

Appendix A

DGEIS Written Comments and Public Hearing Transcripts

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Douglas Bloomfield, Supervisor
And Members of the Town Board
Town of Goshen
41 Webster Street
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**Re: Proposed Comprehensive Plan Update & Zoning Amendments
Written Comments Regarding The Draft GEIS**

Dear Supervisor Bloomfield and Members of the Town Board:

We represent Ginsburg Development Companies, LLC ("GDC"), the contract vendee of approximately 109.6 acres of land located west of Route 17A, just north of the Village of Florida in the Town of Goshen (the "Town"). The property is known as Section 20, Block 1, Lot 58 on the tax map of the Town of Goshen, also known as the Prospect Hill Site ("Prospect Hill" or the "Site").

We submit these written comments on behalf of GDC in connection with the Town's Draft Generic Environmental Impact Statement (the "DGEIS") regarding the Town's proposed Comprehensive Plan Update (the "Proposed Plan Update"), and associated zoning amendments (the "Proposed Zoning Amendments"). These comments supplement the testimony presented on behalf of GDC at the August 13, 2008 Public Hearing.

Under the existing Zoning Code of the Town of Goshen, adopted June 10, 2004 (the "Existing Zoning Code"), approximately 80.8 acres of Prospect Hill are currently located in the Rural ("RU") Zoning District. The remaining approximately 28.8 acres are in the Hamlet Residential ("HR") Zoning District. The HR portion of the Site is incorporated in the area referred to in the DGEIS and Proposed Plan Update as "Site 3A". (See, e.g., DGEIS at 22, 27-28, Figure 6, Proposed Plan Update at 75, Figure 5.1). GDC presently has a proposal before the Town Planning Board for a progressive 234-unit Rural Traditional Neighborhood Development

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("TND-R").¹ Under the Proposed Zoning Amendments, the housing density allowed on the Site would be reduced to 20 units.²

Initially, GDC recognizes the hard work that has gone into the proposed changes to the Comprehensive Plan and Zoning Code, and their laudable goals. There are respectfully, however, significant fatal procedural and substantive flaws in the Town's process. These include, among others, significant omissions in the level of analysis required to meet the hard look standard under the New York State Environmental Quality Review Act ("SEQRA"), a lack of any meaningful or substantial evidence regarding critical conclusions and assumptions contained in the DGEIS, and a true disconnect and irrationality between many of the objectives of the Proposed Plan Update and the potential impacts of the Proposed Zoning Amendments.

As proposed, GDC strongly believes that the entire process would be voided, as a matter of law, if the infirmities discussed below are not corrected. We also would like to take this opportunity to suggest certain constructive proposals, which GDC believes would be consistent with the Town's stated goals and objectives in the Proposed Plan Update.

I. THE DGEIS CONTAINS NUMEROUS CRITICAL FLAWS

While a DGEIS, by definition, anticipates a more generic level of environmental review, the Town is still required to meet the demanding hard look standard under SEQRA to identify and mitigate to the maximum extent practicable all potential significant environmental impacts. Defreestville Area Neighborhoods Ass'n, Inc. v. Town Bd. of Town of North Greenbush, 299 A.D.2d 631, 750 N.Y.S.2d 164, 167 (3d Dep't 2002) ("Under these circumstances, the Board was obligated to consider the impacts to be expected from such future development at the time of rezoning, even absent a specific site plan"). Here, respectfully, the DGEIS is grossly deficient in that it fails to adequately analyze fundamental potential impacts in areas associated with, *inter alia*, traffic, affordable housing, aesthetics, and socio-economic impacts. See, e.g., AC I Shore Road, LLC v. Inc. Vill. of Great Neck, 43 A.D.3d 439, 841 N.Y.S.2d 344 (2d Dep't 2007) (affirming lower Court's invalidation of a local law on the grounds that, *inter alia*, the DGEIS and SEQRA findings in connection with the law failed to

¹ As discussed in detail in Point II(C), *infra*, a TND-R, as opposed to the types of TND designs typically seen in urban areas, is a novel approach to hamlet developments proposed by GDC. Such approach would preserve the rural character of the community, as well as sensitive environmental features of the Site.

² As a threshold matter, the DGEIS states that the purpose of the rezoning of Site 3A to CO is that it would be "in line with the zoning to the north and south." (See, e.g., DGEIS at 22, 27). This phrase is entirely ambiguous, as there is no discussion as to the uses to the north and the south, or how the Proposed Zoning Amendments would be "in line" with those uses. The DGEIS must, at a minimum, provide a map of the Proposed Zoning Amendments in the context of the existing zoning. Without such a map, a reviewer cannot even begin to assess and understand the impacts of the Proposed Zoning Amendments relative to the existing zoning districts in the Town.

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contain any analysis, much less a hard look, at two identified areas of potential environmental impacts); cf. Horn v. Int'l Bus. Machs. Corp., 110 A.D.2d 87, 493 N.Y.S.2d 184, 191 (2d Dep't 1985) (holding a DGEIS and FGEIS satisfy the requirements under SEQRA where they are "replete with lengthy studies, analyses and discussions of the potential impacts" of the action, and whether the action was in accordance with the Town's Comprehensive Plan).

A. The DGEIS Fails To Undertake The Requisite Hard Look At, Or Address Meaningful Mitigation, Regarding Potential Significant Traffic Impacts

As the Board is well aware, when the prior Administration first embarked to revise the Comprehensive Plan and Zoning Code, resulting in the 2004 Plan (the "Existing Plan") and Existing Zoning Code, the primary driving force was concerns regarding traffic. To address this issue, one of the goals stated in the Existing Plan is to "encourage development that will help create an efficient transportation network." (Existing Plan at 23). The Existing Plan recommended mixed-use and pedestrian friendly hamlet developments. Id. (Goal #7); see also id. at 24-25 (discussing the key elements of the Comprehensive Plan, including the encouragement of hamlet TNDs).

The same traffic concerns driving the process four years ago have been echoed by *this* Board repeatedly over the past two years. By letter dated April 10, 2006, for example, the Town advised all applicants with proposals pending before the Town that it would be conducting a Town-wide traffic study. This letter placed the applicants on notice that "the review and implementation of the recommendations of this traffic study may result in substantial modifications to the zoning code." (Letter from Supervisor Douglas Bloomfield, to All Land Use Applicants of the Town of Goshen (Apr. 10, 2006)).

Notably, at a May 24, 2007 Town Board meeting, the Board stated that its desire to remove the density bonuses in the present zoning code was based specifically upon traffic concerns, because "the traffic study makes it clear . . . that no density should be given at any cost." (Town Council May 24, 2007 Meeting Minutes at 2; see also, Town Council Feb. 14, 2006 Meeting Minutes (articulating that the primary rationale for the Proposed Zoning Amendments is a response to traffic concerns raised by members of the public, as well as a perceived influx of applications for development proposals)). Indeed, as the Orange County Planning Board recognized in its August 30, 2007 review of the Proposed Zoning Amendments pursuant to New York State General Municipal Law, the narrative to support the Proposed Zoning Amendments specifically cites a need to mitigate traffic impacts as the impetus and justification for the zoning amendments.

In response to the Town's significant perceived concerns regarding traffic impacts under the Existing Zoning Code, the Town undertook a lengthy and costly Traffic Study. The results were used as a principal tool in reevaluating the Town's zoning ordinance. See Goshen Town Wide Traffic Study, prepared by Stantec Consulting Services, Inc., dated December 2006 (the "2006 Traffic Study"). Yet, despite the foregoing, conspicuously absent from the Proposed

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Plan Update is any articulation of a goal to mitigate traffic impacts of development in the Town. Even more confusing is the absence of any reference to the 2006 Traffic Study, much less its conclusions and recommendations.

In our letter, dated August 28, 2007, submitted on behalf of GDC in response to proposed Local Law No. 2 of 2007 and proposed Local Law No. 3 of 2007, we set forth numerous substantive comments regarding the deficiencies in the 2006 Traffic Study. (See Letter from Michael D. Zarin, Esq. to Douglas Bloomfield, Supervisor And Members of the Town Board (Aug. 28, 2007), at 10-13). Those comments are incorporated by reference herein.

Respectfully, it appears the reason that the Town's 2006 Traffic Study is now omitted from the Town's analysis, as set forth in the DGEIS, is because it demonstrated *an over 10-fold increase* in traffic at certain critical intersections resulting from the rezoning of property from HR to CO, including, at Site 3A alone. It is clear from the Town's own 2006 Traffic Study that retaining the HR zoning designation for Prospect Hill would have significantly less of a traffic impact. In fact, GDC's project-specific traffic study demonstrates that there would be *no* significant negative traffic impact as a result of the proposed TND-R development.

Even more significantly, the Town's 2006 Traffic Study anticipates a net increase of approximately 8,281 pm peak vehicle trips as a result of the proposed Town-wide rezoning.³ Despite this significant increase, the DGEIS concludes, without any empirical data, that the Proposed Plan Update "will likely have a positive impact on the traffic and transportation performance within the town." (DGEIS at 40-41). No hard look analysis is undertaken concerning the adverse impact resulting from the anticipated increase. Moreover, the DGEIS offers no real mitigation of the impact on the existing transportation system that would result from such a considerable increase in vehicle trips. The DGEIS simply, and improperly, defers analysis to site-specific review. See, e.g., Penfield Panorama Area Cmty., Inc. v. Town of Penfield Planning Bd., 253 A.D.2d 342, 688 N.Y.S.2d 848, 854 (4th Dep't 1999) (annulling Planning Board's approval of subdivision on the grounds that the lead agency, *inter alia*, deferred resolution of hazardous waste remediation issue); Segal v. Town of Thompson, 182 A.D.2d 1043, 583 N.Y.S.2d 50 (3d Dep't 1992) (finding that a town which was seeking to establish water and sewer districts to take the place of private water and sewer companies was not entitled to defer questions concerning development of various lots within districts until the particular project was proposed).

It is unclear what rational basis the Town has evoked for suddenly abandoning its goals to address traffic impacts from future development in the Town, and what substantial evidence would support such an about-face in its primary goals. The failure to take a hard look at the potential substantial impacts from the increase in vehicle trips resulting from the rezoning

³ The DGEIS, for example, fails to provide any data for the am peak hour. In addition, despite acknowledging a potential significant increase in traffic volume on state roads, it does not appear that the NYS Dept. of Transportation is even on the interested/involved agency list.

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and to attempt to mitigate them to the maximum extent practicable arguably is a fatal flaw in the Town's SEQRA process. See, e.g., Coppola v. Good Samaritan Hosp., 309 A.D.2d 862, 765 N.Y.S.2d 888 (2d Dep't 2003) (holding SEQRA process was fatally flawed where hard look was not taken at traffic impacts).

**B. The DGEIS Fails To Adequately Study
The Impact On Affordable Housing**

Another significant, and fatal flaw in the DGEIS, relates to its lack of a sufficient analysis concerning the Proposed Zoning Amendments' impact on the availability of diverse and affordable housing.

As the Board must be aware, under the Berenson line of cases, if there is a need for additional affordable housing in the community and the region, the Town must provide an opportunity to build sufficient affordable housing to meet this need. Moreover, not only must a zoning code provide for multifamily housing, but the housing opportunities must "be both physically and economically feasible." Continental Building Co., Inc. v. Town of North Salem, 211 A.D.2d 88, 625 N.Y.S.2d 700, 704 (3d Dep't 1995); see also Berenson v. Town of New Castle, 38 N.Y.2d 102, 378 N.Y.S.2d 672 (1975).

As this Board must further know, since multifamily units allow developers to build at a higher density and reduce infrastructure costs, the concepts of "multifamily" housing and "affordable" housing are necessarily intertwined. See, e.g., Land Master Montg I, LLC v. Town of Montgomery, 13 Misc. 3d 870, 821 N.Y.S.2d 432, 439 (Sup. Ct. Orange Cty. 2006); Continental Bldg. Co., Inc. v. Town of North Salem, 7/5/90 N.Y.L.J. 31 (col. 2) (Sup. Ct. Westchester Cty.), aff'd as modified, 211 A.D.2d 88, 625 N.Y.S.2d 700 (3d Dep't 1995). (See also DGEIS at 6 ("the zoning availability for multi-family homes equates to affordable housing opportunities")). Accordingly, the existence, or lack thereof, of multifamily housing opportunities "has historically been recognized as a barometer in assessing exclusionary zoning claims." Land Master Montg, LLC, 821 N.Y.S.2d at 439; see also Continental Building Co., 625 N.Y.S.2d 700; Berenson, 378 N.Y.S.2d 672.

The DGEIS states that the Proposed Zoning Amendments would permit the development of 1,583 additional multifamily units. There is no evidence, much less substantial evidence, to support this calculation or conclusion. The DGEIS includes absolutely no meaningful data to demonstrate that the development of 1,583 multifamily units is physically or financially feasible.

Moreover, the DGEIS contains a faulty and inconclusive analysis of the affordable housing needs in the community. (See DGEIS at 31). It assigns to Goshen a proportionate share of affordable housing based on 2006 population data for the County's

municipalities. This is a meaningless exercise. It does not take into account, for example, existing levels of affordable housing in each community or the availability of developable land.⁴

The DGEIS and the Draft Plan Update also fail to provide a socioeconomic analysis of the Proposed Plan Update and Zoning Amendments. The analysis does not include any discussion of the housing needs of the Town of Goshen, using demographic data specific to the unincorporated area (since the Town does not control land use in the Village). No quantifiable analysis of income levels, existing housing patterns, types and market values, and the impacts of Proposed Zoning Amendments on the availability of affordable housing is provided.

Nor is there any indication as to what types of multifamily housing the Town is referring to, such as whether the majority is age-restricted, and whether it would even be feasible under the proposed zoning amendments to provide such housing. The DGEIS recites the differences between the current and proposed zoning with regard to affordable housing, but in fact offers no impact analysis as to whether these changes would eliminate realistic opportunities to construct affordable housing. (See DGEIS at 34). There is also no consideration as to the impact of, for example, the elimination of density bonuses in the RU District. (See Draft Plan Update at 53). There is no buildout analysis provided of the potential number of affordable housing units that could be constructed pre- and post-zoning amendments.

The hamlet developments permitted under the Existing Zoning Code encourage communities with diverse housing opportunities. By removing all but two of the areas zoned for hamlet from the Zoning Map, the Town has acknowledged that there will be a reduction in multifamily and other more affordable units. Although the Proposed Zoning Amendments purport to require a 10% set aside in the new HR district for affordable housing, frankly, that set aside is illusory, since all but two of the hamlet districts are being eliminated.

In fact, the only purported mitigation to this severe impact on affordable housing recommended by the DGEIS is to allow Planned Adult Communities, or "PACs" to be developed in residential districts.⁵ No data is provided, however, to demonstrate how many of these PACs could feasibly be developed in the Town, based upon the need for water and sewer, or a possible impermissible restriction of their development on properties with slopes greater

⁴ The Draft Plan Update states that "new housing development tends to push housing prices up throughout the housing supply." (Draft Plan Update at 57). No source is provided for this conclusion. It appears that the Town is taking the position, without providing any supporting analysis, that housing development increases housing prices, and, therefore, to ensure housing affordability less development should be allowed.

⁵ The DGEIS fails to explain why PACs are "better suited to residential zones," and are, therefore, no longer "suited" for the CO District, which continues to allow accessory residential uses.

than 15%.⁶ (See DGEIS at 4, 20). The DGEIS should contain, for example, a map of the existing Town water and sewer districts, or areas planned for extension, topography maps demonstrating potential properties on which PACs could be developed, and a critical fundamental analysis.

Moreover, PACs are necessarily age restricted. The DGEIS does not address how the Proposed Zoning Amendments would address the local community need for more diverse and affordable work-force housing. As proposed, the “current zoning scheme, effectively, creates the illusion of affordable housing availability while limiting its reality to a few chosen sectors.” Land Master Montg I, LLC, 821 N.Y.S.2d at 440 (multifamily opportunities illusory where limited solely to motor home courts and planned adult communities).

As proposed, GDC firmly believes that the Proposed Plan Update and the Proposed Zoning Amendments would be invalidated on the ground that they failed to examine or provide for adequate multifamily housing, and were found to be exclusionary. See, e.g., Land Master Montg, LLC, 821 N.Y.S.2d at 439, aff’d 2008 WL 3853767 (2d Dep’t Aug. 19, 2008) (holding that the elimination of the multifamily zoning district constituted exclusionary zoning and awarding legal fees to petitioners); Wallack v. Town of Yorktown, Index No. 06-02785, slip op. (Sup. Ct. Westchester Cty. Apr. 19, 2007) (annulling, *inter alia*, adoption of Comprehensive Plan where Town failed to adequately take a hard look at its potential significant impacts on various environmental issues, including impact on affordable housing).

C. The DGEIS Does Not Adequately Analyze Alternatives

The study of alternatives in the DGEIS is also, respectfully, entirely deficient. Although the DGEIS indicates that the town considered numerous alternatives (DGEIS at 7), the only alternative addressed is the “no action” alternative (DGEIS at 52), and only in the most cursory fashion at best.

As set forth in the SEQRA Handbook prepared by the New York State Department of Environmental Conservation, the SEQRA regulations require that a DGEIS “discuss a range of reasonable alternatives which are feasible.” SEQRA Handbook at 64. According to the New York City Department of Environmental Protection’s City Environmental Quality Review (“CEQR”) Technical Manual, the definitive SEQRA technical guide:⁷

[A]lternatives considered should reduce or eliminate impacts of the proposed action while substantively meeting the goals and

⁶ Notably, the PAC provisions are absent from the Proposed Zoning Amendments. Therefore, the impacts associated with the amendments thereto cannot be verified.

⁷ The CEQR is modeled after SEQRA. Therefore, the CEQR Technical Manual is recognized to offer substantive guidance in the SEQRA process as well.

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objectives of the action. Alternatives and the rationale behind their selection are important in the disclosure of environmental effects of a proposed action. Alternatives demonstrate to the decisionmakers the possible options to the proposed action and provide a framework for comparison of potential impacts and project objectives.

CEQR Technical Manual at 3U-1; see also Town of Dryden v. Tompkins County Bd. of Representatives, 78 N.Y.2d 331, 574 N.Y.S.2d 930, 931 (1991) (“To be meaningful, any choice among alternatives must be based on an awareness of all reasonable options.”); Jackson v. New York State Urban Dev. Corp., 67 N.Y.2d 400, 503 N.Y.S.2d 298, 308 (1986) (“[A]n agency must take a hard look at alternatives and consider a reasonable range of alternatives.” (citation omitted)).

The Town’s failure to analyze any feasible alternatives is contrary to the overall purpose of a GEIS, *i.e.*, to ensure that the Town is taking a hard look at any significant environmental impacts, and undertaking to mitigate them to the maximum extent practicable:

Since a GEIS typically is prepared relatively early in the overall decisionmaking process, there is often a greater range of alternatives that are still feasible, and a GEIS should contain a comprehensive alternatives analysis. . . . “[t]his opportunity for a more broad-based consideration of alternatives at the conceptual state permits the Generic EIS to perform its environmental planning function.”

Gerrard, Environmental Impact in N.Y. § 5.03[2] (citation omitted). Despite such alternatives being identified by the Town, no reason is provided as to why they were not analyzed.

Even the “no action” alternative lacks any empirical or substantial evidence to support its conclusion, and consists of simply one-half of a page. No calculations are provided with regard to the development buildout pre- and post-zoning changes. There is no discussion regarding comparison between existing and projected traffic, socio-economic, or visual impacts. In fact, there is no discussion regarding impacts at all, or any analysis as to whether the Proposed Zoning Amendments would achieve the goals of the Proposed Plan Update. There is also no discussion as to how the Town determined after *only four years* that the Existing Zoning Code cannot meet these goals. This is supposedly the genesis for the Board’s actions here.

Accordingly, in order for the environmental review of the Proposed Plan Update to comply with SEQRA, the Board must, respectfully, undertake an analysis of any feasible alternatives to the Proposed Plan Update, including the “no action” alternative.

II. THE PROPOSED ZONING AMENDMENTS DO NOT MEET THE OBJECTIVES OF THE PROPOSED PLAN UPDATE

In addition to the general flaws in the DGEIS set forth in Point I, *supra*, the Proposed Zoning Amendments do not appear to have a rational nexus to goals set forth in the Proposed Plan Update. See, e.g., Asian Americans for Equality v. Koch, 72 N.Y.2d 121, 531 N.Y.S.2d 782, 787 (1988) (holding that an ordinance must be adopted for a legitimate governmental purpose and there must be a “reasonable relation between the end sought to be achieved by the regulation and the means used to achieve that end.” (citations omitted)); see also Kravetz v. Plenge, 84 A.D.2d 422, 446 N.Y.S.2d 807, 811 (4th Dep’t 1982) (“A determining factor in deciding whether zoning is part of a comprehensive plan is whether forethought has been given to the community’s land use problems.”); Land Master Montg I, LLC, 821 N.Y.S.2d at 440 (“[N]owhere on the record do respondents establish a reasonable relationship between [traffic control] and the total elimination of dedicated multifamily housing districts.”); N.Y. Town Law § 272-a(11)(a) (“All town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section.”); accord N.Y. Town Law § 263; see, e.g., C/S 12th Ave. LLC v. City of New York, 32 A.D.3d 1, 815 N.Y.S.2d 516, 524 (1st Dep’t 2006) (“Zoning legislation is tested not by whether it *defines* a well-considered plan, but by whether it accords with a well-considered plan for the community.” (emphasis in original)), quoting Gernatt Asphalt Prods., Inc. v. Town of Sardinia, 87 N.Y.2d 668, 642 N.Y.S.2d 164 (1996), Asian Ams. for Equality v. Koch, 72 N.Y.2d 121, 531 N.Y.S.2d 782 (1988).

As set forth, *infra*, the Proposed Zoning Amendments in many instances are simply not in conformance with the Proposed Plan Update.

A. The Proposed Zoning Amendments Do Not Provide “Higher Quality” Open Space

A primary objective of the Proposed Plan Update is to provide “high quality” open space. This is an entirely subjective standard with no definition whatsoever.

By way of example, under the Prospect Hill proposal, 80% of the Site would be set aside as open space. GDC proposes to provide the community with a:

- large, publicly dedicated Village Green
- pedestrian and bike path
- nature hiking trail, which would serve as a public, interactive, educational experience by posting several information plaques describing the native vegetation and wildlife visible from the path.

In addition, the proposal includes the purchase of development rights, which would provide funds to the Town for additional open space acquisition and preservation in areas the Town deems to be high priority.

Under the Proposed Zoning Amendments, open space would only be preserved in the rear of the Site where it is out of view, private, and inaccessible. In the GDC plan, the visual corridor on 17A is better respected, and *higher quality* public open spaces are created. Thus, there is no rational basis to support the position that the proposed zoning amendments would provide so-called “higher quality” open space than would the Existing Zoning. The empirical evidence demonstrates otherwise.

B. The Prospect Hill Site Can Be Developed In Accordance With The Goals And Objectives Of The Proposed Plan Update

Next, as support for rezoning the HR portion of the Prospect Hill Site, the DGEIS and Proposed Plan Update summarily determine that the property is “unsuitable for hamlet residential development,”⁸ and that portions of the property have “limited value for almost any development.” (DGEIS at 28; Proposed Plan Update at 75). The DGEIS makes no attempt to define what the Town considers “unsuitable” for development, nor is any empirical or substantial evidence provided to support this threshold serious conclusion. Nor is there any analysis as to why a commercial/office development would be any more protective of the sensitive features on the Site.

To the contrary, this conclusion is belied by hard, tangible data. The Town need only look to the Prospect Hill Site Plan to see that this conclusion is patently incorrect. While GDC recognizes that there are significant environmental constraints on the Site, including wetlands and steep slopes, the Prospect Hill Site Plan takes these constraints into consideration and incorporates them into the 80% preserved open space. The Town, therefore, needs to provided a rational basis and an analysis, supported by substantial empirical evidence, before determining that property, such as the Prospect Hill Site, is undevelopable. Notably, this seems to lend support to a potential takings claim, as further discussed in Part IV, *infra*.

C. The Proposed Zoning Amendments Would Result In Adverse Visual Impacts

With regard to potential significant visual impacts, the DGEIS concludes that “only beneficial impacts are anticipated” from the Proposed Zoning Amendments, and therefore

⁸ Similarly, the DGEIS and Draft Plan Update both state that the “existing HM and HR districts mapped within the Town of Goshen do not satisfy the location based criteria that a [TND] should be able to satisfy.” (See, e.g., DGEIS at 3; Draft Plan Update at 1). There is no discussion as to what the location based criteria is comprised of, or why just four years ago, the Town determined that the districts did, in fact, meet said criteria. The Draft Plan Update states, for example, that the “Villages of Florida and Chester. . . have land inside the Town and are rapidly growing Villages with central services that may expand farther into adjacent areas in the future.” (Draft Plan Update at 16). The Draft Plan Update, therefore, acknowledges availability of utilities adjacent to existing Village centers, but then seeks, without justification, to limit development in these areas.

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“no mitigation measures are required.” (DGEIS at 46). There is no discussion of any analysis to determine whether the action will result in adverse visual impacts utilizing the standards DEC has promulgated. See, e.g., SEQRA Handbook at 42.

Again, by way of example, the Prospect Hill hamlet is designed to be a Rural Traditional Neighborhood Development, or “TND-R.” This development is entirely appropriate for the rural character of the Town, and protects significant amounts of high quality open space. Rather than the TND design typically seen in urban areas, the TND-R would minimize site grading, preserve topography, would incorporate a “country road” system rather than traditional curbs and sidewalks, and would have rural grass swales and a public pedestrian/bicycle path. Most importantly, it is designed to avoid adverse views into the Site from Route 17A, and to complement and preserve the rural character of the area. These are critical elements of the Proposed Plan Update.

Indeed, no analysis is provided as to how the Town determined there would be no visual impact as a result of the Proposed Zoning Amendments. Nor does the DGEIS even establish what methodology was utilized, such as renderings and the like, to reach such a conclusion. As was demonstrated visually at the Public Hearing on August 13, 2008, commercial development of the Prospect Hill Site would have a significant visual impact. In fact, commercial/office use on the Site would require flattening the knoll and destroying the topography of the Site. Annexed hereto as Exhibits “A” and “B” are reduced versions of the poster boards presented to the Board at the Public Hearing. Exhibit “A” illustrates the proposed Prospect Hill TND-R. Exhibit “B” illustrates the Site developed pursuant to a CO designation.

The DGEIS simply does not offer any hard look or an adequate analysis supporting its conclusions. The conclusory statement that there will be no detrimental visual impacts as a result of the Proposed Zoning Amendments is irrational, arbitrary and capricious, and not supported by substantial evidence.

D. The Analysis Of The Town’s Infrastructure Is Inadequate

It is also unclear as to why the Town has decided rezoning all but two of the HR and HM zoning districts is necessary due to lack of infrastructure. The Existing Zoning Code already provides that if there is a lack of public water and sewer, lands zoned for hamlet development would be treated as if they were zoned “RU.” See Existing Zoning Code § 97-15(A).

Again, no hard look or analysis was taken identifying the existing infrastructure in the Town. No analysis was undertaken how the existence of said infrastructure would effect developable area. No maps are even provided in the DGEIS demonstrating where existing and known future infrastructure is located.

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The Proposed Plan Update, for example, acknowledges that the Village of Florida has a sewer plant. (See Proposed Plan Update at 19). No discussion, however, is provided as to whether municipal water and sewer service can be made available to areas adjoining the Village.

In addition, the Proposed Plan Update states that the “Town discourages small packaged sewer treatment plants, for both environmental and long-term maintenance concerns.” (Proposed Plan Update at 23). First, these environmental concerns are not disclosed in the text. In addition, this statement is inconsistent with Goal #2, which states as follows: “Allow group water and waste systems in cluster developments in order to maintain environmental stability where appropriate.” (Proposed Plan Update at 51). It is also not apparent why group water and sewer systems are supported for cluster developments, which may occur anywhere in the RU Zoning Districts of the Town, but not allowed in HR Zoning Districts, which are more likely to be served by existing infrastructure in the Villages.

Prospect Hill, for example, would provide its residents with public water and sewer. It is designed to ensure the sustainability and carrying capacity of the surrounding watershed. It is unnecessary to rezone hamlet districts under the guise of protecting water resources. The Town already has a water testing protocol in place. A project sponsor would be required to analyze and mitigate any impacts to the water supply pursuant to SEQRA.

**E. The Proposed Zoning Amendments Do Not Meet
The Town’s Stated Goal Of Increasing Tax Ratables**

Lastly, it is a stated goal of the Town to increase tax ratables. (See Proposed Plan Update at 51 (Goal #2)). Under the Existing Zoning Code, tax revenue would increase from a total of \$1,158, to approximately \$2,195,685 (\$1,554,980 of which would go to Florida Union Free School District).

It does not appear that the Town conducted any analysis or market studies to determine whether increasing the number of commercially zoned properties would be feasible. Nor does it appear that the Town studied whether there would be a displacement impact on the commercial development in the Village centers⁹ as a result of an increase in commercial uses elsewhere in the Town, or a socio-economic impact resulting from the proposed rezoning.

Due to the lack of a market for commercial or office development on the Site, the Proposed Zoning Amendments would effectively reduce ratables for the town. Clearly, rezoning the HR portion of the Prospect Hill Site to CO has no rational nexus to the goals set forth in the Proposed Plan Update.

⁹ With regard to the Village centers, the Draft Plan Update, for example, illustrates and highlights only the Village of Goshen, all but ignoring the Villages of Florida and Chester.

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III. THE PROPOSED ZONING AMENDMENTS AND PROPOSED PLAN UPDATE EFFECT AN UNCONSTITUTIONAL TAKING OF THE PROSPECT HILL SITE

As previously mentioned, under the Proposed Zoning Amendments, GDC's housing density would be reduced from 234 units to 20. Moreover, there is no viable market for commercial and office development on the Prospect Hill Site.

Under the Penn Central and related takings analyses, all but a bare residue of the Site's value would be destroyed under the Proposed Zoning Amendments, leaving the Town susceptible to a takings challenge. See Briarcliff Assocs., Inc. v. Town of Cortlandt, 272 A.D.2d 88, 708 N.Y.S.2d 421, 424 (2d Dep't 2000), quoting Spears v. Berle, 48 N.Y.2d 254, 422 N.Y.S.2d 636 (1979); see Friedenburg v. New York State Dep't of Env'tl. Conserv., 3 A.D.3d 86, 767 N.Y.S.2d 451, 459-61 (2d Dep't 2003) (reduction in property value by 95% from its non-regulated value found to be the requisite "bare residue"); Chase Manhattan Bank, N.A. v. State, 103 A.D.2d 211, 479 N.Y.S.2d 983 (2d Dep't 1984) (an 86% reduction in value found to have a reasonable probability of success in a takings claim); c.f. Stevens v. Town of Huntington, 20 N.Y.2d 352, 283 N.Y.S.2d 16 (1967) (holding that a significant difference in value between residential and commercial zoning is a significant indication of which use could reasonably be applied).

GDC has more than a reasonable investment-backed expectation to develop the entire Site residentially in light of the facts that the property has a 60 year history of being zoned residential, has been zoned for higher-density residential use since 1973, and its proposed TND-R is entirely consistent with the goals and objectives of the Proposed Plan Update. While of course this is not an action GDC would want to take, it will do so if left with no other choice.

We respectfully refer the Board to pages 15-16 of our August 28, 2007 Letter, which sets forth an in depth legal analysis of a potential takings challenge under these circumstances. We incorporate that argument by reference herein.

IV. SUGGESTED REVISIONS TO THE PROPOSED ZONING AMENDMENTS, WHICH ARE CONSISTENT WITH THE PROPOSED PLAN UPDATE

GDC respectfully submits that in the event the Town proceeds to rezone 48 acres of the Prospect Hill Site to CO, there are feasible alternatives to the Proposed Zoning Amendments, which would be consistent with the goals and objectives of the Proposed Plan Update.

GDC proposes that the Town incorporate into its Proposed Zoning Amendments a provision, either by floating zone or special permit, providing that lands zoned CO may be developed as if they are in an HR district, so long as the owner/developer of the parcel can demonstrate that the parcel is, at minimum, 100 acres, and:

- contains at least 40 acres zoned CO, ensuring adequate lands for a hamlet developments consistent with the rural character of the community;
- abuts an RU district, ensuring a consistent residential character;
- provides the necessary infrastructure, such as sewer and water so that there is no impact on the carrying capacity of neighboring watersheds;
- fronts on a State road;
- provides a set-aside of 60% of “high quality” open space, including, public access and recreational amenities, such as a Village Green, hiking trails, and pedestrian and bike paths;
- provides at least a 300 foot buffer between the street and residential buildings to preserve the aesthetics from the street;
- provides a link to a village center via a pedestrian trail or other recreational amenity; and
- is located X distance from any existing mining or quarrying operation at the time of the enactment of the law to avoid potential land use conflicts.

The Town Board would retain approval authority either under a floating zone or special permit process. The Town Board could also revise the Hamlet Design Guidelines to incorporate the TND-R concept, resulting in compatibility with the rural character of the Town.

In addition, the Town could distinguish between the CO districts in the vicinity of the Village of Goshen (“CO-G”), and those in the vicinity of the Village of Florida (“CO-F”), as they are different in character.

A CO-F District would be comprised of the Route 17A corridor north of the Village of Florida, and would be recommended as a mixed use corridor in the Proposed Plan Update. This priority area would be intended to accommodate a mix of residential development with complimentary nonresidential uses. The CO-F area would represent a transitional area surrounding the Village with its higher density core, extending out to the rural areas of the Town.

CONCLUSION

GDC sincerely hopes that the Town will continue to work together with those who have a significant stake in this process, and use the SEQRA process to meaningfully consider revising the GEIS and Proposed Zoning Amendments to address the issues raised. As

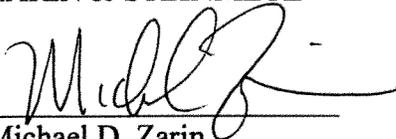
Supervisor Bloomfield
and Members of the Town Board
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Page 15

you may know, making changes between the DGEIS and the FGEIS is precisely how the SEQRA process is intended to work. See, e.g., Jackson v. New York State Urban Dev. Corp., 67 N.Y.2d 400, 503 N.Y.S.2d 298 (1986).

If you have any questions, or if you require any additional information, please do not hesitate to contact us. Thank you for your consideration.

Respectfully submitted,
ZARIN & STEINMETZ

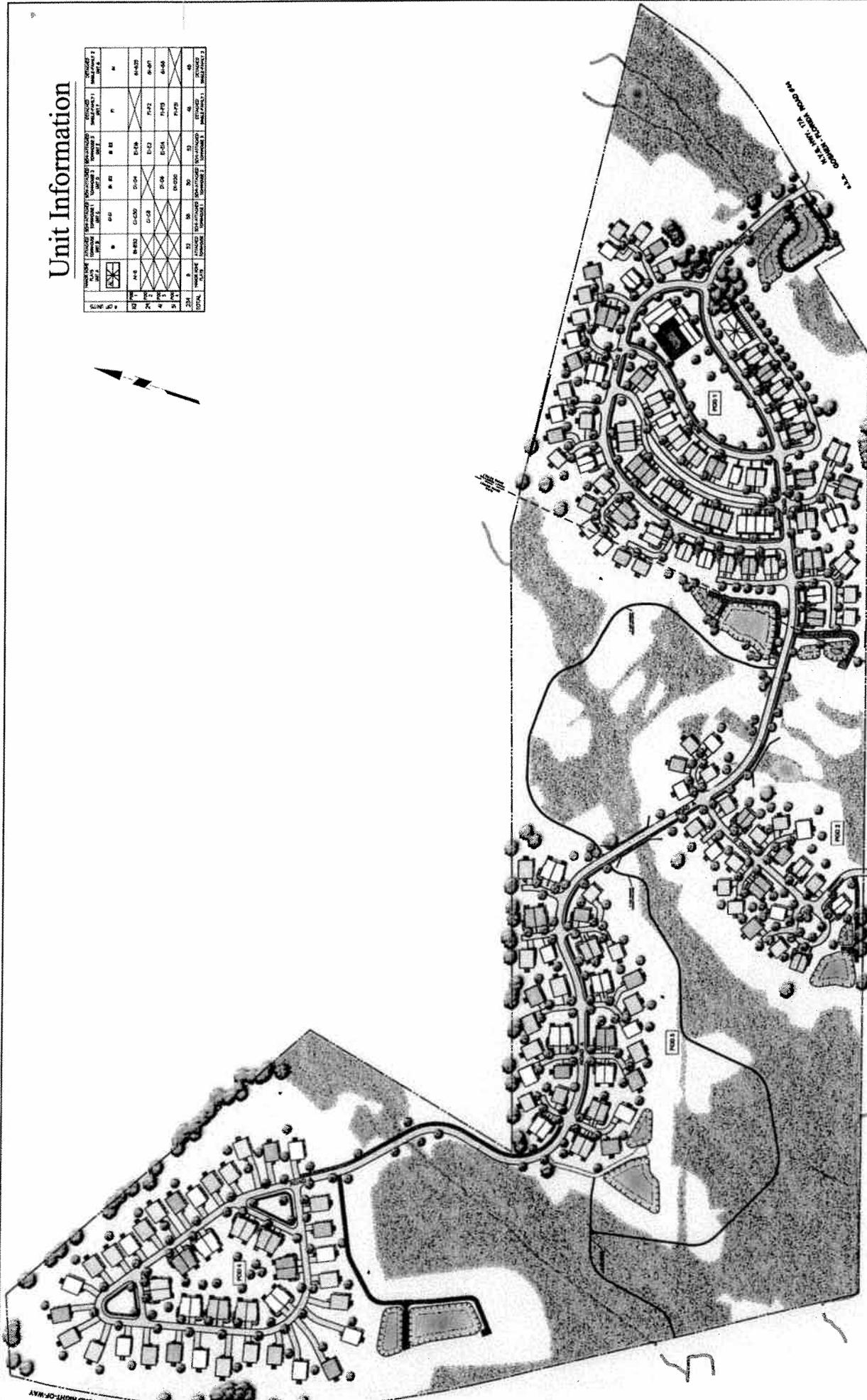
By:


Michael D. Zarin
Jody T. Cross

cc: Mr. Nicholas P. Brown
Jennifer Van Tuyl, Esq.
Frank Fish, FAICP
Edwin J. Garling, AICP
Dennis Caplicki, Esq.
Bonnie Franson, AICP
Phillip Grealy, P.E.

Unit Information

UNIT NO.	STANDARD FINISHES		OPTIONAL FINISHES		SPECIAL FINISHES	
	1	2	3	4	5	6
1	✓					
2		✓				
3			✓			
4				✓		
5					✓	
6						✓
TOTAL	6	6	6	6	6	6



ELANGAN
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 Elgans, NY 11734
 P: 815.338.1000 F: 815.338.1001
 www.elangan.com

PROSPECT HILL
 COMMON

OVERALL
 SITE PLAN

DATE: 08-13-08
 DRAWN BY: [Name]
 CHECKED BY: [Name]

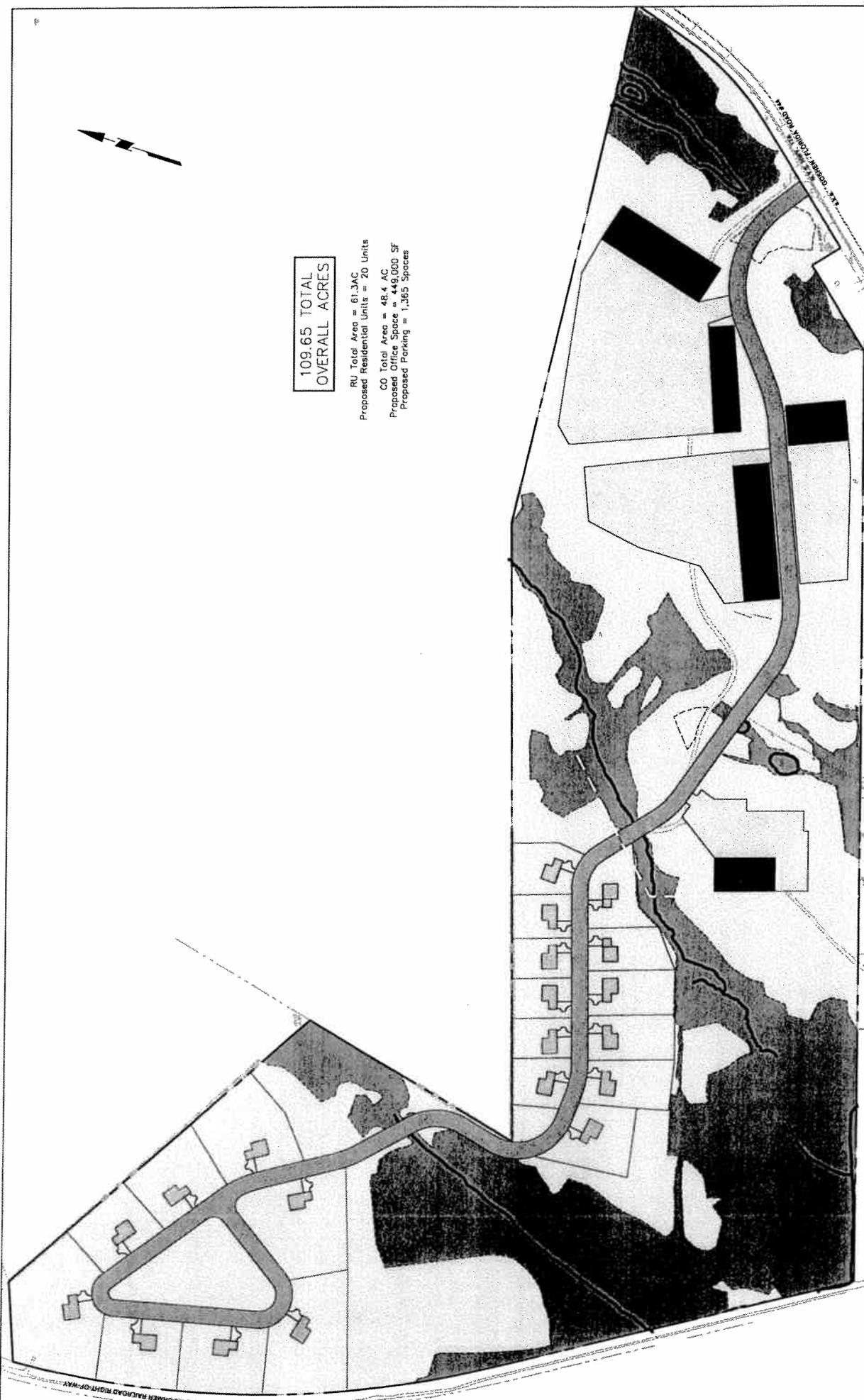
SCALE: 1" = 20.00'

PROJECT NO.: 080000
 SHEET NO.: 01



109.65 TOTAL
OVERALL ACRES

RU Total Area = 61.3AC
Proposed Residential Units = 20 Units
CO Total Area = 48.4 AC
Proposed Office Space = 449,000 SF
Proposed Parking = 1,365 Spaces



ELANGAN LANDSCAPE ARCHITECTURE & PLANNING 1100 W. 10th St., Suite 100 Denver, CO 80202 Tel: 303.733.7600 www.elangan.com	PROSPECT HILL CORPORATE	NEW ZONING ALTERNATIVE PLAN	Project No. 1889801	Drawing No.
			Date: 06/13/2008	Scale: 1"=100'

File name: G:\Users\jld\My Documents\1889801\1889801 - Alt. 3 - Prospect Hill - New Zoning Alternative Plan.dwg Date: 6/13/2008 Time: 11:45 User: jld Plot: 1889801.dwg Layout: ALT. 3 (30x42)

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ANN GIFFORD

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COUNSEL

August 14, 2008

VIA FAX 291-3673 AND MAIL

Town Supervisor Douglas Bloomfield
and Members of the Town of Goshen
Town Hall
P.O. Box 217
41 Webster Avenue
Goshen, NY 10924

RECEIVED

AUG 14 2008

TOWN CLERK
TOWN OF GOSHEN

RE: DGEIS; COMPREHENSIVE PLAN UPDATE AND ASSOCIATED ZONING AND TOWN AMENDMENTS

Dear Supervisor Bloomfield and Members of the Town Board of the Town of Goshen:

I am submitting this statement on behalf of ABD Orange - the sponsor of the proposed Maplewood Hamlet project.

I incorporate by reference the comments offered by the speakers at the August 13, 2008 public hearing concerning the deficiencies in the DGEIS and concerning questions about the DGEIS.

I also incorporate by reference my earlier comments presented to you in connection with the appropriate inquiry under SEQRA for the proposed Comprehensive Plan update and associated zoning and Town Code amendments.

Without limiting the generality of the preceding, I also have several specific questions and comments.

The DGEIS and the proposed amendments refer to a revised HR zone with a requirement for 30% of a site to include "usable open space". What does the term "usable" mean in the context of "usable open space"? What uses are contemplated for "usable open space"? What is the theory behind this concept of "usable open space"?

On a cynical note, it seems to be a device to further reduce density. Other than further reducing density, is there some purpose to this requirement?

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The provisions for so-called PAC projects allow the projects in residential zones with the proviso that the land is connected to Town water, Town sewer and that there is direct access to a state or county highway, arterial or collector road. The DGEIS should identify those parcels that are located in residential zones and that have the ability to connect to Town water and Town sewer and that have the stated access. The issue is whether there any such properties or whether this is an illusory provision that effectively eliminates the concept of PAC or reduces it to one or two properties.

The essential overriding criticism of the DGEIS is that it is an empty, conclusory document without substance.

One of the stated goals is to protect and enhance open space. One hundred homes on three acre lots will produce one hundred large homes sprawled over three hundred acres with attendant additional roads, driving requirement and infrastructure requirements. One hundred homes in a more dense configuration will produce smaller homes, less sprawl, more open space, less driving, and less infrastructure. The DGEIS does not begin to discuss or consider the impacts of these two alternatives. This is but one example of the deficiency of the document.

The revision of density which severely reduces density for residential uses will have a significant impact on the cost of housing. Large lots cost more money than small lots. Expensive large lots result in large houses. There is no substantive discussion of the impacts of the cost of housing from the proposed changes nor any analysis of the affordability of such housing for the residents of the Town of Goshen and the residents of surrounding communities. This is yet another separate and distinct example of the lack of substance of the DGEIS.

It is abundantly clear to me, and to anyone who chooses to look at the document realistically, that it is an effort, albeit a transparent effort, to dress up predetermined conclusions with the clothing of environmental review. There is, however, no in-depth look at the impacts of the proposed changes. The term "hard look" is the jargon term. The DGEIS provides barely a "soft" look.

TEAHAN & CONSTANTINO

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the Town of Goshen
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August 14, 2008

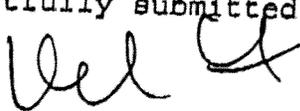
At a recent Planning Board meeting, the DEIS for the Maplewood project was put on hold in response to comments requesting more detailed information about wastewater facilities. The applicant advised the Planning Board and the Planning Board's consultants, including Mr. Golden's office, that the comments should be the subject of FEIS responses. The Planning Board rejected this assertion and asserted that there was insufficient information in the DEIS to allow the public to make adequate comment about wastewater facilities and that further information had to be provided in the DEIS before the Planning Board would close the public hearing.

A representative of Mr. Golden's office spoke at the Planning Board meeting and supported the Planning Board's determination.

The same point is appropriate for the DGEIS. The DGEIS is so lacking in substantive information that the DGEIS process should continue and a revised amplified version of the DGEIS satisfying the hard look requirement should be provided. A further public hearing should be held and only then should the FGEIS process move forward.

I am providing a copy of this letter directly to Mr. Golden on a courtesy basis. I am hoping that he will tell you the same thing that he told the Planning Board, to wit, the Draft process for an EIS, whether generic or not, requires adequate information to enable the public to make meaningful comment.

Respectfully submitted,



RICHARD I. CANTOR

RIC:99y
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Dan Gueron via email abadevelopment@rcn.com
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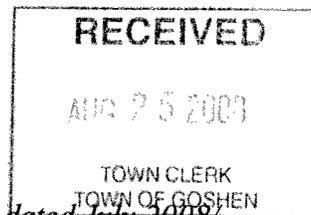
OF COUNSEL:
MARSHALL S. SCHIFF

NOELLE V. CRISALLI

August 22, 2008

Via Federal Express

Hon. Douglas Bloomfield, Supervisor,
and Members of the Town Board
Town of Goshen
41 Webster Street
Goshen, New York 10924



Re: *Draft Generic Environmental Impact Statement dated ~~July 2008~~
Town of Goshen Comprehensive Plan Update and Associated
Zoning and Town Code Amendments*

Dear Supervisor Bloomfield and Members of the Board:

We represent Epic Orange LLC, which has an application pending before the Town of Goshen Planning Board for site plan approval and a special permit to authorize a development (commonly known as the Hendler Planned Adult Community and Subdivision) consisting of a 154-unit Planned Adult Community ("PAC") on an almost 50-acre parcel on the South side of Cheechunk Road (the "PAC Parcel") and a seven-lot subdivision of single-family homes on the North side of that road (the "Subdivision Parcel"). The Subdivision Parcel and the PAC Parcel are together referred to herein as the "Property."¹

The purpose of this letter is to set forth our client's comments on the Draft Generic Environmental Impact Statement ("DGEIS"), which was accepted by your honorable Board on July 24, 2008 in connection with your consideration of the *Town of Goshen Comprehensive Plan Update* (the "Comprehensive Plan") and the associated zoning and Town Code amendments (the "Amendments") currently before your Board.

¹ Epic Orange LLC is the contract vendee for the Property, with Hendler Partners, Limited Partnership, owning the land. It is our understanding that the limited partnership will be submitting a protest petition against Local Law No. 3 pursuant to Town Law Section 265 and Section 97-79(b) of the Town of Goshen Zoning Ordinance.

HOCHERMAN TORTORELLA & WEKSTEIN, LLP

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As you may recall, on August 29, 2007 we wrote to you on behalf of our client to express our client's strong opposition to what were then Introductory Local Laws Nos. 2 and 3 of 2007 and to urge your Board to comply with the mandates of the State Environmental Quality Review Act ("SEQRA"; collectively referring to Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R. Part 617) by preparing an Environmental Impact Statement in connection with your consideration of the Amendments. Although your Board has undeniably accepted and published a document which is characterized as a Draft Generic Environmental Impact Statement, in fact that document, as the following discussion will demonstrate, falls far short of your Board's (indeed, any lead agency's) obligation, central to both the letter and the spirit of SEQRA, to take a "hard look" at all of the potential environmental consequences of the proposed action. Rather than evidencing the required hard look, the DGEIS starkly demonstrates the contrary. Even the most casual reader will recognize that the document stands as purported justification for, rather than an in-depth investigation of, the adoption of a zoning scheme which will turn on its head a zoning ordinance which is less than four years old and which was itself accompanied by full SEQRA review.

The fatal flaw in the DGEIS is that it is entirely devoid of any factual data in support of its conclusions. Both the letter and the spirit of SEQRA require the accumulation and analysis of *facts*, empirically gathered and, where appropriate, scientifically analyzed and applied. The DGEIS is almost entirely devoid of facts. Instead, it is little more than a series of speculations built upon unsupported suppositions, resulting in conclusions transparently designed to justify what is clearly a foregone result.

As a threshold matter, it is important to note that SEQRA is a law and not a mere suggestion to be followed at whim, and that strict substantive and procedural compliance with its mandates is an absolute prerequisite to the ultimate legitimacy of the underlying action.² The logical consequence of this rule is that deviation from SEQRA's mandates requires invalidation of the governmental action that was the subject of the defective environmental review. For example, in *New York City Coalition to End Lead Poisoning, Inc. v. Vallone*, 100 N.Y.2d 337, 348, 763 N.Y.S.2d 530, 535-536 (2003), the Court of Appeals annulled New York City regulations regarding remediation of lead paint conditions. In so doing, the Court set forth the rule as follows:

² *City Council of City of Watervliet v. Town of Colonie*, 3 N.Y.3d 508, 515, 789 N.Y.S.2d 88, 90 (2004)("[t]he procedures necessary to fulfill SEQRA review are carefully detailed in the statute and its implementing regulations ... and we have recognized the need for strict compliance with SEQRA requirements ..." (citations omitted)); *King v. Saratoga County Board of Supervisors*, 89 N.Y.2d 341, 347, 653 N.Y.S.2d 233, 235 (1996) ("strict, not substantial, compliance [with SEQRA] is required"); *Pyramid Company of Watertown v. Planning Board of Town of Watertown*, 24 A.D.3d 1312, 1314, 807 N.Y.S.2d 243, 245 (4th Dep't 2005), *appeal dismissed*, 7 N.Y.3d 803, 821 N.Y.S.2d 810 (2006) ("Because SEQRA requires strict adherence to its procedural requirements, the Board's failure to comply with those procedural requirements cannot be deemed harmless"); *see County of Orange v. Village of Kiryas Joel*, 44 A.D.3d 765, 768, 844 N.Y.S.2d 57, 61 (2d Dep't 2007) ("Where an agency fails or refuses to undertake necessary analyses, improperly defers or delays a full and complete consideration of relevant areas of environmental concern, or does not support its conclusions with rationally-based assumptions and studies, the SEQRA findings statement approving the FEIS must be vacated as arbitrary and irrational.").

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and Members of the Town Board
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SEQRA's policy of injecting environmental considerations into governmental decisionmaking ... is "effectuated, in part, through strict compliance with the review procedures outlined in the environmental laws and regulations." Strict compliance with SEQRA is not "a meaningless hurdle. Rather, the requirement of strict compliance and attendant spectre of de novo environmental review insure that agencies will err on the side of meticulous care in their environmental review. Anything less than strict compliance, moreover, offers an incentive to cut corners and then cure defects only after protracted litigation, all at the ultimate expense of the environment" ... *Accordingly, where a lead agency has failed to comply with SEQRA's mandates, the negative declaration must be nullified ...*

New York City Coalition to End Lead Poisoning, Inc., 100 N.Y.2d at 348, 763 N.Y.S.2d at 535-536 (citations omitted; emphasis added).³

In creating and disseminating a document which is a DGEIS in name only, and which is entirely devoid of any empirical data to support its conclusions, your Board has failed to comply with either the substantive or procedural requirements of SEQRA. *Facts*, not musings, are the essence of proper SEQRA review.

As your Board is most certainly aware, the fundamental and irreducible requirement of SEQRA as it applies to any lead agency contemplating an action of any sort is that the lead agency take a "hard look" at the environmental consequences of that action, and that having done so, it support its ultimate determination with a reasoned elaboration of its findings and its basis for those findings.⁴ The DGEIS either pays superficial lip service to, or entirely ignores, the unavoidable consequence of sweeping

³ See also *Williamsburg Around the Bridge Block Association v. Giuliani*, 223 A.D.2d 64, 73-74, 644 N.Y.S.2d 252, 259 (1st Dep't 1996) ("literal compliance with SEQRA's procedural requirements is mandated ... as substantial compliance would not comply with SEQRA's underlying purposes, but would tempt State and local agencies to circumvent SEQRA's mandates." (citations omitted)); *Rye Town/King Civic Association v. Town of Rye*, 82 A.D.2d 474, 480-481, 442 N.Y.S.2d 67, 71 (2d Dep't 1981), *appeal dismissed*, 56 N.Y.2d 508, 453 N.Y.S.2d 1027 (1982) (invalidating a town's grant of site plan approval based on noncompliance with SEQRA's procedures and stating: "we read these provisions [the SEQRA statute and regulations] to mandate literal compliance with SEQRA; substantial compliance with the 'spirit' of the Act does not constitute adherence to its policies 'to the fullest extent possible.'").

⁴ *County of Orange v. Village of Kiryas Joel*, 44 A.D.3d at 767, 844 N.Y.S.2d at 61 ("In reviewing the lead agency's determination, the court must determine whether the lead agency 'identified the relevant areas of environmental concern, took a 'hard look' at them, and made a 'reasoned elaboration' of the basis for its determination"); *Jackson v. New York State Urban Development Corporation*, 67 N.Y.2d 400, 503 N.Y.S.2d 298 (1986).

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Hon. Douglas Bloomfield, Supervisor,
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changes to the Town's zoning ordinances. Most significantly, and as will be set forth more fully below, the DGEIS, while discussing (repetitively and at some length) the nature of the proposed changes and the manner in which they are intended to advance the Town's goals, devotes but one paragraph, which is entirely conclusory and is devoid of any empirical data, to the potentially great socioeconomic impacts of the proposed action, and one paragraph to the proposed mitigation of those impacts. The mitigation paragraph would be laughable were it not for the gravity of the proposed action. Further, the DGEIS recognizes no potential adverse impacts (DGEIS at 37) on water resources and proposes no mitigation.

Additionally, and of perhaps greater significance, the DGEIS fails to establish that the Amendments will in fact accomplish, or even advance, any of the stated "Goals" of the Master Plan, particularly as those goals relate to the preservation of the Town's water and open space resources.

Socioeconomic Impacts

The DGEIS purports to address, in the order in which they appear in SEQRA, a number of the major environmental impact headings (e.g., land use and zoning, geology, topography and soil, surface waters and ground water resources) and although it is to varying degrees deficient in its analysis of each one, it is most seriously deficient in what is clearly the most significant area of potential environmental impact, that being the socioeconomic impacts of the proposed zone changes.

It is well established that the term "environment" under SEQRA is quite broad. That term, as defined in the SEQRA statute and regulations, includes not only what one would intuitively consider to be the environment, such as water, air, wildlife and vegetation and transportation, but encompasses "existing patterns of population concentration, distribution or growth, [and] existing community or neighborhood character ..." E.C.L. §8-0105; 6 N.Y.C.R.R. 617.2(l).

The seminal case establishing the wide range of societal concerns which must be addressed under SEQRA is *Chinese Staff and Workers Association v. City of New York*, 68 N.Y.2d 359, 509 N.Y.S.2d 499 (1986). Therein, New York's highest court invalidated the approval of a luxury condominium project proposed on a vacant lot in New York City's Chinatown within a special zoning district designed to preserve the residential character of that community. It held that even though the project was to be constructed on undeveloped land and would not directly displace any Chinatown residents, the lead agency violated SEQRA by failing to consider the project's potential to cause long-term displacement of residents and businesses. In so doing, the Court of Appeals held:

It is clear from the express terms of the statute and the regulations that environment is broadly defined (ECL 8-0105[6]; 6 N.Y.C.R.R. 617.2 [k] ...) and expressly includes as physical conditions such considerations as "existing patterns of population, concentration, distribution, or

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growth, and existing community or neighborhood character.” Thus, the impact that a project may have on population patterns or existing community character, with or without a separate impact on the physical environment, is a relevant concern in an environmental analysis since the statute includes these concerns as elements of the environment. That these factors might generally be regarded as social or economic is irrelevant in view of this explicit definition.

Chinese Staff and Workers Association v. City of New York, 68 N.Y.2d at 365-366, 509 N.Y.S.2d at 503 (citation to New York City's environmental review regulations omitted).

As outlined in the DGEIS, the proposed action will, among other things: (a) combine and reduce the area of land covered by, and reduce the potential density of development in, the existing Hamlet Residential (HR) and Hamlet Mixed Use (HM) Districts; (b) reduce the density of development permitted in the Rural (RU) Districts by reducing open space density bonuses, and by entirely eliminating (in contravention of the Master Plan's own stated goals) any relationship between the actual proven availability of water and the permitted density of development in the AQ, aquifer zones; (c) remove entirely the possibility of creating planned adult communities (PACs) in CO Districts, as well as substantially reducing the potential density of development of PACs in such districts in which they will be permitted by introducing topographical limitations which bear little or no relationship to the manner in which PACs are used or inhabited (in contravention of the Master Plan's own stated goals); and (d) significantly limit the number of sites on which a PAC could be developed by requiring PAC developments to be served by Town water and sewer districts and to have direct access to state or county highways or arterial or collector roads; the latter requirement (which does not apply to other residential or commercial uses) bearing no relationship to the PAC use since PACs by their nature generate *less* rather than more traffic than other uses of equal density or intensity. In addition, the proposed action would revise the Town's water testing protocols to levels beyond those imposed by either the New York State Department of Environmental Conservation or the County Department of Health – levels that have no scientific basis.

Each of the foregoing measures, as well as others proposed by the Master Plan and the Amendments inevitably will (indeed are intended to) significantly alter the patterns of community growth and development in the Town of Goshen for a substantial time to come. That said, the DGEIS without any empirical study and without reliance on a single *fact* draws the following conclusion and recognizes only the following potential impacts:

It is anticipated that the most significant result from the adoption of the revised Comprehensive Plan and proposed Code amendments will be a beneficial one, protecting the rural character and environmental quality of the Town of Goshen, while addressing both the present and future housing needs of the community and the region.

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...

Potential adverse land use impacts resulting from the revised Comprehensive Plan and Zoning (text and Map) and other related Code amendments are (1) reduced opportunity for higher density residential projects by the reduction of areas zoned Hamlet Residential and the elimination of residential bonus densities and the transfer of development rights presently allowed in Goshen Zoning Code, and (2) increased commercial opportunities for areas rezoned from residential to commercial will likely increase traffic in those areas.

To find that these will be the *only* potential land use impacts of the proposed action is absurd on its face. The various zoning measures noted above (as well as others contemplated in the Comprehensive Plan) will, at a minimum, inevitably reduce overall residential density, discourage the creation of senior, affordable, or multi-family housing, decrease housing affordability and the diversity of housing types, and reduce the potential (by reducing the incentive) for preservation of open space, both public and private. These measures will clearly impact the tax base, and will impact the future growth potential of the Town. All of these potential impacts must be studied in a proper Generic Environmental Impact Statement; none have been addressed other than in the most superficial fashion in the DGEIS.

When municipalities have failed to take a hard look at the impact of a zoning enactment on the availability of multi-family or affordable housing, the courts have not hesitated to annul that enactment.⁵

Quite recently, the Supreme Court, Orange County, invalidated a Town's action to eliminate any zoning districts allowing multi-family housing as an "as-of-right" use based, among other things, on the Town's failure to analyze adequately under SEQRA the impact of its newly enacted comprehensive plan and zoning ordinance on affordable housing. *Land Master Montg I, LLC v. Town of Montgomery*, 13 Misc.3d 870, 821 N.Y.S.2d 432 (Sup. Ct. Orange Co. 2006). In *Land Master*, even though the Town Board recognized and discussed the potential impacts of its actions on affordable housing, it issued a negative declaration. The court rejected the Town's approach, stating: "[a]lthough the Town Board may have held extensive hearings, on the record before this Court it did not take a

⁵ See *Ginsburg Development Corp. v. Town Board of Town of Cortlandt*, 150 Misc.2d 24, 565 N.Y.S.2d 371 (Sup. Ct. Westchester Co. 1990) (invalidating a municipality's enactment of a measure putatively designed to protect an environmental feature, steep slopes, based, among other things, on the municipality's failure to conduct analysis supporting the town's conclusion that there would be no significant environmental impacts with respect to housing and the patterns of population growth and, in particular, with respect to the affordability of housing). The elimination of the PAC designation would result in the loss of 24 affordable units that are proposed as part of the Hender Development alone. Its town-wide impact would clearly be far greater.

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“hard look” at the involved affordable housing concerns and certainly did not make a reasoned elaboration of its determination to eliminate the only multifamily zoning district within Town Borders.” *Land Master Montg I*, 13 Misc. 3d at 882, 821 N.Y.S.2d at 442.⁶

As respects affordable housing, the DGEIS is fatally flawed in two material aspects. First, it senselessly equates multi-family housing with affordable housing, as though the two were interchangeable. Second, it mistakes SEQRA’s mandate to study the patterns of population and community development focusing on, among other things, the affordability and availability of housing to mean that it must only analyze affordable housing to the extent of its county-mandated required number of units. The DGEIS (DGEIS at 5) states that “an analysis was conducted to ensure that the Town of Goshen is providing its fair share of regional and community needs for multi-family and other affordable housing,” but no such analysis is annexed to the DGEIS, nor has any such analysis been made publicly available. Instead, the DGEIS refers to a county-wide study indicating that the Town of Goshen would have a “demand deficit” of affordable housing of 700 units, and then goes on to equate multi-family housing with affordable housing without justifying (or supporting with published authority) in any way the self-serving and intuitively incorrect, assumption that multi-family housing equals affordable housing. Indeed, the analysis borders on the disingenuous in failing to recognize that the proposed zone changes will, by limiting the percentage of any project that may be multi-family, reduce the potential for multi-family development in the community and thus reduce the potential for affordable multi-family development in the community. Although manifestly, not all multi-family housing is affordable, most if not all affordable housing is multi-family. Thus, reducing the potential for multi-family housing reduces the potential for affordable housing.

⁶ As a substantive matter, the Amendments would be susceptible to challenge as unconstitutional exclusionary zoning under the principles of *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 378 N.Y.S.2d 672 (1975), in light of their provisions which will reduce residential density, decrease the availability of land zoned for residential use, dispense with density bonuses and transfers of development rights which were designed to advance affordable housing, and eliminate the PAC as a special permit use. In invalidating the Town of New Castle’s zoning as exclusionary, New York’s highest court established that to survive scrutiny a zoning ordinance must: (1) provide a balanced and well-ordered plan for the community; and (2) adequately consider regional needs and requirements for housing. In *Land Master Montg I, LLC, supra*, the Town of Montgomery’s recently-enacted zoning ordinance and comprehensive plan were invalidated because they ran afoul of *Berenson*, as they eliminated all zoning allowing multi-family housing on an “as-of-right” basis. Of note with respect to the proposed Amendments is that the court in *Land Master* rejected the town’s reliance on traffic concerns as a basis for the elimination of multi-family residential zoning and was equally unimpressed with the argument that other mechanisms in the zoning ordinance would facilitate production of affordable housing. It characterized them as limited in scope and within the total control of the town board (similar to the amended PAC provisions under Local Law No. 3); see also *Continental Building Co., Inc. v. Town of North Salem*, 211 A.D.2d 88, 625 N.Y.S.2d 700 (3d Dep’t 1995), appeal dismissed, lv. denied, 86 N.Y.2d 818, 634 N.Y.S.2d 432 (1995) (invalidating the Town of North Salem’s zoning ordinance as exclusionary and awarding the plaintiff \$426,000 in attorneys’ fees).

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As respects the need for housing in the Town, Section III[I] (Socioeconomic impacts) of the DGEIS establishes first that the population of the Town of Goshen is expanding (increasing 7.69 percent from 2000 to 2006) and that the age demographic of residents in the Town reflects a decline in residents in the 20-30 year age range and an increase in the number of residents in the 85 year old and older and the 45-54 age ranges. It then goes on to provide as follows:

There has been an increased interest in new residential development in Goshen, in recent years, with new housing units consisting primarily of larger single-family homes on two-plus acre lots. An aging population places different demands on the type of housing required in the Town, creating a demand for Planned Adult Communities and smaller townhouse units.

DGEIS at 48.

Having concluded that the population is expanding and, in particular, the population of seniors is expanding, the DGEIS then goes on incredibly to find that a rezoning proposal that would reduce the density of zoning in the Town so that fewer residential units could be developed and significantly inhibit the potential for senior housing developments to be built would have no other impact than potentially to "affect anticipated return of land owners and developers on the development of a particular parcel of land." DGEIS at 48. The DGEIS does not even consider what will happen when one of its most significant age groups, the 45-54 age group, enters the 55 and over age category, begins to look for senior housing options, and is forced to look outside the Town of Goshen since no viable opportunities for senior housing will be available. Similarly, the DGEIS does not consider what could happen to the housing market and the general availability and affordability of housing in the Town when the population increases but the supply of housing cannot (because of zoning limitations) keep pace with the increase.

In order to reach the conclusions that it did, the lead agency would, at a minimum, be required to undertake an analysis identifying the parcels of property on which PAC communities could be developed under the new regulations and then to determine the feasibility of the development of those properties and the number of senior units that could reasonably be developed and compare that number with the potential demand for such housing. Additionally, the lead agency is required to show how upzoning most of the residential portions of the Town and changing the zoning of several acres of property from residential to commercial/industrial use meets the needs of the growing community. However, the socioeconomic impact section of the DGEIS does not cite even one study or one scintilla of evidence on which the lead agency can rely in making its determination. In short, thus far the lead agency has failed to take a hard look at the socioeconomic impacts of the rezoning and may not move forward with the SEQRA process until it takes the required hard look.

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Having drawn the baseless conclusion that “the most significant result from the adoption of the revised Comprehensive Plan and proposed Code amendments will be a beneficial one,” the DGEIS proposes no meaningful mitigation. The sole mitigation proposed in the DGEIS under the zoning and land use heading is:

Mitigation measures for the potential reduced opportunity for higher density residential projects include the relocation of Planned Adult Communities zoning from the present commercial ones to more appropriate residential areas in terms of topography and proximity to necessary infrastructure. *This zoning relocation has the potential to sustain an increased number of higher density housing, including multi-family housing.* (Emphasis added.)

The foregoing statement encapsulates, in a sense, all that is deficient in this DGEIS. It first recognizes that the proposed action will reduce the opportunity for higher density residential projects, and then finds that eliminating the potential for the development of PACs on large swaths of property somehow mitigates the impacts of that reduction. It further makes the wholly unsupported assumption that residentially-zoned areas are more suitable to PACs than are the commercial zones in which PACs are currently permitted. In effect, this paragraph does recognize one (among many) potentially adverse impact of the Amendments, but offers what is frankly gibberish in lieu of any meaningful mitigation.

Geology, Topography, and Soils

Of equal importance, and equally deficient, is the discussion in the DGEIS (DGEIS at 36) of geology, topography, and soils, and specifically surface waters and ground water resources. This is so because the substantial and potentially damaging reduction in the permitted density of residential development in the Town appears to be justified almost entirely on the basis of the potential impacts of residential development on the availability of potable water, and the claimed “scarcity” (DGEIS at 37) of water. Although no one would argue that relating development to the availability of water is not both reasonable and necessary, the DGEIS (and the Amendments) are likely to accomplish just the opposite. Under current zoning, density of development in the RU/AQ-6 and RU/AQ-3 Zoning Districts is coupled directly to the proven availability of water. The current ordinance permits a higher density of development where water is proven to be available and caps the density of development where it is not, thus allowing available water resources to be used most efficiently while preserving the ability to provide needed housing on lands which have sufficient water. To the extent that there is a direct relationship between the availability of water and the permitted density of development, the current ordinance fosters, from among the stated goals in the GEIS, Goal Number 3 (DGEIS at 17) “provide a range of housing alternatives that will meet the housing needs of a range of socioeconomic groups” as well as Goal Number 6 (DGEIS at 18) “insure a development pattern that will provide sustainable water use.”

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The Amendments sever the relationship between the availability of water and the permitted density of development by retaining the limitation with respect to those parcels that do not have proven water capacity, and eliminating the potential for greater density of development on parcels that do have sufficient water capacity. Thus, lands that have the potential to provide (and should provide) much-needed housing at a higher density of development without adversely impacting the availability of water are limited, entirely arbitrarily, to a lower density having no relationship to actual water availability. In effect, the water underlying those lands, a valuable resource, simply goes to waste while housing needs go unfulfilled.

Further, the Amendments go on to propose revised water testing protocols which far exceed State and County standards, thus further hampering the productive use of lands which objectively, based on generally-accepted standards, have sufficient water to support additional housing. The DGEIS includes no scientific or factual basis for the imposition of the strict protocols, nor does it examine the impact of the imposition of those protocols on such issues as housing availability generally, affordable housing, or open space.

In attempting to justify a result which is wholly inconsistent with the Town's stated goals, the DGEIS refers to, and purports to rely on, a Town-Wide Water Study (the "Study"), prepared in January of 2003 in support of the prior Master Plan and the existing Zoning Ordinance. Thus, the same study that supported the current Master Plan and current Code, which were designed to foster growth and development in the Town, is now being used to justify the evisceration of those measures. Although a review of the Study discloses that it is, in itself, deficient in actual empirical testing, it further discloses that the Study does not form a basis for, nor does it recommend any of the actions currently being proposed under the proposed Master Plan and Amendments. In short, just as with the socioeconomic section of the DGEIS, there is no underlying empirical information; there are no *facts* to justify the proposed action.

Open Space

Although the Amendments, by eliminating the density bonus for open space in the RU Residence Districts, eliminate a major incentive for the preservation of open space, and although the DGEIS recognizes the importance of open space preservation to the ecology (DGEIS at 37) and the geology and topography (DGEIS at 37) of the Town, the DGEIS includes no analysis whatsoever of the impact on open space preservation of so drastic an amendment to the Town Code. One can hardly argue that no look constitutes a hard look.

Traffic

The DGEIS section on traffic is equally devoid of any actual facts, traffic studies, or traffic counts. Instead, it relies on broad generalities relating to potential changes in use on a gross acreage basis, without relating to any actual traffic counts, or the potential of different rezoned areas to actually be developed and without relating the proximity of rezoned acreage to existing transportation facilities. In effect, the traffic section of the DGEIS essentially says that an acre changed from use A to use B will result in a quantifiable change in traffic generation without any empirical basis therefor, and without equating such changes in permitted uses to the actual likelihood that they will occur based on the suitability, availability and location of rezoned lands.

One example demonstrating the serious flaws in the Town's approach is illustrated by reference to the EIS review of our client's proposed development of the PAC Parcel. At present, if that parcel is developed as a PAC it will, according to the accepted Final EIS for the Hendler Development, generate as little as one-third of the peak hour traffic of an as-of-right commercial use. Eliminating the PAC, therefore, could ultimately increase traffic substantially. As the Hendler Development cannot be viewed in isolation, in order to ascertain the full impact of the excision of the PAC use from the CO zone, a study must be included in a generic EIS considering all of those properties in the CO zone in which Local Law No. 3 has the potential to increase traffic generation.⁷

Further, it is unclear how the deviation in the Amendments from the Hamlet Center concept and the renewed emphasis on large lot residential and commercial development will impact traffic conditions in various areas in the Town, in the Villages of Goshen and Florida, and/or in surrounding communities. The suburban sprawl catalyzed by such changes may increase both the length and the number of vehicle trips within the Town and discourage pedestrian travel.

Other Areas of Environmental Concern

Throughout the DGEIS, as respects such areas of environmental concern as geology, topography and soils, air quality and noise, community services and facilities, no mitigation is offered based on the bare, unsupported, and oft-repeated finding that the environmental consequences in each of these areas will only be beneficial. If that finding were supported by any empirical data, lack of proposed mitigation would be justified. In the instant case, the failure to recognize any potential impact in a number of significant environmental areas, and the failure to propose any mitigation measures in such areas, sharply demonstrates the superficiality and the legal insufficiency of the DGEIS.

⁷ Submitted herewith is a letter from Philip J. Grealy, Ph.D., P.E., of John Collins Engineers, P.C., which addresses the traffic implications of the Hendler Development, discusses the deficiencies in the Town's evaluation of traffic impacts in the context of the Amendments, and concludes that maintaining PACs as a special permit use in the CO zone will result in the generation of less peak hour traffic than would elimination of the use.

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Summary

It must be said again that the DGEIS is significantly deficient in each of the areas which it purports to examine. In each case, that deficiency relates directly to the fact that there are essentially no facts in the document. It simply cannot be said that the DGEIS evidences a hard look by your Board, since it looks at nothing. The DGEIS is essentially one consultant's rambling, somewhat repetitive, statement of unsupported opinion. Indeed, the document should give your honorable Board significant pause and concern, not only on account of its legal insufficiency, but because it fails to give you sufficient information on which to determine whether any of the stated goals of the Comprehensive Plan will actually be met by any of the Amendments which you are considering. There is simply insufficient data in the document on which to base any reasonable opinion, and there is nothing in the document which will enable you to make a "reasoned elaboration" in support of any decision that you might reach.

It becomes clear to anyone familiar with the proceedings to date that your Board has made a determination to severely restrict development of all types in the Town of Goshen. The DGEIS works backwards, in that it seeks to justify a pre-determined result, rather than objectively examine the consequences thereof. As presently structured, the DGEIS will not suffice to legally support adoption of the Master Plan or the Amendments.

For the foregoing reasons, we respectfully request that your honorable Board either reject or require the entire reworking of the DGEIS so that it becomes a work of fact rather than a work of fiction.

Very truly yours,

Hocherman Tortorella & Wekstein, LLP

By: 
Adam L. Wekstein

HMH:cv

Enclosure

cc: Jayne E. Daly, Esq. (*via facsimile*)

Dennis P. Caplicki, Esq. (*via Federal Express*)

JOHN COLLINS
ENGINEERS, P.C. TRAFFIC • TRANSPORTATION ENGINEERS

===== 11 BRADHURST AVENUE • HAWTHORNE, N.Y. • 10532 • (914) 347-7500 • FAX (914) 347-7266 =====

August 28, 2007

Mr. David Weinberg
Meadowcreek Development, LLC
110 Orange Avenue
Walden, NY 12586

Re: Hendler Property
Town of Goshen, New York

Dear Mr. Weinberg:

We have reviewed the Goshen Town Wide Traffic Study and have the following comments on the study and its relationship to the potential rezoning which is proposed by the Town.

The traffic study evaluated in excess of 30 intersections in the Town and considered existing and future conditions with the completion of other developments in the Town. In general, the traffic study followed standard procedures and methodology in addressing existing traffic conditions and in developing the trip generation estimates for future projects based on the Institute of Transportation Engineers (ITE) data. The primary areas of concern relative to the final conclusions of the study and the relationship to the proposed zoning changes include the following:

1. Overestimation of Future Traffic Volumes

Being familiar with many of the developments which were identified as proposed developments in the study, we are aware that many of these projects have either been reduced in size or are no longer proceeding. This is significant since the amount of additional traffic being considered to occur by 2016 would be significantly less than that assumed in the traffic report and therefore, the resulting traffic conditions would be significantly better.

2. Lack of Reanalysis with Implementation of Identified Mitigation Measures

The analysis of traffic conditions for 2016 assuming background growth and all of the potential development, which included over 3,000 dwelling units, identified that 16 of the 31 intersections studied would experience operating deficiencies with Levels of Service "E" and "F" on one or more approaches during the Weekday Peak PM Hour. Chapter 5.0 of the Town study prepared by Stantec appropriately identifies potential improvements such as signalization, provision of turning lanes, construction of roundabouts and other capacity and safety type improvements, which would alleviate the capacity deficiencies and also improve the safety of operations. These improvements are identified as "recommended responses and potential improvements" for each of the intersections. However, the report does not provide a Level of Service summary of conditions once these improvements have been implemented. This is a significant omission since many of the level of service deficiencies relate to traffic exiting on the minor approaches to an intersection which if the intersections were signalized, this Level of Service "F" would change to a Level of Service "C" or better.

Based on the ITE guidelines and the requirements of the New York State Department of Transportation, any traffic impact study should also include an analysis of the resulting Levels of Service once mitigation is implemented to properly and fully assess future conditions. It should also be noted that the types of improvements required are improvements which typically would be implemented either by a particular applicant, in association with their project, by the Town, by NYSDOT or a combination of these parties.

3. Specifics Relative to Hendler PAC

More specific to the Hendler Property, our Traffic Impact Study dated September 26, 2006 addressed a Planned Adult Community (PAC) consisting of 167 dwelling units and a separate 7 single family home subdivision. The PM Peak Hour traffic generation for this proposal, based on the Institute of Transportation Engineers data, indicated trip generation of approximately 62 vehicles per hour. As a result of that

study, certain potential improvements including signalization of the Route 17 Fletcher Street Eastbound on/off ramp as well as additional pavement markings and signing at area intersections to better control traffic were identified. The signal improvement is consistent with the recommendations in the Stantec Town Study as identified in Chapter 5.0 as Intersection No. 26B. Based on our analysis of this intersection, with signalization, an overall Level of Service of "C" or better can be expected at this intersection (See Table 2 of our Traffic Impact Study labeled "With Signalization", which is attached.) Based on this analysis, it is also anticipated that at other area intersections, if the recommended improvements from the Stantec Study were implemented, acceptable Levels of Service would then be experienced at these locations. It should also be noted that other than the signalization of the Route 17 ramps, the other intersections in close proximity to the Hendler Project were found to operate at acceptable Levels of Service without the need for any significant improvements even with the Town's 2016 traffic projections.

In addition, as part of the Hendler DEIS, estimates of the peak hour traffic generation for the commercial development were also presented. As referenced in the DEIS, if the commercial development was built, the peak hour traffic generation for the PM Peak Hour would be approximately 236 peak hour trips. This would be more than three times the anticipated peak hour traffic generation of the proposed (PAC) development (62 peak hour trips). Furthermore, with the commercial development, the vehicle mix would include more truck traffic than the PAC. In fact, between 5% and 10% of the peak hour trips referenced above (or some 12 to 24 vehicles) would be truck trips depending on the amount of warehouse space.

4. Conclusions

Based on the above, the proposed PAC would result in a lower traffic generation than the commercial development and with the implementation of improvements on a fair-share basis such as the signalization of the Eastbound 17 Ramp at Fletcher Street, all traffic impacts could be mitigated.

Also, extrapolating the trips for the potential commercial development in place of the other planned PAC sites in the Town (1054 units) as referenced in the Town Study, similar increases in traffic would occur again, resulting in almost three times the amount of traffic generation during the PM Peak Hour.

It is our professional opinion that the modifications to the zoning will exacerbate the identified traffic problems. Further studies must be conducted to understand the full and cumulative impact of the proposed zoning change on the traffic at the intersections included in the Stantec study and to also assess the effect of the mitigation measures already identified in the Stantec Study.

In summary, the study conducted is incomplete as it fails to:

- Analyze the Levels of Service with recommended (and modest) improvements
- The development scenario upon which the study was based exaggerates the proposed number of units
- The PAC uses in the CO zone will reduce traffic impacts rather than increase them.

Thus, the traffic study and the proposed zoning change must be reconsidered by the Town.

If you have any questions regarding this, please do not hesitate to contact us.

Sincerely,

JOHN COLLINS ENGINEERS, P.C.



Philip J. Gready, Ph.D., P.E.

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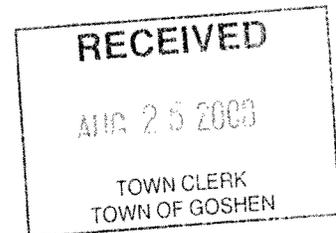
OF COUNSEL:
MARSHALL S. SCHIFF

NOELLE V. CRISALLI

August 22, 2008

Via Federal Express

Hon. Douglas Bloomfield, Supervisor,
and Members of the Town Board
Town of Goshen
41 Webster Street
Goshen, New York 10924



*Re: Draft Generic Environmental Impact Statement dated July 2008/
Town of Goshen Comprehensive Plan Update and Associated
Zoning and Town Code Amendments*

Dear Supervisor Bloomfield and Members of the Board:

We represent R. H. Craigville, LLC, which has an application pending before the Town of Goshen Planning Board for the approval of a major subdivision (the "Young's Grove Subdivision") on an approximately 354-acre property (the "Property") located in the RU Zoning District as well as in the AQ-3, AQ-6, and Scenic Road Corridor Overlay Districts. The pending application is for an "Open Space Development" pursuant to Section 97-20 of the Town of Goshen Code as presently in effect. Utilizing the Section 97-20 *Standards for Open Space Development*, our client determined an allowable base density for the entire site of 106 residential units. Because that number exceeded the base aquifer density (in the AQ-3 and AQ-6 Overlay Districts) of 79 units, our client conducted extensive well tests in accordance with the Town's Well Testing Protocol and determined a potential groundwater safe yield sufficient to support well in excess of the 106-unit base density permitted on the Property pursuant to the RU zoning.

The proposed plan sets aside approximately 254 acres, or approximately 72 percent of the entire Property, as preserved open space, and accordingly is potentially entitled to 42 bonus units based upon Section 97-20(A)(3) of the Code. The application proposes 127 units, which is 21 units fewer than what could be permitted under full application of the bonus density provisions of the Code, but which reflects the proven availability of potable water.

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It bears repeating that, in the course of developing its density, our client conducted extensive (and expensive) water testing of the Property utilizing the services of the region's most respected hydrogeological firm, and established the availability of water for at least the number of units for which it has applied.

Having adopted a Comprehensive Plan and Zoning Ordinance less than four years ago, your honorable Board is now considering amendments to the Zoning Ordinance (the "Amendments") which would, among other things, eliminate entirely the open space density bonus in the RU Residence District, and would decouple the relationship between the proven availability of potable water and the maximum permitted density in the AQ Overlay Districts, thus defeating, in one fell swoop, Stated Goals Numbers 5 (protect enhanced open space and public space) and 6 (ensure a development pattern that will provide for sustainable water use) of the Comprehensive Plan. The Amendments would severely restrict (to less than 80) the number of residential units which could be developed on the Property – a 354-acre parcel with proven water availability – and would eliminate entirely any incentive to provide preserved open space.

On July 24, 2008 your Board accepted the Draft Generic Environmental Impact Statement ("DGEIS") prepared in connection with your consideration of the Town of Goshen Comprehensive Plan Update (the "Comprehensive Plan") and the Amendments.

The purpose of this letter is to set forth our client's comments on the DGEIS, both generally, and as they apply to those Amendments which will adversely affect our client's ability to develop its Property.

As you may recall, on October 22, 2007 we wrote to you on behalf of our client to offer comments on the draft scoping document which your Board circulated in anticipation of your Board's preparation of an Environmental Impact Statement in connection with your consideration of the Amendments, as required by the State Environmental Quality Review Act ("SEQRA"; collectively referring to Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R. Part 617). Although your Board has undeniably accepted and published a document which is characterized as a Draft Generic Environmental Impact Statement, in fact that document, as the following discussion will demonstrate, falls far short of your Board's (indeed, any lead agency's) obligation, central to both the letter and the spirit of SEQRA, to take a "hard look" at all of the potential environmental consequences of the proposed action. Rather than evidencing the required hard look, the DGEIS starkly demonstrates the contrary. Even the most casual reader will recognize that the document stands as purported justification for, rather than an in-depth investigation of, the adoption of a zoning scheme which will turn on its head a zoning ordinance which is less than four years old and which was itself accompanied by full SEQRA review.

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The fatal flaw in the DGEIS is that it is entirely devoid of any factual data in support of its conclusions. Both the letter and the spirit of SEQRA require the accumulation and analysis of *facts*, empirically gathered and, where appropriate, scientifically analyzed and applied. The DGEIS is almost entirely devoid of facts. Instead, it is little more than a series of speculations built upon unsupported suppositions, resulting in conclusions transparently designed to justify what is clearly a foregone result.

As a threshold matter, it is important to note that SEQRA is a law and not a mere suggestion to be followed at whim, and that strict substantive and procedural compliance with its mandates is an absolute prerequisite to the ultimate legitimacy of the underlying action.¹ The logical consequence of this rule is that deviation from SEQRA's mandates requires invalidation of the governmental action that was the subject of the defective environmental review. For example, in *New York City Coalition to End Lead Poisoning, Inc. v. Vallone*, 100 N.Y.2d 337, 348, 763 N.Y.S.2d 530, 535-536 (2003), the Court of Appeals annulled New York City regulations regarding remediation of lead paint conditions. In so doing, the Court set forth the rule as follows:

SEQRA's policy of injecting environmental considerations into governmental decisionmaking ... is "effectuated, in part, through strict compliance with the review procedures outlined in the environmental laws and regulations." Strict compliance with SEQRA is not "a meaningless hurdle. Rather, the requirement of strict compliance and attendant spectre of de novo environmental review insure that agencies will err on the side of meticulous care in their environmental review. Anything less than strict compliance, moreover, offers an incentive to cut corners and then cure defects only after protracted litigation, all at the ultimate expense of the environment" ... Accordingly, where a lead agency has failed to comply with SEQRA's mandates, the negative declaration must be nullified ...

New York City Coalition to End Lead Poisoning, Inc., 100 N.Y.2d at 348, 763 N.Y.S.2d at 535-536

¹ *City Council of City of Watervliet v. Town of Colonie*, 3 N.Y.3d 508, 515, 789 N.Y.S.2d 88, 90 (2004)("[t]he procedures necessary to fulfill SEQRA review are carefully detailed in the statute and its implementing regulations ... and we have recognized the need for strict compliance with SEQRA requirements ..." (citations omitted)); *King v. Saratoga County Board of Supervisors*, 89 N.Y.2d 341, 347, 653 N.Y.S.2d 233, 235 (1996) ("strict, not substantial, compliance [with SEQRA] is required"); *Pyramid Company of Watertown v. Planning Board of Town of Watertown*, 24 A.D.3d 1312, 1314, 807 N.Y.S.2d 243, 245 (4th Dep't 2005), *appeal dismissed*, 7 N.Y.3d 803, 821 N.Y.S.2d 810 (2006) ("Because SEQRA requires strict adherence to its procedural requirements, the Board's failure to comply with those procedural requirements cannot be deemed harmless"); *see County of Orange v. Village of Kiryas Joel*, 44 A.D.3d 765, 768, 844 N.Y.S.2d 57, 61 (2d Dep't 2007) ("Where an agency fails or refuses to undertake necessary analyses, improperly defers or delays a full and complete consideration of relevant areas of environmental concern, or does not support its conclusions with rationally-based assumptions and studies, the SEQRA findings statement approving the FEIS must be vacated as arbitrary and irrational.").

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(citations omitted; emphasis added).²

In creating and disseminating a document which is a DGEIS in name only, and which is entirely devoid of any empirical data to support its conclusions, your Board has failed to comply with either the substantive or procedural requirements of SEQRA. *Facts*, not musings, are the essence of proper SEQRA review.

As your Board is most certainly aware, the fundamental and irreducible requirement of SEQRA as it applies to any lead agency contemplating an action of any sort is that the lead agency take a "hard look" at the environmental consequences of that action, and that having done so, it support its ultimate determination with a reasoned elaboration of its findings and its basis for those findings.³ The DGEIS either pays superficial lip service to, or entirely ignores, the unavoidable consequence of sweeping changes to the Town's zoning ordinances. Most significantly, and as will be set forth more fully below, the DGEIS, while discussing (repetitively and at some length) the nature of the proposed changes and the manner in which they are intended to advance the Town's goals, devotes but one paragraph, which is entirely conclusory and is devoid of any empirical data, to the potentially great socioeconomic impacts of the proposed action, and one paragraph to the proposed mitigation of those impacts. The mitigation paragraph would be laughable were it not for the gravity of the proposed action. Further, the DGEIS recognizes no potential adverse impacts (DGEIS at 37) on water resources and proposes no mitigation.

Additionally, and of perhaps greater significance, the DGEIS fails to establish that the Amendments will in fact accomplish, or even advance, any of the stated "Goals" of the Master Plan, particularly as those goals relate to the preservation of the Town's water and open space resources.

² See also *Williamsburg Around the Bridge Block Association v. Giuliani*, 223 A.D.2d 64, 73-74, 644 N.Y.S.2d 252, 259 (1st Dep't 1996) ("literal compliance with SEQRA's procedural requirements is mandated ... as substantial compliance would not comply with SEQRA's underlying purposes, but would tempt State and local agencies to circumvent SEQRA's mandates." (citations omitted)); *Rye Town/King Civic Association v. Town of Rye*, 82 A.D.2d 474, 480-481, 442 N.Y.S.2d 67, 71 (2d Dep't 1981), *appeal dismissed*, 56 N.Y.2d 508, 453 N.Y.S.2d 1027 (1982) (invalidating a town's grant of site plan approval based on noncompliance with SEQRA's procedures and stating: "we read these provisions [the SEQRA statute and regulations] to mandate literal compliance with SEQRA; substantial compliance with the 'spirit' of the Act does not constitute adherence to its policies 'to the fullest extent possible.'");

³ *County of Orange v. Village of Kiryas Joel*, 44 A.D.3d at 767, 844 N.Y.S.2d at 61 ("In reviewing the lead agency's determination, the court must determine whether the lead agency 'identified the relevant areas of environmental concern, took a 'hard look' at them, and made a 'reasoned elaboration' of the basis for its determination"); *Jackson v. New York State Urban Development Corporation*, 67 N.Y.2d 400, 503 N.Y.S.2d 298 (1986).

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Socioeconomic Impacts

The DGEIS purports to address, in the order in which they appear in SEQRA, a number of the major environmental impact headings (e.g., land use and zoning, geology, topography and soil, surface waters and ground water resources) and although it is to varying degrees deficient in its analysis of each one, it is most seriously deficient in what is clearly the most significant area of potential environmental impact, that being the socioeconomic impacts of the proposed zone changes.

It is well established that the term "environment" under SEQRA is quite broad. That term, as defined in the SEQRA statute and regulations, includes not only what one would intuitively consider to be the environment, such as water, air, wildlife and vegetation and transportation, but encompasses "existing patterns of population concentration, distribution or growth, [and] existing community or neighborhood character ..." E.C.L. §8-0105; 6 N.Y.C.R.R. 617.2(1).

The seminal case establishing the wide range of societal concerns which must be addressed under SEQRA is *Chinese Staff and Workers Association v. City of New York*, 68 N.Y.2d 359, 509 N.Y.S.2d 499 (1986). Therein, New York's highest court invalidated the approval of a luxury condominium project proposed on a vacant lot in New York City's Chinatown within a special zoning district designed to preserve the residential character of that community. It held that even though the project was to be constructed on undeveloped land and would not directly displace any Chinatown residents, the lead agency violated SEQRA by failing to consider the project's potential to cause long-term displacement of residents and businesses. In so doing, the Court of Appeals held:

It is clear from the express terms of the statute and the regulations that environment is broadly defined (ECL 8-0105[6]; 6 N.Y.C.R.R. 617.2 [k] ...) and expressly includes as physical conditions such considerations as "existing patterns of population, concentration, distribution, or growth, and existing community or neighborhood character." Thus, the impact that a project may have on population patterns or existing community character, with or without a separate impact on the physical environment, is a relevant concern in an environmental analysis since the statute includes these concerns as elements of the environment. That these factors might generally be regarded as social or economic is irrelevant in view of this explicit definition.

Chinese Staff and Workers Association v. City of New York, 68 N.Y.2d at 365-366, 509 N.Y.S.2d at 503 (citation to New York City's environmental review regulations omitted).

As outlined in the DGEIS, the proposed action will, among other things: (a) combine and reduce the area of land covered by, and reduce the potential density of development in, the existing

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Hamlet Residential (HR) and Hamlet Mixed Use (HM) Districts; (b) reduce the density of development permitted in the Rural (RU) Districts by reducing open space density bonuses, and by entirely eliminating (in contravention of the Master Plan's own stated goals) any relationship between the actual proven availability of water and the permitted density of development in the AQ, aquifer zones; (c) remove entirely the possibility of creating planned adult communities (PACs) in CO Districts, as well as substantially reducing the potential density of development of PACs in such districts in which they will be permitted by introducing topographical limitations which bear little or no relationship to the manner in which PACs are used or inhabited (in contravention of the Master Plan's own stated goals); and (d) significantly limit the number of sites on which a PAC could be developed by requiring PAC developments to be served by Town water and sewer districts and to have direct access to state or county highways or arterial or collector roads; the latter requirement (which does not apply to other residential or commercial uses) bearing no relationship to the PAC use since PACs by their nature generate *less* rather than more traffic than other uses of equal density or intensity. In addition, the proposed action would revise the Town's water testing protocols to levels beyond those imposed by either the New York State Department of Environmental Conservation or the County Department of Health – levels that have no scientific basis.

Each of the foregoing measures, as well as others proposed by the Master Plan and the Amendments inevitably will (indeed are intended to) significantly alter the patterns of community growth and development in the Town of Goshen for a substantial time to come. That said, the DGEIS without any empirical study and without reliance on a single *fact* draws the following conclusion and recognizes only the following potential impacts:

It is anticipated that the most significant result from the adoption of the revised Comprehensive Plan and proposed Code amendments will be a beneficial one, protecting the rural character and environmental quality of the Town of Goshen, while addressing both the present and future housing needs of the community and the region.

...

Potential adverse land use impacts resulting from the revised Comprehensive Plan and Zoning (text and Map) and other related Code amendments are (1) reduced opportunity for higher density residential projects by the reduction of areas zoned Hamlet Residential and the elimination of residential bonus densities and the transfer of development rights presently allowed in Goshen Zoning Code, and (2) increased commercial opportunities for areas rezoned from residential to commercial will likely increase traffic in those areas.

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To find that these will be the *only* potential land use impacts of the proposed action is absurd on its face. The various zoning measures noted above (as well as others contemplated in the Comprehensive Plan) will, at a minimum, inevitably reduce overall residential density, discourage the creation of senior, affordable, or multi-family housing, decrease housing affordability and the diversity of housing types, and reduce the potential (by reducing the incentive) for preservation of open space, both public and private. These measures will clearly impact the tax base, and will impact the future growth potential of the Town. All of these potential impacts must be studied in a proper Generic Environmental Impact Statement; none have been addressed other than in the most superficial fashion in the DGEIS.

When municipalities have failed to take a hard look at the impact of a zoning enactment on the availability of multi-family or affordable housing, the courts have not hesitated to annul that enactment.⁴

Quite recently, the Supreme Court, Orange County, invalidated a Town's action to eliminate any zoning districts allowing multi-family housing as an "as-of-right" use based, among other things, on the Town's failure to analyze adequately under SEQRA the impact of its newly enacted comprehensive plan and zoning ordinance on affordable housing. *Land Master Montg I, LLC v. Town of Montgomery*, 13 Misc.3d 870, 821 N.Y.S.2d 432 (Sup. Ct. Orange Co. 2006). In *Land Master*, even though the Town Board recognized and discussed the potential impacts of its actions on affordable housing, it issued a negative declaration. The court rejected the Town's approach, stating: "[a]lthough the Town Board may have held extensive hearings, on the record before this Court it did not take a "hard look" at the involved affordable housing concerns and certainly did not make a reasoned elaboration of its determination to eliminate the only multifamily zoning district within Town Borders." *Land Master Montg I*, 13 Misc. 3d at 882, 821 N.Y.S.2d at 442.⁵

⁴ See *Ginsburg Development Corp. v. Town Board of Town of Cortlandt*, 150 Misc.2d 24, 565 N.Y.S.2d 371 (Sup. Ct. Westchester Co. 1990) (invalidating a municipality's enactment of a measure putatively designed to protect an environmental feature, steep slopes, based, among other things, on the municipality's failure to conduct a analysis supporting the town's conclusion that there would be no significant environmental impacts with respect to housing and the patterns of population growth and, in particular, with respect to the affordability of housing).

⁵ As a substantive matter, the Amendments would be susceptible to challenge as unconstitutional exclusionary zoning under the principles of *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 378 N.Y.S.2d 672 (1975), in light of their provisions which will reduce residential density, decrease the availability of land zoned for residential use, dispense with density bonuses and transfers of development rights which were designed to advance affordable housing, and eliminate the PAC as a special permit use. In invalidating the Town of New Castle's zoning as exclusionary, New York's highest court established that to survive scrutiny a zoning ordinance must: (1) provide a balanced and well-ordered plan for the community; and (2) adequately consider regional needs and requirements for housing. In *Land Master Montg I, LLC, supra*, the Town of Montgomery's recently-enacted zoning ordinance and comprehensive plan were invalidated because they ran afoul of *Berenson*, as they eliminated all zoning allowing multi-family housing on an "as-of-right" basis. Of note with respect to the proposed Amendments is that the court in

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As respects affordable housing, the DGEIS is fatally flawed in two material aspects. First, it senselessly equates multi-family housing with affordable housing, as though the two were interchangeable. Second, it mistakes SEQRA's mandate to study the patterns of population and community development focusing on, among other things, the affordability and availability of housing to mean that it must only analyze affordable housing to the extent of its county-mandated required number of units. The DGEIS (DGEIS at 5) states that "an analysis was conducted to ensure that the Town of Goshen is providing its fair share of regional and community needs for multi-family and other affordable housing," but no such analysis is annexed to the DGEIS, nor has any such analysis been made publicly available. Instead, the DGEIS refers to a county-wide study indicating that the Town of Goshen would have a "demand deficit" of affordable housing of 700 units, and then goes on to equate multi-family housing with affordable housing without justifying (or supporting with published authority) in any way the self-serving and intuitively incorrect, assumption that multi-family housing equals affordable housing. Indeed, the analysis borders on the disingenuous in failing to recognize that the proposed zone changes will, by limiting the percentage of any project that may be multi-family, reduce the potential for multi-family development in the community and thus reduce the potential for affordable multi-family development in the community. Although manifestly, not all multi-family housing is affordable, most if not all affordable housing is multi-family. Thus, reducing the potential for multi-family housing reduces the potential for affordable housing.

As respects the need for housing in the Town, Section III[I] (Socioeconomic impacts) of the DGEIS establishes first that the population of the Town of Goshen is expanding (increasing 7.69 percent from 2000 to 2006) and that the age demographic of residents in the Town reflects a decline in residents in the 20-30 year age range and an increase in the number of residents in the 85 year old and older and the 45-54 age ranges. It then goes on to provide as follows:

There has been an increased interest in new residential development in Goshen, in recent years, with new housing units consisting primarily of larger single-family homes on two-plus acre lots. An aging population places different demands on the type of housing required in the Town, creating a demand for Planned Adult Communities and smaller townhouse units.

DGEIS at 48.

Land Master rejected the town's reliance on traffic concerns as a basis for the elimination of multi-family residential zoning and was equally unimpressed with the argument that other mechanisms in the zoning ordinance would facilitate production of affordable housing. It characterized them as limited in scope and within the total control of the town board (similar to the amended PAC provisions under Local Law No. 3); see also *Continental Building Co., Inc. v. Town of North Salem*, 211 A.D.2d 88, 625 N.Y.S.2d 700 (3d Dep't 1995), *appeal dismissed, lv. denied*, 86 N.Y.2d 818, 634 N.Y.S.2d 432 (1995) (invalidating the Town of North Salem's zoning ordinance as exclusionary and awarding the plaintiff \$426,000 in attorneys' fees).

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Having concluded that the population is expanding and, in particular, the population of seniors is expanding, the DGEIS then goes on incredibly to find that a rezoning proposal that would reduce the density of zoning in the Town so that fewer residential units could be developed and significantly inhibit the potential for senior housing developments to be built would have no other impact than potentially to "affect anticipated return of land owners and developers on the development of a particular parcel of land." DGEIS at 48. The DGEIS does not even consider what will happen when one of its most significant age groups, the 45-54 age group, enters the 55 and over age category, begins to look for senior housing options, and is forced to look outside the Town of Goshen since no viable opportunities for senior housing will be available. Similarly, the DGEIS does not consider what could happen to the housing market and the general availability and affordability of housing in the Town when the population increases but the supply of housing cannot (because of zoning limitations) keep pace with the increase.

In order to reach the conclusions that it did, the lead agency would, at a minimum, be required to undertake an analysis identifying the parcels of property on which PAC communities could be developed under the new regulations and then to determine the feasibility of the development of those properties and the number of senior units that could reasonably be developed and compare that number with the potential demand for such housing. Additionally, the lead agency is required to show how upzoning most of the residential portions of the Town and changing the zoning of several acres of property from residential to commercial/industrial use meets the needs of the growing community. However, the socioeconomic impact section of the DGEIS does not cite even one study or one scintilla of evidence on which the lead agency can rely in making its determination. In short, thus far the lead agency has failed to take a hard look at the socioeconomic impacts of the rezoning and may not move forward with the SEQRA process until it takes the required hard look.

Having drawn the baseless conclusion that "the most significant result from the adoption of the revised Comprehensive Plan and proposed Code amendments will be a beneficial one," the DGEIS proposes no meaningful mitigation. The sole mitigation proposed in the DGEIS under the zoning and land use heading is:

Mitigation measures for the potential reduced opportunity for higher density residential projects include the relocation of Planned Adult Communities zoning from the present commercial ones to more appropriate residential areas in terms of topography and proximity to necessary infrastructure. *This zoning relocation has the potential to sustain an increased number of higher density housing, including multi-family housing.* (Emphasis added.)

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The foregoing statement encapsulates, in a sense, all that is deficient in this DGEIS. It first recognizes that the proposed action will reduce the opportunity for higher density residential projects, and then finds that eliminating the potential for the development of PACs on large swaths of property somehow mitigates the impacts of that reduction. It further makes the wholly unsupported assumption that residentially-zoned areas are more suitable to PACs than are the commercial zones in which PACs are currently permitted. In effect, this paragraph does recognize one (among many) potentially adverse impact of the Amendments, but offers what is frankly gibberish in lieu of any meaningful mitigation.

Geology, Topography, and Soils

Of equal importance, and equally deficient, is the discussion in the DGEIS (DGEIS at 36) of geology, topography, and soils, and specifically surface waters and ground water resources. This is so because the substantial and potentially damaging reduction in the permitted density of residential development in the Town appears to be justified almost entirely on the basis of the potential impacts of residential development on the availability of potable water, and the claimed "scarcity" (DGEIS at 37) of water. Although no one would argue that relating development to the availability of water is not both reasonable and necessary, the DGEIS (and the Amendments) are likely to accomplish just the opposite. Under current zoning, density of development in the RU/AQ-6 and RU/AQ-3 Zoning Districts is coupled directly to the proven availability of water. The current ordinance permits a higher density of development where water is proven to be available and caps the density of development where it is not, thus allowing available water resources to be used most efficiently while preserving the ability to provide needed housing on lands which have sufficient water. To the extent that there is a direct relationship between the availability of water and the permitted density of development, the current ordinance fosters, from among the stated goals in the GEIS, Goal Number 3 (DGEIS at 17) "provide a range of housing alternatives that will meet the housing needs of a range of socioeconomic groups" as well as Goal Number 6 (DGEIS at 18) "insure a development pattern that will provide sustainable water use."

The Amendments sever the relationship between the availability of water and the permitted density of development by retaining the limitation with respect to those parcels that do not have proven water capacity, and eliminating the potential for greater density of development on parcels that do have sufficient water capacity. Thus, lands that have the potential to provide (and should provide) much-needed housing at a higher density of development without adversely impacting the availability of water are limited, entirely arbitrarily, to a lower density having no relationship to actual water availability. In effect, the water underlying those lands, a valuable resource, simply goes to waste while housing needs go unfulfilled.

Further, the Amendments go on to propose revised water testing protocols which far exceed State and County standards, thus further hampering the productive use of lands which objectively, based on generally-accepted standards, have sufficient water to support additional housing. The

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DGEIS includes no scientific or factual basis for the imposition of the strict protocols, nor does it examine the impact of the imposition of those protocols on such issues as housing availability generally, affordable housing, or open space.

In attempting to justify a result which is wholly inconsistent with the Town's stated goals, the DGEIS refers to, and purports to rely on, a Town-Wide Water Study (the "Study"), prepared in January of 2003 in support of the prior Master Plan and the existing Zoning Ordinance. Thus, the same study that supported the current Master Plan and current Code, which were designed to foster growth and development in the Town, is now being used to justify the evisceration of those measures. Although a review of the Study discloses that it is, in itself, deficient in actual empirical testing, it further discloses that the Study does not form a basis for, nor does it recommend any of the actions currently being proposed under the proposed Master Plan and Amendments. In short, just as with the socioeconomic section of the DGEIS, there is no underlying empirical information; there are no *facts* to justify the proposed action.

Open Space

Although the Amendments, by eliminating the density bonus for open space in the RU Residence Districts, eliminate a major incentive for the preservation of open space, and although the DGEIS recognizes the importance of open space preservation to the ecology (DGEIS at 37) and the geology and topography (DGEIS at 37) of the Town, the DGEIS includes no analysis whatsoever of the impact on open space preservation of so drastic an amendment to the Town Code. One can hardly argue that no look constitutes a hard look.

Traffic

The DGEIS section on traffic is equally devoid of any actual facts, traffic studies, or traffic counts. Instead, it relies on broad generalities relating to potential changes in use on a gross acreage basis, without relating to any actual traffic counts, or the potential of different rezoned areas to actually be developed and without relating the proximity of rezoned acreage to existing transportation facilities. In effect, the traffic section of the DGEIS essentially says that an acre changed from use A to use B will result in a quantifiable change in traffic generation without any empirical basis therefor, and without equating such changes in permitted uses to the actual likelihood that they will occur based on the suitability, availability and location of rezoned lands.

One example demonstrating the serious flaws in the Town's approach is illustrated by the EIS review of one pending application for approval of a PAC Development. At present, if the subject parcel were developed as a PAC it would generate as little as one-third of the peak hour traffic of an as-of-right commercial use. Eliminating the PAC, therefore, could ultimately increase traffic substantially. As this constitutes but one example which cannot be viewed in isolation, in order to

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ascertain the full impact of the excision of the PAC use from the CO zone, a study must be included in a generic EIS considering all of those properties in the CO zone in which Local Law No. 3 has the potential to increase traffic generation.

Further, it is unclear how the deviation in the Amendments from the Hamlet Center concept and the renewed emphasis on large lot residential and commercial development will impact traffic conditions in various areas in the Town, in the Villages of Goshen and Florida, and/or in surrounding communities. The suburban sprawl catalyzed by such changes may increase both the length and the number of vehicle trips within the Town and discourage pedestrian travel.

Other Areas of Environmental Concern

Throughout the DGEIS, as respects such areas of environmental concern as geology, topography and soils, air quality and noise, community services and facilities, no mitigation is offered based on the bare, unsupported, and oft-repeated finding that the environmental consequences in each of these areas will only be beneficial. If that finding were supported by any empirical data, lack of proposed mitigation would be justified. In the instant case, the failure to recognize any potential impact in a number of significant environmental areas, and the failure to propose any mitigation measures in such areas, sharply demonstrates the superficiality and the legal insufficiency of the DGEIS.

Summary

It must be said again that the DGEIS is significantly deficient in each of the areas which it purports to examine. In each case, that deficiency relates directly to the fact that there are essentially no facts in the document. It simply cannot be said that the DGEIS evidences a hard look by your Board, since it looks at nothing. The DGEIS is essentially one consultant's rambling, somewhat repetitive, statement of unsupported opinion. Indeed, the document should give your honorable Board significant pause and concern, not only on account of its legal insufficiency, but because it fails to give you sufficient information on which to determine whether any of the stated goals of the Comprehensive Plan will actually be met by any of the Amendments which you are considering. There is simply insufficient data in the document on which to base any reasonable opinion, and there is nothing in the document which will enable you to make a "reasoned elaboration" in support of any decision that you might reach.

It becomes clear to anyone familiar with the proceedings to date that your Board has made a determination to severely restrict development of all types in the Town of Goshen. The DGEIS works backwards, in that it seeks to justify a pre-determined result, rather than objectively examine the consequences thereof. As presently structured, the DGEIS will not suffice to legally support adoption of the Master Plan or the Amendments.

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Hon. Douglas Bloomfield, Supervisor,
and Members of the Town Board

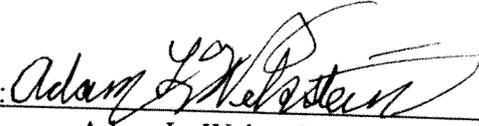
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For the foregoing reasons, we respectfully request that your honorable Board either reject or require the entire reworking of the DGEIS so that it becomes a work of fact rather than a work of fiction.

Very truly yours,

Hocherman Tortorella & Wekstein, LLP

By: 
Adam L. Wekstein

HMH:cv

cc: Steven E. Rieger, Esq. (*via facsimile*)
Dennis P. Caplicki, Esq. (*via Federal Express*)

S:\# MATTERS\Rieger Homes 0014\Goshen Rezoning 006\Letters\Town Board 2.wpd



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www.riegerhomes.com

August 13, 2008

Hon. Douglas Bloomfield, Supervisor and
Members of the Town Board
Town of Goshen
41 Webster Street
Goshen, NY 10924

Re: Proposed Zoning Amendments

Dear Members of the Board:

My name is Steven Rieger. I am a principal of Rieger Homes, which has been building homes in Orange County for almost 50 years. We own a property on Craigville Road. We have worked in many towns and we always try to give the town what it is looking for in our communities. We tried to do that here. We have always tried to be fair and reasonable with the people we do business with and it doesn't seem to be too much to expect for our governments to be fair and reasonable as well.

I am not here to speak about legal rights or about how the proposed changes affect others. I question whether the Town is giving affordable housing more than lip service and whether the costs of affordable housing are being shared appropriately, or whether the costs are being placed only on the landowners, but I am not here to talk about that.

I would like to make a few points about fairness, however. In 2004, only 4 years ago, you enacted a new Comprehensive Plan and Zoning Ordinance. Shortly after the existing Ordinance was adopted, we purchased a property in the Town with the intent to develop it into a residential community in the spirit and mold of your new zoning ordinance. We asked the Planning Board for some bonus units, because we were able to leave much more than the 50% required open space. We went through a SEQRA Scoping process with the Planning Board and prepared a DEIS, which has been submitted. We also, in accordance with Town law, had a well drilling protocol approved by the Planning Board. We drilled 5 wells and did extensive testing, which proved we had more than enough water for our community. We have spent many hundreds of thousands of dollars on all this, in addition to the cost of the land.

Then, you announced that you were going to consider changing the zoning, among other things, to remove the bonus provisions of the RU district. We knew the bonus provisions were discretionary, but believed that if we observed the letter and spirit of the law, that it was reasonable to expect some bonus units. After all, that is why the bonus provisions were in the ordinance. OK. But now, in the new proposed law, which we

have just seen, you have reduced our potential unit count dramatically yet again, over and above the bonus units, by removing the ability to overcome the restrictions of the AQ overlay zoning by proving we have sufficient water, even though we have spent a fortune of time and money, with Town approval and knowledge, to prove that there is plenty of water for the project. And you are doing this while trying to soft peddle the impact of the zoning changes! On page 3 of the proposed Comprehensive Plan it says that 'language has been included to clarify that the maximum allowable density' is one unit per 6 acres or one unit per 3 acres. This is not a clarification. It is a substantial, crippling change. On page 32, the proposed Plan states that our project is a project that 'anticipates a bonus density that will be lost due to the zone changes. Under current zoning, these bonuses were potentially available, although not permitted as of right, subject to the discretion of the Planning Board.' But no mention is made to the critical change to Section 97-27.

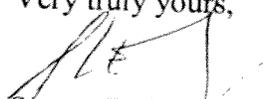
Section 97-27 of both the existing Code and the proposed Code begin "the Town of Goshen has determined, through hydrologic studies, that groundwater supply and quality are serious limiting factors" to development. In the existing code, the opportunity is provided to prove water capacity or face a more onerous zoning requirement. In the proposed code, the opportunity is removed. This forces one to conclude that water concerns are only a smokescreen for what you really must want, which is elitist and exclusive zoning.

It severely damages the property values of your large land holders. And it contains no 'grandfathering' clause, typical in situations like this to make the new law more fair to people like us.

I am concerned about affordable housing, but I am not here to talk about how many affordable units may be created under your proposed ordinance. If this proposal is enacted, the requirements will dramatically drive up the cost of new housing. Your ordinance will make it impossible to address the needs for new housing for the people who we all associate with Goshen, who do not qualify for affordable housing programs, such as your children and the children of most of the other people who live in Goshen. New homes will only be affordable for the well to do. Your children will not be able to afford them.

Based on your new law, we bought a property and spent many hundreds of thousands of dollars drilling for water, testing it and preparing a DEIS. Your proposed law hits us twice – taking away the bonus units and taking away the units we are entitled to because of our successful drilling program. If the proposed zoning is enacted, there is no fairness in Goshen. There is short sighted elitism in Goshen. We ask at least that you reconsider hitting us twice. Thank you.

Very truly yours,



Steven E. Rieger

Sent of behalf of Olivia N. Serdarevic, M.D.

August 25, 2008

Via Email: veisma@townofgoshen.org

**Hon. Douglas Bloomfield, Supervisor
And Members of the Town Board
Town of Goshen
41 Webster Ave.
PO Box 217
Goshen, NY 10924**



Re: Updated Comprehensive Plan for the Town of Goshen

I would like to address the proposed re-zoning changes envisioned by the above mentioned plan and would like to have these comments be made part of the record of the public hearing held on August 13, 2008.

I object to the zoning, as currently proposed, that would adversely affect about 141 acres of the Hamlet at Goshen project on a portion of my property. The development of that property would not be economically viable under the new zoning proposal. Moreover, the proposed changes would preclude construction of the Hamlet at Goshen project, which would have contributed to fulfillment of all seven Goals of the proposed Comprehensive Plan within a few years.

Problems with the re-zoning of the front portion of parcel 11-1-46 from Hamlet Mixed Use or Hamlet Residential to Commercial (CO) and the back portion of parcel 11-1-46 from HM and HR to RU include:

- **I understand that several engineers, planners developers and realtors, including Duke Connor (Hamlet of Goshen Project Manager), Thomas Vanderbeek (Greater Hudson Valley Engineering & Land Survey), Gary Hillen (Centex) and Steven Esposito (Esposito & Associates), have stated that the above mentioned portion parcel would never be developed with zoning restricted to commercial only. In any event, that area would not be a commercial tax ratable for at least the next generation.**
- **Currently, there are reportedly at least 1 million square feet of vacant office space in the Hudson Valley area;**
- **Relocation of Arden Hill Hospital to Wallkill completely obviates the need for additional health-care related office space and will leave vacancies in existing office buildings as services and medical professional relocate to follow the hospital to Wallkill;**

- Office tenants desiring walking access to the Orange County Government Center, along with attorneys and legal professionals desiring close access to the County Courts, would prefer to locate within the newly built office buildings in the Village Center. Moreover, Goal#2 of the Comprehensive Plan is to support the existing Village Center;
- Commercial Developers desiring close highway access, would first focus on the Village land between South Street and 17A that is already zoned for up to 700,000 square feet of office space (with automatic Village water and sewer hook up by right), and is adjacent to the already existing Village office/industrial parks;
- Commercial office developers would not develop on spec without water and sewer hookups by right;
- There already exists a proposal for additional 1 million square feet of industrial warehouse/back-office space to be located in the Echo Lake part of the Town of Goshen;
- The Town has stated that it does not want any "big box," e.g., Home Depot, commercial type developments that would require highway visibility and engender very high traffic density;
- The Commercial development of the entire front portion of the parcel 11-1-46 would compromise Goal #1 and #7 of the Comprehensive Plan, because it would not protect and enhance the character of the Town and would not encourage appropriately sited development. Large scale commercial structures would adversely impact the visual gateway character of the Town and the Village, and the residential character of the Glen Arden;
- Rezoning part of the Hamlet at Goshen and the tiny part of Lone Oaks as Commercial would be Spot zoning because those segments would be surrounded by the residential communities of Glen Arden/Elant, Lone Oaks, and Arcadia Hills. As David Church, Commissioner of Planning Orange County, wrote on September 27, 2007, "Section 3.3- Our opinion is that this sizeable area (parcel 11-1-46) may prove to be the best place, as these lots are strategically located to serve the mixed use community with additional bolstering from the current density in Arcadia Hills, proposed Lone Oaks residential development, current and future Elant development, Arden Hill Hospital conversions and the near-by Route 17 highway access.";
- The proposed new Route 17/ Interstate 86 interchange would further segregate the residential Glen Arden/ Elant /Arcadia Hills area from the Arden Hill site and other Village commercial areas. This interchange would also highlight the inadequacy of the road access to any solely commercial

project. Should the zoning remain HM or HR, the developer of the Hamlet at Goshen would obviously upgrade Harriman Drive;

- Lack of development of this parcel would prevent additional vehicular and pedestrian connectivity between residential Glen Arden and residential Loan Oaks and residential Arcadia Hills;

Benefits of HR or HM Zoning of approximately 150 Acres of Serdarevic property (part of the proposed Hamlet at Goshen and the minimum acreage required for economic development viability while meeting all of the Goals of the Comprehensive Plan) as part of the "Arcadia Hamlet Area" as per map recently given to the Town Planning Board Members, Town Attorney and Town Planner (a copy of which map is attached to a hard copy of this email and which map includes the built-out Arcadia Hills residential development, the proposed Loan Oaks hamlet development area, and part of the proposed Serdarevic Hamlet at Goshen development (please note the marked area of the Serdarevic property adjacent to Arcadia Hills is planned to be reserved for Ball Fields and a potential School Site as part of the Hamlet of Goshen)):

- The construction of the Hamlet at Goshen would, upon completion, positively address and even fulfill, all of the stated Goals of the Comprehensive Plan;

Goal#1- Protect and enhance the agricultural activities and character of the Town.

- Development of the Hamlet at Goshen would enable preservation of about 200 Acres for agriculture and maintain the character of the Town by having residential density along Harriman Drive consistent with adjacent Glen Arden and Arcadia Hills;

Goal#2- Support existing Village centers and foster Town clusters.

- Development of the Hamlet at Goshen would provide for a varied population that would support the existing Village center economically without encumbering traffic patterns, due to immediate access to Route 17 and pedestrian connectivity between the planned project and adjacent properties;
- Development of the Hamlet at Goshen would foster Town clustering since it would lead to build out of only approximately 100 Acres out of the total property of 500 Acres with the clustering planned adjacent to the current residential clusters;

Goal# 3- Provide a range of housing alternatives.

- Development of the Hamlet at Goshen would provide for a complete range of housing types for all age groups and economic profiles;
- According to the Comprehensive Plan, there is an existing demand in the Town of Goshen (excluding the Village of Goshen), based on the 2006 Census, of 700 multi family units to fulfill NY State Law regarding Affordable Housing. Currently, according to the Town of Goshen Tax Assessor's Office, there are only 163 two family units and only 15 three

family units. According to the Realtors MLS, there are no multi-family units for sale. The newly proposed Hamlet areas would provide for no more than about 20 affordable units. Any development of PACS would provide housing only for seniors and therefore only for one out of eleven different population criteria for affordable housing. The Hamlet at Goshen would provide significantly more affordable units for all eleven criteria;

- According to the Comprehensive Plan there is a demand for smaller town house units. The Hamlet at Goshen is planned to have a large majority of 2B town house units, which, by definition, would not have any school-age children;

Goal#4- Develop a strong and balanced economic base.

- Development of the Hamlet at Goshen would provide a 40,000 square foot retail/office complex to serve the adjacent areas and complement the Village commercial activities. The projected tax ratables of the Hamlet at Goshen would be in excess of \$5Million per year;

Goal#5- Protect and enhance open space and public space.

- Development of the Hamlet at Goshen would protect approximately 400 Acres of open space, would enhance scenic appeal of the wetland area along Harriman Drive in the front of the property, would provide the only Town Swimming Pool Complex, would provide ball fields and potential School site adjacent to Arcadia Hills, and would provide condominium maintained biking/hiking trails among Glen Arden, Lone Oaks and Arcadia Hills;

Goal#6- Insure a development pattern that will provide for sustainable water use.

- Engineers have indicated that the Hamlet at Goshen would have enough water to satisfy the requirements of the proposed water protocols and to supply additional water and upgrade water and sewer infrastructure for Arcadia Hills (moreover, the project will allow for reduction of Arcadia Hills' sky-high sewer rates);

Goal#7- Encourage appropriately sited development and protect environmental assets.

- Development of the Hamlet at Goshen would allow for the protection of the Village of Goshen's watershed and a large area of the environmentally sensitive Southern Walkkill diversity region.

In closing, the Hamlet at Goshen is the only proposed project that would satisfy all the Goals stated in the Comprehensive Plan and should not be compromised by the prospective zoning changes.

Very truly yours,

Olivia N. Serdarevic, M.D.

ORANGE COUNTY
PARTNERSHIP
OFFICE OF ECONOMIC DEVELOPMENT



Maureen Halahan
President/CEO

40 Matthews Street, Suite 108
Goshen, NY 10924
(845) 294-2323
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DIRECTORS:

Virginia Rizzo
Chairman

John Galanti
Vice Chair

Alan Seidman
2nd Vice Chair

James P. Smith
Immediate Past Chair

August 12, 2008

Town of Goshen Town Board
c/o Supervisor Douglas Bloomfield
41 Webster Avenue
Goshen, NY 10924

AUG 13 2008

TOWN CLERK
10924
Hand delivered

Thomas Brunelle
F. Edward Devitt
Hon. Edward Diana
John Donahue
Kathleen Doyle
John Glusko
Robert Hatfield
Hon. M. William Lahey
Richard Lemond
David MacFarland IDA
Alan Marks
Jen Memmelar
Rolland Peacock, III
William Richards
James Taylor
John Zupetz

Dear Members of the Town Board,

As the economic development agency for Orange County, the Orange County Partnership Board of Directors and staff would like to express their concerns with the draft master plan proposed by the Goshen Town Board. In particular, the Partnership has reservations regarding the 30% coverage ratio and its affect on future commercial and industrial development. The following are a list of the concerns:

- The lower coverage ratios on projects will mean less commercial development in the Town of Goshen.
- It will decrease the amount of tax rateables possible for any given project and, therefore, have a direct impact on the residential taxpayer in terms of increased tax payments.
- Smaller buildings mean fewer employees and less space for manufacturing or service.
- This will result in a decrease in job creation.
- This proposed coverage ratio will not only hinder new development, it will cause serious restrictions on the ability of existing businesses to expand.
- The proposed coverage ratio creates sprawl. More land is needed for the same project. Higher density per-site reduces sprawl.
- The Town of Goshen desperately needs tax-ratables. This will put the Town of Goshen at a competitive disadvantage when compared to neighboring municipalities with average coverage ratios between 50 - 60% that provide for reasonable and sound development.

DIRECTORS EMERITUS:

Donna Cornell
David DeWilde
Robert Hannan
Louis Heimbach
Woody Levitan
David MacFarland
Ralph Martucci
John Szeft
William Vacca

**ALLIANCE FOR
BALANCED GROWTH:**

John Lavelle, *Chairman*
Chris Frassetto
Irving Zuckerman

Town of Goshen – Town Board
41 Webster Ave.
PO Box 217
Goshen, NY 10924

August 13, 2008

ATTN: Douglas Bloomfield, Supervisor
Ken Newbold, Board Member
Doug Bloomfield, Board Member
Lou Cappella, Board Member
George Lyons, Board Member
Philip Canterino, Board Member

RE: Town of Goshen Master Plan
Coverage Ratios on Commercial properties

Dear Supervisor Bloomfield & Town Board members:

In review of the proposed Town of Goshen revised master plan, it has come to our attention that the coverage ratios on commercial properties need to be reviewed before this plan is adopted.

We believe that the definition of coverage ratios is the amount of building square footage as compared to total lot square footage AND the amount of impervious surface square footage as compared to total lot square footage. These two ratios are the beginnings of making any type of commercial development happen.

Having these ratios too low, obviously reduces the amount of development, thus reducing the amount of future tax rateables and jobs to be created. Having low ratios also encourages Commercial/Industrial sprawl. As you already know, the Town of Goshen does not have too much available commercial property to begin with. Therefore, we need to **Get the most bang for our buck!**

Please enlist our planning consultants to look into increasing our coverage ratios on Commercial Property to levels at or above 50%. This will put us in line with our surrounding communities and make the Town of Goshen a financially viable place for Commercial Development to take place. We need these rateables to **BALANCE** the burden of our taxes throughout the entire community. Without changes to the coverage ratios, we will be at a competitive disadvantage and the entire tax burden will be on the residents of our town.

Thank you for considering these changes to the proposed master plan and we look forward to seeing quality Commercial development come back to the Town of Goshen.

Regards,

The Torelli Family
1 Maplewood Terrace
Goshen, NY 10924

10/13/08



Town of Wallkill
JOHN F. WARD, JR.
SUPERVISOR

99 Tower Drive - Building A • Middletown, NY 10941-2026
Town Hall: (845) 692-7832 Fax: (845) 692-2546
e-mail: supervisor@townofwallkill.com

August 21, 2008

VIA HAND DELIVERY

Supervisor Douglas Bloomfield
& Town Board Members
Town of Goshen
41 Webster Street
Goshen, NY 10924

RECEIVED

AUG 22 2008

TOWN CLERK
TOWN OF GOSHEN

**Re: Town of Goshen Comprehensive Plan Update, Associated Zoning
and Town Code Amendments, and Draft Generic Environmental
Impact Statement (DGEIS)**

Dear Supervisor Bloomfield & Town Board Members:

On August 13, 2008, I attended the public hearing held on the proposed Comprehensive Plan Update, associated Zoning and Town Code Amendments, and DGEIS. My comparison of the Zoning and Town Code Amendments that were the subject of that public hearing with the current Zoning Code suggests that no changes to the existing impervious surface coverage limitations for commercial and industrial developments are presently under consideration by the Goshen Town Board.

As the owner of approximately 146 acres of property in the Town of Goshen, currently zoned for commercial and industrial development, the Town of Wallkill supports the Town of Goshen's stated policy goal in the Comprehensive Plan Update and accompanying DGEIS of developing a strong and balanced economic base and attracting tax positive commercial and industrial development along Routes 17M and 17A to offset existing tax exempt lands, to help provide jobs, and to pay for services required by the Town of Goshen's growing population. The Town of Wallkill further supports the Town of Goshen Zoning Code's site design and operational considerations for commercial development, which have the express purpose of permitting larger-scale nonresidential uses that contribute to the Town of Goshen's tax base and provide jobs for its citizens.

During the public hearing, Michael Allen of Behan Planning, provided comments suggesting that the Town Board should consider further amending the Town of Goshen's Zoning Code to increase the percentage of impervious surface coverage allowed for commercial and industrial developments. As Mr. Allen explained, such an increase to the percentage of impervious surface coverage allowed for commercial and industrial

developments may enable the Town of Goshen to accomplish the above-referenced policy objectives set forth in its Comprehensive Plan Update, DGEIS and Zoning Code. I have enclosed a copy of a comparison prepared by Michael Allen of the impervious surface coverage limits for some other local municipalities for your review and consideration, which observes that the current impervious surface coverage provisions of the Town of Goshen's Zoning Code for commercial and industrial developments are more restrictive than those of other municipalities in the local area.

If such restrictive impervious surface coverage provisions remain in the Town of Goshen's Zoning Code, they may prevent the Town of Goshen from attracting future commercial and industrial development because it may be economically unfeasible or unattractive for those developers who may potentially consider the pursuit such development projects within the Town of Goshen.

Accordingly, it may be beneficial and advantageous for the Town of Goshen to amend the current impervious surface coverage provisions of its Zoning Code in a manner similar to the provisions found in the zoning codes of other local municipalities so that land located within the Town of Goshen in commercial and industrial zones may be more attractive for development in the future.

Very truly yours,



John F. Ward, Jr.
Supervisor
Town of Wallkill

Enclosure

cc: Town Board, Town of Wallkill (w/ enclosure, via hand)
Town Clerk, Town of Goshen (w/ enclosure, via hand)
Dennis P. Caplicki, Esq., Goshen Town Attorney (w/ enclosure, via facsimile)
Joseph G. McKay, Esq. & Karen M. Alt, Esq., Greenwald Law Office (w/ enclosure, via facsimile)
Michael Allen, Behan Planning (w/ enclosure, via e-mail)
Edwin Garling, Garling Associates (w/ enclosure, via mail)
BFJ Planning (w/ enclosure, via mail)

Town of Goshen – Public Hearing Comments on the Current Maximum Coverage Requirements

The maximum impervious coverage requirements listed in the Town of Goshen zoning code for the Industrial and CO districts appear to be too restrictive for viable commercial development. We ask that they be reconsidered prior to adoption of the new zoning changes.

The current 30-40% impervious coverage limitations would require about 70% of the parcel be left as open space, which is generally unrealistic for industrial or commercial land. The amount of impervious surface area created by parking, circulation and roadways in a typical project is usually much larger than the footprint of any building itself, often more than double the size. Working backwards from a 30% allowed coverage, this would mean only 10-15% could be used for the footprint of the building itself. Considering that the average lot size in the Industrial and CO districts is only about 10 acres, and many are less than that, the size of any buildings in these two districts would be very limited. These projects would already have to work around many other limiting factors such as wetlands, steep slopes, distance buffers and other site constraints which would further reduce their available land.

The current 30-40% coverage limit for each parcel essentially requires that each development proposal be designed within a small pocket of land, surrounded by open space. This effectively would be screening it from other adjacent commercial or industrial development to the sides and rear which has little use for such protections. Industrial land isn't meant to look like a nature preserve. While it is important that such development look nice from the outside and does not detract from the character of town, commercial developments do not need to be screened or isolated in pockets from each other. The town can instead focus more on how these commercial and industrial lands look from the outside as a whole, rather than how each development looks internally and to each other.

Similar to a conservation subdivision, the areas set aside for open space are carefully considered based on the most effective use of land, preserving those areas which have the most benefit in the larger picture of open space and screening. The town can more effectively protect the views and screen development with higher coverage limits by instead requiring screening, buffers and open space in the places where it is actually needed, rather than relying on a standard percentage.

Limiting the size of each individual development project may also have the unwanted effect of promoting a suburban sprawl of commercial and industrial growth, spreading the same amount of development over many parcels along the corridor when instead it could be consolidated more efficiently.

The issue of impervious coverage as it relates to stormwater management can likewise be handled by smart design, and does not have to be the result of a coverage percentage. The use of structured parking and pervious concrete or asphalt are effective tools which should be considered in reducing the impact of a development.

While it is very important to ensure that future development is done in an attractive manner, Goshen has only a small percentage of its land which is set aside to accommodate larger commercial ventures that would support a strong tax-base. This area of town was chosen specifically as the best location so as to minimize impacts to the other, more picturesque and rural areas and would be the best location to take advantage of such growth. This industrial and commercial land is the highest income generator for the town. The Goshen Comprehensive Plan encourages such uses to be developed where appropriate to support the town economically, noting that:

"Industrial uses generate the highest gross property tax return per property in the Town."

and

"...additional commercial and light industrial uses should be encouraged within the Town to increase tax rates that offset the costs of providing residential services."

Considering that less than 7% of the town land has been selected for this type of growth, the town would benefit from leveraging income from that land, and not discouraging it

Lastly, Goshen appears to be the only town in the area with such low coverage limits. While these two districts have a maximum impervious coverage of 30-40%, it is important to note that most other zoning codes permit at least that much just for the footprint of the building alone. The average impervious coverage limit found in other local towns is roughly 70%. This is especially true of industrially zoned land, which typically has the highest allowable coverage.

We ask that higher coverage allowances be considered for the Industrial and CO districts.

COVERAGE COMPARISON CHART

TOWN/VILLAGE	Maximum Impervious Coverage %	Maximum Building Coverage %
Town of Goshen		
Industrial	30%	
CO	40%	
Wallkill		
ENT	70%	40%
ENT-L	60%	40%
O/R	60%	40%
Hamptonburg		
Industrial	70%	35%
Newburgh Town		
Industrial	80%	40%
Chester Village		
M-1		50%
M-2		60%
Chester Town		
IP		40%
Industrial		40%
Crawford		
Industrial		35%
Montgomery		
Office Business		30%
Office Park		30%
Interchange		40%
Industrial 1 & 2		30%
Industrial 3 & 4		40%
Average of Other Towns	68%	39%



Town of Goshen
41 Webster Ave.
PO Box 217
Goshen, NY 10924

August 13, 2008

**ATTN: Douglas Bloomfield, Supervisor
Ken Newbold, Board Member
Doug Bloomfield, Board Member
Lou Cappella, Board Member
George Lyons, Board Member
Philip Canterino, Board Member**

**RE: Town of Goshen Master Plan
Proposed Zoning Coverage Ratios**

Dear Supervisor Bloomfield & Town Board members:

The Town of Goshen's proposed master plan has a stated objective: ... ***"To provide for a balanced, cohesive community which will make efficient use of the Town's land, present a strategy for the location of various commercial and industrial uses to improve the local economy..."*** This is an excellent objective, as a balanced community is exactly what residents are seeking.

We would like to make you aware of some potential regulations within the text of the proposed zoning that run counter to that objective, and will likely have the opposite effect.

Coverage ratio's in the Town's proposed bulk use tables for both the Industrial and Commercial Office zone are substantially below normally accepted standards. In the CO zone, the proposed maximum impervious surface coverage is 40%, and in the I zone, it's 30%. These ratios, if left in place, will negatively impact the Town of Goshen's ability to generate new tax revenues. If left in place, they will essentially create a defacto open space plan, and these commercially zoned properties will sit vacant, until the next master plan review.

In our region, many of our properties are impacted by wetlands and floodplains. These portions of commercial properties are protected, unusable, and are therefore subtracted from the calculations for the usable portions of the site. If only 10% of the average site is impacted by wetlands, and that is combined with a regulation for 70% open space, that leaves 80% of the average commercial site undevelopable.

With the costs of infrastructure, approvals, engineering and construction on an ever increasing slope, the ability to create viable commercial projects is at risk. Eliminating 70% to 80% of the land from any given site will make development of virtually all of the commercial property in the Town of Goshen financially untenable.

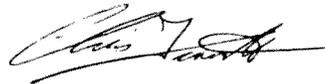
Please consider providing for commercial coverage ratios that will be conducive to quality commercial development, and balanced growth. We enclose a spreadsheet showing coverage ratios from other Orange County communities, communities that have had success in this endeavor.

We applaud your efforts to create a balanced community for your residents. We are enclosing for your review a copy of our booklet: **"Increasing Tax Rateables, A guide to Balanced Growth."** As an organization whose members possess a considerable amount of development experience, please feel free to reach out if we can be of any further assistance in your master plan deliberations.

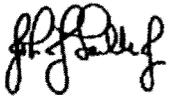
Sincerely:



Irving Zuckerman, Co-Chair
Verticon Construction



Christopher Frassetto, Co-Chair
Frassetto Commercial Investments



John Lavelle, Chair
RJ Smith Realty

The Alliance for Balanced Growth is a standing committee of the Orange County Partnership. Our primary mission is to create a unified voice for responsible development, quality construction and the creation of balanced, sustainable communities.

Industrial/Commercial Zoning Coverage Ratio's

Town/Village	Maximum Impervious Lot Coverage %	Just Building Coverage %	Notes
Town of Goshen	I CO 30% 40%		not counting wetlands etc. not counting wetlands etc.
Village of Goshen	80%	40%	
Town of Hamptonburg	70%	35%	
Town of Walkkill	70%	40%	
Town of Chester	-	40%	
Village of Chester	M-1 M-2 -	50% 60%	
Town of Crawford	-	35%	
Town of Wawayanda	60%	40%	
Town of Newburgh	IB 80%	-	for manufacturing, offices, research and distribution facilities, not within 500' of 17K

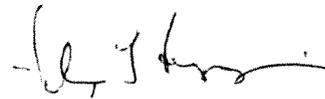
The above information was obtained from municipal zoning books and is believed to be accurate. Information is subject to change and or errors.

August 25, 2008

Town Board
Town of Goshen
Goshen, N.Y. 10924

Dear Supervisor Bloomfield and Town Board:

Thank you for giving me an opportunity to comment on the Town's Master Plan. I think the Town Board should be commended for the fine job and all the effort put forth in producing this plan. I have several comments, I wish you would consider. The traffic issues will not be alleviated with just roundabouts and relying on the future I-86, more options should be considered. Requiring 50% of the area surrounding the village to be zoned for retail will be detrimental to the downtown Goshen merchants. In Hamlets only buildable land should be considered in the computations for houses per acre. Future water issues should be discussed with the village. Thank you for your consideration in this matter, and again thank you for an outstanding effort.



John Higgins
Trustee
Village of Goshen.

JOHN COLLINS
ENGINEERS, P.C. TRAFFIC • TRANSPORTATION ENGINEERS

===== 11 BRADHURST AVENUE • HAWTHORNE, N.Y. • 10532 • (914) 347-7500 • FAX (914) 347-7266 =====

August 28, 2007

Mr. David Weinberg
Meadowcreek Development, LLC
110 Orange Avenue
Walden, NY 12586

Re: Hendler Property
Town of Goshen, New York

Dear Mr. Weinberg:

We have reviewed the Goshen Town Wide Traffic Study and have the following comments on the study and its relationship to the potential rezoning which is proposed by the Town.

The traffic study evaluated in excess of 30 intersections in the Town and considered existing and future conditions with the completion of other developments in the Town. In general, the traffic study followed standard procedures and methodology in addressing existing traffic conditions and in developing the trip generation estimates for future projects based on the Institute of Transportation Engineers (ITE) data. The primary areas of concern relative to the final conclusions of the study and the relationship to the proposed zoning changes include the following:

1. Overestimation of Future Traffic Volumes

Being familiar with many of the developments which were identified as proposed developments in the study, we are aware that many of these projects have either been reduced in size or are no longer proceeding. This is significant since the amount of additional traffic being considered to occur by 2016 would be significantly less than that assumed in the traffic report and therefore, the resulting traffic conditions would be significantly better.

2. Lack of Reanalysis with Implementation of Identified Mitigation Measures

The analysis of traffic conditions for 2016 assuming background growth and all of the potential development, which included over 3,000 dwelling units, identified that 16 of the 31 intersections studied would experience operating deficiencies with Levels of Service "E" and "F" on one or more approaches during the Weekday Peak PM Hour. Chapter 5.0 of the Town study prepared by Stantec appropriately identifies potential improvements such as signalization, provision of turning lanes, construction of roundabouts and other capacity and safety type improvements, which would alleviate the capacity deficiencies and also improve the safety of operations. These improvements are identified as "recommended responses and potential improvements" for each of the intersections. However, the report does not provide a Level of Service summary of conditions once these improvements have been implemented. This is a significant omission since many of the level of service deficiencies relate to traffic exiting on the minor approaches to an intersection which if the intersections were signalized, this Level of Service "F" would change to a Level of Service "C" or better.

Based on the ITE guidelines and the requirements of the New York State Department of Transportation, any traffic impact study should also include an analysis of the resulting Levels of Service once mitigation is implemented to properly and fully assess future conditions. It should also be noted that the types of improvements required are improvements which typically would be implemented either by a particular applicant, in association with their project, by the Town, by NYSDOT or a combination of these parties.

3. Specifics Relative to Hendler PAC

More specific to the Hendler Property, our Traffic Impact Study dated September 26, 2006 addressed a Planned Adult Community (PAC) consisting of 167 dwelling units and a separate 7 single family home subdivision. The PM Peak Hour traffic generation for this proposal, based on the Institute of Transportation Engineers data, indicated trip generation of approximately 62 vehicles per hour. As a result of that

study, certain potential improvements including signalization of the Route 17 Fletcher Street Eastbound on/off ramp as well as additional pavement markings and signing at area intersections to better control traffic were identified. The signal improvement is consistent with the recommendations in the Stantec Town Study as identified in Chapter 5.0 as Intersection No. 26B. Based on our analysis of this intersection, with signalization, an overall Level of Service of "C" or better can be expected at this intersection (See Table 2 of our Traffic Impact Study labeled "With Signalization", which is attached.) Based on this analysis, it is also anticipated that at other area intersections, if the recommended improvements from the Stantec Study were implemented, acceptable Levels of Service would then be experienced at these locations. It should also be noted that other than the signalization of the Route 17 ramps, the other intersections in close proximity to the Hendler Project were found to operate at acceptable Levels of Service without the need for any significant improvements even with the Town's 2016 traffic projections.

In addition, as part of the Hendler DEIS, estimates of the peak hour traffic generation for the commercial development were also presented. As referenced in the DEIS, if the commercial development was built, the peak hour traffic generation for the PM Peak Hour would be approximately 236 peak hour trips. This would be more than three times the anticipated peak hour traffic generation of the proposed (PAC) development (62 peak hour trips). Furthermore, with the commercial development, the vehicle mix would include more truck traffic than the PAC. In fact, between 5% and 10% of the peak hour trips referenced above (or some 12 to 24 vehicles) would be truck trips depending on the amount of warehouse space.

4. Conclusions

Based on the above, the proposed PAC would result in a lower traffic generation than the commercial development and with the implementation of improvements on a fair-share basis such as the signalization of the Eastbound 17 Ramp at Fletcher Street, all traffic impacts could be mitigated.

Also, extrapolating the trips for the potential commercial development in place of the other planned PAC sites in the Town (1054 units) as referenced in the Town Study, similar increases in traffic would occur again, resulting in almost three times the amount of traffic generation during the PM Peak Hour.

It is our professional opinion that the modifications to the zoning will exacerbate the identified traffic problems. Further studies must be conducted to understand the full and cumulative impact of the proposed zoning change on the traffic at the intersections included in the Stantec study and to also assess the effect of the mitigation measures already identified in the Stantec Study.

In summary, the study conducted is incomplete as it fails to:

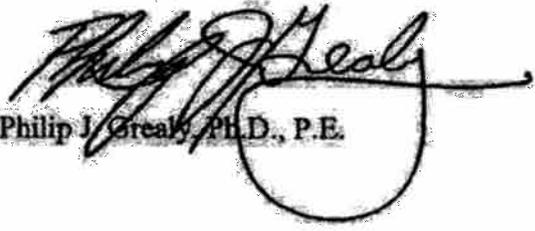
- Analyze the Levels of Service with recommended (and modest) improvements
- The development scenario upon which the study was based exaggerates the proposed number of units
- The PAC uses in the CO zone will reduce traffic impacts rather than increase them.

Thus, the traffic study and the proposed zoning change must be reconsidered by the Town.

If you have any questions regarding this, please do not hesitate to contact us.

Sincerely,

JOHN COLLINS ENGINEERS, P.C.



Philip J. Grealy, Ph.D., P.E.

TABLE NO. 2
LEVEL OF SERVICE SUMMARY TABLE

I	U.S. ROUTE & S I/2 STATION	2005 EXISTING				2010 NO-BUILD				2010 BUILD						
		WB	WB	WB	WB	WB	WB	WB	WB	WB	WB	WB	WB	WB		
1	SIGNALIZED	NB	0.36	C[28.0]	0.68	D[50.9]	0.30	C[31.2]	0.25	C[30.5]	0.30	C[31.4]	0.64	E[73.0]	0.25	C[30.6]
		SB	0.64	C[50.2]	0.5	C[28.6]	0.44	C[33.5]	0.40	C[33.4]	0.46	A[7.5]	0.80	C[32.4]	0.43	C[33.9]
		EB	0.12	A[5.7]	0.46	A[5.3]	0.16	A[5.7]	0.33	A[5.3]	0.16	A[5.7]	0.86	E[86.5]	0.37	A[7.0]
		TR	0.62	A[8.6]	0.62	A[4.6]	0.91	B[16.6]	0.68	A[8.7]	0.91	B[16.6]	0.68	A[8.4]	0.68	A[8.7]
		L	0.06	A[5.6]	0.11	A[3.9]	0.13	A[5.6]	0.08	A[5.3]	0.13	A[5.6]	0.13	A[5.0]	0.08	A[5.3]
		TR	0.46	A[5.2]	1.05	D[48.2]	0.54	B[14.0]	0.74	E[19.7]	0.54	B[14.0]	1.10	E[72.5]	0.75	B[19.9]
		OVERALL	-	B[11.5]	-	C[31.2]	-	B[17.5]	-	D[47.1]	-	B[17.7]	-	D[46.9]	-	B[15.5]
		UNSIGNALIZED	0.14	A[7.6]	0.16	A[7.7]	0.15	A[7.7]	0.17	A[7.7]	0.10	A[7.5]	0.19	A[7.5]	0.13	A[7.6]
		WB	0.26	A[9.7]	0.21	A[9.4]	0.29	A[10.0]	0.23	A[9.6]	0.13	A[9.0]	0.31	B[10.2]	0.20	A[9.2]
		OVERALL	0.80	D[34.7]	0.49	C[22.0]	0.95	F[51.2]	0.60	D[23.2]	0.19	B[11.5]	1.04	F[34.3]	0.68	B[12.2]
2	UNSIGNALIZED	SB	0.11	A[9.2]	0.08	A[8.0]	0.13	A[9.3]	0.09	A[8.1]	0.09	A[7.7]	0.09	A[8.2]	0.04	A[7.6]
		WB	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		LR	-	-	-	-	0.68	C[23.7]	0.34	B[19.7]	0.20	B[19.4]	0.69	B[19.6]	0.23	B[18.6]
		TR	-	-	-	-	0.29	B[13.5]	0.32	B[13.5]	0.18	B[12.5]	0.36	B[13.9]	0.23	B[12.9]
		LT	-	-	-	-	0.53	B[10.3]	0.55	B[10.5]	0.20	B[12.6]	0.69	B[17.6]	0.24	B[13.0]
		OVERALL	-	-	-	-	-	B[19.7]	-	B[16.5]	-	B[14.3]	-	C[20.1]	-	B[17.1]
		UNSIGNALIZED	0.20	B[13.3]	0.33	C[17.4]	0.24	B[14.3]	0.42	C[20.5]	0.09	B[10.5]	0.27	C[18.6]	0.53	B[11.5]
		WB	0.06	A[8.5]	0.15	A[8.7]	0.06	A[8.4]	0.17	A[8.9]	0.03	A[7.9]	0.06	A[8.5]	0.19	A[8.0]
		OVERALL	0.20	B[13.3]	0.33	C[17.4]	0.24	B[14.3]	0.42	C[20.5]	0.09	B[10.5]	0.27	C[18.6]	0.53	B[11.5]
		OVERALL	0.06	A[8.5]	0.15	A[8.7]	0.06	A[8.4]	0.17	A[8.9]	0.03	A[7.9]	0.06	A[8.5]	0.19	A[8.0]

NOTES:

1) THE ABOVE REPRESENTS THE LEVEL OF SERVICE AND AVERAGE VEHICLE DELAY IN SECONDS. C (R) VALUES FOR EACH APPROACH AS WELL AS FOR THE OVERALL INTERSECTION FOR THE SIGNALIZED INTERSECTIONS AND FOR THE KEY APPROACHES FOR THE UNSIGNALIZED LOCATIONS. SEE APPENDIX "D" FOR ADDITIONAL DETAIL.

2) NOTES THAT FOR THE HOV3+ AND BUILD CONDITIONS AT THE UNSIGNALIZED INTERSECTIONS, SIGNAL TIMING AND OVERSIGHTS ARE INCLUDED.

JAMES G. SWEENEY, P.C.

ATTORNEY AT LAW
ONE HARRIMAN SQUARE
P.O. BOX 806

GOSHEN, NEW YORK 10924

(ADMITTED IN PENNSYLVANIA)

COPY

(845) 291-1100

FAX (845) 294-3994

August 11, 2008

via Hand Delivery

Hon. Douglas Bloomfield, Supervisor
and Members of the Town Board
Town of Goshen
41 Webster Ave.
PO Box 217
Goshen, NY 10924

Re: Updated Comprehensive Plan For the Town of Goshen

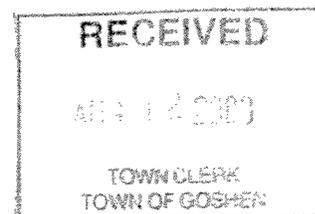
Dear Supervisor Bloomfield and Members of the Town Board:

I unable to appear personally at the public hearing scheduled for August 13, 2008 on the Updated Comprehensive Plan for the Town dated July 17, 2008. Please accept this letter and these comments on behalf of my client Heritage at Goshen LLC ("Heritage") the proponents of the "Heritage Estates" proposal on Old Chester Road in the vicinity of Knoell Road. I would ask that these comments be made part of the record of that public hearing.

About a year ago on August 29, 2007 I stood before you on behalf of Heritage at a earlier public hearing relating to the emerging elements of a new comprehensive plan for the Town, one that was going to replace the much heralded open space plan of 2004 that was four years in the making during which time moratorium after moratorium was imposed. Last year another moratorium was imposed while yet another comprehensive plan was prepared by a new town board that had come to the fore and simply didn't like the open space plan of 2004.

At that time Heritage Estates was then a proposal that utilized the open space allowances of the 2004 plan. Indeed, the Town's planners called Heritage's proposal a "poster child" for the open space principles set out in the 2004 plan. The proposal provided 155 of its 250 acres, or about 66%, to be left in open space. On the 250 acres 69 units were to be tucked into the center of this large tract in a clustered and unobtrusive fashion for an overall density of one dwelling unit for each 3.5 acres. Keep in mind that an acre is roughly the size of a football field.

(Cont'd)



Hon. Douglas Bloomfield, Supervisor
August 8, 2008
Page 2

I advised you that after three years of review by the Town's planning board and the expenditure of about one million dollars in planning and engineering costs - of which about \$250,000.00 went to the Town's professionals - the Heritage proposal achieved preliminary plat approval, a very important and significant milestone in New York's planning process.

The new comprehensive plan that you proposed at that time looked to eliminate bonus densities, something the 2004 plan strongly advocated as an incentive to achieving more open space in the Town. That suggested amendment had a substantial impact on the Heritage proposal. Because of the time money and effort expended by my client in pursuing and having reviewed a development plan that was wholly consistent with the Town's 2004 open space plan, I asked you to carve out the Heritage proposal from the new zoning plans then under consideration. I asked you to put your self in my client's shoes and, in all fairness, to recognize the effort that both my client and the Planning Board had put into shaping a proposal that was the "poster child" of the Town's 2004 plan. But you wouldn't do that.

Thereupon my client revised its proposal downward to accommodate the impacts of your anticipated zoning amendments, particularly the elimination of bonus densities, and continued in the review process before the Planning Board as far as possible under the shadow of the your emerging action.

But now you have turned the screw again - and without any warning.

The July 17, 2008 "updated" plan (at pg. 53) now on your desks and which is the subject of the public hearing continues the eviscerate the 2004 open space plan by setting a density ceiling in the AQ-3 zone at one unit per three acres and in the AQ-6 zone at one unit per six acres with no ability to average parcels that are split by the zone line as is the Heritage parcel. Once again the allowable density for the Heritage proposal will be scaled back significantly.

This new turn of the screw when combined with the elimination of density bonuses will actually lead to a loss of open space as the development community will scrap any clustering plans and try to maximize their development area using conventional lots that will "pockmark" the hillsides of Goshen. That was something the 2004 plan worked hard to avoid and, alternatively, tried to encourage clustered developments with large natural open space characteristics. Under this new approach there will be no incentive to perserve natural open space. The choice, from a planning standpoint, it is a poor one. There must be other factors at hand that are not clearly set out on the public record for the reasons behind this evisceration

(Cont'd)

Hon. Douglas Bloomfield, Supervisor
August 8, 2008
Page 3

of the 2004 plan. Why would the Town have spent so much effort in developing that plan only to have it gutted by this Town Board? It is hard to understand.

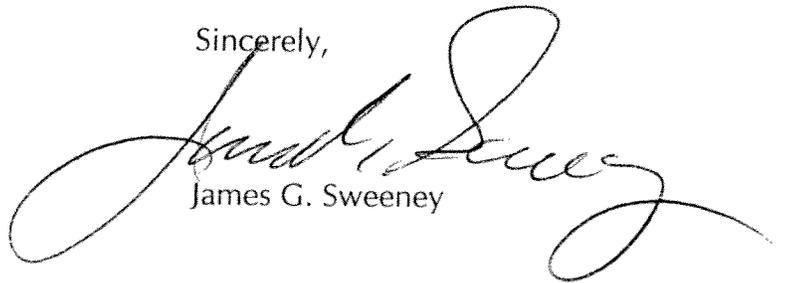
Be that as it may my client objects strenuously to the way he has been treated by the Board. After waiting years through successive moratoria he proposed a development that was to be the hallmark of the Town's much praised 2004 open space plan only to be faced with a new zoning plan that reverses direction and turns back into the dark ages of planning advocating density limits that have no relationship to reality. Six acre zoning? One house per six football fields? That is nonsense in the extreme. Loss of real open space and a return to the old "cooky cutter" type of development? That is a sad day for Goshen.

Of course, because of the time and effort and expense my client has spent so far, if this plan sees it way into a new zoning law and my client is not given an exception from it will have no recourse but to resist in every way possible including litigation. That is a no win situation for all concerned - especially the Town taxpayer who has to pay the cost of that effort.

Again, I ask you as I did a year ago to put yourself in the shoes of my client and "walk a mile" in those shoes. Only then can you understand what you are doing. When you do that you cannot help but appreciate that what you are doing to my client is just plain unfair in the purest sense of the word. Think about that as you contemplate this "Updated" plan with its new turn of the screw.

Thank you for your consideration.

Sincerely,



James G. Sweeney

JGS/ms

cc
Mike Walker
Esposito Associates
BJF Planning



1161 Little Britain Road
Tel: (845) 567-6600
Email: info@hvbuilder.com

New Windsor, NY 12553
Fax: (845) 567-1166
www.hvbuilder.com

August 12, 2008

Douglas Bloomfield, Supervisor
Town Board
Town of Goshen
41 Webster Street
Goshen, NY 10924

AUG 13 2008

TOWN CLERK

Dear Supervisor Bloomfield and Members of the Town Board,

It is with great concern that we come to you, to address the proposed amendments to the 2004 Comprehensive Plan and Zoning Ordinance. After a considerable amount of review, there are quite a few issues which we find exceptionally important for you to reconsider.

First and foremost is affordability.

Throughout the Draft Generic Environmental Impact Statement (DGEIS), the Town claims to want to provide their "fair share of the regional and community needs for multi-family and other affordable housing," and indicates that these amendments will satisfy the county's recommendation of Goshen's 700 affordable unit burden. However, this is far from the truth. The ramifications of these regulations are that there will be substantially less affordable units produced, than if the town continued to operate under the widely applauded and consensus-based 2004 Comprehensive Plan.

We firmly recommend that the Town reconsider its usage of the "yardstick generally accepted in New York law that the zoning availability for multi-family homes equates to affordable housing opportunities." What will provide the affordable housing opportunities that you are seeking is a dedication to providing municipal infrastructure – such as water and sewer – as well as land use guidelines that are realistic, inclusionary and unrestrictive.

The proposed 3-acre and 6-acre density requirements are not only burdensome, but they are elitist and exclusionary. Requiring such a low density of units per acre will only drive up the cost of land and make housing even less attainable for the young professionals who want to stay in the beautiful town they grew up in. These regulations will effectively make all future housing in the Town of Goshen only attainable to the rich.

There are land-use strategies that would allow for reasonable density, while preserving the rural character that the town wishes to retain, while providing homes that are affordable to the young and old of Goshen alike. However, these amendments will not achieve this goal, and we implore you to refrain from passing these ill-advised, overly restrictive and exclusionary zoning amendments.

We would appreciate the opportunity to work with you to explore ways to accomplish your environmental goals without unreasonably and unnecessarily excluding many demographic groups from the future of the Town of Goshen.

Sincerely,
The Builders Association of the Hudson Valley

Hon. Douglas Bloomfield, Supervisor
And Members of the Town Council
41 Webster Ave.
Goshen, NY 10924

August 13, 2008

SBL: 16-1-2.22

Dear Supervisor Bloomfield and Members of the Town Board:

First of all, I want to thank you for putting the Revised Comprehensive Plan on the Town of Goshen's website. The availability made it convenient to read at one's discretion.

Our concerns pertain to the property we own on Korycki Lane in the Town of Goshen. According to the DGEIS Figure 5.1: Potential Zoning Map Changes- this property is illustrated #8 RU to I.

On behalf of my wife, Priscilla, I have a few questions for those involved with the design and implementation of the DGEIS.

1. Of the 127.85 acres we own, what purpose does the white "cut-out" square on Figure 5.1 serve?
2. Exactly where on this property is the cut off for the proposed I use?
3. Are the 43.6 acres of black dirt included in this new zoning? If not, the impact on the value of the 43.6 acres will be totally negative. We need more information on exactly how this new zoning will impact the entire parcel.
4. In the event that the black dirt portion is NOT included in the new zoning – what do you propose that we do with it?
5. This property can only be accessed via a private narrow road with a deeded easement. This road does not meet the requirements for a town road. What are the plans for an access road to our property if the I zone is implemented?
6. Will I be able to sell the existing dwelling to someone who is not in the agriculture business? Please explain what effect this will have on the existing house and the surrounding buildings?
7. Can this parcel be subdivided for two separate agriculture uses?

We feel that the proposed change of our farm property from RU to I zoning will hinder options for future uses. The location of this property has no road frontage, has lands of black dirt. One side borders the Wallkill River and the other side is a wooded area on top of a slate mountain. Permitted I uses would limit the benefits this parcel can be used for. Therefore, we are going on record to object to this proposed zone change at this time or until the above questions are addressed to my satisfaction.

Respectfully Submitted,

Philip & Priscilla Gersbeck
Philip & Priscilla Gersbeck
134 Gate School House Rd.
New Hampton, NY 10958

AUG 13 2008

TOWN CL



ery Collected: Summer 2004 By Landcare Aviation, Inc. (315)-736-4225



December 11, 2007

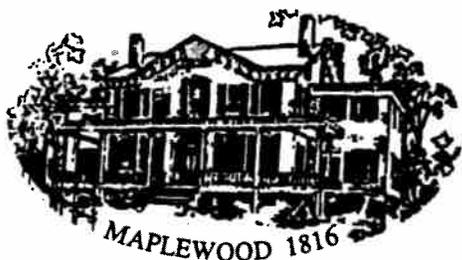
Not To Scale
Program Year 2007

fsa_gis_layers.SDE.wet_p_ny071

Wetland Determination Identifiers

- Restricted Use
- ▽ Limited Restrictions
- Exempt from Conservation Compliance Provisions

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.



VILLAGE of GOSHEN, NEW YORK

276 MAIN STREET, GOSHEN, NEW YORK 10924
TEL. (845) 294-6750 • (845) 294-8581 FAX (845) 294-6007

To: Supervisor Douglas Bloomfield
Town of Goshen Supervisor
Town Hall, 41 Webster Avenue
Goshen, New York 10924

From: Robert F. Weinberger
Mayor of Goshen
Village Hall, 276 Main Street
Goshen, New York 10924

Re: Public Hearing, DGEIS-Revised Town of Goshen Comprehensive Plan
August 13, 2008; Comment Period Until August 25, 2008

Date: August 12, 2008

Dear Supervisor Bloomfield,

Regretfully, I am unable to attend your public hearing on August 13, 2008 because of another commitment, so I submit my comments for your review and public record.

REZONING HM to COMMERCIAL/OFFICE MIXED USE:

As the community is aware, the Arden Hill Campus Site on Harriman Drive is of concern. A recent public hearing indicates that a moratorium will be acted upon shortly. The rezoning of approximately 56 and 84 town acres close to the Arden Hill site to Commercial/Office Mixed Use development deserves careful analysis. Pending interchange changes from conversion of NYS Route 17 to Interstate I-86 are important. The NYS DOT has not finalized plans for the Interstate passing through our village and town. Rezoning becomes problematic without complete knowledge of those plans. The final exits, accesses and realignment of surrounding roadways need full consideration in the proposed comprehensive plan.

Rezoning the 141 acres (HAMLET MIXED-USE DISTRICT) on Harriman Drive close to the village and extending north to exit 125 off route 17 has, in my opinion, adverse land-use impact because of topography (steep slopes) wetlands and visual impact to a gateway of our village.

WATER and SEWER SERVICES FOR COMMERCIAL/MIXED USE DEVELOPMENT:

The language of "opportunity" about village water and sewer for future commercial/office and mixed-use development around Harriman Drive remains highly subject to future demands of (1) "build-out" in the village, (2) correction of inflow and infiltration

RECEIVED

AUG 19 2008

TOWN CLERK
TOWN OF GOSHEN

PAGE 2: WEINBERGER

WATER AND SEWER SERVICES FOR COMMERCIAL USE DEVELOPMENT:
(Cont.)

problems, (3) analysis of WWTP capacity and (4) getting the plant fully operational. The town's comprehensive plan proposal should be more realistic and mindful of village needs.

COMPREHENSIVE PLAN TO PROTECT VILLAGE OF GOSHEN'S WATERSHED:

The village's potable water supply is presently dependent on its watershed in the Town (Prospect Reservoir). It is essential that the comprehensive plan delineate policies and practices for preservation and protection of the village watershed. The comprehensive plan does not adequately address the impact of water scarcity and town dependency for water from bedrock wells. The town's dependency on wells requires more detailed explanation and review about environmental impacts to both the town and village.

TRAFFIC:

The town's recent STANTEC TRAFFIC STUDY appears to be "shortchanged" in the proposed plan. Town traffic impacts on our village are critical. Convolution oversight of our roads by state, county, town and village is a fundamental problem to existing and future puzzling traffic problems. The comprehensive plan ignores the complexity of multiple governmental oversights.

FARMLAND:

Town farmland in agriculture must be protected in the comprehensive plan. It has tremendous value as "open-space" and deterring wildlife from being driven to the backyards of our village homes. As development increases, the town should plan responsible policy to conserve biodiversity.

THE VILLAGE BUSINESS DISTRICT AND TOWN COMMERCIAL DEVELOPMENT:

The proposed comprehensive plan respectfully communicates sensitivity to preserve and support our village downtown business district. That is good! Town regulations for commercial development on the periphery of our village should complement existing businesses and harmonize with future commercial development in the town.

PAGE 3: WEINBERGER

STORMWATER MANAGEMENT:

The comprehensive plan for storm water management is critical to the Village of Goshen. The village has been historically subject to flooding from town lands (i.e.: the old mile track). Town regulations for grading, cutting of trees, filling, retaining vegetation, water retention and detention basins in new developments are important for storm water management affecting our village. Zero runoff ought to be a new comprehensive plan goal.

LICENSES:

The comprehensive plan, in intergovernmental cooperation, should specify that all licenses issued by the town should be shared with the village on a quarterly basis to inform the village about licenses for peddlers, flea markets, junkyards, private carters and private solid waste haulers, kennels and road-side stands--- to name a few.

MUNICIPAL FACILITIES:

The comprehensive plan should be more specific about the growing need for combined municipal facilities; i.e.: government center, recreation, police and related emergency center. The Town Hall and Village Hall are, in my opinion, outdated, inefficient and antiquated government centers.

FUTURE INTERSTATE I-86 IMPACTS

The comprehensive plan should revisit the potential impacts on both town and village for:

- Noise pollution to residents in close proximity
- air quality
- emergency services, and
- economic impacts

Thank-you for considering this input.

Sincerely,

Robert F. Weinberger

Robert F. Weinberger

CC: Village Board and Town Board

HOCHERMAN TORTORELLA & WEKSTEIN, LLP
ATTORNEYS AT LAW

ONE NORTH BROADWAY, SUITE 701
WHITE PLAINS, NEW YORK 10601-2319

HENRY M. HOCHERMAN
GERALDINE N. TORTORELLA
ADAM L. WEKSTEIN

TEL: (914) 421-1800
FAX: (914) 421-1856
WEB: WWW.HTWLLEGAL.COM

OF COUNSEL:
MARSHALL S. SCHIFF

NOELLE V. CRISALLI

August 11, 2008

*Via Facsimile (845-294-6542)
and First Class Mail*

Hon. Douglas Bloomfield, Supervisor,
and Members of the Town Board
Town of Goshen
41 Webster Street
Goshen, New York 10924

*Re: Public Hearing on the Draft Generic Environmental Impact Statement,
Comprehensive Plan Update, Zoning Map and Zoning Code Amendments,
August 13, 2008/R.H. Craigville, LLC*

Dear Supervisor Bloomfield and Members of the Board:

We note that your honorable Board will be holding a public hearing on the proposed Draft Generic Environmental Impact Statement, Comprehensive Plan Update, Zoning Map and Zoning Code Amendments on the evening of August 13, 2008.

On October 22, 2007 we wrote to you on behalf of our client R.H. Craigville, LLC, commenting on what was then the proposed Scope of the Generic Environmental Impact Statement. On behalf of our client we respectfully request that the upcoming public hearing be kept open for a period of time sufficient to allow the preparation of written comments on the DGEIS. As your Board is most certainly aware, the summer months are a popular vacation time, and many of the experts required to review the document are not available.

While we believe that fundamental fairness requires that the public hearing be kept open for at least another month, we respectfully remind the Board that SEQRA Section 617.9(a)(4)(iii) requires that the lead agency provide for a written comment period to expire no fewer than 30 calendar days from the first filing and circulation of the Notice of Completion of a DGEIS, or no fewer than ten calendar days following the public hearing, whichever is later.

HOCHERMAN TORTORELLA & WEKSTEIN, LLP

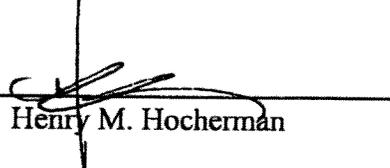
Hon. Douglas Bloomfield, Supervisor,
and Members of the Town Board
August 11, 2008
Page 2

We thank the Town Board in advance for your anticipated courtesy in keeping the public hearing open as requested herein.

Very truly yours,

Hocherman Tortorella & Wekstein, LLP

By:


Henry M. Hocherman

HMH:cv

cc: *(via facsimile)*

Steven E. Rieger, Esq.

Dennis Caplicki, Esq.

Lee Bergus

Review of Updated Comprehensive Plan (July 17, 2008) and Zoning Code Amendments (July 2008)

Zoning Code Amendments:

1. Table of Contents: item IIA should read "environmental"
2. Page 4, last bullet should read "... adequately capped..."
3. On page 19, item A, 6th bullet should read "... on constrained lands..."
4. Page 21, last bullet should read "... adequately capped..."
5. Section 83-15 D(1) states that common driveways are not permitted in any district, section 97-19F-4 appears to allow common driveways for no more than 4 lots.
6. Section 83-16E refers to developments involving TDRs, I thought these were eliminated!
7. Section 83-24B, 4th line, should read "...required, an additional index sheet..."
8. Section 83-29F does not consider 2X Avg daily demand or max day on well if 450 gpd is considered for public well analyses.
9. Section 83-30J does not consider the need for larger diameter service lines, eg high demand customers, fire protection (sprinklers) homes on a hill or at great distance from the main, where losses may be too great through a ¾" line.
10. Section 97-2B4 should read "... to see which of the overlay districts **may** apply to your land..."
11. Section 97-12A2 indicates that accessory apartments or residential structures shall not be counted as a residential unit for purposes of calculating density. How about for analyzing adequacy of water supply for housing developments on public water (not individual wells)?
12. Section 97-19F4- see comment 5
13. Section 97-40C1 should read "...required setbacks shall be ..."
14. Section 97-40C4 again mentions common driveways.
15. Section 97-46C appears to have a different definition of Steep Slopes than does section 97-84 (5000 sq ft vs 2500)
16. Section 97-84 definitions : suggests that a Gazebo not have screened walls. Many gazebos have such screening. What are they classified as?
17. Definition of Unconstrained Land" has a different definition of steep slopes than other references elsewhere (see comment 15)
18. Appendix C Well testing protocols: Recovery period section 4 should allow for recovery faster than 8 hours. Recommended Standards states that 90% recovery should take place within 24 hours. If recovery takes longer, safe yield must be scaled back.

Updated Comprehensive Plan:

1. Page 3, top of page should read "... adequately **capped**..."
2. Page 21 under fire districts #1, text should read "... Route **17** (86)..."
3. Page 23, bullet 3 should read **Stonehedge** and not Stonehenge.
4. Page 41- Abbreviations such as "PDO" and "N/R", as provided in Table 2.4, should be defined.
5. Page 75- 2nd paragraph of section #b should read "...intersection **of** Durland Road..."

UPDATED ZONING and PLAN FOR THE TOWN OF GOSHEN
Mary Rice Israelski
August 20, 2008

I think the proposed changes to the Comprehensive Plan and Zoning for the Town of Goshen will significantly improve the course of development. Please consider adding the following ideas to the draft.

Goal #5 should include:

- Preservation of dense and or mature forest land. Forests are scarce in the town of Goshen. Trees enable better air quality. Forests must be considered as a primary resource and preserved thru less density and smaller building envelopes. (Consider the last remaining forest along Craigville Road.) Although I think this land should not be developed, if this is not possible, than can we change the zoning here to allow only 1 unit per 10 acres to preserve the last forest resource in Goshen?
- Preserve mature trees larger than 12 inches in diameter wherever possible.

Goal # 7 should include:

- Protect and enhance waterways to provide provisions of recreational use (fishing and hiking) and enjoyment.
- Provide landscape design onto street and at entrances of streets access or entering new development.
- Provide street trees .
- Where practicable, preserve and rebuild rock walls, as this feature has historically defined space and was widely used in the rural areas in Orange County. Rock Walls are characteristically significant to the natural topography in Orange County.
- Provide natural and /or man made buffers and screens to separate and protect one land use from another.

Goal #2 (or another goal) Should include:

- Promotion of pedestrian and non motorized travel to and from neighborhoods and village center, schools and parks by mandating pedestrian pathways in all subdivisions to interconnect one to the other. (This will promote Healthy living / non dependent living).
- New streets that connect to preexisting town roads should consider design to blend the old with the new. Painted bike lanes from new streets should be continued onto preexisting town roads to connect the old to the new.
- Planting street trees, building round-abouts and other design should be considered at the junctions and connections of old and new streets. Blending the old streets with the new by design should be a provision in the code.

This document should also contain a provision that will protect the town's infrastructure:

- Where new development will use existing town roads, improvements should be made to the town road by means of landscape, re-pavement or whatever is needed to the older street that may become impaired with new development. Existing road conditions should be identified and within reasonable limits, improvements must be planned and dedicated.
- Where a new development connects to an existing development the interconnection must be made to be so that roads and their entrances are appropriately improved thus mitigating the impact of trucks and noise and lack of aesthetics .
- Storm Water Management should encourage techniques to allow recharge. Storm water ponds should be mandated to be aesthetically pleasing. Visual water movement should be enhanced to provide an awareness of this valuable and scarce resource. Water resources should be prized and used to not only recharge but provide quality enjoyment as water provides a cooling of the environment and is refreshing to the body and soul.

The goals listed above should be included into the zone change so that the planning board has the leverage to mandate improvements thus putting the cost of development onto the developer.

HC and CO ZONES:

While I agree that areas along route 17 should be rezoned to HC and CO there must be a provision added to the language that will support that these areas are either well-buffered to minimize the visual impact or buildings are built with architectural specifications that will enhance the historic character of the landscape.

#8 INDUSTRIAL ZONE: what development does this back up onto?

LAND USE DISTRICTS:

RU: Restaurants not associated with Ag use should be permitted along State or County Roads only by special permit. It looks like this draft eliminates this.

RU: light commercial uses such as offices and retail should be permitted along state or county routes by special permit.

**PB Meeting**

From: **Susan Cleaver** (banbury@frontiernet.net)
Sent: Thu 8/21/08 9:34 PM
To: TOG PB RG-Kelly Naughton (k-naughton@hotmail.com)

Kelly,
My ruff extremely draft on meeting comments..Susie

Code**Greenway****Greenway Indemnity Gets First Use**

Office of the Attorney General to Represent Milan in Appeal

(Milan, NY) The Town of Milan is the first Greenway Compact Community to be represented by the Office of the Attorney General under the Greenway Indemnity provision. The Milan Town Board passed a resolution Monday instructing the Supervisor to submit a letter to the Office of the Attorney General requesting representation.

The Dutchess County town of Milan's recent comprehensive plan and zoning ordinance updates were declared null and void in a March 27th decision by State Supreme Court Justice James V. Brands. In April, the Milan Town Board adopted a resolution invoking the provisions of the Hudson River Valley Greenway legislation that provides indemnity for Greenway Compact communities for legal actions brought against them relating to adoption or implementation of local land use controls. The Greenway submitted the Town of Milan's request and the Office of the Attorney General has determined that it would be appropriate to represent Milan in the appeal.

The provision outlined in § 44-0119.7 of the Environmental Conservation Law states, "For each such participating community there shall be indemnity from the state in the event of legal actions brought against the community or its agents that may result from the community's acquisition of land consistent with its regional plan or the adoption or implementation of any land use control including, but not limited to, a zoning law or ordinance."

hamlet purchase developement rights why give density?

Add Orange County Vetrans cemetery to list.

Add MCA Biodiversity Study and Map

**TOWN BOARD SPECIAL MEETING
PUBLIC HEARING DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT
August 13, 2008**

PRESENT:

Douglas Bloomfield	Supervisor	Louis Cappella	Councilman
Kenneth Newbold	Councilman	George Lyons	Councilman
Philip Canterino	Councilman		

ALSO PRESENT: Dennis Caplicki Town Attorney
Rick Golden Planning Board Attorney
Valma Eisma Town Clerk
Priscilla Gersbeck Deputy Town Clerk

A. CALL TO ORDER: Supervisor Bloomfield opened the meeting at 7:40 p.m. Reynell Andrews led the Pledge of Allegiance. Supervisor Bloomfield thanked everyone for coming this evening.

Supervisor Bloomfield: I would like to go through a little bit of the history of what we are doing and why we are doing it. The Comprehensive Plan that was approved as law back in July, I think it was July of 2004, there is a caveat in that plan that said it was incumbent upon the Town Board to look at the Comprehensive Plan, the Zoning Map and the associated code every three years to see how appropriate it may be and to make changes accordingly, and so with that the Town Board took that seriously. We hired the professionals to lead us through this process. We started about two years ago, some of the professionals we hired were Dennis Caplicki, initially to work with us, and Ed Garling, who is a local Planner, ultimately Rick Golden to work with us in his capacity as the Attorney for the Planning Board, Mr. Fish, Frank Fish in the first row. He and his firm of Planners in New York, they were hired to assist as well, and they are the ones who put together this DGEIS that we will be reviewing tonight. So we have worked on this for about two years. I want to reassure everyone, I have said this over and over and over again, that we the Board really believe all of us are smarter than any one of us, and the public meeting that we have tonight, this hearing tonight, the purpose is to get your input and the input we will be getting in writing from applicants and citizens and others. All that will be looked at for the final IS. So your comments do count and we want to think through them all. With that, what I would like to do is turn it over to Mr. Fish, Frank Fish, who has got a power point presentation that will kind of lead us up to date with where we are at, highlighting what some of the plans that have been and following that I will ask one of the Board members to make a Motion we open the Public Hearing and then we will proceed on to gather your input. Frank, I don't think, (Attorney Caplicki approached the Board) Supervisor Bloomfield stated: Ok, very good, Frank before you talk I have been told by our attorney that we formerly open now versus after you finish.

PUBLIC HEARING:

Would someone like to make a Motion that we open the Public Hearing to discuss our DGEIS, the Comprehensive Plan, the Zoning Map and associated coding. Councilman Lyons: So moved. Councilman Canterino: I second it. Supervisor Bloomfield: Any discussion? All in favor say AYE (all Board member say AYE) Supervisor Bloomfield: Motion carried. Frank.

Frank Fish: Thank you Doug. What we are going to try to do is just do a power point in about ten to fifteen minutes, I hope we can be done by about eight o'clock. If you can't see it perfectly, we made forty copies of these and I think there are about twenty five of us here, maybe 30, so there are more copies if anyone didn't get it and you need it. (Mr. Fish presented the booklets to the Board and the public) Mr. Fish: There is a particular map in here that you may not be able to see well, so you will have a hard copy of it. We are just going to do this, where I will introduce and go through the plan and then Sarah Yackel, from our office, is going to go through the DGEIS and sort of overview that for you. So tonight its really a joint Public Hearing, on two documents, there is the Comprehensive Plan update and then there is a Draft Generic Environmental Impact Statement to comply with this little word called SEQRA, which stands for the State Environmental Quality Review Act, so we have to comply with that and the Town Board has chosen to do a full draft environmental impact statement on the Comprehensive Plan and that DGEIS also has zoning language in it and zoning text, proposed zoning text in it and you can see from the footnote down here, I just want to remind you all that, as the Supervisor said your comments will all be taken tonight, they will be examined, but there will also be a separate Public Hearing as I understand on the Town Code Amendments on October 23rd .

The plan itself, in the mid nineties, at one time, Planning Boards did Master Plans, but the Master Plan, the Comprehensive Plan actually is the Town Board's document, and must be adopted by them for it to be binding, legally binding. The Town Board has been involved, you will see when we get to the time table, very carefully involved in all the meetings on this and they are also acting as the lead agency for the State Environmental Quality Review Act , in other words they are the body that will control the draft and the Final Environmental Impact Statement and then they have used, and have been at all of our meetings that I have been at, Dennis Caplicki as their attorney and Rick Golden and also his assistant Kelly have been very heavily involved, particularly in the zoning text and the text amendments. We have relied, because we are not as Doug said not local. We have relied very carefully on Ed Garling, who is a planner, I just have known for thirty years here. So that's the team that was involved in the update and the code amendments and we acted as BFJ Planning as advisers to put these documents together on behalf of the Town Board.

The schedule, again the Supervisor went through the longer schedule of the two years they have been involved in doing this, we got involved more at the beginning of this year as you can see here with the actual comp plan update and the various Chapters and than as we got through the Comp Plan and went into some of the Zoning and then the DGEIS. Leading up to this point in August, we had wanted to have this done, or I should say the Town Board wanted to have this done, before the end of the moratorium, to have the documents out, and I think we have achieved that. So the documents are out for public comment within this moratorium period, but very importantly after tonight's meeting, that red triangle, we have to respond to your comments that are environmentally oriented in a final environmental impact statement and of course your comments relating to the Comprehensive Plan or Zoning the Town Board will take under consideration and eventually we will produce and FEIS or Final Environmental Impact Statement., and the Town Board will have a second hearing.

Mr. Fish continues: The Plan Chapters are not new for those of you who are familiar with the current plan. The Chapters are really the same, except there is a map, a set of map changes which the Board did, partly with Ed and their Council, and us. The fifth Chapter is new, but other than that, the other four Chapters, while they are updated, and there are text changes in them they follow the format of the current plan. There is also an update of a separate document that was a transportation report done, which the Board asked us to update. We finished that, and separately we will send that to the Board and there is an updated Transportation Chapter in the plan.

The goals remain quite similar to the existing plan, but three of them the Board changed slightly, you can see them in the blue here, goals one, two and 7. (He referred to the screen showing the Plan Goal #1 through #7) The Board went away from what the Planning literature nationally we tend to call new urbanism. They had some examples in the current plan of hamlets and TND (Traditional Neighborhood Developments) schemes that the Board felt were perhaps not quite as appropriate to Goshen's rural character, so they have somewhat changed a little bit. As you can see in Goal #1: Protect and enhance the agricultural activities and character, Town character. Goal #2 is still very much to support the Village as a center, but also some clustering or open space subdivisions within the Town. The Other goals remain the same, and the seventh goal, as you can see here, to encourage appropriately sited development and protect environmental assets of each site as it is developed.

Mr. Fish Continues: What I would like to spend a moment on though is there are some very key things or key elements that have been modified. The Hamlet Residential areas, they have been the Hamlet Residential and Hamlet Mixed-Use have now been combined into one zone, our Hamlet Residential Zone. They have we have maintained their three units per acre, but we have also required 30% of the site must be usable open space. There is a 30% requirement in there, but that it be usable open space not wetlands areas. The 10% of housing, affordable housing or workforce requirement and that was formerly bonused, so some of the bonuses are now missing and the part of the Hamlet Mixed use that allowed some non residential development has been retained. It is a 10,000 SF limit and it is by special permit. Now there will be more control over that and it's siteing. So there have been modifications to the Hamlet Zone.

Mr. Fish continues: The second one, on the Rural (RU) Zone, we have not changed any of the wording of the zone, except for one thing, to clarify the maximum density. When we first looked at the zone, we could not calculate in trying to do a build out analysis, we could not calculate what the actual zoning maximums were in this zone, so we have now clarified it, you can see here in the AQ3 District, the one unit for three acres and the sixth district to one unit for six acres, that is you cannot exceed that density so that it is clarified in those zones.

The other thing in there, in the Rural Zone, is there were a set of bonuses that I think the Board found somewhat cumbersome and hard to calculate, and work with. So those bonuses have been eliminated, and the particular one that has been eliminated is item three here, (pointing to screen) is Transfer of Development Rights. Now transfer of Development rights has worked in very special places in New York State, like the Pine Barrens, out in Long Island, but it requires man power, it requires administration, the Town Board has decided to omit that and drop that from the current plan.

The Planned, so called PAC, or Planned Adult Communities, actually the Board has expanded the possibilities for their use. The Board has felt that it was not appropriate, is not appropriate in Commercial Districts, that where the Planned Adult Communities provisions would be more appropriate are in the residential districts, and therefore their application in the Town is potentially greater for these PACs, however, the Board was sensitive to that and they have reduced the density in the PAs in the PAC from five units to three units. Thereby, being consistent with the Hamlet Residential Districts. The current maximum I believe was something like 300 units in a PAC and they have reduced that to 200, and they want the PAC though to have access to State or County highways or in the Master Plan you will see a road classification system in the Transportation section, and it lists for you the arterial roads, or collector roads, which are the major roads, and so if the site has access to that, it could then apply for the PAC.

Mr. Fish continues: They have revised, with Dennis, their engineering consultant, the Goshen Water Testing Protocols, and you can see here that (pointing to screen) they are providing for drilling of sufficient wells in all subdivisions of three or more lots. And then the pumping test

requirements which is normally a seventy two hour test could go, if warranted, if seems warranted, to a ninety six hour test. And then finally there is a set of these map changes which were mapped out with the Board, with Ed Garling, as the local Planner involved here, and it goes 1 through 8, I know this is a little hard to see, you all have the handout, if you turn to that map. The first one is sort of this yellow area, the Hambletonian Park area. The Board is suggesting to reduce the extent of the Hamlet Zone in that area, and to rezone to a Rural Residential density. So that is the first one.

Mr. Fish continues: The second one, down near the hospital area, the Board is looking to rezone on the frontage road there, to Commercial on the front of the site, and on the back of the site to Residential.

The third area is near Florida, down on Route 94, near the Village of Florida. Part of this area now, it's a mixed use area, part of it is Commercial now and Industrial, and the Board is really rezoning there, away from the Hamlet Zone to Commercial. Primarily a Commercial zone, with some Residential. So that is the area of the Florida Village area, just North of the Village.

The fourth area is near the High School and adjacent to the Village and the Board is zoning that, or proposing to zone that Commercial, CO District.

The fifth area is near Chester and again the Board is looking at Commercial Zoning in that fifth area. And then, lets see where is six, yup.

Sixth is along 17M, most of this exists already, these lots, and they are looking at Commercial zoning there in that area. And then they are looking, while I am here, they are looking adjacent to the landfill at Industrial, at some additional Industrial areas there.

Those are the major map changes, so for what the Plan is doing, it is telegraphing ahead, two types of changes in zoning, text changes and then map changes that the Board is proposing, and with that, just to talk about the process now of implementation I am going to turn this over to Sarah. Do you want me to touch on this one Sarah? Implementation slide ?

Sarah K. Yackel: For the Fourth Chapter in the plan was it's Implementation Chapter and it just talks about some of the elements that the Town will use to implement the updated Comprehensive Plan and one of them and part of the main reasons we are here tonight, is the State Environmental Quality Review Act which Frank briefly touched upon. Also a key element in the implementation is the actual adoption of the Comprehensive Plan and the adoption of the Zoning and Town Code Amendments and the Zoning Map, and that will all be happening over the next several months.

So tonight we are here for the Public Hearing on the State Environmental Quality Review Act pursuant to SEQR, we have prepared what is called a Draft Environmental, I'm sorry, a Draft Generic Environmental Impact Statement. The DGEIS was adopted, was accepted for a thirty day Public Review by the Town Board on July 24th, and we are currently in the midst of a thirty day Public Review period which will end on August 25th, so, the Public has thirty days, beginning on the 24th to submit comments to the Town Board in writing, for consideration in the Final Environmental Impact Statement. Comments that we receive here tonight, as well as all written comments pertaining to the environmental document will be addressed in writing in what is called the Final Generic Environmental Impact Statement.

This chart down here (pointing to the screen) is just showing a SEQR time frame chart, and where we are right now, is right in here in the thirty day review. A Public Hearing is not required, but the Town is doing one and so we are just in the middle of this process, to be

followed by the Final EIS and ultimately to be followed by a preparation of a Finding Statement. So what is a Generic EIS? There are two types of EISs, under SEQR, the main type, there is the Generic EIS and then what is called a Site-Specific EIS or just an EIS. A generic is used to assess the impacts of the entire program or plan, having an area wide impact rather than a Site-Specific. So a Generic EIS looks at something on a town wide basis rather than a single lot. It does not result in any sort of shovel in the ground type impacts. They are definitely more generic in qualitative impacts that will ultimately get addressed at the Site-Specific level further down the road when actual applications come in under the new zoning. So as part of the DGEIS for this project, this is the table of contents, (again referring to the projection screen) we have provided an Executive Summary, Project Description and looked at all of these specific impact chapters and these required chapters of all EISs and alternative when we looked at the No-Action Alternative and then the Final Chapter here, Future Actions, this is what differentiates a Generic EIS from a Site-Specific EIS and this sets forth a process for future review under this State Environmental Quality Review Act. Very importantly, the EIS and the Town's updated Comprehensive Plan are on the Town's Web Site, so if you want to get copies of the full plans, they are available at that address and you can also get hard copies from the Town and we would encourage everyone to do that and submit additional comments in writing up and till August 25th.

Supervisor Bloomfield: There is also a copy available to look at in the Goshen Library. Marcia do you need to get back to your meeting or are you ok to stay here? (addressing Marcia Mattheus, Village Trustee) Ms. Mattheus, (said something inaudible, followed by) I can stay for a while. Supervisor Bloomfield: Why don't we put you first, we signed you in up here, basically Marcia has another meeting to go to in the Village, so I am going to ask her to have her comments first, and then I will open it up to the public.

Marcia Mattheus: I am only here for me, Marcia B. Mattheus, 11 Lincoln Avenue, Goshen. First of all I would like to thank you for following (Supervisor Bloomfield: Mike on is it?) Marcia: I don't know. Supervisor Bloomfield: Ok, it's on. Ms. Mattheus: I would like to thank you for following procedures so clearly and making the information so available to me, that was really very helpful. I have some comments and questions that I would like to see answered in the follow up document and many more, but I will just go through this list, ok?

To begin with, when I spent several hours looking at this document one of the difficulties I had and I have to assume, you know, sometimes when you deal with the same nomenclature and language on a particular topic you become more fluent than you realize and the public cannot always follow what you are talking about, and in fact, though I have read many impact statements, I had difficulty. Whenever there was a map drawn, first of all, the maps are too small. You talked about impacts on the Village, in a particular area, and you referred to it, that the document refers to it as South East of the Village, North West of the Village, the same verbiage is not used in the discussion section, as is used on the map. You have a color designation on the map, not the same references in the text, and therefore it becomes very confusing. And I think we need to be more specific, if you are telling me that something is happening North West of the Village in Zones five and six if, (those are not correct, by the way I am just picking two), that you need to reference in the same fashion to that we can follow the traffic impact on this, all of your difference language, because it becomes very convoluted and very difficult. I In fact asked three different people, who, one who has lived here all his life, one with whom I live, and another who works very closely with these documents, and they all gave me different answers when I asked them what is North West of the Village? What would you say is North East of the Village? I think that needs clarity.

Ms. Mattheus continues: Number two: On the maps that, when you refer to a particular area in the document and it, goes for both, the Comprehensive Plan and the Impact Statement, you, the names are so small, that with a magnifying glass, I couldn't make them out. And if my

particular concern is how it is impacting some areas of the Village, it becomes important what area, specifically, or people want to know whether it's their house, whether it's their street. I think you need, I suggest anyway, it would be more effective and less frustrating for people if the maps were larger.

The, a sensitive issue, up to date, the document switches between reference to the Town of Goshen and then it just says Goshen, and that becomes confusing if you are looking at it from the eyes of you know, Village of Goshen impact, or is it's, it make me question, if it's done in reference to water and sewer, cause you know, consistently, is there a reason there is a reason there is a Goshen reference and not any longer a Town of Goshen reference? So I think that needs clarity.

I really think it's terrific, I love the term non-constrained and constrained land. I've not used that one before, but I think that when you are using them, you have to use them universally apply it, and what I mean by that is in many places in the document it says that you would exclude in calculations, constrained land, but that is not universally applied in all the zones. Not in the doc, and I can give you page numbers I found it on, but not today.

The questions that I really have are related to three different topics and I'll take zoning first, and I promise not to ramble on too long. Number One: The Audubon Society land is still considered, in the new document, in the Commercial Office Zone. I should expect that, that it should, I would suggest anyway, you might consider that being, it's the Audubon's land, that that would be a forever green zone, or some sort, however you designate it or choose to, but I think it should be, I suggest it should be removed from the CO District.

I have questions, I am not objecting, I would like to understand here. You have created a Commercial/Office zone by Burke High School, if I have read the document correctly, yes? In that direction, behind, right? It appears to me that access to that area for CO would be difficult. People would end up coming, using Philipsburg, which is totally residential, for access to any of the COs that you are proposing. So I think that that's a very difficult situation that might be created. Having in your CO it states that it is 50% Commercial and 50% retail, correct? Well that's what it says. So if that is the case, in that area, (pause) in that area, behind all the residential, I think that would have a terrible impact on all that residential area. Village as its being North Church Street, and out on Philipsburg.

I have some questions about the RU Zone as it applies to the area that I can't possibly call that Maplewood application area, but I will call it the Town's portion of the Salesian property that is being developed. First I would like to thank you for the decreased density in that area as a Village resident and I myself for taking away the density bonuses in that area. I tried to figure out from the document your HQ2 and your HQ6, now I may not have found where it is, but I need assistance with that, it is difficult for me, I understand now that it is an area that you believe there is an aquifer, yes, and that there is a good possibility of finding water there. Well then, I think there should be, and maybe again, I'm always subject, so you can teach me, but it is an overlay district, there should be an overlay map, so that we can easily see what you are talking about. That shouldn't be so hard, maybe it is in there and I missed it. I will be happy to have you point it out to me.

It also, you are very involved in it, and I've done these kinds of documents, and I know how focused you get, but when you are telling people, they don't have the benefit, everyone, of being here tonight, if you black line what you changed from, to what you changed to, instead of saying the RU District will remain the same, except for. It took me a long time to find out what the RU District used to be. There again became the question of constrained land and the calculation that is shown it says that you take, from what I gathered talking to your Building Inspector

today, that the total acreage, when you are figuring it in this zone, the total acreage is multiplied times six and that equals the number of houses that you can build in that area, but I'm not clear whether it's in a A2 in that zone or in A6, so I don't know if they are different or the same. Either way, there is no statement of taking out constrained land in that calculation. It is left out of that portion of the document in your explanation of RU.

Ms. Mattheus continues: #four: You took Senior Housing, we use different terms, but George I know you know what I am talking about, from Commercial Zones, which I think is very thoughtful of you, however, as it appears to me that single family is still permitted? Could that be correct? Yes, one no, one yes, and I think that needs to be made clear. I can't really comment, except to say, that doesn't, if it is permitted, then I question the viability of, in the middle of Commercial and Retail to have single family houses, it doesn't appear to be appropriate.

I have a significant questions about the Commercial which relays on the 50% retail and the impact on the Village, because it is now created on most of the corridors coming in, when it comes to the traffic study, and if you look at page forty two, which was a perfect example for me, hang on, (pause) am I losing you yet, ok. Page forty two is particularly interesting, that was the one, if you look at this, that is all the scratches, this is me trying to figure out North, South East, West, and this happens all the time, I am not picking on you, I'm simply saying it's unclear. If you look at that on page forty two, and then go to the next page, where the document lays out for you very nicely the traffic generation comparison, which is very clear, except that here it is referred to as one, two, five, four six, eight as opposed to North, South, East West. Which is exactly what I was talking about in my intro statement. That made it difficult.

Now if you are telling me that there are going to be an additional 1,975 hits here in zone five, first of all we should be clear where it is, because there are several of them where it increases, because of the increased Retail and Commercial, then respectfully, even though I know this is a DGIS, DGEIS, I dropped a letter, I think we cannot afford, as a community, neither the Village, nor the Town nor the surrounding, cannot not afford to address traffic as simply, and as un-detailed a fashion as this document does. I think we need to do a, you suggest a, turn around? Supervisor Bloomfield replies round abouts. Ms. Mattheus continues: Thank you, turn around, round abouts, interesting concept, but I think we need have to go around the concept if we are considering, you are considering changing zones, then we need to, one of the most significant impacts is going to be on traffic. And I think it must to be more specific, and certainly we need to work together very closely, Village Officials and Town Officials here for this discussion, preliminary discussions, it is certainly your decision what your plan is going to be, but I think that conversation absolutely and imperatively must take place. And I then I suggest it would be good to have specific decisions, it is the same as the references to the changes. In the document it makes changes to where our exits are going to be, but in fact we really don't know yet, you know they sneak us information and they try to, the State I am talking about, about I 86. They try to placate us, but they have still not come down to have a meeting with us. I don't think they have come down to meet with you either. Supervisor Bloomfield replied: We haven't had one either.

Ms. Mattheus continues: So the overlay, I think needs to be far more specific, I don't think we could do an analysis, for our part for the public, I don't think we can do an analysis of what our comments can be unless it is specific about where you are placing it, where is it going to funnel to? If you are taking that much an additional 1,979 in area five? Where are you going to channel this to. I mean that can't be just, I appreciate the clarity of this particular piece of information though because it was exceedingly clear.

Now it comes to discussions of water and since I have focused a bit of my interest in water over the years, I would simply like to say that there are references in the Town's impact statement

that the Town has strategies for quote “residential uses with appropriate densities relative to the availability of natural resources’. That’s wonderful, yet in the listing of proposed changes in zoning in the Master Plan repeatedly and solely makes reference to Village infrastructure for Hamlet, RU and Commercial Zones. If so, Ladies and Gentlemen, then we haven’t grown, that would be redundancy again to simply to make a plan for the future solely. I suggest that we need desperately to share on many ideas, the public, as well as the Village, and the Town, and I would look forward to, this is only my personal opinion, work in the Commercial District, the Industrial Park, our Industrial Park area or where we can share the services that we have available after they are analyzed. That should at least be discussed between us, before, I suggest before you come to conclusions, because in so doing, we are not adding to our schools, we are adding to our tax base, we are building a stronger community for both the Town and the Village and I think that should be part of your consideration, that is all I am asking you to consider.

Finally, I would like to say thank you again, I have a lot of other comments, specific comments, that I think are better in their hands than making everyone listen too, I really appreciate the fact that, I’m sorry I don’t remember your name (looking toward Mr. Fish) Supervisor Bloomfield says Frank Fish. That you said the developments in the Town would have to look for water to sustain the project, anything above three units yes, but in the document it simply says they have to find a water source, it does not say that they have to provide a source. It says they just have to find sources for water, and since the greatest density is primarily built around the Village and since, though our Crystal Run, Well two has performed magnificently, and is providing even more than Crystal Run one, we look forward to it being able to service us and it has gotten us through this summer beautifully, at full build out we have to do that analysis as well. So please be consistent, if you are asking them to have a water source of their own on site or if not, that is your decision, where you are going to go, but be consistent in the document. I thank you very much.

Supervisor Bloomfield: Very good, thank you Marcia. Ok, Mr. Gersbeck

Philip Gersbeck: 134 Gate School House Road: Good evening, the reason I am here, I would like to speak about page eight on your booklet, Section 8 changed from Rural to Industrial. First of all if it is changed to industrial, I would like to know how industry is going to access that piece of property. Basically, what you have now is a narrow dirt road. Is the Town planning on putting a Town Road in? Or I don’t know, that is a question I’m asking. Ok, that is question number one, I believe you all have one of these statements (holding up the statement he handed in earlier) I have eight or nine questions, but I am only going to ask a few of them. Like Marcia, this map is very small and it is blurry. I would like to know how far in Industry does go on the map because there is black dirt on that property. Now if this goes to Industry, what do we do with the rest of the black dirt? It’s just, you can’t access it.

Another question I have is there is a house that is on that property now, which would fall into the Industrial Zone. Can that ever be sold residential? I know you can’t answer these questions, but some where along the line I would like to have them answered. I know you can’t answer them tonight. Again if it is changed to Industry, it will still fall under the old IU old laws, but can there be two agriculture uses on that property, for example a horse farm and a hay farm with the new changes?

Another question I have to ask, on the map there is a small corner on the top right hand side that is white. What is that little white cube? Is that a residence, if so what about the residence that is down the road a little bit, why is that not on there? That is basically what I have to say, but like I said I have submitted one of these, and I just asked a few of the questions that’s on it and somewhere along the line I would like to have the answers to it. Who ever changed this might have the answers. Thank you.

Supervisor Bloomfield: You are quite welcome, thank you sir. Michael Allen

Michael Allen: Good Evening, My name is Michael Allen, I am with Behan Planning Associates, we are consulting Planners for the Town of Wallkill. We recently helped the Town of Wallkill update it's Comprehensive Plan and Zoning not so long ago, and we wanted to talk a little bit quickly about the maximum impervious coverage required in the Industrial and CO Zones. Just really quickly, we think that the thirty and forty percent allowable coverage's are unusually low for an industrial area, I understand there may be some discussion about whether or not that is going to be changed. We just wanted to make sure our comments go on the record. As Planners we wanted to point out that 30% is unusually low, especially when you take into consideration that's often times the amount of coverage allotted to just buildings. Usually there are two different types, building coverage, and then you have total impervious coverage. Thirty percent is typically for just a building alone. The remaining impervious coverage that you would get from parking lots, roads and access ways is usually much more than that, besides the building is often times double the size. So working backward from a 30% figure, that means that the building size, the maximum building footprint, would only be about 10% of the site, which one could argue is, could be not necessarily an incentive to or economically feasible to any developers and I know in the Comprehensive Plan it mentions that you would like to increase some development in the Industrial and CO areas because those are the most profitable from a tax ratable standpoint. We worry that they are not really economically feasible or attractive to developers if that is the intent, and also taking into account the limited building size area, most of the, or the average parcel size, in those two districts, is about ten acres. So when you take about 10% of that it starts to very much limit many of the lots in those two districts are much smaller than that, much smaller than an acre, and they also have to take into account wet lands, steep slopes and other type constraints that they have to work around.

Also the 70% of Open Space that would be required on such a parcel sort of essentially creates a pocket of development in a surrounding, what would almost be an Open Space plan and somewhat unusual, and might be more efficient, rather than trying to screen with a pocket sort of situation like that, each development would sort of sit in, with surrounding buffers. And I understand the idea is very good and it is very important to protect the scenic quality of the area. It's just that that sort of pocket scenario would be more likely to buffer a Commercial or Industrial Development from the Commercial/Industrial Development behind it or next to it rather than from the areas in Town that you really want to protect, which would be, the scenic vistas and the road ways, the corridors. We would recommend instead that some of the Open Space be allotted more on a site specific manner so that the Open Space preserved is really tailored toward protecting the view from where the people are, rather than protecting the view from one development to the neighboring one. In much the same as you do a Conservation Subdivision you look at, you treat maybe, perhaps the Industrial and Commercial Zones as a whole and look at buffering those as a whole from the outside rather than buffering each one from each other.

Another potential side affect of this is the thirty Percent coverage may inadvertently lead to a certain amount of a sprawl situation, where taking the same amount of development that the Town might want to have and you are spreading it out over a larger area, rather than maybe a more efficiently, condensely packing it into one area where it could be more contained and managed that way. As I mentioned the tax base of the Town is of importance and Industrial and Commercial land can bring in a great deal of money. Only about seven percent of the Town is, as I understand it, is zoned for these two uses, and yet that is the most profitable potential income for the Town, so it might make sense to get the maximum effect out of this by, I would say, by increasing or making this developable land a little more attractive, and the building coverage's that are proposed, or are still proposed in the current zoning, are the smallest you will find, pretty much, around here as I mentioned 30% is typically what you would give for building

coverage. I have included a written statement here, with a little chart showing the Town of Goshen, relative to Industrial and Business Office Zones in the area and the average building coverage, just building alone, in surrounding towns, just under forty percent. On the average impervious coverage total, of all these towns around, is almost seventy percent. It is what we recommended for the Industrial areas of Walkkill, when we were working on their zoning, and we would ask that you consider, if you haven't already, increasing that to, I think a more attractive number. Thank you.

Supervisor Bloomfield: Thank you very much sir. Mr. Zuckerman.

Mr. Zuckerman: Good Morning, Good Evening, I am Irving Zuckerman, I am here just as an independent citizen of the County and someone very interested in Goshen. Just a brief history, my family developed the West Gate Goshen Business Park, and the preservation and the development of the village was very, very critical to us in the success of that property, and it has worked out very well over the years. I am speaking regarding the issue of coverage ratios as well, and I refer to your goal number four: Develop a strong and balanced economic base. As one of the founding members of the Alliance of Industrial Park Developers, which is now known as the Alliance for Balanced Growth, many, or most of us as builders, developers, brokers have worked with municipalities around the County to the success of Business Zones and Industrial Parks or Business Parks, sounds better today. And none of what we have done, affected the quality of life, nor did it ignore environmental concerns. We all worked very hard, and I think the proposition that or concern that we were going to come in and ruin everything is certainly not the case and it does not make good economic sense for a developer, whether they are local people or they are not. But, if we look back at the seventies and eighties, when the Business Parks began, there were a lot of good, intelligent solutions that incorporated into the planning process. Not knowing who was going to be in the market, who is going to be coming into the area requires the DGEIS, which was brought up earlier, and that certainly is a very intelligent way to help bring in an economic base to an area, while offering flexibility within that zone.

Commercial, Industrial users typically require extensive flexibility in order to compete in the regional and global markets today, and if you look at West Gate, there are international companies, it is a Foreign Trade Zone we created many years ago. And a few of those zones are activated and they are international, so there are incoming and outgoing goods from Goshen, from the Village. Those businesses needed expansion capability, operational flexibility, equipment upgrades, different technologies to come into play. They need the ability to adapt to market demands that require larger production and floor spaces, sometimes vertical and horizontal storage requirements. They need to incorporate processing and assembly techniques. We have completed, just recently, as an example, on two of the buildings there almost six million dollars worth of expansion and upgrades and you can see that that is brought in great economic success to the Village of Goshen. Mr. Lyons was the Mayor through a good part of that for us and recognized and supported those efforts of us. If we look at , again, the face of Business Parks, what you will see are a lot of mergers, acquisitions, joint ventures, as the businesses grow and I think it is very important and incumbent upon you to consider the fact that the gentleman had just brought up the issue of the density. That the companies need that ability and consolidating, if you look at West Gate, we are bringing in about, I think it is about one point seven or so million dollars worth of taxes, in a 136 acre property, with a good building to land ratio, if you will, and I think it has worked out quite well, and if I could use that, I keep using that as an example only because it is part of the Goshen Community, there are many other examples, what was the Harriman Business Park, the Walkkill Industrial Park, Montgomery Industrial Park, had all done that, much higher coverage ratios. And the environmental impacts could be addressed, there is mitigation certainly that is, the technologies, the science is there to accomplish it, so I hope you consider that in your thinking about the density.

The other thing is that on the down side, if that were not the case, I believe that commercial brokers, site selectors, that will seek to identify properties for corporate move ins, they are going to look at, very early on, the coverage ratios, because their clients are going to want to know if I invest five million dollars, in five years or six years, as our business grows, whether we are acquired, whether we joint venture to produce a new product or service, if they don't have the ability and the Master Planning capabilities early on, they are not going to be here. Again, one quick example, at Goshen, Minolta when they were looking around the country, to identify a site, for their North American Toner Operations, selected Goshen because of the community, because of the look of Westgate, if you will at that time, and certainly I am proud at the way it came out. Their Master Plan called for the initial toner plant that is on ten acres and another five, another ten acres that they own is laid out for another building similar to that. Whether they build it now or at another time, again the coverage ratio allowed that type of planning, and the investment by an international firm, so there again is another example of why I think it behooves us to consider a cover ratio that is more friendly if you will, to Commercial and Industrial base. Thank you.

Supervisor Bloomfield: Thank you very much Mr. Zuckerman. John Lavelle

John Lavelle: Good Evening, my name is John Lavelle and along with Irving, I am the co-chair of the Alliance for Balanced Growth. I certainly agree with Irving's comments, so I won't repeat them, but one of the things I just thought would be important to point out is The Alliance for Balanced Growth, our principle mission statement says that we work to provide, a unified and proactive voice in support of quality commercial development and balanced growth here in Orange County. So that's what we do, and we were really happy when we read the Master Plan to see that you have an objective to develop a strong and balanced economic base, so we support that whole heartedly. We have a concern, as Irving stated, that the coverage ratios as proposed may actually work counter to that objective, and may actually hurt your ability to do so. So what we have done tonight is prepare a short letter for you, which I won't read, but I certainly hope you do at some point, that seeks to help you understand why the cover ratios as proposed will probably preclude you from achieving that on those industrial properties. And also enclosed is a spread sheet, which you may know already, but has many of the towns Industrial and Commercial coverage districts in Orange County, some of the more successful towns at creating rateables and what their cover ratios are, which might be helpful, as well as a booklet that we produce which is called interestingly, Increasing Tax Rateables, A Guide For Balanced Growth. So I produced copies of those for every Board Member. (Mr. Lavelle left the microphone and presented the Board with the booklet and his letter. He continued to speak, but his voice was inaudible on disk.) Our notes say "If there is any thing the Alliance can do to help, feel free to call".

Supervisor Bloomfield: Thank you John, thank you very much John. Steven.

Steven Rieger: Hello, my name is Steven Rieger, I am a principal of Rieger Homes, which has been building homes in Orange County for almost fifty years. We own a property in the RU District on Craigville Road. We have worked in many towns in Orange County and in neighboring counties, and our approach has always been to try to give the town what it is looking for when we come to develop a new community, and we are trying to do that here. We, we always have a goal and try to be fair and reasonable with the people we do business with, and we think it is reasonable to expect our governments to be fair and reasonable with us.

I am not here to speak about legal rights or about how the proposed zoning affects the hamlets or affordable housing, although I do have concerns about the real yield of affordable units that the zoning is going to provide and where the cost of those affordable housing units are going to lay, but that's not what I am here to talk about.

I would really like to talk about fairness, I mean in 2004, only four years ago, you enacted a new Comprehensive Plan and Zoning Ordinance, and the Supervisor mentioned that that Comprehensive Plan calls for re-looking at every three years, which is certainly intelligent. However, the approval process is a long and difficult and onerous process. And as we all know from the time when we were kids, when you start playing a game and the rules are changed in the middle, somebody is bound to be very unhappy, and we are trying to follow the rules, but the rules change.

The plan that we developed for a residential community, was within the spirit and mold of your new 2004 Zoning Ordinance. We used that as our road map. We did ask the Planning Board for some bonus units, because we were able to leave substantially more than 50% of the property we own undeveloped. And that was the criteria, that is the criteria in your zoning. We went through a SEQRA Scoping process with the Planning Board, we prepared a DEIS, which is voluminous, inordinately expensive, very detailed, and looks into all kinds of potential environmental concerns. We, in accordance with Town Law, had a well drilling protocol approved by the Planning Board. We drilled five wells. We did extensive testing, it cost many hundreds of thousands of dollars to do this. All in accordance with your 2004 Zoning Ordinance and Comprehensive Plan.

Mr. Rieger continues: Then, you announced you were going to consider changing the zoning. It certainly within your purview, and among other things you were going to consider removing the bonus provisions in the RU. We knew that the bonus was discretionary, we also, but we believed if we observed both the letter and the spirit of the ordinance, that it's fair to assume we are entitled to some. We have high quality Open Space to offer to the Town, we had substantially more than the amount of Open Space required, but ok, we know it's discretionary, so that means something, and we understand that.

But now, in the new proposed, law that we have just seen, this I guess was just made public last week, you have not only eliminated, you propose not only to eliminate the bonus units, but you propose, to yet again, dramatically impact our ability to develop our property, by removing the ability to overcome the AQs restrictions. Not withstanding our having spent hundreds of thousands of dollars to do the well drilling and testing in accordance with an approved protocol, it's not fair. And not withstanding what Mr. Fish had to say, you are doing this while trying soft pedal the impact of the zoning changes. You say on page three, Mr. Fish said again tonight, that the language has been added to clarify the maximum allowable density. This is not a clarification. This is a substantial, crippling change, completely separate from the bonus units. On page 32 of the Comprehensive Plan, in describing our project, and a few other projects like ours, it says that our project is a project that anticipates a bonus density that will be lost due to the zone changes. "Under current zoning, these bonuses were potentially available, although not permitted as of right, subject to the discretion of the Planning Board". But no mention is made of the other critical change, this one to 97-27 of your zoning ordinance.

Section 97-27 of both the existing and the proposed Code begin "the Town of Goshen has determined, through hydrologic studies, that groundwater supply and quality are serious limiting factors to development", and you have taken substantial steps to protect the Town. That, while it is difficult and expensive for a developer, I respect that. But in the existing code, the opportunity is provided to prove that there is sufficient water, and then you are able to overcome the restrictive AQ zoning densities. That is omitted from the proposed code, this is not a clarification. This is a serious, serious reduction in development capacity, and since it's clearly, and since this restriction is not related to water, because the fact that we have proven that there is enough water.

Mr. Rieger continues: I can only conclude that this is a smoke screen for something else which appears to me to be the desire for elitist and exclusive zoning. It severely damages the values of the properties of your large land owners, I don't see them here tonight, other than a few developers, because I'm not sure they understand. If you read the document it looks like a clarification, but it is not that, and it contains no grandfathering clause, which is typical in situations like this to make the law more fair to people like us, who have been in the process for a substantial period of time, and relying on existing law, having expended substantial dollars.

I'm concerned about affordable housing, but I am not here to talk about that, but if this proposal is enacted, the requirements will, without question, dramatically drive up the cost of new housing. Your ordinance will make it impossible for people, who we associated with Goshen, not people who qualify for affordable housing, but your children and the children of the other people of Goshen to afford a house here, to afford a new house here, it's just not going to happen, because the new, without giving the opportunity to take advantage of the assets you have, it substantially increases the cost of housing.

Based on your law, the new law of 2004, we bought a property, we spent a fortune drilling, testing and preparing a DEIS, and your law hits us twice. You've removed the bonus densities, and you removed the ability to use the water protocols to receive a somewhat reasonable yield, unit yield on the property. If you enact it, then there is no fairness in this process in this town. I think it is short sighted, elitist and we ask that you reconsider hitting us twice. Thank you.

SUPERVISOR BLOOMFIELD: Thank you very much sir. Ok, Jody Cross.

Jody Cross: Good Evening, my name is Jody Cross, I am an attorney with the firm of Zarin & Steinmetz, I am here on behalf of Ginsberg Development Company and a site known as Prospect Hill. Michael Zarin apologizes for not being able to be here today, he had an unavoidable conflict. Prospect Hills, you know is one hundred and ten acre parcel located West of Route 17A, just North of Florida. It is presently zoned HR and RU. The HR portion of the property is part of the area referred to in the DGEIS and in the Comprehensive Plan as site 3A. GDC currently has a proposal before the Planning Board for a progressive two hundred thirty four units, rural T and D development. Under the proposed zoning the housing density will be reduced to twenty units. We would like to commend the Board for the effort to keep this Comprehensive Plan and Zoning Code current. We recognize the hard work that goes into such a process and the Town's laudable goals, but we really feel there are some significant flaws in the process. The Town's objective may be laudable, but there are respectably significant omissions in the level of analysis required to meet SEQRA's hard look standard and a lack of meaningful or substantial evidence for some of the critical conclusions and assumptions contained in the DGEIS. As Michael Zarin has explained to this Board before we often sit on the same side of the table that you are sitting at now, but we feel as proposed the entire process could be voided, as a matter of law if the infirmities that I am going to briefly go through are not meaningfully addressed.

We will be submitting a written submission within the time period, but we do want to just briefly highlight some of the major points. First and foremost, when the prior Board began the process that resulted in the current code and the 2004 Comprehensive Plan, the primary driving force were concerns regarding traffic, and to address the traffic issues, one of the goals of the Comprehensive Plan was to quote "encourage development that will help to create an efficient Transportation network", to achieve this goal the 2004 Comprehensive Plan recommended, as you know, the mixed use and pedestrian friendly Hamlet Districts. This concern, the traffic concern has also been echoed by the current Board over the past two years. In a letter dated April 10th, 2006 the Town advised all applicants with proposals pending before Boards in the Town that it would be conducting a Town-wide Traffic Study. The Town then under took a lengthy and costly traffic study, the results of which were used as a principle tool in reevaluating

the zoning ordinance. Similarly at a May 24th, 2007 Town Board Meeting, the Town Board stated it's desire to remove the density bonuses in the present zoning code was based upon traffic concerns, because, quote "the traffic study makes it clear that no density should be given at any cost." In fact the County Planning Board recognized in it's August 30th, 2007 GML review that the narrative to support the proposed Zoning Code Amendments specifically sites a need to mitigate traffic impacts as the impedance and justification of the zoning amendments, however conspicuously absent from the proposed Comprehensive Plan is any articulation of a goal to mitigate a traffic impact that result from the development in the Town. It appears that the reason for this is because the traffic study shows that the DGEIS demonstrates an over tenfold increase in traffic on the site 3A alone and it is clear from the Town's study that retaining the zoning designation for Prospect Hill would have a significantly less of a traffic impact. GDC's project specific traffic study demonstrates that there would be in fact no significant negative traffic impact at all as a result of it's Hamlet development that is currently proposed.

Even more significantly the Town traffic study anticipates a net increase of approximately 8,281 p.m. peak vehicle trips as a result of the town wide rezoning. Despite the significant increase the DGEIS concludes and without any meaningful data, that the proposed Comprehensive Plan will likely have a positive impact on traffic and transportation in the Town and then it defers any review of traffic impacts to sites specific review. It is unclear what rational basis the Town has for suddenly abandoning it's goals to address traffic impacts from future development in the Town and what substantial evidence there is for such an about face. This was once the driving force behind this entire process and it just doesn't make sense that's why it is suddenly abandoned.

Another significant flaw in the DGEIS relates to the impact on the availability of diverse and affordable housing, which was raised also by the previous speaker. The DGEIS states that the proposed zoning would permit the development of 1,5 83 additional multi family units, but there is no evidence, or substantial evidence that supports this calculation. There is no indication of what kind of housing we are talking about, for example is this the PAC, is this age restricted housing and whether these housing units would be feasible under these proposed zoning amendment. And as this Board knows under the Berenson line of cases you can not just provide for multi family housing, they have to be feasible multi family housing, and courts tend to review such a reduction in multi family or affordable housing opportunities as being improperly exclusionary. If there is a need for additional affordable housing in both the region and the community, the Town needs to provide an opportunity to build such units. There is a mitigation section for affordable housing, but the only mitigation is really the PACS, which again only provides affordable housing for age restricted residents, and although there is a 10% set aside in the HR district that is proposed, that is really illusory, since there are only two developments that are retaining the HR designation.

Another flaw in the DGEIS is lack of study of any real alternative, besides the No Action Alternative, set forth in the SEQRA handbook SEQRA regulations require a DGEIS to discuss a range of reasonable alternatives, any of which, of course, have to be feasible alternatives. There is really no reason given as to why they, the Town, I think the quote is considered "numerous alternatives", but none of them were analyzed in the DGEIS. And even the No Action Alternative I think is about half a page, three quarters of a page, and lacks any empirical, substantial evidence to support Ed's conclusion. There is no comparison of, for example, full build outs under the No Action and the proposed, there is no discussion regarding a comparison of traffic impacts, socioeconomic impacts, or visual impacts. There is no discussion regarding impacts at all. The zoning amendments, there is no analysis that the zoning amendments will ever achieve any of the goals the proposed Comprehensive Plan. There is also no discussion on how the Town determined, after only four years, the present Zoning Code can't meet the goals of the Comprehensive Plan.

In addition to the general flaws in the DGEIS, the proposed zoning amendments don't appear to have a rational nexus to goals set forth in the Comprehensive Plan. For example the primary objective of the plan is to provide quote "high quality Open Space". This is a subjective standard; we didn't see that there was any definition as to what exactly is a high quality Open Space. So by way of an example, under the Prospect Hill proposal, over 80% of the site would be set aside as OPEN Space. GDC is proposing to provide the community with a large publicly dedicated Village Green, extensive pedestrian and bike path network, and a nature hiking trail which would serve as a public, interactive, educational experiences, and would have plaques posted along the trail indicating native vegetation and native wildlife that would be visible from the path. In addition the GDC proposal includes purchase of development rights, which provides fund to the Town for additional Open Space acquisition and preservation in locations deemed by the Town to be high priority areas.

Under the proposed Zoning Amendments, Open Space would only be preserved in the rear of the site where it is out of view, private and inaccessible. Also in the DGC plan, the visual corridor on 17A, which a scenic overlay, is better respected, and higher quality public Open Spaces are created. Furthermore, in the DGEIS there is a statement made that the HR portion of the property is quote "unsuitable" for hamlet residential development, and that portions of the property have quote "limited value for almost any development". There is no criteria given to us to what is considered unsuitable, and there is no evidence to support this very serious conclusion, and in fact GDC has prepared a site plan that shows there is a development potential on this property, and a development potential for a Hamlet neighborhood. And we do recognize that there are environmental constraints on the property. There are wetlands and steep slopes, but the plan takes these constraints into account, and incorporates them into the 80% of the property that is reserved for Open Space.

With regard to visual impacts, the DGEIS concludes that only beneficial impacts are anticipated from the Proposed Zoning Amendments, and therefore no mitigation is necessary, there is no discussion of the standards, for example, that the DEC has promulgated to analyze potential visual impacts. Again, by way of example the Prospect Hills Hamlet is designed to be a Rural Traditional Neighborhood Development, or a TND-R, which is entirely appropriate for the rural character of the Town, and, just going to visual (Ms. Croft steps away from the microphone to place a map on the easel) says something inaudible – continues saying : This plan is presently proposed.

The DGEIS refers to TNDs as being the more urban development, which is why DGC created this TND-R. TND for rural areas such as Goshen, and this plan minimizes site grading, preserves topography, incorporates a country road system, rather than traditional curbs and sidewalks. The architecture is formed deemed consistent with the surrounding area and provides a public village green, pedestrian bicycle path, and the previously mentioned hiking trail. More importantly, as I also mentioned before, it is designed to avoid adverse views into the site from Route 17, Route 17A, sorry, by maintaining large natural buffers and providing significant landscaping, limiting the size and scale of residential buildings, and these are the elements that are very important in the Comprehensive Plan. By contrast, under the proposed zoning which is CO in the front of the property, (turning page of map) a little cumbersome.

Ms. Croft continues: Commercial development on the site would have a major visual impact from 17A. The Commercial use on the site would require flattening the knoll that is in the front of the property, and it kills the topography which is specifically discouraged in the Comprehensive Plan. The impact of highly visible Commercial/Office building, and vast parking lots, just right off Route 17A would be significant. The DGEIS does not offer any hard look into such examples, or provide adequate analysis, supporting it's conclusions that there will be no visual impact by the

proposed rezoning. It is also unclear why the Town decided to rezone all but two of the HR and HM zoning districts. It has decided it is necessary due to lack of infrastructure, lack of water, lack of sewer, but the existing zoning code already provides that if there is a lack of public water and sewer, the land zoned for Hamlet Development would be treated as though they were zoned RU. No hard look again or analysis was taken as to where infrastructure is and can be provided in the Town.

Again by way of example, Prospect Hill is providing, is proposing to provide it's residents with public water and sewer, and it is designed to insure the sustainability and carrying capacity of the surrounding watershed as well. Under Town and State Law, the Town is safeguard against any possibility of any negative impact rising from utilities through the SEQRA process and the Goshen water testing protocols.

A lot of people spoke today about tax ratables, and we understand that is a goal of the Town, to increase tax ratables and under the existing zoning code, the annual tax revenue from the Prospect Hill site would increase from \$1,158.00, to approximately \$2,000.000.00. It doesn't appear that the Town conducted any analysis or market studies to determine whether increasing the number of commercially zoned properties, including, this property would be feasible nor does it appear the Town studied whether there would be a displacement impact on the commercial development in the Village, as a result from an increase in commercial uses elsewhere in the Town, such as right by the border of Florida.

Due to a lack of a market for commercial/office development on this site the proposed amendments would effectively and significantly reduce ratables for the Town. Clearly, rezoning the HR portion of Prospect Hill to CO has no rational nexus to the goals set forth in the Comprehensive Plan, and lastly, you know, wrap this up. As I mentioned in the beginning as proposed, as we showed you here, the plan is for a 234 units, and the proposed rezoning will reduce this to twenty. Under the Penn Central and related takings analyses, all but a bare residue of the Site's value would be destroyed under the Proposed Zoning Amendments, leaving the Town susceptible to a credible takings challenge. GDC has a more than reasonable investment expectation to develop the entire site residentially. It has been zoned residentially for sixty years, and since 1973 it has been zoned highest density residential.

(end of disc one beginning of disc two)

The GDC doesn't want to take such an action. But if it has no choice it will. And again I'd like to thank the board for being given this opportunity to provide these comments on behalf of GDC and as I mention we will be providing something in writing to the board that, a , sets forth these comments and expands upon them. We do hope the town will continue to work together with those who have a significant stake in this process and will continue to use the seeker process to meaningfully consider revising the GEIS and the proposed zoning admen dements to address these issues raised. Thank you very much for your time.

Supervisor Bloomfield: Thank you very much Jody. Mr. Walker

Michael Walker: Good evening, my name is Michael Walker. My partner and I are owners of property on Old Chester Road known as section 8 Block 1 Lot 9.22. Also the applicants for the Heritage Estates project. I have reviewed the proposed zoning changes and I have numerous concerns with them. We are in the RU zone as is the Mr. Rieger's site who spoke earlier this evening. We are concerned about the fairness of the new regulations and how they affect our project. So much so that we met with Mr. Bloomfield an Mr. Halloran, the building inspector, this morning to discuss our concerns with them. One issue that is important to us is that the code

appears to be saying that the maximum density in the AQ6 zone is going to be one unit per 6 acres and in the AQ3 will be one unit per 3 acres. This is definitely a major change to the ordinance, since the current ordinance allows for the use of the water protocols to assist and to determine the density. We did go through an elaborate and extensive water test protocol study. We spent an excess of \$400,000 doing that. We don't believe that it's fair to now at this stage after preliminary approval to come back to us and change the rules.

Just to give you a little bit of brief history on the project which also includes the adjacent Kolk Farm. In 2001, I had contracted to purchase the Kolk Farm and submitted an application to the Planning Board. In 2002, the zoning was changed then interim zoning ordinance was put in place. In 2003, a building moratorium was put in place. In 2004, your new zoning was put in place. I believe in 2005 and correct me if I am wrong, I think it was finally when the moratorium was lifted. Now in 2008, we're looking at additional significant changes. So that's four changes in zoning in seven years. It took us from 2005 to now though preliminary and work towards going through final approval. So I think that it's unreasonable to expect us now to stop, redesign, spend additional money on engineering and move forward with a revised plan. We did go through an extensive environmental review with the Planning Board. We spent an excess of a million dollars on engineering, escrow fees, review fees etc. It was a significantly expensive and diligent process. I understand Mr. Bloomfield today had asked me to contact Mr. Garling with regard to this issue and the underlining high density on the site and I understand that Mr. Garling had prepared a memo to the Board this evening. I would like to get a copy of that memo; if possible, if not if I need to foil for it what needs to be done. I'd certainly like to get a copy of that memo.

With regard to your GEIS, I have a couple of questions; since several developers have done significant water testing within the town, I would like to know if that-the tests results from that water testing have been used to analyze the AQ3 and AQ6 zoning lines. We have found water on our site, part of its AQ6 part of its AQ3, there are adjacent properties that have water issues. There's some areas with high water volumes. So I would like to know if that's been reviewed and made part of your protocol system and if you plan on updating the 2003 protocol report. I would-to us fairness would be excluding projects that have expended money and costs and time and effort going through to a final FEIS and a preliminary approval with the Planning Board from this process. We will do whatever's necessary to defend where we've gotten at this point. We think it is very unfair that this zoning could apply to our project after the time and effort spent. Not only by us, but also by the Town Planning Board and the Town it self reviewing this whole process. It's been a three year process and unfortunately it takes a significant amount of time and effort to get this far and if we're going to have, you know, zoning changes every several years that'll have significant impacts. We believe that's not acceptable. Thank you.

Supervisor Bloomfield: Thank you Mr. Walker..... Dr. Serdarevic

Dr. Serdarevic: First of all, I want to commend you for wanting to do the right thing for our town. I know, I know many of you since I was a little kid. I know you really want to do the right thing and believe me I want the right thing done too, because unlike some other developers that might want to just take advantage of our town, I'm going to stay here and I'm going to be surrounded by what ever comes closer to me and I want to have something good here for all of us. So I just wanted to go into a few things briefly regarding the goals and basically explain (sure would you like me to speak to you again? Okay, *referring to talking into the microphone*, is that better? Alright,) What I just wanted to bring up to you is why the Hamlet at Goshen, which is the project that has been going through the Planning Board approval process, had the sketch plan approval and was in scoping, why that particular project should be considered in light of these

new plans. I believe that unlike any other project in the Town, it actually furthers every single one of your seven goals and has absolutely no detriment to the Town.

Just too briefly talk about goal one, protecting and enhance the agricultural activities and character of the Town. This project would cause there to be building on about 100 out of 500 acres in an area of the Town, where if this project goes through it would enable about 200 acres of mine to remain in agricultural. Would allow for the rest, in other words, for 400 - almost 400 acres of open space and only 100 acres built out. I think that's very important, because of the fact that now a days, PDR's first of all you've already used up 3 out of the 5 million you have. The Town budget as you well know does not have money to keep on buying properties all the time. If you can have people who are living in the Town who are able to provide you with a development possibility on a very small part that is very, very good for that development possibility and maintains that you will have agricultural usage. Bill Johnson farms the rest. It's not new use, it will be continual use. Maintenance of open space, you know as well as I do, how costly that is. I can't tell you how much money I spend to maintain the open space on my property that is not agriculturally taken care of. It's extremely costly. It's fine for you to take open space, but if you have someone who wants to pay for the maintenance of that and in addition why not take advantage of that. Also, as you well know, a great portion of the land that will never be developed is in the area close to your reservoirs. In order to be able to keep that in its pristine form, and not have someone come along and then just take all the 500 acres and do something that will destroy basically all the 500 acres, we need to be able to do something on the portion that is justified in doing that. So it is indeed protecting agriculture activities and the character of the Town, because the Hamlet at Goshen would be adjacent to Glen Arden which is basically a ten unit per-acre area.

Dr. Serdarevic continues: It would then follow from Glen Arden, which is 10 units per-acre, which is not at all commercial. You have senior people and plus you have the active adult of Elant definitely do not need commercial next to them nor would commercial ever be feasible, because in point of fact with the new highway interchange coming in, the commercial would basically be feasible from the portion that would be Arden Hill into the Village, but if you are talking about the portion then going into what would be the back roads of Harriman Dr. you would pass from residential Glen Arden, Elant, create a spot zoning of commercial and go back into a Lone Oak residential and the Arcadia residential and this fulfills your goal of the character, because you're going from very dense, of Glen Arden through the Hamlet at Goshen, to less dense areas and the Arcadia, but again there is nothing around that - that would be effected adversely. There is no - build- you have the open space, you'd have the highway on one side and you have the open space on the other side so that no individuals in the Town, to speak of except there's just one rented house on Harriman Drive., that'll all be impacted by this development, traffic wise or with any other way. And with the interchange, this is the only project in Goshen that's contemplated along the Hamlet projects that would not adversely affect traffic, because in point of fact, because of the new interchange everyone would be going out of Goshen through the highways and would not have to need to go through the Village. They would not need to go through the southeastern part of Town whether it would be Reservoir Rd., Conklingtown Rd., Arcadia Rd. So that helps enormously.

It also helps to maintain the character, because of the fact that you're able also to be consistent with zoning that has been in place since the 1960's in point of fact, it was always contemplated since that time that this particular area where the Hamlet at Goshen is, would have a higher density population area there and to change it now would not be appropriate. At one point part of it was contemplated for office space, but that was in the 1960's before the Zuckerman complex, before the fact that the Village now has all the way from South Street. to 17A to be a generic office park. Before when the hospital was built there may have been a reason to say that you would be able to use some for office space and indeed my Father had wanted to do so, but

now there is no Arden Hill Hospital, no need for doctors offices in that area and in point of fact, you would have no body wanting to do that, because you don't have a big office park with big a infrastructure that a office park needs. Now it would also support the existing Village center and foster town clustering. Why? Because you would be immediately adjacent to the Village. People in this community would be using the Village retail, commercial you would not be taking away from the Village retail and commercial, and yet the current plan has 40,000 square feet of some small retail and office space. Now according to your new plan for Hamlet Residential, you only want 10,000. So I don't quite understand that you want commercial, but you're taking away what is feasible. Now just so that you know, developers have said, and there has been many marketing studies that-that particular area can not support even 40,000 square feet and at most 20,000 and that 20,000 would be a very important amount for the community, because not only would the Glen Arden Elant facility would be using it, but Arcadia Hills and everyone in the southeastern portion. So that not everyone would have to need to go for lets say a corner deli or some local services. Not all of them would have to come into Goshen and particularly for the elderly living in places like Elant, like Glen Arden, they could walk to these, because you would be doing the type of fostering of Town clustering that you want, the type that the pedestrian activities -that does not- that can really decrease the vehicular traffic and allow for all these biking, walking trails directly from Glen Arden through the Hamlet through part of Lone Oak and into the existing Arcadia in point of fact this is all the Arcadia Hamlet area but without an adverse effect on Arcadia.

Dr. Serdarevic continues: Now you want to provide for a range of housing alternatives and there has been talk already about what's needed with affordable. You may not be aware, but in your comprehensive plan it is stated that according to Orange County figures and what's needed for affordable there is an existing demand based on the 2006 census of 700 multi-family units in Goshen and according to New York law affordable housing is really defined by multi-family units. Now I don't know if you're aware that in this point of time, in Goshen, in the Town of Goshen, there are only 163 existing multi-family two family units and only 15 three family units and as of today, multiple listing services, the realtors have no availability, nothing for sale in the whole Town of Goshen between a house- range of \$100.000 to \$500.000, no multi-family available. Now in terms of what's being done with the Hamlet zones, I want to remind you what would be remaining there would only be about a possibility of 20 or so multi-family units that would be produced. Our Hamlet at Goshen would produce about 50 units very rapidly, because we have been going through, we know what's available. We know the waters of it. We know everything is available and right for this area and that would be a long way towards going towards doing something for affordable, because we also know that the main way to achieve the affordable in the new plan is by PACS and that's only for the senior housing.

You have a listing of 11 different criteria in terms of different types of populations for affordable housing only one of those 11 is for seniors. Which means that all other 10 categories would be left out by the vast bulk of what would be available. We would provide for that and this would allow, they also say there is a demand for small, there's also a need, a need for small townhouse units in the Town. Because in point of fact the fastest growing populations as you know in the Town are the over 85 and the 44 to 54 people that are going into active adult, but also you want to attract more of the young 20 to 30, which we have almost no growth in and this would enable that, and the whole PAC issue, I mean, developers maybe wouldn't tell you all this, but I've been dealing with a lot of developers over the years and I can tell you that recently they have all told me that PACS that it's just a gimmick to get the approvals from the Town. In point of fact, for market reasons, developers don't want to do PACS. They want to stay away from PACS, because market studies have shown that they just can't sell PACS as PACS too well, and they need to be able to have those two bedroom Townhouse units in communities where they can sell to both the young and the old, and it makes for a better community. The type of community we've always had, where we don't segregate the old to one little portion and then have nothing for the young.

We want to have a vibrant community. We want to have everyone here, and I believe this can allow that. And in addition, this is something that would allow you to maintain the character. Not to overburden the school systems, cause the vast majority of the project of the Hamlet at Goshen is for the two bedroom townhouse units. Not the type that will burden the school system. In addition in terms of providing the/a range of the housing alternatives, I mean you would have the Townhouse, you would have a few condos, you would have, as I said, the retail and you would some single family. So it's all mixed in. The development strong and balance economic base, cause not only would you have some of that small retail that you need. Now what else would you do with that property? Because you don't want big box. You don't want the Home Depots, as stated in your comprehensive plan. So this is what would help foster that. Not to mention the fact that the build out would allow for we just hear a figure regarding 2 million, well this would be over 5 million added to your tax base, and as you know in your 2008 budget where was revenue coming from? It was coming from property taxes, and God knows everyone's property taxes are going up. And we know that people will be having to move out more and more from Goshen if we don't do something about that. We also know that the rest is from sales, while you heard something about the industrial sales tax, you've heard something about the retail. What else so, from mortgage taxes.

We need to have some growth. But the right growth to give you the money for your budget, and you need to, I already mentioned about protecting and enhancing open space and public space. Well, this is very important too, because we have a Salesian Park now, but as you all have mentioned and the article was in the paper, you just put a Central Park there, but it's not going to be used if there's nothing for people to do there other than walk. Now what's expensive for the Town is maintaining these types of areas for walking, but if you have it in something like it in the Hamlet it's maintained by the condominium group there so you don't have to pay for the maintenance for biking and hiking fields that would be open to the public, but you would of had the only Town swimming pool complex, but in, in terms of how the character would be maintained this is what people see when they're driving pass along Route 17 of our Town. Their first impression, as you know, right now this would really visually improve what people see of our town. The front would have wet land buffering which would be redesigned; portions that are not wetlands in the front, by the developers, you then have the Town recreational complex with a swimming pool. You would then have that small retail area and only behind that would you have an actual Townhouse type of area and other types of housing.

But one of the complaints about why this whole rezoning needed to be done was that there was supposedly no project that had a real T & D design. No project that was well designed that would really look good. Well this project, I believe was the only one designed by a nationally renowned T and D, traditional neighborhood development architect, Devero of Virginia, and in have that, you approve the sketch plan for that, take advantage of that. I mean the building pictures that were shown were absolutely gorgeous, I mean you can demand what ever type of architecturally, but we want something that maintains, that what you look at is not what you see like when you're looking at the front of Elant when you're driving by or looking at some other things. You want some thing that would really be representative of what you want our Town to remain. Something that will give people the feeling of what's on South Street and elsewhere in Goshen.

And then also in terms of this project if you have the map, if the area is developed in context with the Hamlet of Arcadia Hills, the area close to Arcadia Hills is what? Building-no, one is a site left for a future school; the next is the site about 16 acres of ball fields, which is very important because you put in your comprehensive plan that there is a need for recreation in the southeastern part of Town. You'll have that; you'll have that right away. And so there is ball fields will be there. So I do believe that's important. And in addition, there is a possibility that in the front that little pond that's there maybe turned into a skating facility and (inaudible) go into a

insured development pattern that will provide for a sustainable water use. This is one critical factor and as you well know some of the other Hamlets that have been discussed tonight, they don't have the water. They need to get the water from Florida or they need to get it from the Village. We have the water. The engineers have said not only is there enough, to have two-times the demand and also would major wells out of use, but enough to provide water for half of Arcadia or half of Lone Oak, and not only that, but one thing that's very important, is that one thing that I've come to realize too in looking at what can be done over the last twenty, thirty years what's best for this Town with this property, I realize that it's not the little, a little developer that can do this in the right way. If you keep on doing just suburban sprawl as we would be having those you will not have any money for improvements of water and sewer infrastructure. It's the big national developers that can do it. And they are volunteering to go ahead and improve the water and sewer infrastructure of Arcadia Hills and that's very important for the Village too, because there big over flow problems right along the line that goes from Arcadia all the way through past Glen Arden and Arden Hill that would be all improved at the developers expense. Why shouldn't we take advantage of that.

Dr. Serdarevic continues: And in terms of the HU and all those zones, I just wanted to say that I found it a little funny that water shed areas, that's a very loose definition. I think that we should all realize that, as yet for sure that the original map that Schoor Depalma, your water study report used, put down that one water shed area which part of my property is in, is an area, by the way, my property is in about 3 or 4 different water shed areas, but one area it was listed as a water shed area of 5 about almost 5 thousand acres, but when Leggette, Brashears did a study for Glen Arden just a few months before that, they said the water shed area where Glen Arden was is in, was an area about 200 acres. Okay and that area about 200 acres had a recharge in a one in thirty drought of 200 thousand gallons per day. Well guess what, when Leggette, Brashears did the five thousand acres and Schoor Depalma did the study, all of a sudden, five thousand acres, including that same water shed area only had a capacity an recharge to 200 thousand gallons per day. So, I mean, water shed is a loose definition you can define it however you want, but the important thing is you want to make sure that you have sustainable use. You want to and I agree, you want to make sure that your water protocols insist that people have the demand, but when you have, when you have that availability in this area, take advantage. Not just for the new people coming in, but Arcadia Hills that has had long standing problems.

And then in terms of anything else that I just wanted to quickly bring up, you say you would like, Oh, the County also, just one last thing, just so that you know, the County also said that this area, may prove to be the best placed of the Hamlet Zones as these lots are strategically located to serve a mixed use community with the additional (inaudible) in current density strength of Arcadia Hills, Lone Oaks, current and future Elant-Arden Hill conversion and the nearby Route 17 highway access. So the County also knew that this was the best area to do it. Now what can be done if the current zoning goes into effect? Well, I have spoken to many realtors, many engineers, many planners and everyone has said that if that current zoning goes into effect the property becomes undevelopable. Now, my Dad had been wanting to do something for about, since about 30 years ago. Our first, I had put in a first formal application about 20 years ago. I've been trying to find things that would really work for the community. Based on what ever current zoning was in effect.

I would like to see something done that can help us. Help us economically. I mean God knows, you know how I care about the environment. I think all of you know, that I, I went to the courts even to protect the Reservoir. I went to the courts to protect trees. I care about those things. I want to see that we get it preserved but no one is going to let us preserve, you know, thousands and thousands of acres cause no one is going to give us, you know, hundreds of millions of dollars to do that. We have to have an economic sound plan and a plan that helps everybody and

helps all the citizens, helps environment, the bio-walk, the Walkkill, biodiversity area that Walkkill plan, well this would protect that too. Cause it to would keep intact the vast 400 acres worth that are left intact would be protected and the point that, would, most of the land that would be developed is not even in there. And what is, its right next to the highway. And I don't think you want deer going on the highway-killing the deer and killing the vehicular traffic. And in point of fact, if kept as a Hamlet residential, the area that's most sensitive the Otterkill and the Lone Oaks development. So I just wanted to congratulate you for wanting to do the right thing. I'm not asking you to change density bonuses; I'm not asking you to change the unconstrained. I think we can still make this work, even if you change constrained lands to 3 acres, if you change the density, do not allow for density bonuses, but let's not give up this tremendous opportunity for all of us. I really hope that we can make it work. Thank You.

Supervisor Bloomfield: Thank You, Dr. Serdarevic.....Dr. Edelstein.

Dr. Edelstein: One of the strange pleasures of going, I think last or up there toward last, is getting to hear what other people's comments are. First of all, let me just say that those people know that I'm President of Orange Environment, and I, also I'm a Professor and Head of Environmental Studies program at Ramapo College. I served the Town for ten years on the Environmental Review Board now a long time ago. Let me also say that my comments tonight are my comments, not the comments of any of Organization I'm associated with necessarily.

As I started to say, It was interesting listening to the comments of the development community, because I have a reputation of being anti-development which I don't think is entirely true, but I think I have that reputation, but I think that there is a great deal of thoughtful comments given and obviously there's a great deal of thoughtful work that's gone into some of the proposals that came about under the last or the current plan that is under revision. And what's interesting for me for having a long time perspective on Goshen, even if I haven't been so active locally in the past number of years, is that we have a clash of paradigms of development that's very clear. During the period in which I held appointed office here, we clearly had a plan that was based on sprawl as former Supervisor, Myron Urbanski, use to say that he talked about the highways as being the future miracle miles of Goshen and we would have lots of commercial development and the plan that was put in place a number of years ago really attempted to move in the direction of planned community development, traditional neighborhood development. Clustering really tried to vision Hamlets to harken back some ways to the 1974 County plan and it's a very different concept. Everything's very different here and now we have a new plan which in a lot of ways goes back to much of the thinking of the early days. So we have really a major clash here. My concern isn't to take any positions in favor of developments or opposed to them.

But I need to speak tonight to the plan, an in particular to the Impact Statement that's been prepared for the plan in terms of its adequacy and since I think that's why we're here. My concern, and I do teach on a regular basis environmental impact assessment, and I'm an environmental impact assessment practitioner. My concern is that I don't think we're particularly well served by the plan. And I think that we're not particularly not well served at all by the Impact Statement that's been prepared for the plan. The Attorney for one of the developers a few moments ago, did a critique that I, I thought was pretty good. In which she effectively said that the study doesn't really address what the impacts are and doesn't address what the mitigations might be, it doesn't suggest any alternatives and I would have to concur. I see there being a (inaudible) of any depth what-so-ever here much of what we're presented with is statements about there's less growth under the revision and therefore there's less impact and that's where it's left, but I can tell you that's not a sufficient basis of analysis.

First of all, a number of the developers who've just spoken and I think have spoken very well. Essentially put forth a different theories of land use, land use theories that involve inconsistency

with the current plan that's being revised and they also made illusions to impact statements that were done and so there's apparently some data that has been collected and I didn't look at them those made to greater terrible impact statements. But there's information that's been produced that essentially is inconsistency with the ideas that came forth under the current plan. We now have a change of plan, but what we don't have is any real analysis. And in fact. The data that exists in impact statements would be basis for some of that analysis. We don't have a real analysis of what the impacts are of changing direction and that possibility of impact is of great concern.

Now I read a lot of impact statements, and I tend to read them backwards. And I read them backwards, because in my view probably the most important parts of impact statements are at the end. And also, in my view, that's where people get really lazy although in this case, I would suggest that the impact statement reflects laziness pretty consistently, but when you look at the back end, you really see some laziness and that's just not acceptable. The purpose of an impact statement and the purpose of the plan itself is really to chart a course for this community. And the Impact Statement is suppose to take a hard look, that terms already been used in a legal context but has a substance of context. It means we're supposed to actually do an Impact Statement in order to anticipate what the consequences are. So in this case we can decide whether to execute the plan, whether to mediate it, whether to change it. Whether some other alternative might be better. Whether the existing plan is better. It's a planning document. An Impact Statement; it's a plan about the plan, in this case. If it's good, it helps inform the decision makers-you and if it's not well done, it doesn't provide any guidance, and the whole point here is guidance.

Dr. Edelstein continues: Further more, at this point in time, there's an extra added importance to planning which is that we need to really think in a sustainability context when we do planning. I've been an advocate of this for many, many years. Even to the point of integrating into the Generic Environmental Impact Statement, the notion of sustainability as a frame. And sustainability is not absent and completely from your goals in your plan or some elements of it, but, but basically this is an opportunity to really ask the question; of how this community gets put on a sustainable basis for the future? Is it on a sustainable basis now? How does the existing plan support sustainability? How would the changes support sustainability? Those are very concrete questions and I'm referring to by sustainability a lot of the issues that have been talked about: water, sewage, traffic and some issues I'm about to raise that haven't been mentioned.

When we read the impact statement from the back, we discover what are called, other impacts. I love it when they're called other impacts. They're called other impacts here as well. And these are the sections that address topics like growth inducing aspects of the plan – cumulative impacts – long term or secondary – long term and secondary impacts. I think long term impacts versus short term made it into this at all actually. Energy impacts, irretrievable and irreversible commitments of resources and unavoidable adverse environmental effects. Those are the other impacts. And it turns out that even more than the front end, the real substance of an Impact Statement and the Generic Impact Statement even more importantly is in that rear end. If you don't talk, for example, of about cumulative effects, you don't address the issues of the interface of the Village and the Town or what's happening in surrounding Towns or the impacts of the Route 17 corridor becoming Route 86 etc. etc.. Secondary and long term impacts are important, because often times we make decisions based on solving what seem to be solving short term goals. In this case, for example, increasing the tax base, that's' not a new concept or new goal. But what are the impacts about the way you're going about doing that, that is actually something that needs to be thought about. Growth inducing aspects of the plan, now repeatedly we see statements in this plan, in this Impact Statement like as I already said, while there's less growth in the other ones so therefore there's no impact, but in fact, there's different types of growth under the new plan than there would be under the old one. And there needs to be an

assessment of what level of impact occurs under the old plan and what will occur under the new plan and compare those. There's no substance to that here.

If we look at, for example energy, we see how this is mostly inadequate. Basically this section of energy doesn't exist in terms of any substance. It simply says again that since there is less density, there will be less energy and therefore there is no impact. That's just not an adequate statement. The question, this clearly significant energy impact to the kind of growth that occurs in the Town. If we induce more sprawl in our growth pattern, it seems that's what we're returning to with aspects of this plan, then there's more, more traffic. And the whole traffic patterns that evolve have of course, have everything to do with energy use relating to traffic. Also I have to do with air pollution.

Buildings, what kind of buildings are going to be built? Are we talking about mc-mansions on multiple acres? The pattern that we've encouraged in the past and other communities in Orange County have encouraged. Are which in fact, the type of building that it wouldn't be very long before people can't sustain the energy cost for. Are we talking about buildings that are net zero energy buildings or even net positive buildings that net positive generating more energy than they use and adding energy back into the grid or net zero being buildings that generate as much energy as they use.

Likewise with other environmental impacts will these buildings be exporting adverse effects to the community or are they going to be in fact being buildings that will be part of the solution? Part of the logic of the traditional neighborhood plan and I'm somewhat-sometimes a critic of new urbanism, in some of its aspects, but, but part of the logic, as that you create a pedestrian base, you create mixed use; you create the potential for mass transit, because you have enough density for bus stops or whatever. But you also have the possibility of patterns of housing which are "clustered" and the word clustered has never been really well understood and I don't think it's well understood in this plan either, but cluster can be junk and cluster can be really good. Obviously we don't want junk. But we do want, I think, good clustering, because of its energy benefits. That should be laid out and considered in the section on energy. Are buildings going to be LEAD rated? And in this sense, more importantly, are they going to be energy star buildings? LEAD rating is a rating system called: Leadership, and Energy and Environmental Design which is become over much of the country an operative rating system for many aspects of buildings, but also now communities in terms of how green they are. Energy star specifically focuses on energy performance. I would submit to you that the more renewable energy and the more avoidance of energy demand that we create, whether it's in vehicles or buildings which are every bit as much of a source in demand, the better off we are in the future. Some of you know that my own home in the Village is now derives its electricity entirely from solar panels on the roof. So I'm not speaking of something that's an abstraction, but I think it's doable or even in the Village. Definitely doable in new houses in the Town.

This, There's another connection here that now has to be looked at in impact statements. And might very well belong in the section on energy. I think that's where I've put it for many years. And that has to do with carbon foot print issues. How much greenhouse gases are we creating through a plan? I've already been involved in doing impact assessments relating to carbon assessments. And it's an emerging field, but it's something at this point in time that you have to talk about, because we are on the verge of creating public policies that will have us reducing our carbon foot prints on the order of 80 to 90 percent by 2050 and your planned time ratio is certainly the same time ratios. So you have to be thinking about that now or else you're not going to have a way of addressing those issues as they come forward. Those are issues of landscape as well as issues of buildings as well as issues of traffic. Where are they? I mean they, they need to be analyzed in the plan thoroughly and compared between the plan options, but

they also need to be in the impact statement where they're required by law to be discussed. So these are some of the issues I'm concerned with.

I can make the same critique with regard to farm land. The plan and the impact statement seem to address farm land rhetorically by saying; well, periodically we buy some farm land under our farm land purchasing program and that's actually nice and I'm completely 100% supportive of that. But you also now have basically a plan that puts sprawl back onto the country side with large lots. But that's not preserving those lands as farm lands. Not necessarily at all and it creates a set of issues, but we need to be thinking about now is how we grow food for the future that's local food. How we interface that food with the local economy and make it a major part of what we call development and economic development. It's farming, but it's now farming for us. Not farming for far away markets. Those issues are happening, but they need to happen in a way that fits the plan and they can happen really better if we plan for them. We haven't done that. And again we miss those issues completely in the Impact Statement. Where it's simply sufficient that whatever we can, we buy a farm. That's not the whole point. The point is how do you create a community in which farming is viable? In which farming supports the community and the community supports farming? That's really the issue.

Dr. Edelstein continues: So other things; air pollution – I believe there's a very brief mention that we are out of compliance with the Clean Air Act in Orange County. Both for, I don't think it says the details, but we're out of compliance for ozone and also for particular matter. But to what extent is the plan that's being replaced and the plan that is replacing it and what impact do we have that we are in compliance with or not. And are we taking steps, hopefully in conjunction with the State Implementation Plan. Although I don't have much faith in the State Implementation Plan. Are we taking steps to reduce air pollution? That would make some degree of sense. I think and the plan should address that and the Impact Statement should fully analyze it.

So I can go on and on. And I've already gone on quite a bit and it's late. But I think that we, we can talk about other issues that I think are not addressed that have been mentioned like exclusionary zoning, or whatever we're dealing with, affordable housing, the question of the impacts of commercial development and commercial sprawl as opposed to commercial development that's integrated into housing. The plan and impact statement don't even really address, the impact statement would logically take the goals of the plan which were just eloquently reviewed. But is this plan meeting those goals? An is it meeting these goals better than the plan than its replacing? Maybe the plan that's being replaced meets those goals even better than the new plan. I think you might be surprised. Or at least it's not so clear. There's a lot of empirical data out there, both in Impact Statements that have been done, in studies that have been done in the past and there's data that needs to be collected. But in almost no area in this Impact Statement is it evident that there's an empirical basis for drawing conclusions. It's also clear that there hasn't been a really good multi-stake holder dialogue occurring in the Town that would bring about a, a you know, input and buy into major changes in the plan. What we have, if you look over a short period of time is these two paradigms of planning with schizophrenic changes, you know those politics moves we go here and we go here.

But that's not what planning is about. Planning is about finding something deeper and more durable that isn't so fickle as what we're doing here and the developers who are here and caught in that fickleness and not happy about it. It's understandable. We need to make sure this plan and the Impact Statement that's done for the plan look deeply at what is happening at what the consequences are of what's happening and are to be able to be good enough to deal with legal challenges that may very well occur. But I'm less concerned with the legal challenge issue. I'm concerned with whether or not this Board has the guidance and the depth that it needs to really see what the impacts are associated with the changes and to fully understand the impacts that

are associated with the status-quo plan that's already been put in place. I think we need to do that before we move further. This is a Draft Generic Impact Statement; obviously, it has to move to a final. But I think some of the issues here have to do with the plan. And if the Impact Statement, when it gets good, assuming it does, finds that the plan, in fact is deficient, where do you go from there? So I think there's a need for some real careful thinking about whether a foundation has been laid sufficiently in the plan. The impact statement-frankly is terrible, but is the plan in fact strong and is the failing only with the impact statement? I think that's something that needs some very careful discussion on the part of the decision makers and I appreciate the opportunity to speak to you tonight. And I wish you good decision making.

Supervisor Bloomfield: Thank you very much Dr. Edelstein. Any one else like to speak? Would someone like to make a motion that we close the Public Hearing? Councilman Newbold made a motion to close the public hearing. Councilman Lyons seconded the motion. Supervisor Bloomfield; any discussion? All in favor say aye..... Motion carries.

0 Nays 5 Ayes Bloomfield, Canterino, Cappella, Lyons, Newbold

Supervisor Bloomfield; I'd just like to reiterate what I said early in the meeting, that the input we received this evening will be looked at, discussed and considered. That's the purpose of the public hearing and I would certainly like to thank you all for coming and participating. Thank You. Okay, we got,

Attorney Caplicki: I just want to suggest that you remind the public about the submission period. It continues until August 25. So any written materials, comments or submissions would readily be accepted until that time.

Supervisor Bloomfield; Right, good, thank you very much. Meeting adjourned.

Time: 9:51 p.m.

Valma Eisma, Town Clerk

Priscilla Gersbeck, Deputy Town Clerk

