased truck traffic is from diesel exhaust, also referred to as diesel particulate matter, which is composed of black carbon and numerous organic compounds including over 40 known cancer-causing substances. Diesel particulate matter is a subset of particulate matter sized 2.5 microns in diameter or smaller and thus is inhaled into the lungs where the pollutants can then deposit on the lung surface. Numerous scientific studies have shown that diesel particulate matter results in increased cancer-related, cardio and respiratory illnesses and deaths.

In sum, given the number of diesel truck trips expected for construction of the proposed project, and the long construction period for the full build-out, the Village needs to require a new DEIS that includes a quantitative analysis of the potential construction-related noise and air quality impacts that is then subject to a new public review period.

**STATEMENT OF KAREN E. MEARA
ON BEHALF OF
MAMARONECK COASTAL ENVIRONMENT COALITION
TO THE
VILLAGE OF MAMARONECK PLANNING BOARD**

FEBRUARY 14, 2018

Violations of Law & Density

- The Applicant's proposal to build 105 homes, rather than a much smaller number, violates state and local law
- A municipality's Zoning power is not inherent – Article 7 of NYS Village Law delegates authority to villages, primarily the Board of Trustees, to regulate local land use.
- State Village Law Section 7-738(2)(a) provides that a village BOT may, by local law, and for the purpose of preserving open space, delegate to the Planning Board the right to cluster development, but only under certain conditions.
- Most relevant here, is a condition limiting density. Village Law 7-738(3)(b) provides that

A cluster development shall result in a permitted number of building lots or dwelling units which shall in no case exceed the number which could be permitted, in the planning board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning local law applicable to the district or districts in which such land is situated and conforming to all other applicable requirements.

- In other words, you can't increase density. You can only move things around
- And how do you determine how many dwelling units could be permitted? Courts have repeatedly held that density is determined by laying out a conventional plat that complies with the underlying zoning district – here R-20 – and all local laws
- On this site, what would a conventional plat conforming to all laws look like?

- we asked Lisa Liquori and her planning colleagues at Dodson and Flinker to help us answer that question for a number of different development platforms under the current zoning, R-20.
- Also, since, as Lisa noted, the Comprehensive Plan calls for this site to be downzoned to R-30, we asked the planners to prepare plats under R-30 for each scenario.
- First, we asked them to set aside - for a moment- the flood storage capacity issue, and show us what a conventional plat would look like on the residential portion of the site.
- We note that, because the applicant never delineated the boundaries separating the Club's reconfigured golf course from the proposed residential uses, we made reasonable estimates for the boundaries, based on the Applicant's own renderings of residential versus country club features (See DEIS Figure 2-16).
- Under the first scenario (setting aside the no-fill rule), for the R-20, we estimate that the residential portion of the project could accommodate 77 units (being generous), not 105 as claimed by the Applicant. See Exhibit 1.
- For the same scenario with R-30 zoning, the planners were able to plat 54 units. See Exhibit 2
- In other words, even setting aside the fill and flood storage issue, the site yields far less under current zoning (28 fewer units) than the Proposed 105 units and half as many under the R-30 zoning recommended in the Comprehensive Plan. This, however, would displace an enormous amount of flood storage capacity in direct violation of the Village Code
- We then asked Lisa and her colleagues to look at the "No Fill" Alternative – Alternative F, which, as Neil Porto of TY Lin explained, still requires net fill of 22,000 CY, almost all of which would be used to displace flood storage capacity – and use that as the development platform to determine density based on a conventional subdivision plat.
- With R-20 zoning, the Alternative F plat yielded 45 units. See Exhibit 3.

- With R-30 zoning, the Alternative F plat yielded 32 units. See Exhibit 4.
- Finally, we asked the planners to produce a plat that actually complies with the Village prohibition on filling in the floodplain without compensating for the lost hydrological storage capacity.
- Here's what they came up with. A fully compliant conventional plat under current zoning and all applicable laws produces 21 units, not the 105 units shown by the Applicant in its Alternative F (R30 yielded the same number). See Exhibit 5.
- In sum, the proposed Project density -- rather than representing a generous concession as the Applicant implies throughout the DEIS -- is much higher than permitted under applicable law by a factor of 5 and much higher than would be appropriate on this very unusual and challenged site.
- In addition to the state cap on density for cluster subdivisions, and as Lisa mentioned earlier, the PRD provisions provide the Planning Board with substantial discretion to reduce density where ecological, traffic or other planning considerations warrant it. And they could not be more warranted here.
- We urge you to require the Applicant to prepare a conventional yield map that complies with all applicable laws so that you will have the tools you need to assess the Applicant's density claims and, in turn, the potential impacts of this project.

EXHIBIT 1



Hampshire Country Club
Existing Conditions
Mamaroneck, NY

BUILDOUT R-20

--- Total Area = 50 Acres
~77 Units

EXHIBIT 2



Hampshire Country Club
Existing Conditions
Mamaroneck, NY



BUILDOUT R-30

--- Total Area = 50 Acres
~54 Units

EXHIBIT 3



Hampshire Country Club
Existing Conditions
Mamaroneck, NY



BUILDOUT R-20
Total Area = 28 Acres
~45 Units

EXHIBIT 4



Hampshire Country Club
Existing Conditions
Mamaroneck, NY

BUILDOUT R-30

Total Area = 28 Acres
~32 Units

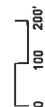


EXHIBIT 5



Hampshire Country Club
Existing Conditions
Mamaroneck, NY



**BUILDOUT R-20
ABOVE EXISTING FLOODPLAIN**
--- Area Above Floodplain
~21 Units

**Statement of Celia Felsher, President
Mamaroneck Coastal Environment Coalition
to the
Planning Board of the Village of Mamaroneck**

February 14, 2018

I. Flooding

- A. We all know the golf course has flooded several times over the last 25 years – being totally inundated as a result of storm surges in the 1992 Nor’easter, in 1993 and again in Hurricane Sandy. See Exhibit A. In addition, the intersection of EKR and Hommocks Rd and a portion of Cove Road near Orienta Avenue, two of the suggested access routes to the development, were both flooded and impassable during Sandy and the 1992 storm. In fact it was because of the flooded EKR/Hommocks intersection that a resident of Orienta drowned in the 1992 storm – he couldn’t get through that intersection and had to turn around to try to get back around the Club – which is when his car was washed over in the storm surge). There is already risk to residents of the area (both risks to property and to personal safety). It would be irresponsible to exacerbate those risks by adding a large number of residents in an area that could be difficult to access during an emergency. Who will take responsibility for the consequences?
- B. The surging water came in from Delancey Cove (both coming over Hommocks Road and EKR, and also flooding the intersection of EKR and Hommocks Road); and from behind Cove Road.

To “fix” the flooding problem, the developers propose to raise EKR at the place where the surge entered the golf course across Hommocks Road. While it would prevent flood waters from entering the housing development, it does nothing to address existing access issues in a flood emergency. There was only one effective route out of Orienta during Sandy – which was along Old Post Road. Since egress through Eagle Knolls Road and Cove Road would be cut off, the one route proposed to serve as the only route out for the new development in a flood event via Cooper Avenue. See Exhibit A. However, like EKR and Cove, this area has flooded in each of the prior flood events, and, according to our analysis and the developer’s own proposed Preliminary flood map (Exhibit 3C-4 in the DEIS), parts of Cooper Avenue (existing and proposed) would be underwater in the 100 year flood. So its use in a flood event will only be possible by raising it, and by widening all or a portion of the existing Cooper Avenue.

However, Cooper Avenue is private. Therefore, the proposed widening and conversion from a cul de sac to a through street is not legally possible without the consent of the adjacent homeowners, who would be asked to give up a portion of their properties in order to permit a large volume of daily traffic, including cars and delivery trucks, past their homes and over portions of what is now their front lawns. In addition, if the road is raised as well as widened, driveway grades along the street might also have to be adjusted. Finally, even if permission is granted for this work, the entire community would be depending on the structural integrity of an artificially raised road for safe ingress and egress. So, if permission of Cooper Ave residents is not granted, or if it is but the raised road would fail, there would be **NO** means of egress/ingress for the development during a flood event.

II. Summing up:

- A. The entire premise of the need for the development is false. The successful operation of an 18-hole club is viable. The Planning Board and community should also understand the argument itself is disingenuous. The club was purchased with the intent to develop the property – and build the condos. With distressed RE money behind it, it was never intended to continue solely as a local golf course and open space. And members of the Club and residents shouldn't be fooled by the proposition that the 18-hole golf course will continue if the condos are built. The golf course would be owned, not by the condominium entity, but rather by a shell entity. Once the developers take their profits out, they would have no interest in maintaining the course. If the club were to fail, we would all be left with a large tract of land with no custodian and no golf course.

As noted earlier, a group is interested in acquiring the club for its \$5 MM value as a country club with an 18-hole golf course – putting its faith in viability. They would agree to have the club rezoned as open/recreation space (which was the preferred alternative provided in the current Comprehensive Plan) so it could never be developed. This would ensure continued stewardship of the valuable community open space.

- B. The Proposed Project is not legally permissible.

- 1. It is not consistent with the Comprehensive Plan or LWRP
- 2. The calculated density is wrong and not in compliance with law. It also is completely at odds with the purpose of the statute.

3. The Village statute authorizing the PRD states that it is “for the purpose of promoting environmental protection, open space preservation; [and] . . . encouraging the most appropriate use of land; increasing recreational opportunities . . .” It would be antithetical to this purpose to allow a developer to build a greater number of units than would otherwise be possible absent the application of the cluster provisions – thereby leading to LESS open space and greater impacts on the community than would occur without reliance on the cluster. That would be a ludicrous outcome. Therefore, the first question should be what could actually be built – legally and feasibly – with a true as of right project - not merely taking the number of available acres and dividing it by the permitted lots per acre. That analysis was not done.

As noted earlier, the development of the full 98 acres in the Village would be close to impossible given the topography, legal restrictions and infrastructure needs. Therefore, development can only be achieved by clustering homes to reduce otherwise impossible construction issues. They have not offered clustered development to be good to the community. If a full development of the golf course was feasible and would be profitable that is what they would be here today proposing. If the number of homes that could truly be built on the property in an as of right development is 21 (as in indicated earlier), then the cluster should be permitted only for 21 units

4. Neither the changed use for three private roads (Cove, EKR and Cooper) nor the construction proposed for Cooper Avenue is permitted, and the Village has no legal right to authorize these actions for the benefit of a private developer.
 5. The massive amount of required fill is legally prohibited under the floodplain hydraulic equivalency law.
- C. The DEIS does not adequately address many issues, and therefore it is not possible to make the environmental determinations you are required to make to determine feasibility.
1. Impacts on the school are misleading and drastically incomplete.
 2. Soil testing was woefully insufficient, and the testing that was done clearly calls for more testing to be done – not just where homes will be built but everywhere that earth will be disturbed. This is such a serious issue that adequate testing of

the golf course, and the groundwater and pond water, MUST be done, and an analysis of possible health impacts of the disturbance of hundreds of thousands of cubic yards of earth – on both residents and school children who attend Hommocks and use the playing fields next to the golf course - must be appropriately analyzed and reported.

3. Detailed quantitative analyses of construction period traffic, air quality and noise are missing from the DEIS and must be provided to you and the public.
 4. Plans for adequate ingress and egress need to be identified given the flooding and ownership problems with the access roads they now propose.
 5. The impacts and risks associated with the significant additional amounts of fill have been shown to be necessary need to be adequately addressed.
- D. The real reason for the proposed cluster development is money. We all know the preferred plan for the developers is the condo project. It was what they envisioned when they bought the property and the value they paid in excess of the \$5 MM club value was for an option, betting on their ability to get the rezoning and condo development through – they paid about \$7 MM for that option in the hope that the rezoning would net them (after returning their capital investment and all development costs) profit of about \$55 or \$60 MM – a great return. As in any distressed situation, there's a risk involved – some deals pan out and some don't. It's not your job to ensure that this particular investment pans out .

The condo project is much more profitable than the proposed cluster development. They were denied the rezoning and forced to submit a plan to the PB – but did so with the ultimate objective of the condo development. They have engaged in a huge PR campaign saying it is “one or the other”. That is not true – this is a false choice and one not appropriate for the PB to get drawn into. This is all about money. The capital behind the project is from Westport Capital, a distressed real estate private equity firm operating out of Westport. That fund is capitalized by large institutional investor money and the only objective of any of the principals or investors is a good return. They don't care about our community and have no interest in what happens here other than to make a killing on a distressed real estate investment.

The PB should and must first analyze this proposed project and determine what its response is to this proposal – and that ONLY AFTER all appropriate information is

included in the EIS to allow a responsible determination to be made – which the developer has failed to do. The PRD cluster is not as of right – the PB must determine it is necessary in order to provide the benefits outlined in the statute. That case has not been made.

However, since so much time has been spent by the developers on the virtues of the luxury condo development, I would like to comment on that. The condo development is NOT a reasonable alternative. It is NOT in the best interests of the community – it IS, and is only, in the best interest of the developers.

1. Would be drastically out of character with the surrounding community – with a massive 5 story, 300,000 + square foot, 125 unit luxury condo complex with a 300 car underground parking garage and other amenities - in an otherwise residential area.
2. Would require rezoning. Our current zoning laws are in place for reason. They articulate community character. For example, you wouldn't allow a gas station or CVS to be built in the middle of Prospect Avenue. The vast majority of the club is zoned R-20 – for single family residential housing. As noted in the CP, this was a holding zone for all open space – including parks. The CP explicitly states that its preferred alternative for Hampshire would be to have it rezoned as required open space.

The remainder of the club, which is where the clubhouse is, is part of the MR zone – a special zone that was designed to grandfather and permit a long ago developed recreational club use in an otherwise residential zone. This is similar to the MC zone used to grandfather and permit the water related commercial uses (such as boat yards) of our waterfront property. These zones were designed to ensure that neither general commercial development nor high rise housing would destroy our waterfront and other areas of precious open space. Any rezoning of the MR or MC zones would risk the rezoning of the other MR and MC area and lead to high-rise condo developments all along our wonderful harbor.

3. The condo development would have adverse impacts on traffic and congestion, carry with it the same risks of flooding and lack of adequate egress/ingress and lack of rights to use private roads - and would also impact our already overcrowded schools (either by school age children living in the units or because

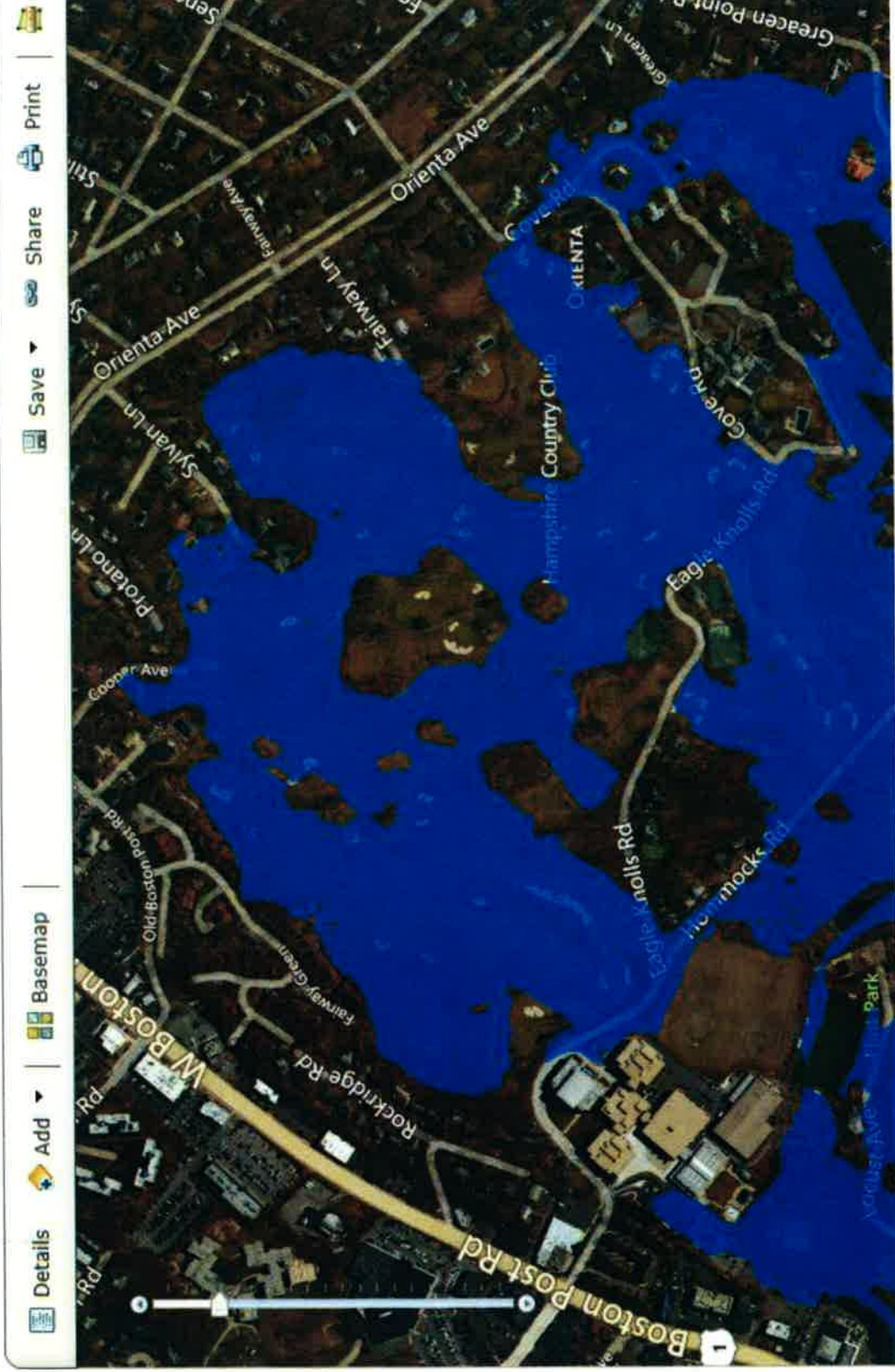
of the increased speed with which existing single family homes will be turning over).

4. If there is a need for condo units for empty nesters, that should be developed as needed – but where that type of development has already been deemed appropriate and would be consistent with our zoning laws. The MR zone is not where that large-scale development should begin.

EXHIBIT A



Hurricane Sandy Storm Tide mapper - Hampshire Country Club



Betty-Ann Sherer

From: Abby Roberts <abbyroberts46@gmail.com>
Sent: Thursday, March 29, 2018 9:31 PM
To: Betty-Ann Sherer
Cc: Mayor and Board; Elena Decunzo; Sally Roberts; Nora Lucas; Shannon Purdy; Brian Kerr; Myron Tannenbaum; David Salko; Daniel Sarnoff
Subject: Traffic Commission recommendations to the Planning Board re: the Draft Environmental Impact Statement ("DEIS") for the Hampshire Country Club Planned Residential Development

Hi Betty-Ann,

The Traffic Commission held a special meeting tonight to discuss the Hampshire DEIS. Elena took minutes, but given the timing issues of the April 11 hearing I wanted to pass on our recommendations to the Planning Board as soon as possible.

Traffic Commission Recommendations to the Planning Board:

1. **Comprehensive Plan Update.** We recommend that any development of this size and scope be considered in conjunction with the Comprehensive Plan Update plus new chapter on sustainability and mobility that's in progress, particularly considering the Village of Mamaroneck's goal and prioritization of more complete streets, walkability and bicycling.
2. **Old Post Road Sidewalk.** We recommend that since the plan shows Cooper Avenue as being an egress and ingress to the development, resulting in more traffic on Old Post Road, that to protect the pedestrians and bicyclists on Old Post Road a sidewalk from 1015 Old Post Road to Boston Post Road be installed and better protection for the pedestrian and bicycle lane that is perpendicular to Cooper Avenue be provided.
3. **Hommocks school safety.** We recommend that Hampshire provide more data on the volume, noise and safety of large truck and construction vehicle traffic driving down Hommocks' Road by the middle school during the school day.
4. **Hommocks Construction Truck hours.** We recommend that Hampshire revisit the hours it proposes to drive construction trucks down Hommocks' Road by the middle school, given the hours proposed are during prime school travel hours and the middle school students are unattended.
5. **Traffic data review.** We recommend the traffic data sets be revisited during greater time, school and seasonal windows, when the data may be greater than currently reflected in the report which looks at one-hour windows during March, which is not prime walking / biking time for residents.
6. **Old Post / Boston Post Intersection Traffic.** We recommend that Hampshire provide a solution to the increase of traffic at the intersection of Old Post and Boston Post road during the 7:30-8:00am timeframe, and inability of the traffic to clear the traffic light as a result of additional traffic from using Cooper Avenue as an egress / ingress by the Development.
7. **Sight Lines / Cooper turn on blind curve.** We recommend Hampshire revisit the sight lines and trees analysis in the context of increased collisions. For example, even if Hampshire cuts back the

bushes to the right side of Cooper onto Old Post Road as proposed, the curvature to the right is still blind and could increase traffic collisions.

8. **Emergency vehicle road access.** We recommend Hampshire explain how they would enforce and widen privately-held streets for sufficient emergency access and egress and ingress, and without resident agreement. For example, we believe Cooper would have to be widened for emergency vehicle specified use.

9. **Private Road Cost to Village.** We recommend the planning board take into consideration that private streets historically have caused access, safety and traffic issues that have resulted in unexpected costs and other burdens to the Village and surrounding communities.

10. **Event Parking.** We recommend Hampshire provide a more specific analysis of expected resident and non-resident event parking following the planned decrease in golf course size and renewed focus on events as a source of income.

Planning Board Letter

To the Planning Board:

My husband and I have lived at 940 Sylvan Lane for the past 14 years. We back Hampshire Country Club's 2 ponds near the 4th and 5th holes. Previously we resided in Larchmont for 34 years. Our 3 children attended Mamaroneck schools.

We chose our present home because it is in a community we love and where we would be able to enjoy the open space and habitat. It is hard to imagine 105 homes on the golf course. We have photos of the Hampshire property directly behind us flooding whenever there is a significant amount of rain. During Hurricane "Sandy", the water from the Sound came over the club and flooded our neighborhood.

At prime hours, it is difficult to travel in and out of Orienta or to turn into the community from the Boston Post Road. How can this peninsula cater to additional traffic?

People move to Mamaroneck for the superb schools. Our system is now overcrowded. More students exacerbate the problem.

Directly behind our property, there are dead trees and debris that have been left unattended for years. The owners of the club claim that they will maintain an upscale facility, however, they are presently neglecting the present one. The Hampshire management is not interested in the community, but in their personal financial gain and will most probably leave the property.

We urge you to reject the Club's request for building 105 homes on one of the most important and beautiful open spaces in this area.

Thank you for your interest and service.

Gloria and Arthur Goldstein
940 Sylvan Lane
914-777-0009, gloagol@aol.com

Betty-Ann Sherer

From: [REDACTED]
Sent: Monday, April 02, 2018 11:19 AM
To: Betty-Ann Sherer
Subject: Opposition to Hampshire Development

****Please do not publicly publish my name and contact details****

Planning Board Members,

I am writing to **strongly oppose** the development of Hampshire. This proposition is not in the best interest of current homeowners, the safety and education of the children attending MUFSD, and the environment we all live in.

Our school system simply cannot support the current growth of the community. We have spent the past several months discussing the space in our schools and potential short-term and long-term solutions to continue to offer a strong education experience with dedicated teachers and small class sizes. It would be completely irresponsible to continue to place a huge burden on our schools and risk watering down the education due to **completely preventable** overcrowding. For this issue and other VOM developments, you cannot ignore one of the primary reasons that people move here.

VOM is a walking community. This adds considerable traffic to Orienta and Boston Post Road, which already experience significant congestion during peak times. Old Post Road is the "walking bus" route for Central School and is also used by students of other schools and campers. It's already a concern with existing traffic, speeding cars, street parking, blind curves and no real sidewalk. Adding more cars and/or construction vehicles would be inviting danger for children who have no other way to get to their destinations.

Cooper Avenue is a private road. I'm unsure of how there are plans to expand this road or use it for anything beyond its current use when residents are opposed to this development.

The meeting on February 14 provided ample research and data against the development of Hampshire, especially environmental factors for families living in the area during the construction. These issues could be incredibly harmful and threaten the health of the people and wildlife.

A marketing website and a social media push isn't enough to counteract the facts. I've read through the emails in support of the development and they simply copy and paste the Hampshire development points. Living in this community, one can easily see that the argument for this development is riddled with inaccuracies.

I absolutely cannot support the development when it compromises the very reasons that people move to this community. Please act in the best interest of the VOM residents.

Sincerely,
[REDACTED]

Betty-Ann Sherer

From: Carol Greenhaus <carolgreenhaus@gmail.com>
Sent: Thursday, March 29, 2018 10:53 AM
To: Betty-Ann Sherer
Subject: Hampshire

Follow Up Flag: Follow up
Flag Status: Flagged

My husband and I very opposed to the plan under consideration for the Hampshire Club property. The effects engendered by it concerning the environment, over crowding schools and traffic are more than enough reasons to turn the proposal down.

Further more, having people who belong to the club but don't live in the area should have no say in the matter. Carol and Edwin Greenhaus

JOEL NEGRIN
1865 Palmer Avenue, Ste. 108
Larchmont, NY 10538

RECEIVED

APR 3 2018

April 1, 2018

BUILDING DEPT.

Chairman John Verni and Members of the Planning Board
c/o Village of Mamaroneck Planning Department
169 Mt Pleasant Ave (3rd Floor)
Mamaroneck, NY 10543

Dear Chairman Verni and Members of the Board:

I have lived and worked in the Village of Mamaroneck (1100 Cove Road), the Town of Mamaroneck (15 Gate House Lane & 711 Weaver Street) and the Village of Larchmont for more than 41 years, including service on their respective land use boards, as well as representing owners before such boards.

I have no objection to the sensible development of the property of the Hampshire Country Club. However, I share many of the concerns of other Orienta neighbors.

Water

Fresh Water. The frequent fresh water flooding events have not been sufficiently addressed by the Developer. I am certain that you have seen the photographs of this property after routinely heavy rains – a series of small islands in a large lake.

Salt Water. There are massive salt water issues, which have not been sufficiently addressed. Barriers on this property are likely to fail during a major storm. Even worse, such barriers will deflect increased salt water flows to the other properties on the Cove.

Combined water events. The greatest risk is a combined fresh water and salt water event. All indications are that these events will become more frequent and more severe in the coming years. New Orleans, Houston and many other examples have painfully demonstrated the folly of building in flood plains, based on the kinds of data the Developer's experts have presented.

Traffic

Access and egress. The roads currently used by the Club, upon which the Developer is relying, are not sufficient to support the proposed traffic. Nor has the Developer

April 1, 2018
Chairman John Verni and Members of the Planning Board

demonstrated that it has the legal easements necessary to use any of the adjacent roads. Easements for these roads have been “grandfathered” for a private club, not for residences. Further, they will not be entitled to an “easement of necessity,” upon which landlocked parcels often rely, as this will be a self-created hardship.
Traffic studies. Studies performed by the developer several years ago indicated that the Post Road intersections of Hommocks Road and Orienta Avenue were already at capacity, and in deficit at peak times. This situation has worsened in the years since that time, due to the use of Cove Road as a “cut-off” to avoid the busy Post Road at peak times.

Open Space and Aesthetics

This issue is admittedly highly subjective and qualitative, rather than quantitative. However, open space is at a premium in the Village, in this general area, and throughout southern Westchester. The loss of this greenery to the environment should be considered, as well as the visual effects on the neighborhood. I understand these considerations should not bar “matter of right” development, but they should be an important consideration in granting permissive planning approval of this development.

Future “Orphan Property”

Clubhouse and other facilities in the Marine Recreation Zone. Of particular concern is the future of the remaining Club property, including the Clubhouse and other facilities which are in the Marine Recreation Zone. It is unlikely that this property will be viable as a private club, after there is no golf course, with very limited (if any) waterfront access, no visibility from the Post Road and limited traffic access. Thus, this is likely to become an “orphan property.” If and when this orphan property fails as a private club, the owner (either the Developer or a subsequent owner) will be pleading before the Village authorities for relief from the limitations of the Marine Recreation Zone, i.e., a further development request. This application will argue, persuasively, the absence of economic/commercial viability.

This concern is not a long term fantasy. The Developer has already asserted, in its tax reduction appeal, that the value of the entire Club property is a fraction of its own purchase price. Without the golf course, it will be a simple exercise for the owner to assert and demonstrate that the modern and expensive Clubhouse and other facilities, as

April 1, 2018
Chairman John Verni and Members of the Planning Board

zoned Marine Recreation, will have little or no value. A new owner will not have to overcome the burden of a "self-created" hardship.

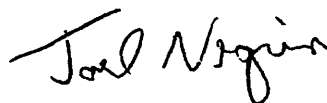
After careful study, the Village Board of Trustees designated this area a Marine Recreation Zone, in order to protect it as a recreational resource. This Board should not take any action that, ironically, would enable a future owner of the orphan property to develop it for residential use - the use that the Marine Zone was intended to preclude! Worse, it is possible that an even more intense use might be created.

By cutting the Marine Recreation Zone area adrift from a viable golf club, will the Board be paving the way for single family homes? a town house cluster? an apartment house? a commercial catering facility? a restaurant?

School Overcrowding

As we all know, our local public schools are now wrestling with serious and worsening overcrowding conditions. Obviously, the proposed development will produce more students (I leave the calculation of the numbers to others). As the Developer has asserted such a low value in its tax appeal, perhaps it will consider donating the acreage adjacent to Hommocks Road to the community for additional school facilities?

Very truly yours,

A handwritten signature in black ink, appearing to read "Joel Negrin". The signature is fluid and cursive, with a long horizontal stroke at the end.

Joel Negrin

cc: Thomas A. Murphy, Mayor
Victor Tafur, Deputy Mayor
Gregory Cutler, Village Planner
Betty-Ann Sherer, Land Use Coordinator

Betty-Ann Sherer

From: Randi Spatz <randispatz@hkmp.com>
Sent: Tuesday, April 03, 2018 7:31 AM
To: Betty-Ann Sherer; Mayor Tom Murphy; Victor Tafur; Nora Lucas; Leon Potok; Keith Waitt
Subject: Concerns over Hampshire Country Club Development Plan

To the Planning Board and the Board of Trustees –

As a resident of Orienta and an active member in our community at large, I have several issues with the proposed Hampshire Country Club developmental plan.

- Added pressure on our schools.
 - Our schools are becoming overcrowded. This has been a major issue currently facing the community. This massive development (105 homes) will exacerbate the situation. As Dr. Shapps discussed in his comments to the PB, the numbers presented in the Draft EIS was misleading (and disingenuous). The probable number of students will be close to double what was presented.
- Impact on Hommocks School (and playing fields behind the Hommocks School); Contamination
 - The Draft EIS projects a buildout period of 5 years. During that period there will significant construction traffic – all directed right around the Hommocks School, and the already overtaxed intersection at Weaver and BPR. There will be thousands of large construction trucks with massive amounts of fill being delivered. There will also be movement of large construction equipment and large numbers of construction workers – all going through that intersection and around the Hommocks School. All of these vehicles, many of which will have to be idling as lines of trucks wait to proceed, will create heavy vehicle exhaust pollution and noise and distraction (and impact the quality of the roads) around the School. None of these impacts is evaluated in the DEIS. Those trucks will create pollution and noise distraction. There also will need to be blasting to obtain the internally generated fill. This blasting will create noise and have we need to understand its possible impact on the school and neighboring home structural integrity
 - The limited testing on the site shows dangerous levels of arsenic and lead contamination. The project calls for massive amounts of earth moving on the property – with hundreds of thousands of cubic yards of fill being cut and dug from some areas to be moved to other areas. As the earth is moved, these dangerous pollutants will be released and possibly endanger neighbors as well as students and teachers who attend the Hommocks School, and kids who use the playing fields behind the Hommocks School. Think about what might happen if we have a bad storm (such as the one on March 2nd) with high winds as huge piles of earth are sitting exposed to the elements? From Wikipedia: If arsenic poisoning occurs over a brief period of time symptoms may include vomiting, abdominal pain, encephalopathy, and watery diarrhea that contains blood.^[1] Long-term exposure can result in thickening of the skin, darker skin, abdominal pain, diarrhea, heart disease, numbness, and cancer
- Pressure on Playing Fields

- The community is already tight on available playing fields. The true number of expected children (which is even larger than the number expected to attend our schools (because those numbers don't include students expected to attend private school)) will add to the pressures on field use. The Draft EIS didn't discuss these issues honestly.
- Overdevelopment, traffic and population density
 - The Village (and Town) have seen significant amounts of new housing units come on line over the last several years. This has created problems for all of us in school crowding, traffic problems, and overall strain on resources. This has been a major subject of discussion – with the Village of Mamaroneck now considering a moratorium on new development. In this environment, to consider approving something that would add 105 new homes to our housing stock is ridiculous.
- The project is illegal and is inconsistent with the Village's Comprehensive Plan
 - Hampshire golf course is a designated flood plain. As a flood plain, the Village Code prevents any addition of fill (even one spoonful) if it reduces the hydrologic capacity of the floodplain. This project is proposed to add massive amounts of fill. It therefore is not permitted. The owners argue the law should only apply to riverine floodplains and not tidal floodplains. The law is not drafted that way and should be enforced.
 - The Village Comprehensive Plans discusses the Hampshire site at length, identifying it as one of 7 Critical Environmental Areas in the Village, and presented a preferred alternative of rezoning it as Open/Recreation Space – the way the Town rezoned Bonnie Briar. That is what should be done here. The open space/critical environmental area should be protected. The Comprehensive Plan goes on to say that if the property isn't rezoned as Open/Recreation Space, efforts should be undertaken to ensure that any possible development would have reduced density. This project does not do that.
- Flooding dangers – no access
 - The property has completely flooded in storm surges – at least 3 times in the last 25 years (including in the 1992 Nor'easter when a car was pushed off the road into the golf course and the driver drowned) – and has serious water issues in other major storms. To add massive development in this situation is ridiculous and goes against everything being advised since Sandy. It will only get worse with climate change and projected rises in sea levels. Even now in those tidal storm surges, the intersections that would provide egress and ingress to the area have flooded and been impassable. To add 105 homes to an area that would be inaccessible is dangerous and irresponsible – all so developers can make a quick buck and get out.
 - Even in just plain old bad storms the property has areas of flooding, with formation of temporary lakes. This will lead to erosion of the massive berms to be created to hold the houses and hold back the flooding from the newly raised roads. This will be a disaster waiting to happen.
- Ludicrous Use of our Cluster Development Statute
 - Hampshire wants to cluster the 105 homes on a portion of the golf course property – supposedly to “preserve” open land. It is being done not to preserve open land but to allow development. Most of the property is well under flood levels (proven by the many floods of the property) and can't be feasibly developed. Cluster developments are authorized by Village law “for the purpose of promoting environmental protection, open space preservation; [and] . . . encouraging the most appropriate use of land; increasing recreational opportunities . . .” It

would be antithetical to this purpose to allow a developer to build a greater number of units than would otherwise be possible absent the application of the cluster provisions – thereby leading to LESS open space and greater impacts on the community than would occur without reliance on the cluster. That would be a ludicrous outcome. Therefore, one must look to see what could actually be built on the property as is – which was shown to be 21 units. Therefore, any cluster development should have no more than 21 units.

- Future of Golf Course

- This project will mean certain failure of any golf course. The project calls for downsizing the golf course from 18 to 9 holes. The expert information discussed at the February meeting shows that 9-hole golf courses are much more likely to fail than full size golf courses. And in this case the 9-hole course is ridiculous. It is cut up into 3 or 4 distinct areas of a few holes each – as space was identified once the development was laid out. This makes it even less attractive than other already challenged 9-hole courses.
- What then will happen to the property once the golf course fails. We will be left with a mess on our hands.

- Responsibility for Open Space.

- There will be many acres (although it's not clear exactly how many) that will be open and maintained by a Homeowners Association. This will be contaminated land. What can it be used for? What happens when there are floods and it will cost money to drain the property and fix it up? What happens if the HOA doesn't pony up the money. The Village will be left with a contaminated mess.

- Feasibility and Ultimate Developer Goal.

- The project isn't feasible. It has become clear that this proposal and this whole process is really a tactic for the developers to achieve their real goal of the condo development and it should be seen as such. This project shouldn't be approved because it is illegal. It would violate the Village Code by putting fill into a flood plain and it makes a mockery out of the purpose of the Planned Residential Development provision. Also, think about it – who would purchase these houses? We all heard the significant issues that were raised about egress during flooding events (even if they can clear the private road hurdles). In addition, there would be significant concerns from the contamination on the property – in connection with living over and raising children on contaminated soil (including possible restrictions on disturbing contaminated dirt) and being exposed to the contamination on the HOA acreage.

- Cost to the Village

- This project may likely cost taxpayers. The financial impact needs to be more clearly analyzed and supported with real information. For example, the true number of expected students needs to be provided, together with the impact on school building availability, to truly understand the cost to our school district. We also need supported information on value to understand how the tax base will be impacted – and compared to the cost of additional municipal services.

Thank you for taking the time to read this.

Regards,

Randi Spatz

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Randi Spatz

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