MEMORANDUM

To: Mamaroneck Village Planning Board

From: Stuart Mesinger

cc: Greg Cutler, Robert Spolzino, Christy Mason

Date: March 18, 2020

Re: Hampshire Findings Statement

Job #: 81540

The purpose of this memorandum is to summarize the major issues to be decided by the Planning Board in its Findings Statement. Where there does not appear to be a significant decision to be made, I have so noted that. I will forward a draft Findings Statement for your consideration after you have provided direction on these issues.

1. Land Use, Zoning and Public Policy

    a. Under Village Code § 342-52(G), Floor Area Ratio (FAR) restrictions apply except to the extent that they are waived by the Planning Board to the extent it determines necessary. The Project complies with the FAR restrictions when FAR is measured across the whole property. If FAR is measured only for the residential development, some FARs for individual lots exceed required maximums. Village Code § 342-3 defines FAR as "[t]he numerical value obtained by dividing the gross floor area, as defined in this Code, within a building or buildings on a lot by the area of the lot, excluding underwater lands." It defines "gross floor area" as "[t]he sum of gross horizontal areas of the several floors of the building or buildings on a lot, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings." Based upon this definition, FAR is determined on a lot-by-lot basis, not across the whole property, subject, again, to the Planning Board's authority to waive the FAR requirement to the extent it determines necessary. This may require the modification of some proposed lot lines during the subdivision review process or may limit the size of the residences that can be built on particular lots.

    b. The PRD regulations were enacted "[f]or the purpose of promoting environmental protection, open space preservation and superior design of residential development; encouraging the most appropriate use of land; increasing recreational opportunities and improving the balance and variety of the Village's existing housing stock…"

i. The Project would convert 30.6 acres to shared open space. The open space is divided into eight distinct areas. The open space areas are disconnected from one another; portions are comprised of long linear areas adjoining roadways, portions comprise the embankments of the development platform, several can only be accessed by crossing the golf course and much of the remainder would effectively function as golf course rough. The Planning Board should determine if the Project's open space is consistent with the purposes of the PRD.

ii. The Planning Board should determine if the Project will increase recreational opportunities consistent with the purposes of the PRD.

iii. The Planning Board should determine if the Project is consistent with the PRD's purpose of promoting environmental protection.

c. The maximum permitted number of residential dwelling units is determined in two steps. First, the Planning Board must determine the lot count in accordance with the requirements of Village Code § 342-52 by dividing the gross area of the subject parcel by the minimum lot size requirements of the zoning district in which it is located and then reducing that number to the extent that it determines that, because of environmental limitations, traffic access, the use and character of adjoining land or other planning considerations, the maximum permitted density would be inappropriate. Second, the Planning Board must determine the permissible lot count under Village Law § 7-738 by determining the number which could be permitted, in its judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning local law and conforming to all other applicable requirements. The maximum permissible lot count will be the lower of the two numbers. The Planning Board should determine if the floodplain is an environmental limitation that should be subtracted from the developable area, thus significantly reducing the allowable density.

2. Community Character and Visual Resources

a. Lot and house sizes are consistent with surrounding neighborhoods. The Project would only be visible from immediately surrounding streets. The record does not identify any significant impacts to community character or visual resources.

3. Geology, Soils and Steep Slopes

a. The Project requires the on-site cut and relocation of approximately 217,490 cubic yards of soil and a net import of approximately 81,805 cubic yards of fill. Impacts associated with the import of fill relate to filling in the floodplain and truck traffic and are discussed in those sections of this document. Soil contamination is discussed in the environmental contamination section of this document.

4. Groundwater Resources

a. Groundwater is located at shallow depths across the Project Site. The Project's grading plan proposes no interaction with groundwater.

5. Surface Water Courses and Wetlands

   a. Wetlands on the Project Site are primarily man-made ponds associated with the golf course. They are generally of low quality. The wetlands would be improved with respect to water quality and stormwater function by 20-foot buffer plantings.

   b. Minor filling of drainage ditches is proposed. New drainage ditches would be created as mitigation. A permit would be required from the US Army Corps of Engineers for this activity.

6. Stormwater Management

   a. A SWPPP conforming to DEC requirements was prepared. No significant impacts with respect to stormwater management were identified.

7. Floodplains

   a. The majority of the site lies within a 100-year floodplain. The 100-year flood is a result of tidal flooding associated with storm surge from the Long Island Sound. The 100-year flood elevation is 12-feet.

   b. Various models of sea level rise have been developed for the Long Island Sound in the vicinity of the Project Site. According to NYSERDA, the sea level rise in the year 2080 in New York City ranges from 13" (the low range estimate, 10th percentile) to 18"-39" (the mid-range estimate, 25th to 75th percentile) to 58" (the 90th percentile). Interpolating between the 25th and 75th percentile, the 50th percentile mid-range estimate is 28.5". The 100-year flood elevation would be 14'4" under the 50th percentile mid-range. The estimates have uncertainty embedded in them; the level of sea rise could be higher or lower.

   c. The lowest finish floor elevation of all residences is 16 feet, which is above the 100-year flood elevation and above the 2080 50th percentile sea level rise estimate.

   d. Three existing access roads to the Project Site (Cove Road, Eagle Knolls Road and Cooper Avenue) would be modified as part of the Proposed Action. Portions of these roads are private. The privately-owned portion of Cove Road within the Project site would be relocated and would form the central corridor for the Project. Cove Road would be elevated to a mean elevation of 14 feet. Eagle Knolls Road would be relocated from its existing location and would intersect with the relocated Cove Road prior to terminating in a cul-de-sac. Eagle Knolls Road would be elevated to a mean elevation of 14.5 feet. Cooper Avenue, which currently extends from Old Boston Post Road to its terminus at the driveway to an existing golf course maintenance facility, would be extended into the Project Site and would intersect with Cove Road. A new internal roadway, "Road A", would intersect with Cove Road and terminate in a

cul-de-sac as shown in Figure 2 of Appendix C in the FEIS. Road A would be elevated to a mean elevation of 15 feet.

e. Cove Road and Eagle Knolls Road would be elevated above both the 100-year and 500-year flood elevations. Portions of these roads would be flooded in the high sea level rise scenarios. Privately owned off-site sections of Cove Road and Eagle Knolls Road would be inundated such that they would be impassable during the 100-year tidal flood. Cooper Avenue would be extended to provide emergency access and the entire length of Cooper Avenue would be higher than the 100-year flood elevation. Assuming a 28.5" sea level rise, a portion of Cooper Avenue would be inundated with 16.5" of water during the 100-year tidal flood. During the 100-year tidal flood, and assuming a 28.5" sea level rise, Cooper Avenue, inundated with 16"of water, would be the only access to the project site. The actual amount of sea level rise, which could be higher or lower, would determine the level of inundation of Cooper Avenue.

f. The Fire and Emergency Services Departments did not opine whether their equipment could provide access to the site in the event that Cooper Avenue was inundated.

g. Cooper Avenue has a minimum width of 14 feet.

h. The Applicant argues that:

   i. During 100-year flood tidal events such as would impact the Project site, the Village has issued and can be expected to continue to issue mandatory evacuation orders.

   ii. Existing emergency service providers have equipment such as Gators that can traverse high water.

   iii. By the time sea level rise becomes an issue it is likely that emergency service providers will have acquired improved equipment capable of traversing high waters.

i. The Planning Board should determine if the Project would provide for safe access during the 100-year tidal flood taking into account the future sea level rise condition.

j. The Applicant prepared a Coastal Flooding Hydraulic Analysis. The analysis predicted that the filling would not cause an increase in flood elevations on adjoining properties. This is because the amount of filling is minor compared to the amount of water inundating the coast during a storm surge.

k. Village regulations require that any filling in a floodplain achieve hydraulic equivalency by taking fill from below the flood elevation. The Applicant argues that the Project achieves hydraulic equivalency because it would not result in an increase in flood elevations on adjoining properties. However, the strict language of the Village Code does not provide for such and thus a variance from the Village's floodplain regulations is required.

l. The purposes and objectives of the Village's floodplain regulations are as follows.

Statement of purpose. It is the purpose of this article to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1). Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2). Require that uses vulnerable to floods, including facilities which serve such uses, be protected against damage at the time of initial construction;

(3). Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(4). Control filling, grading, dredging and other development which may increase erosion or flood damages; and

(5). Qualify for and maintain participation in the National Flood Insurance Program.

The objectives of this article are:

(1). To protect human life and health;

(2). To minimize the expenditure of public money for costly flood control projects;

(3). To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4). To minimize prolonged business interruptions;

(5). To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

(6). To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

(7). To provide that developers are notified that property is in an area of special flood hazard; and

(8). To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

m. The Planning Board should determine if the Project is consistent with the purposes and objectives of the ordinance.

n. The Project would require a variance from the Village's floodplain regulations because it does not meet the hydraulic equivalency requirement.

o. Village Code section 186-B (1) Conditions for Variances states: "Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items [in sections] 186-6A(4)(a) through (g) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases." The Planning Board should determine if the Project is consistent with this condition.

n. The conditions for variances are found at Section 186-A (4). This section sates: "In passing upon such applications, the Planning Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location, where applicable;

(f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

(k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(l) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges."

o. The Planning Board should determine whether the Project meets the criteria for issuing a variance.

8. Water Supply

a. There are no significant issues with respect to water supply.

9. Sanitary Sewage

a. There are no significant issues with respect to treatment capacity.

b. There are several options with respect to wastewater conveyance. The applicant has evaluated three alternatives, all of which are feasible. The Village Engineer has recommended the use of a low pressure system. The Planning Board should determine whether to follow the recommendation of the Village Engineer or allow for further consultation between the engineer and applicant.

c. Under the high sea level rise scenarios portions of the sanitary sewer system would be exposed to flood waters.

9. Solid Waste

a. There are no significant issues with respect to solid waste.

10. Vegetation and Wildlife

a. The Project Site does not constitute critical habitat for any species and is not home to any rare, threatened or endangered species.

b. There are 28 migratory bird species listed as "Conservation Concern" species meaning they are vulnerable to disturbance or habitat loss that may use the site as a resting place.

c. The site provides habitat for common species. The overall habitat value of the site is low because it is a golf course. The exception are the mature trees. Which may provide a resting place for migratory birds.

d. The site adjoins the Hommocks Marsh Complex, which has higher habitat value. No direct impacts to the Hommocks Marsh Complex would occur.

e. There are 816 trees on the site over 8" in diameter at breast height. 432 mostly mature trees over 8" in diameter at breast height would be removed. In addition to providing a resting place for migratory birds, they likely provide a nesting place and food source for common bird species. The Applicant proposes the following mitigation measures:

(1). To avoid the potential for direct take of migratory birds, tree cutting would be avoided from April 15th through July 31st.

(2). To replace those removed for development purposes, 432 new, small-caliper (< 3" caliper) trees would be planted.

(3). A 20-foot buffer of native species would be planted around wetlands and ponds, resulting in 2.5 acres of improved habitat.

(4). The 36-acres of shared open space would be converted from a golf course use to open space. The Applicant proposes a landscaping plan under which the existing maintained lawn area would be reduced. Portions of the open space would be replaced with native, low maintenance plant species based on the recommendations of the *Coastal Planting Guide for the Village of Mamaroneck*. Other areas would be allowed to revert to a natural state. With the implementation of this landscaping plan and over time, these vegetated habitats would be likely to attract a more robust wildlife species assemblage, resulting in an overall increase in species diversity.

f. There is disagreement in the record over the time it would take for the 432 proposed replacement trees to reach maturity. Estimates range from a minimum of 20 years to 40 years, depending on the species.

g. The proposed replacement trees would not have the same habitat value at maturity as those they replace because there are fewer trees such as oak that produce a mast crop, and also because a number of the species are cultivars that may produce less or smaller food crops.

h. Although there would be a loss of trees that may be used by migratory bird species, this loss in not significant in the regional context. It may or may not be significant in the local context.

i. Resident avian species may continue to use the remaining 384 existing trees to be preserved on the Site as potential habitat, as well as those in the surrounding area. Construction activities would likely reduce bird use of the remaining trees. Although bird density may decrease during construction and while the new trees reach maturity, it is likely that species diversity would remain similar when the replacement trees reached maturity.

j. Following development, the Site would continue to function ecologically as a location of primarily developed and landscaped habitats; however, the areas of naturally vegetated

habitats in the shared open spaces, would grow and improve.

k. The Planning Board should determine whether impacts to vegetation and wildlife have been adequately mitigated or whether there are significant, unmitigated impacts.

11. Critical Environmental Area

a. The Hampshire Country Club and the Hommocks Salt Marsh were designated a Critical Environmental Area by the Village of Mamaroneck in 1985. The characteristics for which the CEA was designated are:

i. Drainage patterns to the Hommocks Marsh

ii. Presence and connection of surface water features and tidal and freshwater wetlands

iii. Proximity to the Long Island Sound

iv. Location within the 100-year floodplain

v. Open Space

2. The Project would not have a significant impact on characteristics i-iii. The Findings the Planning Board makes with respect to characteristic iv, floodplains, and characteristic v, open space, should be reflected in its Findings with respect to the Critical Environmental Area.

12. Traffic, Transit and Pedestrians

a. The Applicant's traffic study found no significant traffic impacts once the Project is completed and operational.

b. Construction traffic would be routed from US. Rt. 1 to Hommocks Road to Eagle Knolls Road.

c. During the busiest period (construction of the main fill platform lasting nine months) 24 fill trucks and two other trucks and 25 cars/pickup vehicles are projected to visit the site per day. Note that each truck visit is two trips: one entering and one existing, so during the busiest period there would be 52 truck trips and 50 car/vehicle trips. During the busiest hour , it is projected that 12 trucks and 17 cars/pickups would enter/exit the site. The busiest construction period (structure/foundation/roads/utilities/fitout/spurs lasting nine months) would see approximately 12.5 truck visits on a daily basis (25 truck trips) with a maximum of eight truck trips in any hour. Construction is expected to last six to seven years with the busiest period lasting nine months. However, if home sales do not occur at the rate projected by the Applicant, the construction period could last longer.

d. As mitigation the Applicant proposes the following:

i. Trucks would be prohibited from Hommocks Road for 30 minutes on either side of Hommocks Middle School's morning arrival and afternoon departure periods.

ii. The Applicant proposes to include a rider in contract agreements requiring them to have GPS tracking devices installed on their vehicles and prohibiting them, under financial penalty, from having trucks travel on roads other than Hommocks Road prior to 8:30 am, between 2:30 and 3:30 pm, or after 6:30 pm.

iii. The Applicant proposes to conduct pre and post construction surveys of Hommocks Road and the west end of Eagle Knolls Road and repair them to their pre-existing condition.

d. The Planning Board should determine whether construction truck traffic is a significant unmitigated impact.

12. Community Demographics, Facilities and Services

a. Relatively minor impacts to several youth sports leagues were identified. Such impacts do not appear significant.

b. Similarly, the Project would have a minor impact on public recreational facilities.

c. The Project would not have a significant impact on the operations of fire, police or EMS resources.

d. The Project is estimated to generate 66 children to the Mamaroneck Union Free School District (MUFSD). The MUFSD has reported capacity issues but did not provide current capital needs by school, including the schools which children from the Project would attend.

e. The Project is anticipated to generate a net tax surplus to the MUFSD (see Section 13 below).

f. Based on the foregoing, the Project would not have a significant unmitigated adverse impact on the MUFSD.

13. Fiscal and Economic Conditions

a. The Project would generate a net surplus to all taxing jurisdictions, including a net annual surplus of $1,555,160 to the MUFSD. No adverse impacts are therefore anticipated.

b. The Project would generate temporary jobs, construction spending and long-term spending in the community from residents, all of which are positive impacts.

14. Historic and Cultural Resources

a. There are no significant impacts to historic and cultural resources.

15. Environmental Contamination

a. Project site soils show low levels of environmental contamination consistent with the site's use as a golf course. The DEC requires that soils meet Soil Clean-up Objectives consistent with the proposed use. The Project proposes to bury all contaminated soils under at least two feet of clean fill. The DEC has reviewed the Applicant's plan and found that it meets conditional exemption requirements, which require that such soils be buried under one foot of clean fill. A formal remediation plan is not required.

b. The Applicant proposes to import clean soils and proposes a testing and reporting program for such soils.

c. The Applicant has developed a Construction Work Plan that includes Best Management Practices for managing soils. The Construction Work Plan includes a Construction Health and Safety Plan, which in turn includes a Community Air Monitoring Program.

16. Noise

a. The Project would result in temporary construction noise that would exceed ambient levels at some nearby residences by more than 10 dBa. This is a significant increase. It would last the duration of Project construction. The Applicant proposes the following mitigation measures:

(1). Construction activities would be limited to the hours permitted by the Village of Mamaroneck's Noise Code.

(2). The contractor would be required to prepare a noise control plan to identify the potential for noise impacts according to the specific construction equipment and usage that is expected. The noise control plan would quantify the potential for impact and indicate what specific type of noise mitigation measures are required.

(3). Stationary construction equipment would be located as far as possible from noise-sensitive sites (i.e. residences).

(4). Mitigation for diesel engine noise may include use of shields, shrouds or intake and exhaust mufflers.

(5). Equipment required to have back-up alarms for safety purposes may utilize an ambient-adjusted alarm tone, or "quackers," which have a less tonal character. Flagging may also be used to eliminate the need for back-up alarms.

(6). Mitigation offered by the Applicant may include re-routing truck routes and adhering to the regulations outlined in the Village Code on idling times.

(7). Acoustic enclosures may be needed to reduce emissions from small construction equipment, such as generators.

(8). Temporary noise barriers or noise blankets can be installed between construction

equipment and sensitive receptors to provide significant noise reduction (typically five to 15 decibels).

(9). All construction equipment used on site during construction would be inspected periodically to ensure that properly functioning muffler systems are used on all equipment in accordance with the NYSDEC Best Management Practice (BMP) for reducing noise.

(10). Equipment should not idle on site except as outlined in the Village Code.

(11). Best Management Practices for reduction of construction noise impacts are further detailed in the Construction Noise Study (FEIS Appendix Y).

b. The Planning Board should determine whether temporary construction noise impacts are a significant unmitigated adverse impact.

17. Air Quality

a. The Applicant proposes to implement a Community Air Monitoring programming to mitigate potential impacts from blowing soils. Best management Practices such as wetting dry soils would be implemented. These measures appear adequate to mitigate impacts from blowing soils.

18. Alternatives to the Project

a. Lower density alternatives would have fewer impacts relative to the preferred alternative.

b. The Applicant asserts that the lower density alternatives would not be financially feasible. In response to the Planning Board's request for financial information to support its assertion, the Applicant submitted a letter from its counsel, a memorandum and an "Opinion of Probable Cost," prepared by Kimley-Horn of New York, P.C. The letter states, in relevant part, that "[t]he reduced-density alternatives do not meet the Project Sponsor's objectives and capabilities to develop a residential project under R-20 zoning because the alternatives would not avoid significant fixed infrastructure and overhead costs associated with the Site." The memorandum summarizes the "projected fixed costs associated with the proposed development," but expressly excluded "the variable costs associated with the construction of the individual units since these cannot reasonably be estimated without knowing how many units will be built as well as the breakdown between single family homes and carriage homes," including "hard construction costs, financing costs, permits and fees (typically based on hard construction costs), sales and marketing expenses and overhead and profit." The "Opinion of Probable Cost" quantifies various infrastructure costs associated with the proposed project for 105, 75 and 50 residential units. No information was submitted for the no-fill alternative.

c. The Planning Board must determine is whether "consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable." In order to do that, it must address whether the lesser density alternatives are "reasonable alternatives."

d. The condominium alternative would have fewer impacts and would allow the continued operation of the 18-hole golf course. However, it is not allowed by zoning.

e. The Planning Board should determine whether the lower density alternatives are preferable to the Applicant's proposed alternative based on its other Findings.